



FEDERAL ELECTION COMMISSION

1125 K STREET N.W.  
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 1855

Date Filmed 2/8/86 Camera No. --- 2

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FEDERAL ELECTION COMMISSION

28 Routing Cards (5); 1 Complnt. notification slip; 4 objection slips (5)  
1 payment file sheet; 6 REA 150 memos (5); 6 12 Day  
Per Briefs & Comments Sheet (5); 9 12 Day Reports (3);  
1 memo enclosing C.P. check (5) p. 2 of 1st GC (3);  
p. 1st GC dated 7/15/85 (3); letter dated 10/10/85 fr Respondent (3);  
2 letters from respondent dated 11/11/85 (3)  
all GC dated 11/14/85 (3); 1 proposed letter to respondent (3)

pgs 4+5 of Probable Cause Report dated 5/17/85  
 1 memo - no Commission objections (5)  
 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):

- |                                     |   |                          |  |
|-------------------------------------|---|--------------------------|--|
| <input type="checkbox"/>            | (1) Classified Information                                | <input type="checkbox"/> | (6) Personal privacy                             |
| <input type="checkbox"/>            | (2) Internal rules and practices                          | <input type="checkbox"/> | (7) Investigatory files                          |
| <input checked="" type="checkbox"/> | (3) Exempted by other statute                             | <input type="checkbox"/> | (8) Banking Information                          |
| <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 Patty Kelly  
 date 1/17/86

FEC 9-21-77

5 proposed, unsigned consultation agreements.  
 1 letter from Senator Jensen re: FBI clearance

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*Reilly*



**FEDERAL ELECTION COMMISSION**  
WASHINGTON, D.C. 20463

**December 13, 1985**

**Jan Baran, Esquire  
Wiley & Rein  
1776 K Street, N.W.  
Washington, D.C. 20006**

**RE: MUR 1855  
The National Republican  
Senatorial Committee and  
Robert Perkins, as treasurer**

**Dear Mr. Baran:**

This is to advise you that the entire file in this matter has now been closed and will become part of the public record within thirty days. Should you wish to submit any legal or factual materials to be placed on the public record in connection with this matter on behalf of your clients, please do so within 10 days.

Should you have any questions, contact Patty Reilly, the attorney assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele  
General Counsel

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

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**FEDERAL ELECTION COMMISSION**  
WASHINGTON, D.C. 20463

December 13, 1985

**Jan Baran, Esquire**  
**Wiley & Rein**  
**1776 K Street, N.W.**  
**Washington, D.C. 20006**

**RE: MUR 1855**  
**The Jepsen '84 Committee and**  
**Tom Tyree, as treasurer**

**Dear Mr. Baran:**

On December 3, 1985, the Commission considered the counterproposal submitted by you in the above captioned matter. The Commission determined to accept this conciliation agreement signed by you, and the previously submitted civil penalty in settlement of a violation of 2 U.S.C. § 434(b)(5)(A) and 11 C.F.R. § 104.9, a provision of the Federal Election Campaign Act of 1971, as amended and the Act's Regulations. Please note that a typographical error on page 2 of this agreement has been corrected in order to accurately state the violations.

The file has 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, please advise us in writing.

Enclosed you will find a fully executed copy of the final conciliation agreement for your files.

Sincerely,

Charles N. Steele  
General Counsel

*[Handwritten Signature]*  
By: Kenneth A. Gross  
Associate General Counsel

Enclosure  
Conciliation Agreement

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

December 13, 1985

Roger D. Colton, Esquire  
Community Action Research Group  
P.O. Box 1232  
Ames, Iowa 50010

Re: MUR 1855

Dear Mr. Colton:

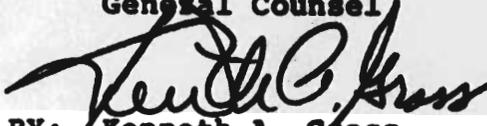
This is in reference to the complaint you filed with the Commission on November 19, 1984, concerning the Jepsen '84 Committee and Tom Tyree, as treasurer and the National Republican Senatorial Committee and Bob Perkins, as treasurer.

After conducting an investigation in this matter the Commission determined there was probable cause to believe that the Jepsen '84 Committee and Tom Tyree, as treasurer, violated 2 U.S.C. § 434(b)(5)(A) and 11 C.F.R. § 104.9, a provision of the Federal Election Campaign Act of 1971, as amended and the Act's Regulations. On December 3, 1985, a conciliation agreement signed on behalf of the respondents was accepted by the Commission, thereby concluding the matter. A copy of this agreement is enclosed for your information.

The file number in this matter is MUR 1855. If you have any questions, please contact Patty Reilly, the attorney assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele  
General Counsel

  
BY: Kenneth A. Gross  
Associate General Counsel

Enclosure  
Conciliation Agreement

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**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of )  
 ) MUR 1855  
Jepsen '84 Committee )  
and Tom Tyree, as )  
treasurer )

**CONCILIATION AGREEMENT**

This matter was initiated by a signed, sworn, and notarized complaint by Mr. Roger Colton. An investigation has been conducted, and the Commission found probable cause to believe that the Jepsen '84 Committee and Tom Tyree, as treasurer ("Respondents") violated 2 U.S.C. § 434(b)(5)(A) and 11 C.F.R. § 104.9 by failing to report the purposes of its disbursements.

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:
  1. Respondent, the Jepsen '84 Committee, is the principal campaign committee of Senator Roger W. Jepsen.

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2. Respondent, Tom Tyree, is the treasurer of the Jepsen '84 Committee.

3. Respondents' 1981, 1982, 1983 Year End and Mid Year Reports, as well as its 1984 April Quarterly Report indicate disbursements were made by the Candidate on behalf of the Committee. The Candidate made such disbursements from a personal checking account. Subsequently, the Committee reimbursed the checking account, reporting this checking account as the payee of these expenditures.

4. Respondents' 1981, 1982, 1983 Year End and Mid Year Reports, as well as its 1984 April Quarterly Report, indicate incomplete reporting of the purposes of the above expenditures, as well as incomplete reporting of the purposes of expenditures made to the Candidate directly. These have been variously reported as "campaign expenses", "expense reimbursement" and the like.

V. 1. Respondents are required to report the purposes of expenditures exceeding \$200. 2 U.S.C. § 434(b)(5)(A) and 11 C.F.R. § 104.9. Respondents' failure to correctly report the purpose of these disbursements is a violation of 2 U.S.C. § 434(b)(5)(A) and 11 C.F.R. § 104.9. Respondents contend that such violation was not knowingly or willfully committed. All reports have been amended and are now in compliance.

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VI. Respondents will pay a civil penalty to the Treasurer of the United States in the amount of seven hundred and fifty dollars (\$750), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. Respondents agree that they shall not undertake any activity which is in violation of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431, et seq.

VIII. 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.

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

X. Respondents shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

XI. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written

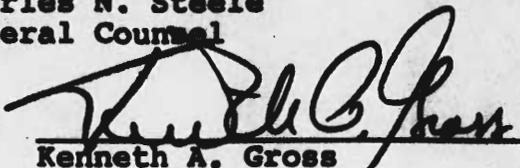
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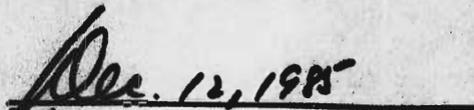
or oral, made by either party or by agents of either party,  
that is not contained in this written agreement shall be  
valid.

**FOR THE COMMISSION:**

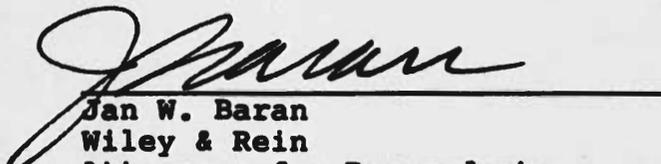
Charles N. Steele  
General Counsel

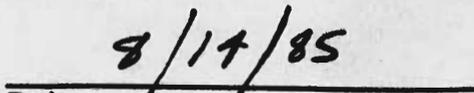
BY:

  
Kenneth A. Gross  
Associate General Counsel

  
Date

**FOR THE RESPONDENTS:**

  
Jan W. Baran  
Wiley & Rein  
Attorneys for Respondents

  
Date

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
The Jepsen '84 Committee and ) MUR 1855  
Tom Tyree, as treasurer )

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of December 3, 1985, do hereby certify that the Commission took the following actions in MUR 1855:

1. Decided by a vote of 5-1 to reject the recommendation of the FEC Office of General Counsel and accept the respondents' counter proposal, and direct the FEC General Counsel to send the appropriate letters pursuant to this decision.

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

2. Decided by a vote of 6-0 to close the file.

Commissioners Aikens, Elliott, Harris, Josefiak, McDonald, and McGarry voted affirmatively for this decision.

Attest:

12-5-85

Date

*Marjorie W. Emmons*

Marjorie W. Emmons  
Secretary of the Commission

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JEPSEN '84 COMMITTEE  
P. O. BOX 84  
DAVENPORT, IA 52805

REMITTANCE ADVICE		
DATE	INVOICE NO.	AMOUNT

2439  
72-21  
739

PAY Seven hundred fifty and no/100 DOLL

DATE	TO THE ORDER OF	CHECK NUMBER	DESCRIPTION	C. AMT.
8-1-85	U. S. Treasury	2439		7.

FIRST TRUST AND SAVINGS BANK  
DAVENPORT, IOWA 52801

JEPSEN '84 COMMITTEE

*Marlene Stettinberger*

⑆002439⑆ ⑆073900205⑆ 000038547⑆

ATTACHMENT #3

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of  
Jepsen '84 Committee, et al.

)  
)  
)  
)  
)

MUR 1855

RESPONDENTS' BRIEF

This Brief is filed on behalf of the Jepsen '84 Committee ("Committee") and Tom Tyree, as treasurer, pursuant to 11 C.F.R. § 111.16(c) and in response to the General Counsel's Brief dated April 10, 1985. For the reasons set forth below, respondents respectfully request that the Federal Election Commission ("FEC") reject the recommendation of the General Counsel and determine in lieu thereof that there is no probable cause to believe that respondents violated 2 U.S.C. § 434(b)(5)(A) or 11 C.F.R. § 104.9.

FACTS

In 1981, 1982, 1983 and 1984 the Committee filed reports with the FEC which disclosed disbursements to Roger W. Jepsen (or in the name of "Roger W. Jepsen, Office Account"). These payments constituted reimbursements to Senator Jepsen for campaign expenses incurred by him. Affidavit of Roger W. Jepsen ¶ 4 (Attached to letter of January 4, 1985 from counsel to Charles N. Steele).

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On June 27, 1984 the FEC Reports Analysis Division ("RAD") sent a letter to Mr. Tyree requesting the Committee to amend its 1984 pre-primary report (coverage dates April 1, 1984 thru May 16, 1984) to provide additional details regarding the purpose of certain Committee disbursements. Affidavit of Walter R. Howell, III ¶ 4 and letter attached thereto [attached hereto and hereafter referred to as "Howell Aff."]. Upon receipt of this letter, Walter R. Howell, III, Committee finance director and deputy treasurer, called the FEC employee who had signed the letter, Libby Cooperman. Id. ¶¶ 2 & 5. Ms. Cooperman told Mr. Howell that additional details were required for Committee disbursements to Senator Jepsen which had been identified as "campaign expenses" or "expense reimbursements." Id. ¶ 5. Mr. Howell told Ms. Cooperman that the Committee had been reporting this type of reimbursements in the same manner since 1981 and, until the June 27, 1984 letter, had not been asked to provide additional details. Id. ¶ 6.

Mr. Howell told Ms. Cooperman that the Committee was willing to file amendments to the 1984 pre-primary report as requested by her letter. Id. ¶ 7. He also told Ms. Cooperman that the Committee would file amendments to prior reports if that were necessary. Id. ¶ 8. Mr. Howell was told that such amendments were not necessary and that only future Committee

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reports would have to include details of the kind requested by the June 27 letter. Id. Another Committee employee, Ms. Marlene Pittsenbarger, comptroller, was also advised by Ms. Cooperman that amendments to earlier FEC reports were not necessary. Id. ¶¶ 3 & 9.

On July 3, 1984 Mr. Howell transmitted a letter and amendments to the Committee's pre-primary report to the Secretary of the Senate in response to the June 27 letter. Id. ¶ 10 and letter attached thereto. All Committee reports filed subsequent to the pre-primary report disclosed details of campaign expense reimbursements in the manner requested by Ms. Cooperman. Id. ¶ 11.

On November 19, 1984 a complaint was filed against the Committee which commenced this proceeding. The Complaint alleged a variety of violations of the Federal Election Campaign Act of 1971, as amended ("Act"), one of which pertained to the manner in which the Committee reported reimbursements to Senator Jepsen.<sup>1/</sup> On February 12, 1985 the FEC found no reason to believe that the Committee violated any of the Act's provisions which were alleged in the Complaint.<sup>2/</sup> The FEC, however,

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1/ The complainants alleged that the Committee must disclose the identity of the payee of any expense for which Senator Jepsen was reimbursed. Complaint at 5. Neither the Act nor the FEC requires such reporting.

2/ The FEC also found no reason to believe that other respondents, namely the National Republican Senatorial Committee, Senator Jepsen and "the Jepsen Fund," had violated the Act. Letter from John Warren McGarry to counsel, February 21, 1985. Counsel does not represent nor know of any person or organization named "the Jepsen Fund."

found reason to believe that the Committee violated 2 U.S.C. § 434(b)(5)(A) and 11 C.F.R. § 104.9, two provisions which were not alleged in the Complaint. The notification letter of February 21, 1985 stated that the FEC had determined that the Committee had "not properly reported the purpose of disbursements" to Senator Jepsen with respect to reports filed from 1981 up to the 1984 pre-primary report.

On March 21, 1985 the Committee submitted to the FEC amendments to its 1981 thru 1984 first quarter reports. Howell Aff. ¶ 14. Had the Committee not been told by Ms. Cooperman in June 1984 that amendments to these reports were not necessary, they would have been filed at that time. Id. ¶ 15.

On April 11, 1985 the FEC General Counsel sent his Brief which recommends that the FEC find probable cause to believe that the Committee violated the Act by not adequately reporting the purpose of reimbursements to Senator Jepsen.

#### DISCUSSION

"When the treasurer of a political committee shows that best efforts have been used to obtain, maintain and submit the information required by the Act for the political committee, any report of such committee shall be considered in compliance with the Act." 11 C.F.R. § 104.7 (emphasis added); 2 U.S.C. § 432(i). This so-called "best efforts" test is applicable to the Committee in this matter.

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For three and one half years, the Committee consistently filed its reports and disclosed reimbursements to Senator Jepsen. When RAD belatedly requested additional information about the purpose of these reimbursements, the Committee promptly called RAD, told RAD of their willingness to amend the report which had been called into question and offered to amend three and one half years of previous reports if that's what the Act required. See Howell Aff. ¶¶ 4-8. The Committee was told that such action is not necessary. Id. ¶¶ 8 § 9. In volunteering to file amendments and being advised by an FEC official not to do so, the Committee did everything that reasonably could be expected of someone who attempted to comply with the Act. If the Committee's conduct does not reflect the best efforts of a political committee to "submit" what the FEC now determines is "required by the Act," 11 C.F.R. § 104.7(a), then the best efforts test has no meaning.

It was arbitrary enough for the FEC to question the Committee's disclosure practices after three and one half years of reporting. It would be more arbitrary for the FEC to now determine that the Committee violated the Act by failing to disclose information which it offered to disclose but was advised by an FEC representative not to. The Committee always has done what the FEC requested of it. All reports are in

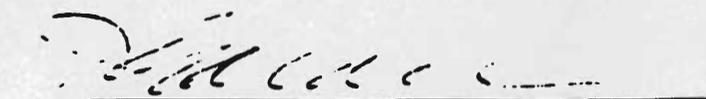
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compliance and fully amended. Under these circumstances it would be contrary to the Act's best efforts test for the FEC to accept the General Counsel's recommendation.

CONCLUSION

For the reasons set forth herein, the FEC should reject the recommendation of the General Counsel and determine, in lieu thereof, that there is no probable cause to believe that the Committee and Tom Tyree violated 2 U.S.C. § 434(b)(5)(A) or 11 C.F.R. § 104.9.

Respectfully submitted,



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Jan W. Baran  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036  
(202) 861-1572

May 6, 1985

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AFFIDAVIT OF  
WALTER R. HOWELL, III

Walter R. Howell, III, for his affidavit deposes  
and says:

1. I have personal knowledge of the facts contained herein and am competent to testify thereto.
2. I was finance director and deputy treasurer of the Jepsen '84 Committee ("Committee") during 1984.
3. Marlene Pittsenbarger was comptroller of the Committee during 1984.
4. In late June 1984, I received a letter from Libby Cooperman, Reports Analyst, Federal Election Commission, addressed to Tom R. Tyree, Committee treasurer. The letter, dated June 27, 1984, (attached hereto) requested the Committee to amend its 1984 pre-primary report to provide additional details regarding the purpose of certain Committee disbursements.
5. On or about the same day that I received the June 27, 1984 letter, I spoke with Ms. Cooperman who told me that additional details were required for Committee disbursements to Senator Roger W. Jepsen which had been identified as "campaign expenses" or "expense reimbursements."

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6. I told Ms. Cooperman that the Committee reported campaign expense reimbursements to Senator Jepsen in the same manner since 1981, and that no request for additional detail had been made prior to her letter of June 27, 1984.

7. I told Ms. Cooperman that the Committee was willing to file amendments to the 1984 pre-primary report as requested in her letter.

8. I told Ms. Cooperman that the Committee was willing to amend its prior reports if that were necessary. Ms. Cooperman told me that was not necessary; that only future reports would have to include more details as requested in the June 27, 1984 letter.

9. Ms. Pittsenbarger also was advised by Ms. Cooperman that amendments to earlier reports were not necessary.

10. On July 3, 1984 I transmitted a letter (attached hereto) and amendments to the Committee's pre-primary report to the Secretary of the Senate in response to the request made in the June 27, 1984 letter.

11. All Committee reports filed subsequent to the pre-primary report disclosed details of campaign expense reimbursements in the manner requested by Ms. Cooperman.

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20461

EQ-2

JUN 27 1984

Tom R. Tyree, Treasurer  
Jepsen '84 Committee  
P.O. Box 84  
Davenport, IA 52805

Identification Number: C00131656

Reference: 12 Day Pre-Primary Report (4/1/84-5/16/84)

Dear Mr. Tyree:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Commission Regulations define the term "purpose" to mean a brief statement or description of why a disbursement was made. Examples are "dinner expense", "media", "salary", "polling", "travel", "party fees", "phone banks", "travel expenses", "travel expense reimbursement" and "catering costs". Unacceptable descriptions include "advance", "election day expense", "expenses", "other expenses", "expense reimbursement", "miscellaneous", "outside services", "get-out-the-vote" and "voter registration". (11 CFR 104.3(b)(4)) Please amend Schedule B of your report to clarify the following descriptions which do not meet the requirements of the Regulations:

Reimbursement of Expenses, Wages and Expenses,  
Expenses.

An amendment to your original report(s) correcting the above problem(s) should be filed with the Secretary of the Senate, 232 Hart Senate Office Building, Washington, DC 20510 within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 523-4048.

Sincerely,

Libby Cooperman  
Reports Analyst  
Reports Analysis Division

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R J N J J I 0 1 5 9 9

**ROGER**  
**JEPSEN**

U.S. SENATOR, P.O. Box 84 • Des Moines, Iowa 50316 • 515 281 1984 • 800 342-3359

July 3, 1984

Secretary of the Senate  
232 Hart Senate Office Building  
Washington, D.C. 20510

We have enclosed an Amendment of the 12-Day Pre-Primary Report  
(April 1, 1984 thru May 16, 1984), for the Jepsen '84 Committee.

Sincerely,



Walter R. Howell, III  
Deputy Treasurer

WRH:mkp

Enclosure

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9 1 2 7 1 1 5

BEFORE THE FEDERAL ELECTION COMMISSION

ED  
FEC  
SECRETARY

In the Matter of )  
The Jepsen '84 Committee )  
and Tom Tyree, as treasurer )

MUR 1855

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GENERAL COUNSEL'S REPORT

**SENSITIVE**

**BACKGROUND**

Attached is a conciliation agreement signed by Jan Baran, Esquire, on behalf of his clients, the Jepsen '84 Committee and Tom Tyree, as treasurer ("the Committee").

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In light of the foregoing, this Office recommends that the Commission reject respondents' counterproposal.

Additionally, although 90 days have passed since the Commission's probable cause finding in this matter, it is likely

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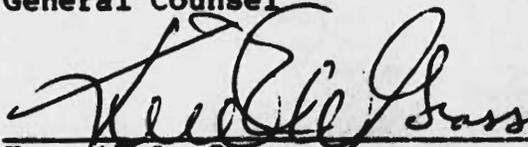
an acceptable conciliation agreement may be reached in the near future.

**RECOMMENDATION**

The Office of the General Counsel recommends the Commission reject respondents' counter proposal and approve and send the attached letter and new counterproposal.

Charles N. Steele  
General Counsel

November 14, 1985  
Date

BY:   
Kenneth A. Gross  
Associate General Counsel

**Attachments**

1. Conciliation Agreement originally approved by Commission
2. Letter from Respondents
3. Civil Penalty Check
4. Letter from Respondents and Brief
5. Proposed Letter
6. New Proposed Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) MUR 1855  
Jepsen '84 Committee )  
and Tom Tyree, as treasurer )

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on July 10, 1985, the Commission decided by a vote of 6-0 to continue the conciliation efforts pending receipt of respondents response to the conciliation agreement.

Commissioners Aikens, Elliott, Harris, McDonald, McGarry and Reiche voted affirmatively in this matter.

Attest:

7-10-85  
Date

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

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Received in Office of Commission Secretary:  
Circulated on 48 hour tally basis:

7-5-85, 3:22  
7-8-85, 11:00

RECEIVED  
OFFICE OF THE FEC  
COMMISSION SECRETARY

BEFORE THE FEDERAL ELECTION COMMISSION

85 JUL 5 P3:22

In the Matter of )  
 )  
Jepsen '84 Committee and ) MUR 1855  
Tom Tyree, as treasurer )

GENERAL COUNSEL'S REPORT

**SENSITIVE**

Background

On June 4, 1985 the Commission found probable cause to believe the Jepsen '84 Committee and Tom Tyree, as treasurer, violated 2 U.S.C. § 434(b)(5)(A) and 11 C.F.R. § 104.9. The Respondents were notified of this finding on June 12, 1985. and

Conversations with Respondents' counsel indicate the candidate is out of the country and is unavailable for consultation. Upon the candidate's return in early July, this Office will be informed of the Respondents' course of action. Consequently, the Office of the General Counsel recommends continuing the conciliation period until Respondents have an opportunity to respond to the conciliation agreement. At such time, this Office will report to the Commission with appropriate recommendations.

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Recommendations

1. Continue the conciliation efforts pending receipt of Respondents response to the conciliation agreement.

Charles N. Steele  
General Counsel

July 2, 1985  
Date

Kenneth A. Gross (RHZ)  
Kenneth A. Gross  
Associate General Counsel

Attachments

- 1 - Respondents Letter of June 26, 1985

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
Jepsen '84 Committee, et al. ) MUR 1855  
)  
)  
)

RESPONDENTS' BRIEF

This Brief is filed on behalf of the Jepsen '84 Committee ("Committee") and Tom Tyree, as treasurer, pursuant to 11 C.F.R. § 111.16(c) and in response to the General Counsel's Brief dated April 10, 1985. For the reasons set forth below, respondents respectfully request that the Federal Election Commission ("FEC") reject the recommendation of the General Counsel and determine in lieu thereof that there is no probable cause to believe that respondents violated 2 U.S.C. § 434(b) (5) (A) or 11 C.F.R. § 104.9.

FACTS

In 1981, 1982, 1983 and 1984 the Committee filed reports with the FEC which disclosed disbursements to Roger W. Jepsen (or in the name of "Roger W. Jepsen, Office Account"). These payments constituted reimbursements to Senator Jepsen for campaign expenses incurred by him. Affidavit of Roger W. Jepsen ¶ 4 (Attached to letter of January 4, 1985 from counsel to Charles N. Steele).

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On June 27, 1984 the FEC Reports Analysis Division ("RAD") sent a letter to Mr. Tyree requesting the Committee to amend its 1984 pre-primary report (coverage dates April 1, 1984 thru May 16, 1984) to provide additional details regarding the purpose of certain Committee disbursements. Affidavit of Walter R. Howell, III ¶ 4 and letter attached thereto [attached hereto and hereafter referred to as "Howell Aff."]. Upon receipt of this letter, Walter R. Howell, III, Committee finance director and deputy treasurer, called the FEC employee who had signed the letter, Libby Cooperman. Id. ¶¶ 2 & 5. Ms. Cooperman told Mr. Howell that additional details were required for Committee disbursements to Senator Jepsen which had been identified as "campaign expenses" or "expense reimbursements." Id. ¶ 5. Mr. Howell told Ms. Cooperman that the Committee had been reporting this type of reimbursements in the same manner since 1981 and, until the June 27, 1984 letter, had not been asked to provide additional details. Id. ¶ 6.

Mr. Howell told Ms. Cooperman that the Committee was willing to file amendments to the 1984 pre-primary report as requested by her letter. Id. ¶ 7. He also told Ms. Cooperman that the Committee would file amendments to prior reports if that were necessary. Id. ¶ 8. Mr. Howell was told that such amendments were not necessary and that only future Committee

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reports would have to include details of the kind requested by the June 27 letter. Id. Another Committee employee, Ms. Marlene Pittsenbarger, comptroller, was also advised by Ms. Cooperman that amendments to earlier FEC reports were not necessary. Id. ¶¶ 3 & 9.

On July 3, 1984 Mr. Howell transmitted a letter and amendments to the Committee's pre-primary report to the Secretary of the Senate in response to the June 27 letter. Id. ¶ 10 and letter attached thereto. All Committee reports filed subsequent to the pre-primary report disclosed details of campaign expense reimbursements in the manner requested by Ms. Cooperman. Id. ¶ 11.

On November 19, 1984 a complaint was filed against the Committee which commenced this proceeding. The Complaint alleged a variety of violations of the Federal Election Campaign Act of 1971, as amended ("Act"), one of which pertained to the manner in which the Committee reported reimbursements to Senator Jepsen.<sup>1/</sup> On February 12, 1985 the FEC found no reason to believe that the Committee violated any of the Act's provisions which were alleged in the Complaint.<sup>2/</sup> The FEC, however,

---

1/ The complainants alleged that the Committee must disclose the identity of the payee of any expense for which Senator Jepsen was reimbursed. Complaint at 5. Neither the Act nor the FEC requires such reporting.

2/ The FEC also found no reason to believe that other respondents, namely the National Republican Senatorial Committee, Senator Jepsen and "the Jepsen Fund," had violated the Act. Letter from John Warren McGarry to counsel, February 21, 1985. Counsel does not represent nor know of any person or organization named "the Jepsen Fund."

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found reason to believe that the Committee violated 2 U.S.C. § 434(b)(5)(A) and 11 C.F.R. § 104.9, two provisions which were not alleged in the Complaint. The notification letter of February 21, 1985 stated that the FEC had determined that the Committee had "not properly reported the purpose of disbursements" to Senator Jepsen with respect to reports filed from 1981 up to the 1984 pre-primary report.

On March 21, 1985 the Committee submitted to the FEC amendments to its 1981 thru 1984 first quarter reports. Howell Aff. ¶ 14. Had the Committee not been told by Ms. Cooperman in June 1984 that amendments to these reports were not necessary, they would have been filed at that time. Id. ¶ 15.

On April 11, 1985 the FEC General Counsel sent his Brief which recommends that the FEC find probable cause to believe that the Committee violated the Act by not adequately reporting the purpose of reimbursements to Senator Jepsen.

DISCUSSION

"When the treasurer of a political committee shows that best efforts have been used to obtain, maintain and submit the information required by the Act for the political committee, any report of such committee shall be considered in compliance with the Act." 11 C.F.R. § 104.7 (emphasis added); 2 U.S.C. § 432(i). This so-called "best efforts" test is applicable to the Committee in this matter.

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For three and one half years, the Committee consistently filed its reports and disclosed reimbursements to Senator Jepsen. When RAD belatedly requested additional information about the purpose of these reimbursements, the Committee promptly called RAD, told RAD of their willingness to amend the report which had been called into question and offered to amend three and one half years of previous reports if that's what the Act required. See Howell Aff. ¶¶ 4-8. The Committee was told that such action is not necessary. Id. ¶¶ 8 § 9. In volunteering to file amendments and being advised by an FEC official not to do so, the Committee did everything that reasonably could be expected of someone who attempted to comply with the Act. If the Committee's conduct does not reflect the best efforts of a political committee to "submit" what the FEC now determines is "required by the Act," 11 C.F.R. § 104.7(a), then the best efforts test has no meaning.

It was arbitrary enough for the FEC to question the Committee's disclosure practices after three and one half years of reporting. It would be more arbitrary for the FEC to now determine that the Committee violated the Act by failing to disclose information which it offered to disclose but was advised by an FEC representative not to. The Committee always has done what the FEC requested of it. All reports are in

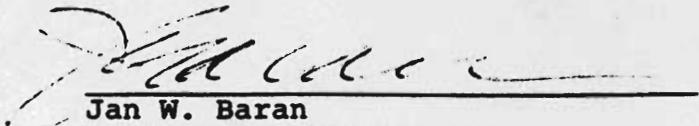
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compliance and fully amended. Under these circumstances it would be contrary to the Act's best efforts test for the FEC to accept the General Counsel's recommendation.

CONCLUSION

For the reasons set forth herein, the FEC should reject the recommendation of the General Counsel and determine, in lieu thereof, that there is no probable cause to believe that the Committee and Tom Tyree violated 2 U.S.C. § 434(b)(5)(A) or 11 C.F.R. § 104.9.

Respectfully submitted,



Jan W. Baran  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036  
(202) 861-1572

May 6, 1985

86040564778

AFFIDAVIT OF  
WALTER R. HOWELL, III

Walter R. Howell, III, for his affidavit deposes  
and says:

1. I have personal knowledge of the facts contained  
herein and am competent to testify thereto.

2. I was finance director and deputy treasurer of  
the Jepsen '84 Committee ("Committee") during 1984.

3. Marlene Pittsenbarger was comptroller of the  
Committee during 1984.

4. In late June 1984, I received a letter from  
Libby Cooperman, Reports Analyst, Federal Election Commission,  
addressed to Tom R. Tyree, Committee treasurer. The letter,  
dated June 27, 1984, (attached hereto) requested the Committee  
to amend its 1984 pre-primary report to provide additional  
details regarding the purpose of certain Committee disbursements.

5. On or about the same day that I received the  
June 27, 1984 letter, I spoke with Ms. Cooperman who told me  
that additional details were required for Committee disbursements  
to Senator Roger W. Jepsen which had been identified as "campaign  
expenses" or "expense reimbursements."

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6. I told Ms. Cooperman that the Committee reported campaign expense reimbursements to Senator Jepsen in the same manner since 1981, and that no request for additional detail had been made prior to her letter of June 27, 1984.

7. I told Ms. Cooperman that the Committee was willing to file amendments to the 1984 pre-primary report as requested in her letter.

8. I told Ms. Cooperman that the Committee was willing to amend its prior reports if that were necessary. Ms. Cooperman told me that was not necessary; that only future reports would have to include more details as requested in the June 27, 1984 letter.

9. Ms. Pittsenbarger also was advised by Ms. Cooperman that amendments to earlier reports were not necessary.

10. On July 3, 1984 I transmitted a letter (attached hereto) and amendments to the Committee's pre-primary report to the Secretary of the Senate in response to the request made in the June 27, 1984 letter.

11. All Committee reports filed subsequent to the pre-primary report disclosed details of campaign expense reimbursements in the manner requested by Ms. Cooperman.

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12. In February 1985 I was advised by counsel that FEC legal staff was requiring the Committee to amend its reports from 1981 up to the 1984 pre-primary report with respect to details of expense reimbursements to Senator Jepsen.

13. On March 15, 1985 amendments were sent to counsel.

14. On March 21, 1985 the amendments referred to above were submitted to the FEC by counsel.

15. Had I not been told by Ms. Cooperman in June of 1984 that amendments to reports filed prior to the pre-primary report were not necessary, the Committee would have filed amendments at that time.

Walter R. Howell III  
Walter R. Howell, III

Sworn to and subscribed by me this 21 day of May, 1985.

[Signature]  
Notary Public

My commission expires My Commission Expires October 14, 1987.

86040564781



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20461

NO-2

JUN 27 1984

Tom R. Tyree, Treasurer  
Jepsen '84 Committee  
P.O. Box 84  
Davenport, IA 52805

Identification Number: C00131656

Reference: 12 Day Pre-Primary Report (4/1/84-5/16/84)

Dear Mr. Tyree:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Commission Regulations define the term "purpose" to mean a brief statement or description of why a disbursement was made. Examples are "dinner expense", "media", "salary", "polling", "travel", "party fees", "phone banks", "travel expenses", "travel expense reimbursement" and "catering costs". Unacceptable descriptions include "advance", "election day expense", "expenses", "other expenses", "expense reimbursement", "miscellaneous", "outside services", "get-out-the-vote" and "voter registration". (11 CFR 104.3(b)(4)) Please amend Schedule B of your report to clarify the following descriptions which do not meet the requirements of the Regulations:

Reimbursement of Expenses, Wages and Expenses,  
Expenses.

An amendment to your original report(s) correcting the above problem(s) should be filed with the Secretary of the Senate, 232 Hart Senate Office Building, Washington, DC 20510 within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 523-4048.

Sincerely,

Libby Cooperman  
Reports Analyst  
Reports Analysis Division

86040564782  
R4033161509

**ROGER**  
**JEPSEN**

**U.S. SENATOR** P.O. Box 84 • Des Moines, Iowa 50306 • 515 281 1984 • 800 342-3359

July 3, 1984

Secretary of the Senate  
232 Hart Senate Office Building  
Washington, D.C. 20510

We have enclosed an Amendment of the 12-Day Pre-Primary Report  
(April 1, 1984 thru May 16, 1984), for the Jepsen '84 Committee.

Sincerely,



Walter R. Howell, III  
Deputy Treasurer

WRH:mkp

Enclosure

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912716151

# WILEY & REIN

1778 K STREET, N.W.  
WASHINGTON, D. C. 20006  
(202) 429-7000

WRITER'S DIRECT DIAL NUMBER  
(202) 429-7330

June 26, 1985

15 JUN 28 1985  
P 2: 21

RECEIVED  
GENERAL COUNSEL

Patty Reilly, Esquire  
Office of the General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

Re: MUR 1855 (The Jepsen '84  
Committee, et al.)

Dear Ms. Reilly:

This office represents The Jepsen '84 Committee and Tom Tyree, as treasurer, in the above-captioned matter. This letter is to confirm our telephone conversation of this date regarding our clients' interest in pursuing discussions with your office directed towards entering into a mutually satisfactory conciliation agreement pursuant to 11 C.F.R. § 111.18 (1985).

Mr. Charles N. Steele's letter of June 12, 1985 was received by me on June 17, 1985. I note that almost two weeks passed from the date on which the Commission determined probable cause in this matter, i.e., June 4, 1985, and the date on which we were notified of this action, i.e., June 17. On the latter date, I sent a letter to our clients and Senator Roger Jepsen along with a copy of Mr. Steele's letter and the accompanying proposed conciliation agreement. On June 24, I was informed by an aide to Senator Jepsen that the Senator is currently in the country of Madagascar in an official capacity on behalf of the President of the United States. He is expected to return the week of July 8.

Senator Jepsen has a keen personal interest in this matter. Any decision of our clients regarding a response to Mr. Steele's proposed conciliation agreement will require his participation. Thus, I will not be in a position to advise

ATTACHMENT #1

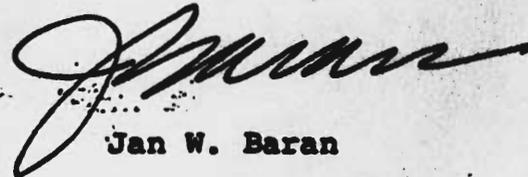
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Patty Reilly, Esquire  
June 26, 1985  
Page Two

you on the prospects of settling this matter until Senator Jepsen returns to the United States and confers with respondents. I anticipate being able to relay my clients' position to you on or before July 15. This would be well within the period of time provided in the Act for conciliation. 2 U.S.C. § 437g(a)(4)(A)(i).

If you wish to discuss this matter before July 15 please contact me at the above new address or telephone number.

Sincerely,



Jan W. Baran

86040564785

LAW OFFICES  
**WILEY & REIN**  
1776 K STREET, N.W.  
WASHINGTON, D.C. 20006

**TO:**

Kenneth A. Gross, Esquire  
Associate General Counsel  
Federal Election Commission  
1925 K Street, N.W.  
Washington, D.C. 20463

JEPSEN '84 COMMITTEE  
P. O. BOX 84  
DAVENPORT, IA 52805

REMITTANCE ADVICE		
DATE	INVOICE NO.	AMOUNT

2439  
72-20  
739

86040569737  
PAY

*Seven hundred fifty and no/100*

DOLLARS

DATE	TO THE ORDER OF	CHECK NUMBER	DESCRIPTION	CHECK AMOUNT
8-1-85	<i>U.S. Treasury</i>	2439		750

\_\_\_\_\_  
\_\_\_\_\_

FIRST TRUST AND SAVINGS BANK  
DAVENPORT, IOWA 52801

JEPSEN '84 COMMITTEE

*Marlene Stuenkel*

⑈002439⑈ ⑆073900205⑆ 000038547⑈

RECEIVED  
OFFICE OF THE FEC  
COMMISSION SECRETARY

In the Matter of )  
 )  
The Jepsen '84 Committee and )  
Tom Tyree, as treasurer )

MUR 1855

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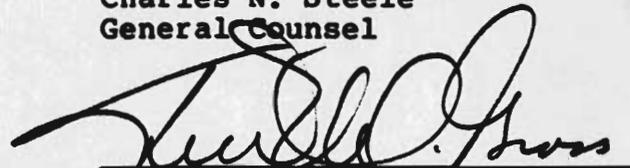
GENERAL COUNSEL'S REPORT

**SENSITIVE**

On June 4, 1985 the Commission found probable cause to believe the Jepsen '84 Committee and Tom Tyree, as treasurer violated 2 U.S.C. § 434(b)(5)(A) and 11 C.F.R. § 1049. Subsequently, on July 8, 1985, this Office informed the Commission that the Senator was unavailable, and it could not be determined whether conciliation discussions would be pursued. On July 25, 1985, this Office met with counsel for the Committee. Based on these discussions, this Office believes it is worthwhile to continue negotiations in this matter.

Charles N. Steele  
General Counsel

July 26, 1985  
Date

  
BY: Kenneth A. Gross  
Associate General Counsel

8 6 0 4 0 5 6 4 7 9 8

BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED  
OFFICE OF THE SECRETARY  
FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
The Jepsen '84 Committee and )  
Tom Tyree, as treasurer )

MUR 1855 85 JUL 30 P 5:46

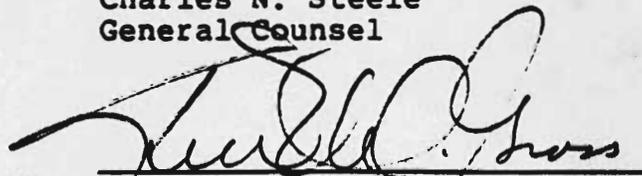
GENERAL COUNSEL'S REPORT

**SENSITIVE**

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Charles N. Steele  
General Counsel

July 26, 1985  
Date

  
BY: Kenneth A. Gross  
Associate General Counsel

86040564789

RECEIVED  
OFFICE OF THE  
GENERAL COUNSEL

**BAKER & HOSTETLER**

ATTORNEYS AT LAW

WASHINGTON SQUARE, SUITE 1100

1000 CONNECTICUT AVE., N.W.

WASHINGTON, D. C. 20006

(202) 691-2800

TELECOPIER (202) 466-6287

TELEX 650-805-7879

May 6, 1985

20739  
Reilly

IN CLEVELAND, OHIO  
3200 NATIONAL CITY CENTER  
CLEVELAND, OHIO 44114  
(216) 221-0200  
TWX 510 421 8278

IN COLUMBUS, OHIO  
66 EAST STATE STREET  
COLUMBUS, OHIO 43215  
(614) 222-1241

IN DENVER, COLORADO  
SUITE 100, 303 EAST 17TH AVENUE  
DENVER, COLORADO 80202  
(303) 291-2200

IN ORLANDO, FLORIDA  
13TH FLOOR BARNETT PLAZA  
ORLANDO, FLORIDA 32801  
(305) 241-1111

WRITER'S DIRECT DIAL NO.:  
(202) 691-1572

**Narjorie W. Emmons, Secretary**  
**Federal Election Commission**  
**1325 K Street, N.W.**  
**Washington, D.C. 20463**

Re: MUR 1855 (Jepsen '84 Committee, et al.)

Dear Mme. Secretary:

Pursuant to 11 C.F.R. § 111.16(c) (1985) I hereby submit an original and 10 copies of the enclosed Respondents' Brief on behalf of our clients, Jepsen '84 Committee and Tom R. Tyree, as treasurer, in the above-captioned matter. By copy of this letter, I am submitting 3 additional copies to Charles N. Steele, General Counsel.

Sincerely,

  
Jan W. Baran

JWB:df  
Enclosures

cc: Charles N. Steele, Esquire  
(w/3 copies of encl.)

86040564790

6CC-7870

# WILEY & REIN

1776 K STREET, N.W.  
WASHINGTON, D. C. 20006  
(202) 429-7000

WRITER'S DIRECT DIAL NUMBER  
(202) 429-7330

June 26, 1985

RECEIVED  
OFFICE OF THE  
GENERAL COUNSEL  
95 JUN 28 2:21

Patty Reilly, Esquire  
Office of the General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

Re: MUR 1855 (The Jepsen '84  
Committee, et al.)

Dear Ms. Reilly:

This office represents The Jepsen '84 Committee and Tom Tyree, as treasurer, in the above-captioned matter. This letter is to confirm our telephone conversation of this date regarding our clients' interest in pursuing discussions with your office directed towards entering into a mutually satisfactory conciliation agreement pursuant to 11 C.F.R. § 111.18 (1985).

Mr. Charles N. Steele's letter of June 12, 1985 was received by me on June 17, 1985. I note that almost two weeks passed from the date on which the Commission determined probable cause in this matter, i.e., June 4, 1985, and the date on which we were notified of this action, i.e., June 17. On the latter date, I sent a letter to our clients and Senator Roger Jepsen along with a copy of Mr. Steele's letter and the accompanying proposed conciliation agreement. On June 24, I was informed by an aide to Senator Jepsen that the Senator is currently in the country of Madagascar in an official capacity on behalf of the President of the United States. He is expected to return the week of July 8.

Senator Jepsen has a keen personal interest in this matter. Any decision of our clients regarding a response to Mr. Steele's proposed conciliation agreement will require his participation. Thus, I will not be in a position to advise

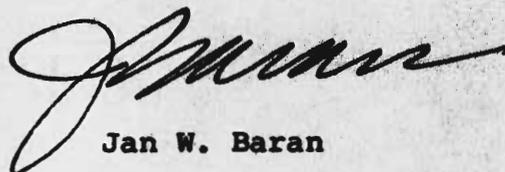
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Patty Reilly, Esquire  
June 26, 1985  
Page Two

you on the prospects of settling this matter until Senator Jepsen returns to the United States and confers with respondents. I anticipate being able to relay my clients' position to you on or before July 15. This would be well within the period of time provided in the Act for conciliation. 2 U.S.C. § 437g(a)(4)(A)(i).

If you wish to discuss this matter before July 15 please contact me at the above new address or telephone number.

Sincerely,



Jan W. Baran

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26040564795

WILEY & REIN

1776 K STREET, N. W.  
WASHINGTON, D. C. 20006



Patty Reilly, Esquire  
Office of the General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

RECEIVED  
OFFICE OF THE  
GENERAL COUNSEL  
FEDERAL ELECTION COMMISSION  
85 JUN 28 P 2: 21

85 JUN 28 07 15  
7:15 P.M.



**FEDERAL ELECTION COMMISSION**  
WASHINGTON, D.C. 20463

June 12, 1985

Jan Baran, Esquire  
Baker and Hostetler  
818 Connecticut Avenue, N.W.  
Washington, D.C. 20006

RE: MUR 1855  
The Jepsen '84 Committee and  
Tom Tyree, as treasurer

Dear Mr. Baran:

On June 4, 1985, the Commission determined that there is probable cause to believe your clients committed a violation of 2 U.S.C. § 434(b)(5)(A) and 11 C.F.R. § 104.9, a provision of the Federal Election Campaign Act of 1971, as amended, and the Act's Regulations, in connection with the failure of the Jepsen '84 Committee and Tom Tyree, as treasurer, to properly report purposes of disbursements.

The Commission has a duty to attempt to correct such violations for a period of thirty to ninety days by informal methods of conference, conciliation and persuasion, and by entering into a conciliation agreement. If we are unable to reach an agreement during that period, the Commission may institute civil suit in United States District Court and seek payment of a civil penalty.

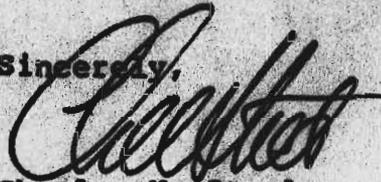
We enclose a conciliation agreement that this Office is prepared to recommend to the Commission in settlement of this matter. If you agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission within ten days. I will then recommend that the Commission approve the agreement. Please make your check for the civil penalty payable to the U.S. Treasurer.

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Jan Baran, Esquire  
Page 2

If you have any questions or suggestions for changes in the enclosed conciliation agreement, please contact Patty Reilly, the attorney assigned to this matter, at (202) 523-4143.

Sincerely,



Charles N. Steele  
General Counsel

Enclosure  
Conciliation Agreement

86040564795

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
Jepsen '84 Committee and ) MUR 1855  
Tom Tyree, as treasurer )

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of June 4, 1985, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 1855:

1. Find probable cause to believe that the Jepsen '84 Committee and Tom Tyree, as treasurer, violated 2 U.S.C. § 434(b)(5)(A) and 11 C.F.R. § 104.9.
2. Approve the letter and conciliation agreement attached to the General Counsel's report dated May 17, 1985.

Commissioners Aikens, Elliott, Harris, McDonald, McGarry, and Reiche voted affirmatively for the decision.

Attest:

6/5/85

Date

*Marjorie W. Emmons*

Marjorie W. Emmons  
Secretary of the Commission

86040564796

BEFORE THE FEDERAL ELECTION COMMISSION

MAY 29 1985

COMMISSION SECRETARY

In the Matter of )  
Jepsen '84 Committee and )  
Tom Tyree, as treasurer )

MUR 1855 MAY 20 A 8: 55

GENERAL COUNSEL'S REPORT

SENSITIVE

I. BACKGROUND

The Office of the General Counsel received a complaint on November 19, 1984 from Mr. Rodger Colton alleging a variety of violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Jepsen '84 Committee ("Committee") and Tom Tyree, as treasurer, were notified of the complaint. Addressing the complaint's allegations on February 12, 1985, the Commission found reason to believe the Committee and its treasurer violated 2 U.S.C. § 434(b)(5)(A) and 11 C.F.R. § 104.9 by failing to sufficiently document the purposes of reported disbursements. This insufficient documentation occurred on the Committee's 1981, 1982, 1983 Mid-Year and Year-End Reports, as well as its 1984 April Quarterly Report. Responding to the Commission's reason to believe finding, the Committee submitted amendments to these reports, detailing the purposes of these expenditures.

II. LEGAL ANALYSIS

Submitting amendments to the cited reports, Respondents do not dispute the Commission's finding that they failed to properly document the purposes of disbursements. Instead, Respondents' Brief asserts that the Committee used its best efforts to submit required information. The use of such best efforts is said to

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require the result that the Committee's reports be deemed in compliance with the Act. See 2 U.S.C. § 432(i). 11 C.F.R. § 104.7. Additionally, Respondents assert that it is "arbitrary" for the Commission to find probable cause to believe the Respondents violated the Act. As discussed below, the Office of General Counsel is unpersuaded by the Respondents' assertions.

1. Factual Context

In June, 1984, the Reports Analysis Division ("RAD") sent the Respondents a request for additional information ("RFAI"), noting the Committee's 1984 Pre-Primary Report contained improper itemization of purposes of disbursements.<sup>1/</sup> Communicating with the RAD staff person, the Respondents assert they inquired about the need to amend earlier reports but were informed that it was "not necessary" to file amendments to these reports.<sup>2/</sup> Respondents state that they would have made amendments to their earlier reports, but did not do so because of RAD's alleged advice. Brief at 5.

2. Legal Analysis

Respondents' assertion that its oral offer to submit amendments constitutes "best efforts", bringing its reports in

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compliance with the Act's reporting requirements, is creative but unpersuasive. The Act and Regulations uses of "best efforts" has been consistently interpreted by the Commission as referring to the best efforts of a treasurer to ascertain contributor identification. See 2 U.S.C. § 432(i) and 11 C.F.R. § 104.7. Respondents' attempt to fall within the Act's "best efforts" test yields the unlikely result that a casual inquiry to RAD arising from a single RFAI, vitiate three and one-half years of grossly deficient reporting. Moreover, despite Respondents' protests that the Commission's failure to adopt their version of the best efforts test will mean this provision of the Act is without meaning, the Office of General Counsel is satisfied that the Commission's consistent interpretation of this provision is the proper one and should not be extended any further. Therefore, it is the recommendation of this Office that the provisions of 2 U.S.C. § 432(i) and 11 C.F.R. § 104.7 are inapplicable to the matter at hand.

Respondents also argue that it is "arbitrary" for the Commission to find probable cause to believe it has violated the Act after it allegedly offered to amend its reports. Respondents' argument fails for two reasons.

First, Respondents appear to blur the distinction between an RFAI and a complaint generated MUR. At the time the Respondents offered to amend their reports, only a single RFAI focusing on one report was at issue. The complaint which is the basis of this matter involves more than three years of reports. More

importantly, in the context of the MUR, Respondents never offered to amend until after the Commission found reason to believe the Act had been violated, despite the specific focus of the complaint on the reports in question.<sup>3/</sup>

Second, even if Respondents had amended their reports in June, 1984, prior to the filing of the complaint, violations of the Act would still be presented. Amendments would not erase the Committee's longstanding practices of failing to report the purposes of disbursements. Had such amendments been filed, they would be a mitigating factor, but would not obviate the violation.

In sum, Respondents do not deny that their reports were incomplete. They have amended these reports. They have failed to advance persuasive reasons for the Commission to take no further action on this matter. Accordingly, this Office recommends that the Commission find probable cause to believe the Jepsen '84 Committee and Tom Tyree, as treasurer, violated 2 U.S.C. § 434(b)(5)(A) and 11 C.F.R. § 104.9.

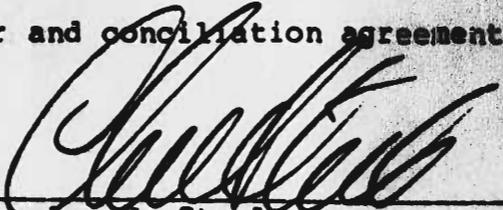
<sup>3/</sup> This Office notes that Respondents waited until the final stage of this investigation before bringing the account of their conversation with RAD to the Commission's attention.

86040564800

**IV. GENERAL COUNSEL'S RECOMMENDATIONS**

1. Find probable cause to believe that the Jepsen '84 Committee and Tom Tyree, as treasurer, violated 2 U.S.C. § 434(b)(5)(A) and 11 C.F.R. § 104.9.
2. Approve the attached letter and conciliation agreement.

17 May 1985  
Date

  
\_\_\_\_\_  
Charles N. Steele  
General Counsel

**Attachments**

1. Letter
2. Conciliation Agreement
3. Amendments

86040564801



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Jan Baran, Esquire  
Baker and Hostetler  
818 Connecticut Avenue, N.W.  
Washington, D.C. 20006

RE: MUR 1855  
The Jepsen '84 Committee and  
Tom Tyree, as treasurer

Dear Mr. Baran:

On , 1985, the Commission determined that there is probable cause to believe your clients committed a violation of 2 U.S.C. § 434(b)(5)(A) and 11 C.F.R. § 104.9, a provision of the Federal Election Campaign Act of 1971, as amended, and the Act's Regulations, in connection with the failure of the Jepsen '84 Committee and Tom Tyree, as treasurer, to properly report purposes of disbursements.

The Commission has a duty to attempt to correct such violations for a period of thirty to ninety days by informal methods of conference, conciliation and persuasion, and by entering into a conciliation agreement. If we are unable to reach an agreement during that period, the Commission may institute civil suit in United States District Court and seek payment of a civil penalty.

We enclose a conciliation agreement that this Office is prepared to recommend to the Commission in settlement of this matter. If you agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission within ten days. I will then recommend that the Commission approve the agreement. Please make your check for the civil penalty payable to the U.S. Treasurer.

ATTACHMENT #1

86040564802

Jan Baran, Esquire  
Page 2

If you have any questions or suggestions for changes in the enclosed conciliation agreement, please contact Patty Reilly, the attorney assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele  
General Counsel

Enclosure  
Conciliation Agreement

86040564803

HAND DELIVERED  
65 MAR 21 P 3:16

BAKER & HOSTETLER

ATTORNEYS AT LAW

818 CONNECTICUT AVE., N.W.  
WASHINGTON, D. C. 20006

(202) 661-1500  
TELECOPIER (202) 657-0010

IN CLEVELAND, OHIO  
3200 NATIONAL CITY CENTER  
CLEVELAND, OHIO 44114  
(216) 831-8800  
TWX 810 481 8378

IN COLUMBUS, OHIO  
68 EAST STATE STREET  
COLUMBUS, OHIO 43215  
(614) 228-1541

IN DENVER, COLORADO  
SUITE 1100, 303 EAST 17TH AVENUE  
DENVER, COLORADO 80202  
(303) 661-0500

IN ORLANDO, FLORIDA  
13TH FLOOR BARNETT PLAZA  
ORLANDO, FLORIDA 32801  
(305) 641-1111

March 21, 1985

WRITER'S DIRECT DIAL NO.:  
(202) 661- 1572

Patty Reilly, Esquire  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

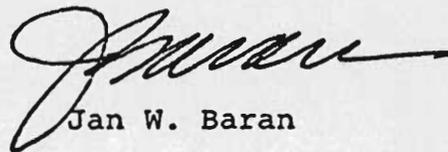
Re: MUR 1855

Dear Ms. Reilly:

Enclosed please find amendments to the reports of the Jepsen '84 Committee prepared by Ms. Marlene Pittsenbarger, Comptroller. These amendments affect the disbursements reported regarding the Roger W. Jepsen Office Account and pertain to reports filed between July 31, 1981 and January 31, 1984 inclusively. These amendments elaborate upon the purpose of the various disbursements.

The Committee respectfully requests that you treat these as amendments to the respective reports. If you have any questions please feel free to call me.

Sincerely,

  
Jan W. Baran

JWB:df  
Enclosures

cc: Roger W. Jepsen  
Trip Howell  
Tom Tyree  
Marlene Pittsenbarger

ATTACHMENT #3

86040564804

**ROGER**  
**JEPSEN**

**U.S. SENATOR P.O. Box BX • Des Moines, Iowa 50306 • 515-283-1984 • 800-342-3359**

**March 15, 1985**

Jan W. Baran  
Baker & Hostetler  
818 Connecticut Avenue, N.W.  
Washington, D.C. 20006

Dear Mr. Baran:

Please find enclosed the information the Federal Election Commission requested in their letter to you dated February 21, 1985. Mr. Howell told me to mail this information to you after I completed it.

After your review and you feel that more explanations are needed please let me know.

Thank you for your help.

Sincerely,

JEPSEN '84 COMMITTEE

Marlene Pittsenbarger  
Comptroller

Mailing address: P. O. Box 84  
Davenport, Iowa 52805

86040564805

Jepsen '84 Committee  
P. O. Box 84  
Davenport, Iowa 52805

FEC ID C 00131656

Amendment to July 31 Mid Year Report  
Covering Period January 1, 1981 thru June 1, 1981

Amendment to Page 2 of 4 for Line Number 7 Item F

Roger W. Jepsen, Office Account

Check dated March 11, 1981 - \$1,394.31

Stationery printing for campaign paid to Thomas J. Lankford, Inc.	\$ 214.50
Flowers - paid to Mark Turner Flowers	262.83
Postage - U.S. Senate Post Office	130.00
Printing expenses reimbursed to Dee Jepsen	132.30
Dinner expenses paid to the Senate Restaurant	261.68
Shipping charges for shipping tapes	34.00
Campaign travel expenses paid for Dee Jepsen	359.00

Check dated April 8, 1981 - \$549.90

Dinner expenses paid to Senate Restaurant	102.30
Postage- U.S. Senate Post Office	447.60

Check dated May 11, 1981 - \$523.68

Campaign travel expenses paid for Dee Jepsen	400.00
Campaign lodging for Dee Jepsen	44.33
Purchase of U.S. Flag	6.35
Postage - U.S. Senate Post Office	18.00
Offices expenses	55.00

Check dated June 6, 1981 - \$496.05

Campaign travel expenses paid for Dee Jepsen	155.00
Campaign lodging for Dee Jepsen	47.92
Dinner expenses	43.71
Postage - U.S. Senate Post Office	237.12
Printing expenses paid to Stationery Room	12.30

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Total for this period reported to FEC \$ 2,963.94

86040564806

Jepsen '84 Committee  
P. O. Box 84  
Davenport, Iowa 52805

FEC ID C 00131656

Amendment to January 31 Year End Report  
Covering Period July 1, 1981 thru December 31, 1981.

Amendment to Page 2 of 4 for Line Number 17 Item D

Roger W. Jepsen, Office Account

Check dated July 15, 1981 - \$204.22

Telephone call expenses	\$ 2.23
Postage - U.S. Senate Post Office	126.00
Printing expenses paid to Stationery Room	12.30
Flowers paid to Boesen Flowers	44.29
Printing expenses of campaign material	19.40

Check dated August 24, 1981 - \$183.75

Campaign lodging expenses paid for Dee Jepsen	63.65
Postage - U.S. Senate Post Office	120.10

Check dated September 18, 1981 - \$511.14

Campaign lodging expenses paid for Dee Jepsen	199.66
Dinner expenses	35.22
Flowers - paid to Mark Turner Flowers	22.70
Postage - U.S. Senate Post Office	253.56

Check dated October 20, 1981 - \$393.66

Campaign travel expenses paid for Dee Jepsen	142.50
Campaign lodging for Dee Jepsen	79.11
Postage - U.S. Senate Post Office	90.00
Printing - Stationery Room	11.75
Flowers	70.30

Check dated November 11, 1981 - \$822.43

Printing expenses paid to Minuteman Press	60.06
Envelope from Stationery Room	32.00
Postage - U.S. Senate Post Office	730.37

Check dated December 15, 1981 - \$203.96

Postage - U.S. Senate Post Office	175.70
Envelopes = Stationery Room	12.30
Forum Register	15.00
Mailing sacks	.96

Total for this period reported to FEC \$ 2,319.16

86040564807

Jepsen '84 Committee  
P. O. Box 84  
Davenport, Iowa 52805

FEC ID C 00131656

Amendment to July 31 Mid Year Year Report  
Covering Period January 1, 1982 thru June 30, 1982

Amendment to Page 2 of 3 for Line Number 17, Item C

Roger W. Jepsen, Office Account

Check dated January 26, 1982 - \$677.39

Coffee of Academy meeting	\$ 32.58
Campaign lodging expenses for Dee Jepsen	45.37
Dinner expenses	54.30
Postage - U.S. Senate Post Office	448.42
Shipping charges - United Parcel Services	81.27
Flowers - Town & Country Florist	15.45

Check dated February 15, 1982 - \$379.39

Campaign lodging expenses for Dee Jepsen	92.02
Postage - U.S. Senate Post Office	59.22
Office Supplies	112.70
Flowers	15.45
TV Tape from WNAC-TV	100.00

Check dated March 15, 1982 - \$500.00

Postage - U.S. Senate Post Office	500.00
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Check dated March 21, 1982 - \$253.02

Staff meeting expenses	89.40
Postage - U.S. Senate Post Office	100.00
Printing expenses	28.62
Office coffee	35.00

Check dated April 15, 1982 - \$250.83

Campaign lodging expenses for Dee Jepsen	108.98
Dinner expenses	61.80
Postage - U.S. Senate Post Office	80.05

Check dated May 6, 1982 - \$75.81

Campaign travel expenses for Dee Jepsen	50.00
Postage - U.S. Senate Post Office	25.81

Check dated May 13, 1982 - \$50.73

Postage - U.S. Senate Post Office	50.73
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Check dated June 18, 1982 - \$623.46

Campaign lodging for Dee Jepsen	95.30
Postage - U.S. Senate Post Office	85.84
Copying expenses	379.32
Mastercharge fees	15.00
Gifts	48.00

Total for this period reported to FEC	\$ 2,810.63
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86040564808

Jepsen '84 Committee  
P. O. Box 84  
Davenport, Iowa 52805

FEC ID C 00131656

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Amendment to January 31 Year End Report  
Covering Period July 1, 1982 thru December 31, 1982

Amendment to Page 1 of 3: for Line Number 17, Item G

Roger W. Jepsen Office Account

Check dated July 25, 1982 - \$104.10

Postage - U.S. Senate Post Office \$ 104.10

Check dated September 15, 1982 - \$418.07

Staff Meeting expenses 38.60  
Campaign tapes 9.35  
Postage - U.S. Senate Post Office 111.64  
Campaign travel expenses for Dee Jepsen 258.48

Check dated October 14, 1982 - \$64.54

Shipping charges paid to Federal Express 21.00  
Postage - U.S. Senate Post Office 40.00  
Travel expenses 3.45

Check dated October 28, 1982 - \$323.11

Registration fees for staff 5.00  
Campaign travel expenses paid for Dee Jepsen 126.18  
Dinner expenses for staff 157.31  
Postage - U.S. Senate Post Office 34.62

Check dated November 11, 1982 - \$368.02

Postage - U.S. Senate Post Office 368.02

Check dated December 10, 1982 - \$42.89

Postage - U.S. Senate Post Office 42.89

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Total for this period reported to FEC \$ 1,320.64

86040564809

Jepsen '84 Committee  
P. O. Box 84  
Davenport, Iowa 52805

FEC ID C 00131656

Amendment to July 31 Mid Year Report  
Covering Period January 1, 1983 thru June 30, 1983

Amendment to Page 2 of 5 for Line Number 17, Item H

Roger W. Jepsen, Office Account

Check dated January 15, 1983 - \$260.00

Postage - U.S. Senate Post Office \$ 260.00

Check dated February 3, 1983 - \$329.41

Postage - U.S. Senate Post Office 234.41  
TV & Radio Taping expenses 95.00

Check dated March 5, 1983 - \$437.81

Campaign travel expenses paid for  
Dee Jepsen 103.17  
Postage - U.S. Senate Post Office 334.64

Check dated April 20, 1983 - \$317.25

Printing expenses 36.00  
Staff meeting expenses 36.25  
Postage - U.S. Senate Post Office 245.00

Check dated May 12, 1983 - \$370.56

Postage - U.S. Senate Post Office 165.00  
Campaign lodging expenses paid for  
Dee Jepsen 45.56  
Postage - U.S. Senate Post Office 160.00

Check dated May 31, 1983 - \$206.00

Postage - U.S. Senate Post Office 206.00

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Total for this period reported to FEC \$ 1,921.03

96040564810

Amendment to January 31 Year End Report  
Covering Period July 1, 1983 thru December 31, 1983

Amendment to Page 5 of 11 for Line Number 17, Item G

Roger W. Jepsen, Office Account

Check dated July 1, 1983 - \$578.56

Telephone expenses	\$ 14.42
Delivery charges	59.99
Campaign lodging expenses for Dee Jepsen	110.33
Postage - U.S. Senate Post Office	340.00
Staff meeting expenses	53.82

Check dated August 1, 1983 - \$632.20

Postage - U.S. Senate Post Office	620.00
Printing from Stationery Room	12.20

Check dated August 16, 1983 - \$266.68

Postage - U.S. Senate Post Office	260.00
Telephone expenses	6.68

Check dated September 2, 1983 - \$952.85

Campaign travel expenses reimbursed to A. J. Montgomery	123.90
Campaign taping for radio KQWC	32.50
Postage - U.S. Senate Post Office	300.00
Campaign travel expenses reimbursed to William Finerfrock	472.85
Campaign lodging expenses paid for Dee Jepsen	23.60

Check dated September 2, 1983 - \$230.64

Campaign travel expenses reimbursed to Jim Secrist	191.86
Telephone expenses	7.83
Printing expenses - Stationery Room	30.95

Check dated September 30, 1983 - \$160.00

Postage - U.S. Senate Post Office	160.00
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Check dated October 24, 1983 - \$770.27

Campaign travel expenses paid for Dee Jepsen	125.00
Campaign lodging expenses for Dee Jepsen	32.70
Campaign lodging expenses for Roger Jepsen	47.00
Dinner expenses	197.46
Postage - U.S. Senate Post Office	270.80
Office Supplies	45.00
Flowers	15.00
Meeting expenses	37.31

86040564811

(Continued page 5 of 1 for line number 17 Item g)

Check dated November 15, 1983 - \$1,538.06

Campaign travel expenses reimbursed to Jim Secrist	\$ 782.22
Postage - U.S. Senate Post Office	200.00
Printing - Stationery Room	20.95
Dinner expenses for the staff	166.09
Campaign lodging expenses for Dee Jepsen	130.80
Printing and copying expenses	27.00
Campaign travel expenses for Roger Jepsen	211.00

Check dated November 28, 1983 - \$460.00

Postage - U.S. Senate Post Office	460.00
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Check dated December 7, 1983 - \$492.59

Photo expenses	44.66
Shipping charges	56.86
Printing expenses	39.20
Postage - U.S. Senate Post Office	160.00
Dinner expenses	139.24
Campaign lodging expenses for Dee Jepsen	7.63
Tapes for the campaign	25.00
Registration fees for the staff	20.00

Check dated December 8, 1983 - \$652.50

Printing expenses	652.50
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Check dated December 15, 1983 - \$520.00

Postage - U.S. Senate Post Office	520.00
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Total for this period reported to FEC	\$ 7,254.35
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86040564812

Jepsen '84 Committee  
P. O. Box 84  
Davenport, Iowa 52805

FEC ID C 00131656

Amendment to April 15 Quarterly Report  
Covering Period January 1, 1984 thru March 31, 1984

Amendment to Page 6 of 10 Line Number 17 Item B

Roger W. Jepsen, Office Account

Check dated January 3, 1984 - \$1,996.54

Postage - U.S. Senate Post Office	\$ 503.65
Campaign travel expenses reimbursed to James Lafferty	919.74
Jim Secrist	128.89
Flowers	28.00
Dinner expenses	107.13
Shipping fees - United Parcel Services	43.88
Printing expenses	265.25

Check dated January 19, 1984 - \$1,816.58

Campaign travel expenses reimbursed to James Lafferty	1,458.46
Campaign lodging expenses for Dee Jepsen	130.23
Postage - U.S. Senate Post Office	78.01
Campaign travel expenses for Dee Jepsen	64.00
Printing expenses	30.00
Dinner expenses	55.88

Check dated February 6, 1984 - \$1,980.36

Campaign travel expenses reimbursed to Jim Secrist	401.12
James Lafferty	737.58
Campaign lodging expenses for Dee Jepsen	333.05
Campaign travel expenses for Dee Jepsen	282.00
Printing expenses	30.00
Postage - U.S. Senate Post Office	167.87
Dinner expenses reimbursed to Dee Jepsen	28.74

Check dated February 23, 1984 - \$1,656.95

Campaign travel expenses reimbursed to Jim Secrist	90.05
Tom Talbert	423.56
James Lafferty	529.78
Staff dinner expenses	92.53
Campaign lodging expenses paid for staff	33.72
Campaign lodging expenses for Dee Jepsen	217.50
Printing expenses reimbursed to Mary Ann Dorweiler	112.50
Postage - U.S. Senate Post Office	157.31

86040564813

(Continued to page 10 line number 17 item b)

Check dated March 26, 1984 - \$1,311.28

Campaign travel expenses reimbursed to James Lafferty	\$ 817.53
Postage - U.S. Senate Post Office	204.40
Printing expenses	96.00
Telephone expenses	19.15
Shipping charges - United Parcel Services	99.55
Dinner expenses	57.05
Staff meeting expenses	17.60
	<hr/>
Total for this period reported to FEC	\$ 8,761.71

86040564814

Jepsen '84 Committee  
P. O. Box 84  
Davenport, Iowa 52805

FEC ID C 00131656

Amendment to July 31 Mid Year Report  
Covering Period January 1, 1981 thru June 1, 1981

Roger W. Jepsen

Amendment to Page 2 of 4 for line number 17 Item E

Check dated March 6, 1981 - \$1,342.83

Dinner expenses reimbursed	\$ 761.88
Flowers	126.95
Travel expenses reimbursed for Dee Jepsen	366.00
Gifts from Stationery Room	88.00

Check dated April 7, 1981 - \$505.14

Travel expenses reimbursed for Dee Jepsen	361.00
Dinner expenses reimbursed	144.14

Check dated May 11, 1981 - \$38.59

Dinner expenses reimbursed	38.59
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Check dated June 10, 1981 - \$858.20

Travel expenses reimbursed for Dee Jepsen	503.00
Dinner expenses reimbursed	247.13
Office expenses reimbursed	108.07

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Total for this period reported to FEC \$ 2,744.76

860440564815

Jepsen '84 Committee  
P. O. Box 84  
Davenport, Iowa 52805

FEC ID C 00131656

Amendment to January 31 Year End Report  
Covering Period July 1, 1981 thru December 31, 1981

Amendment to Page 2 of 4 for Line Number 17 Item C

Roger W. Jepsen

Check dated July 15, 1981 - \$1,370.09

Travel expenses reimbursed for Dee Jepsen and Roger Jepsen	\$ 1,029.00
Campaign lodging expenses reimbursed	21.90
Dinner expenses reimbursed	319.19

Check dated August 4, 1981 - \$379.44

Dinner expenses reimbursed	116.17
Gift	23.27
Travel expenses reimbursed	240.00

Check dated September 18, 1981 - \$198.59

Dinner expenses reimbursed	198.59
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Check dated October 20, 1981 - \$211.49

Dinner expenses reimbursed	211.49
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Check dated November 11, 1981 - \$150.32

Dinner expenses reimbursed	150.32
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Check dated December 15, 1981 - \$110.75

Auto expenses reimbursed	28.00
Dinner expenses reimbursed	18.95
Office expenses	63.80

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Total for this period reported to FEC	\$ 2,420.68
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Jepsen '84 Committee  
P. O. Box 84  
Davenport, Iowa 52805

FEC ID C 00131656



Amendment to July 31 Mid Year Report  
Covering Period January 1, 1982 thru June 30, 1982

Amendment to Page 2 of 3 for Line Number 17, Item B

Roger W. Jepsen

Check dated January 26, 1982 - \$25.46

Dinner expenses reimbursed \$ 25.46

Check dated February 15, 1982 - \$187.99

Dinner expenses reimbursed 187.99

Check dated April 15, 1982 - \$137.70

Dinner expenses reimbursed 137.70

Check dated May 13, 1982 - \$51.75

Dinner expenses reimbursed 46.00

Auto expenses 5.75

Check dated June 18, 1982 - \$128.93

Dinner expenses reimbursed 128.93

Total for this period reported to FEC \$ 531.83

860440564817

Jepsen '84 Committee  
P. O. Box 84  
Davenport, Iowa 52805

FEC ID C 00131656

Amendment to January 31 Year End Report  
Covering Period July 1, 1982 thru December 31, 1982

Amendment to Page 1 of 3 Line Number 17 Item F

Roger W. Jepsen

Check dated July 29, 1982 - \$215.27	
Dinner expenses reimbursed	\$ 193.24
Flower expenses	22.03
Check dated September 15, 1982 - \$145.16	
Dinner expenses reimbursed	145.16
Check dated October 12, 1982 - \$104.64	
Dinner expenses reimbursed	104.64
Check dated October 28, 1982 - \$191.25	
Staff meeting expenses and dinner expenses	114.29
Gifts	6.86
Travel expenses reimbursed	70.10
Check dated November 11, 1982 - \$202.21	
Dinner expenses reimbursed	202.21
Check dated December 10, 1982 - \$1,274.54	
Dinner expenses reimbursed	274.54
Travel expenses reimbursed	1,000.00
	<hr/>
Total for this period reported to FEC	\$ 2,133.07

86040564818

Jepsen '84 Committee  
P. O. Box 84  
Davenport, Iowa 52805

FEC ID C 00131656

Amendment to July 31 Mid Year Report  
Covering Period January 1, 1983 thru June 30, 1983

Amendment to Page 2 of 5 for Line Number 17, Item G

Roger W. Jepsen

Check dated February 3, 1983 - \$368.33

Dinner expenses reimbursed \$ 368.33

Check dated March 5, 1983 - \$187.63

Dinner expenses reimbursed 187.63

Check dated April 20, 1983 - \$246.36

Dinner expenses reimbursed 246.36

Check dated April 20, 1983 - \$76.96

Telephone expenses 9.36  
Postage reimbursed 67.60

Check dated April 20, 1983 - \$121.89

Dinner expenses reimbursed 121.89

Check dated May 12, 1983 - \$71.72

Dinner expenses reimbursed 71.72

Check dated May 12, 1983 - \$212.14

Travel expenses reimbursed 212.14

Check dated May 31, 1983 - \$170.01

Travel expenses reimbursed 37.50  
Lodging expenses 55.83  
Dinner expenses 76.68

Total for this period reported to FEC \$ 1,455.04

86040564819

Jepsen '84 Committee  
P. O. Box 84  
Davenport, Iowa 52805

FEC ID C 00131656

Amendment to January 31 Year End Report  
Covering Period July 1, 1983 thru December 31, 1983

Amendment to Page 5 of 11 for Line Number 17, Item F

Roger W. Jepsen

Check dated July 1, 1983 - \$117.99

Staff meeting expenses \$ 117.99

Check dated July 1, 1983 - \$380.41

Travel expenses reimbursed 62.00  
Dinner expenses reimbursed 318.41

Check dated August 16, 1983 - \$232.58

Dinner expenses reimbursed 232.58

Check dated August 29, 1983 - \$40.00

Dinner expenses reimbursed 40.00

Check dated September 2, 1983 - \$12.00

Dinner expenses reimbursed 12.00

Check dated September 30, 1983 - \$41.69

Dinner expenses reimbursed 41.69

Check dated October 24, 1983 - \$39.00

Gifts 39.00

Check dated November 15, 1983 - \$100.00

Contribution to Soorholtz 100.00

Check dated November 15, 1983 - \$21.00

Dinner expenses reimbursed 12.00  
Campaign material expenses 9.00

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Total for this period reported to FEC \$ 984.67

86040564820



**FEDERAL ELECTION COMMISSION**  
WASHINGTON, D.C. 20463

RECEIVED  
OFFICE OF THE FEC  
COMMISSION SECRETARY

85 APR 11 AM 11:39

April 11, 1985

**MEMORANDUM TO: The Commission**

**FROM:** Charles N. Steel *CS*  
General Counsel

**SUBJECT:** MUR 1855

Attached for the Commission's review is a brief stating the position of the General Counsel on the legal and factual issues of the above-captioned matter. A copy of this brief and a letter notifying the respondent of the General Counsel's intent to recommend to the Commission a finding of probable cause to believe was mailed on April 11, 1985. After receiving Respondent's reply to this notice, this Office will make a further report to the Commission.

Attachments

1. Brief
2. Letter

36040564821

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )

Jepsen '84 Committee and )  
Tom Tyree, as treasurer )

MUR 1855

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

The Office of the General Counsel received a complaint on November 19, 1984 from Mr. Rodger Colton alleging a variety of violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Jepsen '84 Committee ("Committee") and Tom Tyree, as treasurer, were notified of the complaint. Addressing the complaint's allegations on February 12, 1985, the Commission found reason to believe the Committee and its treasurer violated 2 U.S.C. § 434(b)(5)(A) and 11 C.F.R. § 104.9 by failing to sufficiently document the purposes of reported disbursements. This insufficient documentation occurred on the Committee's 1981, 1982, 1983 Mid-Year and Year-End Reports, as well as its 1984 April Quarterly Report. Responding to the Commission's reason to believe finding, the Committee submitted amendments to these reports, detailing the purposes of these expenditures.

II. LEGAL ANALYSIS

When a political committee makes a disbursement exceeding \$200, the Act requires that the committee report the identity of the purpose of the expenditure. 2 U.S.C. § 434(b)(5)(A). The Regulations further clarify this requirement, defining purpose as "a brief statement or description as to the reason for

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disbursement." 11 C.F.R. § 104.9(a). The Regulations specifically state descriptions such as "other expenses" and "expense reimbursement" are not sufficient statements of purpose.

Apparently, the candidate made disbursements on behalf of the Committee from his personal checking account. Subsequently, the Committee reimbursed the candidate, merely indicating that the purposes of these expenditures were for reimbursement purposes. Moreover, the Committee also made the same sort of cursory reporting of purposes for disbursements reported as paid directly to the candidate.

For example, the 1981 Mid Year, 1981 Year End, 1982 Mid Year, and 1982 Year End Reports all list both the candidates and the "Office Account" as payees of expenditures. The purposes of these expenditures are listed as "Reimbursement of Expenses".

Later reports contain similar problems. For example, the Committee noted a disbursement of \$1,921.03 in the 1982 Mid Year Report. The payee is the "Roger W. Jepsen, Office Account"; the purpose is noted as "campaign expenses." This same report notes a \$1,455.04 disbursement to the candidate for "campaign expenses." Similarly, the Committee noted a \$7,254.35 disbursement in the 1983 Year End report to the "Roger W. Jepsen, Office Account" as payee and "Reimbursement of Expenses" listed as the purpose of the expenditure.

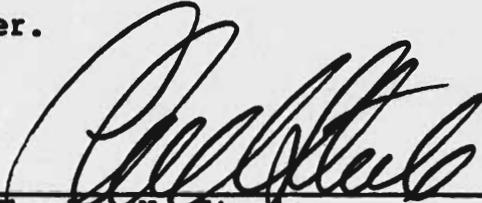
86040564823

The Committee is required to report the purposes of its expenditures. It has failed to do so. While the Committee has amended the reports in question, this is a mitigating factor but does not obviate the violation. Accordingly, it appears the Committee has violated 2 U.S.C. § 434(b)(5)(A) and 11 C.F.R. § 104.9.

**III. GENERAL COUNSEL'S RECOMMENDATIONS**

1. Find probable cause to believe that the Jepsen '84 Committee and Tom Tyree, as treasurer, violated 2 U.S.C. § 434(b)(5)(A) and 11 C.F.R. § 104.9.
2. Approve the attached letter.

10 April 1985  
Date




---

Charles N. Steele  
General Counsel

- Attachments**
1. Letter

86040564824



**FEDERAL ELECTION COMMISSION**  
WASHINGTON, D.C. 20463

April 11, 1985

Jan Baran, Esquire  
Baker & Hostetler  
818 Connecticut Avenue, N.W.  
Washington, D.C. 20006

RE: MUR 1855  
The Jepsen '84 Committee  
and Tom Tyree, as treasurer

Dear Mr. Baran:

Based on a complaint filed with the Commission on November 19, 1984, and information supplied by you the Commission determined on February 12, 1985, that there was reason to believe your clients had violated 2 U.S.C. § 434(b)(5)(A) and 11 C.F.R. § 104.9 provisions of the Federal Election Campaign Act of 1971, as amended ("the Act") and its Regulations, and instituted an investigation of this matter.

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

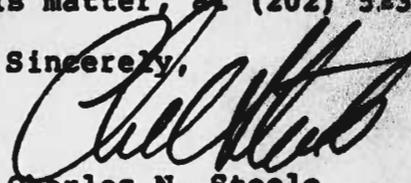
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Letter to Jan Baran  
Page 2

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 Patty Reilly, the attorney assigned to handle this matter, at (202) 523-4143.

Sincerely,



Charles N. Steele  
General Counsel

Enclosure  
Brief

86040564826

**BAKER & HOSTETLER**

ATTORNEYS AT LAW

616 CONNECTICUT AVE. N.W.

WASHINGTON, D. C. 20006

(202) 551-1200

TELECOPIER (202) 557-0222

85 MAR 21 P 3: 16

IN CLEVELAND, OHIO  
3800 NATIONAL CITY CENTER  
CLEVELAND, OHIO 44114  
(216) 581-0200  
TWX 910 441 8278

IN COLUMBUS, OHIO  
65 EAST STATE STREET  
COLUMBUS, OHIO 43218  
(614) 222-1241

IN DENVER, COLORADO  
SUITE 200, 555 EAST 17TH AVENUE  
DENVER, COLORADO 80202  
(303) 534-0222

IN ORLANDO, FLORIDA  
15TH FLOOR BARRETT PLAZA  
ORLANDO, FLORIDA 32801  
(407) 244-1111

March 21, 1985

WRITER'S DIRECT DIAL NO.:

(202) 661-1572

Patty Reilly, Esquire  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

Re: MUR 1855

Dear Ms. Reilly:

Enclosed please find amendments to the reports of the Jepsen '84 Committee prepared by Ms. Marlene Pittsenbarger, Comptroller. These amendments affect the disbursements reported regarding the Roger W. Jepsen Office Account and pertain to reports filed between July 31, 1981 and January 31, 1984 inclusively. These amendments elaborate upon the purpose of the various disbursements.

The Committee respectfully requests that you treat these as amendments to the respective reports. If you have any questions please feel free to call me.

Sincerely,

  
Jan W. Baran

JWB:df  
Enclosures

cc: Roger W. Jepsen  
Trip Howell  
Tom Tyree  
Marlene Pittsenbarger

86040564827

**ROGER**  
**JEPSEN**

**U.S. SENATOR P.O. Box BX • Des Moines, Iowa 50306 • 515-283-1984 • 800-342-3359**

**March 15, 1985**

**Jan W. Baran  
Baker & Hostetler  
818 Connecticut Avenue, N.W.  
Washington, D.C. 20006**

**Dear Mr. Baran:**

**Please find enclosed the information the Federal Election Commission requested in their letter to you dated February 21, 1985. Mr. Howell told me to mail this information to you after I completed it.**

**After your review and you feel that more explanations are needed please let me know.**

**Thank you for your help.**

**Sincerely,**

**JEPSEN '84 COMMITTEE**

**Marlene Pittsenbarger  
Comptroller**

**Mailing address: P. O. Box 84  
Davenport, Iowa 52805**

86040564828

Jepsen '84 Committee  
P. O. Box 84  
Davenport, Iowa 52805

FEC ID C 00131656

Amendment to July 31 Mid Year Report  
Covering Period January 1, 1981 thru June 1, 1981

Amendment to Page 2 of 4 for Line Number 7 Item F

Roger W. Jepsen, Office Account

Check dated March 11, 1981 - \$1,394.31

Stationery printing for campaign paid to Thomas J. Lankford, Inc.	\$ 214.50
Flowers - paid to Mark Turner Flowers	262.83
Postage - U.S. Senate Post Office	130.00
Printing expenses reimbursed to Dee Jepsen	132.30
Dinner expenses paid to the Senate Restaurant	261.68
Shipping charges for shipping tapes	34.00
Campaign travel expenses paid for Dee Jepsen	359.00

Check dated April 8, 1981 - \$549.90

Dinner expenses paid to Senate Restaurant	102.30
Postage - U.S. Senate Post Office	447.60

Check dated May 11, 1981 - \$523.68

Campaign travel expenses paid for Dee Jepsen	400.00
Campaign lodging for Dee Jepsen	44.33
Purchase of U.S. Flag	6.35
Postage - U.S. Senate Post Office	18.00
Offices expenses	55.00

Check dated June 6, 1981 - \$496.05

Campaign travel expenses paid for Dee Jepsen	155.00
Campaign lodging for Dee Jepsen	47.92
Dinner expenses	43.71
Postage - U.S. Senate Post Office	237.12
Printing expenses paid to Stationery Room	12.30

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Total for this period reported to FEC \$ 2,963.94

86040564829

Jepsen '84 Committee  
P. O. Box 84  
Davenport, Iowa 52805

FEC ID C 00131656

Amendment to January 31 Year End Report  
Covering Period July 1, 1981 thru December 31, 1981

Amendment to Page 2 of 4 for Line Number 17 Item D

Roger W. Jepsen, Office Account

Check dated July 15, 1981 - \$204.22

Telephone call expenses	\$	2.23
Postage - U.S. Senate Post Office		126.00
Printing expenses paid to Stationery Room		12.30
Flowers paid to Boesen Flowers		44.29
Printing expenses of campaign material		19.40

Check dated August 24, 1981 - \$183.75

Campaign lodging expenses paid for Dee Jepsen		63.65
Postage - U.S. Senate Post Office		120.10

Check dated September 18, 1981 - \$511.14

Campaign lodging expenses paid for Dee Jepsen		199.66
Dinner expenses		35.22
Flowers - paid to Mark Turner Flowers		22.70
Postage - U.S. Senate Post Office		253.56

Check dated October 20, 1981 - \$393.66

Campaign travel expenses paid for Dee Jepsen		142.50
Campaign lodging for Dee Jepsen		79.11
Postage - U.S. Senate Post Office		90.00
Printing - Stationery Room		11.75
Flowers		70.30

Check dated November 11, 1981 - \$822.43

Printing expenses paid to Minuteman Press		60.06
Envelope from Stationery Room		32.00
Postage - U.S. Senate Post Office		730.37

Check dated December 15, 1981 - \$203.96

Postage - U.S. Senate Post Office		175.70
Envelopes - Stationery Room		12.30
Forum Register		15.00
Mailing sacks		.96

Total for this period reported to FEC \$ 2,319.16

86040564830

Jepsen '84 Committee  
P. O. Box 84  
Davenport, Iowa 52805

FEC ID C 00131656

Amendment to July 31 Mid Year Year Report  
Covering Period January 1, 1982 thru June 30, 1982

Amendment to Page 2 of 3 for Line Number 17, Item C

Roger W. Jepsen, Office Account

Check dated January 26, 1982 - \$677.39

Coffee of Academy meeting	\$ 32.58
Campaign lodging expenses for Dee Jepsen	45.37
Dinner expenses	54.30
Postage - U.S. Senate Post Office	448.42
Shipping charges - United Parcel Services	81.27
Flowers - Town & Country Florist	15.45

Check dated February 15, 1982 - \$379.39

Campaign lodging expenses for Dee Jepsen	92.02
Postage - U.S. Senate Post Office	59.22
Office Supplies	112.70
Flowers	15.45
TV Tape from WNAC-TV	100.00

Check dated March 15, 1982 - \$500.00

Postage - U.S. Senate Post Office	500.00
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Check dated March 21, 1982 - \$253.02

Staff meeting expenses	89.40
Postage - U.S. Senate Post Office	100.00
Printing expenses	28.62
Office coffee	35.00

Check dated April 15, 1982 - \$250.83

Campaign lodging expenses for Dee Jepsen	108.98
Dinner expenses	61.80
Postage - U.S. Senate Post Office	80.05

Check dated May 6, 1982 - \$75.81

Campaign travel expenses for Dee Jepsen	50.00
Postage - U.S. Senate Post Office	25.81

Check dated May 13, 1982 - \$50.73

Postage - U.S. Senate Post Office	50.73
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Check dated June 18, 1982 - \$623.46

Campaign lodging for Dee Jepsen	95.30
Postage - U.S. Senate Post Office	85.84
Copying expenses	379.32
Mastercharge fees	15.00
Gifts	48.00

Total for this period reported to FEC \$ 2,810.63

86040564831

Jepsen '84 Committee  
P. O. Box 84  
Davenport, Iowa 52805

FEC ID C 00131656

Amendment to January 31 Year End Report  
Covering Period July 1, 1982 thru December 31, 1982

Amendment to Page 1 of 3: for Line Number 17, Item C

Roger W. Jepsen Office Account

Check dated July 25, 1982 - \$104.10

Postage - U.S. Senate Post Office \$ 104.10

Check dated September 15, 1982 - \$418.07

Staff Meeting expenses 38.60  
Campaign tapes 9.35  
Postage - U.S. Senate Post Office 111.64  
Campaign travel expenses for Dee Jepsen 258.48

Check dated October 14, 1982 - \$64.54

Shipping charges paid to Federal Express 21.00  
Postage - U.S. Senate Post Office 40.00  
Travel expenses 3.45

Check dated October 28, 1982 - \$323.11

Registration fees for staff 5.00  
Campaign travel expenses paid for Dee Jepsen 126.18  
Dinner expenses for staff 157.31  
Postage - U.S. Senate Post Office 34.62

Check dated November 11, 1982 - \$368.02

Postage - U.S. Senate Post Office 368.02

Check dated December 10, 1982 - \$42.89

Postage - U.S. Senate Post Office 42.89

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Total for this period reported to FEC \$ 1,320.64

86040564832

Jepsen '84 Committee  
P. O. Box 84  
Davenport, Iowa 52805

FEC ID C 00131656

Amendment to July 31 Mid Year Report  
Covering Period January 1, 1983 thru June 30, 1983

Amendment to Page 2 of 5 for Line Number 17, Item H

Roger W. Jepsen, Office Account

Check dated January 15, 1983 - \$260.00	
Postage - U.S. Senate Post Office	\$ 260.00
Check dated February 3, 1983 - \$329.41	
Postage - U.S. Senate Post Office	234.41
TV & Radio Taping expenses	95.00
Check dated March 5, 1983 - \$437.81	
Campaign travel expenses paid for Dee Jepsen	103.17
Postage - U.S. Senate Post Office	334.64
Check dated April 20, 1983 - \$317.25	
Printing expenses	36.00
Staff meeting expenses	36.25
Postage - U.S. Senate Post Office	245.00
Check dated May 12, 1983 - \$370.56	
Postage - U.S. Senate Post Office	165.00
Campaign lodging expenses paid for Dee Jepsen	45.56
Postage - U.S. Senate Post Office	160.00
Check dated May 31, 1983 - \$206.00	
Postage - U.S. Senate Post Office	206.00
	<hr/>
Total for this period reported to FEC	\$ 1,921.03

86040564833

Jepsen '84 Committee  
P. O. Box 84  
Davenport, Iowa 52805

FEC ID C 00131656

Amendment to January 31 Year End Report  
Covering Period July 1, 1983 thru December 31, 1983

Amendment to Page 5 of 11 for Line Number 17, Item G

Roger W. Jepsen, Office Account

Check dated July 1, 1983 - \$578.56

Telephone expenses	\$	14.42
Delivery charges		59.99
Campaign lodging expenses for Dee Jepsen		110.33
Postage - U.S. Senate Post Office		340.00
Staff meeting expenses		53.82

Check dated August 1, 1983 - \$632.20

Postage - U.S. Senate Post Office	620.00
Printing from Stationery Room	12.20

Check dated August 16, 1983 - \$266.68

Postage - U.S. Senate Post Office	260.00
Telephone expenses	6.68

Check dated September 2, 1983 - \$952.85

Campaign travel expenses reimbursed to A. J. Montgomery	123.90
Campaign taping for radio KQWC	32.50
Postage - U.S. Senate Post Office	300.00
Campaign travel expenses reimbursed to William Finerfrock	472.85
Campaign lodging expenses paid for Dee Jepsen	23.60

Check dated September 2, 1983 - \$230.64

Campaign travel expenses reimbursed to Jim Secrist	191.86
Telephone expenses	7.83
Printing expenses - Stationery Room	30.95

Check dated September 30, 1983 - \$160.00

Postage - U.S. Senate Post Office	160.00
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Check dated October 24, 1983 - \$770.27

Campaign travel expenses paid for Dee Jepsen	125.00
Campaign lodging expenses for Dee Jepsen	32.70
Campaign lodging expenses for Roger Jepsen	47.00
Dinner expenses	197.46
Postage - U.S. Senate Post Office	270.80
Office Supplies	45.00
Flowers	15.00
Meeting expenses	37.31

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(Continued page 5 of 11 for line number 17 item g)

Check dated November 15, 1983 - \$1,538.06

Campaign travel expenses reimbursed to Jim Secrist	\$ 782.22
Postage - U.S. Senate Post Office	200.00
Printing - Stationary Room	20.95
Dinner expenses for the staff	166.09
Campaign lodging expenses for Dee Jepsen	130.80
Printing and copying expenses	27.00
Campaign travel expenses for Roger Jepsen	211.00

Check dated November 28, 1983 - \$460.00

Postage - U.S. Senate Post Office	460.00
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Check dated December 7, 1983 - \$492.59

Photo expenses	44.66
Shipping charges	56.86
Printing expenses	39.20
Postage - U.S. Senate Post Office	160.00
Dinner expenses	139.24
Campaign lodging expenses for Dee Jepsen	7.63
Tapes for the campaign	25.00
Registration fees for the staff	20.00

Check dated December 8, 1983 - \$652.50

Printing expenses	652.50
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Check dated December 15, 1983 - \$520.00

Postage - U.S. Senate Post Office	520.00
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Total for this period reported to FEC	\$ 7,254.35
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86040564835

Jepsen '84 Committee  
P. O. Box 84  
Davenport, Iowa 52805

FEC ID C 00131656

Amendment to April 15 Quarterly Report  
Covering Period January 1, 1984 thru March 31, 1984

Amendment to Page 6 of 10 Line Number 17 Item B

Roger W. Jepsen, Office Account

Check dated January 3, 1984 - \$1,996.54

Postage - U.S. Senate Post Office	\$ 503.65
Campaign travel expenses reimbursed to James Lafferty	919.74
Jim Secrist	128.89
Flowers	28.00
Dinner expenses	107.13
Shipping fees - United Parcel Services	43.88
Printing expenses	265.25

Check dated January 19, 1984 - \$1,816.58

Campaign travel expenses reimbursed to James Lafferty	1,458.46
Campaign lodging expenses for Dee Jepsen	130.23
Postage - U.S. Senate Post Office	78.01
Campaign travel expenses for Dee Jepsen	64.00
Printing expenses	30.00
Dinner expenses	55.88

Check dated February 6, 1984 - \$1,980.36

Campaign travel expenses reimbursed to Jim Secrist	401.12
James Lafferty	737.58
Campaign lodging expenses for Dee Jepsen	333.05
Campaign travel expenses for Dee Jepsen	282.00
Printing expenses	30.00
Postage - U.S. Senate Post Office	167.87
Dinner expenses reimbursed to Dee Jepsen	28.74

Check dated February 23, 1984 - \$1,656.95

Campaign travel expenses reimbursed to Jim Secrist	90.05
Tom Talbert	423.56
James Lafferty	529.78
Staff dinner expenses	92.53
Campaign lodging expenses paid for staff	33.72
Campaign lodging expenses for Dee Jepsen	217.50
Printing expenses reimbursed to Mary Ann Dorweiler	112.50
Postage - U.S. Senate Post Office	157.31

86040564836

(Continued to page 6 of 10 line number 17 item b)

Check dated March 26, 1984 - \$1,311.28

Campaign travel expenses reimbursed to James Lafferty	\$ 817.53
Postage - U.S. Senate Post Office	204.40
Printing expenses	96.00
Telephone expenses	19.15
Shipping charges - United Parcel Services	99.55
Dinner expenses	57.05
Staff meeting expenses	17.60
	<hr/>
Total for this period reported to FEC	\$ 8,761.71

860440564837

Jepsen '84 Committee  
P. O. Box 84  
Davenport, Iowa 52805

FEC ID C 00131656

Amendment to July 31 Mid Year Report  
Covering Period January 1, 1981 thru June 1, 1981

Roger W. Jepsen

Amendment to Page 2 of 4 for line number 17 Item E

Check dated March 6, 1981 - \$1,342.83

Dinner expenses reimbursed	\$ 761.88
Flowers	126.95
Travel expenses reimbursed for Dee Jepsen	366.00
Gifts from Stationery Room	88.00

Check dated April 7, 1981 - \$505.14

Travel expenses reimbursed for Dee Jepsen	361.00
Dinner expenses reimbursed	144.14

Check dated May 11, 1981 - \$38.59

Dinner expenses reimbursed	38.59
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Check dated June 10, 1981 - \$858.20

Travel expenses reimbursed for Dee Jepsen	503.00
Dinner expenses reimbursed	247.13
Office expenses reimbursed	108.07

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Total for this period reported to FEC \$ 2,744.76

86040564838

Jepsen '84 Committee  
P. O. Box 84  
Davenport, Iowa 52805

FEC ID C 00131656

Amendment to January 31 Year End Report  
Covering Period July 1, 1981 thru December 31, 1981

Amendment to Page 2 of 4 for Line Number 17 Item C

Roger W. Jepsen

Check dated July 15, 1981 - \$1,370.09

Travel expenses reimbursed for Dee Jepsen and Roger Jepsen	\$ 1,029.00
Campaign lodging expenses reimbursed	21.90
Dinner expenses reimbursed	319.19

Check dated August 4, 1981 - \$379.44

Dinner expenses reimbursed	116.17
Gift	23.27
Travel expenses reimbursed	240.00

Check dated September 18, 1981 - \$198.59

Dinner expenses reimbursed	198.59
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Check dated October 20, 1981 - \$211.49

Dinner expenses reimbursed	211.49
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Check dated November 11, 1981 - \$150.32

Dinner expenses reimbursed	150.32
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Check dated December 15, 1981 - \$110.75

Auto expenses reimbursed	28.00
Dinner expenses reimbursed	18.95
Office expenses	63.80

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Total for this period reported to FEC	\$ 2,420.68
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86040564839

Jepsen '84 Committee  
P. O. Box 84  
Davenport, Iowa 52805

FEC ID C 00131656

Amendment to July 31 Mid Year Report  
Covering Period January 1, 1982 thru June 30, 1982

Amendment to Page 2 of 3 for Line Number 17, Item B

Roger W. Jepsen

Check dated January 26, 1982 - \$25.46

Dinner expenses reimbursed \$ 25.46

Check dated February 15, 1982 - \$187.99

Dinner expenses reimbursed 187.99

Check dated April 15, 1982 - \$137.70

Dinner expenses reimbursed 137.70

Check dated May 13, 1982 - \$51.75

Dinner expenses reimbursed 46.00

Auto expenses 5.75

Check dated June 18, 1982 - \$128.93

Dinner expenses reimbursed 128.93

Total for this period reported to FEC \$ 531.83

86040564840

Jepsen '84 Committee  
P. O. Box 84  
Davenport, Iowa 52805

FEC ID C 00131656

Amendment to January 31 Year End Report  
Covering Period July 1, 1982 thru December 31, 1982

Amendment to Page 1 of 3 Line Number 17 Item F

Roger W. Jepsen

Check dated July 29, 1982 - \$215.27	
Dinner expenses reimbursed	\$ 193.24
Flower expenses	22.03
Check dated September 15, 1982 - \$145.16	
Dinner expenses reimbursed	145.16
Check dated October 12, 1982 - \$104.64	
Dinner expenses reimbursed	104.64
Check dated October 28, 1982 - \$191.25	
Staff meeting expenses and dinner expenses	114.29
Gifts	6.86
Travel expenses reimbursed	70.10
Check dated November 11, 1982 - \$202.21	
Dinner expenses reimbursed	202.21
Check dated December 10, 1982 - \$1,274.54	
Dinner expenses reimbursed	274.54
Travel expenses reimbursed	1,000.00
	<hr/>
Total for this period reported to FEC	\$ 2,133.07

86040564841

Jepsen '84 Committee  
P. O. Box 84  
Davenport, Iowa 52805

FEC ID C 00131656

Amendment to July 31 Mid Year Report  
Covering Period January 1, 1983 thru June 30, 1983

Amendment to Page 2 of 5 for Line Number 17, Item C

Roger W. Jepsen

Check dated February 3, 1983 - \$368.33

Dinner expenses reimbursed \$ 368.33

Check dated March 5, 1983 - \$187.63

Dinner expenses reimbursed 187.63

Check dated April 20, 1983 - \$246.36

Dinner expenses reimbursed 246.36

Check dated April 20, 1983 - \$76.96

Telephone expenses 9.36  
Postage reimbursed 67.60

Check dated April 20, 1983 - \$121.89

Dinner expenses reimbursed 121.89

Check dated May 12, 1983 - \$71.72

Dinner expenses reimbursed 71.72

Check dated May 12, 1983 - \$212.14

Travel expenses reimbursed 212.14

Check dated May 31, 1983 - \$170.01

Travel expenses reimbursed 37.50  
Lodging expenses 55.83  
Dinner expenses 76.68

Total for this period reported to FEC \$ 1,455.04

860440564842

Jepsen '84 Committee  
P. O. Box 84  
Davenport, Iowa 52805

FEC ID C 00131656

Amendment to January 31 Year End Report  
Covering Period July 1, 1983 thru December 31, 1983

Amendment to Page 5 of 11 for Line Number 17, Item F

Roger W. Jepsen

Check dated July 1, 1983 - \$117.99

Staff meeting expenses \$ 117.99

Check dated July 1, 1983 - \$380.41

Travel expenses reimbursed 62.00  
Dinner expenses reimbursed 318.41

Check dated August 16, 1983 - \$232.58

Dinner expenses reimbursed 232.58

Check dated August 29, 1983 - \$40.00

Dinner expenses reimbursed 40.00

Check dated September 2, 1983 - \$12.00

Dinner expenses reimbursed 12.00

Check dated September 30, 1983 - \$41.69

Dinner expenses reimbursed 41.69

Check dated October 24, 1983 - \$39.00

Gifts 39.00

Check dated November 15, 1983 - \$100.00

Contribution to Soorholtz 100.00

Check dated November 15, 1983 - \$21.00

Dinner expenses reimbursed 12.00  
Campaign material expenses 9.00

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Total for this period reported to FEC \$ 984.67

86040564843



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

February 21, 1985

Jan Baran, Esquire  
Baker & Hostetler  
818 Connecticut Avenue, N.W.  
Washington, D.C. 20006

Re: MUR 1855  
Jepsen '84 Committee and Tom Tyree,  
as treasurer  
The National Republican Senatorial  
Committee and Bob Perkins, as treasurer  
Senator Roger W. Jepsen

Dear Mr. Baran:

The Federal Election Commission notified your clients on November 29, 1984, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). Copies of the complaint were forwarded to your clients at that time.

On February 12, 1985, the Commission determined that there was no reason to believe Senator Roger W. Jepsen violated any sections of the Act. Additionally, the Commission also determined that there was no reason to believe the Jepsen Fund violated 2 U.S.C. § 434(a)(1). The Commission also found that there was no reason to believe that the Jepsen '84 Committee and Tom Tyree, as treasurer, violated 2 U.S.C. § 441a(f). Finally, the Commission also found that there was no reason to believe that the National Republican Senatorial Committee and Bob Perkins, as treasurer, violated 2 U.S.C. § 441a(h).

Also on February 12, 1985, the Commission found reason to believe that the Jepsen '84 Committee and Tom Tyree, as treasurer, violated 2 U.S.C. § 434(b)(5)(A) and 11 C.F.R. § 104.9. Specifically, it appears that the Jepsen '84 Committee has not properly reported the purpose of disbursements made to the Roger W. Jepsen Office Account and reimbursements made to the candidate. This insufficient documentation is found on the Committee's 1981, 1982, and 1983 Mid-Year and Year-End Reports and 1984 April Quarterly Report.

The Office of General Counsel would like to settle this matter through conciliation prior to a finding of probable cause. However, in the absence of any information which demonstrates

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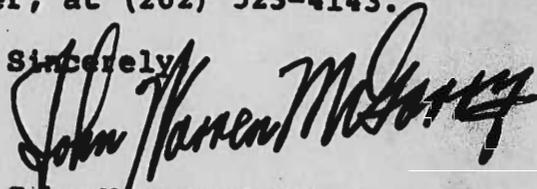
Jan Baran, Esquire  
Page 2

that no further action should be taken against your client, the Office of General Counsel must proceed to the next compliance stage as noted on page 2, paragraph 2, of the enclosed procedures.

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

If you have any questions, please contact Patti Reilly, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,



John Warren McGarry  
Chairman

Enclosures  
Procedures

86040564845

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )

Senator Roger W. Jepsen )  
Jepsen '84 Committee and )  
Tom Tyree, as treasurer )  
The National Republican Senatorial )  
Committee and Bob Perkins, as )  
treasurer )

MUR 1855

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of February 12, 1985, do hereby certify that the Commission decided by votes of 6-0 to take the following actions in MUR 1855:

1. Find no reason to believe Senator Roger Jepsen violated any provision of the Act.
2. Find no reason to believe the Jepsen Account violated 2 U.S.C. § 434(a)(1).
3. Find no reason to believe the Jepsen '84 Committee and Tom Tyree, as treasurer, violated 2 U.S.C. § 441a(f).
4. Find no reason to believe the National Republican Senatorial Committee and Bob Peck, as treasurer, violated 2 U.S.C. § 441a(h).

(continued)

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Federal Election Commission  
Certification for MUR 1855  
February 12, 1985

Page 2

5. Find reason to believe the Jepsen '84 Committee and Tom Tyree, as treasurer, violated 2 U.S.C. § 434(b)(5)(A) and 11 C.F.R. § 104.9.
6. Approve the letter attached to the General Counsel's report dated February 1, 1985.

Commissioners Aikens, Elliott, Harris, McDonald, McGarry, and Reiche voted affirmatively for these decisions.

Attest:

2-12-85

Date

Marjorie W. Emmons

Marjorie W. Emmons  
Secretary of the Commission

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**FEDERAL ELECTION COMMISSION'S REPORT**

DATE OF REPORT: 4/1/85  
DATE OF COMPLAINT: 11/19/84  
BY: OGC  
DATE OF REPORT: 4/1/85  
COMMISSIONER: [redacted]  
STAFF NUMBER: [redacted]

**COMPLAINANT'S NAME:** Roger D. Colton

**RESPONDENTS' NAMES:** Senator Roger W. Jepsen,  
Jepsen '84 Committee and Tom Tyree,  
as treasurer  
The National Republican Senatorial Committee  
and Bob Perkins, as treasurer

**RELEVANT STATUTES:** 2 U.S.C. § 441a(f)  
2 U.S.C. § 441a(b)  
2 U.S.C. § 441a(f)  
2 U.S.C. § 434(b)(5)(A)  
2 U.S.C. § 434(a)(1)

**INTERNAL REPORTS CHECKED:** A.O. 1984-8  
A.O. 1977-50

**SUMMARY OF ALLEGATIONS**

The Office of the General Counsel received a complaint on November 19, 1984 from Mr. Roger Colton alleging a variety of violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). The notified respondents are Senator Roger W. Jepsen, the Jepsen '84 Committee ("the Committee") and Tom Tyree, as treasurer, and the National Republican Senatorial Committee ("NRSC") with Bob Perkins, as treasurer. Central to the complaint is an office account ("the Jepsen Account") allegedly maintained by the candidate for the purpose of financing election activities.<sup>1/</sup>

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<sup>1/</sup> This report does not address the tax implications raised in the complaint regarding the Jepsen Account, as they are not within the Commission's jurisdiction.

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Three main violations are presented. First, the Jepsen Account is alleged to be a political committee within the meaning of the Act. Second, the National Republican Senatorial Committee is said to have made excessive contributions because of alleged dual contributions to the Committee and the Jepsen Account. Finally, the Committee is said to have failed to meet the Act's requirements in reporting the payees and purposes of disbursements. Each is discussed separately below.

**FACTUAL AND LEGAL ANALYSIS**

a. The Jepsen Account

The Complaint alleges the Jepsen Account "was furnished with funds for its activities from Mr. Jepsen's principal campaign committee." Complaint at 2. It is alleged these funds were used to fund campaign activities resulting in the Jepsen Account achieving the status of a political committee.

The Act defines a political committee to include any group of persons receiving contributions or making expenditures exceeding in aggregate \$1000. 2 U.S.C. § 431(4)(A). The treasurer of a political committee is required to file regular reports. 2 U.S.C. § 434(a)(1).

Respondents state the Jepsen Account is not a political committee within the meaning of the Act. Specifically, respondents deny that the Jepsen Account received funds from the Committee with which to make campaign expenditures. Instead, the Jepsen Account is said to be "a personal checking account [of the candidate] through which reimbursable expenses were reimbursed

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and paid." Response at 2. The Committee's disbursements to the Jepsen Account are said to have been made only for such reimbursements. As such, the expenditures made are those of the Committee and not of the Jepsen Account.<sup>2/</sup>

Two conflicting sources of the Jepsen Account are alleged. The complainant offers no real proof for his allegation that the Jepsen Account is a political committee. Moreover, the respondents have provided affidavits attesting to both the source and use of the funds. Accordingly, this Office believes the Jepsen Account is not a political committee within the meaning of the Act. Therefore, this Office recommends the Commission to find no reason to believe the Jepsen Account violated 2 U.S.C. § 434(a)(1).

b. Excessive Contributions by the NRSC

The complaint further alleges the NRSC made excessive contributions to the Committee because of its contributions to both the Committee and to the Jepsen Account. This allegation is further premised on the belief that both of these entities associated with Senator Jepsen made expenditures for the purpose of influencing a federal election.

Respondents deny that NRSC deposited funds into the Jepsen Account. Instead, they cite a NRSC program entitled COMBO (Communications and Business Office Expense), whereby direct

<sup>2/</sup> Although the complaint refers to the Jepsen Account as an "office account," the candidate's own funds in this account require the result that the Jepsen Account is not an office account within the meaning of 11 C.F.R. § 113.1.

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payments are made to the vendors for the costs of ordinary and necessary expenses incurred by Republican Senators. Such disbursements are made using a standardized formula. The Commission has approved the use of such systems. See A.O. 1977-50. Respondents deny the NRSC made a COMBO payment to the Candidate, his Committee, or the Jepsen Fund. Instead, COMBO payments are said to have been made directly to vendors.

The Act establishes a limitation of \$17,500 on contributions to candidates from the Republican Senatorial Campaign Committee.

2 U.S.C. § 441a(h). Committees are prohibited from knowingly accepting contributions exceeding the Act's limitations.

2 U.S.C. § 441a(f). The NRSC has made no contributions to the Jepsen Account. The NRSC has not otherwise exceeded the permissible limitation of 2 U.S.C. § 441a(h). Therefore, the Office of the General Counsel recommends that the Commission find no reason to believe that the NRSC violated 2 U.S.C. § 441a(h). Additionally, this Office recommends that the Commission find no reason to believe the Committee and its treasurer violated 2 U.S.C. § 441a(f).

#### c. Reporting Payees and Purposes

The Complaint alleges further problems arising from using the Jepsen Account, citing the practice of the Committee of naming the Office Account as the payee, and using "campaign expenses" for the purposes of the expenditures. It is alleged such notations do not satisfy the Act's reporting requirements.

Reviewing the Committee's reports, problems are seen with the reported purposes of reimbursements made to the candidate and the

Jepsen Account. The 1981 Mid Year, 1981 Year End, 1982 Mid Year, and 1982 Year End Reports all list both the candidate and the "Office Account" as payees of expenditures. The purposes of these expenditures are listed as "Reimbursement of Expenses".

Later reports contain similar problems. For example, the Committee noted a disbursement of \$1,921.03 in the 1983 Mid-Year Report. The payee is the "Roger W. Jepsen, Office Account"; the purpose is noted as "campaign expenses." This same report notes a \$1,455.04 disbursement to the candidate for "campaign expenses." Similarly, the Committee noted a \$7,254.35 disbursement in the 1983 Year End report to the "Roger W. Jepsen, Office Account" as payee and "Reimbursement of Expenses" listed as the purpose of the expenditures. In the 1984 July and October Quarterly Reports and the 1984 Pre-General Report, disbursements are also made to "Office Account" of Senator Jepsen; however in each of these a detailed list of purposes is provided. Additionally, greater documentation of a disbursement to "Roger W. Jepsen" in the 1984 October Quarterly Report is provided, with the purposes listed as "Reimbursement of Travel," "Dinner Expenses Campaign Travel" and "Campaign Lodging". Like notations to the same payee appear in the 1984 Pre-General Report.

Initially, it is clear the Act requires disbursements exceeding \$200 to identify the payee and state the purpose of the expenditures. 2 U.S.C. § 434(b)(5)(A). The Regulations further clarify this requirement, defining purpose as "a brief statement

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or description as to the reason for disbursement." 11 C.F.R. § 104.9(a). Examples meeting this requirement are contained in the Regulations. 11 C.F.R. § 104.3(b)(3)(i)(B). The Regulations specifically state that descriptions such as "other expenses," and "expense reimbursement" are not a sufficient statement of purpose. Id. Further, the Commission has recognized that in instances where reimbursements are made to the Candidate, the Candidate may be noted as the payee. See A.O. 1984-8.

Respondents assert they have met the Act's reporting requirements. Citing Advisory Opinion 1984-8, respondents state all payments made by the Committee to the Jepsen Account were reimbursements for campaign related expenses. Relying on the fact that these disbursements are a matter of public record, the respondents claim to have accurately stated the purpose of the disbursements.

The Office of the General Counsel believes the reporting requirements of 2 U.S.C. § 434(b)(5)(A) are not satisfied by the Committee's reports of its purposes of disbursements on the 1981, 1982, and 1983 Mid-Year and Year-End Reports. This result is supported by two reasons. First, to permit a Committee to merely list the purpose of a disbursement as for a "Campaign expense" does not illuminate the purpose of an expenditure. Every disbursement made by a committee is either a contribution, a refund, or an expenditure. To permit committees to simply list disbursements as campaign expenditures would be to reduce the Act's reporting requirements to a nullity.

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Secondly, the respondent's reliance on A.O. 1984-8 is misplaced. In that opinion the Commission required a candidate seeking to be reimbursed on a per diem basis for travel expenses to note the purpose of the reimbursement as "travel and subsistence reimbursement". On its face this is more detailed than merely noting an expenditure as being for "campaign reimbursement". Moreover, in the instant cases where a reimbursement is sought, the expenses are known and fixed, and the candidate has control over the payment procedure. For these reasons, this Office contends the reporting requirements of the Act have not been met. Accordingly, this Office recommends the Commission find reason to believe that the Committee and its treasurer violated 2 U.S.C. § 434(b)(5)(A) and 11 C.F.R. § 104.9.

**RECOMMENDATIONS**

1. Find no reason to believe Senator Roger Jepsen violated any provision of the Act.
2. Find no reason to believe the Jepsen Account violated 2 U.S.C. § 434(a)(1).
3. Find no reason to believe the Jepsen '84 Committee and Tom Tyree, as treasurer, violated 2 U.S.C. § 441a(f).
4. Find no reason to believe the National Republican Senatorial Committee and Bob Peck, as treasurer, violated 2 U.S.C. § 441a(h).

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5. Find reason to believe the Jepsen '84 Committee and Tom Tyree, as treasurer, violated 2 U.S.C. § 434(b)(5)(A) and 11 C.F.R. § 104.9.

Charles N. Steele  
General Counsel

February 1, 1985

Date

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

**Attachments**

1. Response
2. Proposed Letter

86040564855

**BAKER & HOSTETLER**

ATTORNEYS AT LAW

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January 4, 1985

WRITER'S DIRECT DIAL NO.:

(202) 551-

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

REC-1110  
JAN 4 1985  
3:23  
COMMUNICATIONS SECTION

Re: MUR 1855 (National Republican Senatorial Committee, et al.)

Dear Mr. Steele:

This office represents the National Republican Senatorial Committee ("NRSC"), the Jepsen '84 Committee and Senator Roger W. Jepsen with respect to the above-captioned Matter Under Review ("MUR") 1855. This letter is hereby submitted pursuant to 2 U.S.C. § 437g(a)(1). For the reasons stated below, the Federal Election Commission ("FEC") should find no reason to believe that there has been a violation of the Federal Election Campaign Act of 1971, as amended ("Act").

ALLEGATIONS

This matter was initiated by an administrative complaint dated October 25, 1984. The complaint<sup>1/</sup> alleges three violations of the Act as follows:

<sup>1/</sup> The complaint was not verified and sworn to until November 9, 1984 and was received by the respondents on December 5, 1984.

ATTACHMENT #1

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1. That NRSC violated contribution limits by contributing funds to an account maintained by Senator Jepsen;
2. That the Jepsen '84 Committee failed to report certain contributions and expenditures; and
3. That an account maintained by Senator Jepsen should have been registered as a depository of the Jepsen '84 Committee.

As explained below, these allegations are factual and/or legally unsupportable.

FACTS

Since assuming office as Senator in January 1979, Senator Jepsen has maintained a personal checking account through which reimbursable expenses were reimbursed and paid Affidavit of Roger W. Jepsen ¶ 4 [attached hereto and hereafter referred to as "Jepsen Aff."]. The account was opened in the name of "Roger W. Jepsen, Office Account" (hereafter "RWJ Account"). Id. ¶ 3.

Since 1982 the RWJ Account was supervised by Ms. Laurel Swett of Senator Jepsen's staff. Id. ¶ 7; Affidavit of Laurel Swett ¶ 3 [attached hereto and hereafter referred to as "Swett Aff."]. The RWJ Account received reimbursements from the United States Senate for official Senate

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expenses incurred by Senator Jepsen and from the Jepsen '84 Committee for campaign related expenses incurred by Senator Jepsen. Swett Aff. ¶ 4; Jepsen Aff. ¶ 5. The funds from the Jepsen '84 Committee which were deposited into the RWJ Account were solely reimbursements for campaign related expenses. Swett Aff. ¶ 5.

No donations were solicited, received, accepted or deposited into the RWJ Account. Swett Aff. ¶ 6; Jepsen Aff. ¶ 6. NRSC has not made a payment of any kind to the RWJ Account. Affidavit of Lisa Rachelle Briggs ¶ 10 [Attached hereto and hereafter referred to as "Briggs Aff."].

NRSC maintains a program entitled COMBO (Communications and Business Office Expenses). Id. ¶ 3. Ms. Lisa Rachelle Briggs is the administrator of COMBO. Id. COMBO is a program whereby NRSC pays the cost of ordinary and necessary expenses incurred by Republican Senators in connection with their official duties as officeholders. Id. ¶ 4; see Advisory Opinion 1977-50, Fed. Election Camp. Fin. Guide (CCH) ¶ 5275 (Dec. 19, 1977). COMBO payments are made only to the vendors who provide goods or services to the Senator on whose behalf payment is made. Briggs Aff. ¶ 6; Statement of Mitch Daniels, NRSC Executive Director, before Senate Select Committee on Ethics 1 (July 4, 1983) [Attached hereto and hereafter referred to as "Daniels Statement"]. COMBO payments are not for the purpose of influencing an

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election nor to defray personal expenses. Briggs Aff. ¶ 5; Daniels Statement 1-2. All COMBO payments are reported on NRSC reports filed pursuant to the Act. Briggs Aff. ¶ 7; Daniels Statement 1-2.

Each Senator's COMBO allotment is based on a formula that is similar to a formula used by the United States Senate to pay for certain official expenses. Briggs Aff. ¶ 8; Daniels Statement 3. NRSC has not made a COMBO payment to Senator Jepsen, the Jepsen '84 Committee or to the RWJ Account. Briggs Aff. ¶ 9.

#### DISCUSSION

##### I. NRSC and the Jepsen '84 Committee Have Not Violated a Contribution Limit

The complaint alleges that NRSC and Jepsen '84 Committee have violated a contribution limit by virtue of "NRSC 'office account' donations received and spent by the Jepsen Committee." Complaint at 4. This allegation is factually inaccurate. NRSC has never made a payment to the Jepsen '84 Committee for the purpose of defraying Senator Jepsen's official office expenses. Briggs Aff. ¶ 9. All COMBO payments are made directly to vendors. Id. ¶ 6.

The complaint implies that NRSC made payments to the RWJ Account. This also is incorrect. NRSC has not made a payment of any kind to the RWJ Account. Id. ¶ 10. In

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fact, no donations from any person have been accepted or deposited into the RWJ Account. Swett Aff. ¶ 6; Jepsen Aff. ¶ 6.

The complainants harbor a mistaken belief that the NRSC and supposedly others were making donations to an "office account"<sup>2/</sup> from which campaign expenses were paid. As indicated in the Affidavits of Senator Jepsen, Ms. Swett and Ms. Briggs, this was not the case. The COMBO payments were made only to vendors, were not for the purpose of influencing an election, Briggs Aff. ¶ 5, and thus were not contributions subject to limits. Advisory Opinion 1977-50, supra. The complainants have not identified a single COMBO payment (all of which are publicly disclosed by NRSC) which allegedly defrayed a campaign expense. Complainants offer no evidence to support their allegation that NRSC and the Jepsen '84 Committee violated a contribution limit.

II. The Jepsen '84 Committee Properly Reported Its Contributions and Expenditures

Without identifying a specific report the complaint generally alleges that the reimbursements by Jepsen

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<sup>-2/</sup> The RWJ Account is not an "office account" which is defined as "an account established for the purposes of supporting the activities of a Federal or State officeholder which contains excess campaign funds and funds donated." 11 C.F.R. § 113.1(b). The definitions of "funds donated" and "excess campaign funds" would not include reimbursement payments by the Senate or the Jepsen '84 Committee. See id. § 113.1(a) & (e). Furthermore, no donations were deposited into the RWJ Account. Jepsen Aff. ¶ 6; Swett Aff. ¶ 6.

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'84 Committee to Senator Jepsen should be reported in greater detail. Specifically, it is alleged that payees, in addition to Senator Jepsen, should be identified. The Act does not require that degree of itemization.

The FEC has ruled that reimbursements to a candidate do not have to be reported with information identifying the provider of goods or services. Advisory Opinion 1984-8, Fed. Election Camp. Guide (CCH) § 5756 (Apr. 20, 1984). All payments by the Jepsen '84 Committee to the RWJ Account were solely reimbursements for campaign related expenses. Swett Aff. § 5. These payments are a matter of public record and are reflected in the reports filed with the FEC and include a description of the purpose of each reimbursement.

III. The RWJ Account Is Not a Campaign Depository

The complaint alleges that the RWJ Account should be registered by the Jepsen '84 Committee as a campaign depository. However, the RWJ Account is not a campaign account. The purpose of the RWJ Account at all times was to serve as a personal checking account through which reimbursable expenses were reimbursed and paid. Jepsen Aff. § 4. These expenses were either official expenses reimbursed by the Senate or campaign related expenses reimbursed by the Jepsen '84 Committee. Id. § 5. No donations were

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solicited, accepted, received or deposited into the RWJ Account. Id. ¶ 6; Swett Aff. ¶ 6.

There is nothing in the Act or FEC regulations that requires that a personal account which is used to administer reimbursements and which receives no donations to register as a campaign depository.<sup>3/</sup>

<sup>3/</sup> The complaint grossly distorts several statements attributed to Senator Jepsen. For example the complaint at page four states that "Mr. Jepsen has disclosed . . . that the office account has been used to make payments for 'Republican Party materials' and 'campaign-related novelty items.'" The Des Moines Register news story upon which complainants apparently rely, does not quote Senator Jepsen as using those terms. The characterization is solely one made by the reporter and is unsupported by any evidence.

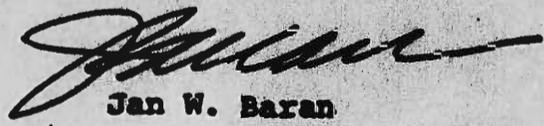
The complaint also seeks to create an atmosphere of suspicion by repeatedly referring to the reimbursements by the Jepsen '84 Committee as "grey area" expenses that "should not be paid for by tax dollars." Some of the expenses reimbursed by the Jepsen '84 Committee may be justifiable office related expenses. They were not submitted to the Senate for reimbursement because, in Senator Jepsen's words, they fell into a "grey area." He did not want these expenses reimbursed "by tax dollars." For that reason they were all treated as campaign-related expenses and reimbursed by the Jepsen '84 Committee. This was an honest, cautious and prudent approach to the reimbursements which complainants maliciously recast in sinister terms.

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CONCLUSION

For the reasons set forth herein the FEC should find no reason to believe that NRSC, the Jepsen '84 Committee or Senator Jepsen violated the Act.

Sincerely,



Jan W. Baran

cc: Senator Roger W. Jepsen  
Senator John H. Heinz, III  
Tom Tyree

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AFFIDAVIT  
OF  
ROGER W. JEPSEN

Roger W. Jepsen for his affidavit deposes and  
says:

1. I have knowledge of the facts contained herein and am competent to testify thereto.
2. From January 1979 until January 3, 1985 I was United States Senator from the State of Iowa.
3. In 1979 I authorized an account to be opened in the name of "Roger W. Jepsen, Office Account" [hereinafter referred to as "RWJ Account"].
4. The purpose of the RWJ Account at all times was to serve as a personal checking account through which my reimbursable expenses were reimbursed and paid.
5. The expenses referred to in paragraph 4 above were reimbursed either by the United States Senate (with respect to official Senate expenses) or by the Jepsen '84 Committee (with respect to campaign related expenses).
6. I did not solicit, receive, accept or deposit into the RWJ Account any donation from any person.

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7. Since September 1982 the RMJ Account has been supervised on my behalf by Ms. Laurel Swett.

*Roger W. Jensen*  
Roger W. Jensen

Subscribed and sworn to before me this 2<sup>ND</sup> day of January, 1985.

*Qui C. Bone*  
Notary Public

NOTARY PUBLIC  
DISTRICT OF COLUMBIA

MY COMMISSION EXPIRES APRIL 30, 1987  
My commission expires \_\_\_\_\_.

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AFFIDAVIT  
OF  
LAUREL SWETT

Laurel Swett for her affidavit deposes and  
says:

1. I have knowledge of the facts contained herein  
and am competent to testify thereto.

2. Until January 3, 1985 I was employed on the  
staff of Senator Roger W. Jepsen.

3. From September 1982 to date I have supervised  
a personal checking account on behalf of Senator Jepsen  
which account is in the name of "Roger W. Jepsen, Office  
Account" [hereinafter referred to as "RWJ Account"].

4. The RWJ Account received reimbursements from  
the United States Senate for official Senate expenses incurred  
by Senator Jepsen and from the Jepsen '84 Committee for cam-  
paign related expenses incurred by Senator Jepsen.

5. The funds from the Jepsen '84 Committee which  
were deposited into the RWJ Account were solely reimbursements  
for campaign related expenses.

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6. No donations were solicited, received, accepted or deposited into the RWJ Account.

  
Laurel Swett

Subscribed and sworn to before me this 2<sup>nd</sup> day of  
January 1985.

  
Notary Public

NOTARY PUBLIC  
DISTRICT OF COLUMBIA

MY COMMISSION EXPIRES APRIL 30, 1987

My commission expires \_\_\_\_\_

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AFFIDAVIT  
OF  
LISA RACHELLE BRIGGS

Lisa Rachelle Briggs for her affidavit deposes  
and says:

1. I have personal knowledge of the facts  
contained herein and am competent to testify thereto.

2. Since October 1981 I have been employed by the  
National Republican Senatorial Committee ("NRSC").

3. One of my responsibilities at NRSC is to  
administer a program entitled COMBO (Communications and Busi-  
ness Office Expenses).

4. COMBO is a program whereby NRSC pays the cost  
of ordinary and necessary expenses incurred by Republican  
Senators in connection with their official duties as federal  
officeholders.

5. COMBO payments are not for the purpose of  
influencing an election nor to defray personal expenses.

6. COMBO payments are made only to the vendors who  
provide goods or services to the Senator on whose behalf  
payment is made.

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7. All COMBO payments are reported on NRSC reports filed pursuant to the Federal Election Campaign Act, as amended.

8. Each Senator's COMBO allotment is limited subject to a formula which takes into account the population size of the Senator's state and the state's distance from Washington, D.C. The formula is similar to the formula used by the United States Senate to pay for certain official expenses.

9. NRSC has not made a COMBO payment to Senator Roger W. Jepsen, the Jepsen '84 Committee, or to an account named "Roger W. Jepsen, Office Account."

10. NRSC has not made a payment of any kind to an account named "Roger W. Jepsen, Office Account."

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Lisa Rachelle Briggs  
Lisa Rachelle Briggs

Subscribed and sworn to before me this 4<sup>th</sup> day of January, 1985.

T. J. [Signature]  
Notary Public  
NOTARY PUBLIC  
DISTRICT OF COLUMBIA

My commission expires MY COMMISSION EXPIRES JANUARY 31, 1988

Statement of Mitch Daniels  
Executive Director, National  
Republican Senatorial Committee  
-before-  
Senate Select Committee on Ethics  
July 14, 1983

Mr. Chairman and Members of the Committee:

The National Republican Senatorial Committee appreciates this invitation to meet with you to discuss the Committee's Combo program. Chairman Lugar regrets that he was unable to be present today. He has asked that I appear in his stead. My name is Mitch Daniels. I have been the Executive Director of the Committee since January of this year. With me today is the Committee's General Counsel, Richard Messick.

"Combo" is a program of the National Republican Senatorial Committee that pays some of the business expenses incurred by Republican Senators in performing their official duties. It has been expressly approved by the Federal Election Commission in Advisory Opinion 1977-50. A copy of that opinion is attached.

The mechanics of the program are quite simple. Senators submit bills to the NRSC and the Committee pays the vendor. The Committee will pay only bills that are directly related to a Senator's official duties. Should there be any doubt about the official character of a given expense, the Committee will contact the Senator's office for additional

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information. In several instances, the Committee has returned bills unpaid.

Each bill the NRSC pays is disclosed on its monthly report to the Federal Election Commission. The information reported includes the amount paid, the vendor, the Senator on whose behalf the payment was made and the purpose for which it was made. Pages from several of the Committee's FEC reports illustrating this disclosure are attached.

In 1982 the Committee paid about \$406,000 in bills under Combo. This averaged roughly \$7500 per Senator; it represented 1.3% of the Committee's total expenditures for that year. For accounting purposes the Committee divides Combo expenses into six categories. These categories, together with the amounts expended and the percentage each was of the 1982 total, are:

Media Services	\$152,000	37%
Travel	69,000	17
Publications	59,000	15
Equipment Purchases	13,000	3
Consultants	8,000	2
Miscellaneous	103,000	26

Media Services, the largest category, include payments to the Senate Recording and Photo Studios. Also included here are the costs of The Roundtable, a public affairs television program produced by the Republican Conference and described in the attached article from the June 23 New York Times.

The Committee purchases small items such as cassette recorders for various Senate offices. These expenditures constituted 3% of the total in 1982. The equipment remains

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the property of the NRSC and must be returned when a Senator leaves office. The Miscellaneous category includes a host of small items, chief among them being office supplies and phone and restaurant bills.

Each Senator may submit bills up to a certain limit each month. This limit is based on a formula patterned after that used by the Senate for allocating office expense funds. In 1982 Combo allotments ranged from a little over \$6,000 for Vermont to slightly over \$18,000 for California. For comparison, the Senate provided Senators from Vermont with \$40,000 to pay office expenses and those from California with \$87,000. The 1982 formula and the amounts allotted to each Senator under it are shown in attachment four.

Combo is financed from the contributions the Committee receives throughout the year. The staff asked that we provide figures on the amount the Committee receives from individuals and compare this amount with that it receives from political action committees. This information is shown below for 1982 and the first half of 1983:

	Individuals	PACs
1982	\$30.4	\$.2
1983	\$12.6	\$.1

(millions of dollars)

As you can see, the Committee's funds are raised almost exclusively from individuals. In neither 1982 nor the first half of 1983 did PAC contributions account for even one

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per cent of the total contributions the Committee received.

The Committee staff further asked if the Committee had ever received funds from an individual or a political action committee that were earmarked either for Combo generally or for a particular Senator's Combo account. The answer to both questions is no. The staff also inquired whether there were any conditions attached to Combo, and specifically whether a Senator is expected to support any particular policy position or vote in a particular way in return for Combo. The answer is, emphatically, no.

The status of Combo under Senate Rules, and in particular under Senate Rule 38, is not a new subject. We are of the view that Combo is perfectly proper under the plain language of Rule 38. Rule 38 expressly permits a Senator to defray his official expenses with funds from, inter alia, a "political committee as defined under Section 301(d) of the Federal Election Campaign Act of 1971." The NRSC is, without question, a political committee within the meaning of that section.

This language is in no way contradicted by the legislative history of the Rule. On the contrary, the legislative history supports the propriety of Combo. The Committee's position on this matter is more fully set out in the attached letter sent to Chairman Stevens and Vice-Chairman Heflin. I respectfully refer you to that letter for a further discussion of the Committee's position.

Thank you for this opportunity to discuss Combo. I will be happy to answer any questions you may have.

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Jan Baran, Esquire  
Baker & Hostetler  
810 Connecticut Avenue, N.W.  
Washington, D.C. 20006

Re: MUR 1855  
Jepsen '84 Committee and Tom Tyree,  
as treasurer  
The National Republican Senatorial  
Committee and Bob Peck, as treasurer  
Senator Roger W. Jepsen

Dear Mr. Baran:

The Federal Election Commission notified your clients on November 29, 1984, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). Copies of the complaint were forwarded to your clients at that time.

On \_\_\_\_\_, 1985, the Commission determined that there was no reason to believe Senator Roger W. Jepsen violated any sections of the Act. Additionally, the Commission also determined that there was no reason to believe the Jepsen Fund violated 2 U.S.C. § 434(a)(1). The Commission also found that there was no reason to believe that the Jepsen '84 Committee and Tom Tyree, as treasurer, violated 2 U.S.C. § 441a(f). Finally, the Commission also found that there was no reason to believe that the National Republican Senatorial Committee and Bob Peck, as treasurer, violated 2 U.S.C. § 441a(h).

Also on \_\_\_\_\_, 1985, the Commission found reason to believe that the Jepsen '84 Committee and Tom Tyree, as treasurer, violated 2 U.S.C. § 434(b)(5)(A) and 11 C.F.R. § 104.9. Specifically, it appears that the Jepsen '84 Committee has not properly reported the purpose of disbursements made to the Roger W. Jepsen Office Account and reimbursements made to the candidate. This insufficient documentation is found on the Committee's 1981, 1982, and 1983 Mid-Year and Year-End Reports.

The Office of General Counsel would like to settle this matter through conciliation prior to a finding of probable cause. However, in the absence of any information which demonstrates

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Jan Baran, Esquire  
Page 2

that no further action should be taken against your client, the Office of General Counsel must proceed to the next compliance stage as noted on page 2, paragraph 2, of the enclosed procedures.

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

If you have any questions, please contact Patti Reilly, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Enclosures  
Procedures

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20461

**SENSITIVE**

MEMORANDUM TO: THE COMMISSION  
FROM: MARJORIE W. EMMONS/JODY C. RANSOM *JCR*  
DATE: APRIL 11, 1985  
SUBJECT: MUR 1855 - General Counsel's Brief  
Memorandum to the Commission  
dated April 11, 1985

The attached documents are circulated for your  
information.

ATTACHMENTS:  
1) Memo; 2) Brief; 3) Letter

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**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of )  
 )  
Jepsen '84 Committee and ) MUR 1855  
Tom Tyree, as treasurer )  
 )

**GENERAL COUNSEL'S BRIEF**

**I. STATEMENT OF THE CASE**

The Office of the General Counsel received a complaint on November 19, 1984 from Mr. Rodger Colton alleging a variety of violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Jepsen '84 Committee ("Committee") and Tom Tyree, as treasurer, were notified of the complaint. Addressing the complaint's allegations on February 12, 1985, the Commission found reason to believe the Committee and its treasurer violated 2 U.S.C. § 434(b)(5)(A) and 11 C.F.R. § 104.9 by failing to sufficiently document the purposes of reported disbursements. This insufficient documentation occurred on the Committee's 1981, 1982, 1983 Mid-Year and Year-End Reports, as well as its 1984 April Quarterly Report. Responding to the Commission's reason to believe finding, the Committee submitted amendments to these reports, detailing the purposes of these expenditures.

**II. LEGAL ANALYSIS**

When a political committee makes a disbursement exceeding \$200, the Act requires that the committee report the identity of the purpose of the expenditure. 2 U.S.C. § 434(b)(5)(A). The Regulations further clarify this requirement, defining purpose as "a brief statement or description as to the reason for



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

April 11, 1985

MEMORANDUM TO: The Commission

FROM: Charles N. Steele  
General Counsel *CNS*

SUBJECT: MUR 1855

Attached for the Commission's review is a brief stating the position of the General Counsel on the legal and factual issues of the above-captioned matter. A copy of this brief and a letter notifying the respondent of the General Counsel's intent to recommend to the Commission a finding of probable cause to believe was mailed on April 11, 1985. After receiving Respondent's reply to this notice, this Office will make a further report to the Commission.

Attachments

1. Brief
2. Letter

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )

Jepsen '84 Committee and )  
Tom Tyree, as treasurer )

MUR 1855

GENERAL COUNSEL'S BRIEF

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The Office of the General Counsel received a complaint on November 19, 1984 from Mr. Rodger Colton alleging a variety of violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Jepsen '84 Committee ("Committee") and Tom Tyree, as treasurer, were notified of the complaint. Addressing the complaint's allegations on February 12, 1985, the Commission found reason to believe the Committee and its treasurer violated 2 U.S.C. § 434(b)(5)(A) and 11 C.F.R. § 104.9 by failing to sufficiently document the purposes of reported disbursements. This insufficient documentation occurred on the Committee's 1981, 1982, 1983 Mid-Year and Year-End Reports, as well as its 1984 April Quarterly Report. Responding to the Commission's reason to believe finding, the Committee submitted amendments to these reports, detailing the purposes of these expenditures.

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disbursement." 11 C.F.R. § 104.9(a). The Regulations specifically state descriptions such as "other expenses" and "expense reimbursement" are not sufficient statements of purpose.

Apparently, the candidate made disbursements on behalf of the Committee from his personal checking account. Subsequently, the Committee reimbursed the candidate, merely indicating that the purposes of these expenditures were for reimbursement purposes. Moreover, the Committee also made the same sort of cursory reporting of purposes for disbursements reported as paid directly to the candidate.

For example, the 1981 Mid Year, 1981 Year End, 1982 Mid Year, and 1982 Year End Reports all list both the candidates and the "Office Account" as payees of expenditures. The purposes of these expenditures are listed as "Reimbursement of Expenses".

Later reports contain similar problems. For example, the Committee noted a disbursement of \$1,921.03 in the 1982 Mid Year Report. The payee is the "Roger W. Jepsen, Office Account"; the purpose is noted as "campaign expenses." This same report notes a \$1,455.04 disbursement to the candidate for "campaign expenses." Similarly, the Committee noted a \$7,254.35 disbursement in the 1983 Year End report to the "Roger W. Jepsen, Office Account" as payee and "Reimbursement of Expenses" listed as the purpose of the expenditure.

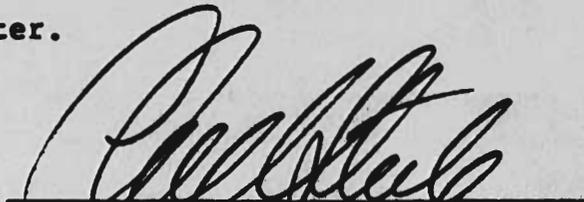
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The Committee is required to report the purposes of its expenditures. It has failed to do so. While the Committee has amended the reports in question, this is a mitigating factor but does not obviate the violation. Accordingly, it appears the Committee has violated 2 U.S.C. § 434(b)(5)(A) and 11 C.F.R. § 104.9.

**III. GENERAL COUNSEL'S RECOMMENDATIONS**

1. Find probable cause to believe that the Jepsen '84 Committee and Tom Tyree, as treasurer, violated 2 U.S.C. § 434(b)(5)(A) and 11 C.F.R. § 104.9.
2. Approve the attached letter.

10 April 1985  
Date

  
\_\_\_\_\_  
Charles N. Steele  
General Counsel

Attachments  
1. Letter

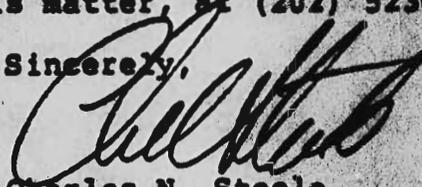
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Letter to Jan Baran  
Page 2

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 Patty Raily, the attorney assigned to handle this matter, at (202) 523-4143.

Sincerely,



Charles N. Steele  
General Counsel

Enclosure  
Brief

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20403

April 11, 1985

Jan Baran, Esquire  
Baker & Hostetler  
818 Connecticut Avenue, N.W.  
Washington, D.C. 20006

RE: MUR 1855  
The Jepsen '84 Committee  
and Tom Tyree, as treasurer

Dear Mr. Baran:

Based on a complaint filed with the Commission on November 19, 1984, and information supplied by you the Commission determined on February 12, 1985, that there was reason to believe your clients had violated 2 U.S.C. § 434(b)(5)(A) and 11 C.F.R. § 104.9 provisions of the Federal Election Campaign Act of 1971, as amended ("the Act") and its Regulations, and instituted an investigation of this matter.

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

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BAKER & BOSTON

ATTORNEYS AT LAW  
200 CONSTITUTION AVENUE, N.W.  
WASHINGTON, D.C. 20001  
TELEPHONE: 202-331-1000

COMMUNICATIONS SECTION  
FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20543  
TELEPHONE: 202-453-5000

January 4, 1985

RECEIVED  
GENERAL COUNSEL  
JAN 11 P 3:23

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

Re: MUR 1855 (National Republican Senatorial  
Committee, et al.)

Dear Mr. Steele:

This office represents the National Republican Senatorial Committee ("NRSC"), the Jepsen '84 Committee and Senator Roger W. Jepsen with respect to the above-captioned Matter Under Review ("MUR") 1855. This letter is hereby submitted pursuant to 2 U.S.C. § 437g(a)(1). For the reasons stated below, the Federal Election Commission ("FEC") should find no reason to believe that there has been a violation of the Federal Election Campaign Act of 1971, as amended ("Act").

ALLEGATIONS

This matter was initiated by an administrative complaint dated October 25, 1984. The complaint<sup>1/</sup> alleges three violations of the Act as follows:

<sup>1/</sup> The complaint was not verified and sworn to until November 9, 1984 and was received by the respondents on December 5, 1984.

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1. That NRSC violated contribution limits by contributing funds to an account maintained by Senator Jepsen;
2. That the Jepsen '84 Committee failed to report certain contributions and expenditures; and
3. That an account maintained by Senator Jepsen should have been registered as a depository of the Jepsen '84 Committee.

As explained below, these allegations are factual and/or legally unsupportable.

FACTS

Since assuming office as Senator in January 1979, Senator Jepsen has maintained a personal checking account through which reimbursable expenses were reimbursed and paid. Affidavit of Roger W. Jepsen ¶ 4 [attached hereto and hereafter referred to as "Jepsen Aff."]. The account was opened in the name of "Roger W. Jepsen, Office Account" (hereafter "RWJ Account"). Id. ¶ 3.

Since 1982 the RWJ Account was supervised by Ms. Laurel Swett of Senator Jepsen's staff. Id. ¶ 7; Affidavit of Laurel Swett ¶ 3 [attached hereto and hereafter referred to as "Swett Aff."]. The RWJ Account received reimbursements from the United States Senate for official Senate

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expenses incurred by Senator Jepsen and from the Jepsen '84 Committee for campaign related expenses incurred by Senator Jepsen. Swett Aff. ¶ 4; Jepsen Aff. ¶ 5. The funds from the Jepsen '84 Committee which were deposited into the RWJ Account were solely reimbursements for campaign related expenses. Swett Aff. ¶ 5.

No donations were solicited, received, accepted or deposited into the RWJ Account. Swett Aff. ¶ 6; Jepsen Aff. ¶ 6. NRSC has not made a payment of any kind to the RWJ Account. Affidavit of Lisa Rachelle Briggs ¶ 10 [Attached hereto and hereafter referred to as "Briggs Aff."].

NRSC maintains a program entitled COMBO (Communications and Business Office Expenses). Id. ¶ 3. Ms. Lisa Rachelle Briggs is the administrator of COMBO. Id. COMBO is a program whereby NRSC pays the cost of ordinary and necessary expenses incurred by Republican Senators in connection with their official duties as officeholders. Id. ¶ 4; see Advisory Opinion 1977-50, Fed. Election Camp. Fin. Guide (CCH) ¶ 5275 (Dec. 19, 1977). COMBO payments are made only to the vendors who provide goods or services to the Senator on whose behalf payment is made. Briggs Aff. ¶ 6; Statement of Mitch Daniels, NRSC Executive Director, before Senate Select Committee on Ethics 1 (July 4, 1983) [Attached hereto and hereafter referred to as "Daniels Statement"]. COMBO payments are not for the purpose of influencing an

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election nor to defray personal expenses. Briggs Aff. ¶ 5; Daniels Statement 1-2. All COMBO payments are reported on NRSC reports filed pursuant to the Act. Briggs Aff. ¶ 7; Daniels Statement 1-2.

Each Senator's COMBO allotment is based on a formula that is similar to a formula used by the United States Senate to pay for certain official expenses. Briggs Aff. ¶ 8; Daniels Statement 3. NRSC has not made a COMBO payment to Senator Jepsen, the Jepsen '84 Committee or to the RWJ Account. Briggs Aff. ¶ 9.

#### DISCUSSION

##### I. NRSC and the Jepsen '84 Committee Have Not Violated a Contribution Limit

The complaint alleges that NRSC and Jepsen '84 Committee have violated a contribution limit by virtue of "NRSC 'office account' donations received and spent by the Jepsen Committee." Complaint at 4. This allegation is factually inaccurate. NRSC has never made a payment to the Jepsen '84 Committee for the purpose of defraying Senator Jepsen's official office expenses. Briggs Aff. ¶ 9. All COMBO payments are made directly to vendors. Id. ¶ 6.

The complaint implies that NRSC made payments to the RWJ Account. This also is incorrect. NRSC has not made a payment of any kind to the RWJ Account. Id. ¶ 10. In

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fact, no donations from any person have been accepted or deposited into the RWJ Account. Swett Aff. ¶ 6; Jepsen Aff. ¶ 6.

The complainants harbor a mistaken belief that the NRSC and supposedly others were making donations to an "office account"<sup>2/</sup> from which campaign expenses were paid. As indicated in the Affidavits of Senator Jepsen, Ms. Swett and Ms. Briggs, this was not the case. The COMBO payments were made only to vendors, were not for the purpose of influencing an election, Briggs Aff. ¶ 5, and thus were not contributions subject to limits. Advisory Opinion 1977-50, supra. The complainants have not identified a single COMBO payment (all of which are publicly disclosed by NRSC) which allegedly defrayed a campaign expense. Complainants offer no evidence to support their allegation that NRSC and the Jepsen '84 Committee violated a contribution limit.

## II. The Jepsen '84 Committee Properly Reported Its Contributions and Expenditures

Without identifying a specific report the complaint generally alleges that the reimbursements by Jepsen

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<sup>2/</sup> The RWJ Account is not an "office account" which is defined as "an account established for the purposes of supporting the activities of a Federal or State officeholder which contains excess campaign funds and funds donated." 11 C.F.R. § 113.1(b). The definitions of "funds donated" and "excess campaign funds" would not include reimbursement payments by the Senate or the Jepsen '84 Committee. See id. § 113.1(a) & (e). Furthermore, no donations were deposited into the RWJ Account. Jepsen Aff. ¶ 6; Swett Aff. ¶ 6.

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'84 Committee to Senator Jepsen should be reported in greater detail. Specifically, it is alleged that payees, in addition to Senator Jepsen, should be identified. The Act does not require that degree of itemization.

The FEC has ruled that reimbursements to a candidate do not have to be reported with information identifying the provider of goods or services. Advisory Opinion 1984-8, Fed. Election Camp. Guide (CCH) ¶ 5756 (Apr. 20, 1984). All payments by the Jepsen '84 Committee to the RWJ Account were solely reimbursements for campaign related expenses. Swett Aff. ¶ 5. These payments are a matter of public record and are reflected in the reports filed with the FEC and include a description of the purpose of each reimbursement.

### III. The RWJ Account Is Not a Campaign Depository

The complaint alleges that the RWJ Account should be registered by the Jepsen '84 Committee as a campaign depository. However, the RWJ Account is not a campaign account. The purpose of the RWJ Account at all times was to serve as a personal checking account through which reimbursable expenses were reimbursed and paid. Jepsen Aff. ¶ 4. These expenses were either official expenses reimbursed by the Senate or campaign related expenses reimbursed by the Jepsen '84 Committee. Id. ¶ 5. No donations were

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solicited, accepted, received or deposited into the RWJ Account. Id. ¶ 6; Swett Aff. ¶ 6.

There is nothing in the Act or FEC regulations that requires that a personal account which is used to administer reimbursements and which receives no donations to register as a campaign depository.<sup>3/</sup>

3/ The complaint grossly distorts several statements attributed to Senator Jepsen. For example the complaint at page four states that "Mr. Jepsen has disclosed . . . that the office account has been used to make payments for 'Republican Party materials' and 'campaign-related novelty items.'" The Des Moines Register news story upon which complainants apparently rely, does not quote Senator Jepsen as using those terms. The characterization is solely one made by the reporter and is unsupported by any evidence.

The complaint also seeks to create an atmosphere of suspicion by repeatedly referring to the reimbursements by the Jepsen '84 Committee as "grey area" expenses that "should not be paid for by tax dollars." Some of the expenses reimbursed by the Jepsen '84 Committee may be justifiable office related expenses. They were not submitted to the Senate for reimbursement because, in Senator Jepsen's words, they fell into a "grey area." He did not want these expenses reimbursed "by tax dollars." For that reason they were all treated as campaign-related expenses and reimbursed by the Jepsen '84 Committee. This was an honest, cautious and prudent approach to the reimbursements which complainants maliciously recast in sinister terms.

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CONCLUSION

For the reasons set forth herein the FEC should find no reason to believe that NRSC, the Jepsen '84 Committee or Senator Jepsen violated the Act.

Sincerely,



Jan W. Baran

cc: Senator Roger W. Jepsen  
Senator John H. Heinz, III  
Tom Tyree

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**AFFIDAVIT  
OF  
ROGER W. JEPSEN**

Roger W. Jepsen for his affidavit deposes and  
says:

1. I have knowledge of the facts contained herein  
and am competent to testify thereto.

2. From January 1979 until January 3, 1985 I was  
United States Senator from the State of Iowa.

3. In 1979 I authorized an account to be opened  
in the name of "Roger W. Jepsen, Office Account" [hereinafter  
referred to as "RWJ Account"].

4. The purpose of the RWJ Account at all times was  
to serve as a personal checking account through which my  
reimbursable expenses were reimbursed and paid.

5. The expenses referred to in paragraph 4 above  
were reimbursed either by the United States Senate (with  
respect to official Senate expenses) or by the Jepsen '84  
Committee (with respect to campaign related expenses).

6. I did not solicit, receive, accept or deposit  
into the RWJ Account any donation from any person.

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7. Since September 1982 the RMJ Account has been supervised on my behalf by Ms. Laurel Swett.

*Roger W. Jesper*  
Roger W. Jesper

Subscribed and sworn to before me this 2<sup>ND</sup> day of January, 1985.

*Qui E. Brown*  
Notary Public  
NOTARY PUBLIC  
DISTRICT OF COLUMBIA

COMMISSION EXPIRES APRIL 30, 1987  
My commission expires \_\_\_\_\_.

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**AFFIDAVIT  
OF  
LAUREL SWETT**

**Laurel Swett for her affidavit deposes and  
says:**

1. I have knowledge of the facts contained herein and am competent to testify thereto.

2. Until January 3, 1985 I was employed on the staff of Senator Roger W. Jepsen.

3. From September 1982 to date I have supervised a personal checking account on behalf of Senator Jepsen which account is in the name of "Roger W. Jepsen, Office Account" [hereinafter referred to as "RWJ Account"].

4. The RWJ Account received reimbursements from the United States Senate for official Senate expenses incurred by Senator Jepsen and from the Jepsen '84 Committee for campaign related expenses incurred by Senator Jepsen.

5. The funds from the Jepsen '84 Committee which were deposited into the RWJ Account were solely reimbursements for campaign related expenses.

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6. No donations were solicited, received, accepted or deposited into the RWJ Account.

*Laurel Swett*  
\_\_\_\_\_  
Laurel Swett

Subscribed and sworn to before me this 2<sup>nd</sup> day of  
January 1985.

*David C. [Signature]*  
\_\_\_\_\_  
Notary Public

NOTARY PUBLIC  
DISTRICT OF COLUMBIA

MY COMMISSION EXPIRES APRIL 30, 1987  
My commission expires \_\_\_\_\_.

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AFFIDAVIT  
OF  
LISA RACHELLE BRIGGS

Lisa Rachelle Briggs for her affidavit deposes  
and says:

1. I have personal knowledge of the facts contained herein and am competent to testify thereto.
2. Since October 1981 I have been employed by the National Republican Senatorial Committee ("NRSC").
3. One of my responsibilities at NRSC is to administer a program entitled COMBO (Communications and Business Office Expenses).
4. COMBO is a program whereby NRSC pays the cost of ordinary and necessary expenses incurred by Republican Senators in connection with their official duties as federal officeholders.
5. COMBO payments are not for the purpose of influencing an election nor to defray personal expenses.
6. COMBO payments are made only to the vendors who provide goods or services to the Senator on whose behalf payment is made.

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7. All COMBO payments are reported on NRSC reports filed pursuant to the Federal Election Campaign Act, as amended.

8. Each Senator's COMBO allotment is limited subject to a formula which takes into account the population size of the Senator's state and the state's distance from Washington, D.C. The formula is similar to the formula used by the United States Senate to pay for certain official expenses.

9. NRSC has not made a COMBO payment to Senator Roger W. Jepsen, the Jepsen '84 Committee, or to an account named "Roger W. Jepsen, Office Account."

10. NRSC has not made a payment of any kind to an account named "Roger W. Jepsen, Office Account."

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Lisa Rachelle Briggs  
Lisa Rachelle Briggs

Subscribed and sworn to before me this 4<sup>th</sup> day of January, 1985.

TJ [Signature]  
Notary Public  
NOTARY PUBLIC  
DISTRICT OF COLUMBIA

My commission expires MY COMMISSION EXPIRES JANUARY 31, 1989

Statement of Mitch Daniels  
Executive Director, National  
Republican Senatorial Committee  
-before-  
Senate Select Committee on Ethics  
July 14, 1983

Mr. Chairman and Members of the Committee:

The National Republican Senatorial Committee appreciates this invitation to meet with you to discuss the Committee's Combo program. Chairman Lugar regrets that he was unable to be present today. He has asked that I appear in his stead. My name is Mitch Daniels. I have been the Executive Director of the Committee since January of this year. With me today is the Committee's General Counsel, Richard Messick.

"Combo" is a program of the National Republican Senatorial Committee that pays some of the business expenses incurred by Republican Senators in performing their official duties. It has been expressly approved by the Federal Election Commission in Advisory Opinion 1977-50. A copy of that opinion is attached.

The mechanics of the program are quite simple. Senators submit bills to the NRSC and the Committee pays the vendor. The Committee will pay only bills that are directly related to a Senator's official duties. Should there be any doubt about the official character of a given expense, the Committee will contact the Senator's office for additional

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information. In several instances, the Committee has returned bills unpaid.

Each bill the NRSC pays is disclosed on its monthly report to the Federal Election Commission. The information reported includes the amount paid, the vendor, the Senator on whose behalf the payment was made and the purpose for which it was made. Pages from several of the Committee's FEC reports illustrating this disclosure are attached.

In 1982 the Committee paid about \$406,000 in bills under Combo. This averaged roughly \$7500 per Senator; it represented 1.3% of the Committee's total expenditures for that year. For accounting purposes the Committee divides Combo expenses into six categories. These categories, together with the amounts expended and the percentage each was of the 1982 total, are:

Media Services	\$152,000	37%
Travel	69,000	17
Publications	59,000	15
Equipment Purchases	13,000	3
Consultants	8,000	2
Miscellaneous	103,000	26

Media Services, the largest category, include payments to the Senate Recording and Photo Studios. Also included here are the costs of The Roundtable, a public affairs television program produced by the Republican Conference and described in the attached article from the June 23 New York Times.

The Committee purchases small items such as cassette recorders for various Senate offices. These expenditures constituted 3% of the total in 1982. The equipment remains

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the property of the NRSC and must be returned when a Senator leaves office. The Miscellaneous category includes a host of small items, chief among them being office supplies and phone and restaurant bills.

Each Senator may submit bills up to a certain limit each month. This limit is based on a formula patterned after that used by the Senate for allocating office expense funds. In 1982 Combo allotments ranged from a little over \$6,000 for Vermont to slightly over \$18,000 for California. For comparison, the Senate provided Senators from Vermont with \$40,000 to pay office expenses and those from California with \$87,000. The 1982 formula and the amounts allotted to each Senator under it are shown in attachment four.

Combo is financed from the contributions the Committee receives throughout the year. The staff asked that we provide figures on the amount the Committee receives from individuals and compare this amount with that it receives from political action committees. This information is shown below for 1982 and the first half of 1983:

	Individuals	PACs
1982	\$30.4	\$.2
1983	\$12.6	\$.1

(millions of dollars)

As you can see, the Committee's funds are raised almost exclusively from individuals. In neither 1982 nor the first half of 1983 did PAC contributions account for even one

86040564899

per cent of the total contributions the Committee received.

The Committee staff further asked if the Committee had ever received funds from an individual or a political action committee that were earmarked either for Combo generally or for a particular Senator's Combo account. The answer to both questions is no. The staff also inquired whether there were any conditions attached to Combo, and specifically whether a Senator is expected to support any particular policy position or vote in a particular way in return for Combo. The answer is, emphatically, no.

The status of Combo under Senate Rules, and in particular under Senate Rule 38, is not a new subject. We are of the view that Combo is perfectly proper under the plain language of Rule 38. Rule 38 expressly permits a Senator to defray his official expenses with funds from, inter alia, a "political committee as defined under Section 301(d) of the Federal Election Campaign Act of 1971." The NRSC is, without question, a political committee within the meaning of that section.

This language is in no way contradicted by the legislative history of the Rule. On the contrary, the legislative history supports the propriety of Combo. The Committee's position on this matter is more fully set out in the attached letter sent to Chairman Stevens and Vice-Chairman Heflin. I respectfully refer you to that letter for a further discussion of the Committee's position.

Thank you for this opportunity to discuss Combo. I will be happy to answer any questions you may have.

86040564900

**SENSITIVE**

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

RECEIVED  
OFFICE OF THE FE  
COMMISSION SECRET

**FIRST GENERAL COUNSEL'S REPORT**

85 JAN 7 All :

DATE AND TIME OF TRANSMITTAL  
BY OGC TO THE COMMISSION 1/7/85

11:30

MUR 1855  
DATE COMPLAINT RECEIVED  
BY OGC November 19, 1984  
DATE OF NOTIFICATION TO  
RESPONDENT November 29, 1984  
STAFF MEMBER Rellly

COMPLAINANT'S NAME: Roger D. Colton

RESPONDENTS' NAMES: Senator Roger W. Jepsen  
Jepsen '84 Committee and Tom Tyree,  
as treasurer  
National Republican Senatorial Committee

RELEVANT STATUTES: 2 U.S.C. § 433(b)(2)  
2 U.S.C. § 434(a)(1)  
2 U.S.C. § 441a(h)  
2 U.S.C. § 441a(f)  
2 U.S.C. § 439a  
2 U.S.C. § 434(b)(5)(a)

INTERNAL REPORTS CHECKED: Disclosure Reports

**SUMMARY OF ALLEGATIONS**

The Office of the General Counsel received a complaint on November 20, 1984, from Roger D. Colton. It alleges violations of the Act by Senator Roger W. Jepsen, the Jepsen '84 Committee ("the Committee") and the National Republican Senatorial Committee ("NRSC"). The complaint stems from an office account ("the Office Account") maintained by the candidate and his office. It is alleged that the candidate disbursed money from the Jepsen '84 Committee to the Office Account. The Office Account was alleged to have also been funded by contributions from NRSC. News accounts attached to the complaint quote the candidate as stating that the money in the Office Account was used to fund campaign activities.

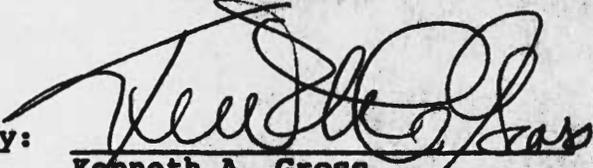
86040564901

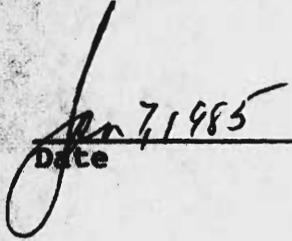
Three categories of allegations are made. First, it is alleged the Office Account is an affiliated political committee which has failed to meet the Act's reporting requirements. Secondly, the NRSC is alleged to have made excessive contributions to the Committee. Finally, it is alleged that the Committee has failed to properly report disbursements made to the Office Account and to the candidate.

**STATUS OF THE NURS**

All respondents have been notified and have designated the same counsel. A twenty day extension of time request followed. The extension of time request was granted in part, allowing until December 31, 1984, for responses. The response was received January 4, 1984. After reviewing this response, this Office will make a full set of recommendations to the Commission.

Charles N. Steele  
General Counsel

By:   
Kenneth A. Gross  
Associate General Counsel

  
Date Jan 7, 1985

86040564902

**BAKER & HOSTETLER**

ATTORNEYS AT LAW

616 CONNECTICUT AVE., N.W.

WASHINGTON, D. C. 20006

(202) 551-1500

TELESCOPIER (202) 557-0000

RECEIVED AT THE FEC  
GC 6/26  
84 DEC 28 PM 2: 07

IN CLEVELAND, OHIO  
2800 NATIONAL CITY CENTER  
CLEVELAND, OHIO 44114  
(216) 521-0200  
TWX 510 421 5275

IN COLUMBUS, OHIO  
211 EAST STATE STREET  
COLUMBUS, OHIO 43215  
(614) 221-1541

WRITERS DIRECT DIAL NO.:  
(202) 551-1572

IN DENVER, COLORADO  
SUITE 200, 305 EAST 7TH AVENUE  
DENVER, COLORADO 80202  
(303) 521-0500

IN ORLANDO, FLORIDA  
15TH FLOOR BARNETT PLAZA  
ORLANDO, FLORIDA 32801  
(305) 641-1111

December 27, 1984

DEC 31 AID: 08  
OFFICE COUNSEL

Patty Reilly, Esquire  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

Re: MUR 1855

Dear Ms. Reilly:

This is to confirm our telephone conversation of this date at which time we discussed the above-captioned matter. It is my understanding that a response to the complaint in that matter may be filed by this office on behalf of our clients by the close of business on Friday, January 4, 1985.

Thank you for your agreement to this timetable.

Sincerely,

  
Jan W. Baran

JWB:df

86040564903



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

December 21, 1984

Jan Baran, Esquire  
Baker & Hostetler  
818 Connecticut Ave., N.W.  
Washington, D.C. 20006

RE: MUR 1855

Jepsen '84 Committee  
National Republican  
Senatorial Committee

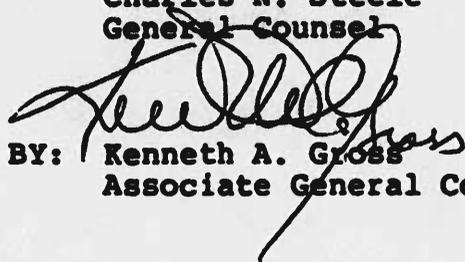
Dear Mr. Baran:

This is in response to your letter dated December 12, 1984 which forwarded designation of counsel forms for the above respondents and requested twenty day extensions of the period of time for each to respond. We are unable to grant the requested twenty day extensions; however a ten day extension is hereby granted. Accordingly, the responses of the Jepsen '84 Committee and the National Republican Senatorial Committee are due on Monday, December 31, 1984.

If you have any questions please contact Patty Reilly, the staff person assigned to this case at 523-4143.

Sincerely

Charles N. Steele  
General Counsel

  
BY: Kenneth A. Gross  
Associate General Counsel

86040564904

**BAKER & HOSTETLER**

ATTORNEYS AT LAW

510 CONNECTICUT AVE., N.W.

WASHINGTON, D. C. 20006

(202) 541-2000

TELECOPIER (202) 541-0000

RECEIVED AT THE FEC

0 CC# 6022

84 DEC 18 PM 2:05

IN CLEVELAND, OHIO  
2500 NATIONAL CITY CENTER  
CLEVELAND, OHIO 44114  
(216) 581-0200  
TWT 510 451 2275

IN DENVER, COLORADO  
SUITE 200, 308 EAST 17TH AVENUE  
DENVER, COLORADO 80202  
(303) 591-0000

IN ORLANDO, FLORIDA  
15TH FLOOR BARNETT PLAZA  
ORLANDO, FLORIDA 32801  
(305) 241-1111

IN COLUMBUS, OHIO  
65 EAST STATE STREET  
COLUMBUS, OHIO 43215  
(614) 225-1841

December 17, 1984

WRITER'S DIRECT DIAL NO.:

(202) 541-1572

Patty Reilly, Esq.  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

Re: MUR 1855

Dear Ms. Reilly:

Enclosed please find a Statement of Designation of Counsel signed by Senator Roger W. Jepsen. Senator Jepsen has designated this office to represent him personally, if necessary, in connection with the above-captioned matter.

I previously provided you with similar designations on behalf of the National Republican Senatorial Committee and the Jepsen '84 Committee.

Sincerely,

  
Jan W. Baran

JWB:df  
Enclosure

cc: Honorable Roger W. Jepsen  
Richard E. Messick, Esq.

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84 DEC 18 PM 1:46

RECEIVED  
GENERAL INVESTIGATIVE  
DIVISION

STATEMENT OF DESIGNATION OF COUNSEL

MDR 1855

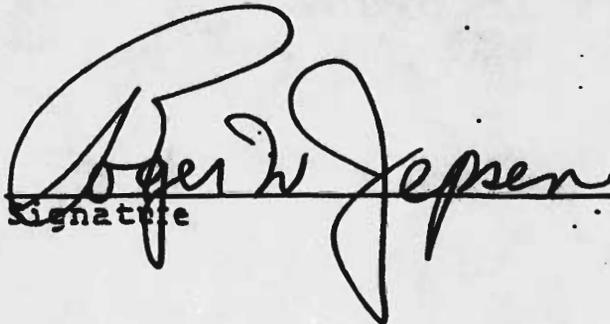
NAME OF COUNSEL: Jan Baran

ADDRESS: Baker & Hostetler  
818 Connecticut Avenue, N.W.  
Washington, D.C. 20032

TELEPHONE: 202/861-1572

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.

December 6, 1984  
Date

  
Signature

RESPONDENT'S NAME: Roger W. Jepsen

ADDRESS: 301 N. Beauregard, #815  
Alexandria, Virginia 22312

HOME PHONE: 703/256-5962

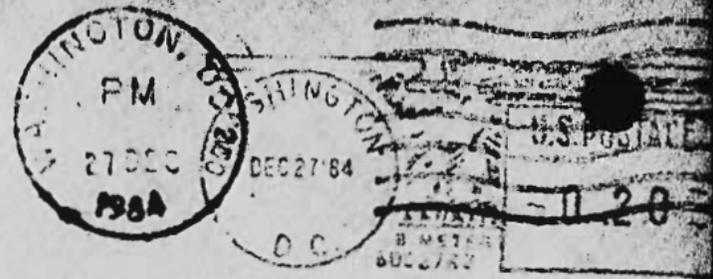
BUSINESS PHONE: 202/224-3254

86040564906

KERR & HOSTETLER  
CONNECTICUT AVE., N.W.  
WASHINGTON, D. C. 20006

8604056490

Patty Reilly, Esquire  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463



84 DEC 28 PM 12:57

RECEIVED AT  
FEC

IR & HOSTETLER  
CONNECTICUT AVE., N.W.  
WASHINGTON, D. C. 20006

8604056490

Ms. Patty Reilly  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

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STATEMENT OF DESIGNATION OF COUNSEL

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GCC # 5894

84 DEC 7 AM: 10

MUR 1855

NAME OF COUNSEL: Jan Baran

ADDRESS: Baker & Hostetler  
818 Connecticut Avenue, N.W.  
Washington, D.C. 20032

TELEPHONE: 202/861-1572

RECEIVED  
OFFICE OF THE  
GENERAL COUNSEL  
34 DEC 7 AM: 46

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.

December 6, 1984  
Date

  
Signature

RESPONDENT'S NAME: Roger W. Jepsen

ADDRESS: 301 N. Beauregard, #815  
Alexandria, Virginia 22312

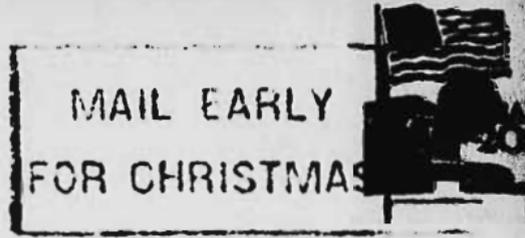
HOME PHONE: 703/256-5962

BUSINESS PHONE: 202/224-3254

86040564909

er M. Jepsen  
ED STATES SENATOR  
INGTON, D.C. 20510

86040564910



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

84 DEC 7  
A 8: 49

RECEIVED  
DEC

STATEMENT OF DESIGNATION OF COUNSEL

RECEIVED AT THE FEC  
GCC #5984  
84 DEC 11 P 1: 54

MUR MUR 1855

NAME OF COUNSEL: Jan Baran

ADDRESS: Baker and Hostetler

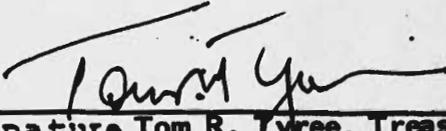
818 Connecticut Avenue, N.W.

Washington, D.C. 20032

TELEPHONE: 202-861-1572

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.

December 6, 1984  
Date

  
Signature Tom R. Tyree, Treasurer:  
for Jepsen '84 Committee

RESPONDENT'S NAME: Tom R. Tyree, Treasurer

ADDRESS: Jepsen '84 Committee

P. O. Box 84

Davenport, Iowa 52805

HOME PHONE: 319-652-5449

BUSINESS PHONE: 319-383-0173

86040564911

RECEIVED  
GENERAL COUNSEL  
14 DEC 11 P 2: 37

8 6 0 4 0 5 6 4 9 1 2

Tom R. Tyree, Treasurer  
Jepsen '84 Committee  
P. O. Box 84  
Davenport, Iowa 52805



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

**CERTIFIED**

P 599 587 278

**MAIL**

**RETURN RECEIPT  
REQUESTED**

For U.S.

RECEIVED AT THE FEC  
GLC #5967  
84 DEC 14 9:11

**BAKER & HOSTETLER**

ATTORNEYS AT LAW

818 CONNECTICUT AVE., N.W.

WASHINGTON, D. C. 20008

(202) 641-1500

TELECOPIER (202) 687-0010

IN CLEVELAND, OHIO  
3800 NATIONAL CITY CENTER  
CLEVELAND, OHIO 44114  
(216) 881-0200  
TWX 818 481 8878

IN DENVER, COLORADO  
SUITE 100, 203 EAST 17TH AVENUE  
DENVER, COLORADO 80203  
(303) 881-8800

IN ORLANDO, FLORIDA  
13TH FLOOR BARNETT PLAZA  
ORLANDO, FLORIDA 32801  
(305) 841-1111

IN COLUMBUS, OHIO  
65 EAST STATE STREET  
COLUMBUS, OHIO 43215  
(614) 228-1841

December 12, 1984

WRITER'S DIRECT DIAL NO.:  
(202) 681-1572

RECEIVED  
GENERAL COUNSEL  
ALL: 11

Patty Reilly, Esq.  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

Re: MUR 1855

Dear Ms. Reilly:

Pursuant to our telephone conversation today I hereby confirm that this office represents the National Republican Senatorial Committee and the Jepsen '84 Committee regarding the above-captioned matter. Enclosed please find a Statement Of Designation Of Counsel executed by the Treasurer of each Committee.

This matter has been initiated by a complaint, a copy of which was received by our clients on December 5, 1984. We wish to provide a response in order to demonstrate why no further action should be taken. Such a response will include affidavits and documents from individuals located both in Washington, D.C. and in the state of Iowa. The holiday schedules of various individuals as well as the logistical problems of locating necessary documents has made it impossible to submit the response by December 20, 1984, which would be the end of the fifteen-day period provided by statute. Accordingly, I hereby request an extension of twenty days up to and including January 9, 1985 within which to file a response to the complaint in the above-captioned matter.

86040564913

STATEMENT OF DESIGNATION OF COUNSEL

MUR MUR 1855

NAME OF COUNSEL: Jan Baran

ADDRESS: Baker and Hostetler

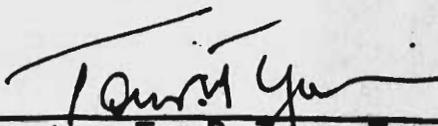
818 Connecticut Avenue, N.W.

Washington, D.C. 20032

TELEPHONE: 202-861-1572

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.

December 6, 1984  
Date

  
Signature Tom R. Tyree, Treasurer;  
for Jepsen '84 Committee

RESPONDENT'S NAME: Tom R. Tyree, Treasurer

ADDRESS: Jepsen '84 Committee

P. O. Box 84

Davenport, Iowa 52805

HOME PHONE: 319-652-5449

BUSINESS PHONE: 319-383-0173

8604056491A

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1855

NAME OF COUNSEL: Baker + Hostalter

ADDRESS: 90 JAN BARN

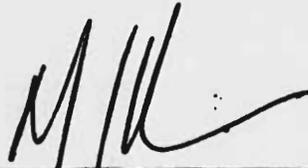
818 CONN AVE

TELEPHONE: \_\_\_\_\_

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.

12-01-84

Date



Signature

Treasurer

RESPONDENT'S NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

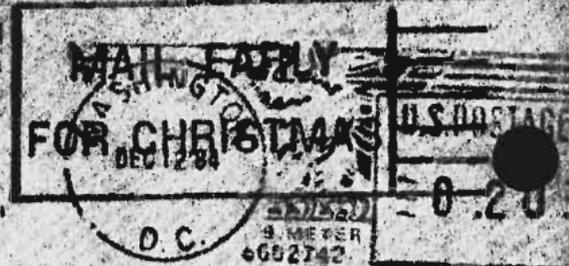
HOME PHONE: \_\_\_\_\_

BUSINESS PHONE: \_\_\_\_\_

86040564915

KER & HOSTETLER  
CONNECTICUT AVE., N.W.  
WASHINGTON, D. C. 20006

6040564916



Patty Reilly, Esq.  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

04 DEC 1984 4:01 PM

RECEIVED AT THE REC.





FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 29, 1984

Roger Colton, Esquire  
111 State Avenue  
Ames, Iowa 50010

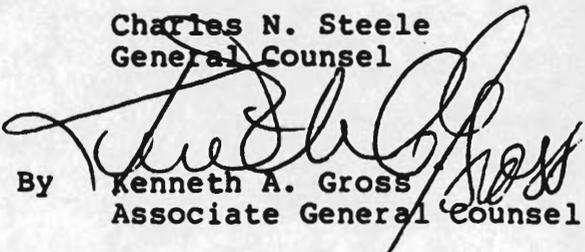
Dear Mr. Colton:

This letter is to acknowledge receipt of your complaint which we received on November 19, 1984, against Senator Roger W. Jepsen, Jepsen '84 Committee, Tom R. Tyree, and National Republican Senatorial Committee, 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

860040564917



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

November 29, 1984

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Bob Perkins  
National Republican  
Senatorial Committee  
404 C Street, N.W.  
Washington, D.C. 20002

Re: MUR 1855

Dear Mr. Perkins:

This letter is to notify you that on November 19, 1984 the Federal Election Commission received a complaint which alleges that National Republican Senatorial Committee 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 1855. 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 National Republican Senatorial Committee 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.

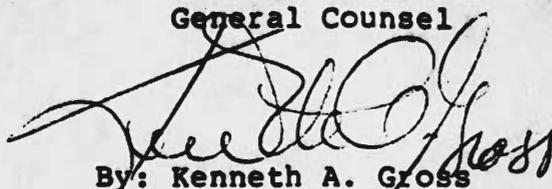
If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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If you have any questions, please contact Patty Reilly, the attorney assigned to this matter at (202) 523-4143. 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

86040564919



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

November 29, 1984

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

The Honorable Roger W. Jepsen  
120 Russell Senate Office Building  
Washington, D.C. 20510

Re: MUR 1855

Dear Senator Jepsen:

This letter is to notify you that on November 19, 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 1855. 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.

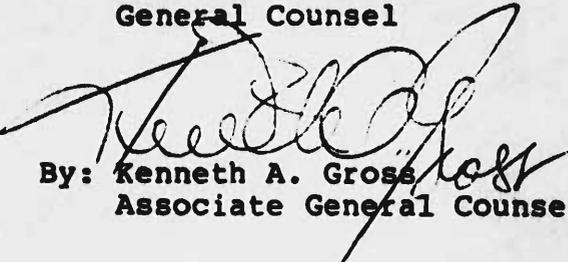
If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

8 6 0 4 0 5 6 4 9 2 0

If you have any questions, please contact Patty Reilly, the attorney assigned to this matter at (202) 523-4143. 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

86040564921



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

November 29, 1984

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Tom R. Tyree  
Treasurer  
Jepsen '84 Committee  
P.O. Box 84  
Davenport, Iowa 52805

Re: MUR 1855

Dear Mr. Tyree:

This letter is to notify you that on November 19, 1984 the Federal Election Commission received a complaint which alleges that Jepsen '84 Committee and you, 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 1855. 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 Jepsen '84 Committee and you, 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.

86040564922

If you have any questions, please contact Patty Reilly, the attorney assigned to this matter at (202) 523-4143. 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

860040564923

**Community Action Research Group**

P.O. Box 1232  
Ames, Iowa 50010  
(515) 292-4758

RECEIVED AT THE FEC  
GCC # 5685  
84 NOV 19 49:42

SALLY KRSEL  
Executive Director

ROGER D. COLTON  
General Counsel

November 9, 1984

MUR  
1855

84 NOV 19  
11:46

RECEIVED  
OFFICE OF THE  
GENERAL COUNSEL

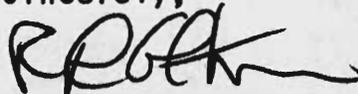
Mr. Charles Steele  
General Counsel  
Federal Election Commission  
1325 K Street N.W.  
Washington D.C. 20463

Dear Mr. Steele:

This letter responds to the correspondence of Mr. Kenneth Gross, Associated General Counsel, Federal Election Commission, which letter was dated November 5, 1984. Mr. Gross' correspondence concerned a complaint which I, among others, filed alleging violations of the FECA by the Jepsen for Senate Committee and by Senator Roger W. Jepsen. That complaint was dated October 25, 1984, and was received in your offices on October 29, 1984.

The contents of that complaint are true to the best of my knowledge and belief. I have attached an acknowledgement by a notary public that I make the statements in this letter under oath.

Sincerely,



Roger D. Colton  
Attorney-at-Law

86040564924

RDC/lb

Enclosure: notary statement

STATE OF IOWA     )  
                          )  
COUNTY OF STORY    )     ss.

On this 9th day of November, 1984, before me, the undersigned, a Notary Public in and for Story County, in the State of Iowa, personally appeared Roger D. Colton, to me known to be the identical person named in and who executed the foregoing letter, which letter was sworn to and subscribed before me, and acknowledged that he signed, swore to and subscribed the same as his voluntary act and deed.

  
\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR POLK COUNTY

86040564925

Community Action Research Group

P.O. Box 1232  
Ames, Iowa 50010  
(515) 292-4758

FEC  
NOV 13 8 3:42

SALLY KRISSEL  
Executive Director

ROGER D. COLTON  
General Counsel

November 9, 1984

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1855

NOV 19 11:46

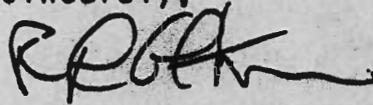
Mr. Charles Steele  
General Counsel  
Federal Election Commission  
1325 K Street N.W.  
Washington D.C. 20463

Dear Mr. Steele:

This letter responds to the correspondence of Mr. Kenneth Gross, Associated General Counsel, Federal Election Commission, which letter was dated November 5, 1984. Mr. Gross' correspondence concerned a complaint which I, among others, filed alleging violations of the FECA by the Jepsen for Senate Committee and by Senator Roger W. Jepsen. That complaint was dated October 25, 1984, and was received in your offices on October 29, 1984.

The contents of that complaint are true to the best of my knowledge and belief. I have attached an acknowledgement by a notary public that I make the statements in this letter under oath.

Sincerely,



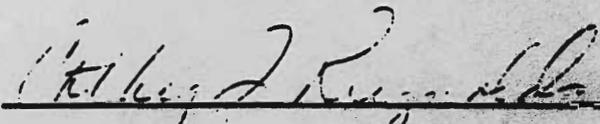
Roger D. Colton  
Attorney-at-Law

RDC/lb

Enclosure: notary statement

STATE OF IOWA     )  
                          )     ss.  
COUNTY OF STORY )

On this 9th day of November, 1984, before me, the undersigned, a Notary Public in and for Story County, in the State of Iowa, personally appeared Roger D. Colton, to me known to be the identical person named in and who executed the foregoing letter, which letter was sworn to and subscribed before me, and acknowledged that he signed, swore to and subscribed the same as his voluntary act and deed.

  
\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR POLK COUNTY

October 25, 1984

10 OCT 26 P 1:19

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

Dear Mr. Steele:

We, the undersigned, herewith file this complaint pursuant to the Federal Election Campaign Act of 1971 ("FECA"), 2 U.S.C. S 437(g), alleging violations of the FECA by the Jepsen for Senate Committee and Senator Roger W. Jepsen. We specifically allege that Senator Jepsen and his reelection committee have been parties to violations of the public disclosure requirements of the law in connection with their establishment and operation of the "Senator Roger W. Jepsen office account" ("the office account"). Moreover, we raise for Commission consideration the question of whether this same office account also served as a vehicle for violations of the FECA contribution limitations.

In connection with its review of this complaint, the Commission should undertake full investigation of the operation of the office account and all associated violations of the FECA. This matter warrants immediate attention by the Commission, because it raises fundamental issues involving the activities of incumbent officeholder--candidates. These issues--full public disclosure and contribution limitations--could not be more central to the integrity of federal election laws.

I. FACTUAL BACKGROUND

The factual background to this matter has been developed from multiple press accounts which have been attached in the form of exhibits to this Complaint. The pertinent facts may be briefly summarized as follows, and may be found in amplified form in the attached exhibits.

In 1980, shortly after his election to the United States Senate, Senator Jepsen caused the establishment of the "Senator Roger W. Jepsen Office Account." This account was established in Mr. Jepsen's words, for the purposes of financing certain office-related activities "that would possibly be

Mr. Charles Steele  
October 25, 1984  
Page two

considered in a grey area or fine line...by way of things that could and should be done with tax dollars." Mr. Jepsen has further explained: "Rather than take a chance on that, we paid for those things with other than tax dollars."

The office account was furnished with funds for its activities from Mr. Jepsen's principal campaign committee. With these campaign funds, the office account was then used to pay an array of these "grey area" expenditures. Moreover, funds from his principal campaign committee were further used, under Mr. Jepsen's direction, to reimburse the Senator for other "grey area" expenditures which the Senator initially paid with personal credit in the form of his credit cards.

Since June 1981, transfers from his political committee account to the office account, or to himself in the form of reimbursement, have been substantial. A total of \$34,929 has been transferred from the Senator's principal campaign committee to his office account, and another \$14,848 in political committee funds have been paid to Mr. Jepsen personally as reimbursement for his own credit card expenditures. These political committee payments for "grey area" office-related expenses totaled \$49,777 over this period. Moreover, transfers of political committee funds at any one time have been substantial, to wit, a transfer of \$8,761 on March 26, 1984.

Neither the Jepsen Committee nor Mr. Jepsen have offered any specific accounting of the use made of the political committee funds transferred to the office account. In fact, only as a result of press reports which revealed this failure to disclose, did Senator Jepsen provide some level of detail on these expenditures. Moreover, the level of detail supplied has been completely lacking in one material respect: none of the payees, i.e., the actual recipients of funds paid out of the office account, have been identified. Instead, Mr. Jepsen has offered only the most generous accounting--and as outlined below, this accounting raises more questions than it answers.

## II. VIOLATIONS OF THE FECA BY THE JEPSEN COMMITTEE AND SENATOR JEPSEN

The foregoing factual discussion presents for Commission investigation the following apparent violations of the FECA by Mr. Jepsen and his principal campaign committee. Those violations include:

(1) Treatment of certain political committee receipts as "office related donations" not subject to FECA limitations, when in fact their subsequent expenditure makes it clear that these constituted fully limited contributions;

Mr. Charles Steele  
 October 25, 1984  
 Page three

(2) The failure of the Jepsen Committee and Mr. Jepsen to satisfy FECA reporting requirements, indeed the circumvention of those requirements through the establishment of this office account;

(3) The apparent use of the office account as an additional, illegally unregistered depository or bank account used in connection with his election related activities.

Each of these violations will be described below for further investigation by the Commission.

1. Contribution Limitation Issues

The facts show that the Jepsen Committee has not only diverted campaign funds to this office account, but has also raised funds to this purpose. The Jepsen Committee has received, in particular, substantial donations for "office-account" purposes from the National Republican Senatorial Committee ("NRSC"). By virtue of this "office related" classification, the Jepsen Committee has felt justified in accepting these donations outside the limitations established by § 441a of the FECA.

Yet it appears from the subsequent use of these and other funds, funneled through the office account, that Mr. Jepsen did, in fact, use them for election-related purposes. Under these circumstances, the contribution limitations under § 441a should have been applied to these NRSC donations and reported by the Jepsen Committee, but this has not been done.

The true purposes served by this office account--partisan purposes--have been virtually admitted by Mr. Jepsen and his committee. Thus, Mr. Jepsen has conceded that:

"These are expenditures that were involved in building my 1984 committee..."

Moreover, according to other press reports, Senator Jepsen and his staff has advised the press that the office account:

...was set up to cover expenses involved in campaign activities...The need for the special account has "dramatically diminished" now that he has a full-time campaign staff and the campaign is underway, the Senator said.

Furthermore, to the extent that any detail has so far been provided on these office account disbursements, it would appear that they had a

Mr. Charles Steele  
 October 25, 1984  
 Page four

decidedly partisan purpose. Mr. Jepsen has disclosed, for example, that the office account has been used to make payments for "Republican Party materials" and "campaign-related novelty items." Mr. Jepsen has conceded that expenditures of this kind "should not be paid for by tax dollars..."

FEC regulations speaks specifically to the application of § 441a limitations to expenditures of this nature. Section 113.4(a) states that:

...contributions to, or expenditures from an office account which are made for the purpose of influencing a federal election shall be subject (to the dollar limitations on contributions under § 441a).

(Emphasis added.) Since Mr. Jepsen and his Committee have conceded that office account disbursements were for campaign related purposes, it is plain that these could not have been received by his political committee in the first instance outside of FECA limitations. Under the FECA, "purpose" is controlling: Mr. Jepsen has made the decisive admission that his office account served partisan purposes and was not primarily related to the conduct of his official duties.

Moreover, in FEC Advisory Opinion 1977-50, the Commission emphasized that this question of "purpose" was controlling in the determination of whether expenses for alleged "office related" purposes would be subject to the statute. The FEC held that all contribution limitations, source restrictions and reporting requirements would apply in full to office account activity, if the facts and circumstances surrounding any expenditures suggested an election related purpose. As stated, the election related purpose served by his office account have been conceded by Mr. Jepsen and his committee in the situation described here.

This analysis warrants careful investigation by the Commission of the true purposes of the NRSC "office account" donations received and spent by the Jepsen Committee outside the contribution limitations of the law. Under that law, NRSC is authorized to contribute no more than \$17,500 to the Jepsen Committee. 2 U.S.C. § 441a(h). In fact, the public record available at the FEC shows that total NRSC disbursements for alleged Jepsen "office related" expenses has vastly exceeded \$17,500. If, upon inquiry, it appears that these NRSC donations were used by the Jepsen Committee for election related purposes, the Commission would be required to find that the dollar limitations of § 441a applied in full to those donations in the first instance. In those circumstances, the contribution limitations of the FECA would be significantly exceeded with respect to NRSC support for the Jepsen reelection campaign this year.

Mr. Charles Steele  
 October 25, 1984  
 Page five

## 2. Reporting Issues

As stated, the Jepsen Committee and Mr. Jepsen have so far refused a full and precise accounting of the use made of monies disbursed from the office account. At first, only the bulk transfers from the political committee to the office account were reported, and then with the minimal description (such as in the instance of the March 26 transfer) that these were for "campaign expenses." Now, following public pressure generated by press reports, Senator Jepsen has supplied a limited itemization of the nature of expenditures but with one critical, material legal flaw: none of the payees, the actual recipients of the funds, have been identified.

The entire course of the nondisclosure with respect to these office account disbursements runs flatly counter to the reporting requirements of the FECA. 2 U.S.C. § 434. Certainly, the initial description of transfers as "campaign expenses" demonstrates how this office account system frustrates the political committee reporting requirements of federal law. 11 C.F.R. § 104.3(b)(4)(i)(A). These regulations generally require a brief but full "statement or description of why the disbursement was made." Id. The regulations provide more specifically that:

...statements or descriptions such as... "Election Day expenses," "other expenses," "expenses"... would not meet the requirements (of FECA regulations).

Id. Furthermore, even in the most recent limited round of disclosure by Mr. Jepsen, the omission of the identity of the payee violates a specific requirement to the contrary under FEC regulations. 11 C.F.R. § 104.3(a)(4)(i). These regulations require the identification of "the full name and address of each person" to whom "an expenditure in an aggregate amount or value in excess of \$200...is made by the reporting committee..." None of these requirements, however, have been satisfied by the accounting provided by Mr. Jepsen and his Committee to date.

## 3. Registration of Political Committee Account

It appears from the factual background in press reports that Mr. Jepsen and his committee have used the office account as an auxiliary account of his reelection committee. Senator Jepsen has described expenditures from this office account as made for plain campaign related purposes, to wit, his statement that "these are expenditures that were involved in building my 1984 committee..." Moreover, Mr. Jepsen's limited disclosure upon press inquiry has referred to expenditures with such described partisan purposes as "Republican Party materials" and "campaign-related novelty items."

Mr. Charles Steele  
 October 25, 1984  
 Page six

For these reasons, it would appear that the office account has not been established for genuine office related expenses, but instead serves to supplement authorized committee accounts in the pursuit of Mr. Jepsen's electoral objective. For these reasons, the Jepsen Committee and Mr. Jepsen were required to identify this account separately on the Jepsen Committee statement of organization, in accordance with FEC regulations. 11 C.F.R. §§ 102.2(a)(1)(vi), (2). The failure of the Jepsen Committee to make this disclosure violates the FECA.

### III. CONCLUSIONS

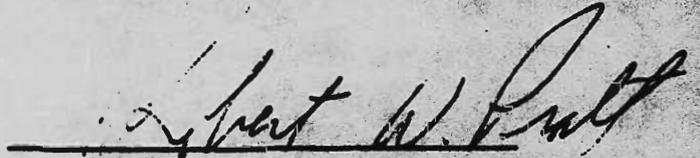
The facts and legal allegations described here are sufficiently significant on their own terms to warrant Commission investigation. Beyond this, the Commission must be concerned that the operation of these mysteriously veiled "office accounts" will enable candidates, such as Mr. Jepsen, to escape the contribution limitations, reporting requirements, and other obligations imposed upon all federal candidates under the FECA. This Complaint does not recite a series of isolated violations. Instead, this Complaint described a pattern of violations surrounding the operation of a deceptively named and unlawfully operated funding mechanism.

For these reasons, the Commission should undertake immediate investigation, bring conciliation negotiations to a prompt conclusion, and impose any and all appropriate civil penalties necessary to rectify the violations established.

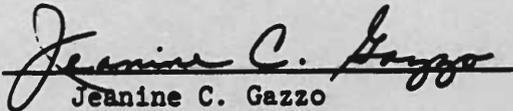
Very truly yours,



Roger Colton  
 111 State Avenue  
 Ames, IA 50010  
 515/271-2952



Robert W. Pratt  
 840 5th Avenue  
 Des Moines, IA 50309  
 515/271-2952



Jeanine C. Gazzo  
 Court 111 Building  
 111 - 3rd Street  
 Des Moines, IA 50309  
 515/271-2952

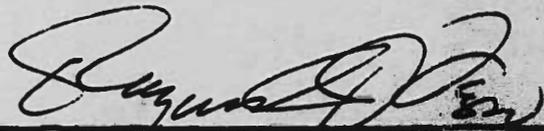
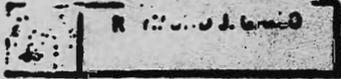
STATE OF IOWA )  
                  ) ss:  
COUNTY OF POLK )

On this 25<sup>th</sup> day of OCTOBER, 1954, before me,  
the undersigned, a Notary Public in and for Polk County, in the State  
of Iowa, personally appeared ROGER D. COLTON  
to me known to be the identical person named in and who executed the  
foregoing instrument, and acknowledged that (s)he executed the same as  
his / her voluntary act and deed.

Cathy D. Reynolds  
Notary Public in and for Polk County

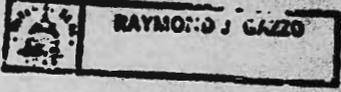
STATE OF IOWA )  
 ) ss:  
COUNTY OF POLK )

On this 25 day of October, 1985, before me,  
the undersigned, a Notary Public in and for Polk County, in the State  
of Iowa, personally appeared ROBERT W. PRATT,  
to me known to be the identical person named in and who executed the  
<sup>LETTER</sup> foregoing instrument, and acknowledged that <sup>SIGNED</sup> (s)he executed the same as  
his ~~own~~ voluntary act and deed.

  
\_\_\_\_\_  
Notary Public in and for Polk County  


STATE OF IOWA )  
 ) ss:  
COUNTY OF POLK )

On this 25 day of July, 1985, before me,  
the undersigned, a Notary Public in and for Folk County, in the State  
of Iowa, personally appeared JEANINE C. CRAZY  
to me known to be the identical person named in and who ~~executed~~ <sup>SIGNED</sup> the  
LETTER foregoing ~~instrument~~, and acknowledged that (s)he executed the same as  
his / her voluntary act and deed.

Raymond J. Gazo  
Notary Public in and for Folk County  


# Transfer of Jepsen money

By JOHN HYDIE and GEORGE ANTIAN

(2) 5-19-84

WASHINGTON, D.C. — A lawyer for the National Republican Senatorial Committee, who says he advised U.S. Senator Roger Jepsen on the handling of money transferred from his campaign treasury to an unofficial "office account," defended both his advice and Jepsen's actions in a letter to *The Des Moines Register* Friday.

Richard E. Messick, general counsel to the GOP Senate campaign committee, said he has advised the Iowa Republican senator for the past 15 months and said he believes Jepsen "is in good company with many of his colleagues and has remained well within the law."

Messick was responding to a Register story published Thursday that said Jepsen, since 1980, has shifted \$49,777 from his campaign treasury to himself personally and to an unofficial "office account" over which he has direct control.

The Register story said Jepsen, in an interview, acknowledged he had not reported the money as personal income on his tax returns. The story cited an Internal Revenue Service ruling stating that "campaign funds transferred to an officeholder's office account are includable in the gross in-

Text of lawyer's letter to *The Register* is on Page 21A.

come of the officeholder for the year in which the funds are transferred." After such money is declared as income, the IRS said, senators should itemize and deduct legitimate expenses associated with holding office.

The story quoted Jepsen as explaining that the funds were not declared as personal income because they "aren't for my services. They're just to pay bills that come from my credit cards." Most of the money was used to pay for office and campaign-related expenses that could not be reimbursed by the government, he said.

"Clunisy Process" Messick, in his letter defending Jepsen, said that declaring the money as income and then deducting expenses was a "clunisy process [that] would not have changed the senator's tax bill."

Messick acknowledged that "an office" of the IRS had issued the interpretation quoted in the Register story, but he argued that the tax code itself is "the final authority on this point." The code requires the declaration of campaign money on tax returns only when it is shifted for "personal use" and "financial benefit," he said.

The statement cited by the Register came from IRS Revenue Ruling 80-331. It addresses the specific point raised by Messick and concludes, "When excess campaign funds are transferred to an office account, they are diverted for the personal use of the officeholder because the transfer is not an expenditure for an exempt function as defined" by the tax code.

Money shifted from a campaign treasury does not have to be declared as personal income when it is given to the U.S. Treasury, to certain charities, or to another political committee, the IRS ruling states. "And that's it. That's the only way you can get out of it. Oth-

# Soviets seen willing to trade for Sakharov

© 1984 New York Times

PARIS, FRANCE — A leading French editor, often described as an intimate of President Francois Mitterrand, wrote Friday that the Soviet Union has indicated it would permit Andrei Sakharov to emigrate to the West if Mitterrand called for a halt in the deployment of medium-range nuclear missiles in Europe.



ANDREI SAKHAROV

Jean Daniel, editor of *Le Nouvel Observateur*, a weekly magazine of left-wing opinion, said Soviet diplomats raised the possibility of such a deal in Oslo on Tuesday while Mitterrand was on an official visit to Norway.

With Sakharov, the Nobel Peace Prize winner and dissident, now on a hunger strike, Mitterrand is coming under considerable pressure to cancel a scheduled trip to Moscow next month if Sakharov is not allowed to leave the Soviet Union.

Daniel wrote, "The French president would only have to declare himself favorable to a freeze, thus contributing to détente between the two blocs," as the Soviet emissaries phrase it. Then he could bring Andrei Sakharov back with him in the plane from Moscow to Paris. This discreet blackmail could continue right up to the time when a decision is made to undertake the trip.

Although France is not involved in the deployment of NATO missiles, Mitterrand has given the stationing of Pershing-2 and cruise missiles strong support as a necessary counter-balance to Soviet SS20 missiles already in place.

Mitterrand has always characterized himself an aggressive defender of human rights. For the first 2 1/2 years of his presidency, he excluded the possibility of a trip to the Soviet Union because he said it would be immoral to go while the Soviets continue their occupation of Afghanistan.

The line changed after the start of the deployment of the NATO missiles last December, with Mitterrand explaining it was necessary to pursue the East-West dialogue in times of tension.

The moderate and conservative opposition here has called on Mitterrand to cancel his trip, throwing back at him his characterization of President Valery Giscard d'Estaing as "the little messenger boy from Warsaw" when his predecessor traveled to the Polish

# Hormel, union officials reach tentative pact

By GENE MILL

A tentative agreement that could save 819 production jobs at the Geo. A. Hormel & Co. plant in Ottumwa has been reached between company and union officials.



Hormel spokesman Allan Krejci said the agreement, reached during lengthy bargaining sessions on Wednesday and Thursday, calls for a reduction in the base wage to \$4.50 an hour from \$10.74, but a profit-sharing provision in the agreement would add another 23 cents to the base, bringing the total hourly wage to \$4.73.

The profit-sharing provision is based on company earnings and could lead to a wage reduction if the company loses money in the future, officials said.

The new agreement also calls for the recall of 820 laid-off workers, and Hormel would drop selling the plant

JEPSEN Please turn to Page 16A

## THE INDEX

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287-5700

# Jepsens' tax bill for 1983 was \$36,239

**JEPSEN WORKS**  
Continued from Page One

restaurant. On June 14, 1983, for example, the Jepsen campaign paid a \$1,241.10 bill to the Senate restaurant.

In choosing to use an "office account" to pay for campaign-related expenses, however, Jepsen subjected himself to a tax liability. In addition, he may have drawn the attention of auditors at the Election Commission.

Federal election law requires all candidates for Congress to declare where their campaign money comes from and how it is spent. The law requires that money contributed to a federal candidate be spent for political, not personal, purposes.

"The key to our law, and the whole purpose of the commission, is public disclosure," said Fred Eiland, a spokesman for the commission. "If money is transferred to another account in an effort to prevent full disclosure, that would be contrary to the purpose of our law."

# Shifted to 'Office account'

By JOHN HYATT and GEORGE ANTILAN  
of the Register's Washington Bureau

WASHINGTON, DC — During the last three years, US Senator Roger Jepsen has transferred almost \$50,000 from his campaign treasury to himself personally and to an unofficial "office account" controlled by him, Federal Election Commission records show.



ROGER JEPSEN

In an interview, the Iowa Republican acknowledged that he has not reported the money as personal income on his federal tax returns.

The Internal Revenue Service declared in 1980 that "excess campaign funds transferred to an officeholder's office account are includable in the gross income of the officeholder for the year in which the funds are transferred." After declaring such money as personal income, senators may then itemize and deduct legitimate business expenses associated with holding public office.

Jepsen said he did not declare the money on his tax returns because the money was spent entirely to reimburse himself and his staff for campaign and office-related expenses. Therefore, he reasoned, such money was not personal income.

"These aren't for my services," Jepsen said. "They're just to pay bills that come from my credit cards."

Since 1980, Jepsen said, his campaign committee has shifted \$34,929 to the "Senator Roger W. Jepsen Office Account" and \$14,848 to himself, a total of \$49,777.

The most recent transfer occurred on March 26 of this year, when \$8,761 was shifted to the office account to pay for "campaign expenses," according to Jepsen's campaign finance report at the Election Commission.

Jepsen said "over 90 percent" of the money was used to pay for travel, postage, campaign-related novelty items, stationery, Republican Party materials, telephone calls and photographs. He described these as "the type of expenditures that should not be paid for by tax dollars."

"These are expenditures that were

involved in building my 1984 committee and things that would possibly be considered in a gray area or fine line ... by way of things that could and should be done with tax dollars," he said. "Rather than take a chance on that, we paid for those things with other than tax dollars."

### Restaurant Bills

An example of such expenditures, Jepsen said, would be money paid to the U.S. Senate restaurant to entertain constituents.

"People come in and think everything's for free," he complained. "You've got a \$30 or \$40 bill you have to pay, and I can't deduct those things any more out of business expenses, so we pay for them out of my campaign funds, as everybody else does."

Jepsen's 1983 federal income tax return indicates that he and his wife, Dee, deducted \$2,078 for business lunches and dinners last year. In some instances, Jepsen's campaign committee paid money directly to the Senate

**JEPSEN**

### "Additional Information"

Eiland said the transfer of a large amount of money, such as \$8,761, to another account with only a notation that it was used to reimburse campaign expenses "may not be sufficient" for the commission's purposes and "may generate a request for additional information" from the commission's auditors.

"We may want to ask what all that money went for," Eiland said.

Asked why campaign-related expenditures were not paid directly out of the campaign account, instead of being funneled through his office and personal accounts, Jepsen said, "Administratively, everything is handled out of my office. I didn't have a campaign committee until last September."

Records at the Election Commission indicate that Jepsen established his current campaign committee, the Jepsen '84 Committee, in 1980.

"Also, on a lot of these things, I use my own or office credit card," Jepsen said. "That's probably 90 percent" of the total money transfers, he said.

Jepsen said an itemized accounting of where the money transferred from his campaign committee was spent is kept by an accounting firm in Davenport. He said an itemized account of the expenditures has been sent to the Election Commission. The commission's public files do not contain such itemization.

Many senators maintain an "office account," an unofficial mechanism used to pay expenses related to holding public office that are not reimbursed by the U.S. Treasury. In most cases they are controlled by the senator personally or a member of his staff. In Jepsen's case, the account is controlled by Jepsen and Becky Baker, his executive assistant. Nixon's "Slush Fund"

Such accounts have sometimes become matters of public debate, as in the celebrated 1952 controversy surrounding then-Senator Richard Nixon's "secret slush fund."

In 1977, Congress moved to abolish slush funds. The House of Representatives adopted a rule flatly prohibiting all unofficial office accounts.

The Senate also technically prohibited office accounts, but it said senators could maintain an account to pay for office-related expenses. The money for such an account could come from one of four sources, the Senate said: A senator's personal assets; money received from an organization to reimburse expenses, such as travel costs; money from a Senate fund based on each state's population; and money left over from a campaign treasury.

"An office account cannot be used for campaign expenses," said Anne Miskovsky, a spokeswoman for the Senate Ethics Committee. "The rule says such money must be used for defraying unreimbursed expenses allowable in connection with the operation of a member's office."

But Elaine Miller, election law counsel for the Senate Rules Committee, which oversees all office accounts, said she was not certain Senate rules could totally prohibit campaign expenditures from office accounts because senators are permitted to put their own money into office accounts.

But Miller said she had never heard of a senator using an office account to pay for campaign expenditures and could see no reason for it.

"On the face of it, it isn't real clear to me what is going on there," she said. "I will say that what you have described to me is puzzling."

Jepsen and his wife declared a net income of \$140,140 on their 1983 tax return. Almost all of the income reported by the Jepsens came from his official Senate salary, honoraria paid for speeches, and Dee Jepsen's salary as a White House staff member, a job she has since left.

On March 30, in announcing his campaign for re-election, Jepsen provided reporters with a summary of his 1983 income and taxes, showing that he paid a total of \$16,330 in taxes.

Also carried as UPI story  
Dubuque Telegraph Herald  
5/17 p1A

# Many senators have accounts: Lawyer

**JEPSEN**

Continued from Page One

er than that, the ruling says you declare it as income." IRS spokesman Wilson Faxon said Friday.

The Register story also said the Federal Election Commission may ask Jepsen to provide an itemized account of where money shifted to his "office account" was spent.

The Register quoted FEC spokesman Fred Eiland as saying, "We may want to ask what all that money went for." Eiland added, "If money is transferred to another account in an effort

to prevent full disclosure, that would be contrary to the purpose of our law."

## "Sufficient" Descriptions

Messick's letter to the Register said, "It is true, as your story states, that the purpose of each expenditure by a committee must be adequately explained. What your story leaves out is that FEC regulations explicitly state that descriptions such as 'travel expense' and 'dinner expense' are considered to be sufficient."

Jepsen's most recent campaign finance report says he shifted \$8,761 from his campaign treasury to his of-

fice account on March 26, but it says only that the money was to reimburse "campaign expenses."

Jepsen's spokesman, Andrew Montgomery, said Friday that Jepsen's office would release an itemized account of the \$49,777 early next week.

Messick also said a spokeswoman for the Senate Ethics Committee who told the Register that Senate office accounts could not spend money for political purposes "has now recanted her statement" and has said "her quote was taken out of context."

The aide quoted by the Register was Anne Miskovsky, spokeswoman for the ethics committee. The Register was not able to reach her for comment Friday.

However, the point made by Miskovsky was disputed in the Register story itself by Elaine Miller, a lawyer for the Senate Rules Committee, which oversees Senate office accounts.

Miller said it may be not be possible for Senate rules to completely prohibit campaign expenditures from unofficial office accounts, but she added that she had never heard of it being done. "On the face of it, it isn't real clear to me what's going on there," Miller said.

## "Slush Funds"

Messick's letter states that "a large number of senators" maintain an unofficial office account similar to Jepsen's, a point confirmed by an article published on June 20, 1983, by the New Republic magazine, titled "The Senate's Secret Slush Funds."

Reporters Bill Hogan, Diane Kiesel and Alan Green said they had reviewed the FEC reports of all 100 senators and conducted more than 90 interviews and concluded that "abuse of the system is widespread."

"In dozens of cases, Senate incumbents have ignored IRS regulations, violated federal election law, and evaded standards for public disclosure and accountability," they said.

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## REVENUE RULINGS

Surplus campaign funds transferred to office account. Surplus campaign funds transferred to an officeholder's office account are includible in gross income for the year the funds are transferred. Amounts disbursed from the office account for ordinary and necessary expenses of serving as an officeholder are deductible under section 162(a) of the Code, provided the expenses otherwise qualify under that section and are not reimbursable.

Rev. Rul. 80-331

## ISSUE

~~What are the federal income tax consequences to an officeholder of transfers of excess campaign funds to an office account?~~

## FACTS

The transfer of excess campaign funds to an office account is specifically permitted under the Federal Election Campaign Act (FECA), 2 U.S.C. section 439a (1976), which is implemented by regulations issued by the Federal Election Commission (FEC), 11 CFR 113.

Section 113.2 of the FEC regulations provides, in part, that excess campaign funds may be used to defray any ordinary and necessary expenses incurred in connection with the recipient's duties as a holder of federal office.

Section 113.1(e) of the FEC regulations provides that the term "excess campaign funds" means amounts received by a candidate as contributions that the candidate determines are in excess of any amount necessary to defray the candidate's campaign expenditures.

Section 113.1(b) of the FEC regulations provides, in part, that the term "office account" means an account established for the purposes of supporting the activities of a federal officeholder that contains excess campaign funds and funds donated for the purpose of supporting the activities of the officeholder. An office account does not include (1) an account used exclusively for funds appropriated by Congress, (2) an account of the officeholder that contains only the personal funds of the officeholder, or (3) an account containing only appropriated funds and personal funds of the officeholder.

## LAW AND ANALYSIS

Section 61(a) of the Internal Revenue Code and the Income Tax Regulations thereunder provide that, except as otherwise provided by law, gross income means all income from whatever source derived.

Section 162(a) of the Code provides that a taxpayer may deduct all the ordinary and necessary expenses incurred during the taxable year in carrying on any trade or business.

Section 527(a) of the Code provides that a political organization is subject to income taxation only to the extent provided in section 527.

Section 527(e)(1) of the Code provides that the term "political organization" means a party, committee, association, fund, or other organization (whether or not incorporated) organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures, or both, for an exempt function.

Section 527(e)(2) of the Code provides that the term "exempt function"

## REVENUE RULINGS

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means the function of influencing or attempting to influence the selection, nominating, election, or appointment of any individual to any federal, state, or local public office or office in a political organization, or the election of presidential or vice-presidential electors, whether or not such individual or electors are selected, nominated, elected, or appointed.

Section 527(d) of the Code provides that an amount is not treated as diverted for the personal use of a candidate or any other person if any political organization contributes the amount to or for the use of another qualifying political organization or certain charitable organizations or deposits the amount in the general fund of the Treasury or in the general fund of any state or local government.

In discussing the provisions of section 527(d) of the Code, Rep. No. 93-1357, 93rd Cong., 2d Sess. 30 (1974), 1975-1 C.B. 517, 534, states: "As under present law, when amounts are diverted from a political organization by a candidate for his personal use, the amount diverted is taxable income to the candidate in the year in which the funds are diverted."

When excess campaign funds are transferred to an office account, they are diverted for the personal use of the officeholder because the transfer is not an expenditure for an exempt function as defined in section 527(e) (2) of the Code and because the transfer is not a contribution or deposit described in section 527(d).

## HOLDINGS

(1) Excess campaign funds transferred to an officeholder's office account are includible in the gross income of the officeholder under section 61 of the Code for the year in which the funds are transferred.

(2) Amounts disbursed from the office account for ordinary and necessary expenses paid or incurred by the officeholder during the taxable year in carrying on the officeholder's trade or business as an officeholder are deductible under section 162(a) of the Code, provided the requirements of that section are otherwise satisfied and the expenses are not reimbursable.

**Earnings of members remitted to religious organization.** A member of a religious organization who has taken a vow of poverty and is instructed by the organization's superiors to obtain outside employment must include the remuneration remitted to the organization in gross income, and the remuneration is subject to FICA and income tax withholding. Another member of the organization who has also taken a vow of poverty and is instructed to perform services in the business office of the church that supervises the organization is not required to include the remuneration remitted to the organization in gross income, and the remuneration is not wages subject to FICA. An organization that is substantially dependent on wages earned by some of its members from outside employment does not qualify for exemption under section 501(d) of the Code. Rev. Rul. 77-290 amplified.

Rev. Rul. 80-332

## ISSUE

Is Rev. Rul. 77-290, 1977-2 C.B. 26, applicable to members of an organization described in section 501(d) of the Internal Revenue Code?

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