



FEDERAL ELECTION COMMISSION

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

THIS IS THE END OF MUR # 1941

Date Filmed 3/26/86 Camera No. --- 2

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FEDERAL ELECTION COMMISSION

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| <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 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 J. Barr
date 3/3/86

FEC 5-21-77

TRE
3/18/86

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15 DEC 20 AIO: 36

STEPTOE & JOHNSON

ATTORNEYS AT LAW
1330 CONNECTICUT AVENUE
WASHINGTON, D. C. 20036

ROGER E. WARIN
(202) 429-6280

December 19, 1985

Shelley Garr, Esquire
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

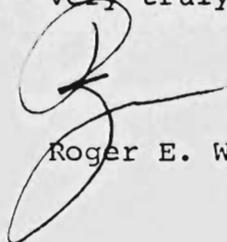
Re: MUR 1941

Dear Shelley:

This is to confirm our recent telephone conversation concerning the files in the above matter. We have requested, and you have agreed, to include Diane Cunningham's letter to the Commission of April 9, 1985, in the files that will be made publicly available.

I have also enclosed a check in the amount of \$175 payable to the Treasurer of the United States in payment of the fine pursuant to the Conciliation Agreement. Thank you for your help in resolving this matter.

Very truly yours,



Roger E. Warin

csd

Enclosures

36040372193

Voluntary Contributors For Better Government

A Program of Employees of International Paper Company and its Affiliates
1620 Eye St., N.W., Suite 700, Washington, D.C. 20006 (202) 785-3666

April 9, 1985

The Honorable John Warren McGarry
Chairman
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Dear Chairman McGarry:

I am writing in response to your letter of April 1, 1985, concerning the Voluntary Contributors for Better Government's delayed filing of our 1984, 12 day pre-general election report. You asked me to provide information relevant to the Commission's consideration of whether to take any further action to find probable cause that a violation has occurred.

I respectfully request that you not proceed with any further action, and I appreciate the opportunity to explain the position of the Voluntary Contributors Committee. Since its inception in 1976, the Voluntary Contributors has been scrupulous in its efforts to comply fully with the letter and spirit of the Federal Election Campaign Act of 1971. The inadvertent oversight that resulted in the delayed filing in question was apparently the result of an unfortunate confluence of unavoidable circumstances. My business obligations caused me to be out of the country for one month returning on October 22. At the same time my regular assistant was out on maternity leave, and a temporary person was doing her work. Arrangements had been made to assure the timely filing of all reports during my absence and my assistant's absence. For example, our September monthly report was filed in a timely fashion on October 22, 1984 (the 20th of October was a Saturday), signed by the assistant secretary-treasurer. Regrettably, the pre-election report was mistakenly not handled as it should have been. Between my being out of the office for the four weeks immediately preceding, the maternity leave of the woman who normally prepares the reports, and the inadvertent oversight of the alternative system that had been established to carry us through that period, we simply missed the filing deadline.

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My records show that as soon as I received your November 16 letter notifying me of the missed filing, I immediately contacted the FEC on Monday, November 19 and spoke with Mr. Anthony Raymond in the Reports Analysis Division. Mr Raymond advised me to file the October monthly report first, then to amend that report for the October 1 through 17 reporting period. Following Mr. Raymond's advice, the monthly report was mailed on the same day, November 19 and the 12-day pre-general election report was sent two days later by certified mail on November 21.

May I draw your attention to the fact that during the period covered by the report, from October 1 through 17, the committee received no contributions, and we made only \$3,200 in contributions to federal candidates (as reported in an amended filing of December 14, 1984). Without in anyway denying the public's need to know all activities of committees such as ours, may I nonetheless suggest that in this instance that need was not significantly confounded, for the \$3,200 is a relatively small amount.

I respectfully submit that the Voluntary Contributors committee be treated no less favorably than were respondents in MUR No. 1435. In that case, respondents had failed to file with the Commission a single report due January 31, 1981 pursuant to 2 U.S.C. § 434(a)(4)(A)(iv). Respondents filed their report on April 28, 1982, subsequent to notification by the Commission of their failure to file. Despite the fact that respondents' report was filed three months late -- more than three times as late as the Voluntary Contributors' report presently at issue -- and despite the fact that the Commission found reason to believe that a violation of the Code had taken place, the Commission voted to take no further action and to close the file in the case.

Although I have not made a complete review of the Commission's actions in other similar matters, I would be surprised if the Commission had ever imposed a fine in circumstances such as ours, where in nine years the only problem is a single late filing which was immediately corrected once brought to our attention. Given this and the other circumstances I have noted, I respectfully request that you not proceed with any further action.

Please let me know if there is any additional information which would be of assistance to you in consideration of this matter.

Sincerely yours,

Diane Brown Cunningham
Diane Brown Cunningham
Secretary/Treasurer

cc: Duane A. Brown

86090372195



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 22, 1985

Roger E. Warin, Esquire
Steptoe and Johnson
1330 Connecticut Avenue
Washington, D.C. 20036

Re: MUR 1941
Voluntary Contributions for
Better Government
Diane Brown Cunningham, Treasurer

Dear Mr. Warin:

On November 15, 1985, the Commission accepted the conciliation agreement signed by Diane Brown Cunningham, treasurer of the Voluntary Contributions for Better Government committee in settlement of violations of 2 U.S.C. § 434(a)(4)(B) and 2 U.S.C. § 434(a)(2)(A)(i), provisions of the Federal Election Campaign Act of 1971, as amended.

Accordingly, 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.

Should you have any questions, please contact Shelley Garr, the staff member assigned to this matter at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel


By: Kenneth A. Gross
Associate General Counsel

Enclosure
Conciliation Agreement

86040372196

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Voluntary Contributors) MUR 1941
 for Better Government)
Diane Brown Cunningham,)
 as treasurer)

CONCILIATION AGREEMENT

95040574197
This matter was initiated by the Federal Election Commission (hereinafter "the Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that Voluntary Contributors for Better Government and Diane Brown Cunningham, as treasurer ("Respondents"), violated 2 U.S.C. §§ 434(a)(4)(B) and 434(a)(2)(A)(i) by failing to file the 12 Day Pre-General Election Report in a timely manner.

NOW, THEREFORE, the Commission and Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents, and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437(a)(4)(A)(i).

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 committee is a political committee registered with the Commission.
2. Diane Brown Cunningham is treasurer of respondent committee and, therefore, is respondent only in her capacity as treasurer of the committee, pursuant to 2 U.S.C. § 434(a)(1).
3. All unauthorized committees were to file 12 Day Pre-General Election Reports by October 25, 1984.
4. Respondents filed the 12 Day Pre-General Election Report on November 23, 1984.
5. Respondents contend that the failure to file the 12 Day Pre-General Election Report on time was inadvertent and was corrected as soon as possible.

V. Failure to file the 12 Day Pre-General Election Report in a timely manner is a violation of 2 U.S.C. §§ 434(a)(4)(B) and 434 (a)(2)(A)(i).

VI. Respondents will pay a civil penalty to the Treasurer of the United State in the amount of one hundred seventy-five dollars (\$175), 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

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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 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
Kenneth A. Gross
Associate General Counsel

November 21, 1985
Date

FOR THE RESPONDENTS:

Diane Brown Cunningham
(Name)
(Position) *Secretary - Treasurer*

October 30, 1985
Date

850401106098

SECRET

In the Matter of)

Voluntary Contributions)
for Better Government)

MUR 1941

Diane Brown Cunningham,)
Treasurer)

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GENERAL COUNSEL'S REPORT

I. BACKGROUND

Attached is a conciliation agreement which has been signed by Diane Brown Cunningham, Treasurer of the Voluntary Contributors for Better Government committee ("the Committee") (Attachment I).

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It is the recommendation of the Office of General Counsel that the Commission accept this conciliation agreement in settlement of this matter and close the file.

Charles N. Steele
General Counsel

November 12, 1985

BY:


Kenneth A. Gross

Associate General Counsel

Attachments

1. Conciliation agreement
2. Proposed letter

35040372202

RECEIVED THE FEC
300-1-1
85 NOV 4 8:48

STEPHENS & JOHNSON
ATTORNEYS AT LAW
1330 CONNECTICUT AVENUE
WASHINGTON, D. C. 20036

ROGER E. WARIN
(202) 429-6280

October 31, 1985

Shelley Garr, Esquire
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

NOV 4 9:57

Re: MUR 1941

Dear Shelley:

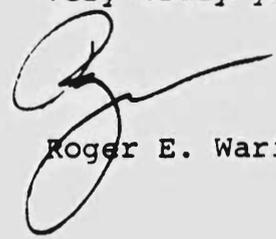
Enclosed is an original and one copy of an executed
Conciliation Agreement in MUR 1941

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After the Conciliation
Agreement has been signed by your office and approved by the
Commission, please notify me so that we may make arrangements
for delivery of the fine and obtain an executed final
version of the Agreement.

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

Very truly yours,



Roger E. Warin

csd

Enclosure

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III. Respondents enter voluntarily into this agreement with the Commission:

IV. The pertinent facts in this matter are as follows:

1. Respondent committee is a political committee registered with the Commission.
- 2.
3. All unauthorized committees were to file 12 Day Pre-General Election Reports by October 25, 1984.
4. Respondents filed the 12 Day Pre-General Election Report on November 23, 1984.

(4) (B) and 434 (a) (2) (A) (i).

VI. Respondents will pay a civil penalty to the Treasurer of the United State in the amount of

), 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

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Voluntary Contributors) MUR 1941
for Better Government)
Diane Brown Cunningham,)
as treasurer)

CONCILIATION AGREEMENT

16040572206
This matter was initiated by the Federal Election Commission (hereinafter "the Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that Voluntary Contributors for Better Government and Diane Brown Cunningham, as treasurer ("Respondents"), violated 2 U.S.C. §§ 434(a)(4)(B) and 434(a)(2)(A)(i) by failing to file the 12 Day Pre-General Election Report in a timely manner.

NOW, THEREFORE, the Commission and Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents, and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

I (4)

STEPHENS & JOHNSON
ATTORNEYS AT LAW
1330 CONNECTICUT AVENUE
WASHINGTON, D. C. 20036

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WASHINGTON
05 NOV 4 00:00
D.C. PERMITS

RE Warin
STEPHENS & JOHNSON
1330 CONNECTICUT AVENUE
WASHINGTON, D. C. 20036

Shelley Garr, Esquire
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

RECEIVED THE FEC

85 AUG 12 AM: 37

STEPTOE & JOHNSON

ATTORNEYS AT LAW

1330 CONNECTICUT AVENUE
WASHINGTON, D. C. 20036

ROGER E. WARIN
(202) 429-6280

August 8, 1985

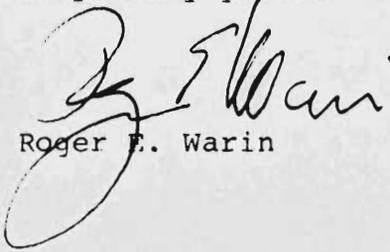
Dwayne Brown, Esquire
General Counsel's Office
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1941
Voluntary Contributors for Better Government

Dear Mr. Brown:

I am sorry we have both been unsuccessful in trying to reach each other by phone concerning the probable cause Conciliation Agreement in the above matter.

any questions. Please call me if you have

Very truly yours,

Roger E. Warin

csd
Enclosure

86040372209

ALL: 49

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 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:

(Name)
(Position)

Date

0 5 0 4 0 5 7 2 2 1 2

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	MUR 1941
Voluntary Contributors)	
for Better Government)	
Diane Brown Cunningham,)	
as treasurer)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on May 22, 1985, the Commission decided by a vote of 6-0 to take the following actions in MUR 1941:

1. Enter into conciliation with the Voluntary Contributors for Better Government and Diane Brown Cunningham, as treasurer, prior to a finding of probable cause to believe.
2. Approve the proposed conciliation agreement submitted with the General Counsel's Report signed May 17, 1985.
3. Approve the letter attached to the General Counsel's Report signed May 17, 1985.

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

Attest:

5/23/85
Date

Marjorie W Emmons
Marjorie W. Emmons
Secretary of the Commission

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

5-20-85, 8:54
5-20-85, 4:00

3604037214

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Voluntary Contributors) MUR 1941
for Better Government)
Diane Brown Cunningham,)
as treasurer)

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter was referred by the Reports Analysis Division ("RAD") for the respondents' failure to file the 12 Day Pre-General Election Report in a timely manner.

The respondents are an unauthorized committee registered with the Commission and its treasurer. All unauthorized committees filing monthly reports were required to file the 12 Day Pre-General Election Report on October 25, 1984. All unauthorized committees were sent prior notification by the Commission on October 1, 1984 specifically informing each of this requirement. The respondents failed to file a 12 Day Pre-General Election Report and were sent a late filer notification letter on November 16, 1984. On November 23, 1984, a Pre-General Election Report was filed by the respondents. On March 20, 1985, the Commission found reason to believe the respondents violated 2 U.S.C. §§ 434(a)(4)(B) and 434(a)(2)(A)(i).

II. LEGAL ANALYSIS

By letter dated April 9, 1985, the respondents argue that certain mitigating circumstances made its untimely filing unavoidable (Attachment I). A second letter was filed on May

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1, 1985, after ^{the} respondents obtained counsel in this matter (Attachment II). First, the respondents argue that business obligations caused the Secretary/Treasurer to be out of the country during the period covered by the 12 Day Pre-General Report. Moreover, the respondents argue that because the treasurer's assistant was out on maternity leave during this same period, the obligation to file the 12 Day Pre-General Report was mistakenly mishandled. Furthermore, the respondents argue that they received no contributions and disbursed "only \$3,200" during the period covered by the report. In addition the respondents argue that this incident is the "first and only instance of late filing during the entire nine years of its existence", and that fact should be taken into consideration. Finally, the respondents cite several closed MURs as a bases for dismissing this action.

The respondents' argument is faulty in several respects. First, although the respondents indicate that "only \$3200" was disbursed during the period covered by the report, the report filed with the Commission discloses that \$5,975 was disbursed during the period covered by the 12 Day Pre-General Report. Second, a review of the three most recent election cycles reveals that the respondents failed to file five other reports in a timely manner contrary to the assertion that the 12 day Pre-General was its first. Finally, the Committee's argument that this matter involving a pre-election report compares to a

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MUR which involved the late filing of one post election report is not compelling.

2 U.S.C. § 434(a)(4)(B) states that:

All political committees other than authorized committees of a candidate shall file . . . monthly reports in all calendar years which shall be filed no later than the 20th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general election is held, a pre-general election report shall be filed in accordance with paragraph (2)(A)(i). . . .

2 U.S.C. § 434(a)(2)(A)(i) requires a pre-election report to be filed:

[N]o later than the 12th day before (or posted by registered or certified mail no later than the 15th day before) any election . . . or nomination for election

The respondents' failure to file the 12 Day Pre-General Election Report in a timely manner violates 2 U.S.C. §§ 434(a)(4)(B) and 434(a)(2)(A)(i).

The respondents request pre-probable cause conciliation in an effort to bring this matter to a close. (Attachment III).

III. DISCUSSION OF CONCILIATION PROVISIONS AND CIVIL PENALTY

Attached for Commission approval is a proposed conciliation agreement providing for an admission of a violation and proposed civil penalty . . . Consistent with the handling of similar matters concerning the late filing of reports, the proposed civil penalty reflects the following:

3504037217

ATTACHMENT I

60077112
Brown

Voluntary Contributors For Better Government

A Program of Employees of International Paper Company and its Affiliates
1620 Eye St., N.W., Suite 700, Washington, D.C. 20006 (202) 785-3666

April 9, 1985

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
APR 9 10 12:18

The Honorable John Warren McGarry
Chairman
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Dear Chairman McGarry:

I am writing in response to your letter of April 1, 1985, concerning the Voluntary Contributors for Better Government's delayed filing of our 1984, 12 day pre-general election report. You asked me to provide information relevant to the Commission's consideration of whether to take any further action to find probable cause that a violation has occurred.

I respectfully request that you not proceed with any further action, and I appreciate the opportunity to explain the position of the Voluntary Contributors Committee. Since its inception in 1976, the Voluntary Contributors has been scrupulous in its efforts to comply fully with the letter and spirit of the Federal Election Campaign Act of 1971. The inadvertent oversight that resulted in the delayed filing in question was apparently the result of an unfortunate confluence of unavoidable circumstances. My business obligations caused me to be out of the country for one month returning on October 22. At the same time my regular assistant was out on maternity leave, and a temporary person was doing her work. Arrangements had been made to assure the timely filing of all reports during my absence and my assistant's absence. For example, our September monthly report was filed in a timely fashion on October 22, 1984 (the 20th of October was a Saturday), signed by the assistant secretary-treasurer. Regrettably, the pre-election report was mistakenly not handled as it should have been. Between my being out of the office for the four weeks immediately preceding, the maternity leave of the woman who normally prepares the reports, and the inadvertent oversight of the alternative system that had been established to carry us through that period, we simply missed the filing deadline.

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My records show that as soon as I received your November 16 letter notifying me of the missed filing, I immediately contacted the FEC on Monday, November 19 and spoke with Mr. Anthony Raymond in the Reports Analysis Division. Mr Raymond advised me to file the October monthly report first, then to amend that report for the October 1 through 17 reporting period. Following Mr. Raymond's advice, the monthly report was mailed on the same day, November 19 and the 12-day pre-general election report was sent two days later by certified mail on November 21.

May I draw your attention to the fact that during the period covered by the report, from October 1 through 17, the committee received no contributions, and we made only \$3,200 in contributions to federal candidates (as reported in an amended filing of December 14, 1984). Without in anyway denying the public's need to know all activities of committees such as ours, may I nonetheless suggest that in this instance that need was not significantly confounded, for the \$3,200 is a relatively small amount.

I respectfully submit that the Voluntary Contributors committee be treated no less favorably than were respondents in MUR No. 1435. In that case, respondents had failed to file with the Commission a single report due January 31, 1981 pursuant to 2 U.S.C. § 434(a)(4)(A)(iv). Respondents filed their report on April 28, 1982, subsequent to notification by the Commission of their failure to file. Despite the fact that respondents' report was filed three months late -- more than three times as late as the Voluntary Contributors' report presently at issue -- and despite the fact that the Commission found reason to believe that a violation of the Code had taken place, the Commission voted to take no further action and to close the file in the case.

Although I have not made a complete review of the Commission's actions in other similar matters, I would be surprised if the Commission had ever imposed a fine in circumstances such as ours, where in nine years the only problem is a single late filing which was immediately corrected once brought to our attention. Given this and the other circumstances I have noted, I respectfully request that you not proceed with any further action.

Please let me know if there is any additional information which would be of assistance to you in consideration of this matter.

Sincerely yours,

Diane Brown Cunningham
Diane Brown Cunningham
Secretary/Treasurer

cc: Duane A. Brown

35040372219

STEPTOE & JOHNSON
ATTORNEYS AT LAW
1330 CONNECTICUT AVENUE
WASHINGTON, D. C. 20036
(202) 429-3000
TELEX 89-2503
WRITER'S DIRECT DIAL NUMBER
429-6280

LOUIS JOHNSON (1988)
STEPHEN AILES
HENRY C. IKENBERRY
LAIDLER B. MACKALL
RICHARD A. WHITING
ROBERT J. COBBER
CALVIN H. COBB, JR.
GEORGE B. MICKUM, III
MONROE LEIGH
RICHARD P. TAYLOR
JOHN E. NOLAN, JR.
ROBERT D. WALLICH
THOMPSON POWERS
WILLIAM K. CONDRILL
RICHARD E. HILL
TIMOTHY S. AYLESON
JAMES P. HOLDEN
HERBERT S. FORREST
JUDAH BEST
BETTY JO CHRISTIAN
ROBERT E. JORDAN, III
JAMES H. PIRKIN, JR.
JAMES L. MCHUGH, JR.
MATTHEW J. ZINN
ROBERT E. MELAUGHLIN
MARTIN D. SCHNEIDERMAN
RICHARD O. CUNNINGHAM

DAN ROLL
TYNIA BROWN
GERALD A. FEFFER
RICHARD H. PORTER
KENNETH I. JOHNSON
THEODORE E. RHODES
RONALD S. COOPER
JANE MOORE
DANIEL J. PLAIN
SHIRLEY D. PETERSON
TERENCE F. QUINN
ROGER E. WARIN
JOHN R. LABOVITZ
MICHAEL KAIL
MARK JAY SILVERMAN
EDWARD R. LEAHY
JOHN T. COLLINS
STEVEN H. BROSE
ROBERT W. FLEISHMAN
HOWARD H. STAM
W. GEORGE BRANDISON
ARTHUR L. BAILY
MORGAN D. HODGSON
LOREN RIEVE
ELLEN D'ALUIO
MARK F. MORNING
CHRISTOPHER T. LUTZ

SAMUEL T. PERKINS
CHARLENE BARSHTEFSKY
ELLEN MARIE MENAMARA
PAUL J. ONDRASIK, JR.
THOMAS C. COLLIER, JR.
STEWART A. BAKER
CHARLES G. COLE
SUSAN M. SERLING
WILLIAM L. MARTIN, II
JAMES A. BRUTON, III
FILIBERTO AGUSTI
THOMAS P. BARLETTA
DARYL A. CHAMBLEE
SUSAN G. ESSERMAN
MARGUERITE S. MILLHAUSER
TIMOTHY M. WALSH
PETER L. WELLINGTON

OF COUNSEL
WILLIAM F. MILLER
CECIL J. OLMSTEAD
VINCENT D. BURKE, JR.
RICHARD S. DIAMOND

April 30, 1985

Chairman John W. McGarry
Federal Election Commission
1325 K Street, N.W.
Washington, D.C.

Re: MUR 1941

Dear Chairman McGarry:

Please be advised that Steptoe & Johnson will be acting as counsel for the Voluntary Contributors for Better Government ("the Committee") and its Treasurer, Ms. Diane B. Cunningham, who are respondents in the above-referenced case. We are advised that a Statement of Designation of Counsel has already been filed. Please direct any further communications concerning this matter to my attention.

By letter dated November 16, 1984, the Commission notified the Committee that the 12 Day Pre-General Election Report was overdue, and it corrected the oversight by immediately filing the report in question. By letter dated April 1, 1985, the Commission notified the Committee that it had determined there was reason to believe that the Committee and Ms. Cunningham, its Treasurer, had violated the Federal Election Campaign Act by failing to file the report in a timely manner.

In a letter of April 9, 1985, Ms. Cunningham provided the Commission with information relevant to its consideration of whether to take any further action in this matter. The letter explained that the delayed filing was due to Ms. Cunningham's prolonged business trip out of the country, the maternity leave of Ms. Cunningham's assistant who usually

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ATTORNEY GENERAL
GENERAL OF COUNSEL

Chairman John W. McGarry
Page Two
April 30, 1985

prepares the reports, and the failure of the back-up system devised to ensure the timely filing of the report. It was also noted that there had been minimal financial activity by the Committee during the period covered by the report, and that this was the Committee's first and only instance of late filing during the entire nine years of its existence.

Because of these substantial mitigating circumstances and the fact that there is virtually no risk of future similar violations, the Committee requests that the matter be disposed of at this stage without requiring a conciliation agreement or a finding of probable cause to believe. Although this matter has been discussed with the General Counsel's office, it is our understanding that the General Counsel's office believes that the Commission itself, rather than the General Counsel's office, can more appropriately make this decision. We are, therefore, writing to urge the Commission to take no further action in this matter.

We strongly believe that the mitigating circumstances here justify dismissing the matter without requiring a pre-probable cause conciliation agreement. As far as we can determine, the Commission has never, in circumstances such as these involving a single late filing, required such an agreement. The only cases which we have found where the Commission has required pre-probable cause conciliation agreements in instances of late filings, for example, MURS 1661, 1677, 1683, or 1693, have involved the filing of 8, 15, 5, and 7 untimely reports respectively.

In fact, the taking of no further action is even more warranted in this case than it has been in past cases where the Commission has found no further action warranted after a finding of reason to believe. In MUR 1489, for example, the Commission found reason to believe that an unauthorized committee had made, and a re-election campaign committee had accepted, an excessive contribution. Upon the advice of the General Counsel's Report, the Commission voted to take no further action against either committee. The General Counsel's Report stated:

Chairman John W. McGarry
Page Three
April 30, 1985

the seriousness of such violations is mitigated by circumstances surrounding the transaction. The recordkeeping errors described herein apparently account for the initial failure to avoid the excessive contribution as both the [committees] maintain procedures to screen for contribution limitations. Therefore, the excessive contribution appears to be an isolated occurrence rather than a practice of either committee. Furthermore, on November 15, 1982, the [Re-Election] Committee refunded to [the unauthorized committee] the excessive amount of \$1,000. This amount represents a fraction of the respondents' total receipts and expenditures.

MUR 1489, First General Counsel's Report (December 15, 1982) 7.

Like respondents in MUR 1489, the Committee has never before been delinquent in an area of election law compliance. Just as respondents in MUR 1489 maintained procedures to ensure compliance, and just as a single human error resulted in "an isolated occurrence" of a violation in that case, so too does the Committee maintain exacting procedures which, due only to an unfortunate confluence of unexpected events, nonetheless resulted in a single isolated occurrence of an untimely filing. Furthermore, just as respondent in MUR 1489 corrected its inadvertent mistake by refunding the excessive contribution upon learning of the violation, the Committee immediately filed the late report when notified that it was past due. 1/ See also, MUR 1493 (no further action taken for making and accepting excessive contributions when the action was inadvertent, the money refunded almost two years after the election, and procedures changed to avoid future violations); MUR 1319 (no further action

1/ We must note, however, that respondent re-election campaign committee in MUR 1489 had use of the excessive contribution for fourteen months, and that the contribution was not refunded until after the election for which it was intended. This is undoubtedly a more serious violation than a filing delayed by a few weeks, especially when the financial activity of the Committee was at a minimum during the time covered by the report.

Chairman John W. McGarry
Page Four
April 30, 1985

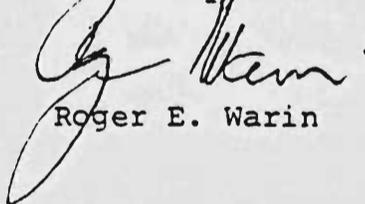
taken for failure to identify source of cash on hand when the committee acted promptly to comply with public disclosure, despite the fact that the committee was still unable to identify \$12,527.15 in contributions); and MUR 1124 (no further action taken for failure to fully report contributions and loans because the majority, but not all, of the omissions had been corrected).

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We urge the Commission to take no further action in this matter. Although we recognize that a pre-probable cause agreement does not require an admission of any violation of the federal election laws, there is a certain stigma associated with the signing of such an agreement -- a stigma perhaps justified if this were more than an instance of one isolated late filing over the past nine years, but one that we feel is unjustified in this case. In the event that the Commission decides that it is unwilling to dismiss the action at this stage, our clients would reluctantly be willing to enter into a pre-probable cause conciliation agreement. If the Commission insists on such an agreement, under the circumstances, we would not feel it appropriate that the agreement contain a civil penalty.

We are aware that the Commission is taking a renewed interest in the problem of late filing and has consequently become more rigorous in its pursuit of late filers. Nevertheless, we think that the mitigating circumstances in this case more than adequately assure the Commission of the Committee's continued compliance with every aspect of the federal election laws. Thank you for your consideration of this request. We will be happy to provide any additional information which the Commission may need.

Sincerely,



Roger E. Warin

csd

Enclosures: MURs 1493, 1489, 1319 and 1124

cc: Commissioner Joan D. Aikens
Commissioner Lee Ann Elliott
Commissioner Thomas E. Harris
Commissioner Danny L. McDonald
Commissioner Frank P. Reiche

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	
Senator Daniel P. Moynihan)	
The Senator Moynihan Re-election)	
Campaign, Inc.)	MDR 1489
John Westergaard)	
Committee for Good Government (UAW))	
Donald J. Moll)	
Special Committee on Political Action)	
Mary Ann Benincasa)	

CERTIFICATION

I, Marjorie W. Emmons, Recording Secretary for the Federal Election Commission Executive Session on January 4, 1983, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MDR 1489:

1. Find reason to believe and take no further action against the Senator Moynihan Re-election Campaign, Inc. for a violation of 2 U.S.C. §441a(f) during the 1982 primary election.
2. Find reason to believe and take no further action against the Committee for Good Government (UAW) for a violation of 2 U.S.C. §441a(a)(2)(A) during the 1982 primary election.
3. Find no reason to believe that the Senator Moynihan Re-election Campaign, Inc. violated 2 U.S.C. §441a(f) for contributions received from the Committee for Good Government and from the Special Committee on Political Action during the 1982 general election.
4. Find no reason to believe that the Committee for Good Government (UAW) violated 2 U.S.C. §441a(a)(2)(A) for its contribution to the Senator Moynihan Re-election Campaign, Inc. during the 1982 general election.

(Continued)

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5. Find no reason to believe that the Special Committee on Political Action violated 2 U.S.C. §441a(a)(2)(A) for its contribution to the Senator Moynihan Re-election Campaign, Inc. during the 1982 general election.
6. Find reason to believe and take no further action against the Senator Moynihan Re-election Campaign, Inc. for a violation of 11 C.F.R. §103.3(a).
7. Find no reason to believe that the Senator Moynihan Re-election Campaign, Inc. violated 2 U.S.C. §439(a)(1).
8. Find no reason to believe that the Committee for Good Government (UAW) violated 2 U.S.C. §439(a)(1).
9. Find reason to believe and take no further action against the Special Committee on Political Action for a violation of 2 U.S.C. §439(a)(1).
10. Approve the letters attached to the FEC General Counsel's report dated December 15, 1982.
11. CLOSE THE FILE.

Commissioners Elliott, Harris, McDonald, McGarry, and Reiche voted affirmatively for the decision. Commissioner Aikens did not vote.

Attest:

Jan 4 1983
Date

Marjorie W. Emmens
Marjorie W. Emmens
Secretary of the Commission

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

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FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL BY MUR NO. 1489
OGC TO THE COMMISSION 12/15/82 STAFF MEMBER Frances B. Hagan

COMPLAINANT'S NAME: Robert J.K. Dornan

RESPONDENTS' NAMES: Senator Daniel P. Moynihan
The Senator Moynihan Re-election
Campaign, Inc.
John Westergaard, Treasurer of the
above-named Moynihan Committee
Committee for Good Government (UAW)
Donald J. Moll, Treasurer of the
Committee for Good Government
Special Committee on Political Action
Mary Ann Benincasa, Treasurer of the
Special Committee on Political Action

RELEVANT STATUTES: 2 U.S.C. § 441a(a)(2)(A)
2 U.S.C. § 441a(f)
2 U.S.C. § 439(a)(1)
11 C.F.R. § 103.3(a)

INTERNAL REPORTS CHECKED: Disclosure Reports, MURs 1307, 1405,
1432

FEDERAL AGENCIES CHECKED: None

SUMMARY OF ALLEGATIONS

A complaint filed by Robert J.K. Dornan on October 21, 1982,
makes the following allegations.

The UAW Committee for Good Government and its treasurer,
Donald J. Moll, the Special Committee on Political Action and its
treasurer, Mary Ann Benincasa, violated 2 U.S.C. § 441a(a)(2)(A)
by making contributions in excess of limitations. Senator
Daniel P. Moynihan, the Senator Moynihan Re-election Campaign,
Inc. and its treasurer, John Westergaard, violated 2 U.S.C.

§ 441a(f) through receipt of excessive contributions violative of 2 U.S.C. § 441a(a)(2)(A). In addition, Senator Daniel P. Moynihan, the Senator Moynihan Re-election Campaign, Inc. and its treasurer violated 2 U.S.C. § 439(a)(1) for failure to file with the State of New York reports which indicate receipt of contributions from the Special Committee on Political Action and the Committee for Good Government. The Special Committee on Political Action and the Committee for Good Government violated 2 U.S.C. § 439(a)(1) for failure to file with the State of New York reports showing their contributions to the Senator Moynihan Re-election Campaign, Inc. Senator Daniel P. Moynihan, the Senator Moynihan Re-election Campaign, Inc. and its treasurer violated 11 C.F.R. § 103.3(a) which requires that all deposits shall be made within ten days of the treasurer's receipt. 1/

FACTUAL AND LEGAL ANALYSIS

The complaint alleges that the Senator Daniel Moynihan Re-election Campaign, Inc. ("the Moynihan Committee") violated 2 U.S.C. § 441a(f) by accepting contributions in excess of limitations from two political committees affiliated with the United Auto Workers Union. Complainant alleges that the Special Committee on Political Action ("SCOPA") and the Committee for Good Government ("CFGG") violated 2 U.S.C. § 441a(a)(2)(A) by

1/ The complainant includes as respondents to each of these charges the candidate, Senator Daniel P. Moynihan, as well as the treasurers of CFGG and SCOPA. However, this Office makes no recommendation regarding the individuals. Our recommendations concern the political committees with notice of such findings to be sent to the individuals or their designated counsel.

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on February 5, 1980, was incorrectly recorded for a "1980 primary" rather than the 1982 primary. CFGG documents support this assertion. Furthermore, CFGG states that between February 1980 and September 1981, when it made its second contribution to the Moynihan Committee, the contribution recordkeeping function was transferred to another office within the UAW. When CFGG made its \$5,000 contribution in September 1981, the persons processing the new contribution were unaware of the earlier donation.

CFGG offers certain factors to mitigate the violation. CFGG states that upon notification of the violation, it immediately requested a refund from the Moynihan Committee. ^{2/} CFGG argues that besides being a clerical error, this excessive contribution is an isolated case occurring through unique circumstances not likely to be repeated. CFGG notes that it has no history of making excessive contributions.

As to the 1982 general election, the CFGG response acknowledges the \$5,000 contribution of November 1981, but emphatically asserts that no affiliation exists between CFGG and SCOPA. Therefore, CFGG states that SCOPA's contributions do not affect the CFGG limitation and no violation of 2 U.S.C.

§ 441a(a)(2)(A) occurred in this case. CFGG points out that SCOPA's original statement of organization of August 1974 listed six connected organizations. One of these organizations was United Auto Workers of Rochester, New York. The UAW local in

^{2/} The Moynihan Committee states that it refunded \$1,000.00 to CFGG.

Rochester advised CFGG that several union members at one time participated in SCOPA "as individuals", but that the union local was never connected with SCOPA. SCOPA amended its statement of organization by letter in October 1976 to clarify that it is not affiliated with any organizations. CFGG asserts that the complainant's assumption that CFGG and SCOPA are affiliated is based on the FEC index of disclosure documents which erroneously lists SCOPA as connected with the UAW. CFGG states that the criteria set forth at 11 C.F.R. § 110.3(a)(1)(iii) which may establish affiliation do not apply to CFGG.

Special Committee on Political Action

On November 10, 1982, SCOPA sent its initial response to the complaint notification. In this letter and in subsequent telephone conversations, SCOPA concurred with CFGG that the two organizations are not affiliates. SCOPA refers to the 1976 amended statement of organization which affirms that SCOPA is comprised of individuals who belong to various organizations, but is not itself affiliated with another organization.

The Senator Moynihan Re-election Campaign, Inc.

On November 18, 1982, the Moynihan Committee submitted its response to the complaint that it received excessive contributions. The Committee states that it received \$1,000 from the CFGG in 1980, and through a bookkeeping error, it accepted an additional \$5,000 in 1981 for the 1982 primary election. The excessive amount of \$1,000 was refunded November 15, 1982,

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following notice in the complaint on November 9, 1982, of the apparent violation.

The Moynihan Committee states that it computerized its records in early 1982 "to eliminate the risk of receipt of excessive contributions." The Committee notes that during the pre-election period in question, the Committee received more than \$2 million in contributions.

As to the general election, the Moynihan Committee refers to the submission by CFGG, stating that no violation of 2 U.S.C. § 441a(f) occurred in that the CFGG and SCOPA are not affiliated.

In addition to receipt of excessive contributions, complainant charges that the Moynihan Committee failed to timely deposit three contributions as required by 11 C.F.R. § 103.3(a). The Moynihan Committee states that the computer system implemented this year reduces delay in mailing deposits and the Committee's deposits are now made daily. The Committee adds that checks are often received several days after the date on the check.

The complainant also alleges that the Moynihan Committee, SCOPA and CFGG failed to file reports of these contributions with the New York Division of Elections in violation of 2 U.S.C. § 439(a)(1). The Moynihan Committee states that all necessary reports are on file with the New York State Board of Elections.

LEGAL ANALYSIS

2 U.S.C. § 441a(a)(2)(A) states that "no multicandidate committee shall make contributions to any candidate and his

authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$5,000."

2 U.S.C. § 441a(f) states that "no candidate or political committee shall knowingly accept any contribution.... in violation of the provisions of this section."

1982 Primary Election - 2 U.S.C. § 441a(a)(2)(A) and (f)

On the basis of the evidence presented by the complainant, CFGG and the Moynihan Committee, it appears that CFGG made an excessive contribution of \$1,000 to the Moynihan Committee in violation of 2 U.S.C. § 441a(a)(2)(A) prior to the 1982 primary election. The Moynihan Committee violated 2 U.S.C. § 441a(f) through acceptance of the excessive contribution. However, the seriousness of such violations is mitigated by circumstances surrounding the transaction. The recordkeeping errors described herein apparently account for the initial failure to avoid the excessive contribution as both the CFGG and the Moynihan Committee maintain procedures to screen for contribution limitations. Therefore, the excessive contribution appears to be an isolated occurrence rather than a practice of either committee. Furthermore, on November 15, 1982, the Moynihan Committee refunded to CFGG the excessive amount of \$1,000. This amount represents a fraction of the respondents' total receipts and expenditures.

The Office of General Counsel recommends that the Commission find reason to believe that violations of 2 U.S.C.

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§ 441a(a)(2)(A) and 2 U.S.C. § 441a(f) occurred in this case, and that it take no further action and close the file as it relates to this matter in the 1982 primary election. Such action is consistent with the Commission's actions in MURs 1307, 1405 and 1432.

1982 General Election - 2 U.S.C. § 441a(a)(2)(A) and (f)

2 U.S.C. § 441a(a)(5) states in pertinent part that for purposes of the limitations in this section, all contributions made by political committees established or financed or maintained or controlled by any labor organization, including any local unit of such labor organization, shall be considered to have been made by a single political committee.

Complainant alleges that CFGG and SCOPA made an excessive contribution of \$1,000 during the general election campaign to the Moynihan Committee in violation of 2 U.S.C. § 441a(a)(2)(A). The complaint states that "contributions made by [SCOPA and CFGG] are treated as contributions made from a single committee in accordance with 2 U.S.C. § 441a(a)(5)...."

In August 1974, SCOPA registered with the Commission as a political committee. Its statement of organization indicated a "connection" with six organizations. The "United Auto Workers, 221 Dewey Avenue, Rochester, New York 14608" was among those listed.

On October 25, 1976, SCOPA amended its statement of organization by letter, apparently in response to a Reports Analysis Division (RAD) inquiry. The amendment states "Please be

advised that we do not have affiliated organizations, but all participants of this committee are individuals who belong to various organizations. In other words, anyone is welcome to join this committee if they wish to reach the same goals." RAD confirms that this amendment adequately clarifies SCOPA's status -- independent of connecting organizations -- and should have been entered into the computer index system.

SCOPA and CFGG concur that there is no affiliation between them and that SCOPA has no connection with the UAW. Both political committees agree with CFGG's statement that

none of the factors set forth in 11 C.F.R. § 110.3(a)(1)(iii) as being indicative of "establishing, financing, maintaining or controlling" -- are present here. Specifically, the UAW does not own any interest in SCOPA; the by-laws and/or constitution of SCOPA do not give the UAW any authority, power or ability to direct it; the UAW does not have the authority, power or ability to hire, appoint, discipline, discharge or otherwise influence the decision of the officers or members of SCOPA; the UAW and SCOPA have not engaged in similar patterns of contributions; and there has been no transfer of funds between SCOPA and any organizations affiliated with the UAW.

Based on the information and supporting documents presented by the respondents, the Office of General Counsel concludes that CFGG and SCOPA are not affiliated as set forth in 2 U.S.C. § 441a(a)(5). Therefore, we recommend no reason to believe that the CFGG and SCOPA violated 2 U.S.C. § 441a(a)(2)(A) through their separate contributions to the Moynihan Committee's 1982 general election campaign. We also recommend that the Commission

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find no reason to believe that the Moynihan Committee violated 2 U.S.C. § 441a(f) through receipt of the general election contributions from CFGG and SCOPA.

11 C.F.R. § 103.3(a)

11 C.F.R. § 103.3(a), based on 2 U.S.C. § 432(h)(1), states in part that all deposits shall be made within ten days of the treasurer's receipt.

Complainant alleges that the Moynihan Committee failed to timely deposit one contribution in the 1982 primary election and two in the general election. There is no evidence to support such allegation beyond dates noted on reports which do not reflect possible delays in transmittal of the contributions. The Moynihan Committee states that its computer system now allows daily deposits of receipts. The alleged delay in deposits does not appear to be significant and the Committee has implemented procedures to avoid a similar recurrence. Therefore, we recommend that the Commission find reason to believe, but take no further action against the Moynihan Committee for a violation of 11 C.F.R. § 103.3(a).

2 U.S.C. § 439(a)(1)

2 U.S.C. § 439(a)(1) provides that a copy of reports and statements required under the Act shall be filed with the Secretary of State of the appropriate state.

Complainant alleges that the Moynihan Committee, SCOPA and CFGG failed to file reports reflecting the contributions from

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SCOPA and CFGG to the Moynihan Committee. The Moynihan Committee replies that it filed the required reports with the New York Board of Elections.

The New York Elections Board confirmed in a telephone request that the Moynihan Committee consistently filed reports during the periods in question, 1979 through the 1982 elections. The Board also confirmed that the CFGG has filed consistently during the period in question, from February 1980 to present.

Finally, the Elections Board noted that SCOPA has filed the necessary reports for 1982. The Moynihan Committee and CFGG have filed the appropriate reports with the New York State Board of Elections and SCOPA is currently filing the required reports. Therefore, we recommend that the Commission find no reason to believe that the Moynihan Committee or CFGG violated 2 U.S.C. § 439(a)(1) in this case. We recommend that the Commission find reason to believe and take no further action against SCOPA for a violation of 2 U.S.C. § 439(a)(1).

RECOMMENDATIONS

1. Find reason to believe and take no further action against the Senator Moynihan Re-election Campaign, Inc. for a violation of 2 U.S.C. § 441a(f) during the 1982 primary election.
2. Find reason to believe and take no further action against the Committee for Good Government (UAW) for a violation of 2 U.S.C. § 441a(a)(2)(A) during the 1982 primary election.
3. Find no reason to believe that the Senator Moynihan Re-election Campaign, Inc. violated 2 U.S.C. § 441a(f) for contributions received from the Committee for Good Government and from the Special Committee on Political Action during the 1982 general election.

4. Find no reason to believe that the Committttee for Good Government (UAW) violated 2 U.S.C. § 441a(a)(2)(A) for its contribution to the Senator Moynihan Re-election Campaign, Inc. during the 1982 general election.
5. Find no reason to believe that the Special Committee on Political Action violated 2 U.S.C. § 441a(a)(2)(A) for its contribution to the Senator Moynihan Re-election Campaign, Inc. during the 1982 general election.
6. Find reason to believe and take no further action against the Senator Moynihan Re-election Campaign, Inc. for a violation of 11 C.F.R. § 103.3(a).
7. Find no reason to believe that the Senator Moynihan Re-election Campaign, Inc. violated 2 U.S.C. § 439(a)(1).
8. Find no reason to believe that the Committee for Good Government (UAW) violated 2 U.S.C. § 439(a)(1).
9. Find reason to believe and take no further action against the Special Committee on Political Action for a violation of 2 U.S.C. § 439(a)(1).
10. Approve attached letters.
11. Close the file.

Charles N. Steele
General Counsel

December 14, 1982
Date

BY:


Kenneth A. Gross
Associate General Counsel

Attachments

- Response from CFGG
- Response from SCOPA
- Response from the Moynihan Committee
- Proposed letters (4)

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	
United Food and Commercial Workers -)	
Active Ballot Club)	
Thompson's People)	
Frank Thompson, Jr.)	MJR 1493
David A. Friedman,)	
Anthony J. Litty)	
Samuel J. Talarico)	
Joseph P. Rizzo)	
Retail Store Employees Union)	
Local 1262-Active Ballot Club)	

CERTIFICATION

I, Marjorie W. Emmons, Recording Secretary for the Federal Election Commission Executive Session on January 4, 1983, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in MJR 1493:

1. Find reason to believe that the United Food and Commercial Workers - Active Ballot Club and the Retail Store Employees Union Local 1262 - Active Ballot Club violated 2 U.S.C. §441a(a)(2)(A) and take no further action.
2. Find reason to believe that Thompson's People violated 2 U.S.C. §441a(f) and take no further action.
3. Find no reason to believe that David Friedman violated 11 C.F.R. §103.3(a).
4. Approve the letters attached to the General Counsel's report dated December 8, 1982.
5. CLOSE THE FILE.

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

Attest:

Jan. 4, 1983
Date

Marjorie W. Emmons 21
Marjorie W. Emmons, Secretary of the Commission

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SENSITIVE

FEDERAL ELECTION COMMISSION

1325 K Street, N.W. 62 DEC 8 P 1: 44
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL
BY OGC TO THE COMMISSION 12-8-82

MUR # 1493
DATE COMPLAINT RECEIVED
BY OGC 10/21/82
DATE OF NOTIFICATION TO
RESPONDENT 10/25/82
STAFF MEMBER Tarrant/Thomas

COMPLAINANT'S NAME: Robert J. K. Dornan

RESPONDENTS' NAMES: United Food and Commercial Workers - Active
Ballot Club,
Retail Store Employees Union Local 1262 -
Active Ballot Club,
Thompson's People,
Frank Thompson, Jr.,
David A. Friedman,
Anthony J. Luty,
Samuel J. Talarico and
Joseph P. Rizzo

RELEVANT STATUTE: 2 U.S.C. §§ 441a(a)(2)(A), 441a(a)(5),
441a(f)
11 C.F.R. § 103.3(a)

INTERNAL REPORTS CHECKED: Reports filed by respondent committees

FEDERAL AGENCIES CHECKED: None

SUMMARY OF ALLEGATIONS

Complainant alleges that the International Union United Food and Commercial Workers Active Ballot Club (U.F.C.W.-ABC) and its affiliated committee, Retail Store Employees Union, Local 1262 - Active Ballot Club (Local 1262-ABC), violated 2 U.S.C. § 441a(a)(2)(A) by contributing \$5,500, for the 1980 general election, to Thompson's People, the principal campaign committee of former congressman, Frank Thompson, Jr. Mr. Dornan further alleges that Thompson's People violated 2 U.S.C. § 441a(f) by accepting an

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excessive contribution and that its treasurer, David Friedman, violated 11 C.F.R. § 103.3(a) by not depositing the contributions from the aforementioned committees within 10 days of receipt. 1/

FACTUAL AND LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441a(a)(5), all contributions made by political committees established or financed or maintained or controlled by any labor organization or local unit of such labor organization shall be considered to have been made by a single political committee. Under 2 U.S.C. § 441a(a)(2)(A), no multicandidate political committee shall make contributions to any candidate and his authorized political committees with respect to any election for federal office which, in the aggregate, exceed \$5,000. Acceptance of an excessive contribution is prohibited by 2 U.S.C. § 441a(f).

According to reports filed by all the Respondent committees, the \$5,000 limit was exceeded by \$500 as follows:

<u>Contributor</u>	<u>Amount</u>	<u>Date Reported by Contributor</u>	<u>Reported receipt date</u>
U.F.C.W.-ABC	\$1,400	06/23/80	07/15/80
U.F.C.W.-ABC	\$1,000	09/25/80	10/08/80
U.F.C.W.-ABC	\$2,000	10/10/80	10/17/80
U.F.C.W.-ABC	\$ 600	09/29/80	10/29/80
Local 1262-ABC	\$ 500	10/01/80	10/31/80
	<u>\$5,500</u>		

1/ It should be noted that the complainant names as respondents Frank Thompson, Jr. and the individual treasurers of the Respondent committees. However, we do not make any recommendations with regard to these individuals apart from the recommendations made against the committees.

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Pursuant to 11 C.F.R. § 103.3(a), the treasurer of a political committee is responsible for depositing all receipts in the designated campaign depository. In addition, all deposits are to be made within 10 days of the treasurer's receipt. While there does appear to be a significant gap in time between the reported date of the contribution and the reported receipt date, this may be explained by the fact that, according to its reports, U.F.C.W.-ABC forwarded its contributions through its local unions rather than giving directly to the recipient. Therefore, a substantial amount of time may have passed before the treasurer of Thompson's People received the contributions in question. Pursuant to 2 U.S.C. § 432(b)(1), every person who receives a contribution for an authorized political committee shall, no later than 10 days after receiving such contribution, forward to the treasurer such contribution. However, we have no indication that the local unions did not comply with this section.

On November 1, 1982, this office received a response from Howard S. Simonoff on behalf of Local 1262 - ABC. See Attachment 1. Mr. Simonoff stated that it was the \$2,000 contribution given by the U.F.C.W.-ABC which put the committees over the limit, therefore, Local 1262-ABC did not violate the Act.

On November 4, 1982, this office received a response from Edward P. Wendel, Assistant General Counsel for the U.F.C.W. See Attachment 2. According to Mr. Wendel, the \$500 excess was

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inadvertent and, until the filing of the complaint, it was not realized that an excessive contribution had been made. In addition, he stated that a letter (copy enclosed) was sent to Thompson's People requesting a refund if more than \$5,000 had been received from the U.F.C.W.-ABC and its affiliated committees. According to Mr. Wendell, a refund of \$500 from Thompson's People would be requested. In order to avoid just this type of problem, Mr. Wendel pointed out that in 1981, the constitution of the ABC was amended so that all voluntary contributions received by the locals are forwarded to the U.F.C.W.-ABC, which is responsible for all reporting requirements.

A response was received on November 24, 1982 ^{2/} from Thomas R. Jolly, representing Thompson's People. See Attachment 3. According to Mr. Jolly, the acceptance of the excessive contribution was inadvertant. In addition, he stated that Thompson's People terminated on or about June 30, 1981, and that \$15,017.18 in excess campaign funds was transferred to the Congressman Thompson Legal Defense Fund (the Fund). On November 29, 1982, a \$500 check from the Fund was sent to the U.F.C.W.-ABC. See Attachment 4.

^{2/} It should be noted that notification letters to Frank Thompson, Jr., David Friedman and Thompson's People had to be resent as the first address for each was incorrect.

Due to the discrepancy in dates, it cannot be determined which ABC made the contribution that put both committees in violation of 2 U.S.C. § 441a. The General Counsel recommends that the Commission find reason to believe that both the U.F.C.W.-ABC and Local 1262-ABC violated 2 U.S.C. § 441a(a)(2)(A) and that Thompson's People violated 2 U.S.C. § 441a(f). However, because the money has been refunded, Thompson's People terminated over a year ago, and the U.F.C.W. has changed its procedures to avoid making excessive contributions, it is recommended that no further action be taken.

In regard to the alleged violation of 11 C.F.R. § 103.3(a) by Thompson's People treasurer David Friedman, the complainant provides no evidence that the contributions were not deposited within 10 days of receipt. Even though the time lapse for some contributions appears to have been 30 days, allowing time for mailing to the local, time for delivering to candidate's treasurer, and 10 days for treasurer's deposit, there may not have been a violation. Therefore, the General Counsel recommends that the Commission find no reason to believe that David Friedman violated 11 C.F.R. § 103.3(a).

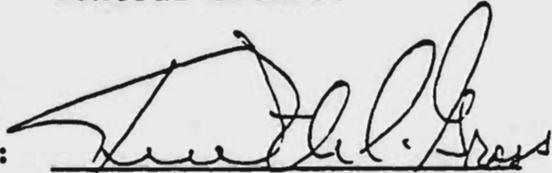
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RECOMMENDATIONS

1. Find reason to believe that the United Food and Commercial Workers - Active Ballot Club and the Retail Store Employees Union Local 1262-Active Ballot Club violated 2 U.S.C. § 441a(a)(2)(A) and take no further action.
2. Find reason to believe that Thompson's People violated 2 U.S.C. § 441a(f) and take no further action.
3. Find no reason to believe that David Friedman violated 11 C.F.R. § 103.3(a).
4. Approve the attached letters.
5. Close the file.

85080:72244
9 December 1982
Date

Charles N. Steele
General Counsel

By: 
Kenneth A. Gross
Associate General Counsel

Attachments

1. Response from Simonoff
2. Response from Wendel
3. Response from Jolly
4. Refund check
5. Proposed letters

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Young Republican National) MUR 1319
Federation)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on March 20, 1981, the Commission decided by a vote of 6-0 to take the following actions regarding MUR 1319:

1. Find reason to believe that the Young Republican National Federation violated 2 U.S.C. §434(b)(1) as stated in 11 C.F.R. §104.12.
2. Take no further action in this matter and close the file.
3. Approve the letter attached to the First General Counsel's Report, dated March 11, 1981.

Attest:

3/20/81
Date

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

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Received in the Office of the Commission Secretary: 3-17-81, 6:00
Circulated on 48 hour vote basis: 3-18-81, 11:00

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COMMISSION
GENERAL COUNSELL'S FACTUAL AND LEGAL ANALYSIS

DATE March 24, 1981

MUR NO. 1319
STAFF MEMBER(S) & TEL. NO.
Frances B. Haqan
202/523-4057

RESPONDENT: Young Republican National Federation

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

SUMMARY OF ALLEGATIONS

The Young Republican National Federation ("YRNF") violated 2 U.S.C. § 434(b) and more specifically, 11 C.F.R. § 104.12 for failure to identify the source of cash on hand when the Committee initially registered as a political committee in 1976.

FACTUAL BASIS AND LEGAL ANALYSIS

During the audit of the YRNF, FEC auditors found that the Committee failed to disclose on its reports the source of cash on hand at the time of registration. The YRNF is funded by the Republican National Committee and by individual contributions obtained through direct mail solicitation.

In response to the Reports Analysis Division's Request for Additional Information ("RFAI"), the YRNF identified all but \$12,527.15 of \$37,536.18 in the Committee treasury at registration. As the remaining undocumented cash represents a significant sum of unidentified contributions, the Office of General Counsel recommended a finding of reason to believe in this matter. However, we also recommended that no further action be taken.

The YRNF acted promptly to resolve the problem when initially notified by RFAI. The Committee submitted a disclosure report which identified more than \$25,000 in previously unitemized receipts. Officials of the Committee stated to the auditors that no additional documentation could be produced for the 1976 contributions received prior to registration, but that it was unlikely that the cash on hand contained any funds from prohibited sources. In fact, the audit review of available contribution records revealed no prohibited donors. It is our opinion that the YRNF made sufficient efforts early on, with substantial results in public disclosure, and that further investigation or conciliation procedures are unwarranted in this matter.

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RECOMMENDATIONS

1. Find reason to believe that the Young Republican National Federation violated 2 U.S.C. § 434(b)(1) as stated in 11 C.F.R. § 104.12.

2. Take no further action in this matter and close the file.

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In response to the Reports Analysis Division's Request for Additional Information ("RFAI"), the YRNF identified all but \$12,527.15 of \$37,536.18 in the Committee treasury at registration. As the remaining undocumented cash represents a significant sum of unidentified contributions, we are recommending a finding of reason to believe in this matter. However, we are also recommending that no further action be taken.

The YRNF acted promptly to resolve the problem when initially notified by RFAI. The Committee submitted a disclosure report which identified more than \$25,000 in previously unitemized receipts. Officials of the Committee stated to the auditors that no additional documentation could be produced for the 1976 contributions received prior to registration, but that it was unlikely that the cash on hand contained any funds from prohibited sources. In fact, the audit review of available contribution records revealed no prohibited donors. It is our opinion that the YRNF made sufficient efforts early on, with substantial results in public disclosure, and that further investigation or conciliation procedures are unwarranted in this matter.

RECOMMENDATIONS

1. Find reason to believe that the Young Republican National Federation violated 2 U.S.C. § 434(b)(1) as stated in 11 C.F.R. § 104.12.
2. Take no further action in this matter and close the file.
3. Approve attached letter.

Attachments

- Audit Referral
- Letter to respondent

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
McLaughlin for Congress) MUR 1124
Finance Committee)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on March 16, 1981 the Commission decided by a vote of 5-0 to take the following actions regarding MUR 1124:

1. Take no further action against the McLaughlin for Congress Finance Committee.
2. Approve and send the letters to the respondents as attached to the General Counsel's March 2, 1981 report.
3. CLOSE THE FILE.

Commissioners Aikens, Harris, McGarry, Thomson and Tiernan voted affirmatively in this matter.

Attest:

3-16-81
Date

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

Report Signed:	3-11-81
Received in Office of the Commission Secretary:	3-12-81, 11:02
Circulated on 48 hour vote basis:	3-12-81, 4:00

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March 2, 1981

MUR 1124

In the Matter of)
)
McLaughlin for Congress)
 Finance Committee)

GENERAL COUNSEL'S REPORT

I. Background/Previous Commission Action

This matter was generated by the Reports Analysis Division, after its analysis of the disclosure reports of the McLaughlin for Congress Finance Committee. After review by the Reports Analysis Division, this matter was referred to the Office of General Counsel because of the committee's failure: 1) to provide the nature of loans from the candidate to the committee, 2) to continuously report debts and obligations, and 3) to provide occupations and principal places of business of its contributors.

The Reports Analysis Division sent requests for additional information to the committee on January 6, January 30, June 1, August 24, and November 2, 1979. Reports Analysis also sent reason to believe letters on March 16, April 21 and September 13, 1979. The committee did not submit any written response to these requests, nor did it file amendments to its reports. Subsequently, the Office of General Counsel, with the Commissions' approval, sent letters and questions to John J. McLaughlin, Sr., the committee treasurer, and Michael R. McLaughlin, the candidate.

Due to lack of response by the committee, again the Office of General Counsel sent another letter to the treasurer and

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candidate on April 15, 1980. On May 12, 1980 the Office of General Counsel received a response from the treasurer answering five questions requested by the Office of General Counsel (Attachment 1). In answering our questions, Mr. McLaughlin stated that the committee did attempt to obtain the occupations and principal place of business of contributors by calling the individuals. The committee was not able to locate or reach everyone. The treasurer did not, however, submit amendments to the committees' reports disclosing the information obtained through telephone calls.

With respect to the loans from the candidate to the committee, the treasurer states that the \$17,300 lent to the committee was from the candidate's personal funds. According to Mr. McLaughlin's letter the committee has repaid the candidate only \$5,000 so far. However, again the committee did not submit any documentation to verify this fact.

On July 3, 1980 the Office of General Counsel sent the treasurer a letter requesting, among other things, that the reports be amended to show the information obtained by the committee via telephone on those contributors of contributions in excess of \$100. In addition, it was requested that the amendments include information on the loan (including payments, balances, due date and interest rate). The Office of General Counsel also requested that the committee provide documentation that the loan funds were from the personal funds of the candidate

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and that the committee continue to file reports until the debts are forgiven or extinguished.

On October 15, 1980, the Office of General Counsel sent a letter to the treasurer of the committee. Enclosed in the letter were enclosures of copies of the receipt pages from the disclosure reports, in response to respondent's oral request for such items. The letter asked that the committee correct the omissions, describe any attempts to contact contributors, provide documentation to support the treasurer's statement that the loan came from the personal funds of Mr. McLaughlin, and continuous reporting of the debt until repaid or forgiven.

On November 7, 1980, the Office of General Counsel received a written response from the candidate providing the principal place of business and occupations of some of the names provided by the Office of General Counsel in its letter of October 15, 1980 (Attachment 2). Mr. McLaughlin stated that letters would be sent out to the individuals whose occupation and principal place of business was left blank. Such information when received would be sent to our office according the letter. Also, Mr. McLaughlin stated that he would send documentary support to show that the loans were indeed from his personal funds.

On January 5, 1981, the Office of General Counsel received another letter from the candidate (Attachment 3). This letter contained information obtained by sending letters, on the occupation and principal place of business on those individuals

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st in the November 5, 1980, correspondence. In addition, Mr. McLaughlin included two photo copied checks, from his personal checking account amounting to \$17,000.^{1/}

McLaughlin for Congress Finance Committee filed an April 10, 1979 Quarterly Report and a July 10, 1979, Quarterly Report. There have been no reports filed since then.

II. Legal Analysis

2 U.S.C. § 434(b)(2) requires that each report contain:

"The full name and mailing address (occupation and the principal place of business if any) of each person who has made one or more contributions to or for such committee or candidate ... within the calender year in an aggregate amount or value in excess of \$100, together with the amount and date of such contributions; see also 11 C.F.R. 104.2(b)(2) 2/.

The failure of the McLaughlin for Congress Finance Committee to provide such information in their reports was the basis for the Commission's reason to believe finding on this issue. As noted above the committee has made numerous attempts to fully correct these omissions. (See attachments 2 and 3) The committee has obtained the required information by telephone

^{1/} These checks were barely readable due to the poor quality of the photo-copy. However, the amount and the name of the candidate is clear.

^{2/} As the alleged violations occurred before the Federal Election Campaign Act was amended on January 8, 1980, by Pub. Law 96-187, all citations to the Act and the Regulations are to the Act as it existed before amendment.

960405/2254

contact and letters to those individuals who could not be reached by phone. Consequently, the majority of the omissions have been corrected.^{3/} These good faith efforts by the committee constitute reasonable compliance with the Act with regard to this issue.

2 U.S.C. § 434(b)(5) requires the disclosure of loans in excess of \$100 along with the date and amount of such loan. See also 11 C.F.R. §§ 104.2(b)(5)(i)(B) and (ii)(A). 2 U.S.C. requires the disclosure of the amount and nature of debts and obligations as well as continuous reporting until such debts are extinguished or forgiven. See also 11 C.F.R. 104.8(a).

The failure of the McLaughlin for Congress Finance Committee to provide this information, on four loans totaling \$17,300, was the basis of the Commission's reason to believe finding on these issues.

On May 20, 1980, the Office of General Counsel received from RAD an amended April 10 Quarterly Report disclosing the four loans (total 17,300) made by the candidate to the committee. The November 5, 1980 response from the candidate stated that the loan was made from the personal funds of the candidate. (See Attachment 2). Included in the December 29, 1980 response was two photocopied checks. One check was for \$10,000 and the other for \$7,000. Though the checks were barely readable,

^{3/} Omitted from correction is the October 10, 1978 Quarterly Report because the microfilm tape is illegible.

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the amounts of the checks and the fact that they were from the personal account of the candidate Michael McLaughlin were discernable. No documentation has been received on the two other loans made by the candidate to the committee of \$100 and \$200. According to the July 10 Quarterly Report, the last report filed, \$5,000 of the loan debt has been repaid.

Therefore, excluding the two loans totalling \$300 (\$100 + \$200) which may have been a cash contribution, documentation of the nature and amount of the loans as well as amended reports of the funds in dispute has been provided by the committee. Though the committee has not continuously reported its debts until forgiven or extinguished, the fact that the loans were made from personal funds together with the committee's good faith efforts to supply information on the debt constitutes substantial compliance with the Act. Also, the committee notes in its letter of November 5, 1980, that it has not made expenditures or accepted contributions since its last reporting date (July 10). (See Attachment 2).

III. Recommendations

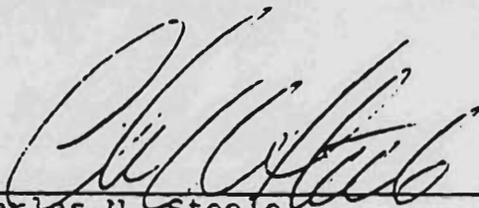
The Office of General Counsel recommends that the Commission:

1. take no further action against the McLaughlin for Congress Finance Committee;
2. approve and send the attached letters to respondents;

and,

- 3. close the file.

11 March 1981
Date



Charles N. Steele
General Counsel

Attachments

- 1. Letter from Committee dated May 7, 1980.
- 2. Letter from Committee dated November 5, 1980.
- 3. Letter from Committee dated December 29, 1980.
- 4. Letter to John J. McLaughlin Sr., treasurer of McLaughlin for Congress Finance Committee.
- 5. Letter to Michael R. McLaughlin

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Roger E. Warin, Esq.
Steptoe & Johnson
1330 Connecticut Avenue
Washington, D.C. 20036

Re: MUR 1941
Voluntary Contributors for
Better Government
Diane Brown Cunningham,
as treasurer

Dear Mr. Warin:

On March 20, 1985, the Commission found reason to believe that Voluntary Contributors for Better Government and Diane Brown Cunningham, as treasurer, violated 2 U.S.C. §§ 434(a)(4)(B) and 434(a)(2)(A)(i). At your request, the Commission determined, on May , 1985, to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe.

Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If your clients agree with the provisions of the enclosed agreements, please sign and return it, along with the civil penalty to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible. If you have any questions or suggestions for changes in the agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact Duane A. Brown, the attorney assigned this matter, at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Cross
Associate General Counsel

Enclosure
Approved Conciliation Agreement

8604011258

ATTACHMENT IV

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	
Voluntary Contributors)	MUR 1941
for Better Government)	
Diane Brown Cunningham,)	
as treasurer)	

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission (hereinafter "the Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that Voluntary Contributors for a Better Government and Diane Brown Cunningham, as treasurer ("Respondents"), violated 2 U.S.C. §§ 434(a)(4)(B) and 434(a)(2)(A)(i) by failing to file the 12 Day Pre-General Election Report in a timely manner.

NOW, THEREFORE, the Commission and Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents, and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C.

§ 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

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1. Respondent committee is an unauthorized committee registered with the Commission
2. Respondent Diane Cunningham is the designated treasurer of the committee.
3. All unauthorized committees were to file 12 Day Pre-General Election Reports by October 25, 1984.
4. Respondents filed the 12 Day Pre-General Election Report on November 23, 1984.
- V. Respondents failed to file the 12 Day Pre-General

Election Report in a timely manner in violation of 2 U.S.C. §§ 434(a)(4)(B) and 434(a)(2)(A)(i).

VI. Respondents will pay a civil penalty to the Treasurer of the United States in the amount of one hundred seventy five dollars (\$175), 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.

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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 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:

(Name)
(Position)

Date

1522370403



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 30, 1985

Roger E. Warin, Esq.
Steptoe & Johnson
1330 Connecticut Avenue
Washington, D.C. 20036

Re: MUR 1941
Voluntary Contributors for
Better Government
Diane Brown Cunningham,
as treasurer

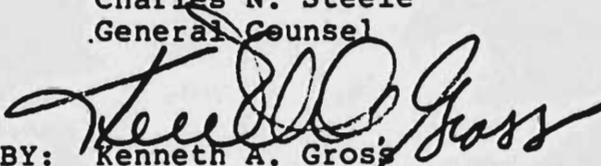
Dear Mr. Warin:

On March 20, 1985, the Commission found reason to believe that Voluntary Contributors for Better Government and Diane Brown Cunningham, as treasurer, violated 2 U.S.C. §§ 434(a)(4)(B) and 434(a)(2)(A)(i). At your request, the Commission determined, on May 22, 1985, to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe.

Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If your clients agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible. If you have any questions or suggestions for changes in the agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact Duane A. Brown, the attorney assigned this matter, at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

BY: 
Kenneth A. Gross
Associate General Counsel

Enclosure
Proposed Conciliation Agreement

8504772252

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Voluntary Contributors) MUR 1941
for Better Government)
Diane Brown Cunningham,)
as treasurer)

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission (hereinafter "the Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that Voluntary Contributors for a Better Government and Diane Brown Cunningham, as treasurer ("Respondents"), violated 2 U.S.C. §§ 434(a)(4)(B) and 434(a)(2)(A)(i) by failing to file the 12 Day Pre-General Election Report in a timely manner.

NOW, THEREFORE, the Commission and Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents, and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

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1. Respondent committee is an unauthorized committee registered with the Commission
2. Respondent Diane Cunningham is the designated treasurer of the committee.
3. All unauthorized committees were to file 12 Day Pre-General Election Reports by October 25, 1984.
4. Respondents filed the 12 Day Pre-General Election Report on November 23, 1984.
- V. Respondents failed to file the 12 Day Pre-General

Election Report in a timely manner in violation of 2 U.S.C. §§ 434(a)(4)(B) and 434(a)(2)(A)(i).

VI. Respondents will pay a civil penalty to the Treasurer of the United States in the amount of

, 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.

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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 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:

(Name)
(Position)

Date

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Roger E. Warin, Esq.
Steptoe & Johnson
1330 Connecticut Avenue
Washington, D.C. 20036

Re: MUR 1941
Voluntary Contributors for
Better Government
Diane Brown Cunningham,
as treasurer

Dear Mr. Warin:

On March 20, 1985, the Commission found reason to believe that Voluntary Contributors for Better Government and Diane Brown Cunningham, as treasurer, violated 2 U.S.C. §§ 434(a)(4)(B) and 434(a)(2)(A)(i). At your request, the Commission determined, on May 22, 1985, to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe.

Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If your clients agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible. If you have any questions or suggestions for changes in the agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact Duane A. Brown, the attorney assigned this matter, at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

[Signature] 5/30/85

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Proposed Conciliation Agreement

85090712256

STEPTOE & JOHNSON

ATTORNEYS AT LAW

1330 CONNECTICUT AVENUE
WASHINGTON, D. C. 20036

(202) 429-3000

TELEX 89-2503

WRITER'S DIRECT DIAL NUMBER

429-6280

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TIMOTHY M. WALSH
PETER L. WELLINGTON

OF COUNSEL
WILLIAM E. MILLER
CECIL J. OLMSTEAD
VINCENT C. BURKE, JR.
RICHARD DIAMOND

April 30, 1985

Chairman John W. McGarry
Federal Election Commission
1325 K Street, N.W.
Washington, D.C.

Re: MUR 1941

Dear Chairman McGarry:

Please be advised that Steptoe & Johnson will be acting as counsel for the Voluntary Contributors for Better Government ("the Committee") and its Treasurer, Ms. Diane B. Cunningham, who are respondents in the above-referenced case. We are advised that a Statement of Designation of Counsel has already been filed. Please direct any further communications concerning this matter to my attention.

By letter dated November 16, 1984, the Commission notified the Committee that the 12 Day Pre-General Election Report was overdue, and it corrected the oversight by immediately filing the report in question. By letter dated April 1, 1985, the Commission notified the Committee that it had determined there was reason to believe that the Committee and Ms. Cunningham, its Treasurer, had violated the Federal Election Campaign Act by failing to file the report in a timely manner.

In a letter of April 9, 1985, Ms. Cunningham provided the Commission with information relevant to its consideration of whether to take any further action in this matter. The letter explained that the delayed filing was due to Ms. Cunningham's prolonged business trip out of the country, the maternity leave of Ms. Cunningham's assistant who usually

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Chairman John W. McGarry
Page Two
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prepares the reports, and the failure of the back-up system devised to ensure the timely filing of the report. It was also noted that there had been minimal financial activity by the Committee during the period covered by the report, and that this was the Committee's first and only instance of late filing during the entire nine years of its existence.

Because of these substantial mitigating circumstances and the fact that there is virtually no risk of future similar violations, the Committee requests that the matter be disposed of at this stage without requiring a conciliation agreement or a finding of probable cause to believe. Although this matter has been discussed with the General Counsel's office, it is our understanding that the General Counsel's office believes that the Commission itself, rather than the General Counsel's office, can more appropriately make this decision. We are, therefore, writing to urge the Commission to take no further action in this matter.

We strongly believe that the mitigating circumstances here justify dismissing the matter without requiring a pre-probable cause conciliation agreement. As far as we can determine, the Commission has never, in circumstances such as these involving a single late filing, required such an agreement. The only cases which we have found where the Commission has required pre-probable cause conciliation agreements in instances of late filings, for example, MURS 1661, 1677, 1683, or 1693, have involved the filing of 8, 15, 5, and 7 untimely reports respectively.

In fact, the taking of no further action is even more warranted in this case than it has been in past cases where the Commission has found no further action warranted after a finding of reason to believe. In MUR 1489, for example, the Commission found reason to believe that an unauthorized committee had made, and a re-election campaign committee had accepted, an excessive contribution. Upon the advice of the General Counsel's Report, the Commission voted to take no further action against either committee. The General Counsel's Report stated:

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the seriousness of such violations is mitigated by circumstances surrounding the transaction. The recordkeeping errors described herein apparently account for the initial failure to avoid the excessive contribution as both the [committees] maintain procedures to screen for contribution limitations. Therefore, the excessive contribution appears to be an isolated occurrence rather than a practice of either committee. Furthermore, on November 15, 1982, the [Re-Election] Committee refunded to [the unauthorized committee] the excessive amount of \$1,000. This amount represents a fraction of the respondents' total receipts and expenditures.

MUR 1489, First General Counsel's Report (December 15, 1982) 7.

Like respondents in MUR 1489, the Committee has never before been delinquent in an area of election law compliance. Just as respondents in MUR 1489 maintained procedures to ensure compliance, and just as a single human error resulted in "an isolated occurrence" of a violation in that case, so too does the Committee maintain exacting procedures which, due only to an unfortunate confluence of unexpected events, nonetheless resulted in a single isolated occurrence of an untimely filing. Furthermore, just as respondent in MUR 1489 corrected its inadvertent mistake by refunding the excessive contribution upon learning of the violation, the Committee immediately filed the late report when notified that it was past due. 1/ See also, MUR 1493 (no further action taken for making and accepting excessive contributions when the action was inadvertent, the money refunded almost two years after the election, and procedures changed to avoid future violations); MUR 1319 (no further action

1/ We must note, however, that respondent re-election campaign committee in MUR 1489 had use of the excessive contribution for fourteen months, and that the contribution was not refunded until after the election for which it was intended. This is undoubtedly a more serious violation than a filing delayed by a few weeks, especially when the financial activity of the Committee was at a minimum during the time covered by the report.

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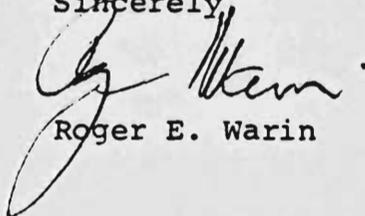
Chairman John W. McGarry
Page Four
April 30, 1985

taken for failure to identify source of cash on hand when the committee acted promptly to comply with public disclosure, despite the fact that the committee was still unable to identify \$12,527.15 in contributions); and MUR 1124 (no further action taken for failure to fully report contributions and loans because the majority, but not all, of the omissions had been corrected).

We urge the Commission to take no further action in this matter. Although we recognize that a pre-probable cause agreement does not require an admission of any violation of the federal election laws, there is a certain stigma associated with the signing of such an agreement -- a stigma perhaps justified if this were more than an instance of one isolated late filing over the past nine years, but one that we feel is unjustified in this case. In the event that the Commission decides that it is unwilling to dismiss the action at this stage, our clients would reluctantly be willing to enter into a pre-probable cause conciliation agreement. If the Commission insists on such an agreement, under the circumstances, we would not feel it appropriate that the agreement contain a civil penalty.

We are aware that the Commission is taking a renewed interest in the problem of late filing and has consequently become more rigorous in its pursuit of late filers. Nevertheless, we think that the mitigating circumstances in this case more than adequately assure the Commission of the Committee's continued compliance with every aspect of the federal election laws. Thank you for your consideration of this request. We will be happy to provide any additional information which the Commission may need.

Sincerely,



Roger E. Warin

csd

Enclosures: MURs 1493, 1489, 1319 and 1124

cc: Commissioner Joan D. Aikens
Commissioner Lee Ann Elliott
Commissioner Thomas E. Harris
Commissioner Danny L. McDonald
Commissioner Frank P. Reiche

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Senator Daniel P. Moynihan)
The Senator Moynihan Re-election)
Campaign, Inc.) MUR 1489
John Westergaard)
Committee for Good Government (UAW))
Donald J. Moll)
Special Committee on Political Action)
Mary Ann Benincasa)

CERTIFICATION

I, Marjorie W. Emmons, Recording Secretary for the Federal Election Commission Executive Session on January 4, 1983, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MUR 1489:

1. Find reason to believe and take no further action against the Senator Moynihan Re-election Campaign, Inc. for a violation of 2 U.S.C. §441a(f) during the 1982 primary election.
2. Find reason to believe and take no further action against the Committee for Good Government (UAW) for a violation of 2 U.S.C. §441a(a)(2)(A) during the 1982 primary election.
3. Find no reason to believe that the Senator Moynihan Re-election Campaign, Inc. violated 2 U.S.C. §441a(f) for contributions received from the Committee for Good Government and from the Special Committee on Political Action during the 1982 general election.
4. Find no reason to believe that the Committee for Good Government (UAW) violated 2 U.S.C. §441a(a)(2)(A) for its contribution to the Senator Moynihan Re-election Campaign, Inc. during the 1982 general election.

(Continued)

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5. Find no reason to believe that the Special Committee on Political Action violated 2 U.S.C. §441a(a)(2)(A) for its contribution to the Senator Moynihan Re-election Campaign, Inc. during the 1982 general election.
6. Find reason to believe and take no further action against the Senator Moynihan Re-election Campaign, Inc. for a violation of 11 C.F.R. §103.3(a).
7. Find no reason to believe that the Senator Moynihan Re-election Campaign, Inc. violated 2 U.S.C. §439(a)(1).
8. Find no reason to believe that the Committee for Good Government (UAW) violated 2 U.S.C. §439(a)(1).
9. Find reason to believe and take no further action against the Special Committee on Political Action for a violation of 2 U.S.C. §439(a)(1).
10. Approve the letters attached to the FEC General Counsel's report dated December 15, 1982.
11. CLOSE THE FILE.

Commissioners Elliott, Harris, McDonald, McGarry, and Reiche voted affirmatively for the decision. Commissioner Aikens did not vote.

Attest:

Jan 4, 1983
Date

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

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

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FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL BY MUR NO. 1489
OGC TO THE COMMISSION 12/15/82 STAFF MEMBER Frances B. Hagan

COMPLAINANT'S NAME: Robert J.K. Dornan

RESPONDENTS' NAMES: Senator Daniel P. Moynihan
The Senator Moynihan Re-election
Campaign, Inc.
John Westergaard, Treasurer of the
above-named Moynihan Committee
Committee for Good Government (UAW)
Donald J. Moll, Treasurer of the
Committee for Good Government
Special Committee on Political Action
Mary Ann Benincasa, Treasurer of the
Special Committee on Political Action

RELEVANT STATUTES: 2 U.S.C. § 441a(a)(2)(A)
2 U.S.C. § 441a(f)
2 U.S.C. § 439(a)(1)
11 C.F.R. § 103.3(a)

INTERNAL REPORTS CHECKED: Disclosure Reports, MURs 1307, 1405,
1432

FEDERAL AGENCIES CHECKED: None

SUMMARY OF ALLEGATIONS

A complaint filed by Robert J.K. Dornan on October 21, 1982,
makes the following allegations.

The UAW Committee for Good Government and its treasurer,
Donald J. Moll, the Special Committee on Political Action and its
treasurer, Mary Ann Benincasa, violated 2 U.S.C. § 441a(a)(2)(A)
by making contributions in excess of limitations. Senator
Daniel P. Moynihan, the Senator Moynihan Re-election Campaign,
Inc. and its treasurer, John Westergaard, violated 2 U.S.C.

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§ 441a(f) through receipt of excessive contributions violative of 2 U.S.C. § 441a(a)(2)(A). In addition, Senator Daniel P. Moynihan, the Senator Moynihan Re-election Campaign, Inc. and its treasurer violated 2 U.S.C. § 439(a)(1) for failure to file with the State of New York reports which indicate receipt of contributions from the Special Committee on Political Action and the Committee for Good Government. The Special Committee on Political Action and the Committee for Good Government violated 2 U.S.C. § 439(a)(1) for failure to file with the State of New York reports showing their contributions to the Senator Moynihan Re-election Campaign, Inc. Senator Daniel P. Moynihan, the Senator Moynihan Re-election Campaign, Inc. and its treasurer violated 11 C.F.R. § 103.3(a) which requires that all deposits shall be made within ten days of the treasurer's receipt. 1/

FACTUAL AND LEGAL ANALYSIS

The complaint alleges that the Senator Daniel Moynihan Re-election Campaign, Inc. ("the Moynihan Committee") violated 2 U.S.C. § 441a(f) by accepting contributions in excess of limitations from two political committees affiliated with the United Auto Workers Union. Complainant alleges that the Special Committee on Political Action ("SCOPA") and the Committee for Good Government ("CFGG") violated 2 U.S.C. § 441a(a)(2)(A) by

1/ The complainant includes as respondents to each of these charges the candidate, Senator Daniel P. Moynihan, as well as the treasurers of CFGG and SCOPA. However, this Office makes no recommendation regarding the individuals. Our recommendations concern the political committees with notice of such findings to be sent to the individuals or their designated counsel.

making contributions in excess of contribution limitations to the Moynihan Committee.

The complainant submitted copies of the respondents' FEC disclosure reports to support the allegation that excessive contributions were made and received in connection with both the 1982 primary and general elections. The respondents reported the transactions as follows:

<u>Contributor</u>	<u>Date of Contribution</u>	<u>Amount of Contribution</u>	<u>Date Received by Moynihan Committee</u>
SCOPA	11/1/79	\$ 500	12/19/79
	9/1/81	\$ 500	10/2/81
CFGG	2/5/80	\$1,000	2/12/80
	9/3/81	\$5,000	9/9/81
	11/5/81	\$5,000	11/24/81

The alleged excessive amounts total \$1,000.00 in the primary (\$1,000.00 and \$5,000.00 contributed by CFGG) and \$1,000.00 in the general election (\$1,000.00 from SCOPA and \$5,000.00 from its apparent affiliate CFGG). The complainant asserts that the excessive contributions to the general election campaign occurred through SCOPA's and CFGG's failure to observe the limitations placed on affiliated political committees pursuant to 2 U.S.C. § 441a(a)(5).

Committee for Good Government

On November 15, 1982, the United Auto Workers' ("UAW") CFGG responded to notification of the complaint filed against it. According to its own records, CFGG exceeded the \$5,000.00 contribution limitation by \$1,000.00 through an inadvertent clerical error. CFGG states that its contribution of \$1,000.00

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on February 5, 1980, was incorrectly recorded for a "1980 primary" rather than the 1982 primary. CFGG documents support this assertion. Furthermore, CFGG states that between February 1980 and September 1981, when it made its second contribution to the Moynihan Committee, the contribution recordkeeping function was transferred to another office within the UAW. When CFGG made its \$5,000 contribution in September 1981, the persons processing the new contribution were unaware of the earlier donation.

CFGG offers certain factors to mitigate the violation. CFGG states that upon notification of the violation, it immediately requested a refund from the Moynihan Committee. ^{2/} CFGG argues that besides being a clerical error, this excessive contribution is an isolated case occurring through unique circumstances not likely to be repeated. CFGG notes that it has no history of making excessive contributions.

As to the 1982 general election, the CFGG response acknowledges the \$5,000 contribution of November 1981, but emphatically asserts that no affiliation exists between CFGG and SCOPA. Therefore, CFGG states that SCOPA's contributions do not affect the CFGG limitation and no violation of 2 U.S.C.

§ 441a(a)(2)(A) occurred in this case. CFGG points out that SCOPA's original statement of organization of August 1974 listed six connected organizations. One of these organizations was United Auto Workers of Rochester, New York. The UAW local in

^{2/} The Moynihan Committee states that it refunded \$1,000.00 to CFGG.

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Rochester advised CFGG that several union members at one time participated in SCOPA "as individuals", but that the union local was never connected with SCOPA. SCOPA amended its statement of organization by letter in October 1976 to clarify that it is not affiliated with any organizations. CFGG asserts that the complainant's assumption that CFGG and SCOPA are affiliated is based on the FEC index of disclosure documents which erroneously lists SCOPA as connected with the UAW. CFGG states that the criteria set forth at 11 C.F.R. § 110.3(a)(1)(iii) which may establish affiliation do not apply to CFGG.

Special Committee on Political Action

On November 10, 1982, SCOPA sent its initial response to the complaint notification. In this letter and in subsequent telephone conversations, SCOPA concurred with CFGG that the two organizations are not affiliates. SCOPA refers to the 1976 amended statement of organization which affirms that SCOPA is comprised of individuals who belong to various organizations, but is not itself affiliated with another organization.

The Senator Moynihan Re-election Campaign, Inc.

On November 18, 1982, the Moynihan Committee submitted its response to the complaint that it received excessive contributions. The Committee states that it received \$1,000 from the CFGG in 1980, and through a bookkeeping error, it accepted an additional \$5,000 in 1981 for the 1982 primary election. The excessive amount of \$1,000 was refunded November 15, 1982,

following notice in the complaint on November 9, 1982, of the apparent violation.

The Moynihan Committee states that it computerized its records in early 1982 "to eliminate the risk of receipt of excessive contributions." The Committee notes that during the pre-election period in question, the Committee received more than \$2 million in contributions.

As to the general election, the Moynihan Committee refers to the submission by CFGG, stating that no violation of 2 U.S.C. § 441a(f) occurred in that the CFGG and SCOPA are not affiliated.

In addition to receipt of excessive contributions, complainant charges that the Moynihan Committee failed to timely deposit three contributions as required by 11 C.F.R. § 103.3(a). The Moynihan Committee states that the computer system implemented this year reduces delay in mailing deposits and the Committee's deposits are now made daily. The Committee adds that checks are often received several days after the date on the check.

The complainant also alleges that the Moynihan Committee, SCOPA and CFGG failed to file reports of these contributions with the New York Division of Elections in violation of 2 U.S.C. § 439(a)(1). The Moynihan Committee states that all necessary reports are on file with the New York State Board of Elections.

LEGAL ANALYSIS

2 U.S.C. § 441a(a)(2)(A) states that "no multicandidate committee shall make contributions to any candidate and his

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authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$5,000."

2 U.S.C. § 441a(f) states that "no candidate or political committee shall knowingly accept any contribution.... in violation of the provisions of this section."

1982 Primary Election - 2 U.S.C. § 441a(a)(2)(A) and (f)

On the basis of the evidence presented by the complainant, CFGG and the Moynihan Committee, it appears that CFGG made an excessive contribution of \$1,000 to the Moynihan Committee in violation of 2 U.S.C. § 441a(a)(2)(A) prior to the 1982 primary election. The Moynihan Committee violated 2 U.S.C. § 441a(f) through acceptance of the excessive contribution. However, the seriousness of such violations is mitigated by circumstances surrounding the transaction. The recordkeeping errors described herein apparently account for the initial failure to avoid the excessive contribution as both the CFGG and the Moynihan Committee maintain procedures to screen for contribution limitations. Therefore, the excessive contribution appears to be an isolated occurrence rather than a practice of either committee. Furthermore, on November 15, 1982, the Moynihan Committee refunded to CFGG the excessive amount of \$1,000. This amount represents a fraction of the respondents' total receipts and expenditures.

The Office of General Counsel recommends that the Commission find reason to believe that violations of 2 U.S.C.

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§ 441a(a)(2)(A) and 2 U.S.C. § 441a(f) occurred in this case, and that it take no further action and close the file as it relates to this matter in the 1982 primary election. Such action is consistent with the Commission's actions in MURs 1307, 1405 and 1432.

1982 General Election - 2 U.S.C. § 441a(a)(2)(A) and (f)

2 U.S.C. § 441a(a)(5) states in pertinent part that for purposes of the limitations in this section, all contributions made by political committees established or financed or maintained or controlled by any labor organization, including any local unit of such labor organization, shall be considered to have been made by a single political committee.

Complainant alleges that CFGG and SCOPA made an excessive contribution of \$1,000 during the general election campaign to the Moynihan Committee in violation of 2 U.S.C. § 441a(a)(2)(A). The complaint states that "contributions made by [SCOPA and CFGG] are treated as contributions made from a single committee in accordance with 2 U.S.C. § 441a(a)(5)...."

In August 1974, SCOPA registered with the Commission as a political committee. Its statement of organization indicated a "connection" with six organizations. The "United Auto Workers, 221 Dewey Avenue, Rochester, New York 14608" was among those listed.

On October 25, 1976, SCOPA amended its statement of organization by letter, apparently in response to a Reports Analysis Division (RAD) inquiry. The amendment states "Please be

advised that we do not have affiliated organizations, but all participants of this committee are individuals who belong to various organizations. In other words, anyone is welcome to join this committee if they wish to reach the same goals." RAD confirms that this amendment adequately clarifies SCOPA's status -- independent of connecting organizations -- and should have been entered into the computer index system.

SCOPA and CFGG concur that there is no affiliation between them and that SCOPA has no connection with the UAW. Both political committees agree with CFGG's statement that

none of the factors set forth in 11 C.F.R. § 110.3(a)(1)(iii) as being indicative of "establishing, financing, maintaining or controlling" -- are present here. Specifically, the UAW does not own any interest in SCOPA; the by-laws and/or constitution of SCOPA do not give the UAW any authority, power or ability to direct it; the UAW does not have the authority, power or ability to hire, appoint, discipline, discharge or otherwise influence the decision of the officers or members of SCOPA; the UAW and SCOPA have not engaged in similar patterns of contributions; and there has been no transfer of funds between SCOPA and any organizations affiliated with the UAW.

Based on the information and supporting documents presented by the respondents, the Office of General Counsel concludes that CFGG and SCOPA are not affiliated as set forth in 2 U.S.C. § 441a(a)(5). Therefore, we recommend no reason to believe that the CFGG and SCOPA violated 2 U.S.C. § 441a(a)(2)(A) through their separate contributions to the Moynihan Committee's 1982 general election campaign. We also recommend that the Commission

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find no reason to believe that the Moynihan Committee violated 2 U.S.C. § 441a(f) through receipt of the general election contributions from CFGG and SCOPA.

11 C.F.R. § 103.3(a)

11 C.F.R. § 103.3(a), based on 2 U.S.C. § 432(h)(1), states in part that all deposits shall be made within ten days of the treasurer's receipt.

Complainant alleges that the Moynihan Committee failed to timely deposit one contribution in the 1982 primary election and two in the general election. There is no evidence to support such allegation beyond dates noted on reports which do not reflect possible delays in transmittal of the contributions. The Moynihan Committee states that its computer system now allows daily deposits of receipts. The alleged delay in deposits does not appear to be significant and the Committee has implemented procedures to avoid a similar recurrence. Therefore, we recommend that the Commission find reason to believe, but take no further action against the Moynihan Committee for a violation of 11 C.F.R. § 103.3(a).

2 U.S.C. § 439(a)(1)

2 U.S.C. § 439(a)(1) provides that a copy of reports and statements required under the Act shall be filed with the Secretary of State of the appropriate state.

Complainant alleges that the Moynihan Committee, SCOPA and CFGG failed to file reports reflecting the contributions from

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SCOPA and CFGG to the Moynihan Committee. The Moynihan Committee replies that it filed the required reports with the New York Board of Elections.

The New York Elections Board confirmed in a telephone request that the Moynihan Committee consistently filed reports during the periods in question, 1979 through the 1982 elections. The Board also confirmed that the CFGG has filed consistently during the period in question, from February 1980 to present. Finally, the Elections Board noted that SCOPA has filed the necessary reports for 1982. The Moynihan Committee and CFGG have filed the appropriate reports with the New York State Board of Elections and SCOPA is currently filing the required reports. Therefore, we recommend that the Commission find no reason to believe that the Moynihan Committee or CFGG violated 2 U.S.C. § 439(a)(1) in this case. We recommend that the Commission find reason to believe and take no further action against SCOPA for a violation of 2 U.S.C. § 439(a)(1).

RECOMMENDATIONS

1. Find reason to believe and take no further action against the Senator Moynihan Re-election Campaign, Inc. for a violation of 2 U.S.C. § 441a(f) during the 1982 primary election.
2. Find reason to believe and take no further action against the Committee for Good Government (UAW) for a violation of 2 U.S.C. § 441a(a)(2)(A) during the 1982 primary election.
3. Find no reason to believe that the Senator Moynihan Re-election Campaign, Inc. violated 2 U.S.C. § 441a(f) for contributions received from the Committee for Good Government and from the Special Committee on Political Action during the 1982 general election.

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4. Find no reason to believe that the Committee for Good Government (UAW) violated 2 U.S.C. § 441a(a)(2)(A) for its contribution to the Senator Moynihan Re-election Campaign, Inc. during the 1982 general election.
5. Find no reason to believe that the Special Committee on Political Action violated 2 U.S.C. § 441a(a)(2)(A) for its contribution to the Senator Moynihan Re-election Campaign, Inc. during the 1982 general election.
6. Find reason to believe and take no further action against the Senator Moynihan Re-election Campaign, Inc. for a violation of 11 C.F.R. § 103.3(a).
7. Find no reason to believe that the Senator Moynihan Re-election Campaign, Inc. violated 2 U.S.C. § 439(a)(1).
8. Find no reason to believe that the Committee for Good Government (UAW) violated 2 U.S.C. § 439(a)(1).
9. Find reason to believe and take no further action against the Special Committee on Political Action for a violation of 2 U.S.C. § 439(a)(1).
10. Approve attached letters.
11. Close the file.

Charles N. Steele
General Counsel

85040372284
December 14, 1982
Date

BY:


Kenneth A. Gross
Associate General Counsel

Attachments

Response from CFGG
Response from SCOPA
Response from the Moynihan Committee
Proposed letters (4)

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
United Food and Commercial Workers -)
Active Ballot Club)
Thompson's People)
Frank Thompson, Jr.) MUR 1493
David A. Friedman,)
Anthony J. Luty)
Samuel J. Talarico)
Joseph P. Rizzo)
Retail Store Employees Union)
Local 1262-Active Ballot Club)

CERTIFICATION

I, Marjorie W. Emmons, Recording Secretary for the Federal Election Commission Executive Session on January 4, 1983, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in MUR 1493:

1. Find reason to believe that the United Food and Commercial Workers - Active Ballot Club and the Retail Store Employees Union Local 1262 - Active Ballot Club violated 2 U.S.C. §441a(a) (2) (A) and take no further action.
2. Find reason to believe that Thompson's People violated 2 U.S.C. §441a(f) and take no further action.
3. Find no reason to believe that David Friedman violated 11 C.F.R. §103.3(a).
4. Approve the letters attached to the General Counsel's report dated December 8, 1982.
5. CLOSE THE FILE.

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

Attest:

Jan. 4 1983
Date

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

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SENSITIVE

FEDERAL ELECTION COMMISSION

1325 K Street, N.W. 62 DEC 8 P 1: 44
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL

BY OGC TO THE COMMISSION 12-8-82

MUR # 1493

DATE COMPLAINT RECEIVED

BY OGC 10/21/82

DATE OF NOTIFICATION TO

RESPONDENT 10/25/82

STAFF MEMBER Tarrant/Thomas

COMPLAINANT'S NAME: Robert J. K. Dornan

RESPONDENTS' NAMES: United Food and Commercial Workers - Active
Ballot Club,
Retail Store Employees Union Local 1262 -
Active Ballot Club,
Thompson's People,
Frank Thompson, Jr.,
David A. Friedman,
Anthony J. Luty,
Samuel J. Talarico and
Joseph P. Rizzo

RELEVANT STATUTE: 2 U.S.C. §§ 441a(a)(2)(A), 441a(a)(5),
441a(f)
11 C.F.R. § 103.3(a)

INTERNAL REPORTS CHECKED: Reports filed by respondent committees

FEDERAL AGENCIES CHECKED: None

SUMMARY OF ALLEGATIONS

Complainant alleges that the International Union United Food and Commercial Workers Active Ballot Club (U.F.C.W.-ABC) and its affiliated committee, Retail Store Employees Union, Local 1262 - Active Ballot Club (Local 1262-ABC), violated 2 U.S.C. § 441a(a)(2)(A) by contributing \$5,500, for the 1980 general election, to Thompson's People, the principal campaign committee of former congressman, Frank Thompson, Jr. Mr. Dornan further alleges that Thompson's People violated 2 U.S.C. § 441a(f) by accepting an

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excessive contribution and that its treasurer, David Friedman, violated 11 C.F.R. § 103.3(a) by not depositing the contributions from the aforementioned committees within 10 days of receipt. 1/

FACTUAL AND LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441a(a)(5), all contributions made by political committees established or financed or maintained or controlled by any labor organization or local unit of such labor organization shall be considered to have been made by a single political committee. Under 2 U.S.C. § 441a(a)(2)(A), no multicandidate political committee shall make contributions to any candidate and his authorized political committees with respect to any election for federal office which, in the aggregate, exceed \$5,000. Acceptance of an excessive contribution is prohibited by 2 U.S.C. § 441a(f).

According to reports filed by all the Respondent committees, the \$5,000 limit was exceeded by \$500 as follows:

<u>Contributor</u>	<u>Amount</u>	<u>Date Reported by Contributor</u>	<u>Reported receipt date</u>
U.F.C.W.-ABC	\$1,400	06/23/80	07/15/80
U.F.C.W.-ABC	\$1,000	09/25/80	10/08/80
U.F.C.W.-ABC	\$2,000	10/10/80	10/17/80
U.F.C.W.-ABC	\$ 600	09/29/80	10/29/80
Local 1262-ABC	\$ 500	10/01/80	10/31/80
	<u>\$5,500</u>		

1/ It should be noted that the complainant names as respondents Frank Thompson, Jr. and the individual treasurers of the Respondent committees. However, we do not make any recommendations with regard to these individuals apart from the recommendations made against the committees.

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Pursuant to 11 C.F.R. § 103.3(a), the treasurer of a political committee is responsible for depositing all receipts in the designated campaign depository. In addition, all deposits are to be made within 10 days of the treasurer's receipt. While there does appear to be a significant gap in time between the reported date of the contribution and the reported receipt date, this may be explained by the fact that, according to its reports, U.F.C.W.-ABC forwarded its contributions through its local unions rather than giving directly to the recipient. Therefore, a substantial amount of time may have passed before the treasurer of Thompson's People received the contributions in question. Pursuant to 2 U.S.C. § 432(b)(1), every person who receives a contribution for an authorized political committee shall, no later than 10 days after receiving such contribution, forward to the treasurer such contribution. However, we have no indication that the local unions did not comply with this section.

On November 1, 1982, this office received a response from Howard S. Simonoff on behalf of Local 1262 - ABC. See Attachment 1. Mr. Simonoff stated that it was the \$2,000 contribution given by the U.F.C.W.-ABC which put the committees over the limit, therefore, Local 1262-ABC did not violate the Act.

On November 4, 1982, this office received a response from Edward P. Wendel, Assistant General Counsel for the U.F.C.W. See Attachment 2. According to Mr. Wendel, the \$500 excess was

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inadvertent and, until the filing of the complaint, it was not realized that an excessive contribution had been made. In addition, he stated that a letter (copy enclosed) was sent to Thompson's People requesting a refund if more than \$5,000 had been received from the U.F.C.W.-ABC and its affiliated committees. According to Mr. Wendell, a refund of \$500 from Thompson's People would be requested. In order to avoid just this type of problem, Mr. Wendel pointed out that in 1981, the constitution of the ABC was amended so that all voluntary contributions received by the locals are forwarded to the U.F.C.W.-ABC, which is responsible for all reporting requirements.

A response was received on November 24, 1982 2/ from Thomas R. Jolly, representing Thompson's People. See Attachment 3. According to Mr. Jolly, the acceptance of the excessive contribution was inadvertant. In addition, he stated that Thompson's People terminated on or about June 30, 1981, and that \$15,017.18 in excess campaign funds was transferred to the Congressman Thompson Legal Defense Fund (the Fund). On November 29, 1982, a \$500 check from the Fund was sent to the U.F.C.W.-ABC. See Attachment 4.

2/ It should be noted that notification letters to Frank Thompson, Jr., David Friedman and Thompson's People had to be resent as the first address for each was incorrect.

860407 / 2289

Due to the discrepancy in dates, it cannot be determined which ABC made the contribution that put both committees in violation of 2 U.S.C. § 441a. The General Counsel recommends that the Commission find reason to believe that both the U.F.C.W.-ABC and Local 1262-ABC violated 2 U.S.C. § 441a(a)(2)(A) and that Thompson's People violated 2 U.S.C. § 441a(f). However, because the money has been refunded, Thompson's People terminated over a year ago, and the U.F.C.W. has changed its procedures to avoid making excessive contributions, it is recommended that no further action be taken.

In regard to the alleged violation of 11 C.F.R. § 103.3(a) by Thompson's People treasurer David Friedman, the complainant provides no evidence that the contributions were not deposited within 10 days of receipt. Even though the time lapse for some contributions appears to have been 30 days, allowing time for mailing to the local, time for delivering to candidate's treasurer, and 10 days for treasurer's deposit, there may not have been a violation. Therefore, the General Counsel recommends that the Commission find no reason to believe that David Friedman violated 11 C.F.R. § 103.3(a).

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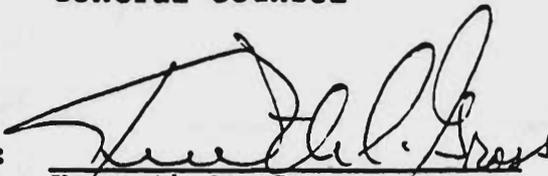
RECOMMENDATIONS

1. Find reason to believe that the United Food and Commercial Workers - Active Ballot Club and the Retail Store Employees Union Local 1262-Active Ballot Club violated 2 U.S.C. § 441a(a) (2) (A) and take no further action.
2. Find reason to believe that Thompson's People violated 2 U.S.C. § 441a(f) and take no further action.
3. Find no reason to believe that David Friedman violated 11 C.F.R. § 103.3(a).
4. Approve the attached letters.
5. Close the file.

850403/2291

7 December 1952
Date

Charles N. Steele
General Counsel

By: 
Kenneth A. Gross
Associate General Counsel

Attachments

1. Response from Simonoff
2. Response from Wendel
3. Response from Jolly
4. Refund check
5. Proposed letters

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1319
Young Republican National)
Federation)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on March 20, 1981, the Commission decided by a vote of 6-0 to take the following actions regarding MUR 1319:

1. Find reason to believe that the Young Republican National Federation violated 2 U.S.C. §434(b)(1) as stated in 11 C.F.R. §104.12.
2. Take no further action in this matter and close the file.
3. Approve the letter attached to the First General Counsel's Report, dated March 11, 1981.

Attest:

3/20/81
Date

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

950403/2292

Received in the Office of the Commission Secretary: 3-17-81, 6:00
Circulated on 48 hour vote basis: 3-18-81, 11:00

GENERAL COUNSELL'S FACTUAL AND LEGAL ANALYSIS

DATE March 24, 1981

MUR NO. 1319
STAFF MEMBER(S) & TEL. NO.
Frances B. Hagan
202/523-4057

RESPONDENT: Young Republican National Federation

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

SUMMARY OF ALLEGATIONS

The Young Republican National Federation ("YRNF") violated 2 U.S.C. § 434(b) and more specifically, 11 C.F.R. § 104.12 for failure to identify the source of cash on hand when the Committee initially registered as a political committee in 1976.

FACTUAL BASIS AND LEGAL ANALYSIS

During the audit of the YRNF, FEC auditors found that the Committee failed to disclose on its reports the source of cash on hand at the time of registration. The YRNF is funded by the Republican National Committee and by individual contributions obtained through direct mail solicitation.

In response to the Reports Analysis Division's Request for Additional Information ("RFAI"), the YRNF identified all but \$12,527.15 of \$37,536.18 in the Committee treasury at registration. As the remaining undocumented cash represents a significant sum of unidentified contributions, the Office of General Counsel recommended a finding of reason to believe in this matter. However, we also recommended that no further action be taken.

The YRNF acted promptly to resolve the problem when initially notified by RFAI. The Committee submitted a disclosure report which identified more than \$25,000 in previously unitemized receipts. Officials of the Committee stated to the auditors that no additional documentation could be produced for the 1976 contributions received prior to registration, but that it was unlikely that the cash on hand contained any funds from prohibited sources. In fact, the audit review of available contribution records revealed no prohibited donors. It is our opinion that the YRNF made sufficient efforts early on, with substantial results in public disclosure, and that further investigation or conciliation procedures are unwarranted in this matter.

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RECOMMENDATIONS

1. Find reason to believe that the Young Republican National Federation violated 2 U.S.C. § 434(b)(1) as stated in 11 C.F.R. § 104.12.

2. Take no further action in this matter and close the file.

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FIRST GENERAL COUNSEL'S REPORT

61 MAR 17 P 6: 00

DATE AND TIME OF TRANSMITTAL
BY OGC TO THE COMMISSION 3-17-81

MUR # 1319
STAFF MEMBER(S)
Frances B. Hagan

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

RESPONDENT'S NAME: Young Republican National Federation

RELEVANT STATUTE: 2 U.S.C. § 434(b)(1)
11 C.F.R. § 104.12

INTERNAL REPORTS CHECKED:

FEDERAL AGENCIES CHECKED:

GENERATION OF MATTER

This matter was referred to the Office of General Counsel by the Audit Division as a result of its audit of the Young Republican National Federation.

SUMMARY OF ALLEGATIONS

The Young Republican National Federation ("YRNF") violated 2 U.S.C. § 434(b)(1) and more specifically, 11 C.F.R. § 104.12 for failure to identify the source of cash on hand when the Committee initially registered as a political committee in 1976.

FACTUAL AND LEGAL ANALYSIS

During the audit of the YRNF, FEC auditors found that the Committee failed to disclose on its reports the source of cash on hand at the time of registration. The YRNF is funded by the Republican National Committee and by individual contributions obtained through direct mail solicitation.

In response to the Reports Analysis Division's Request for Additional Information ("RFAI"), the YRNF identified all but \$12,527.15 of \$37,536.18 in the Committee treasury at registration. As the remaining undocumented cash represents a significant sum of unidentified contributions, we are recommending a finding of reason to believe in this matter. However, we are also recommending that no further action be taken.

The YRNF acted promptly to resolve the problem when initially notified by RFAI. The Committee submitted a disclosure report which identified more than \$25,000 in previously unitemized receipts. Officials of the Committee stated to the auditors that no additional documentation could be produced for the 1976 contributions received prior to registration, but that it was unlikely that the cash on hand contained any funds from prohibited sources. In fact, the audit review of available contribution records revealed no prohibited donors. It is our opinion that the YRNF made sufficient efforts early on, with substantial results in public disclosure, and that further investigation or conciliation procedures are unwarranted in this matter.

RECOMMENDATIONS

1. Find reason to believe that the Young Republican National Federation violated 2 U.S.C. § 434(b)(1) as stated in 11 C.F.R. § 104.12.
2. Take no further action in this matter and close the file.
3. Approve attached letter.

Attachments

- Audit Referral
- Letter to respondent

50403/2295

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1124
McLaughlin for Congress)
Finance Committee)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on March 16, 1981 the Commission decided by a vote of 5-0 to take the following actions regarding MUR 1124:

1. Take no further action against the McLaughlin for Congress Finance Committee.
2. Approve and send the letters to the respondents as attached to the General Counsel's March 2, 1981 report.
3. CLOSE THE FILE.

Commissioners Aikens, Harris, McGarry, Thomson and Tiernan voted affirmatively in this matter.

Attest:

3-16-81
Date

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

Report Signed;	3-11-81
Received in Office of the Commission Secretary:	3-12-81, 11:02
Circulated on 48 hour vote basis:	3-12-81, 4:00

860403/2297

BEFORE THE FEDERAL ELECTION COMMISSION

March 2, 1981

FILED 11:02

In the Matter of)
)
McLaughlin for Congress)
Finance Committee)

MUR 1124

GENERAL COUNSEL'S REPORT

I. Background/Previous Commission Action

This matter was generated by the Reports Analysis Division, after its analysis of the disclosure reports of the McLaughlin for Congress Finance Committee. After review by the Reports Analysis Division, this matter was referred to the Office of General Counsel because of the committee's failure: 1) to provide the nature of loans from the candidate to the committee, 2) to continuously report debts and obligations, and 3) to provide occupations and principal places of business of its contributors.

The Reports Analysis Division sent requests for additional information to the committee on January 6, January 30, June 1, August 24, and November 2, 1979. Reports Analysis also sent reason to believe letters on March 16, April 21 and September 13, 1979. The committee did not submit any written response to these requests, nor did it file amendments to its reports. Subsequently, the Office of General Counsel, with the Commissions' approval, sent letters and questions to John J. McLaughlin, Sr., the committee treasurer, and Michael R. McLaughlin, the candidate.

Due to lack of response by the committee, again the Office of General Counsel sent another letter to the treasurer and

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candidate on April 15, 1980. On May 12, 1980 the Office of General Counsel received a response from the treasurer answering five questions requested by the Office of General Counsel (Attachment 1). In answering our questions, Mr. McLaughlin stated that the committee did attempt to obtain the occupations and principal place of business of contributors by calling the individuals. The committee was not able to locate or reach everyone. The treasurer did not, however, submit amendments to the committees' reports disclosing the information obtained through telephone calls.

With respect to the loans from the candidate to the committee, the treasurer states that the \$17,300 lent to the committee was from the candidate's personal funds. According to Mr. McLaughlin's letter the committee has repaid the candidate only \$5,000 so far. However, again the committee did not submit any documentation to verify this fact.

On July 3, 1980 the Office of General Counsel sent the treasurer a letter requesting, among other things, that the reports be amended to show the information obtained by the committee via telephone on those contributors of contributions in excess of \$100. In addition, it was requested that the amendments include information on the loan (including payments, balances, due date and interest rate). The Office of General Counsel also requested that the committee provide documentation that the loan funds were from the personal funds of the candidate

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and that the committee continue to file reports until the debts are forgiven or extinguished.

On October 15, 1980, the Office of General Counsel sent a letter to the treasurer of the committee. Enclosed in the letter were enclosures of copies of the receipt pages from the disclosure reports, in response to respondent's oral request for such items. The letter asked that the committee correct the omissions, describe any attempts to contact contributors, provide documentation to support the treasurer's statement that the loan came from the personal funds of Mr. McLaughlin, and continuous reporting of the debt until repaid or forgiven.

On November 7, 1980, the Office of General Counsel received a written response from the candidate providing the principal place of business and occupations of some of the names provided by the Office of General Counsel in its letter of October 15, 1980 (Attachment 2). Mr. McLaughlin stated that letters would be sent out to the individuals whose occupation and principal place of business was left blank. Such information when received would be sent to our office according the letter. Also, Mr. McLaughlin stated that he would send documentary support to show that the loans were indeed from his personal funds.

On January 5, 1981, the Office of General Counsel received another letter from the candidate (Attachment 3). This letter contained information obtained by sending letters, on the occupation and principal place of business on those individuals

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not in the November 5, 1980, correspondence. In addition, Mr. McLaughlin included two photo copied checks, from his personal checking account amounting to \$17,000.^{1/}

McLaughlin for Congress Finance Committee filed an April 10, 1979 Quarterly Report and a July 10, 1979, Quarterly Report. There have been no reports filed since then.

II. Legal Analysis

2 U.S.C. § 434(b)(2) requires that each report contain:

"The full name and mailing address (occupation and the principal place of business if any) of each person who has made one or more contributions to or for such committee or candidate ... within the calender year in an aggregate amount or value in excess of \$100, together with the amount and date of such contributions; see also 11 C.F.R. 104.2(b)(2) 2/.

The failure of the McLaughlin for Congress Finance Committee to provide such information in their reports was the basis for the Commission's reason to believe finding on this issue. As noted above the committee has made numerous attempts to fully correct these omissions. (See attachments 2 and 3) The committee has obtained the required information by telephone

^{1/} These checks were barely readable due to the poor quality of the photo-copy. However, the amount and the name of the candidate is clear.

^{2/} As the alleged violations occurred before the Federal Election Campaign Act was amended on January 8, 1980, by Pub. Law 96-187, all citations to the Act and the Regulations are to the Act as it existed before amendment.

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contact and letters to those individuals who could not be reached by phone. Consequently, the majority of the omissions have been corrected.^{3/} These good faith efforts by the committee constitute reasonable compliance with the Act with regard to this issue.

2 U.S.C. § 434(b)(5) requires the disclosure of loans in excess of \$100 along with the date and amount of such loan. See also 11 C.F.R. §§ 104.2(b)(5)(i)(B) and (ii)(A). 2 U.S.C. requires the disclosure of the amount and nature of debts and obligations as well as continuous reporting until such debts are extinguished or forgiven. See also 11 C.F.R. 104.8(a).

The failure of the McLaughlin for Congress Finance Committee to provide this information, on four loans totaling \$17,300, was the basis of the Commission's reason to believe finding on these issues.

On May 20, 1980, the Office of General Counsel received from RAD an amended April 10 Quarterly Report disclosing the four loans (total 17,300) made by the candidate to the committee. The November 5, 1980 response from the candidate stated that the loan was made from the personal funds of the candidate. (See Attachment 2). Included in the December 29, 1980 response was two photocopied checks. One check was for \$10,000 and the other for \$7,000. Though the checks were barely readable,

^{3/} Omitted from correction is the October 10, 1978 Quarterly Report because the microfilm tape is illegible.

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the amounts of the checks and the fact that they were from the personal account of the candidate Michael McLaughlin were discernable. No documentation has been received on the two other loans made by the candidate to the committee of \$100 and \$200. According to the July 10 Quarterly Report, the last report filed, \$5,000 of the loan debt has been repaid.

Therefore, excluding the two loans totalling \$300 (\$100 + \$200) which may have been a cash contribution, documentation of the nature and amount of the loans as well as amended reports of the funds in dispute has been provided by the committee. Though the committee has not continuously reported its debts until forgiven or extinguished, the fact that the loans were made from personal funds together with the committee's good faith efforts to supply information on the debt constitutes substantial compliance with the Act. Also, the committee notes in its letter of November 5, 1980, that it has not made expenditures or accepted contributions since its last reporting date (July 10). (See Attachment 2).

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III. Recommendations

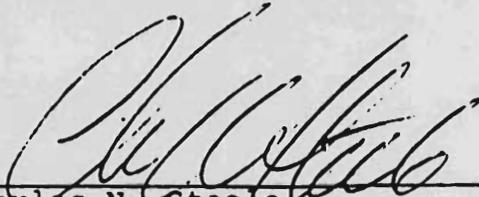
The Office of General Counsel recommends that the Commission:

1. take no further action against the McLaughlin for Congress Finance Committee;
2. approve and send the attached letters to respondents;

and,

- 3. close the file.

11 March 1981
Date



Charles N. Steele
General Counsel

Attachments

- 1. Letter from Committee dated May 7, 1980.
- 2. Letter from Committee dated November 5, 1980.
- 3. Letter from Committee dated December 29, 1980.
- 4. Letter to John J. McLaughlin Sr., treasurer of McLaughlin for Congress Finance Committee.
- 5. Letter to Michael R. McLaughlin

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1330 CONNECTICUT AVENUE
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1325 K St., N. W.
Wash., D. C.

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GENERAL COUNSEL

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OFFICE OF THE GENERAL COUNSEL
STATEMENT OF DESIGNATION OF COUNSEL

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MUR 1941 APR 30 11:21

NAME OF COUNSEL: Roger E. Warin

ADDRESS: Steptoe & Johnson
1330 Connecticut Ave., N.W.
Washington, D.C. 20036

TELEPHONE: (202) 429-6280

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.

April 28, 1985
Date

Diane Brown Cunningham
Signature

RESPONDENT'S NAME: Diane Brown Cunningham

ADDRESS: Voluntary Contributors for Better Government
1620 Eye Street, N.W.

Suite 700

Washington, D.C. 20006

HOME PHONE: _____

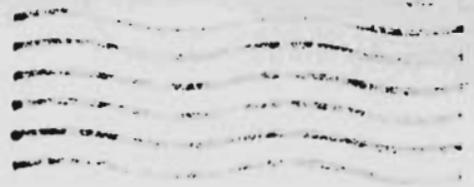
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for Government

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Washington, D.C. 20006



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Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463
Attn: Mr. Dwayne Brown

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WRITER'S DIRECT DIAL NUMBER

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OF COUNSEL
WILLIAM E. MILLER
CECIL J. GIMSTEAD
VINCENT C. BURKE, JR.
RICHARD DIAMOND

April 30, 1985

Chairman John W. McGarry
Federal Election Commission
1325 K Street, N.W.
Washington, D.C.

Re: MUR 1941

Dear Chairman McGarry:

Please be advised that Steptoe & Johnson will be acting as counsel for the Voluntary Contributors for Better Government ("the Committee") and its Treasurer, Ms. Diane B. Cunningham, who are respondents in the above-referenced case. We are advised that a Statement of Designation of Counsel has already been filed. Please direct any further communications concerning this matter to my attention.

By letter dated November 16, 1984, the Commission notified the Committee that the 12 Day Pre-General Election Report was overdue, and it corrected the oversight by immediately filing the report in question. By letter dated April 1, 1985, the Commission notified the Committee that it had determined there was reason to believe that the Committee and Ms. Cunningham, its Treasurer, had violated the Federal Election Campaign Act by failing to file the report in a timely manner.

In a letter of April 9, 1985, Ms. Cunningham provided the Commission with information relevant to its consideration of whether to take any further action in this matter. The letter explained that the delayed filing was due to Ms. Cunningham's prolonged business trip out of the country, the maternity leave of Ms. Cunningham's assistant who usually

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Chairman John W. McGarry
Page Two
April 30, 1985

prepares the reports, and the failure of the back-up system devised to ensure the timely filing of the report. It was also noted that there had been minimal financial activity by the Committee during the period covered by the report, and that this was the Committee's first and only instance of late filing during the entire nine years of its existence.

Because of these substantial mitigating circumstances and the fact that there is virtually no risk of future similar violations, the Committee requests that the matter be disposed of at this stage without requiring a conciliation agreement or a finding of probable cause to believe. Although this matter has been discussed with the General Counsel's office, it is our understanding that the General Counsel's office believes that the Commission itself, rather than the General Counsel's office, can more appropriately make this decision. We are, therefore, writing to urge the Commission to take no further action in this matter.

We strongly believe that the mitigating circumstances here justify dismissing the matter without requiring a pre-probable cause conciliation agreement. As far as we can determine, the Commission has never, in circumstances such as these involving a single late filing, required such an agreement. The only cases which we have found where the Commission has required pre-probable cause conciliation agreements in instances of late filings, for example, MURS 1661, 1677, 1683, or 1693, have involved the filing of 8, 15, 5, and 7 untimely reports respectively.

In fact, the taking of no further action is even more warranted in this case than it has been in past cases where the Commission has found no further action warranted after a finding of reason to believe. In MUR 1489, for example, the Commission found reason to believe that an unauthorized committee had made, and a re-election campaign committee had accepted, an excessive contribution. Upon the advice of the General Counsel's Report, the Commission voted to take no further action against either committee. The General Counsel's Report stated:

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Chairman John W. McGarry
Page Three
April 30, 1985

the seriousness of such violations is mitigated by circumstances surrounding the transaction. The recordkeeping errors described herein apparently account for the initial failure to avoid the excessive contribution as both the [committees] maintain procedures to screen for contribution limitations. Therefore, the excessive contribution appears to be an isolated occurrence rather than a practice of either committee. Furthermore, on November 15, 1982, the [Re-Election] Committee refunded to [the unauthorized committee] the excessive amount of \$1,000. This amount represents a fraction of the respondents' total receipts and expenditures.

MUR 1489, First General Counsel's Report (December 15, 1982) 7.

Like respondents in MUR 1489, the Committee has never before been delinquent in an area of election law compliance. Just as respondents in MUR 1489 maintained procedures to ensure compliance, and just as a single human error resulted in "an isolated occurrence" of a violation in that case, so too does the Committee maintain exacting procedures which, due only to an unfortunate confluence of unexpected events, nonetheless resulted in a single isolated occurrence of an untimely filing. Furthermore, just as respondent in MUR 1489 corrected its inadvertent mistake by refunding the excessive contribution upon learning of the violation, the Committee immediately filed the late report when notified that it was past due. 1/ See also, MUR 1493 (no further action taken for making and accepting excessive contributions when the action was inadvertent, the money refunded almost two years after the election, and procedures changed to avoid future violations); MUR 1319 (no further action

1/ We must note, however, that respondent re-election campaign committee in MUR 1489 had use of the excessive contribution for fourteen months, and that the contribution was not refunded until after the election for which it was intended. This is undoubtedly a more serious violation than a filing delayed by a few weeks, especially when the financial activity of the Committee was at a minimum during the time covered by the report.

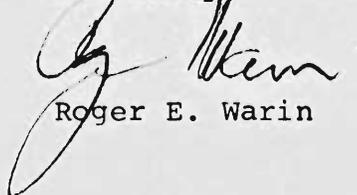
Chairman John W. McGarry
Page Four
April 30, 1985

taken for failure to identify source of cash on hand when the committee acted promptly to comply with public disclosure, despite the fact that the committee was still unable to identify \$12,527.15 in contributions); and MUR 1124 (no further action taken for failure to fully report contributions and loans because the majority, but not all, of the omissions had been corrected).

We urge the Commission to take no further action in this matter. Although we recognize that a pre-probable cause agreement does not require an admission of any violation of the federal election laws, there is a certain stigma associated with the signing of such an agreement -- a stigma perhaps justified if this were more than an instance of one isolated late filing over the past nine years, but one that we feel is unjustified in this case. In the event that the Commission decides that it is unwilling to dismiss the action at this stage, our clients would reluctantly be willing to enter into a pre-probable cause conciliation agreement. If the Commission insists on such an agreement, under the circumstances, we would not feel it appropriate that the agreement contain a civil penalty.

We are aware that the Commission is taking a renewed interest in the problem of late filing and has consequently become more rigorous in its pursuit of late filers. Nevertheless, we think that the mitigating circumstances in this case more than adequately assure the Commission of the Committee's continued compliance with every aspect of the federal election laws. Thank you for your consideration of this request. We will be happy to provide any additional information which the Commission may need.

Sincerely,



Roger E. Warin

csd

Enclosures: MURs 1493, 1489, 1319 and 1124

cc: Commissioner Joan D. Aikens
Commissioner Lee Ann Elliott
Commissioner Thomas E. Harris
Commissioner Danny L. McDonald
Commissioner Frank P. Reiche

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Senator Daniel P. Moynihan)
The Senator Moynihan Re-election)
Campaign, Inc.) MUR 1489
John Westergaard)
Committee for Good Government (UAW))
Donald J. Moll)
Special Committee on Political Action)
Mary Ann Benincasa)

CERTIFICATION

I, Marjorie W. Emmons, Recording Secretary for the Federal Election Commission Executive Session on January 4, 1983, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MUR 1489:

1. Find reason to believe and take no further action against the Senator Moynihan Re-election Campaign, Inc. for a violation of 2 U.S.C. §441a(f) during the 1982 primary election.
2. Find reason to believe and take no further action against the Committee for Good Government (UAW) for a violation of 2 U.S.C. §441a(a)(2)(A) during the 1982 primary election.
3. Find no reason to believe that the Senator Moynihan Re-election Campaign, Inc. violated 2 U.S.C. §441a(f) for contributions received from the Committee for Good Government and from the Special Committee on Political Action during the 1982 general election.
4. Find no reason to believe that the Committee for Good Government (UAW) violated 2 U.S.C. §441a(a)(2)(A) for its contribution to the Senator Moynihan Re-election Campaign, Inc. during the 1982 general election.

(Continued)

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5. Find no reason to believe that the Special Committee on Political Action violated 2 U.S.C. §441a(a) (2) (A) for its contribution to the Senator Moynihan Re-election Campaign, Inc. during the 1982 general election.
6. Find reason to believe and take no further action against the Senator Moynihan Re-election Campaign, Inc. for a violation of 11 C.F.R. §103.3(a).
7. Find no reason to believe that the Senator Moynihan Re-election Campaign, Inc. violated 2 U.S.C. §439(a) (1).
8. Find no reason to believe that the Committee for Good Government (UAW) violated 2 U.S.C. §439(a) (1).
9. Find reason to believe and take no further action against the Special Committee on Political Action for a violation of 2 U.S.C. §439(a) (1).
10. Approve the letters attached to the FEC General Counsel's report dated December 15, 1982.
11. CLOSE THE FILE.

Commissioners Elliott, Harris, McDonald, McGarry, and Reiche voted affirmatively for the decision. Commissioner Aikens did not vote.

Attest:

Jan 4, 1983
Date

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

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

RECEIVED
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FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL, BY MUR NO. 1489
OGC TO THE COMMISSION 12/15/82 STAFF MEMBER Frances B. Hagan

COMPLAINANT'S NAME: Robert J.K. Dornan

RESPONDENTS' NAMES: Senator Daniel P. Moynihan
The Senator Moynihan Re-election
Campaign, Inc.
John Westergaard, Treasurer of the
above-named Moynihan Committee
Committee for Good Government (UAW)
Donald J. Moll, Treasurer of the
Committee for Good Government
Special Committee on Political Action
Mary Ann Benincasa, Treasurer of the
Special Committee on Political Action

RELEVANT STATUTES: 2 U.S.C. § 441a(a)(2)(A)
2 U.S.C. § 441a(f)
2 U.S.C. § 439(a)(1)
11 C.F.R. § 103.3(a)

INTERNAL REPORTS CHECKED: Disclosure Reports, MURs 1307, 1405,
1432

FEDERAL AGENCIES CHECKED: None

SUMMARY OF ALLEGATIONS

A complaint filed by Robert J.K. Dornan on October 21, 1982,
makes the following allegations.

The UAW Committee for Good Government and its treasurer,
Donald J. Moll, the Special Committee on Political Action and its
treasurer, Mary Ann Benincasa, violated 2 U.S.C. § 441a(a)(2)(A)
by making contributions in excess of limitations. Senator
Daniel P. Moynihan, the Senator Moynihan Re-election Campaign,
Inc. and its treasurer, John Westergaard, violated 2 U.S.C.

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making contributions in excess of contribution limitations to the Moynihan Committee.

The complainant submitted copies of the respondents' FEC disclosure reports to support the allegation that excessive contributions were made and received in connection with both the 1982 primary and general elections. The respondents reported the transactions as follows:

<u>Contributor</u>	<u>Date of Contribution</u>	<u>Amount of Contribution</u>	<u>Date Received by Moynihan Committee</u>
SCOPA	11/1/79	\$ 500	12/19/79
	9/1/81	\$ 500	10/2/81
CFGG	2/5/80	\$1,000	2/12/80
	9/3/81	\$5,000	9/9/81
	11/5/81	\$5,000	11/24/81

The alleged excessive amounts total \$1,000.00 in the primary (\$1,000.00 and \$5,000.00 contributed by CFGG) and \$1,000.00 in the general election (\$1,000.00 from SCOPA and \$5,000.00 from its apparent affiliate CFGG). The complainant asserts that the excessive contributions to the general election campaign occurred through SCOPA's and CFGG's failure to observe the limitations placed on affiliated political committees pursuant to 2 U.S.C. § 441a(a)(5).

Committee for Good Government

On November 15, 1982, the United Auto Workers' ("UAW") CFGG responded to notification of the complaint filed against it. According to its own records, CFGG exceeded the \$5,000.00 contribution limitation by \$1,000.00 through an inadvertent clerical error. CFGG states that its contribution of \$1,000.00

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on February 5, 1980, was incorrectly recorded for a "1980 primary" rather than the 1982 primary. CFGG documents support this assertion. Furthermore, CFGG states that between February 1980 and September 1981, when it made its second contribution to the Moynihan Committee, the contribution recordkeeping function was transferred to another office within the UAW. When CFGG made its \$5,000 contribution in September 1981, the persons processing the new contribution were unaware of the earlier donation.

CFGG offers certain factors to mitigate the violation. CFGG states that upon notification of the violation, it immediately requested a refund from the Moynihan Committee. ^{2/} CFGG argues that besides being a clerical error, this excessive contribution is an isolated case occurring through unique circumstances not likely to be repeated. CFGG notes that it has no history of making excessive contributions.

As to the 1982 general election, the CFGG response acknowledges the \$5,000 contribution of November 1981, but emphatically asserts that no affiliation exists between CFGG and SCOPA. Therefore, CFGG states that SCOPA's contributions do not affect the CFGG limitation and no violation of 2 U.S.C. § 441a(a)(2)(A) occurred in this case. CFGG points out that SCOPA's original statement of organization of August 1974 listed six connected organizations. One of these organizations was United Auto Workers of Rochester, New York. The UAW local in

^{2/} The Moynihan Committee states that it refunded \$1,000.00 to CFGG.

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Rochester advised CFGG that several union members at one time participated in SCOPA "as individuals", but that the union local was never connected with SCOPA. SCOPA amended its statement of organization by letter in October 1976 to clarify that it is not affiliated with any organizations. CFGG asserts that the complainant's assumption that CFGG and SCOPA are affiliated is based on the FEC index of disclosure documents which erroneously lists SCOPA as connected with the UAW. CFGG states that the criteria set forth at 11 C.F.R. § 110.3(a)(1)(iii) which may establish affiliation do not apply to CFGG.

Special Committee on Political Action

On November 10, 1982, SCOPA sent its initial response to the complaint notification. In this letter and in subsequent telephone conversations, SCOPA concurred with CFGG that the two organizations are not affiliates. SCOPA refers to the 1976 amended statement of organization which affirms that SCOPA is comprised of individuals who belong to various organizations, but is not itself affiliated with another organization.

The Senator Moynihan Re-election Campaign, Inc.

On November 18, 1982, the Moynihan Committee submitted its response to the complaint that it received excessive contributions. The Committee states that it received \$1,000 from the CFGG in 1980, and through a bookkeeping error, it accepted an additional \$5,000 in 1981 for the 1982 primary election. The excessive amount of \$1,000 was refunded November 15, 1982,

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following notice in the complaint on November 9, 1982, of the apparent violation.

The Moynihan Committee states that it computerized its records in early 1982 "to eliminate the risk of receipt of excessive contributions." The Committee notes that during the pre-election period in question, the Committee received more than \$2 million in contributions.

As to the general election, the Moynihan Committee refers to the submission by CFGG, stating that no violation of 2 U.S.C. § 441a(f) occurred in that the CFGG and SCOPA are not affiliated.

In addition to receipt of excessive contributions, complainant charges that the Moynihan Committee failed to timely deposit three contributions as required by 11 C.F.R. § 103.3(a). The Moynihan Committee states that the computer system implemented this year reduces delay in mailing deposits and the Committee's deposits are now made daily. The Committee adds that checks are often received several days after the date on the check.

The complainant also alleges that the Moynihan Committee, SCOPA and CFGG failed to file reports of these contributions with the New York Division of Elections in violation of 2 U.S.C. § 439(a)(1). The Moynihan Committee states that all necessary reports are on file with the New York State Board of Elections.

LEGAL ANALYSIS

2 U.S.C. § 441a(a)(2)(A) states that "no multicandidate committee shall make contributions to any candidate and his

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authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$5,000."

2 U.S.C. § 441a(f) states that "no candidate or political committee shall knowingly accept any contribution.... in violation of the provisions of this section."

1982 Primary Election - 2 U.S.C. § 441a(a)(2)(A) and (f)

On the basis of the evidence presented by the complainant, CFGG and the Moynihan Committee, it appears that CFGG made an excessive contribution of \$1,000 to the Moynihan Committee in violation of 2 U.S.C. § 441a(a)(2)(A) prior to the 1982 primary election. The Moynihan Committee violated 2 U.S.C. § 441a(f) through acceptance of the excessive contribution. However, the seriousness of such violations is mitigated by circumstances surrounding the transaction. The recordkeeping errors described herein apparently account for the initial failure to avoid the excessive contribution as both the CFGG and the Moynihan Committee maintain procedures to screen for contribution limitations. Therefore, the excessive contribution appears to be an isolated occurrence rather than a practice of either committee. Furthermore, on November 15, 1982, the Moynihan Committee refunded to CFGG the excessive amount of \$1,000. This amount represents a fraction of the respondents' total receipts and expenditures.

The Office of General Counsel recommends that the Commission find reason to believe that violations of 2 U.S.C.

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§ 441a(a)(2)(A) and 2 U.S.C. § 441a(f) occurred in this case, and that it take no further action and close the file as it relates to this matter in the 1982 primary election. Such action is consistent with the Commission's actions in MURs 1307, 1405 and 1432.

1982 General Election - 2 U.S.C. § 441a(a)(2)(A) and (f)

2 U.S.C. § 441a(a)(5) states in pertinent part that for purposes of the limitations in this section, all contributions made by political committees established or financed or maintained or controlled by any labor organization, including any local unit of such labor organization, shall be considered to have been made by a single political committee.

Complainant alleges that CFGG and SCOPA made an excessive contribution of \$1,000 during the general election campaign to the Moynihan Committee in violation of 2 U.S.C. § 441a(a)(2)(A). The complaint states that "contributions made by [SCOPA and CFGG] are treated as contributions made from a single committee in accordance with 2 U.S.C. § 441a(a)(5)...."

In August 1974, SCOPA registered with the Commission as a political committee. Its statement of organization indicated a "connection" with six organizations. The "United Auto Workers, 221 Dewey Avenue, Rochester, New York 14608" was among those listed.

On October 25, 1976, SCOPA amended its statement of organization by letter, apparently in response to a Reports Analysis Division (RAD) inquiry. The amendment states "Please be

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advised that we do not have affiliated organizations, but all participants of this committee are individuals who belong to various organizations. In other words, anyone is welcome to join this committee if they wish to reach the same goals." RAD confirms that this amendment adequately clarifies SCOPA's status -- independent of connecting organizations -- and should have been entered into the computer index system.

SCOPA and CFGG concur that there is no affiliation between them and that SCOPA has no connection with the UAW. Both political committees agree with CFGG's statement that

none of the factors set forth in 11 C.F.R. § 110.3(a)(1)(iii) as being indicative of "establishing, financing, maintaining or controlling" -- are present here. Specifically, the UAW does not own any interest in SCOPA; the by-laws and/or constitution of SCOPA do not give the UAW any authority, power or ability to direct it; the UAW does not have the authority, power or ability to hire, appoint, discipline, discharge or otherwise influence the decision of the officers or members of SCOPA; the UAW and SCOPA have not engaged in similar patterns of contributions; and there has been no transfer of funds between SCOPA and any organizations affiliated with the UAW.

Based on the information and supporting documents presented by the respondents, the Office of General Counsel concludes that CFGG and SCOPA are not affiliated as set forth in 2 U.S.C. § 441a(a)(5). Therefore, we recommend no reason to believe that the CFGG and SCOPA violated 2 U.S.C. § 441a(a)(2)(A) through their separate contributions to the Moynihan Committee's 1982 general election campaign. We also recommend that the Commission

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find no reason to believe that the Moynihan Committee violated 2 U.S.C. § 441a(f) through receipt of the general election contributions from CFGG and SCOPA.

11 C.F.R. § 103.3(a)

11 C.F.R. § 103.3(a), based on 2 U.S.C. § 432(h)(1), states in part that all deposits shall be made within ten days of the treasurer's receipt.

Complainant alleges that the Moynihan Committee failed to timely deposit one contribution in the 1982 primary election and two in the general election. There is no evidence to support such allegation beyond dates noted on reports which do not reflect possible delays in transmittal of the contributions. The Moynihan Committee states that its computer system now allows daily deposits of receipts. The alleged delay in deposits does not appear to be significant and the Committee has implemented procedures to avoid a similar recurrence. Therefore, we recommend that the Commission find reason to believe, but take no further action against the Moynihan Committee for a violation of 11 C.F.R. § 103.3(a).

2 U.S.C. § 439(a)(1)

2 U.S.C. § 439(a)(1) provides that a copy of reports and statements required under the Act shall be filed with the Secretary of State of the appropriate state.

Complainant alleges that the Moynihan Committee, SCOPA and CFGG failed to file reports reflecting the contributions from

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SCOPA and CFGG to the Moynihan Committee. The Moynihan Committee replies that it filed the required reports with the New York Board of Elections.

The New York Elections Board confirmed in a telephone request that the Moynihan Committee consistently filed reports during the periods in question, 1979 through the 1982 elections. The Board also confirmed that the CFGG has filed consistently during the period in question, from February 1980 to present. Finally, the Elections Board noted that SCOPA has filed the necessary reports for 1982. The Moynihan Committee and CFGG have filed the appropriate reports with the New York State Board of Elections and SCOPA is currently filing the required reports. Therefore, we recommend that the Commission find no reason to believe that the Moynihan Committee or CFGG violated 2 U.S.C. § 439(a)(1) in this case. We recommend that the Commission find reason to believe and take no further action against SCOPA for a violation of 2 U.S.C. § 439(a)(1).

RECOMMENDATIONS

1. Find reason to believe and take no further action against the Senator Moynihan Re-election Campaign, Inc. for a violation of 2 U.S.C. § 441a(f) during the 1982 primary election.
2. Find reason to believe and take no further action against the Committee for Good Government (UAW) for a violation of 2 U.S.C. § 441a(a)(2)(A) during the 1982 primary election.
3. Find no reason to believe that the Senator Moynihan Re-election Campaign, Inc. violated 2 U.S.C. § 441a(f) for contributions received from the Committee for Good Government and from the Special Committee on Political Action during the 1982 general election.

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4. Find no reason to believe that the Committttee for Good Government (UAW) violated 2 U.S.C. § 441a(a)(2)(A) for its contribution to the Senator Moynihan Re-election Campaign, Inc. during the 1982 general election.
5. Find no reason to believe that the Special Committee on Political Action violated 2 U.S.C. § 441a(a)(2)(A) for its contribution to the Senator Moynihan Re-election Campaign, Inc. during the 1982 general election.
6. Find reason to believe and take no further action against the Senator Moynihan Re-election Campaign, Inc. for a violation of 11 C.F.R. § 103.3(a).
7. Find no reason to believe that the Senator Moynihan Re-election Campaign, Inc. violated 2 U.S.C. § 439(a)(1).
8. Find no reason to believe that the Committee for Good Government (UAW) violated 2 U.S.C. § 439(a)(1).
9. Find reason to believe and take no further action against the Special Committee on Political Action for a violation of 2 U.S.C. § 439(a)(1).
10. Approve attached letters.
11. Close the file.

Charles N. Steele
General Counsel

36040372325
December 14, 1982
Date

BY:


Kenneth A. Gross
Associate General Counsel

Attachments

Response from CFGG
Response from SCOPA
Response from the Moynihan Committee
Proposed letters (4)

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
United Food and Commercial Workers -)
Active Ballot Club)
Thompson's People)
Frank Thompson, Jr.) MUR 1493
David A. Friedman,)
Anthony J. Luty)
Samuel J. Talarico)
Joseph P. Rizzo)
Retail Store Employees Union)
Local 1262-Active Ballot Club)

CERTIFICATION

I, Marjorie W. Emmons, Recording Secretary for the Federal Election Commission Executive Session on January 4, 1983, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in MUR 1493:

1. Find reason to believe that the United Food and Commercial Workers - Active Ballot Club and the Retail Store Employees Union Local 1262 - Active Ballot Club violated 2 U.S.C. §441a(a)(2)(A) and take no further action.
2. Find reason to believe that Thompson's People violated 2 U.S.C. §441a(f) and take no further action.
3. Find no reason to believe that David Friedman violated 11 C.F.R. §103.3(a).
4. Approve the letters attached to the General Counsel's report dated December 8, 1982.
5. CLOSE THE FILE.

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

Attest:

Jan. 4 1983
Date

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

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SENSITIVE

FEDERAL ELECTION COMMISSION

1325 K Street, N.W. 20463
Washington, D.C. 20463

DEC 8 P 1: 44

FIRST GENERAL COUNSEL'S REPORT

**DATE AND TIME OF TRANSMITTAL
BY OGC TO THE COMMISSION** 12-8-82

**MUR # 1493
DATE COMPLAINT RECEIVED
BY OGC** 10/21/82
**DATE OF NOTIFICATION TO
RESPONDENT** 10/25/82
STAFF MEMBER Tarrant/Thomas

COMPLAINANT'S NAME: Robert J. K. Dornan

RESPONDENTS' NAMES: United Food and Commercial Workers - Active
Ballot Club,
Retail Store Employees Union Local 1262 -
Active Ballot Club,
Thompson's People,
Frank Thompson, Jr.,
David A. Friedman,
Anthony J. Luty,
Samuel J. Talarico and
Joseph P. Rizzo

RELEVANT STATUTE: 2 U.S.C. §§ 441a(a)(2)(A), 441a(a)(5),
441a(f)
11 C.F.R. § 103.3(a)

INTERNAL REPORTS CHECKED: Reports filed by respondent committees

FEDERAL AGENCIES CHECKED: None

SUMMARY OF ALLEGATIONS

Complainant alleges that the International Union United Food and Commercial Workers Active Ballot Club (U.F.C.W.-ABC) and its affiliated committee, Retail Store Employees Union, Local 1262 - Active Ballot Club (Local 1262-ABC), violated 2 U.S.C. § 441a(a)(2)(A) by contributing \$5,500, for the 1980 general election, to Thompson's People, the principal campaign committee of former congressman, Frank Thompson, Jr. Mr. Dornan further alleges that Thompson's People violated 2 U.S.C. § 441a(f) by accepting an

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excessive contribution and that its treasurer, David Friedman, violated 11 C.F.R. § 103.3(a) by not depositing the contributions from the aforementioned committees within 10 days of receipt. 1/

FACTUAL AND LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441a(a)(5), all contributions made by political committees established or financed or maintained or controlled by any labor organization or local unit of such labor organization shall be considered to have been made by a single political committee. Under 2 U.S.C. § 441a(a)(2)(A), no multicandidate political committee shall make contributions to any candidate and his authorized political committees with respect to any election for federal office which, in the aggregate, exceed \$5,000. Acceptance of an excessive contribution is prohibited by 2 U.S.C. § 441a(f).

According to reports filed by all the Respondent committees, the \$5,000 limit was exceeded by \$500 as follows:

<u>Contributor</u>	<u>Amount</u>	<u>Date Reported by Contributor</u>	<u>Reported receipt date</u>
U.F.C.W.-ABC	\$1,400	06/23/80	07/15/80
U.F.C.W.-ABC	\$1,000	09/25/80	10/08/80
U.F.C.W.-ABC	\$2,000	10/10/80	10/17/80
U.F.C.W.-ABC	\$ 600	09/29/80	10/29/80
Local 1262-ABC	\$ 500	10/01/80	10/31/80
	<u>\$5,500</u>		

1/ It should be noted that the complainant names as respondents Frank Thompson, Jr. and the individual treasurers of the Respondent committees. However, we do not make any recommendations with regard to these individuals apart from the recommendations made against the committees.

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Pursuant to 11 C.F.R. § 103.3(a), the treasurer of a political committee is responsible for depositing all receipts in the designated campaign depository. In addition, all deposits are to be made within 10 days of the treasurer's receipt. While there does appear to be a significant gap in time between the reported date of the contribution and the reported receipt date, this may be explained by the fact that, according to its reports, U.F.C.W.-ABC forwarded its contributions through its local unions rather than giving directly to the recipient. Therefore, a substantial amount of time may have passed before the treasurer of Thompson's People received the contributions in question. Pursuant to 2 U.S.C. § 432(b)(1), every person who receives a contribution for an authorized political committee shall, no later than 10 days after receiving such contribution, forward to the treasurer such contribution. However, we have no indication that the local unions did not comply with this section.

On November 1, 1982, this office received a response from Howard S. Simonoff on behalf of Local 1262 - ABC. See Attachment 1. Mr. Simonoff stated that it was the \$2,000 contribution given by the U.F.C.W.-ABC which put the committees over the limit, therefore, Local 1262-ABC did not violate the Act.

On November 4, 1982, this office received a response from Edward P. Wendel, Assistant General Counsel for the U.F.C.W. See Attachment 2. According to Mr. Wendel, the \$500 excess was

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inadvertent and, until the filing of the complaint, it was not realized that an excessive contribution had been made. In addition, he stated that a letter (copy enclosed) was sent to Thompson's People requesting a refund if more than \$5,000 had been received from the U.F.C.W.-ABC and its affiliated committees. According to Mr. Wendell, a refund of \$500 from Thompson's People would be requested. In order to avoid just this type of problem, Mr. Wendel pointed out that in 1981, the constitution of the ABC was amended so that all voluntary contributions received by the locals are forwarded to the U.F.C.W.-ABC, which is responsible for all reporting requirements.

A response was received on November 24, 1982 2/ from Thomas R. Jolly, representing Thompson's People. See Attachment 3. According to Mr. Jolly, the acceptance of the excessive contribution was inadvertant. In addition, he stated that Thompson's People terminated on or about June 30, 1981, and that \$15,017.18 in excess campaign funds was transferred to the Congressman Thompson Legal Defense Fund (the Fund). On November 29, 1982, a \$500 check from the Fund was sent to the U.F.C.W.-ABC. See Attachment 4.

2/ It should be noted that notification letters to Frank Thompson, Jr., David Friedman and Thompson's People had to be resent as the first address for each was incorrect.

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Due to the discrepancy in dates, it cannot be determined which ABC made the contribution that put both committees in violation of 2 U.S.C. § 441a. The General Counsel recommends that the Commission find reason to believe that both the U.F.C.W.-ABC and Local 1262-ABC violated 2 U.S.C. § 441a(a)(2)(A) and that Thompson's People violated 2 U.S.C. § 441a(f). However, because the money has been refunded, Thompson's People terminated over a year ago, and the U.F.C.W. has changed its procedures to avoid making excessive contributions, it is recommended that no further action be taken.

In regard to the alleged violation of 11 C.F.R. § 103.3(a) by Thompson's People treasurer David Friedman, the complainant provides no evidence that the contributions were not deposited within 10 days of receipt. Even though the time lapse for some contributions appears to have been 30 days, allowing time for mailing to the local, time for delivering to candidate's treasurer, and 10 days for treasurer's deposit, there may not have been a violation. Therefore, the General Counsel recommends that the Commission find no reason to believe that David Friedman violated 11 C.F.R. § 103.3(a).

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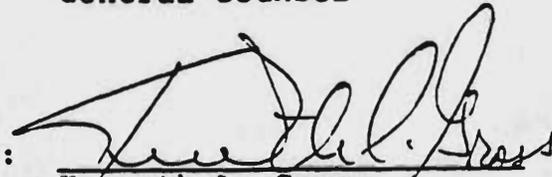
RECOMMENDATIONS

1. Find reason to believe that the United Food and Commercial Workers - Active Ballot Club and the Retail Store Employees Union Local 1262-Active Ballot Club violated 2 U.S.C. § 441a(a)(2)(A) and take no further action.
2. Find reason to believe that Thompson's People violated 2 U.S.C. § 441a(f) and take no further action.
3. Find no reason to believe that David Friedman violated 11 C.F.R. § 103.3(a).
4. Approve the attached letters.
5. Close the file.

7 December 1982
Date

Charles N. Steele
General Counsel

By:


Kenneth A. Gross
Associate General Counsel

Attachments

1. Response from Simonoff
2. Response from Wendel
3. Response from Jolly
4. Refund check
5. Proposed letters

85040312332

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Young Republican National) MUR 1319
Federation)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on March 20, 1981, the Commission decided by a vote of 6-0 to take the following actions regarding MUR 1319:

1. Find reason to believe that the Young Republican National Federation violated 2 U.S.C. §434(b)(1) as stated in 11 C.F.R. §104.12.
2. Take no further action in this matter and close the file.
3. Approve the letter attached to the First General Counsel's Report, dated March 11, 1981.

Attest:

3/20/81
Date

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

860403/2335

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

3-17-81, 6:00
3-18-81, 11:00



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 24, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Clark D. Horvath
Young Republican National Federation
310 First Street, S.E.
Washington, D.C. 20003

RE: MUR 1319

Dear Mr. Horvath:

On March 20, 1981, the Commission found reason to believe that your committee had violated 2 U.S.C. § 434 (b)(1), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and 11 C.F.R. § 104.12 in connection with the above referenced MUR. However, after considering the circumstances of this matter, the Commission has determined to take no further action and close its file. The file will be made part of the public record within 30 days. Should you wish to submit any materials to appear on the public record, please do so within 10 days.

The Commission reminds you that failure to identify the source of cash on hand nevertheless appears to be a violation of 2 U.S.C. § 434(b)(1) as stated in 11 C.F.R. § 104.12 and you should take immediate steps to ensure that this activity does not occur in the future.

A report on the Commission's finding is attached for your information.

If you have any questions, please direct them to Frances B. Hagan at 523-4057.

Sincerely,

JOHN WARREN MCGARRY
Chairman

Enclosure

3 5 0 4 0 3 7 2 3 3 4

GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

DATE March 24, 1981

MUR NO. 1319
STAFF MEMBER(S) & TEL. NO.
Frances B. Hagan
202/523-4057

RESPONDENT: Young Republican National Federation

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

SUMMARY OF ALLEGATIONS

The Young Republican National Federation ("YRNF") violated 2 U.S.C. § 434(b) and more specifically, 11 C.F.R. § 104.12 for failure to identify the source of cash on hand when the Committee initially registered as a political committee in 1976.

FACTUAL BASIS AND LEGAL ANALYSIS

During the audit of the YRNF, FEC auditors found that the Committee failed to disclose on its reports the source of cash on hand at the time of registration. The YRNF is funded by the Republican National Committee and by individual contributions obtained through direct mail solicitation.

In response to the Reports Analysis Division's Request for Additional Information ("RFAI"), the YRNF identified all but \$12,527.15 of \$37,536.18 in the Committee treasury at registration. As the remaining undocumented cash represents a significant sum of unidentified contributions, the Office of General Counsel recommended a finding of reason to believe in this matter. However, we also recommended that no further action be taken.

The YRNF acted promptly to resolve the problem when initially notified by RFAI. The Committee submitted a disclosure report which identified more than \$25,000 in previously unitemized receipts. Officials of the Committee stated to the auditors that no additional documentation could be produced for the 1976 contributions received prior to registration, but that it was unlikely that the cash on hand contained any funds from prohibited sources. In fact, the audit review of available contribution records revealed no prohibited donors. It is our opinion that the YRNF made sufficient efforts early on, with substantial results in public disclosure, and that further investigation or conciliation procedures are unwarranted in this matter.

95040572335

RECOMMENDATIONS

1. Find reason to believe that the Young Republican National Federation violated 2 U.S.C. § 434(b)(1) as stated in 11 C.F.R. § 104.12.

2. Take no further action in this matter and close the file.

35040372336

FIRST GENERAL COUNSEL'S REPORT

61 MAR 17 P 6:00

DATE AND TIME OF TRANSMITTAL
BY OGC TO THE COMMISSION 3-17-81

MUR # 1319
STAFF MEMBER(S)
Frances B. Hagan

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

RESPONDENT'S NAME: Young Republican National Federation

RELEVANT STATUTE: 2 U.S.C. § 434(b)(1)
11 C.F.R. § 104.12

INTERNAL REPORTS CHECKED:

7

FEDERAL AGENCIES CHECKED:

GENERATION OF MATTER

This matter was referred to the Office of General Counsel by the Audit Division as a result of its audit of the Young Republican National Federation.

SUMMARY OF ALLEGATIONS

The Young Republican National Federation ("YRNF") violated 2 U.S.C. § 434(b)(1) and more specifically, 11 C.F.R. § 104.12 for failure to identify the source of cash on hand when the Committee initially registered as a political committee in 1976.

FACTUAL AND LEGAL ANALYSIS

During the audit of the YRNF, FEC auditors found that the Committee failed to disclose on its reports the source of cash on hand at the time of registration. The YRNF is funded by the Republican National Committee and by individual contributions obtained through direct mail solicitation.

850403723

In response to the Reports Analysis Division's Request for Additional Information ("RFAI"), the YRNF identified all but \$12,527.15 of \$37,536.18 in the Committee treasury at registration. As the remaining undocumented cash represents a significant sum of unidentified contributions, we are recommending a finding of reason to believe in this matter. However, we are also recommending that no further action be taken.

The YRNF acted promptly to resolve the problem when initially notified by RFAI. The Committee submitted a disclosure report which identified more than \$25,000 in previously unitemized receipts. Officials of the Committee stated to the auditors that no additional documentation could be produced for the 1976 contributions received prior to registration, but that it was unlikely that the cash on hand contained any funds from prohibited sources. In fact, the audit review of available contribution records revealed no prohibited donors. It is our opinion that the YRNF made sufficient efforts early on, with substantial results in public disclosure, and that further investigation or conciliation procedures are unwarranted in this matter.

RECOMMENDATIONS

1. Find reason to believe that the Young Republican National Federation violated 2 U.S.C. § 434(b)(1) as stated in 11 C.F.R. § 104.12.
2. Take no further action in this matter and close the file.
3. Approve attached letter.

Attachments

- Audit Referral
- Letter to respondent

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1124
McLaughlin for Congress)
 Finance Committee)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on March 16, 1981 the Commission decided by a vote of 5-0 to take the following actions regarding MUR 1124:

1. Take no further action against the McLaughlin for Congress Finance Committee.
2. Approve and send the letters to the respondents as attached to the General Counsel's March 2, 1981 report.
3. CLOSE THE FILE.

Commissioners Aikens, Harris, McGarry, Thomson and Tiernan voted affirmatively in this matter.

Attest:

3-16-81
Date

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

Report Signed;	3-11-81
Received in Office of the Commission Secretary:	3-12-81, 11:02
Circulated on 48 hour vote basis:	3-12-81, 4:00

350405/2339

BEFORE THE FEDERAL ELECTION COMMISSION

March 2, 1981

12 All: 02

In the Matter of)
McLaughlin for Congress)
Finance Committee)

MUR 1124

GENERAL COUNSEL'S REPORT

I. Background/Previous Commission Action

This matter was generated by the Reports Analysis Division, after its analysis of the disclosure reports of the McLaughlin for Congress Finance Committee. After review by the Reports Analysis Division, this matter was referred to the Office of General Counsel because of the committee's failure: 1) to provide the nature of loans from the candidate to the committee, 2) to continuously report debts and obligations, and 3) to provide occupations and principal places of business of its contributors.

The Reports Analysis Division sent requests for additional information to the committee on January 6, January 30, June 1, August 24, and November 2, 1979. Reports Analysis also sent reason to believe letters on March 16, April 21 and September 13, 1979. The committee did not submit any written response to these requests, nor did it file amendments to its reports. Subsequently, the Office of General Counsel, with the Commissions' approval, sent letters and questions to John J. McLaughlin, Sr., the committee treasurer, and Michael R. McLaughlin, the candidate.

Due to lack of response by the committee, again the Office of General Counsel sent another letter to the treasurer and

360403/2340

candidate on April 15, 1980. On May 12, 1980 the Office of General Counsel received a response from the treasurer answering five questions requested by the Office of General Counsel (Attachment 1). In answering our questions, Mr. McLaughlin stated that the committee did attempt to obtain the occupations and principal place of business of contributors by calling the individuals. The committee was not able to locate or reach everyone. The treasurer did not, however, submit amendments to the committees' reports disclosing the information obtained through telephone calls.

With respect to the loans from the candidate to the committee, the treasurer states that the \$17,300 lent to the committee was from the candidate's personal funds. According to Mr. McLaughlin's letter the committee has repaid the candidate only \$5,000 so far. However, again the committee did not submit any documentation to verify this fact.

On July 3, 1980 the Office of General Counsel sent the treasurer a letter requesting, among other things, that the reports be amended to show the information obtained by the committee via telephone on those contributors of contributions in excess of \$100. In addition, it was requested that the amendments include information on the loan (including payments, balances, due date and interest rate). The Office of General Counsel also requested that the committee provide documentation that the loan funds were from the personal funds of the candidate

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and that the committee continue to file reports until the debts are forgiven or extinguished.

On October 15, 1980, the Office of General Counsel sent a letter to the treasurer of the committee. Enclosed in the letter were enclosures of copies of the receipt pages from the disclosure reports, in response to respondent's oral request for such items. The letter asked that the committee correct the omissions, describe any attempts to contact contributors, provide documentation to support the treasurer's statement that the loan came from the personal funds of Mr. McLaughlin, and continuous reporting of the debt until repaid or forgiven.

On November 7, 1980, the Office of General Counsel received a written response from the candidate providing the principal place of business and occupations of some of the names provided by the Office of General Counsel in its letter of October 15, 1980 (Attachment 2). Mr. McLaughlin stated that letters would be sent out to the individuals whose occupation and principal place of business was left blank. Such information when received would be sent to our office according the letter. Also, Mr. McLaughlin stated that he would send documentary support to show that the loans were indeed from his personal funds.

On January 5, 1981, the Office of General Counsel received another letter from the candidate (Attachment 3). This letter contained information obtained by sending letters, on the occupation and principal place of business on those individuals

860403 / 2342

not in the November 5, 1980, correspondence. In addition, Mr. McLaughlin included two photo copied checks, from his personal checking account amounting to \$17,000.^{1/}

McLaughlin for Congress Finance Committee filed an April 10, 1979 Quarterly Report and a July 10, 1979, Quarterly Report. There have been no reports filed since then.

II. Legal Analysis

2 U.S.C. § 434(b)(2) requires that each report contain:

"The full name and mailing address (occupation and the principal place of business if any) of each person who has made one or more contributions to or for such committee or candidate ... within the calender year in an aggregate amount or value in excess of \$100, together with the amount and date of such contributions; see also 11 C.F.R. 104.2(b)(2) 2/.

The failure of the McLaughlin for Congress Finance Committee to provide such information in their reports was the basis for the Commission's reason to believe finding on this issue. As noted above the committee has made numerous attempts to fully correct these omissions. (See attachments 2 and 3) The committee has obtained the required information by telephone

^{1/} These checks were barely readable due to the poor quality of the photo-copy. However, the amount and the name of the candidate is clear.

^{2/} As the alleged violations occurred before the Federal Election Campaign Act was amended on January 8, 1980, by Pub. Law 96-187, all citations to the Act and the Regulations are to the Act as it existed before amendment.

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contact and letters to those individuals who could not be reached by phone. Consequently, the majority of the omissions have been corrected.^{3/} These good faith efforts by the committee constitute reasonable compliance with the Act with regard to this issue.

2 U.S.C. § 434(b)(5) requires the disclosure of loans in excess of \$100 along with the date and amount of such loan. See also 11 C.F.R. §§ 104.2(b)(5)(i)(B) and (ii)(A). 2 U.S.C. requires the disclosure of the amount and nature of debts and obligations as well as continuous reporting until such debts are extinguished or forgiven. See also 11 C.F.R. 104.8(a).

The failure of the McLaughlin for Congress Finance Committee to provide this information, on four loans totaling \$17,300, was the basis of the Commission's reason to believe finding on these issues.

On May 20, 1980, the Office of General Counsel received from RAD an amended April 10 Quarterly Report disclosing the four loans (total 17,300) made by the candidate to the committee. The November 5, 1980 response from the candidate stated that the loan was made from the personal funds of the candidate. (See Attachment 2). Included in the December 29, 1980 response was two photocopied checks. One check was for \$10,000 and the other for \$7,000. Though the checks were barely readable,

^{3/} Omitted from correction is the October 10, 1978 Quarterly Report because the microfilm tape is illegible.

0 5 0 4 0 1 / 2 3 4 4

the amounts of the checks and the fact that they were from the personal account of the candidate Michael McLaughlin were discernable. No documentation has been received on the two other loans made by the candidate to the committee of \$100 and \$200. According to the July 10 Quarterly Report, the last report filed, \$5,000 of the loan debt has been repaid.

Therefore, excluding the two loans totalling \$300 (\$100 + \$200) which may have been a cash contribution, documentation of the nature and amount of the loans as well as amended reports of the funds in dispute has been provided by the committee. Though the committee has not continuously reported its debts until forgiven or extinguished, the fact that the loans were made from personal funds together with the committee's good faith efforts to supply information on the debt constitutes substantial compliance with the Act. Also, the committee notes in its letter of November 5, 1980, that it has not made expenditures or accepted contributions since its last reporting date (July 10). (See Attachment 2).

III. Recommendations

The Office of General Counsel recommends that the Commission:

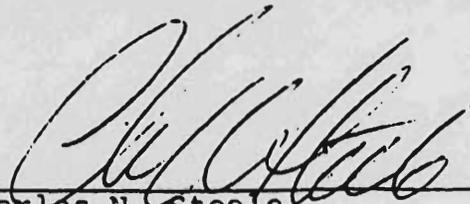
1. take no further action against the McLaughlin for Congress Finance Committee;
2. approve and send the attached letters to respondents;

850403/2345

and,

- 3. close the file.

11 March 1981
Date



Charles N. Steele
General Counsel

Attachments

- 1. Letter from Committee dated May 7, 1980.
- 2. Letter from Committee dated November 5, 1980.
- 3. Letter from Committee dated December 29, 1980.
- 4. Letter to John J. McLaughlin Sr., treasurer of McLaughlin for Congress Finance Committee.
- 5. Letter to Michael R. McLaughlin

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JOE & JOHNSON
CHARTERED
ATTORNEYS AT LAW
1330 CONNECTICUT AVENUE
WASHINGTON, D. C. 20036

STEPTOE & JOHNSON
1330 CONNECTICUT AVENUE
WASHINGTON, D. C. 20036

Chairman John W. McGarry
Federal Election Commission
1325 K Street, N. W.
Washington, D. C.

Voluntary Contributors For Better Government

A Program of Employees of International Paper Company and its Affiliates
1620 Eye St., N.W., Suite 700, Washington, D.C. 20006 (202) 785-3666

April 9, 1985

The Honorable John Warren McGarry
Chairman
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Dear Chairman McGarry:

I am writing in response to your letter of April 1, 1985, concerning the Voluntary Contributors for Better Government's delayed filing of our 1984, 12 day pre-general election report. You asked me to provide information relevant to the Commission's consideration of whether to take any further action to find probable cause that a violation has occurred.

I respectfully request that you not proceed with any further action, and I appreciate the opportunity to explain the position of the Voluntary Contributors Committee. Since its inception in 1976, the Voluntary Contributors has been scrupulous in its efforts to comply fully with the letter and spirit of the Federal Election Campaign Act of 1971. The inadvertent oversight that resulted in the delayed filing in question was apparently the result of an unfortunate confluence of unavoidable circumstances. My business obligations caused me to be out of the country for one month returning on October 22. At the same time my regular assistant was out on maternity leave, and a temporary person was doing her work. Arrangements had been made to assure the timely filing of all reports during my absence and my assistant's absence. For example, our September monthly report was filed in a timely fashion on October 22, 1984 (the 20th of October was a Saturday), signed by the assistant secretary-treasurer. Regrettably, the pre-election report was mistakenly not handled as it should have been. Between my being out of the office for the four weeks immediately preceding, the maternity leave of the woman who normally prepares the reports, and the inadvertent oversight of the alternative system that had been established to carry us through that period, we simply missed the filing deadline.

BCC #7112
MUR1941
Brown

RECEIVED
GENERAL COUNSEL
APR 9 1985
3:16

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My records show that as soon as I received your November 16 letter notifying me of the missed filing, I immediately contacted the FEC on Monday, November 19 and spoke with Mr. Anthony Raymond in the Reports Analysis Division. Mr Raymond advised me to file the October monthly report first, then to amend that report for the October 1 through 17 reporting period. Following Mr. Raymond's advice, the monthly report was mailed on the same day, November 19 and the 12-day pre-general election report was sent two days later by certified mail on November 21.

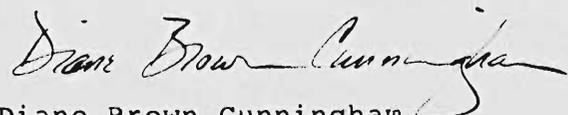
May I draw your attention to the fact that during the period covered by the report, from October 1 through 17, the committee received no contributions, and we made only \$3,200 in contributions to federal candidates (as reported in an amended filing of December 14, 1984). Without in anyway denying the public's need to know all activities of committees such as ours, may I nonetheless suggest that in this instance that need was not significantly confounded, for the \$3,200 is a relatively small amount.

I respectfully submit that the Voluntary Contributors committee be treated no less favorably than were respondents in MUR No. 1435. In that case, respondents had failed to file with the Commission a single report due January 31, 1981 pursuant to 2 U.S.C. § 434(a)(4)(A)(iv). Respondents filed their report on April 28, 1982, subsequent to notification by the Commission of their failure to file. Despite the fact that respondents' report was filed three months late -- more than three times as late as the Voluntary Contributors' report presently at issue -- and despite the fact that the Commission found reason to believe that a violation of the Code had taken place, the Commission voted to take no further action and to close the file in the case.

Although I have not made a complete review of the Commission's actions in other similar matters, I would be surprised if the Commission had ever imposed a fine in circumstances such as ours, where in nine years the only problem is a single late filing which was immediately corrected once brought to our attention. Given this and the other circumstances I have noted, I respectfully request that you not proceed with any further action.

Please let me know if there is any additional information which would be of assistance to you in consideration of this matter.

Sincerely yours,



Diane Brown Cunningham
Secretary/Treasurer

cc: Duane A. Brown

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Voluntary Contributors For Better Government

A Program of Employees of International Paper Company and its Affiliates
1620 Eye St., N.W., Suite 700, Washington, D.C. 20006 (202) 785-3666

April 9, 1985

RECEIVED
GENERAL COUNCIL
APR 9 PM 2:18

The Honorable John Warren McGarry
Chairman
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Dear Chairman McGarry:

I am writing in response to your letter of April 1, 1985, concerning the Voluntary Contributors for Better Government's delayed filing of our 1984, 12 day pre-general election report. You asked me to provide information relevant to the Commission's consideration of whether to take any further action to find probable cause that a violation has occurred.

I respectfully request that you not proceed with any further action, and I appreciate the opportunity to explain the position of the Voluntary Contributors Committee. Since its inception in 1976, the Voluntary Contributors has been scrupulous in its efforts to comply fully with the letter and spirit of the Federal Election Campaign Act of 1971. The inadvertent oversight that resulted in the delayed filing in question was apparently the result of an unfortunate confluence of unavoidable circumstances. My business obligations caused me to be out of the country for one month returning on October 22. At the same time my regular assistant was out on maternity leave, and a temporary person was doing her work. Arrangements had been made to assure the timely filing of all reports during my absence and my assistant's absence. For example, our September monthly report was filed in a timely fashion on October 22, 1984 (the 20th of October was a Saturday), signed by the assistant secretary-treasurer. Regrettably, the pre-election report was mistakenly not handled as it should have been. Between my being out of the office for the four weeks immediately preceding, the maternity leave of the woman who normally prepares the reports, and the inadvertent oversight of the alternative system that had been established to carry us through that period, we simply missed the filing deadline.

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My records show that as soon as I received your November 16 letter notifying me of the missed filing, I immediately contacted the FEC on Monday, November 19 and spoke with Mr. Anthony Raymond in the Reports Analysis Division. Mr Raymond advised me to file the October monthly report first, then to amend that report for the October 1 through 17 reporting period. Following Mr. Raymond's advice, the monthly report was mailed on the same day, November 19 and the 12-day pre-general election report was sent two days later by certified mail on November 21.

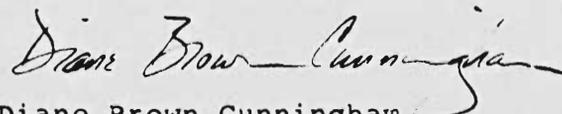
May I draw your attention to the fact that during the period covered by the report, from October 1 through 17, the committee received no contributions, and we made only \$3,200 in contributions to federal candidates (as reported in an amended filing of December 14, 1984). Without in anyway denying the public's need to know all activities of committees such as ours, may I nonetheless suggest that in this instance that need was not significantly confounded, for the \$3,200 is a relatively small amount.

I respectfully submit that the Voluntary Contributors committee be treated no less favorably than were respondents in MUR No. 1435. In that case, respondents had failed to file with the Commission a single report due January 31, 1981 pursuant to 2 U.S.C. § 434(a)(4)(A)(iv). Respondents filed their report on April 28, 1982, subsequent to notification by the Commission of their failure to file. Despite the fact that respondents' report was filed three months late -- more than three times as late as the Voluntary Contributors' report presently at issue -- and despite the fact that the Commission found reason to believe that a violation of the Code had taken place, the Commission voted to take no further action and to close the file in the case.

Although I have not made a complete review of the Commission's actions in other similar matters, I would be surprised if the Commission had ever imposed a fine in circumstances such as ours, where in nine years the only problem is a single late filing which was immediately corrected once brought to our attention. Given this and the other circumstances I have noted, I respectfully request that you not proceed with any further action.

Please let me know if there is any additional information which would be of assistance to you in consideration of this matter.

Sincerely yours,



Diane Brown Cunningham
Secretary/Treasurer

cc: Duane A. Brown

85040372351

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	
Voluntary Contributors for)	RAD Referral 85NF-34
Better Government: Employees)	
of International Paper Co.)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on March 20, 1985, the Commission decided by a vote of 5-0 to take the following actions in RAD Referral 85NF-34:

1. Open a MUR.
2. Find reason to believe Voluntary Contributors for Better Government and Diane Brown Cunningham, as treasurer, violated 2 U.S.C. §§ 434(a)(2)(A)(i) and 434(a)(4)(B).
3. Approve the letter and Factual and Legal Analysis attached to the First General Counsel's Report signed March 15, 1985.

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

Attest:

3-20-85

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

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

3-15-85, 12:30
3-18-85, 11:00

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 1, 1985

Diane Brown Cunningham, Treasurer
Voluntary Contributors for Better
Government
1620 Eye Street, N.W., #700
Washington, D.C. 20006

Re: MUR 1941
Voluntary Contributors for
Better Government
Diane Brown Cunningham, as treasurer

Dear Ms. Cunningham:

On March 20, 1985, the Federal Election Commission determined that there is reason to believe the Voluntary Contributors for Better Government and you, as treasurer, violated 2 U.S.C. §§ 434(a)(4)(B) and 434(a)(2)(A)(i), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The General Counsel's factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

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

In the absence of any additional information which demonstrates that no further action should be taken against your committee and you, as treasurer, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

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.

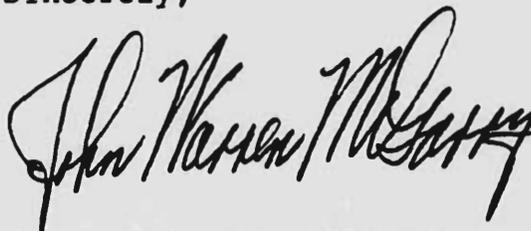
360403723

Letter to Diane Brown Cunningham
Page 2

The investigation now being conducted will be confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Duane A. Brown, the attorney assigned this matter, at (202)523-4000.

Sincerely,



John Warren McGarry
Chairman

Enclosures

General Counsel's Factual and Legal Analysis
Procedures
Designation of Counsel Statement

86040372354

FEDERAL ELECTION COMMISSION
GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 1941
STAFF MEMBER
Duane A. Brown

RESPONDENTS: Voluntary Contributions for Better Government
Employees of International Paper Co.
Diane Brown Cunningham, as treasurer

SUMMARY OF ALLEGATIONS

This matter was referred by the Reports Analysis Division ("RAD") for the respondents' failure to file the 12 Day Pre General Election Report in a timely manner.

The respondents are an unauthorized committee registered with the Commission and its treasurer. All unauthorized committees filing monthly reports were required to file the 12 Day Pre-General Election Report on October 25, 1984. All unauthorized committees were sent prior notification by the Commission on October 1, 1984 specifically informing each of this requirement. The respondents failed to file a 12 Day Pre-General Election Report and were sent a late filer notification letter on November 16, 1984. On November 23, 1984, a pre-general election report was filed by the respondents.

FACTUAL AND LEGAL ANALYSIS

2 U.S.C. § 434(a)(4)(B) states that:

All political committees other than authorized committees of a candidate shall file . . . monthly reports in all calendar years which shall be filed no later than the 20th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general election is held, a pre-general election report shall be filed in accordance with paragraph (2)(A)(i). . . .

86040372355

2 U.S.C. § 434(a)(2)(A)(i) requires a pre-election report to be filed:

[N]o later than the 12th day before (or posted by registered or certified mail no later than the 15th day before) any election . . . or nomination for election . . .

The respondents' failure to file the 12 Day Pre-General Election Report in a timely manner violates 2 U.S.C. §§ 434(a)(4)(B) and 434(a)(2)(A)(i).

The Pre-General Election Report discloses that the respondents received zero total receipts during this period. The cash on hand at the beginning of the reporting period is reportedly \$8,661.25. Total disbursements during the period were \$5,975. Inasmuch as the respondents failed to file the 12 Day Pre-General Election Report in a timely manner, this Office recommends that the Commission open a MUR and find reason to believe the respondents violated 2 U.S.C. §§ 434(a)(4)(B) and 434(a)(2)(A)(i).

3604037236



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Diane Brown Cunningham, Treasurer
Voluntary Contributors for Better
Government
1620 Eye Street, N.W., #700
Washington, D.C. 20006

Re: MUR
Voluntary Contributors for
Better Government
Diane Brown Cunningham, as treasurer

Dear Ms. Cunningham:

On March , 1985, the Federal Election Commission determined that there is reason to believe the Voluntary Contributors for Better Government and you, as treasurer, violated 2 U.S.C. §§ 434(a)(4)(B) and 434(a)(2)(A)(i), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The General Counsel's factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

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

In the absence of any additional information which demonstrates that no further action should be taken against your committee and you, as treasurer, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

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 7 2 3 5 7

Letter to Diane Brown Cunningham
Page 2

The investigation now being conducted will be confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Duane A. Brown, the attorney assigned this matter, at (202)523-4000.

Sincerely,

JWG
3/26/5

John Warren McGarry
Chairman

Enclosures

General Counsel's Factual and Legal Analysis
Procedures
Designation of Counsel Statement

2 5 0 4 0 : / 2 3 5 8

SENSITIVE

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

FIRST GENERAL COUNSEL'S REPORT

NOV 15 10:20

DATE AND TIME OF TRANSMITTAL BY OGC TO THE COMMISSION 3/15/85 RAD REFERRAL NO. 85NF-34
12:30 STAFF MEMBER: D.A. BROWN

SOURCE OF MUR: INTERNALLY GENERATED

RESPONDENTS' NAME: Voluntary Contributors for Better Government
Employees of International Paper Co.
Diane Brown Cunningham, as treasurer

RELEVANT STATUTE: 2 U.S.C. §§ 434(a)(2)(A)(i), 434(a)(4)(B)

INTERNAL REPORTS CHECKED: Respondents'

FEDERAL AGENCIES CHECKED: None

GENERATION OF MATTER

This matter was referred by the Reports Analysis Division ("RAD") for the respondents' failure to file the 12 Day Pre General Election Report in a timely manner (Attachment).

SUMMARY OF ALLEGATIONS

The respondents are an unauthorized committee registered with the Commission and its treasurer. All unauthorized committees filing monthly reports were required to file the 12 Day Pre-General Election Report on October 25, 1984. All unauthorized committees were sent prior notification by the Commission on October 1, 1984 specifically informing each of this requirement. The respondents failed to file a 12 Day Pre-General Election Report and were sent a late filer notification letter on November 16, 1984. On November 23, 1984, a pre-general election report was filed by the respondents.

350403/2359

FACTUAL AND LEGAL ANALYSIS

2 U.S.C. § 434(a)(4)(B) states that:

All political committees other than authorized committees of a candidate shall file . . . monthly reports in all calendar years which shall be filed no later than the 20th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general election is held, a pre-general election report shall be filed in accordance with paragraph (2)(A)(i). . . .

2 U.S.C. § 434(a)(2)(A)(i) requires a pre-election report to be filed:

[N]o later than the 12th day before (or posted by registered or certified mail no later than the 15th day before) any election . . . or nomination for election . . .

The respondents' failure to file the 12 Day Pre-General Election Report in a timely manner violates 2 U.S.C. §§ 434(a)(4)(B) and 434(a)(2)(A)(i).

The Pre-General Election Report discloses that the respondents received zero total receipts during this period. The cash on hand at the beginning of the reporting period is reportedly \$8,661.25. Total disbursements during the period were \$5,975. Inasmuch as the respondents failed to file the 12 Day Pre-General Election Report in a timely manner, this Office recommends that the Commission open a MUR and find reason to believe the respondents violated 2 U.S.C. §§ 434(a)(4)(B) and 434(a)(2)(A)(i).

0 5 0 4 0 3 7 2 3 6 0

RECOMMENDATION

1. Open a MUR.
2. Find reason to believe Voluntary Contributors for Better Government and Diane Brown Cunningham, as treasurer, violated 2 U.S.C. §§ 434(a)(2)(A)(i) and 434(a)(4)(B).
3. Approve attached letter and Factual and Legal Analysis.

Charles N. Steele
General Counsel

March 15, 1985
Date

By:


Kenneth A. Gross
Associate General Counsel

Attachments

- I. RAD Referral
- II. Letter to Diane Brown Cunningham
- III. Factual and Legal Analysis

35040572361



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 15, 1985

MEMORANDUM

TO: CHARLES N. STEELE
GENERAL COUNSEL

THROUGH: JOHN C. SURINA
STAFF DIRECTOR

FROM: JOHN D. GIBSON
ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION

SUBJECT: NON-FILER REFERRALS OF MONTHLY UNAUTHORIZED COMMITTEES

35040572362

In accordance with Standard 3 of the RAD Review and Referral Procedures for Unauthorized Committees, the attached list of monthly filers is being forwarded to your offices, for failing to file a report covering the pre-election period by election day.

Since the number of committees being referred is relatively large, we felt it best to arrange the information in chart format. You will note that the attached printouts list the names, addresses, and treasurers for thirty-five (35) committees with "C" Indices provided for each. Any telephonic communications have been referenced under Contacts with Filers. The Summary Pages of the late filed reports and/or explanatory letters have been referenced under Response(s).

Two committees have been deleted from the list, because they meet the expedited audit referral threshold. Should the Commission not approve to audit these committees, they will be referred to your office at a later date. The attachments for these committees have also been deleted causing two gaps in the sequence.

All unauthorized committees were sent prior notification on October 1, 1984, which specifically informed monthly filers of the requirement to file a 12 Day Pre-General Election Report by October 25, 1984 (Attachment 38). The committees, which failed to submit either a 12 Day Pre-General Report or a November Monthly Report, were sent Non-Filer Notices on November 16, 1984

1/ In some cases, the aggregate receipt and disbursement figures may be inflated because committees submitted reports covering portions of the same periods (e.g., a November Monthly covering October 1, 1984 through October 31, 1984 and a Pre-General Report covering October 1, 1984 through October 17, 1984.)

PAGE 2

(see copy of notice - Attachment 39). Certain committees (i.e., those noted with an asterisk on the attached computer printouts) were not sent Non-Filer Notices because a) a report covering the pre-election period was indexed by November 15, 1984, or b) the committee had not been assigned at the time the non-filer printout was generated.

If you have any questions, please contact Michael Filler at 523-4048.

Attachments

3 6 0 4 0 3 7 2 3 6 3

2



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 1, 1984

GENERAL ELECTION FILING NOTICE
FOR UNAUTHORIZED COMMITTEES

WHO MUST FILE THE PRE-GENERAL ELECTION REPORT

All committees that file monthly reports must file the pre-general election report due October 25, 1984.

In addition all quarterly filing committees that have made contributions or expenditures (including independent expenditures) in connection with the general election must file a pre-election report, if such activity has not previously been reported. See below for post-general filing information.

WHAT MUST BE REPORTED

The report must disclose all financial activity of the committee from the later of, the last report filed or the date of registration* through October 17, 1984. (Monthly filers must disclose all financial activity from the later of October 1 or the date of registration* through October 17, 1984.)

WHEN TO FILE

Pre-general election reports sent registered or certified mail must be postmarked no later than October 22, 1984. Reports hand delivered or mailed first class must be received no later than close of business October 25, 1984.

* * * * *

WHO MUST FILE THE POST-GENERAL ELECTION REPORT

All committees must file the post-general election report due December 6, 1984, regardless of election activity.

WHAT MUST BE REPORTED

The post-general election report must cover all financial activity of the committee from either the date of the last report filed or the date of registration, whichever is later* through November 26, 1984.

WHEN TO FILE

Post-general election reports sent by registered or certified mail must be postmarked no later than December 6, 1984. Reports hand delivered or mailed first class must be received no later than close of business December 6, 1984.

*The first report filed by a committee shall include all amounts received or disbursed prior to becoming a political committee, even if such amounts were not received during the current reporting period. See 11 CFR 104.3(a) and (b).

-over-

WHERE AND HOW TO FILE

Committees should consult the instructions on the enclosed FEC form 3X, for details.

QUARTERLY FILERS

Name of Report	Period Covered	Reg./Cert. Mailing Date	Filing Date
3rd Q-Report	07/01* - 09/30	10/15/84	10/15/84
Pre-General	10/01 - 10/17	10/22/84	10/25/84
Post-General**	10/18 - 11/26	12/06/84	12/06/84
Year-end	11/27 - 12/31	01/31/85	01/31/85

*Or from date of registration, or the close of books of the last report filed, whichever is later.

**Reports filed by committees that did not file the pre-General report should cover all financial activity from the last report filed through November 26, 1984.

* * *

MONTHLY FILERS

Name of Report	Period Covered	Reg./Cert. Mailing Date	Filing Date
Oct. Monthly	09/01 - 09/30	10/20/84	10/20/84
Pre-General	10/01 - 10/17	10/22/84	10/25/84
Post-General	10/18 - 11/26	12/06/84	12/06/84
Year-end	11/27 - 12/31	01/31/85	01/31/85

COMPLIANCE

Political committees are fully liable for failure to file any report required under the Act. Failure to file in a timely fashion is a serious violation. Committees are subject to enforcement action for late filing. Illegible reports which can not be clearly reproduced and reports submitted on non-FEC forms will not be accepted. Committees filing such documents will be required to refile.

FOR INFORMATION CALL: Office Of Public Communications
800/424-9530 or 202/523-4068

8 6 0 4 0 3 7 2 3 5 5



FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463

RQ-7

November 16, 1984

Identification Number:

Reference: 12 Day Pre-General Report (10/1/84-10/17/84)

Dear

It has come to the attention of the Federal Election Commission that you may have failed to file the above referenced Report of Receipts and Disbursements as required by the Federal Election Campaign Act. You were previously notified of the due date for this report.

It is important that you file this report immediately with the Federal Election Commission, 1325 K Street, NW, Washington, DC 20463 (or with the Clerk of the House or the Secretary of the Senate, as appropriate). A copy of the report or the relevant portions should also be filed with the Secretary of State or equivalent state officer (see 11 CFR 108.2, 108.3, 108.4).

If the report in question was filed, please submit documentation for the public record. Although the Commission may take further legal steps concerning this matter, your prompt response will be taken into consideration.

If you have any questions, please contact _____ on our toll-free number (800) 424-9530. Our local number is (202) 523-4048.

Sincerely,

John D. Gibson
Assistant Staff Director
Reports Analysis Division

3 5 0 4 0 3 7 2 3 5 0

35040672367

**VOLUNTARY CONTRIBUTORS FOR BETTER GOVERNMENT:
EMPLOYEES OF INTERNATIONAL PAPER**

(Attachments 34a - c)

2 5 FEDERAL ELECTION COMMISSION
 COMMITTEE INDEX OF DISCLOSURE REQUIREMENTS (93-84)

DATE 11JAN85
 PAGE 1

NON-PARTY RELATED

COMMITTEE	DOCUMENT	RECEIPTS	DISBURSEMENTS	TYPE OF FILER COVERAGE DATES	# OF PAGES	DISCLOSURE LOCATION
VOLUNTARY CONTRIBUTORS FOR BETTER GOVERNMENT: EMPLOYEES OF INTERNATIONAL PAPER COMPANY				NON-PARTY QUALIFIED		ID 0C00034405
CONNECTED ORGANIZATION: INTERNATIONAL PAPER CO						
1983	STATEMENT OF ORGANIZATION - AMENDMENT			17FEB83	2	83FEC/266/3796
	FEBRUARY MONTHLY	6,977	5,500	1JAN83 -31JAN83	11	83FEC/266/3797
	FEBRUARY MONTHLY - AMENDMENT	6,977	5,500	1JAN83 -31JAN83	4	84FEC/297/5073
	MARCH MONTHLY	0	3,050	1FEB83 -28FEB83	6	83FEC/268/2159
	MARCH MONTHLY - AMENDMENT	0	3,050	1FEB83 -28FEB83	3	84FEC/297/5077
	APRIL MONTHLY	12,894	3,858	1MAR83 -31MAR83	17	83FEC/269/4677
	APRIL MONTHLY - AMENDMENT	12,894	3,858	1MAR83 -31MAR83	3	84FEC/297/5080
	MAY MONTHLY	6,329	1,146	1APR83 -30APR83	14	83FEC/271/596
	MAY MONTHLY - AMENDMENT	6,329	1,146	1APR83 -30APR83	3	83FEC/273/1934
	MAY MONTHLY - AMENDMENT	6,329	1,146	1APR83 -30APR83	3	84FEC/297/5083
	MAY MONTHLY - AMENDMENT	6,329	1,646	1APR83 -30APR83	5	84FEC/315/3598
	JUNE MONTHLY	6,419	7,416	1MAY83 -31MAY83	13	83FEC/273/1937
	JUNE MONTHLY - AMENDMENT	6,419	7,416	1MAY83 -31MAY83	3	84FEC/297/5086
	JUNE MONTHLY - AMENDMENT	6,419	7,416	1MAY83 -31MAY83	4	84FEC/329/4839
	JULY MONTHLY	6,330	9,951	1JUN83 -30JUN83	18	83FEC/276/3131
	JULY MONTHLY - AMENDMENT	6,330	9,951	1JUN83 -30JUN83	3	84FEC/297/5089
	JULY MONTHLY - AMENDMENT	6,330	9,951	1JUN83 -30JUN83	3	84FEC/329/4843
	AUGUST MONTHLY	6,860	2,346	1JUL83 -31JUL83	16	83FEC/281/3095
	AUGUST MONTHLY - AMENDMENT	6,860	2,346	1JUL83 -31JUL83	2	83FEC/283/2294
	AUGUST MONTHLY - AMENDMENT	6,860	2,346	1JUL83 -31JUL83	3	84FEC/297/5092
	AUGUST MONTHLY - AMENDMENT	6,860	2,346	1JUL83 -31JUL83	3	84FEC/329/4846
	SEPTEMBER MONTHLY	6,311	4,671	1AUG83 -31AUG83	13	83FEC/283/2299
	SEPTEMBER MONTHLY - AMENDMENT	6,311	4,671	1AUG83 -31AUG83	3	84FEC/297
	SEPTEMBER MONTHLY - AMENDMENT	6,311	4,671	1AUG83 -31AUG83	3	84FEC/329
	OCTOBER MONTHLY	6,275	8,946	1SEP83 -30SEP83	17	83FEC/281
	OCTOBER MONTHLY - AMENDMENT	6,275	8,946	1SEP83 -30SEP83	3	84FEC/297
	OCTOBER MONTHLY - AMENDMENT	6,275	8,946	1SEP83 -30SEP83	3	84FEC/329
	NOVEMBER MONTHLY	6,508	11,936	1OCT83 -31OCT83	19	83FEC/281
	NOVEMBER MONTHLY - AMENDMENT	6,508	11,936	1OCT83 -31OCT83	3	84FEC/297
	NOVEMBER MONTHLY - AMENDMENT	6,508	11,936	1OCT83 -31OCT83	3	84FEC/329
	DECEMBER MONTHLY	6,325	7,536	1NOV83 -30NOV83	17	83FEC/281
	DECEMBER MONTHLY - AMENDMENT	6,325	7,536	1NOV83 -30NOV83	3	84FEC/297
	DECEMBER MONTHLY - AMENDMENT	6,325	7,536	1NOV83 -30NOV83	3	84FEC/329
	YEAR-END	6,232	1,036	1DEC83 -31DEC83	18	84FEC/297
	YEAR-END - AMENDMENT	6,232	1,036	1DEC83 -31DEC83	3	84FEC/297
	YEAR-END - AMENDMENT	6,232	1,036	1DEC83 -31DEC83	3	84FEC/311
	YEAR-END - AMENDMENT	6,232	1,036	1DEC83 -31DEC83	3	84FEC/329
1984	FEBRUARY MONTHLY	6,333	2,736	1JAN84 -31JAN84	13	84FEC/297
	FEBRUARY MONTHLY - AMENDMENT	6,333	2,736	1JAN84 -31JAN84	2	84FEC/329
	MARCH MONTHLY	6,301	2,811	1FEB84 -29FEB84	13	84FEC/297
	MARCH MONTHLY - AMENDMENT	6,301	2,811	1FEB84 -29FEB84	2	84FEC/329
	APRIL MONTHLY	6,206	1,156	1MAR84 -31MAR84	12	84FEC/311
	APRIL MONTHLY - AMENDMENT	6,206	1,406	1MAR84 -31MAR84	4	84FEC/329
	MAY MONTHLY	6,319	15,911	1APR84 -30APR84	16	84FEC/314

Attachment 34a

2 5 FEDERAL ELECTION COMMISSION 9
COMMITTEE INDEX OF DISCLOSURE DOCUMENTS - (C) (83-84)

DATE 11JAN85
PAGE 2

NON-PARTY RELATED

COMMITTEE	DOCUMENT	RECEIPTS	DISBURSEMENTS	TYPE OF FILER COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
	1 ST LETTER INFORMATIONAL NOTICE			1APR84 -30APR84	1	84FEC/327/2407
	JUNE MONTHLY	6,028	20,827	1MAY84 -31MAY84	22	84FEC/317/1476
	JULY MONTHLY	5,866	4,796	1JUN84 -30JUN84	13	84FEC/323/4387
	AUGUST MONTHLY	6,081	331	1JUL84 -31JUL84	13	84FEC/326/2268
	SEPTEMBER MONTHLY	6,754	1,688	1AUG84 -31AUG84	16	84FEC/329/0688
	OCTOBER MONTHLY	7,197	16,418	1SEP84 -30SEP84	36	84FEC/345/1306
	PRE-GENERAL	0	6,275	1OCT84 -17OCT84	8	84FEC/349/3258
	PRE-GENERAL - AMENDMENT	0	5,975	1OCT84 -17OCT84	4	84FEC/357/1101
	NOTICE OF FAILURE TO FILE			1OCT84 -17OCT84	1	84FEC/349/0575
	NOVEMBER MONTHLY	7,101	11,093	1OCT84 -31OCT84	21	84FEC/349/2699
	NOVEMBER MONTHLY - AMENDMENT	7,101	10,793	1OCT84 -31OCT84	9	84FEC/357/1092
	POST-GENERAL	7,101	7,218	18OCT84 -26NOV84	17	84FEC/352/4627
	DECEMBER MONTHLY	0	2,400	1NOV84 -30NOV84	6	84FEC/357/1721
	TOTAL	148,747	0	161,202	0	485 TOTAL PAGES
	ENDING CASH (11/30/84):	\$2,569				
	DEBTS:	\$ 0				

8

REPORT OF RECEIPTS AND DISBURSEMENTS
For a Political Committee Other Than an Authorized Committee

RECEIVED ... 11: P.M.

(Summary Page)

84 NOV 21 11:25
FALMOUTH, ALABAMA

ALION AREA

1. Name of Committee (in Full)
Voluntary Contributors for Better
Government: A Program of Employees
of International Paper

Address (Number and Street)

1520 Eye Street
Suite 700

City, State and ZIP Code

Washington, D. C. 20006

Check here if address is different than previously reported.

2. FEC Identification Number

C00034405

3. This committee qualified as a multi-candidate committee during
the Reporting Period on _____

4. TYPE OF REPORT (Check appropriate boxes)

(a) April 15 Quarterly Report October 15 Quarterly Report

July 15 Quarterly Report January 31 Year End Report

July 31 Mid Year Report (Non-Election Year Only)

Monthly Report for October

Twelfth day report preceding _____

election on _____ in the State of _____

Thirtieth day report following the General Election

on _____ in the State of _____

Termination Report

(b) Is this Report an Amendment?

YES NO

SUMMARY

5. Covering Period October 1 through October 31, 1984

6 (a) Cash on hand January 1, 19 84

(b) Cash on Hand at Beginning of Reporting Period

(c) Total Receipts (from Line 18)

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

7 Total Disbursements (from Line 28)

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

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

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

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

Diane Brown Cunningham

Type or Print Name of Treasurer

Diane Brown Cunningham

SIGNATURE OF TREASURER

11-19-84

Date

For further information contact

Federal Election Commission

Toll Free 800-424-9630

Local 202-673-4888

NOTE: Submission of false or misleading or incomplete information may subject the person signing this report to the penalties of 2 U.S.C. § 632a.

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

--	--	--	--	--	--	--	--	--	--

FEC FORM 3X (3/80)

Contributors

Better Government

Eye St., N.W., Suite 700
Washington, D.C. 20006

8 4 0 3 3

9 2 7 1 9 1

NOV 23 A



1.63

Public Records Division
Federal Election
Commission
1325 K Street, N.W.
Washington, DC 20463

CERTIFIED
P 308 652-378
MAIL

REPORT OF RECEIPTS AND DISBURSEMENTS
For a Political Committee Other Than an Authorized Committee

FEDERAL ELECTION COMMISSION

(Summary Page)

84 NOV 20 AM 10:07
ALICIA ARY

ALIGN AREA

1 Name of Committee (In Full)
Voluntary Contributors for Better
Government: A Program of Employees
of International Paper Company

Address (Number and Street)
1620 Eye Street, N. W.
Suite 700

City, State and Zip Code
Washington, D. C. 20007

Check here if address is different than previously reported

2 FEC Identification Number
C-00034405

3 This committee qualified as a multicandidate committee during
this Reporting Period on _____ Date _____

4. TYPE OF REPORT (Check appropriate boxes)

- (a) April 15 Quarterly Report October 15 Quarterly Report
- July 15 Quarterly Report January 31 Year End Report
- July 31 Mid Year Report (Non Election Year Only)
- Monthly Report for _____
- Twelfth day report preceding General Election
held on _____ in the State of _____
- Thirtieth day report following the General Election
on _____ in the State of _____
- Termination Report

(b) Is this Report an Amendment?
 YES NO

SUMMARY

5 Covering Period October 1 through October 17, 1984

6 a. Cash on hand January 1, 19 84

b. Cash on Hand at Beginning of Reporting Period

c. Total Receipts from Line 1B

d. Subtract: add Lines 6 b. and 6 c. for Column A and
Lines 6 a. and 6 c. for Column B

7 Total Disbursements from Line 2B

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

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

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

	COLUMN A This Period	COLUMN B Calendar Year-to-Date
6 a.		18,500.95
b.	\$ 8,661.25	
c.	\$ 00	\$ 57,090.58
d.	\$ 8,661.25	\$ 75,591.53
7	\$ 6,275.00	\$ 73,205.28
8	\$ 2,386.25	\$ 2,386.25
9	\$ - 0 -	
10	\$ - 0 -	

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

For further information contact:

Federal Election Commission
1111 Eye Building, Room 424
Washington, D.C. 20543
Phone: (202) 426-9530
Telex: 707 573 4088

Diane Brown Cunningham

Treasurer

Diane B. Cunningham
SIGNATURE OF TREASURER

1-20-84
Date

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

FEC FORM 3a (3-80)

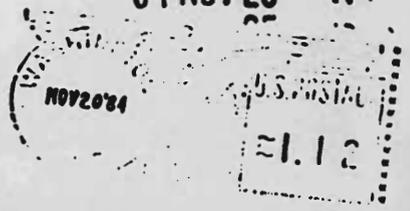
0050172372
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0050193258
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Better Government

14th St., N.W., Suite 700
Washington, D.C. 20006

9 3 2 8 5
7 2 3 7 3

81 NOV 26 All



Public Records Division
Federal Election
Commission
1325 K Street, N.W.
Washington, DC 20483

CERTIFIED
P 308 652 393
MAIL

COMMITTEE NAME AND ADDRESS

CONTACTS WITH FILERS

RESPONSE(S)

R 6 RAD 4 0 3 / 2 3 7 4

<p>TOOLING & MACHINING PAC OF THE NATIONAL TOOLING AND MACHINING ASSOCIATION TREASURER'S NAME: WILLIAM H MONTEITH SR P.O. BOX 2144 FT WASHINGTON MD 20744</p>	<p>None</p>	<p>November Monthly Report 30b received 11/15/84</p>
<p>TRUCK OPERATORS NON PARTISAN COMMITTEE OF AMERICAN TRUCKING ASSOCIATIONS TREASURER'S NAME: EUGENE I KANE 430 FIRST STREET, S.E. WASHINGTON DC 20003</p>	<p>None</p>	<p>November Monthly Report 31b- received 11/15/84 31d Letter and Pre-General Report received 11/26/84</p>
<p>TXO PAC TEXAS OIL & GAS CORP POLITICAL ACTION COMMITTEES TREASURER'S NAME: THOMAS B CARTER FIRST CITY CENTER 1700 PACIFIC AVE DALLAS TX 75201</p>	<p>None</p>	<p>Pre-General Report 32b received 11/21/84</p>
<p>VERNER, LIPIENT, BERNHARD & MCPHERSON TREASURER'S NAME: JOHN A HERRIGAN SUITE 1100, 1660 L STREET NW WASHINGTON DC 20036</p>	<p>None</p>	<p>November Monthly Report 33b received 11/19/84</p>
<p>VOLUNTARY CONTRIBUTORS FOR BETTER GOVERNMENT: EMPLOYEES OF INTERNATIONAL PAPER CO. TREASURER'S NAME: DIANE BROWN CUNNINGHAM 1620 EYE STREET, N.W., #700 WASHINGTON DC 20006</p>	<p>None</p>	<p>November Monthly Report 34b& received 11/19/84 34c Pre-General Report received 11/20/84</p>
<p>HARRAH'S POLITICAL ACTION COMMITTEE TREASURER: SAMUEL P. McMULLEN P.O. BOX 10 RENO NV 89504</p>	<p>None</p>	<p>November Monthly Report 35b& received 11/13/84 35c Pre-General Report received 11/28/84</p>
<p>WESTINGHOUSE ELECTRIC CORPORATION EMPLOYEES POLITICAL PARTICIPATION PROGRAM TREASURER'S NAME: J L VANDERMARK WESTINGHOUSE BLDG. GATEWAY CENTR. PITTSBURGH PA 15222</p>	<p>None</p>	<p>November Monthly Report 36b received 11/21/84</p>



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Diane Brown Cunningham, Treasurer
Voluntary Contributors for Better
Government
1620 Eye Street, N.W., #700
Washington, D.C. 20006

Re: MUR
Voluntary Contributors for
Better Government
Diane Brown Cunningham, as treasurer

Dear Ms. Cunningham:

On March , 1985, the Federal Election Commission determined that there is reason to believe the Voluntary Contributors for Better Government and you, as treasurer, violated 2 U.S.C. §§ 434(a)(4)(B) and 434(a)(2)(A)(i), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The General Counsel's factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

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

In the absence of any additional information which demonstrates that no further action should be taken against your committee and you, as treasurer, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

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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Letter to Diane Brown Cunningham
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The investigation now being conducted will be confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Duane A. Brown, the attorney assigned this matter, at (202)523-4000.

Sincerely,

John Warren McGarry
Chairman

Enclosures

General Counsel's Factual and Legal Analysis
Procedures
Designation of Counsel Statement

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ATTACHMENT III

FEDERAL ELECTION COMMISSION

GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. _____
STAFF MEMBER
Duane A. Brown

RESPONDENTS: Voluntary Contributions for Better Government
Employees of International Paper Co.
Diane Brown Cunningham, as treasurer

SUMMARY OF ALLEGATIONS

This matter was referred by the Reports Analysis Division ("RAD") for the respondents' failure to file the 12 Day Pre General Election Report in a timely manner.

The respondents are an unauthorized committee registered with the Commission and its treasurer. All unauthorized committees filing monthly reports were required to file the 12 Day Pre-General Election Report on October 25, 1984. All unauthorized committees were sent prior notification by the Commission on October 1, 1984 specifically informing each of this requirement. The respondents failed to file a 12 Day Pre-General Election Report and were sent a late filer notification letter on November 16, 1984. On November 23, 1984, a pre-general election report was filed by the respondents.

FACTUAL AND LEGAL ANALYSIS

2 U.S.C. § 434(a)(4)(B) states that:

All political committees other than authorized committees of a candidate shall file . . . monthly reports in all calendar years which shall be filed no later than the 20th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general election is held, a pre-general election report shall be filed in accordance with paragraph (2)(A)(i). . . .

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2 U.S.C. § 434(a)(2)(A)(i) requires a pre-election report to be filed:

[N]o later than the 12th day before (or posted by registered or certified mail no later than the 15th day before) any election . . . or nomination for election . . .

The respondents' failure to file the 12 Day Pre-General Election Report in a timely manner violates 2 U.S.C. §§ 434(a)(4)(B) and 434(a)(2)(A)(i).

The Pre-General Election Report discloses that the respondents received zero total receipts during this period. The cash on hand at the beginning of the reporting period is reportedly \$8,661.25. Total disbursements during the period were \$5,975. Inasmuch as the respondents failed to file the 12 Day Pre-General Election Report in a timely manner, this Office recommends that the Commission open a MUR and find reason to believe the respondents violated 2 U.S.C. §§ 434(a)(4)(B) and 434(a)(2)(A)(i).

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FEDERAL ELECTION COMMISSION

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

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THIS IS THE BEGINNING OF MUR # 1941

Date Filmed 3/26/86 Camera No. --- 2

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