FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

9-21-87

THE FOLLOWING MATERIAL IS BEING ADDED TO THE

PUBLIC FILE OF CLOSED MUR 2271

8704055418 0

plm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 26, 1987

Richard P. Sullivan
60 West Street, Suite 201
Annapolis, MD 21401

RE: MUR 2271

Dear Mr. Sullivan:

By letter dated April 30, 1987, the Office of the General Counsel informed you of determinations made with respect to the complaint filed by you against Louis Gurman, Gurman, Kurtis & Blask, Thomas C. McMillen, and the McMillen for Congress Committee and Bruce Hughes, as treasurer. Enclosed with that letter was the First General Counsel's Report.

Enclosed please find a Statement of Reasons adopted by the Commission explaining its decision to find no reason to believe the respondents violated the Act. This document will be placed on the public record as part of the file of MUR 2271.

If you have any questions, please contact John Drury, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
Acting General Counsel

Enclosure
Statement of Reasons

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FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

THIS IS THE BEGINNING OF MUR # 2271

DATE FILMED 10/21/87 CAMERA NO. 3

CAMERAMAN AS

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PUBLIC RECORD INDEX MUR 2271

1. Ltr, 13 Oct 86, Richard P. Sullivan (Chairman, Maryland Party) to FEC, w/atch (Complaint, dtd 10 October 86).

2. Expedited First General Counsel's Report, 22 Oct. 86.

3. Memo, 23 Oct 86 Office of General Counsel (OGC) to Office of Cmsn Secretary (OCS), Subj: MUR 2271-Expedited First G.C. Rpt.

4. Ltrs, 23 Oct 86, Lawrence M. Noble (Dep. General Counsel) to a) Thomas C. McMillen b) McMillen for Congress c) Gurman, Kurtis & Bask d) Louis Gurman.

5. Ltr, 5 Nov. 86, L.M. Noble to R. Sullivan.

6. Ltr, 10 Nov 86, Jay B. Myerson (Attorney for Louis Gurman) to FEC.

6a. Ltr, 17 Nov 86, Thomas E. Starnes (Counsel for T.C. McMillen and McMillen for Congress) to FEC.

7. Ltr, 21 Nov 86, Jay B. Myerson (Counsel for Louis Gurman and Gurman, Kurtis & Blask) to FEC.

8. Ltrs, dtd 25 Nov 86, Lois G. Lerner (Assoc. General Counsel) to: a) T. Starnes and b) J.B. Myerson.

9. Designation of Counsel, 28 Nov 86 (Carolyn U. Oliphant and Thomas Starnes designated counsel to Thomas McMillan and McMillan for Congress Cmte).

10. Ltr, 1 Dec 86, Carolyn U. Oliphant to FEC.

11. Ltr, 11 Dec 86, L. Lerner to J.B. Myerson.

12. Memo, 11 Dec 86, L. Lerner to The Commission, Subj: Request for Extension - L. Gurman and Gurman, Kurtis and Blask.

13. Certification of Commission action, 16 Dec 86.

14. Ltr, 18 Dec 86, L. Lerner to J.B. Myerson.

15. General Counsel's Report, 18 Dec 86.

16. Resp. ltr, dtd 31 Dec 86, J.B. Myerson to FEC, w/atch (Response of L. Gurman and Gurman, Kurtis and Blask).

17. General Counsel's Report, 13 APr. 87.

18. Certification of Commission action, 23 Apr 87.

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19. Clsg ltrs, dtd 8 May 86, L.M. Noble to a) R.P. Sullivan b) J.B. Myerson; c) T. Starnes.

20. Memo, 20 May 87, OCS to OGC, Subj: Statement of Reasons, MUR 2271, w/atch (Statement of Reasons).

-END-

NOTE: In preparing its file for the public record, O.G.C. routinely removes those documents in which it perceives little or no public interest, and those documents, or portions thereof, which are exempt from disclosure under the Freedom of Information Act.

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GCC# 1800

Maryland Republicans

60 West Street, Suite 201 · Annapolis, Md. 21401
(301) 263-2125 Annapolis · (301) 269-0113 Baltimore · (301) 261-1526 Washington, D.C.

86 OCT 20 A 9:

Richard P. Sullivan
Chairman

86 OCT 21 P 4: 22

October 13, 1986

Charles N. Steele, Esq.
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20004

Dear Mr. Steele:

On a Complaint filed with you on Friday, October 10, 1986, we erroneously indicated the Complainant to the Federal Election Committee to be the Bob Neall for Congress Committee.

The Bob Neall for Congress Committee is not filing this Complaint. It is being filed by Richard P. Sullivan, Chairman of the Maryland Republican Party, on behalf of the Maryland Republican Party.

Enclosed please find a corrected Complaint indicating this.

Sincerely,

Richard Sullivan

Richard P. Sullivan
State Chairman

Enclosure

Maryland Republicans

60 West Street, Suite 201 • Annapolis, Md. 21401
(301) 263-2125 Annapolis • (301) 269-0113 Baltimore • (301) 261-1526 Washington, D.C.

Richard P. Sullivan
Chairman

October 10, 1986

Charles N. Steele, Esq.
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20004

Dear Mr. Steele:

The Maryland Republican Party files this Complaint with the Federal Election Commission ("FEC") pursuant to 2 U.S.C. 441b(a) and 11 C.F.R. 114.2 against Tom McMillen ("McMillen"), the McMillen for Congress Committee, 2 Village Green, Crofton, Maryland 21114, and Gurman, Kurtis & Blask, 1730 M Street, N.W., Suite 700, Washington, D.C. 20036.

INTRODUCTION

This Complaint concerns a McMillen for Congress Committee fundraising letter signed by Louis Gurman and produced on the stationery of his law firm Gurman, Kurtis & Blask, Chartered. This law firm is a corporation, thus putting both the McMillen for Congress Committee and Gurman, Kurtis & Blask, Chartered in direct violation of federal election law. (This McMillen for Congress fundraising package is truly an illegal double dribble, since it was mailed to federal employees at their offices on federal property. The Attorney General of the United States is being asked by the enclosed letter to investigate this flagrant violation of the United States Criminal Code.)

FACTS

On Thursday, June 12, 1986, Tom McMillen, a candidate for the U.S. House of Representatives from Maryland's 4th Congressional District, distributed a fundraising package including a letter signed by Louis Gurman of Gurman, Kurtis & Blask, Chartered. The letter contained no disclaimer, and the package contained only the disclaimer "Paid for by the McMillen for Congress Committee."

The letter, produced on corporate stationery and signed by Louis Gurman, a senior member of the firm, is an invitation to a fundraising event. Mr. Gurman attempts to "enlist your support for Tom McMillen" and, in doing so, notifies the recipient that the McMillen campaign is putting on an event on Wednesday, June 18. The letter also solicits contributions on McMillen's behalf, requesting recipients to "fill out the enclosed card and return it to McMillen For Congress in the enclosed envelope."

III. VIOLATIONS

Federal election law specifically prohibits contributions or expenditures by corporations:

> It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political

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office.

2 U.S.C. 441b(a). This prohibition applies whether the contribution is in the form of money, goods or services. Neither candidates nor political committees may accept such contributions, nor may officers and directors of corporations provide consent for such contributions or expenditures to be made on the corporation's behalf. 11 C.F.R. 114.2(a)(2)(c), (d).

The McMillen for Congress Committee and Gurman, Kurtis & Blask have clearly violated federal regulations. The FEC must investigate the McMillen campaign's role in distributing this illegal corporate material. The FEC needs to determine whether the McMillen campaign and Gurman, Kurtis & Blask committed, as it appears, a knowing and willful violation of federal election laws, or whether they are just quilty of neglect.

A basic tenant of federal election law is that corporations cannot make direct contributions to federal candidates. Tom McMillen has now been caught deliberately fouling this statutory prohibition both with this law firm and with his acceptance of corporate contributions from the Washington Bullets for his nationwide fundraising trips. The FEC must investigate.

IV. CONCLUSION

The Maryland Republican Party requests that the

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FEC investigate this potential violation and enforce, as necessary, the Commission's regulations.

V. VERIFICATION

The undersigned swears that the allegations and facts set forth in this Complaint are true to the best of his knowledge, information and belief.

Richard Sullivan
Chairman, Maryland Republican Party

Subscribed and sworn to before me this 10th day of October, 1986

Julie A. Meekins
Notary Public

My Commission Expires: July 1, 1990

JULIE A. MEEKINS
NOTARY PUBLIC
ANNE ARUNDEL CO., MD.

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Maryland Republicans

60 West Street, Suite 201 · Annapolis, Md. 21401
(301) 263-2125 Annapolis · (301) 269-0113 Baltimore · (301) 261-1526 Washington, D.C.

Richard P. Sullivan
Chairman

October 10, 1986

The Honorable Edwin Meese
Attorney General of the United States
Washington, D.C. 20530

Dear Attorney General Meese:

Enclosed is a fundraising letter from the McMillen for Congress Committee to federal employees at their workplace on federal property. This letter, signed by a Washington lawyer as part of a fundraising package bearing the "McMillen for Congress" disclaimer, is a clear violation of 18 U.S.C. 602 and 18 U.S.C. 607.

By this letter, we ask that the Department of Justice investigate and prosecute this violation of the federal criminal code. The federal criminal laws are specifically crafted to stop just the sort of crass political fundraising of federal employees attempted here by the campaign of Tom McMillen, the Democrat candidate in Maryland's 4th congressional district. McMillen, a former professional basketball player, demonstrates the height of arrogance in believing he and his supporters can commit this intentional foul that hacks federal law.

<u>18 U.S.C. 602</u>

The federal criminal law is clear. Section 602 of Title 18 holds:

> It shall be unlawful for - - -
> (1) a candidate for Congress;
> ... (or)
> (3) an officer or employee of the United States or any department or agency thereof;
> (4) ... to knowingly solicit any contribution within the meaning of section 431(8) of title 2 (the Federal Election Campaign Act) from any other such officer, employee, or person.
> Any person who violates this section shall be fined not more than $5,000 or imprisoned not more than three years, or both.

As the enclosed McMillen fundraising package indicates, McMillen is a "candidate for Congress." 2 U.S.C. 602(1). The fundraising package is addressed to employees of the Federal Communications

Commission ("FCC"), who are "officer(s) or employee(s) of the United States or any department or agency thereof." 2 U.S.C. 602(3). Since the letters are addressed to the federal employees in their offices at the "Federal Communications Commission, 1919 M Street, Washington, D.C. 20554," the fundraising package under the McMillen for Congress Committee disclaimer (and containing a McMillen For Congress solicitation card and reply envelope) does "knowingly solicit" a political contribution from federal employees. 2 U.S.C. 602(4).

18 U.S.C. 607

The federal criminal law also carefully prohibits the knowing solicitation of political contributions on federal property. Section 607 holds:

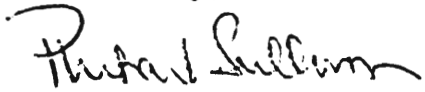
> (a) It shall be unlawful for any person to solicit ... any contribution within the meaning of section 431(8) of title 2 in any room or building occupied in the discharge of official duties by any person mentioned in section 603 ("an officer or employee of the United States or any department or agency thereof, or a person receiving any salary or compensation for services from money derived from the Treasury of the United States") .... Any person who violates this section shall be fined not more than $5,000 or imprisoned not more than three years, or both.

The McMillen fundraising package violates 18 U.S.C. 607. The letters are plainly addressed to individual FCC employees in their offices at the "Federal Communications Commission, 1919 M Street, Washington, D.C. 20554." The package includes a letter designed to "enlist your support for Tom McMillen who is the Democratic candidate for the 4th Congressional District in Maryland." It asks the federal employees to contribute to McMillen, to attend a campaign fundraising event and to fill out a solicitation card for the McMillen campaign.

It is a bit difficult to imagine a more clear-cut violation of the criminal law prohibiting the solicitation of contributions in rooms and buildings occupied in the discharge of official duties.

The enclosed package from the McMillen for Congress Committee is a flagrant foul. McMillen's campaign has decided to ignore the rules and step way out of bounds. The sanctity of the federal criminal law and fair play demand that the Department of Justice not allow the McMillen for Congress Committee to get away with this fundraising ploy.

Sincerely,



Richard P. Sullivan
State Chairman

R7040360150

GURMAN, KURTIS & BLASK
CHARTERED
SUITE 700
1730 M STREET, N.W.
WASHINGTON, D. C. 20036

(202) 822-9843
TELECOPIER: (202) 296-3406

LOUIS GURMAN
MICHAEL K. KURTIS
JEROME K. BLASK
WILLIAM D. FREEDMAN
STEVEN J. PEÑA
LON C. LEVIN

HERBERT C. HARRIS
CONSULTING ENGINEER

June 12, 1986

Mr. [redacted]
Federal Communications Commission
1919 M Street, N.W.
Room 814
Washington, D.C. 20554

Dear [redacted]:

I am writing to enlist your support for Tom McMillen who is the Democratic candidate for the 4th Congressional District in Maryland.

The McMillen campaign is putting on a "Shoot with the Stars" event from 7:00 - 9:00 p.m. on Wednesday, June 18 at Martin Gymnasium, St. Albans School (entrance by Wisconsin Avenue and Garfield Street, N.W.). If you are available, we would welcome your participation.

Please fill out the enclosed card and return it to McMillen For Congress in the enclosed envelope. Thank you for your support.

Sincerely yours,

Lou Gurman

Louis Gurman

Enclosure

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SHOOT WITH THE

ST★RS

★ ★ ★ TOM McMILLEN ★ ★ ★

★ ★ ★ ★ ★ ★ *The Pros* ★ ★ ★ ★ ★ ★

★ Dudley Bradley, Washington Bullets ★ Coach Fred Carter, Washington Bullets ★ Adrian Dantley, Utah Jazz ★ Head Coach Charles "Lefty" Driesell, University of Maryland ★ Eric "Sleepy" Floyd, Golden State Warriors ★ Frank Johnson, Washington Bullets ★ Charles Jones, Washington Bullets ★ Head Coach Kevin Loughery, Washington Bullets ★ Bill Martin, Indiana Pacers ★ Jeff Ruland, Washington Bullets ★

★ ★ ★ ★ ★ ★ *The Pols* ★ ★ ★ ★ ★ ★

★ Congressman Dave Bonior ★ Congresswoman Barbara Boxer ★ Congressman Norm Dicks ★ Congressman Tom Downey ★ Congressman George Miller ★ Congressman Marty Russo ★ Congressman Martin Sabo ★ Congressman Chuck Schumer ★ Congressman Harley Staggers ★ Congressman (and former Denver Nugget Star) Mo Udall ★

★ ★ ★ ★ ★ *The Future Pros* ★ ★ ★ ★ ★

★ Jeff Baxter, University of Maryland ★ Len Bias, University of Maryland ★ Danny Ferry, Duke University ★ Tom "Speedy" Jones, University of Maryland ★

McMillen, Democrat for Congress

Tom McMillen, Rhodes Scholar, Businessman, Community Leader, Olympian, former NBA Star, is running for Congress in Maryland's 4th District. Please join us and help Tom win this important open seat.

Authorized and paid for by McMillen for Congress
Bruce S. Hughes, Treasurer

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The "Sixth Man" Committee

Morrie Amitay
Bobby Avary
Jerry Baker
Bob Barrie
Birch Bayh
Jay Berman
Dick Berthelsen
Tom Connaughton
Susan Dahlquist
Jim Drake
David Falk
Diane Koller
Lou Gurman
Tom Hart
Bob Healy
Clarence "Buddy" James
Tom Jolly
Don Kaniewski
Bob Keefe
Janet Kelly
Sheila Kelly
Steve Koplan
Jeff Kurzweil
Ken Levine
Steve Martindale
Dawson Mathis
Marye Miller
James Molofsky
Terry O'Connell
Neil Offen
Ken Parmelee
Howard Paster
Tom Quinn
Joe Robert
Andy Sumner
Bill Scheu
Bob Schule
Dan Tate
Jeff Trammell
George Tydings
Jerry Verkler
Charlotte Voorde

The "Sixth Man" Committee
cordially invites you to

SHOOT WITH THE ST★RS

and

TOM McMILLEN
Candidate for U.S. Congress
Maryland's 4th District

on

Wednesday, June 18, 1986
7:00 - 9:00 p.m.

Martin Gymnasium
St. Albans School
Massachusetts Avenue & Garfield Street, N.W.
Washington, D.C.

R.S.V.P. Card Attached *$250 per person*
For Further Information *Work-out Clothes*
Call: 858-0233

Please Detach This Card and Return to
McMILLEN FOR CONGRESS

☐ *I will be happy to Shoot with the St★rs on Wednesday, June 18. Enclosed is my check for $_____ ($250/person).*

☐ *I will be unable to attend but enclosed is my check for $_____.*

Please make checks payable to:
McMILLEN FOR CONGRESS

(The Federal Election Commission requires the following information and prohibits corporate contributions:)

Name _____
Address _____ *Home Phone* _____
City/State/Zip _____
Occupation _____ *Business Phone* _____
Business Name & Address _____
City/State/Zip _____

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

RECEIVED
OFFICE OF THE FEC
COMMISSION SECRETARY
86 OCT 23 P3:39
SENSITIVE

EXPEDITED FIRST GENERAL COUNSEL'S REPORT

RESPONDENTS:
Thomas C. McMillen;
McMillen for Congress Committee, and Bruce Hughes, as Treasurer;
Louis Gurman;
Gurman, Kurtis & Blask

MUR NO. 2271
DATE TRANSMITTED TO COMMISSION: 10/23/86
STAFF: John Drury

COMPLAINANT: Richard P. Sullivan

SUMMARY OF ALLEGATIONS

The complainant claims that Mr. Louis Gurman - senior partner at the Washington law firm of Gurman, Kurtis and Blask, a private corporation - drafted a fundraising letter for candidate Tom McMillen on company stationery. Therefore, the complainant asserts, 1) the firm is guilty of a violation of 441b(a)'s prohibition against making corporate contributions; and 2) Mr. McMillen and the McMillen for Congress Committee are conversely guilty of violating § 441b(a) by accepting a corporate contribution. If these allegations are correct, then Louis Gurman would also be considered liable for violating § 441b by making a corporate contribution, as would Bruce Hughes, committee treasurer, by accepting the corporate contribution.

PRELIMINARY LEGAL ANALYSIS

Examination of the complaint indicates that a violation of § 441b may have occurred to the extent that Louis Gurman used corporate letterhead to solicit contributions to the McMillen for Congress Committee.

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Accordingly, the respondents must be given the opportunity to respond to the allegations before the Office of the General Counsel makes recommendations regarding this matter.

Charles N. Steele
General Counsel

Date 10/22/80

BY: Lawrence M. Noble
Deputy General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary

FROM: Office of General Counsel Rd.

DATE: October 23, 1986

SUBJECT: MUR 2271 - Expedited First General Counsel's Rpt.

The attached is submitted as an Agenda document for the Commission Meeting of _____

Open Session _____

Closed Session _____

CIRCULATIONS		DISTRIBUTION	
48 Hour Tally Vote	[ ]	Compliance	[X]
Sensitive	[ ]		
Non-Sensitive	[ ]	Audit Matters	[ ]
24 Hour No Objection	[ ]	Litigation	[ ]
Sensitive	[ ]		
Non-Sensitive	[ ]	Closed MUR Letters	[ ]
Information	[X]	Status Sheets	[ ]
Sensitive	[X]		
Non-Sensitive	[ ]	Advisory Opinions	[ ]
Other	[ ]	Other (see distribution below)	[ ]

PINK PAPER.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 23, 1986

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Mr. Thomas C. McMillen
2 Village Green
Crofton, MD 21114

RE: MUR 2271

Dear Mr. McMillen:

This letter is to notify you that on October 21, 1986, the Federal Election Commission received a complaint which alleges that you have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2271. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in connection with this matter. You may respond to the allegations within 15 days of receipt of this letter. The complaint may be dismissed by the Commission prior to receipt of the response if the alleged violations are not under the jurisdiction of the Commission or if the evidence submitted does not indicate that a violation of the Act has been committed. Should the Commission dismiss the complaint, you will be notified by mailgram. If no response is filed within the 15 day statutory requirement, the Commission may take further action based on available information.

You are encouraged to respond to this notification promptly. In order to facilitate an expeditious response to this notification, we have enclosed a pre-addressed, postage paid, special delivery envelope.

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

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

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

If you have any questions, please contact John Drury, the attorney assigned to this matter at (202) 376-8200.

Sincerely,

Charles N. Steele
General Counsel

By: Lawrence M. Noble
Deputy General Counsel

Enclosures
Complaint
Procedures
Envelope

87040560168

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 23, 1986

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

McMillen For Congress Committee
2 Village Green
Crofton, MD 21114

RE: MUR 2271

Gentlemen:

This letter is to notify you that on October 21, 1986, the Federal Election Commission received a complaint which alleges that you have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2271. Please refer to this number in all future correspondence.

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

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

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

If you have any questions, please contact John Drury, the attorney assigned to this matter at (202) 376-8200.

Sincerely,

Charles N. Steele
General Counsel

By: Lawrence M. Noble
Deputy General Counsel

Enclosures
Complaint
Procedures
Envelope

87040560170

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pelm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C 20463

October 23, 1986

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Gurman, Kurtis & Blask
1730 M Street, NW
Suite 700
Washington, DC 20036

RE: MUR 2271

Gentlemen:

This letter is to notify you that on October 21, 1986, the Federal Election Commission received a complaint which alleges that you have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2271. Please refer to this number in all future correspondence.

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

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

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

If you have any questions, please contact John Drury, the attorney assigned to this matter at (202) 376-8200.

Sincerely,

Charles N. Steele
General Counsel

By: Lawrence M. Noble
Deputy General Counsel

Enclosures
Complaint
Procedures
Envelope

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 23, 1986

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Mr. Louis Gurman
1730 M Street, NW
Suite 700
Washington, DC 20036

RE: MUR 2271

Dear Mr. Gurman:

This letter is to notify you that on October 21, 1986, the Federal Election Commission received a complaint which alleges that you have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2271. Please refer to this number in all future correspondence.

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4d

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

If you have any questions, please contact John Drury, the attorney assigned to this matter at (202) 376-8200.

Sincerely,

Charles N. Steele
General Counsel

By: Lawrence M. Noble
Deputy General Counsel

Enclosures
Complaint
Procedures
Envelope

37040560174

4d

Plm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 5, 1986

Richard Sullivan
60 West Street
Suite 201
Annapolis, MD 21401

Re: MUR 2271

Dear Mr. Sullivan:

On October 21, 1986, this Office received a copy of your complaint against the McMillen for Congress Committee et al. dated October 13, 1986. A cover letter attached to this document explained that you forwarded an identical complaint to us on October 10th, and that that complaint was erroneous in identifying the complaining party as the Bob Neall for Congress Committee. As of October 21, 1986 we were not in receipt of the October 10th complaint. However, we have since received it, note that it appears to be superceded by your October 13th complaint, and understand from your letter of 10/13/86 that you do not wish any action to be taken on the October 10th complaint. For this reason, we are returning it to you.

The matter in which your October 13th complaint is being processed has been titled MUR 2271. If you have any questions, please contact John Drury, the attorney assigned to MUR 2271, at (202) 376-8200.

Sincerely,

Charles N. Steele
General Counsel

By: Lawrence M. Noble
Deputy General Counsel

Enclosure
October 10th Complaint

8704060175

5

RECEIVED AT THE FEC
GCCH 2044
86 NOV 20 A9:

JAY B. MYERSON
ATTORNEY AT LAW

1850 CENTENNIAL PARK DRIVE
SUITE 300
RESTON, VIRGINIA 22091
(703) 476-0700

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
86 NOV 20 A10:04

November 10, 1986

Lawrence M. Noble, Esquire
Deputy General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20036

Re: MUR 2271

Dear Mr. Noble:

As I explained during a recent telephone conversation with Mr. John Drury, I represent Mr. Louis Gurman in the above-referenced matter. I would appreciate a twenty day enlargement of time within which to respond to the Complaint to provide me with an opportunity to review, investigate and respond to the allegations set forth in the complaint.

Thank you in advance for your consideration.

Very truly yours,

Jay

Jay B. Myerson

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HAND DELIVERED

MANATT, PHELPS, ROTHENBERG, TUNNEY & EVANS
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
ATTORNEYS AT LAW
1200 NEW HAMPSHIRE AVENUE, N.W.
SUITE 200
WASHINGTON, D.C. 20036
TELEPHONE (202) 463-4300

LOS ANGELES
11355 WEST OLYMPIC BOULEVARD
LOS ANGELES, CALIFORNIA 90064
(213) 312-4000

November 17, 1986

HAND DELIVERED

Lois Lerner, Esq.
Associate General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2271

Dear Ms. Lerner:

This letter is sent on behalf of Thomas C. McMillan and the McMillen for Congress Committee to request an extension of time for responding to the complaint filed with the Federal Election Commission on or about October 21, 1986, by Richard P. Sullivan on behalf of the Maryland Republican Party. Mr. McMillen and the McMillen for Congress Committee received a copy of the complaint from the Commission on or about October 27, 1986, during the last week of the campaign. Our office has reviewed the complaint and determined that more time is needed to prepare a response. In view of the fact that the knowledgeable people in Mr. McMillen's campaign staff will be out of town this week, and in light of the upcoming Thanksgiving holiday, we request that the time for responding be extended until December 2.

I discussed this matter on November 14 with John Drury, the attorney assigned by the Commission to handle this matter. He advised me to make this written request for an extension of time and apprised me that an extension until November 23 had already been granted to Gurman, Kurtis & Blask, the other party to whom the complaint was directed. Owing to the intervention of the Thanksgiving holiday, our request for an extension until December 2 would therefore add only four working days to the process.

Accordingly, we respectfully request that the Commission extend the time for Mr. McMillen and the McMillen for Congress Committee to respond to the complaint in this matter until December 2, 1986.

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RECEIVED FEC 86 NOV 18 A9:45
RECEIVED OFFICE OF THE GENERAL COUNSEL 86 NOV 18 A11:07

Thank you very much for your consideration of this matter.

Very truly yours,

Thomas E. Starnes
Manatt, Phelps, Rothenberg,
Tunney & Evans

cc: Mr. Richard P. Sullivan
John Drury, Esq.
Mr. Jerry Grant

8704060178

CCC#2401

RECEIVED AT THE FEC

86 NOV 25 P12:02

JAY B. MYERSON
ATTORNEY AT LAW

1850 CENTENNIAL PARK DRIVE
SUITE 300
RESTON, VIRGINIA 22091
(703) 476-0700

November 21, 1986

RECEIVED
GENERAL COUNSEL
86 NOV 25 P4:17

John Drury, Esquire
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2271

Dear Mr. Drury:

The Complainant's letter, dated October 13, 1986, references an earlier complaint apparently concerning the same subject matter as the instant complaint but which was "erroneously" filed in the name of the Bob Neall for Congress Committee.

I hereby request, on behalf of Louis Gurman and Gurman, Kurtis & Blask, that we be provided with copies of the initial complaint, each document filed therewith, and each document filed withdrawing or disavowing said complaint. Additionally, I hereby request that the time within which Louis Gurman and Gurman, Kurtis & Blask may respond to the instant Complaint be extended until one week after I receive copies of the requested documents.

Thank you, in advance, for your consideration of this request.

Respectfully submitted,

Jay B. Myerson

Jay B. Myerson

8704065117

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Rlm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 25, 1986

Thomas Starnes, Esquire
1200 New Hampshire Avenue
Suite 200
Washington, D.C. 20036

RE: MUR 2271
The McMillen for Congress
Committee
Thomas C. McMillen

Dear Mr. Starnes:

This is in reference to your letter dated November 17, 1986, requesting an extension of 20 days until December 2nd to respond to the Commission's letter regarding a complaint filed against your clients. After considering the circumstances presented in your letter, the Commission has determined to grant you your requested extension. Accordingly, your response will be due on December 2, 1986.

If you have any questions, please contact John Drury, the attorney assigned to this matter at (202) 376-8200.

Sincerely,

Charles N. Steele
General Counsel

Lois G. L

BY: Lois Lerner
Associate General Counsel

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plem

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 25, 1986

Jay B. Myerson, Esquire
1850 Centennial Park Drive
Suite 300
Reston, Virginia 22091

RE: MUR 2271
Louis Gurman

Dear Mr. Myerson:

This is in reference to your letter dated November 10, 1986, requesting an extension of 20 days until December 1st to respond to the Commission's letter regarding a complaint filed against your clients. After considering the circumstances presented in your letter, the Commission has determined to grant you your requested extension. Accordingly, your response will be due on December 1, 1986.

If you have any questions, please contact John Drury, the attorney assigned to this matter at (202) 376-8200.

Sincerely,

Charles N. Steele
General Counsel

BY: Lois Lerner
Associate General Counsel

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RECEIVED AT THE FEC
CCC#2125
86 NOV 28 P12:46

Lawrence M. Noble
Deputy General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Dear Mr. Noble:

This letter is to designate the following counsel to represent the McMillen for Congress Committee and C. Thomas McMillen in MUR 2271:

Carolyn U. Oliphant
2233 Wisconsin Avenue, N.W.
Suite 214
Washington, D.C. 20007

Thomas Starnes
Manatt, Phelps, Rothenberg,
Tunney & Evans
1200 New Hampshire Avenue, N.W.
Suite 200
Washington, D.C. 20036

86 DEC 1 A9:31
RECEIVED
OFFICE OF THE
GENERAL COUNSEL

Please direct all correspondence concerning this matter to both counsel.

Sincerely,

Jerry Grant
McMillen for Congress Committee

Thomas McMillen

2 Village Green
Crofton, Maryland 21114

87040601982

GCC #2155
RECEIVED AT THE FEC
HAND DELIVERED
86 DEC 2 P1:18

December 1, 1986

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

86 DEC 3 A8:27
RECEIVED
GENERAL COUNSEL

Re: MUR 2271

Dear Mr. Steele:

This letter is submitted on behalf of Thomas McMillen and the McMillen for Congress Committee in response to the complaint filed in the above-referenced matter. For the reasons set forth below, the FEC should find no reason to believe that a violation of the Act has occurred.

The complaint alleges that the Committee accepted a prohibited corporate contribution in violation of 2 U.S.C. Section 441b. In support of this allegation, the complaint encloses a copy of a Committee invitation to a fundraising event (which includes a proper disclaimer) and a personal letter from Louis Gurman which apparently forwarded a copy of the Committee's invitation. The name of the person who allegedly received this letter and invitation is deleted. On the basis of this letter, the complaint alleges that the Committee knowingly accepted a corporate contribution.

I. Facts Concerning the Fundraising Event

The fundraising event in question was held on June 18, 1986 in Washington, D.C. The campaign paid for, and properly reported, all costs related to the event, including the printing of invitations and costs of a mailing to approximately 1,000 supporters in the Washington area. The invitation and letter attached to the complaint were not mailed by the Committee.

Upon hearing about the event, Louis Gurman, a McMillen contributor and volunteer, requested additional copies of the invitation to distribute to friends and acquaintances. The Committee gave Mr. Gurman an additional 10 to 15 invitations. The campaign had no knowledge as to the identity of any individuals who may have received these invitations, nor as to the method by which Mr. Gurman distributed his invitations.

The campaign's records reflect that Mr. Gurman made a contribution of $250 to the primary campaign. In addition, he submitted a letter to the Committee reporting an in-kind contribution of $25 relating to his mailing of these invitations.

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II. Neither the McMillen Committee Nor the Candidate Accepted a Prohibited Contribution

On the basis of these facts, there is no support for any allegation that the Committee or Mr. McMillen accepted any prohibited contribution. The campaign paid in full for the printing of the invitations and for the campaign's distribution of invitations. It is common practice for a campaign to provide its supporters with additional copies of its solicitations and invitations to fundraising events. Ordinarily, volunteers distribute such materials to their friends and acquaintances and do not incur any costs in so doing. In this case, the Committee had no knowledge of the mailing of the invitations by Mr. Gurman until he reported the in-kind contribution. The cost involved was minimal, and the mailing was done on his own initiative. Such a one-time mailing of a few invitations falls squarely within the permission of 11 C.F.R. Section 114.9(a) allowing individual volunteer activity in corporate facilities.

This complaint, based on the mailing of one invitation by a volunteer to an acquaintance, is clearly frivolous and wholly without merit. For the foregoing reasons, the Commission should find no reason to believe that a violation of the Act has occurred and should dismiss this complaint.

Sincerely,

Carolyn U. Oliphant

Carolyn U. Oliphant
2233 Wisconsin Avenue, N.W.
Suite 214
Washington, D.C. 20463
202-333-4591

3704036018 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 11, 1986

Jay B. Myerson, Esquire
1850 Centennial Park Drive
Suite 300
Reston, VA 22091

Re: MUR 2271
Louis Gurman
Gurman, Kurtis & Blask

Dear Mr. Myerson:

On November 25, 1986, this office received your letter, dated November 21, 1986, in which you request a copy of an earlier complaint concerning your clients and concerning the same transaction which gave rise to MUR 2271.

Enclosed is a copy of said complaint.

You also request a copy of each document filed withdrawing or dismissing this complaint. Please note that the only such document is enclosed herein forwarded to your clients and is the October 13, 1986 cover letter to the October 10, 1986 complaint. With respect to your request for an enlargement of time to respond, this request has been placed before the Commission, and you will be notified shortly as to their disposition of it. If you have any questions, please contact John Drury, at (202) 376-8200.

Charles N. Steele
General Counsel

By: Lois Lerner
Associate General Counsel

Enclosure

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EXECUTIVE

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 11, 1986

86 DEC 11 P5:06

MEMORANDUM

TO: The Commission

FROM: Charles N. Steele
General Counsel

By: Lois Lerner
Associate General Counsel

SUBJECT: Request for Extension
MUR # 2271
Louis Gurman
Gurman, Kurtis, & Blask

By letter of November 21, 1986, the respondents requested an extension of seven days in which to respond to the Commission's notification that a complaint was filed against them in MUR 2271. (See Attachment I). The letter explains that an extension is necessary because the respondents require sufficient time to frame a response after receiving from this office a copy of an earlier complaint identical in every way to the one which gave rise to this MUR except for the identity of the complaining party. Because the Office of General Counsel has already granted these respondents a twenty day extension, it is necessary to present this request to the Commission.

The Office of General Counsel recommends that the Commission grant the requested extension so that the respondents can satisfy themselves that they are in possession of all documents pertinent to this matter.

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RECOMMENDATIONS

1. Grant Louis Gurman and Burman, Kurtis & Blask the requested extension of seven days in which to respond to the Commission's notification that a complaint has been filed against them in MUR 2271.

2. Approve and send the attached letter.

Attachments
1. Request for Extension
2. Letter

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2271
Louis Gurman	)	
Gurman, Kurtis & Blask	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on December 16, 1986, the Commission decided by a vote of 6-0 to take the following actions in MUR 2271:

1. Grant Louis Gurman and Burman, Kurtis & Blask the requested extension of seven days in which to respond to the Commission's notification that a compliant has been filed against them in MUR 2271, as recommended in the General Counsel's Memorandum to the Commission dated December 11, 1986.

2. Approve and send the letter, as recommended in the General Counsel's Memorandum to the Commission dated December 11, 1986.

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

Attest:

12-16-86

Date

Marjorie W. Emmons
Secretary of the Commission

Received in Office of Commission Secretary:	Thurs.,	12-11-86,	5:05
Circulated on 48 hour tally basis:	Fri.,	12-12-86,	2:00
Deadline for vote:	Tues.,	12-16-86,	4:00

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Plm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 18, 1986

Jay B. Myerson, Esquire
1850 Centennial Park Drive
Suite 300
Reston, VA 22091

Re: MUR 2271
Louis Gurman
Gurman, Kurtis & Blask

Dear Mr. Myerson:

This is in reference to your letter dated November 21, 1986, requesting an extension of seven days to respond to the Commission's notification that a complaint has been filed against your clients in MUR 2271. After considering the circumstances presented in your letter, the Commission has determined to grant you your requested extension. Accordingly, your response will be due on January 5, 1987.

If you have any questions, please contact John Drury, the attorney assigned to this matter, at (202) 376-8200.

Charles N. Steele
General Counsel

By: Lois G. Lerner
Associate General Counsel

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14

SENSITIVE

FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL BY OGC TO THE COMMISSION _____

MUR 2271
Staff Member: John Drury

RESPONDENTS' NAMES: Louis Gurman;
Gurman, Kurtis & Blask
Thomas C. McMillen;
McMillen for Congress Committee,
and Bruce Hughes, as Treasurer

RELEVANT STATUTE: 2 U.S.C. § 441b(a)

INTERNAL REPORTS CHECKED: None

FEDERAL AGENCIES CHECKED: None

GENERATION OF MATTER

The Reports Analysis Division referred this matter to the Office of the General Counsel on October 22, 1986.

SUMMARY OF ALLEGATIONS

The complainant claims that Mr. Louis Gurman - senior partner at the Washington law firm of Gurman, Kurtis & Blask, a private corporation - drafted a fundraising letter for then-candidate Tom McMillen on company stationery. Therefore, the complainant asserts, 1) the firm is guilty of a violation of 2 U.S.C. § 441b(a)'s prohibition against making corporate contributions, and 2) Mr. McMillen and the McMillen for Congress Committee are guilty of violating § 441b(a) by accepting a corporate contribution. If these allegations are correct, then Louis Gurman would also be considered liable for violating § 441b by making a corporate contribution, as would Bruce Hughes,

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committee treasurer, by accepting the corporate contribution.

On October 23, 1986, this Office forwarded an Expedited First General Counsel's Report to the Commission. On that same day, this Office mailed a copy of the complaint to the respondents.

In a telephone conversation on or about October 31, 1986, counsel for Louis Gurman and the firm of Gurman, Kurtis & Blask requested an extension of twenty days to December 1 to respond to the complaint because of the length of time it took the complaint to reach his clients. The attorney to whom MUR 2271 is assigned informed counsel that such a request would have to be made in writing. This Office received this written request on November 20, 1986. On November 25, 1986, this Office sent counsel a letter granting the requested extension.

Counsel became aware of the existence of a prior complaint which had not been sent out because the latter complaint superseded it. On November 25, 1986, this Office received a letter from counsel requesting a copy of the prior complaint as well as a seven day enlargement of time in which to examine and investigate the document. On December 11, 1986, this Office forwarded a copy of the complaint to counsel. In addition, it sent a memorandum to the Commission concerning counsel's request for the additional seven days, which in combination with the former request exceeded twenty days and thus required Commission

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action.

Counsel maintains that it has taken approximately a week for correspondence to travel between the respondents and the Commission in this matter. Therefore, it is likely that counsel for Louis Gurman and Gurman, Kurtis, & Blask will receive a copy of the original complaint on or about December 18, 1986. With the addition of the seven day extension and seven days in transit, this Office expects to receive these respondents' reply shortly after January 1, 1987.

With respect to the remaining respondents, counsel for Thomas McMillen and the McMillen for Congress Committee stated that they received the complaint in late October. On or about November 14, 1986, counsel requested an extension until December 2, 1986. Counsel made this request in a telephone conference, during which this Office suggested the request be put in writing.

On November 18, 1986, the Office of the General Counsel received a written request for an extension. Because the requested extension was within the discretionary period of twenty days, and because of the apparent delay of the mails and the temporary absence of those knowledgeable of the facts pertinent to the matter, this Office granted the requested extension. On December 3, 1986, this Office received a written response from these respondents.

2704060192

This Office will forward a General Counsel's Report with analysis and recommendations shortly after receiving the outstanding response from Louis Gurman and Gurman, Kurtis & Blask.

Charles N. Steele
General Counsel

12/18/86
Date

By: Lois G. Lerner
Lois G. Lerner
Associate General Counsel

87040561193

GC # 2389

JAY B. MYERSON
ATTORNEY AT LAW

1850 CENTENNIAL PARK DRIVE
SUITE 300
RESTON, VIRGINIA 22091
(703) 476-0700

86 DEC 31 P 5:52
87 JAN 2 A 10:55

December 31, 1986

John Drury, Esquire
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2271

Dear Mr. Drury:

Enclosed herewith for filing is Louis Gurman's and Gurman, Kurtis & Blask's Answer to the Complaint in the above-referenced matter.

Please let me know if you have any questions.

Very truly yours,

Jay B. Myerson

Jay B. Myerson

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GC# 2389

FEDERAL ELECTION COMMISSION 87 AUG 18 AM 10:59

In the Matter of	:	
	:	
Louis Gurman	:	MUR 2271
and	:	
Gurman, Kurtis & Blask	:	

COME NOW Louis Gurman and Gurman, Kurtis & Blask, and hereby file their Answer to the Complaint in the above-referenced matter.

The instant matter was initiated by a Complaint[1] alleging that Louis Gurman and Gurman, Kurtis & Blask had violated the prohibition against corporations making contributions in connection with a federal election. As is hereinafter demonstrated, the conduct which is the basis of this complaint does not violate the Federal Election Campaign Act of 1971, as amended ("the Act"), and is permitted by 11 C.F.R. Section 114.9(a) of the Commission's regulations as occasional, isolated

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1 The Complaint was initially filed by the Bob Neall for Congress Committee. Subsequently, the Federal Election Commission was advised that the Bob Neall for Congress Committee was not the Complainant and that the Maryland Republican Party would be the Complainant.

The obvious refusal of the Bob Neall for Congress Committee to be the Complainant is understandable. The tone of the Complaint (e.g., "an illegal double dribble") clearly reflects that even its author failed to take it seriously. Further, as is hereinafter demonstrated, the conduct which is the subject matter of the Complaint clearly was permissable under the Act and the Commission's regulations (See 11 C.F.R. section 114.9).

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or incidental use of the facilities of a corporation.[2]

STATEMENT OF THE CASE

Gurman, Kurtis & Blask is a professional corporation organized under the laws of the District of Columbia. Louis Gurman is one of the owners of the firm and is employed thereby as an attorney (Affidavit of Louis Gurman ["Gurman Affidavit"] at para. 1).

On or about June 12, 1986, Louis Gurman, who was a member of the McMillen for Congress Committee, learned that the McMillen for Congress Committee was sponsoring a "Shoot with the Stars" event at which a number of basketball celebrities would be present (Gurman Affidavit, para. 2).

Mr. Gurman enjoys basketball and thought this would be a unique and enjoyable opportunity for basketball fans. Mr. Gurman sent a form letter to nine people whom he thought would also like to participate in this event. Mr. Gurman enclosed a flyer prepared by the campaign committee announcing the event. The Firm and the other directors and owners of the Firm did not

---

2 Although the Complainant asserted that there was no disclaimer disclosing who paid for the Gurman letter, the Complainant did not allege this to be a violation of the Act and accordingly we believe that this is not before the Commission. Further, we note that a disclaimer was not required for the Gurman letter since Mr. Gurman sent the letter to only nine people (Affidavit of Louis Gurman, Exhibit 1 hereto, at para. 3) and clearly such a distribution did not constitute a communication through the "public media", nor was it a "direct mailing" or any other form of "general public political advertising." See, for example, Matter of Pete Geren for Congress Committee, MUR 2217, General Counsel's Report dated October 3, 1986 at 7-8.

authorize or join in this communication (Gurman Affidavit, paras. 3-4).

The preparation and mailing of this letter involved less than one hour of time. It did not prevent the completion of the normal amount of work usually carried out during a work day and did not interfere with the firm carrying out its normal activities (Gurman Affidavit at para. 5).

Although he was not required to do so, Mr. Gurman reimbursed the Firm for the de minimus cost of the stationery, postage and secretarial assistance for this incidental use of the firm's facilities (Gurman Affidavit at para. 6).

DISCUSSION

Section 114.9(a) provides:

> (a) Use of Corporate Facilities for Individual Volunteer Activity by Stockholders and Employees.-(1) Stockholders and employees of the corporation may, subject to the rules and practices of the corporation, make occasional, isolated, or incidental use of the facilities of a corporation for individual volunteer activity in connection with a Federal election and will be required to reimburse the corporation only to the extent that the overhead or operating costs of the corporation are increased. As used in this section, occasional, isolated, or incidental use generally means--
>
> (i) when used by employees during working hours, an amount of activity during any particular work period which does not prevent the employee from completing the normal amount of work which that employee usually carries out during such work period; or
>
> (ii) when used by stockholders other than employees during the working period, such use does not interfere with the corporation in carrying out its normal activities; but

(iii) any such activity which does not exceed one hour per week or four hours per month, regardless of whether the activity is undertaken during or after normal working hours shall be considered as occasional, isolated, or incidental use of the corporate facilities."

Here, the conduct complained of was clearly permitted as occasional, isolated or incidental usage of the facilities of a corporation in connection with a federal election .

Louis Gurman, as a stockholder and employee of the Firm, was clearly acting within the exception for occasional, isolated or incidental use of corporate facilities provision of the Commission's regulations.

Louis Gurman was an individual volunteer who wished to send a form letter to nine people to inform them of the McMillen event. The total time used for this activity was less than one hour. As such, this activity "shall be considered as [an] occasional, isolated, or incidental use of the corporate facilities." Additionally, we note that in this instance the activity did not prevent completion of the normal amount of work usually carried out during a workday and did not interfere with the firm carrying out its normal activities. Accordingly, there is no reason to believe that the Act has been violated.

Finally, we note that although reimbursement was not required, Mr. Gurman has reimbursed the Firm for the de minimus costs associated with this activity, said costs aggregating less than $25.00 (Gurman Affidavit, para. 6).

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WHEREFORE, Louis Gurman and Gurman, Kurtis & Blask, Chartered, request:

1. that the Commission determine that there is no reason to believe the Act has been violated; and

2. that the Commission close the file.

Respectfully submitted,

Jay B. Myerson

Jay B. Myerson

3704066019

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FEDERAL ELECTION COMMISSION

In the Matter of	:	
	:	
Louis Gurman	:	MUR 2271
and	:	
Gurman, Kurtis & Blask	:	

AFFIDAVIT OF LOUIS GURMAN

I, Louis Gurman, being first duly sworn, hereby depose and state as follows on personal knowledge:

1. I am a stockholder and employee of the law firm of Gurman, Kurtis & Blask.

2. On or about June 12, 1986, I learned that the McMillen for Congress Committee was sponsoring a "Shoot with the Stars" event at which a number of basketball celebrities would be present.

3. I enjoy basketball and thought this would be a unique and enjoyable opportunity for basketball fans. I sent a form letter to nine people whom I thought would also like to participate in this event. I enclosed a flyer prepared by the campaign committee announcing the event.

4. The Firm and the other owners and directors of the Firm did not authorize or join in this communication.

5. In all, the preparation and mailing of the nine letters involved less than one hour of time, did not prevent the completion of the normal amount of work usually carried out during a work day and did not interfere with the firm carrying out its normal activities.

6. Although I was not required to do so, I reimbursed the firm for the de minimus cost of the stationery, postage and secretarial assistance for this incidental use of the firm's facilities, said costs aggregating less than $25.00.

Louis Gurman

Louis Gurman

Subscribed and sworn to before me this 22nd day of December, 1986. My commission expires June 14, 1990.

Catherine M. Seymour

Notary Public

8704065020

SENSITIVE

87 APR 13 P4:51

FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL BY OGC TO THE COMMISSION _____

MUR 2271
Staff Member: John Drury

COMPLAINANT'S NAME: Richard P. Sullivan, Chairman
Maryland Republican Party

RESPONDENTS' NAMES: Thomas C. McMillen;
McMillen for Congress Committee and
Bruce Hughes, as treasurer
Louis Gurman;
Gurman, Kurtis & Blask

RELEVANT STATUTES: 2 U.S.C. § 441b(a)
2 U.S.C. § 441d
11 C.F.R. § 114.9(a)
11 C.F.R. § 114.2(a)(2)(c) - (d)

BACKGROUND

On October 22, 1986, this Office forwarded the First General Counsel's Report on MUR 2271 to the Commission. This Office indicated in that report that no recommendations could be made until the respondents' replies to the complaint were examined. On December 2, 1986, counsel for Tom McMillen and McMillen for Congress filed a response. On January 2, 1987, the Commission received a reply from counsel for Louis Gurman and Gurman, Kurtis & Blask.

SUMMARY OF ALLEGATIONS

The complainant asserts that Louis Gurman signed a letter produced on the law firm stationery of Gurman, Kurtis & Blask (a professional corporation) and that this letter invited recipients to a fundraising event to be held on behalf of Tom McMillen. The complainant alleges that the law firm has thereby made an illegal

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corporate contribution, and that the committee has violated the Act by accepting the contribution.

FACTUAL AND LEGAL ANALYSIS

1. Corporate Contribution

Pursuant to 2 U.S.C. § 441b(a), it is unlawful for any corporation to make a contribution or expenditure in connection with any election. Pursuant to 11 C.F.R. § 114.9(a), stockholders and employees of a corporation may make "occasional, isolated, or incidental use" of the facilities of a corporation for individual volunteer activity in connection with a Federal election and will be required to reimburse the corporation only to the extent that the overhead or operating costs of the corporation are increased.

Counsel for Louis Gurman and Gurman, Kurtis & Blask states that Mr. Gurman sent a form letter to nine people inviting them to a fundraising event held to benefit Tom McMillen. According to Louis Gurman, "[t]he preparation and making of this letter involved less than one hour of time." Pursuant to Section 114.9(a)(1)(iii), "occasional, isolated, or incidental use" includes any activity which occupies one hour per week or less of the individual's time.

Pursuant to Section 114.9(a)(1)(i), "occasional, isolated, or incidental use" by an employee includes "an amount of activity during any particular work period which does not prevent the employee from completing the normal amount of work which that employee usually carries out during such work period." The respondent states, "The preparation and mailing of this letter . . . did not prevent the completion of the normal amount of work

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usually carried out during a work day. . . ." (Attachment II, pp. 4,8).

According to his affidavit, Gurman reimbursed the company for costs which he estimated at $25. He asserts that his use of corporate facilities by employing company stationery was occasional, isolated, or incidental use, that such use is permitted under the regulations, and hence neither he nor the corporation has violated the Act. (Attachment I, pp. 5,7)

The problem with this argument is that while Section 114.9(a) allows an individual to engage in volunteer activity, it does not permit that individual to direct other employees in the company to assist him in conducting campaign activity. This is confirmed by examination of both the prefatory language of that section and the statute itself, which speak of "individual volunteer activity." Yet, Louis Gurman's reply refers to the assistance of a secretary in conducting this task. (Attachment II, pp. 4, 7). This falls outside individual volunteer activity.

In effect, by employing a company secretary to assist him, Mr. Gurman converted permissible volunteer activity into a contribution in-kind by Gurman, Kurtis & Blask to the McMillen committee. It does not matter that the other members of the firm were unaware of Gurman's actions. As an owner and partner of the firm, Mr. Gurman had the authority to act on behalf of the corporation. Thus, Mr. Gurman's activity became the firm's activity.

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Pursuant to 2 U.S.C. § 431(8)(A)(i), a contribution includes anything of value, and the company letter was of value to the McMillen committee, since it solicited contributions. Thus, it appears that the corporation gave a contribution to the committee. However, pursuant to 2 U.S.C. § 441b(a), a corporation may not contribute to a candidate's political committee. Therefore, it appears that Gurman, Kurtis & Blask is in violation of 2 U.S.C. § 441b(a). That section, as well as 11 C.F.R. § 114.2(a)(2)(d), provides that no director or officer of a corporation may consent to his or her firm giving a contribution to a federal candidate. Louis Gurman is an owner and, according to the name of the law firm, among the partners of the corporation. Hence, it is reasonable to conclude that Mr. Gurman is a director or officer of Gurman, Kurtis & Blask. For this reason, it appears that he has violated Section 441b(a). Given the small apparent value of this contribution, however, the Office of General Counsel recommends that the Commission take no further action with regard to these Section 441b(a) violations.

2. Making and Accepting a Corporate Contribution

Pursuant to 2 U.S.C. § 431(8)(A), the term "contribution" includes any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.

Louis Gurman was a member of the McMillen for Congress Committee at the time of the activity in question. He approached the committee and requested and received ten to fifteen copies of

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the McMillen solicitation materials. (Attachment III, p. 1). It is reasonable to assume that in so doing, he gave the committee an indication of his intention to use the surplus materials for fundraising purposes. The committee claims that it was completely unaware of what Mr. Gurman was undertaking on behalf of the candidate. However, given Mr. Gurman's affiliation with the committee and the probable circumstances surrounding his request for the solicitation material, such a claim does not alter the status of Mr. Gurman's payment as an in-kind contribution.

Thus, it appears that Mr. Gurman solicited funds with the knowledge, authorization, and cooperation of the committee staff. His payment for the expenses for this solicitation constituted an advance to the committee. For these reasons, it appears that the committee is in violation of 2 U.S.C. § 441b(a) by knowingly accepting a corporate contribution. Again, given the small size of the contribution the Office of General Counsel recommends that the Commission take no further action and close the file with respect to the committee.

Although it appears that the corporation, Mr. Gurman, and the committee have violated § 441b(a), there is no evidence to suggest that candidate Tom McMillen was involved in the circumstances of this matter. Hence, this Office recommends that the Commission find no reason to believe that Tom McMillen violated § 441b(a).

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3. Lack of Disclaimer

The complainant asserts that the letter in question lacked the proper disclaimer. Pursuant to 2 U.S.C. § 441d, whenever any person solicits any contribution through direct mailing, such communication shall bear one of the disclaimers set forth at § 441d(a)(1-3). Mr. Gurman stated he sent the solicitation letters to nine persons whom he thought would like to participate. This limited solicitation does not appear to be a direct mailing for purposes of the Act. Similarly, in MUR 2217, a mailing by an individual to five acquaintances was deemed not to be a "Direct Mailing" or other type of "General Public Political Advertising" for purposes of 2 U.S.C. § 441d(a). Accordingly, this Office recommends that the Commission find no reason to believe Louis Gurman violated 2 U.S.C. § 441d.

RECOMMENDATIONS

1. Find reason to believe Gurman, Kurtis & Blask violated 2 U.S.C. § 441b(a) but take no further action.
2. Find reason to believe Louis Gurman violated 2 U.S.C. § 441b(a) but take no further action.
3. Find reason to believe the McMillen for Congress Committee and Bruce Hughes, as treasurer, violated 2 U.S.C. § 441b(a) but take no further action and close the file as it pertains to these respondents.
4. Find no reason to believe Louis Gurman violated 2 U.S.C. § 441d.

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5. Find no reason to believe Thomas C. McMillen violated 2 U.S.C. § 441b(a).

6. Approve the attached letters.

7. Close the file.

Date 4/17/87

Lawrence M. Noble
Acting General Counsel

Attachments
I. Complaint
II. Reply of Louis Gurman and Gurman, Kurtis & Blask
III. Reply of Thomas C. McMillen, the McMillen for Congress Committee and Bruce Hughes, treasurer
IV. Proposed Letters [3]

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Thomas C. McMillen	)	
McMillen for Congress Committee	)	MUR 2271
and Bruce Hughes, as treasurer	)	
Louis Gurman	)	
Gurman, Kurtis & Blask	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of April 22, 1987, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 2271:

1. Find no reason to believe Gurman, Kurtis & Blask violated 2 U.S.C. § 441b(a).

2. Find no reason to believe Louis Gurman violated 2 U.S.C. § 441b(a).

3. Find no reason to believe the McMillen for Congress Committee and Bruce Hughes, as treasurer, violated 2 U.S.C. § 441b(a).

4. Find no reason to believe Louis Gurman violated 2 U.S.C. § 441d.

5. Find no reason to believe Thomas C. McMillen violated 2 U.S.C. § 441b(a).

(continued)

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6. Close the file.

7. Direct the Office of General Counsel to send appropriate letters pursuant to the above actions.

Commissioners Aikens, Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision.

Attest:

4-23-87
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 8, 1987

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Richard P. Sullivan
60 West Street, Suite 201
Annapolis, MD 21401

RE: MUR 2271

Dear Mr. Sullivan:

On April 22, 1987, the Federal Election Commission reviewed the allegations of your complaint dated October 20, 1987 and found that on the basis of the information provided in your complaint and information provided by Louis Gurman, Gurman, Kurtis & Blask, the McMillen for Congress Committee and Bruce Hughes, as treasurer, and Thomas C. McMillen ("the respondents"), there is no reason to believe that any of the respondents violated 2 U.S.C. § 441b, and no reason to believe that Louis Gurman violated 2 U.S.C. § 441d. Accordingly, on April 22, 1987 the Commission closed the file in this matter. The Federal Election Campaign Act of 1971, as amended ("the Act") allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

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

Sincerely,

Lawrence M. Noble
Acting General Counsel

Attachment
General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 8, 1987

Jay B. Myerson, Esquire
1850 Centennial Park Drive
Suite 300
Reston, VA 20091

RE: MUR 2271
Louis Gurman
Gurman, Kurtis & Blask

Dear Mr. Myerson:

On October 23, 1986, the Federal Election Commission notified your clients of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On April 22, 1987, the Commission found, on the basis of the information in the complaint, and information provided by you, that there is no reason to believe Louis Gurman violated 2 U.S.C. §§ 441b or 441d, or that Gurman, Kurtis & Black violated 2 U.S.C. § 441b. Accordingly, the Commission closed its file in this matter.

This matter will become a part of the public record within 30 days. If you wish to submit any materials to appear on the public record, please do so within ten days. Please send such materials to the Office of the General Counsel.

Sincerely,

Lawrence M. Noble
Acting General Counsel

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 8, 1987

Thomas Starnes, Esquire
1200 New Hampshire Avenue, N.W.
Suite 200
Washington, D.C. 20036

RE: MUR 2271
McMillen for Congress Committee
Bruce Hughes, as treasurer
Thomas C. McMillen

Dear Mr. Starnes:

On October 23, 1986, the Federal Election Commission notified your clients of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On April 22, 1987, the Commission found, on the basis of the information in the complaint, and information provided by you, that there is no reason to believe your clients violated 2 U.S.C. § 441b. Accordingly, the Commission closed its file in this matter.

This matter will become a part of the public record within 30 days. If you wish to submit any materials to appear on the public record, please do so within ten days. Please send such materials to the Office of the General Counsel.

Sincerely,

Lawrence M. Noble
Acting General Counsel

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: LARRY NOBLE
ACTING GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JOSHUA MCFADDEN

DATE: MAY 20, 1987

SUBJECT: STATEMENT OF REASONS: MUR 2271

Transmitted herewith is the completed Statement of Reasons for MUR 2271.

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FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Thomas C. McMillen	)	
McMillen for Congress Committee	)	MUR 2271
and Bruce Hughes, as treasurer	)	
Louis Gurman	)	
Gurman, Kurtis & Blask	)	

STATEMENT OF REASONS

On April 22, 1987, the Federal Election Commission rejected the office of the General Counsel's recommendations to find reason to believe that Louis Gurman, Gurman, Kurtis & Blask and the McMillen for Congress Committee and Bruce Hughes, as treasurer, violated 2 U.S.C. §441b(a).

The Commission noted that Mr. Gurman reimbursed the corporation for the use of the stationery, postage and secretarial assistance, and that the reimbursements made by Mr. Gurman were properly reported as an in-kind contribution. Accordingly, the Commission determined that Mr. Gurman made a permissible in-kind contribution to the McMillen for Congress Committee. Since, in fact, the corporation was reimbursed for secretarial services, the Commission did not reach the issue of whether such reimbursement would be required.

Since the contribution by Mr. Gurman was permissible under Commission regulations, the Commission found no reason to believe that the firm of Gurman, Kurtis, and Blask made a prohibited in-kind contribution to the McMillen for Congress Committee, and found no reason to believe Thomas C.McMillen or the McMillen for Congress Committee, and Bruce Hughes as treasurer, accepted a prohibited in-kind contribution from Gurman, Kurtis and Blask. See 2 U.S.C. §441b.

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5/20/87
Date

Scott E. Thomas,
Chairman

5/20/87
Date

Thomas J. Josefiak,
Vice Chairman

5/20/87
Date

Joan D. Aikens,
Commissioner

5/20/87
Date

Lee Ann Elliott,
Commissioner

5/20/87
Date

Danny Lee McDonald,
Commissioner

5/20/87
Date

John Warren McGarry,
Commissioner

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 2271

DATE FILMED 10/21/87 CAMERA NO. 3

CAMERAMAN AS

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