FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 2287

DATE FILMED 5/28/87 CAMERA NO. 2

CAMERAMAN AS

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PUBLIC RECORD INDEX - MUR 2287

1. Complaint, dtd 28 Oct 86, w/encl, submitted by John L. Myers, Chmn, Daviess County Republican Cmtee.

2. Memo, dtd 7 Nov 86, M. Emmons to Commission, Subject: MUR 2287 - Complaint.

3. Ltr, dtd 10 Nov 86, Lois G. Lerner (FEC) to Denny Hughes (Housing Mgr, Purdue-Shenandoah Valley Farms).

4. Ltr, dtd 10 Nov 86, L.G. Lerner to Betty Merriman (Treas, McCloskey for Congress Cmtee).

5. Ltr, dtd 10 Nov 86, L.G. Lerner to Hon. Frank McCloskey.

6. Ltr, dtd 10 Nov 86, L.G. Lerner to John L. Myers.

7. Ltr, dtd 2 Dec 86, D. Hughes to FEC.

8. Ltr, dtd 5 Dec 86, Chris Sauter (McCloskey for Cong. Cmtee.) to FEC.

9. Ltr, dtd 13 Jan 87, D. Hughes to FEC.

10. Ltr, dtd 19 Jan 87, J.L. Myers to FEC.

11. Ltr, dtd 18 Feb 87, L.G. Lerner to J.L. Myers.

12. Memo, dtd 13 Apr 87, Office of General Counsel to Commission Secretary, Subject: MUR 2287, General Counsel's Report, w/1st G.C. Report Attached.

13. Memo, dtd 15 Apr 87, M.W. Emmons to L.M. Noble, Subject: Objections to MUR 2287.

14. Memo, dtd 16 Apr 87, M.W. Emmons to L.M. Noble, Subject: Objections to MUR 2287.

15. Memo, dtd 16 Apr 87, M.W. Emmons to L.M. Noble, Subject: Comments to MUR 2287 (Commissioner McGarry).

16. Commissioner's Vote Sheet, dtd 15 Apr 87.

17. Certification of Commission Action, dtd 23 Apr 87.

18-21. Closing ltrs, dtd 28 Apr 87, L.M. Noble to J.L. Myers; D. Hughes; F. McCloskey; B. Merriman, respectively.

-END-

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

87040645250

RECEIVED
GCC# 1911
86 NOV 3 P1:36
MUR 2287

October 28, 1986

RECEIVED
FEC
GENERAL COUNSEL
86 NOV 3 P12:00

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

Dear Mr. Steele:

This Complaint is filed with the Federal Election Commission ("FEC") pursuant to 2 U.S.C. 437g(a)(1), 2 U.S.C. 441b(a), 2 U.S.C. 441d, 11 C.F.R. 110.11(a) and 11 C.F.R. 114.2 against Frank McCloskey ("McCloskey"), the McCloskey for Congress Committee, and Perdue-Shenandoah Valley Farm, Inc.

INTRODUCTION

In the closing weeks of the 1986 congressional campaign, McCloskey has once again demonstrated his penchant for throwing out the rules when they don't serve his purposes. This time, he and his corporate benefactors are skirting the prohibition on corporate contributions and refusing to comply with the law requiring full public disclosure about who is paying for his campaign. By this Complaint, John Myers of 304 South Spring Street, Odon, Indiana 47140, seeks an FEC investigation into McCloskey's practices regarding the attached advertisement, which appeared in the October 23, 1986 Washington Herald, in Indiana's 8th Congressional District election.

VIOLATIONS

The attached ad is nothing more than a bungled attempt to have a corporation aid McCloskey's campaign. Indeed, the attempt is so clumsy that, as an admission of the ad's illegality, the campaign and its corporation have conveniently omitted the authorization notices required by Federal law. The disclaimer rules of the Federal Election Campaign Act ("the Act") are designed to provide the public with complete information on the sponsorship and authority for a political advertisement. McCloskey's failure to use the required disclaimer conceals from the public crucial information about his sponsors.

A. Corporate Contributions -- A basic tenet of federal election law is that contributions or expenditures by corporations are prohibited:

> 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 office.

2 U.S.C. 441b(a). This prohibition applies whether the contribution is in the form of money, goods or services. Neither candidates or political committees can 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).

This ad certainly appears to be an ad by a corporation -- a clearcut violation of the prohibition on corporate contributions in federal elections. Id. [The prohibited omission of the disclaimer (see Part B) masks whether McCloskey or the corporation initiated

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this illegal act.] If Perdue-Shenandoah Valley Farms, Inc. paid for this ad, McCloskey for Congress accepted an illegal corporate contribution. If McCloskey and his campaign paid for the ad, they violated 2 U.S.C. 441d. The FEC needs to determine whether this was a knowing and willful violation of federal election laws, or whether McCloskey, his committee and their accomplice corporation are just guilty of neglect.

B. Disclaimers

Federal law specifically provides that when a communication expressly advocates the election or defeat of a clearly identified candidate through any broadcasting station, newspaper, magazine, outdoor facility, direct mailing or any other type of general public political advertising, it must clearly and conspicuously display one of the following authorization notices:

> if paid for and authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication has been paid for by such authorized political committee, or
>
> if paid for by other persons but authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication is paid for by such other persons and authorized by such authorized political committee;
>
> if not authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee.

2 U.S.C. 441d.

This ad clearly benefits McCloskey and his McCloskey for Congress committee. McCloskey and his campaign obviously attempted

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to benefit from the advertisements. But did McCloskey's campaign pay for them? Did the corporation? Did some other entity? Does McCloskey have unseen, unknown benefactors? Is he receiving help from sources McCloskey does not want the public to know about? By violating 2 U.S.C. 441d and 11 C.F.R. 110.11(a), McCloskey and his campaign insured that the answers are hidden from the public.

CONCLUSION

I, therefore, request that the FEC investigate these apparent violations and enforce, as necessary, the United States Code and the Commission's regulations.

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.

John L. Myers

John Myers

Subscribed and sworn to before me this 31st day of October, 1986.

Cheryl R. Wright

Notary Public

Cheryl R. Wright,
Notary Public

My Commission Expires: July 03, 1990

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PERDUE Shenandoah VALLEY FARMS, INC.

WASHINGTON, IN

WOULD LIKE TO THANK CONGRESSMAN FRANK McCLOSKEY FOR HIS EFFORTS IN HELPING TO OBTAIN FmHA FINANCING FOR POULTRY HOUSING IN SOUTHERN INDIANA.

HOUSING MGR.
DENNY HUGHES

7 0 4 0 6 4 5 2 5 5

OGC

SENSITIVE

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: THE COMMISSION

FROM: MARJORIE W. EMMONS/ JOSHUA MCFADDEN

DATE: NOVEMBER 7, 1986

SUBJECT: MUR 2287 - COMPLAINT

The attached has been circulated for your information.

Attachment

8704065452556

2

Copy of complaint, dtd 10-28-86,
has been deleted from this
position in Public Record file.

8 7 0 4 0 5 4 5 2 5 7

Alm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 10, 1986

Denny Hughes, Housing Manager
Purdue-Shenandoah Valley Farms, Inc.
Washington, IN 47501

Re: MUR 2287

Dear Mr. Hughes:

The Federal Election Commission received a complaint which alleges that Purdue-Shenandoah Valley Farms, Inc. may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2287. 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 Purdue-Shenandoah Valley Farms, Inc. in this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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If you have any questions, please contact Frances B. Hagan, the staff member assigned to this matter, at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

Lois G. Lerner

By: Lois G. Lerner
Associate General Counsel

Enclosures
Complaint
Procedures
Designation of Counsel Statement

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plm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 10. 1986

Betty Merriman, Treasurer
McCloskey For Congress Committee
PO Box 70
Bloomington, IN 47402

Re: MUR 2287

Dear Ms. Merriman:

The Federal Election Commission received a complaint which alleges that the McCloskey For Congress Committee and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2287. 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 and the McCloskey For Congress Committee in this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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4

If you have any questions, please contact Frances B. Hagan, the staff member assigned to this matter, at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

Lois G. Lerner

By: Lois G. Lerner
Associate General Counsel

Enclosures
Complaint
Procedures
Designation of Counsel Statement

cc: The Honorable Frank McCloskey

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Nlm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 10, 1986

The Honorable Frank McCloskey
U.S. House of Representatives
Washington, DC 20515

Re: MUR 2287

Dear Mr. McCloskey:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2287. 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 this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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5

If you have any questions, please contact Frances B. Hagan, the staff member assigned to this matter, at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

Lois G. Lerner

By: Lois G. Lerner
Associate General Counsel

Enclosures
Complaint
Procedures
Designation of Counsel Statement

cc: McCloskey For Congress Committee

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plm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 10, 1986

Mr. John L. Myers
304 S. Spring Street
Odon, IN 47140

Dear Mr. Myers:

This letter will acknowledge receipt of your complaint which we received on November 3, 1986, alleging possible violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by Purdue-Shenandoah Valley Farms, Inc., the Honorable Frank McCloskey, and the McCloskey For Congress Committee and Ms. Betty Merriman as treasurer. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to this office. We suggest that this information be sworn to in the same manner as the original complaint. For your information, we have attached a brief description of the Commission's procedures for handling complaints. We have numbered this matter MUR 2286. Please refer to this number in all future correspondence. If you have any questions, please contact Retha Dixon at (202) 376-3110.

Sincerely,

Charles N. Steele
General Counsel

Lois G. Lerner

By: Lois G. Lerner
Associate General Counsel

Enclosure

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GCC# 2195
RECEIVED AT THE FEC

86 DEC 5 P12:21

December 2, 1986

Frances Hagan
Federal Election Commission
999 E Street Northwest
Washington, D.C. 20463

Dear Ms. Hagan,

In response to your letter (ref# MOR 2287). As you may well know we are in the poultry business in southern Indiana and are a wholly owned subsidary of Perdue Farms, Inc. of Salisbury, MD. Perdue is also located in North Carolina and Illinois where they have received poultry house finance through FmHA. I started approximately one year ago trying to get FmHA financing for poultry houses in southern Indiana. I made several contacts with Congressman Frank McClosky's office to see if he could be of any help. Also I made contact with Congressman Hamilton, Senator Lugar, and Senator Quayle's office. I never received any response from the above.

As you can see by the enclosed news clippings it appears that Congressman Frank McClosky was helping our efforts. I told McClosky's office that I would thank him publicly for his efforts. In no way, shape or form was this thank you ad political. The ad was paid by me personally. I will send you a copy of the check upon request. I will gladly answer any questions you may have.

Thank you,

Denny Hughes

Denny Hughes

86 DEC 5 P4:09

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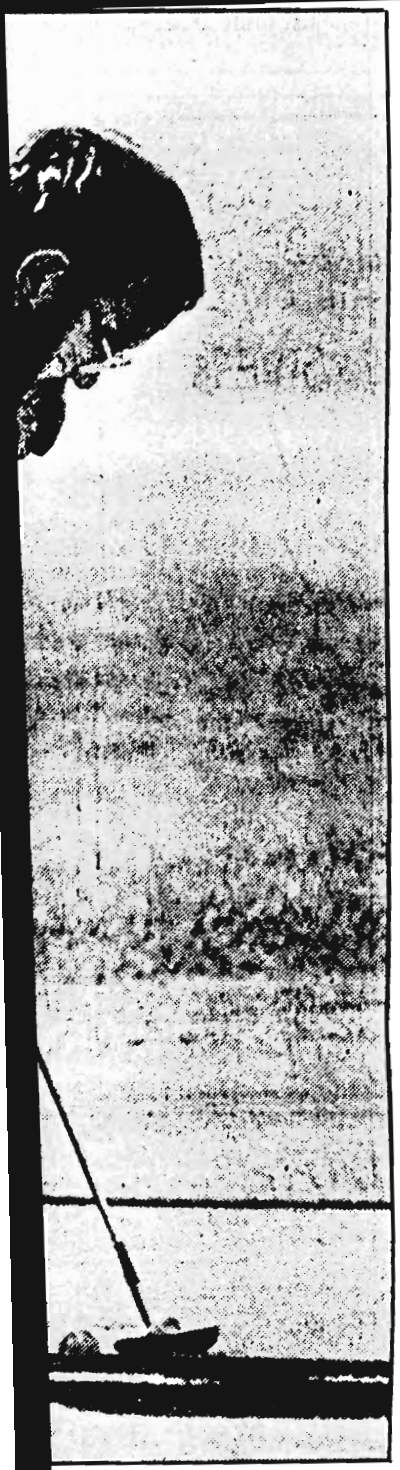

:ut down junior clubs for

McCloskey calls for reversal of president's ban on farm aid

By LINDA NEGRO
Courier staff writer

Rep. Frank McCloskey, D-Ind., said more must be done to prevent a total collapse of the farm economy, which may force 12 percent to 15 percent of 8th District farmers out of business this fall.

McCloskey met with Rep. Lindsay Thomas, author of legislation to provide a fair restructuring of the farm debt, and held a farm forum in Vincennes, Ind., Monday and then a news conference in Evansville.

McCloskey said 1986 is the worst year in 50 years for farmers. With corn prices dropping to $1.40 a bushel.

To improve the critical situation, McCloskey is urging reversal of President Reagan's position against providing additional farm credit relief on an emergency basis. He also is encouraging the Farm Credit Administration to drop the interest rates for farm operating loans.

McCloskey also favors enactment of tough trade reform legislation to require other nations to open their market to U.S. agricultural and other products.

"We aren't going to be out of this overnight," he said.

McCloskey announced "one bright spot" for Indiana farmers Monday. He said the Indiana Farmer Home Loan Administration has agreed to offer loans to poultry farmers, who have been too small to be eligible for the loans in the past.

He said the loans should help in the development of hundreds of small turkey farms in the 8th District that can contract with Shenandoah Valley, a turkey processing plant in Daviess County. He said the plant is planning a major production increase by 1993, raising its employment from about 500 to 1,500 people.

> "We aren't going to be out of this overnight."
>
> — Frank McCloskey

McCloskey said that help will have a ripple benefit to the entire farm community, such as increased grain sales for the turkey feed.

McCloskey also is pushing for rapid Department of Agriculture approval of Marengo Quarry as a storage site for excess grain expected to be harvested this fall. McCloskey said there is expected to be a 118 million bushel surplus of grain.

"It will really hit in a week or two when corn starts coming in," he said.

He said the storage there can be nearly indefinite because of the 55 degree temperatures and space in the quarry.

Joining McCloskey were John Garland of Dale, Ind., president of the Indiana National Farmers, and Keith Goldman, a Spencer County farmer, both of whom expressed support for McCloskey and his positions.

Evansville Courier 9-9-86

$6.25 million called better than nothing

Land Between the Lakes is trying to keep money cuts painless

GOLDEN POND, Ky. (AP) — Budget cuts are forcing some changes at Land Between the Lakes, but officials are hoping the public won't notice them.

Manpower will be slightly reduced. Hours at some facilities will be cut back. And the smallest of three family campgrounds will soon be closed, said Elizabeth Thach, director of the recreation area.

"We're going to try to take the cuts in ways visitors won't notice," she said.

Government officials are expecting Land Between the Lakes, operated by the Tennessee Valley Authority, to receive $6.25 million in the fiscal year begining Oct. 1, Ms. Thach said. this fiscal year, and nearly $7.5 million last year, she said.

"We had hoped for better," Ms. Thach said. "Certainly a budget of $6.25 million is better than no budget at all."

The Reagan administration originally proposed eliminating Land Between the Lakes from the federal budget in fiscal 1987, said Gil Francis, TVA spokesman in Knoxville, Tenn.

When the same thing was suggested last year, supporters launched a grass-roots protest.

This year, "they didn't think it was necessary," Ms. Thach said. After receiving such a response last year, "Congress was more than willing to work on our behalf."

have to lay off between 10 and 20 people, Ms. Thach said.

"We probably won't be able to do as much wildlife-survey work as in the past," or as much habitat improvement or reintroduction of endangered or threatened species to the area, she said.

The 88-site Rushing Creek Campground, the oldest and smallest of Land Between the Lakes' three family campgrounds, probably will be closed at the end of November, Ms. Thach said.

Two of the three visitors' centers probably will be closed on weekdays during the winter. The third may be closed two days a week, she said.

Changes at the recreation area

Washington Times Herald

TUESDAY, SEPTEMBER 9, 1986

FmHA loans available for turkey farms

From Staff Reports

The Indiana Farmer Home Loan Administration is going to loosening up, which means great news for area farmers.

Eighth District Congressman Frank McCloskey, during his Farm Forum Monday at Vincennes, announced that the FmHA had agreed to offer loans to poultry farmers in the state, farmers who had been too small to be eligible for such loans in the past.

Those who will benefit most, will be farmers who are looking for money to start turkey farms in this area, as Perdue/Shenandoah continues to look for help in growing turkey's for processing at the local plant.

Reached at his Evansville office today, McCloskey explained, "Ted Blank, Indiana Farmer Home Loan Administrator director, had told me that poultry farmers will now be eligible for FmHA assistance in the form of loans.

"This definitely will be a tremendous lift for the poultry industry in the Eighth District, in particular Perdue/Shenandoah, which is planning major increases in the near future. I also think this will have a ripple effect, which should benefit the entire Eighth District. This is a very bright spot, considering it has been a bleak picture for farmers in the district this year."

McCloskey noted he had met with officials at Perdue/Shenandoah some six months ago to discuss the financing problem, and that he had numerous conversations with Blank about the much needed funding. He was very happy the FmHA has agreed to help out the poultry industry, which has an unlimited future in this area.

Denny Hughes, Housing Manager for Perdue/Shenandoah, stated this morning, "This is certainly one of the bigger breaks we have had since we have been here."

Hughes explained that most of the loans will be on a guaranteed type basis, as the FmHA will put up to 80

(Continued on Page 12)

FmHA loans available...

(Continued from Page 1)

percent of what local banks would normally lend on a turkey housing operation.

"With only so many banks, financing would eventually run out," Hughes said. "This (the news on the loans) should really open it up now."

As Hughes stated, the news will give farmers more incentive to become turkey producers for Perdue/Shenandoah, which in the long run will benefit the local community.

Presently, the local turkey processing plant employs over 500 workers, with that figure expected to grow by an additional 125 in the coming months. By 1993, company officials predict the local plant will employ over 1,500 people.

Perdue, which built some one million square feet of turkey house space in 1985, matched that figure between January and April of this year. They hope to have some four to five million more square feet of space between now and 1989.

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The Evansville Press **Metro**

Federal loan change to aid turkey growers

By Dan Armstrong
Staff reporter

Southwestern Indiana farmers could pluck millions of dollars from a decision to extend Farmers Home Administration loans to turkey growers, says a turkey processing official in Washington, Ind.

Eighth District Rep. Frank McCloskey said yesterday the Indiana office of the federal farm agency has reversed its policy against lending to turkey growers.

McCloskey said he had been trying to persuade the Indiana office to lend to turkey farmers "for five or six months."

He said the agency has made loans to turkey farmers elsewhere in the nation.

Told of McCloskey's announcement, Denny Hughes, an official with Perdue-Shenandoah Farms Inc. in Washington, Ind., said, "It's going to mean survival for some of the farmers, I'm sure."

Hughes is the housing manager for the company, a job that involves recruiting area farmers to raise the turkeys under contract with Perdue-Shenandoah.

Hughes said 150 to 170 farmers in Southwestern Indiana produce turkeys for Perdue-Shenandoah to process. He said the company will need to contract with 130 or more additional farmers to meet its expansion plans.

The Washington plant, a subsidiary of a firm based in Salisbury, Md., is processing 6 million turkeys a year, up from 2 million in 1984, and wants to raise the total to 12 million, Hughes said.

"We've been working on it, trying to get some FHA financing (for turkey growers)," he said. "We've been working pretty hard, trying to get political people to help us get FHA financing."

About 500 workers are employed in the Washington operation, with 200 expected to be added next month with completion of a $4 million expansion, Hughes said. Counting related operations just starting in Patoka and Lebanon, Ind., Hughes said, his company hopes to have 1,500 employees in Indiana by 1993.

That target date could be moved up to 1989 in light of McCloskey's announcement, Hughes said. "It could mean several million dollars of financing that we hadn't been counting on."

McCloskey discussed the loan availability at a news conference yesterday at Dress Regional Airport after speaking to a group of farmers at a "farm forum" in Vincennes.

Besides talking turkey, McCloskey said he will co-sponsor a bill that would allow Production Credit Associations, Federal Land Banks and other farm lenders to lower their rates without the approval of government regulators.

Appearing with McCloskey in Vincennes and Evansville was U.S. Rep. R. Lindsay Thomas, D-Georgia, author of a bill on debt restructuring for farmers.

McCloskey planned to meet today with Evansville Mayor Michael Vandeveer and other Southwestern Indiana officials to discuss the PCB-removal plant at Henderson.

Tuesday, September 9, 1986

In this section

12 Editorials
14 Sports
17 Comics
22 People

RECEIVED AT THE FEC
HAND DELIVERED

CONGRESSMAN
McCloskey
. . . ON OUR SIDE

86 DEC 9 A9:58
RECEIVED
GENERAL COUNSEL

December 5, 1986

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

Re: MUR 2287

Dear Mr. Steele:

This letter is in response to the above numbered complaint filed with the Federal Elections Commission ("FEC") by John L. Myers of Odon, Indiana. The complainant alleges that the McCloskey for Congress Committee and Perdue-Shenandoah Valley Farm, Inc. ("Perdue") committed violations of the Federal Election Campaign Act ("Act") in connection with an advertisement which appeared in the October 23, 1986, Washington Herald (see attached Exhibit "A"). The complaint states that the advertisement constitutes a corporate contribution in violation of 2 USC{441b(a) and that the advertisement does not contain a disclaimer as required by 2 USC{441d.

This complaint should be dismissed for several reasons. First, the advertisement is not a political advertisement since it does not identify any person as a political candidate, contains no reference to an election or political parties, and does not encourage anyone to vote for a particular candidate. Therefore, the advertisement is not a contribution or expenditure in connection with an election to political office. Secondly, even assuming arguendo that the advertisement is a political advertisement constituting a contribution or expenditure, it is not a corporate contribution since the advertisement was paid in full by a private individual, Denny Hughes. Finally, assuming arguendo that the advertisement is a political advertisement, no disclaimer by the McCloskey for Congress Committee was required since the advertisement was not placed under the authority or in connection with any activity by the McCloskey for Congress Committee.

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McCloskey for Congress Committee
P.O. Box 70 • Bloomington, Indiana 47402 • (812) 333-2735 • Evansville (812) 423-1100

Paid for by McCloskey for Congress Committee

8

Introduction

Perdue-Shenandoah is in the business of selling processed turkeys. Perdue operates a processing plant in Washington, Indiana. In the course of business, Perdue contracts with turkey farmers in Southern Indiana to buy turkeys. In an effort to improve the supply of turkeys, Perdue contacted the Farmers Home Administration (FmHA) to determine the availability of federal loan funds to assist area turkey farmers. Perdue was informed that FmHA funds would not be available to any farmers for this purpose.

Having learned that FmHA funds were available for similar purposes in other states, Perdue contacted Indiana 8th District Congressman Frank McCloskey for assistance in early 1986. As a direct result of the intervention by Congressman McCloskey, FmHA reversed its position and announced on or about September 8, 1986, that it would consider applications for FmHA loans to Indiana turkey farmers.

In late September or early October, 1986, Denny Hughes, Perdue manager of the Washington, Indiana plant contacted a staff member in the 8th District Vincennes Congressional office to indicate his intent to run an advertisement expressing his appreciation to Congressman McCloskey for his efforts in reversing FmHA's position on assisting Indiana turkey farmers. The McCloskey campaign was also subsequently advised, but understood the advertisement as a constituent statement. The McCloskey for Congress Committee did not draft the advertisement nor was the advertisement seen until after it appeared in local newspapers. The McCloskey campaign has been advised that Mr. Hughes paid for the advertisement himself and that the total cost for placing it was $210.69.

The Advertisement Is Not A Contribution

The October 23, 1986, advertisement thanking Congressman McCloskey for services to Perdue is not a contribution under the Act since it is not a political advertisement. Rather, the advertisement is a statement by a satisfied constituent expressing appreciation to Congressman McCloskey for services well done in the course of carrying out his duties as a federal officeholder.

Section 441b(a) provides that it is "unlawful for ... any corporation ... to make a contribution as expenditure in connection with any election to any political office ... " Section 441b(b)(2) defines the term "contribution or expenditure" to include payments or anything of value to candidate or campaign committee "in connection with any election."

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The advertisement at issue in the instant case clearly was not taken out in connection with an election but rather in response to very specific official activities and duties. The advertisement does not mention Frank McCloskey or his opponent in reference to an election. Indeed, the advertisement makes no reference whatsoever to any election, candidate, or political party. This Commission has determined in several instances that a contribution as defined by the Act has not been provided where, as here, (a) there is the absence of any communication expressly advocating the election or defeat of any candidate for Federal office, and (b) there is the avoidance of any solicitation, making or acceptance of contributions to a candidate for Federal office. See Advisary opinions 1977-50 (CCH {5289), 1977-42 (CCH {5313), 1977-50 (CCH {5275), 1977-54 (CCH {5301), 1978-4 (CCH {5293), 1978-44 (CCH {5342), 1978-56 (CCH {5373), 1980-16 (CCH {5474), 1980-22 (CCH {5479).

87040045271

The Advertisement Is Not A Corporate Contribution

Assuming arguendo that the advertisement at issue is a political advertisement constituting a contribution, it is not a corporate contribution since the advertisement was paid in full by a private individual, Denny Hughes. A contribution by an individual is permissible so long as the amount does not exceed $1,000 per election. 2 USC {441a(a)(1)(A).

This Commission ruled in a similar case that a television statement aiding a candidate by a corporate officer stating that the candidate had been helpful to the corporation was an individual not corporate contribution where the statement was done on the individual's own time. Advisory Opinion 1984-43 (CCH {5783). There, the Commission found no corporate contribution even though the corporate official was identified as the company manager and the message of the advertisement was clearly related to corporate business. The Commission held that the activity was individual rather corporate conduct since the individual had undertaken the activity as an individual rather than as a corporate funded activity.

In the instant case, the circumstances are virtually identical. Denny Hughes, Perdue manager, took out an advertisement with his own funds to describe activities a candidate had undertaken on behalf of a corporation with which he was clearly associated.

No Disclaimer Is Required For An Unauthorized Advertisement

Federal law clearly requires a disclaimer for advertisements authorized by a political candidate or committee, but only when the communication expressly advocates the election or defeat of a clearly identified candidate. 2 USC {441d. As pointed out, the advertisement at issue does not expressly or even impliedly advocate the election of defeat of a clearly identified candidate.

However, even assuming that the advertisement was a political advertisement, no violation exists since a disclaimer is required only where the advertisement is authorized. In the instant case, the advertisement was taken under the initiative of a third party. No consent of its contents were required and no representative of the McCloskey campaign saw its contents until after it appeared in print. Thus, the advertisement was not placed under the authority or in connection with any activity by the McCloskey for Congress Committee.

Conclusion

For the foregoing reasons, the above cited complaint should be dismissed.

Chris Sautter, Esq.
Campaign Manager
McCloskey for Congress Committee

Verification

The undersigned swears that the foregoing statements are true to the best of his knowledge, information, and belief.

Dated: December 5, 1986

Chris Sautter

PERDUE Shenandoah VALLEY FARMS, INC.

WASHINGTON, IN

WOULD LIKE TO THANK CONGRESSMAN FRANK McCLOSKEY FOR HIS EFFORTS IN HELPING TO OBTAIN FmHA FINANCING FOR POULTRY HOUSING IN SOUTHERN INDIANA.

HOUSING MGR.
DENNY HUGHES

RECEIVED AT THE FEC
GCC# 2513
87 JAN 20 P 1: 45

RECEIVED
GENERAL COUNSEL
JAN 21 A 8: 43

January 13, 1987

Frances Hagan
Federal Election Commission
999 E Street Northwest
Washington, D.C. 20463

Dear Ms. Hagan,

In response to your request, I am sending you a copy of my personal check which paid for the ad thanking Congressman Frank McCloskey publicly for his efforts in helping obtain FmHA financing for poultry houses.

Thank you,

Denny Hughes By

Denny Hughes

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DENNIS J. OR JANE HUGHES
SSN 310-54-0068 SSN 312-68-0005
EXPENSE ACCOUNT
R.R. 2 BOX 34 PH/812-486-3359
MONTGOMERY, IND. 47558

408

10-24 1986

71-264/813

PAY TO THE ORDER OF Washington Times

$ 910.60

Two Hundred Ten 60/100 DOLLARS

C'B T'C The CITIZENS BANK & TRUST
WASHINGTON, IND. 47501

Dennis J. Hughes

MEMO

⑆083026461⑆ ⑈04⑈ 2460 2⑈ 0408 ⑈0000021060⑈

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GCC#2595
RECEIVED AT THE FEC

87 JAN 21 A10:05

Daviess County Republican Committee

JOHN L. MYERS, CHAIRMAN
102 WEST MAIN STREET
ODON, INDIANA 47562

BETTY MORGAN, VICE-CHAIRMAN
HELEN JONES, SECRETARY
JOE KLINGENSMITH, TREASURER

January 19, 1987

RECEIVED
GENERAL COUNSEL
87 FEB 2 A10:18

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

Dear Mr. Steele:

On October 28, 1986, I filed a complaint with the Federal Election Commission which pointed out what I considered to be violations of the Federal Election Campaign Act of 1971 by Perdue-Shenandoah Valley Farms, Inc., the Honorable Frank McCloskey, and the McCloskey for Congress Committee, which matter was designated by your office MUR 2286.

Since filing this complaint the only correspondence I have received concerning this matter is a letter from your office acknowledging receipt of the complaint along with a brief outlining the Commission's procedures for handling complaints.

The letter from your office indicated that I would be notified as soon as the Commission takes final action. This has not been done to date but I assume that the matter has been disposed of in some manner by this time.

I maintain an interest in a ruling on this matter despite the fact that the 1986 election is history. The tactic employed by the Perdue Corporation and McCloskey Committee, if not a violation of the Campaign Act of 1971, can be duplicated and even expanded in future campaigns.

I am most interested in documents outlining final disposition of this matter (MUR 2286), and ask that they be sent to me as outlined in your letter of November 10, 1986.

Respectfully,

John L. Myers

John L. Myers, Chairman
Daviess County Republicans

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pllm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 18, 1987

John L. Myers, Chairman
Daviess County Republican Committee
102 West Main Street
Odon, IN 47562

RE: MUR 2287

Dear Mr. Myers:

This is in response to your letter of January 19, 1987, in which you request information pertaining to the complaint you filed with the Commission.

The Federal Election Campaign Act prohibits any person from making public the fact of any notification or investigation by the Commission unless the party being investigated has agreed in writing that the matter be made public. (See 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(a)) Because there has been no written agreement that the matter be made public, we are not in a position to release any information at this time.

As you were informed by letter of November 10, 1986, (copy attached) we will notify you as soon as the Commission determines what action should be taken.

Sincerely,

Charles N. Steele
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure

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11

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary

FROM: Office of General Counsel

DATE: April 13, 1987

SUBJECT: MUR 2287 - General Counsel's Report

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

Open Session _____

Closed Session _____

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

12

SENSITIVE

87 APR 13 P 4:11

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

FIRST GENERAL COUNSEL'S REPORT

MUR # 2287
DATE COMPLAINT RECEIVED By OGC 11-3-86
DATE OF NOTIFICATION TO RESPONDENT 11-10-86
STAFF MEMBER: Frances B. Hagan

DATE AND TIME OF TRANSMITTAL BY OGC TO THE COMMISSION_____

COMPLAINANT'S NAME: John Myers

RESPONDENTS' NAMES: Frank McCloskey
McCloskey for Congress Committee
Betty Merriman, as Treasurer
Perdue Shenandoah Valley Farms, Inc.

RELEVANT STATUTES: 2 U.S.C. § 441b(a)
2 U.S.C. § 441d
2 U.S.C. § 431(18)
11 C.F.R. § 109.1(b)(2)
2 U.S.C. § 431(8)(A)

INTERNAL REPORTS CHECKED: Disclosure

FEDERAL AGENCIES CHECKED: None

SUMMARY OF ALLEGATIONS

Complainant alleged that violations of 2 U.S.C. § 441b(a) and/or 2 U.S.C. § 441d may have occurred involving House candidate Frank McCloskey, the McCloskey for Congress Committee ("the McCloskey Committee") and its treasurer and Perdue Shenandoah Valley Farms, Inc.

FACTUAL AND LEGAL ANALYSIS

2 U.S.C. § 441b(a) in part prohibits the making of a corporate contribution in connection with a federal election, or for any political committee knowingly to accept or receive any prohibited contribution.

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2 U.S.C. § 431(8)(a) in part defines the term contribution as 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.

2 U.S.C. § 441a(a)(7)(B)(i) states that expenditures by any person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, authorized political committees or agents shall be considered a contribution to such candidate.

2 U.S.C. § 441d states that "[w]henever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any . . . direct mailing . . ., such communication if paid for and authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication has been paid for by such authorized political committee, or (2) if paid for by other persons but authorized by a candidate, an authorized political committee of the candidate or its agents, shall clearly state that the communication is paid for by such other persons and authorized by such authorized political committee."

2 U.S.C. § 431(18) defines "clearly identified" as (A) the name of the candidate appears; (B) a photograph of the candidate appears; or (C) the identity of the candidate is apparent by unambiguous reference.

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11 C.F.R. § 109.1(b)(2) defines "expressly advocating" as "any communication containing a message advocating election or defeat, including but not limited to the name of the candidate, or expressions such as 'vote for,' 'elect,' 'support' . . . 'defeat,' or 'reject.'"

Complainant alleged that a violation of 2 U.S.C. § 441b(a) may have occurred in connection with an advertisement which appeared in the October 23, 1986, Washington (Ind.) Times Herald. Complainant also alleged that the McCloskey Committee apparently "conceals from the public crucial information about his sponsors" by failing to display the disclaimer required by 2 U.S.C. § 441d. A copy of the ad contains the corporate logo at the top "Perdue - Shenandoah Valley Farms, Inc., Washington, IN," and the text below it continues, "WOULD LIKE TO THANK CONGRESSMAN FRANK MCCLOSKEY FOR HIS EFFORTS IN HELPING TO OBTAIN FmHA FINANCING FOR POULTRY HOUSING IN SOUTHERN INDIANA. HOUSING MGR. DENNY HUGHES."

A response to the complaint from Denny Hughes, poultry housing manager at Perdue Shenandoah Valley Farms, Inc., stated that the ad was not placed by the corporation, but was paid for by Mr. Hughes in response to Congressman McCloskey's efforts to obtain Farmers Home Administration ("FmHA") financing for poultry houses in southern Indiana. Mr. Hughes stated, "I told McClosky's [sic] office that I would thank him publicly for his efforts. In no way, shape or form was this thank you ad political. The ad was paid by me personally." On January 21, 1987, this Office received a copy of Mr. Hughes' personal check

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for $210.69 dated October 24, 1986, and made out to the Washington (Ind.) Times.

According to the McCloskey Committee's response to the complaint and to the Hughes response, Perdue Shenandoah sought federal loan funds from the FmHA to assist its turkey farming operation, but learned that FmHA funds would not be available for such purpose. In late 1985 and early 1986, Mr. Hughes contacted the offices of Congressmen Frank McCloskey and Lee Hamilton and Senators Richard Lugar and Dan Quayle on behalf of Perdue Shenandoah in an effort to elicit their help with FmHA financing. Mr. Hughes stated that he received no response from these offices, but thanked Congresman McCloskey after newspaper accounts told of his intervention with the FmHA.

The McCloskey Committee stated that in early 1986 "Perdue contacted . . . McCloskey for assistance" and the congressman's subsequent efforts led to the FmHA's announcement on September 8, 1986, to consider loans for Indiana turkey farmers. The McCloskey Committee stated that in "late September or early October, 1986," Mr. Hughes contacted the local congressional office and indicated his intention to run the thank you advertisement. The ad appeared on October 23, 1986, twelve days before the November 4, 1986, general election.

The McCloskey Committee stated that the advertisement was not authorized by the Committee, that "[no] consent of its contents were required and no representative of the McCloskey campaign saw its contents until after it appeared in print. Thus, the advertisement was not placed under the authority or

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in connection with any activity by the McCloskey for Congress Committee."

Viewed in their entirety, the facts of this matter suggest that payment for the ad did indeed constitute a contribution to the McCloskey campaign. Buckley v. Valeo established the proposition that "coordinated expenditures are treated as contributions rather than expenditures under the Act..." and that the "contribution ceilings rather than [the] independent expenditure limitation prevent attempts to circumvent the Act through prearranged or coordinated expenditures amounting to disguised contributions." Buckley v. Valeo, 424 U.S.1, 46-47 n.53 (1976). See also 2 U.S.C. § 441a(a)(7)(b)(i).

The McCloskey Committee's assertion that it did not authorize or consent to the contents of the ad is not dispositive. The facts indicate that the ad may have been placed with the knowledge or cooperation of the candidate or his committee or in concert with his campaign. The congressman and the corporation cooperated in efforts to obtain loans which would specifically benefit Perdue-Shenandoah's business. The ad was placed two weeks before the general election and appears to be part of the loan coordination effort. This instance appears to represent the type of "quid pro quo" arrangement that 2 U.S.C. § 441b was intended to prohibit. The Supreme Court in FEC v. National Right to Work Committee, 459 U.S. 197, 207-9 (1982), stated:

> The first purpose of § 441b... is to ensure that substantial aggregations of wealth amassed by the special advantages which go with the corporate form of organization should not be converted into political "war

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> chests" which could be used to incur political debts from legislators who are aided by the contributions.

Furthermore, although Mr. Hughes stated that he paid for the ad "personally," the check for payment was drawn on his "expense account" giving rise to the possibility that he received reimbursement from the corporation for this expenditure. Given that the payment was drawn on his expense account it appears that the Corporation may consider this type of activity to be within the responsibilities of Mr. Hughes. If so, he acted on behalf of Perdue-Shenandoah in the placement of the ad. Significantly, the ad expressed the corporation's appreciation for Mr. McCloskey's help. Finally, since Mr. Hughes did contact the Congressman's office prior to placing the ad, there is evidence that there was coordination or consultation in this matter. Therefore, the Office of General Counsel is recommending findings of reason to believe that the corporation and the McCloskey Committee violated 2 U.S.C. § 441b(a) with regard to the making and receipt of a prohibited corporate contribution. Because this is viewed as a prohibited receipt by the Committee, we recommend no reason to believe concerning Frank McCloskey individually as to § 441b(a).

The complainant also alleged a possible violation of 2 U.S.C. § 441d because no disclaimer regarding the paying entity or authorization appeared on the ad. To determine whether the ad violated the statute by omitting the disclaimer, it is necessary to examine the advertisement in the context of 2 U.S.C. § 441d.

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That is, does the ad either solicit contributions or expressly advocate the election or defeat of a clearly identified candidate? The ad clearly does not solicit funds; therefore, only the express advocacy issue remains to be determined. If the ad is deemed to expressly advocate the election of the candidate, the disclaimer provisions of 2 U.S.C. § 441d would apply.

As to the express advocacy issue, the Ninth Circuit Court of Appeals discussed it at length in FEC v. Furgatch, No. 85-5524 slip op. at 14-15 (9th Cir. Jan 9, 1987). In that case, the court concluded

> that speech need not include any of the words listed in Buckley to be express advocacy under the Act, but it must, when read as a whole, and with limited reference to external events, be susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate.

Applying this standard as well as the explicit language of the statute to the advertisement, this Office rejects the presumption in the complainant's allegation that the advertisement expressly advocates the election of Congressman McCloskey. The ad does not "advocate" action or exhort the public to act in any way either through explicit language or implication. The ad does not identify McCloskey as a candidate nor is there any reference to a federal election.

Therefore, the ad is not a communication which requires a disclaimer under 2 U.S.C. § 441d. The Office of General Counsel recommends that the Commission find no reason to believe that a violation of 2 U.S.C. § 441d occurred in this matter.

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RECOMMENDATION

1. Find reason to believe that the following violated 2 U.S.C. § 441b(a):

   a) McCloskey for Congress Committee and Betty Merriman, as treasurer;

   b) Perdue Shenandoah Valley Farms, Inc.

2. Find no reason to believe that Frank McCloskey violated 2 U.S.C. § 441b(a).

3. Find no reason to believe that the following violated 2 U.S.C. § 441d:

   a) Frank McCloskey;
   b) McCloskey for Congress Committee and Betty Merriman, as treasurer;
   c) Perdue Shenandoah Valley Farms, Inc.

4. Close the file as it relates to Frank McCloskey.

5. Send the attached letters and questions.

Date 4/13/87

Lawrence M. Noble
Acting General Counsel

Attachments
Letters from Respondents
Letters to Respondents and questions

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Copies of Attachments to First General Counsel's Report have been deleted from this position in Public Record File.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: LAWRENCE M. NOBLE
ACTING GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JOSHUA MCFADDEN

DATE: APRIL 15, 1987

SUBJECT: OBJECTION TO MUR 2287 - GENERAL COUNSEL'S REPORT SIGNED APRIL 13, 1987

The above-captioned document was circulated to the Commission on Tuesday, April 14, 1987 at 11:00 A.M.

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

Commissioner Aikens	
Commissioner Elliott	X
Commissioner Josefiak	X
Commissioner McDonald	
Commissioner McGarry	
Commissioner Thomas	

This matter will be placed on the Executive Session agenda for April 22, 1987.

Please notify us who will represent your Division before the Commission on this matter.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: LAWRENCE M. NOBLE
ACTING GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JOSHUA MCFADDEN JM

DATE: APRIL 16, 1987

SUBJECT: OBJECTIONS TO MUR 2287 - GENERAL COUNSEL'S REPORT SIGNED APRIL 13, 1987

The above-captioned document was circulated to the Commission on Tuesday, April 14, 1987 at 11:00 A.M.

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

Commissioner Aikens	X
Commissioner Elliott	X
Commissioner Josefiak	X
Commissioner McDonald	X
Commissioner McGarry	
Commissioner Thomas	

This matter will be placed on the Executive Session agenda for April 22, 1987.

Please notify us who will represent your Division before the Commission on this matter.

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM TO: LAWRENCE M. NOBLE
ACTING GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JOSHUA MCFADDEN JM

DATE: APRIL 16, 1987

SUBJECT: COMMENTS TO MUR 2287 - GENERAL COUNSEL'S REPORT SIGNED APRIL 13, 1987

Attached is a copy of Commissioner McGarry's vote sheet with comments regarding the above-captioned matter.

Attachment:
copy of vote sheet

15

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BALLOT

SENSITIVE

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

DATE & TIME TRANSMITTED: TUESDAY, APRIL 14, 1987 11:00

COMMISSIONER: AIKENS, ELLIOTT, JOSEFIAK, McDONALD, McGARRY, THOMAS

RETURN TO COMMISSION SECRETARY BY THURSDAY, APRIL 16, 1987 11:00

SUBJECT: MUR 2287 - GENERAL COUNSEL'S REPORT
SIGNED APRIL 13, 1987

RECEIVED
OFFICE OF THE FEC
COMMISSION SECRETARY
87 APR 16 A10:00

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( ) I approve the recommendation

(✓) I object to the recommendation

COMMENTS: Will vote in Executive Session

DATE: 4/15/87 SIGNATURE [signature]

A DEFINITE VOTE IS REQUIRED. ALL BALLOTS MUST BE SIGNED AND DATED.

PLEASE RETURN ONLY THE BALLOT TO THE COMMISSION SECRETARY.

PLEASE RETURN BALLOT NO LATER THAN DATE AND TIME SHOWN ABOVE.

16

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Frank McCloskey	)	
McCloskey for Congress Committee	)	MUR 2287
Betty Merriman, as Treasurer	)	
Perdue Shenandoah Valley Farms, Inc.	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of April 22, 1987, do hereby certify that the Commission took the following actions in MUR 2287:

1. Failed in a vote of 3-3 to pass a motion to

   a) Find no reason to believe that the following violated 2 U.S.C. § 441b(a):

      1) McCloskey for Congress Committee and Betty Merriman, as treasurer;

      2) Perdue Shenandoah Valley Farms, Inc.

   b) Find no reason to believe that Frank McCloskey violated 2 U.S.C. § 441b(a).

   c) Find no reason to believe that the following violated 2 U.S.C. § 441d: Frank McCloskey; McCloskey for Congress Committee and Betty Merriman, as treasurer; and Perdue Shenandoah Valley Farms, Inc.

(continued)

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d) Close the file in MUR 2287.

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

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

2. Decided by a vote of 6-0 to -

a) Find no reason to believe that Frank McCloskey violated 2 U.S.C. § 441b(a).

b) Find no reason to believe that the following violated 2 U.S.C. § 441d: Frank McCloskey; McCloskey for Congress Committee and Betty Merriman, as treasurer; and Perdue Shenandoah Valley Farms, Inc.

c) Close the file in this matter.

d) Direct the Office of General Counsel to send appropriate letters pursuant to these 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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plum

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 28, 1987

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John L. Myers, Chairman
Daviess County Republican Committee
102 West Main Street
Odon, Indiana 47562

RE: MUR 2287

Dear Mr. Myers:

On April 22, 1987, the Federal Election Commission reviewed the allegations of your complaint received on November 3, 1986. and found that on the basis of the information provided in your complaint there is no reason to believe that Frank McCloskey violated 2 U.S.C. § 441b(a) or that Frank McCloskey, the McCloskey for Congress Committee and Betty Merriman, as treasurer, and Perdue Shenandoah Valley Farms, Inc., violated 2 U.S.C. § 441d. The Commission failed by an equally divided vote to find no reason to believe that the McCloskey for Congress Committee and Betty Merriman, as treasurer, and Perdue Shenandoah Valley Farms, Inc., violated 2 U.S.C. § 441b(a). Accordingly, the Commission closed the file in this matter.

The Federal Election Campaign Act of 1971, as amended, 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

Enclosure
General Counsel's Report

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Pldm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 28, 1987

Denny Hughes, Housing Manager
Perdue Shenandoah Valley Farms, Inc.
Washington, IN 47501

Re: MUR 2287
Perdue Shenandoah
Valley Farms, Inc.

Dear Mr. Hughes:

The Federal Election Commission notified you on November 10, 1986, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to you at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on April 22, 1987, failed by an equally divided vote to find no reason to believe that Perdue Shenandoah Valley Farms, Inc., violated 2 U.S.C. §441b(a), a provision of the Act. The Commission found no reason to believe that Perdue Shenandoah Valley Farms, Inc., violated 2 U.S.C. 441d. 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 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

April 28, 1987

The Honorable Frank McCloskey
U.S. House of Representatives
Washington, D.C. 20515

RE: MUR 2287

Dear Mr. McCloskey:

On November 10, 1986, the Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on April 22, 1987, determined that on the basis of the information in the complaint, and information provided by respondents, that there is no reason to believe that you violated 2 U.S.C. §§ 441b(a) or 441d. 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 General Counsel.

Sincerely,

Lawrence M. Noble
Acting General Counsel

Enclosure
General Counsel's Report

cc: McCloskey for Congress Committee

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 28, 1987

Betty Merriman, Treasurer
McCloskey for Congress Committee
P.O. Box 70
Bloomington, IN 47402

Re: MUR 2287
McCloskey for Congress
Committee
Betty Merriman, as treasurer

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Dear Ms. Merriman:

The Federal Election Commission notified the McCloskey for Congress Committee and you, as treasurer, on November 10, 1986, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to you at that time.

Upon further review of the allegations contained in the complaint, and information supplied by your Committee, the Commission, on April 22, 1987, failed by an equally divided vote to find reason to believe that your committee and you, as treasurer, violated 2 U.S.C. § 441b. The Commission found no reason to believe that the committee and you, as treasurer, violated 2 U.S.C. § 441d. Accordingly, the Commission closed its file in this matter.

This matter will become 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 General Counsel.

Sincerely,

Lawrence M. Noble
Acting General Counsel

Enclosure
General Counsel's Report

cc: The Honorable Frank McCloskey

21

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 2287

DATE FILMED 5/28/87 CAMERA NO. 2

CAMERAMAN AS

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