



FEDERAL ELECTION COMMISSION

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

THIS IS THE END OF MUR # 2296

Date Filmed 12/17/86 Camera No. --- 2

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FEDERAL ELECTION COMMISSION

12 day report ; Routing slips;
Comment sheets

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

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

Signed Maura Elbert-Callaway
date December 11, 1986

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MUR # 2296

MERGED WITH

MICROFILM LOCATION

REEL/FRAME

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COMPLAINANT NAMES

Internal

Continued

RESPONDENT NAMES

Gildred, Theodore

Continued

MUR DATES

OPENED: 11-13-86

CLOSED: 12-2-86

U.S. CODE CITES

C.F.R. CITES

615 - 441 f	202 - 110.1(i)(2)
554 - 441 a(a)(1)(A)	1510 - 110.1(i)(2)(i)
	1511 - 110.1(i)(2)(ii)
	1512 - 110.1(i)(2)(iii)

Continued

Continued

SUBJECT TERMS

- 465 - Contributions by minors
- 508 - limits on contributions by persons
- 505 - exceeding cont. limits is prohibited
- 519 - Contributions in the name of another

Continued

Callaway, Maura 12/11/86
CODER (Name and Date)

[Signature] 12/15/86
SUPERVISOR (Name and Date)

VERIFIED BY AND SIGNED OFF (Name and Date)

plm



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 9, 1986

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

RE: MUR 2296
Theodore Gildred

Dear Mr. Baran:

On December 2, 1986, the Federal Election Commission determined that there is reason to believe your client, Theodore Gildred, violated 2 U.S.C. § 441a, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of the matter, the Commission determined to take no further action and close the file. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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

The Commission reminds your client that it is nevertheless a violation of 2 U.S.C. § 441a for an individual to make contributions in excess of the contribution limitations. Your client should take immediate steps to insure that this activity does not occur in the future.

If you have any questions, please contact Maura White Callaway, the staff member assigned to this matter, at (202) 376-5690.

Sincerely,

Joan D. Aikens
Chairman

Enclosure
General Counsel's Factual and Legal Analysis

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Copy - C'Way

General Counsel's Factual and Legal Analysis

Respondent's Name: Theodore Gildred

MUR 2296

Summary of Allegations

Theodore Gildred made excessive contributions during 1984 to Reagan-Bush '84, in violation of 2 U.S.C. § 441a.

Factual and Legal Analysis

On September 16, 1986, Theodore Gildred, through his counsel submitted a letter to the Commission seeking guidance concerning certain transactions involving political contributions made during 1984 by Mr. Gildred's four children.

The letter submitted by counsel for Mr. Gildred states that in January 1984 Mr. Gildred's children, Theodore E. Gildred III, Jennifer Lynn Gildred, Edward Ames Gildred, and John Taylor Gildred, each made a contribution of \$1,000 to Reagan-Bush '84. At the time of the contributions the children were between the ages of 14 and 19. The letter explains that each child is the beneficiary of several trusts which have been in existence since 1979 or earlier, and that the income from these trusts exceeds \$1,000 per year per child. According to the letter, the trust income is distributed to Mr. Gildred and is deposited into his personal accounts, including a money market account. The children have the right to draw upon the money market account

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upon request to Mr. Gildred or his secretary. Such drawing rights have been exercised by each child prior to 1984 and, according to the letter, have never been denied by Mr. Gildred. The contributions to Reagan-Bush '84 were made by cashier's checks purchased with funds from the money market account.

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The letter from counsel maintains that each child made the contribution knowingly and voluntarily, and each child considered the contribution to be a contribution of funds controlled exclusively by him/her. The letter acknowledges that "[s]uch control was not exclusive in that both Mr. Gildred and each of the children shared access to the funds," but emphasizes that "each child deemed himself to possess exclusive control of a portion of the funds by virtue of his previously exercised drawing rights."^{1/}

On September 22, 1986, a letter was received from Jennifer Gildred stating that "in 1984 I gave knowingly of my own volition \$1,000 to the Reagan/Bush Campaign for [sic] money that came to me through a trust established by my father for my benefit." On October 19, 1986, letters were received from the remaining three children. The letter from John Gildred states that his contribution of \$1,000 to the Reagan-Bush campaign "was in

^{1/} Counsel cites to MUR 488 as precedent for finding no violation in this matter. This office notes, however, that in MUR 488 only one of the three children involved was a minor at the time of the contributions, and that a "cash fund" maintained by the parents, in which each of the children had an interest in excess of their contributions, was used to make the contributions. The proceeds of a trust were not at issue as in the instant matter.

no way a decision influenced by any other person aside from myself." The letter from Theodore E. Gildred III states that "in 1984, I willingly contributed \$1,000.00 to the Reagan-Bush reelection campaign. The money contributed came from a fund set up by my mother and father for my benefit." The letter from Edward Gildred states that he contributed to the Reagan-Bush campaign "with my funds from a trust created for me by my parents."

During a telephone conversation between staff of this office and counsel for Theodore Gildred, counsel explained that the four children have ownership of the corpus of the trusts, but that Theodore Gildred has a life interest in the income from the trusts, which is deposited into his personal accounts, including the money market used to make the contributions at issue herein.

Pursuant to 11 C.F.R. § 110.1(i)(2), minor children (children under 18 years of age) may contribute up to \$1,000 to a candidate for an election if (i) the decision to contribute is made knowingly and voluntarily by the minor child; (ii) the funds, goods, or services contributed are owned or controlled exclusively by the minor child, such as income earned by the child, the proceeds of a trust for which the child is a beneficiary, or a savings account opened and maintained exclusively in the child's name; and (iii) the contribution is

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not made from the proceeds of a gift, the purpose of which was to provide funds to be contributed, or is not in any other way controlled by another individual.

As set forth at 2 U.S.C. § 441a(a)(1)(A) no person shall make contributions to any candidate and his authorized political committees with respect to any election for federal office which, in the aggregate, exceed \$1,000.

From the information in hand it appears that only three of the four children, Jennifer Gildred, John Gildred, and Edward Gildred, were minors at the time of their contributions to the Reagan-Bush campaign. Insofar as Theodore E. Gildred III was not a minor at the time of the contribution at issue, the provisions of 11 C.F.R. § 110.1(i)(2) are not applicable to the contribution attributed to him.

The record in this matter demonstrates that the funds used to make the four contributions at issue (\$1,000 from each of the four children) were owned by Theodore Gildred, and not by each of the four children. See, with respect to minor children, 11 C.F.R. § 110.1(i)(2)(ii). This view reflects the fact that the contributions involved herein were made from the income of the trusts, in which Theodore Gildred has a life interest, rather than from the corpus of the trusts which are owned by the children.

Additionally, although the information presented by counsel indicates that the decision to contribute may have been made

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Theodore Gildred)

Pre-MUR 170 (MUR 2296)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of December 2, 1986, do hereby certify that the Commission took the following actions with respect to Pre-MUR 170:

1. Decided by a vote of 6-0 to open a Matter Under Review.

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

2. Decided by a vote of 6-0 to find reason to believe Theodore Gildred violated 2 U.S.C. § 441a, but take no further action and close the file.

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

(continued)

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3. Decided by a vote of 6-0 to
- a) Direct the Office of General Counsel to send an appropriate letter; and
 - b) Direct the Office of General Counsel to send a revised factual and legal analysis consistent with the finding of a violation of 2 U.S.C. § 441a.

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

Attest:

12-4-86

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES N. STEELE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS /CHERYL A. FLEMING *CAF*

DATE: NOVEMBER 14, 1986

SUBJECT: OBJECTION TO Pre-MUR 170:
FIRST GENERAL COUNSEL'S REPORT
SIGNED NOVEMBER 13, 1986

The above-captioned document was circulated to the Commission on Thursday, November 13, 1986 at 4:00 P.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	_____ X _____
Commissioner Thomas	_____

This matter will be placed on the Executive Session agenda for Tuesday, November 18, 1986.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES N. STEELE
GENERAL COUNSEL
FROM: MARJORIE W. EMMONS / CHERYL A. FLEMING *CAF*
DATE: NOVEMBER 13, 1986
SUBJECT: OBJECTION TO Pre-MUR 170:
Memorandum to the Commission
Dated November 13, 1986

The above-captioned document was circulated to the Commission on Thursday, November 13, 1986 at 4:00 P.M.

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

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

This matter will be placed on the Executive Session agenda for Tuesday, November 18, 1986.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary
FROM: Office of General Counsel *Red*
DATE: November 13, 1986
SUBJECT: PRE-MUR 170 - Memo. to the Commission

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

CIRCULATIONS

DISTRIBUTION

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

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FEDERAL ELECTION COMMISSION

First General Counsel's Report

Date and Time of Transmittal _____
by OGC to the Commission _____

Pre-MUR 170
Staff Maura White
Callaway

Source of MUR: Sua Sponte
Respondent's Name: Theodore Gildred
Relevant Statute: 2 U.S.C. § 441f
11 C.F.R. § 110.1(i)(2)
Internal Reports Checked: None
Federal Agencies Checked: None

Generation of Matter

On September 16, 1986, Theodore Gildred, through his counsel, submitted a letter to the Commission seeking guidance concerning certain transactions involving political contributions made during 1984 by Mr. Gildred's four children (Attachment 1).

Factual and Legal Analysis

The letter submitted by counsel for Mr. Gildred states that in January 1984 Mr. Gildred's children, Theodore E. Gildred III, Jennifer Lynn Gildred, Edward Ames Gildred, and John Taylor Gildred, each made a contribution of \$1,000 to Reagan-Bush '84. At the time of the contributions the children were between the ages of 14 and 19. The letter explains that each child is the beneficiary of several trusts which have been in existence since 1979 or earlier, and that the income from these trusts exceeds \$1,000 per year per child. According to the letter, the trust income is distributed to Mr. Gildred and is deposited into his personal accounts, including a money market account. The children have the right to draw upon the money market account

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upon request to Mr. Gildred or his secretary. Such drawing rights were exercised by each child prior to 1984 and, according to the letter, have never been denied by Mr. Gildred. The contributions to Reagan-Bush '84 were made by cashier's checks purchased with funds from the money market account.

The letter from counsel maintains that each child made the contribution knowingly and voluntarily, and each child considered the contribution to be a contribution of funds controlled exclusively by him/her. The letter acknowledges that "[s]uch control was not exclusive in that both Mr. Gildred and each of the children shared access to the funds," but emphasizes that "each child deemed himself to possess exclusive control of a portion of the funds by virtue of his previously exercised drawing rights."^{1/}

On September 22, 1986, a letter was received from Jennifer Gildred stating that "in 1984 I gave knowingly of my own volition \$1,000 to the Reagan/Bush Campaign for [sic] money that came to me through a trust established by my father for my benefit."

(Attachment 2.) On October 19, 1986, letters were received from the remaining three children. (Attachment 3.) The letter from John Gildred states that his contribution of \$1,000 to the

^{1/} Counsel cites to MUR 488 as precedent for finding no violation in this matter. This office notes, however, that in MUR 488 only one of the three children involved was a minor at the time of the contributions, and that a "cash fund" maintained by the parents, in which each of the children had an interest in excess of their contributions, was used to make the contributions. The proceeds of a trust were not at issue as in the instant matter.

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Reagan-Bush campaign "was in no way a decision influenced by any other person aside from myself." The letter from Theodore E. Gildred III states that "in 1984, I willingly contributed \$1,000.00 to the Reagan-Bush reelection campaign. The money contributed came from a fund set up by my mother and father for my benefit." The letter from Edward Gildred states that he contributed to the Reagan-Bush campaign "with my funds from a trust created for me by my parents."

During a telephone conversation between staff of this office and counsel for Theodore Gildred, counsel explained that the above four children have ownership of the corpus of the trusts, but that Theodore Gildred has a life interest in the income from the trusts. As discussed above, the income from the trusts is deposited into his personal accounts, including the money market account used to make the contributions at issue herein.

Pursuant to 11 C.F.R. § 110.1(i)(2), minor children (children under 18 years of age) may contribute up to \$1,000 to a candidate for an election if (i) the decision to contribute is made knowingly and voluntarily by the minor child; (ii) the funds, goods, or services contributed are owned or controlled exclusively by the minor child, such as income earned by the child, the proceeds of a trust for which the child is a beneficiary, or a savings account opened and maintained exclusively in the child's name; and (iii) the contribution is not made from the proceeds of a gift, the purpose of which was to provide funds to be contributed, or is not in any other way controlled by another individual.

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As set forth at 2 U.S.C. § 441f no person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another.

From the information in hand it appears that only three of the four children, Jennifer Gildred, John Gildred, and Edward Gildred, were minors at the time of their contributions to the Reagan-Bush campaign.^{2/} Insofar as Theodore E. Gildred III was not a minor at the time of the contribution at issue, the provisions of 11 C.F.R. § 110.1(i)(2) are not applicable to the contribution attributed to him.

The record in this matter demonstrates that the funds used to make the four contributions at issue (\$1,000 from each of the four children) were owned by Theodore Gildred, and not by each of the four children. See, with respect to minor children, 11 C.F.R. § 110.1(i)(2)(ii). This view reflects the fact that the contributions involved herein were made from the income of the trusts, in which Theodore Gildred has a life interest, rather than from the corpus of the trusts which are owned by the children.

Additionally, although the information presented by counsel indicates that the decision to contribute may have been made knowingly and voluntarily by each of the three minor children, the funds contributed in their names were not owned or controlled

^{2/} Counsel informed staff of this Office by telephone that Theodore E. Gildred III was 19 years old at the time of the contribution involved herein.

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exclusively by them. See 11 C.F.R. § 110.1(i)(2)(i) and (ii). The lack of ownership or exclusive control is evidenced by the fact that the children may draw upon the income from the trusts, (which is owned by Theodore Gildred by virtue of his life interest), but only upon request to Theodore Gildred or his secretary who theoretically may deny the request.

In consideration of the fact that the funds contributed in the name of Theodore E. Gildred III were owned by Theodore Gildred it is the recommendation of this office that the Commission open a Matter Under Review and find reason to believe Theodore Gildred violated 2 U.S.C. § 441f by making a contribution in the name of Theodore Gildred III. In addition, because Jennifer Gildred, John Gildred, and Edward Gildred did not own or exclusively control the funds contained in their father's money market account which were contributed to the Reagan-Bush campaign, it is the recommendation of this office that the Commission find reason to believe Theodore Gildred violated 2 U.S.C. § 441f by making contributions in the name of these three children.

Recommendations

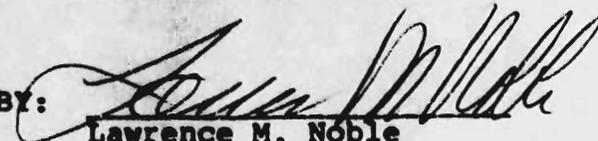
1. Open a Matter Under Review.
2. Find reason to believe Theodore Gildred violated 2 U.S.C. § 441f by making contributions in the names of Theodore E. Gildred III, Jennifer Gildred, John Gildred, and Edward Gildred.

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3. Approve the attached letter and General Counsel's Factual and Legal Analysis.

Charles N. Steele
General Counsel

11/13/86
Date

BY: 
Lawrence M. Noble
Deputy General Counsel

Attachments

- 1- Sua Sponte letter
- 2- Letter from JLG
- 3- Letter from Baran
- 4- Proposed letter and analysis

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GCC# 1533

WILEY, REIN & FIELDING

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

JAN W. BARAN
(202) 429-7330

September 16, 1986

SEP 16 11:36

Charles N. Steele, Esquire
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20006

Dear Mr. Steele:

This office represents Theodore E. Gildred and family of Solana Beach, California. Enclosed please find a letter from Mr. Gildred to me confirming this representation.

The purpose of this letter is to bring to the attention of the Federal Election Commission ("FEC"), and seek its guidance about, certain transactions involving political contributions by Mr. Gildred's children. In January 1984 Mr. Gildred's children, Theodore E. Gildred III, Jennifer Lynn Gildred, Edward Ames Gildred and John Taylor Gildred, each made a contribution of \$1,000 to Reagan-Bush '84. At that time the children were between the ages of 14 and 19.

Each child is the beneficiary of several trusts which have been in existence since 1979 or earlier. The income from these trusts exceeds \$1,000 per year per child. The trust income is distributed to Mr. Gildred and is deposited into his personal accounts, including a money market account. The Gildred children have the right to draw upon the money market account upon request to Mr. Gildred or his secretary. Such drawing rights have been exercised by each child prior to 1984 and never have been denied by Mr. Gildred. The contributions to Reagan-Bush '84 were by cashier's checks purchased with funds from the money market account.

Each child made his contribution knowingly and voluntarily. Each child considered his contribution to be a contribution of funds controlled exclusively by him.

Attachment 1(1)

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WILEY, REIN & FIELDING

Charles N. Steele, Esquire
September 16, 1986
Page 2

The Gildred family submits this material to the FEC for review and confirmation that these contributions were made in accordance with FEC regulations. The contributions were made knowingly and voluntarily and from trust proceeds of which trust the children are beneficiaries as required by 11 C.F.R. § 110.1(i)(2)(1986). The Gildreds have been advised by counsel, however, that someone could claim that the funds were not owned or controlled exclusively by each child. Such control was not exclusive in that both Mr. Gildred and each of the children shared access to the funds. On the other hand each child deemed himself to possess exclusive control of a portion of the funds by virtue of his previously exercised drawing rights.

In this regard, the situation appears similar to one addressed by the FEC in MUR 488, In the Matter of George F. and Joan Watford. That case involved contributions by minors from a family fund. Each minor in that instance provided a statement to the FEC that he made a \$1,000 personal contribution. The respondents did not disclose the source of the family fund nor how it may have been replenished. The FEC made a unanimous finding that there was no reasonable cause to believe that the Watfords violated the pertinent provisions of the Federal Election Campaign Act. By analogy, the Gildred money market account was operated akin to the family fund at issue in MUR 488, with the added factual detail that the account contained proceeds of a trust of which the children are beneficiaries.

The Gildreds wish to eliminate any doubt about these contributions. I respectfully ask that this be treated as a "pre-MUR" in order that the FEC have an opportunity to review these transactions.

Sincerely,



Jan W. Baran

Enclosure
cc: Theodore E. Gildred

1(2)

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Theodore E. Gildred
Post Office Box 271
16056 El Camino Real
Solana Beach, California 92075

September 12, 1986

Jan W. Baran, Esq.
Willey, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

Dear Mr. Baran:

This letter is to authorize you to represent me in the matter of my children's political contributions which I wish to have you review with the Federal Election Commission.

As we discussed, I feel that it would be appropriate to seek the FEC's guidance regarding technical clarification of the election laws as it pertains to the contributions made by my four children in 1984.

Sincerely,



Theodore E. Gildred

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Jennifer Lynne Gildred

SEP 22 1984 38

To whom it may concern,

I hereby certify that in 1984 I gave knowingly of my own volition \$1,000.00 to the Reagan/Bush Campaign for money that came to me through a trust fund established by my father for my benefit.

Sincerely,

Jennifer Lynne Gildred

SEP 23 11:55

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Attachment 2

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WILEY. REIN & FIELDING

1778 K STREET, N.W.
WASHINGTON, D. C. 20006

JAN W. BARAN
(202) 429-7330

October 7, 1986

11:05
AIO: 17

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

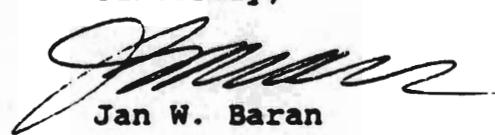
Re: Theodore E. Gildred and Family

Dear Ms. Lerner:

Pursuant to our telephone conversation I am transmitting to you the enclosed documents. These documents are copies of letters from Theodore E. Gildred and his children, John, Ted and Edward Ames. I understand that you have received a separate letter from another child, Jennifer, by separate cover.

I trust that these documents will assist the Federal Election Commission in reviewing the above-captioned matter.

Sincerely,


Jan W. Baran

Enclosures

cc: Theodore E. Gildred
William P. Shannahan

85040521414

Attachment 3(1)

Theodore E. Gildred
Post Office Box 271
16056 El Camino Real
Solana Beach, California 92075

SEP 29 1986 P3:1

September 29, 1986

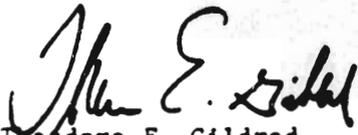
Mr. Jan W. Baran
Willey, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

Dear Jan:

Enclosed are letters from my children regarding contributions that they personally made to the Reagan/Bush re-election campaign in 1984.

Although my youngest daughter, Tory, had a similar trust of her own, she did not make a contribution as she was four years old at that time and could not, knowingly and of her volition, make a similar donation.

Sincerely,


Theodore E. Gildred

enclosures

SEP 29 1986 P4:25

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3(2)

TED GILDRED

FEDERAL ELECTION COMMISSION
WASHINGTON D.C.

SEPT. 15, 1986

DEAR SIR,

I WOULD LIKE TO CONFIRM THE
FACT THAT IN 1984, I WILLINGLY
CONTRIBUTED \$ 1000.00 TO THE
REAGAN-BUSH REELECTION CAM-
PAIGN. THE MONEY CONTRIBUTED
CAME FROM A FUND SET UP
BY MY MOTHER AND FATHER
FOR MY BENEFIT.

SINCERELY

Ted Gildred

3 (3)

85040521416

15 Sept '86

The Federal Election Commission
c/o Washington, D.C.

To whom it may concern,

In 1994, I contributed
one thousand dollars to the Reagan / Bush
re-election campaign with my funds
from a trust created for me by my
parents.

yours truly,

Edward Ames Silvestri

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86040521A17

from myself, and was an act of full faith
of the campaign's success.

John Dillard

86040321418

3(5)



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

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

RE: MUR
Theodore Gildred

Dear Mr. Baran:

On _____, 1986, the Federal Election Commission determined that there is reason to believe your client, Theodore Gildred, violated 2 U.S.C. § 441f, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The General Counsel's factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

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

In the absence of any additional information which demonstrates that no further action should be taken against your client the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, requests for pre-probable cause conciliation will not be entertained after briefs on probable cause have been mailed to the respondent.

Attachment 4(1)

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Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel is not authorized to give extensions beyond 20 days.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White Callaway, the staff member assigned to this matter, at (202) 376-5690.

Sincerely,

Joan D. Aikens
Chairman

Enclosures

General Counsel's Factual and Legal Analysis
Procedures

85040621420

General Counsel's Factual and Legal Analysis

Respondent's Name: Theodore Gildred MUR _____

Summary of Allegations

Theodore Gildred made contributions in the name of four of his children, in violation of 2 U.S.C. § 441f.

Factual and Legal Analysis

On September 16, 1986, Theodore Gildred, through his counsel submitted a letter to the Commission seeking guidance concerning certain transactions involving political contributions made during 1984 by Mr. Gildred's four children.

The letter submitted by counsel for Mr. Gildred states that in January 1984 Mr. Gildred's children, Theodore E. Gildred III, Jennifer Lynn Gildred, Edward Ames Gildred, and John Taylor Gildred, each made a contribution of \$1,000 to Reagan-Bush '84. At the time of the contributions the children were between the ages of 14 and 19. The letter explains that each child is the beneficiary of several trusts which have been in existence since 1979 or earlier, and that the income from these trusts exceeds \$1,000 per year per child. According to the letter, the trust income is distributed to Mr. Gildred and is deposited into his personal accounts, including a money market account. The children have the right to draw upon the money market account

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upon request to Mr. Gildred or his secretary. Such drawing rights have been exercised by each child prior to 1984 and, according to the letter, have never been denied by Mr. Gildred. The contributions to Reagan-Bush '84 were made by cashier's checks purchased with funds from the money market account.

The letter from counsel maintains that each child made the contribution knowingly and voluntarily, and each child considered the contribution to be a contribution of funds controlled exclusively by him/her. The letter acknowledges that "[s]uch control was not exclusive in that both Mr. Gildred and each of the children shared access to the funds," but emphasizes that "each child deemed himself to possess exclusive control of a portion of the funds by virtue of his previously exercised drawing rights."^{1/}

On September 22, 1986, a letter was received from Jennifer Gildred stating that "in 1984 I gave knowingly of my own volition \$1,000 to the Reagan/Bush Campaign for [sic] money that came to me through a trust established by my father for my benefit." On October 19, 1986, letters were received from the remaining three children. The letter from John Gildred states that his contribution of \$1,000 to the Reagan-Bush campaign "was in

^{1/} Counsel cites to MUR 488 as precedent for finding no violation in this matter. This office notes, however, that in MUR 488 only one of the three children involved was a minor at the time of the contributions, and that a "cash fund" maintained by the parents, in which each of the children had an interest in excess of their contributions, was used to make the contributions. The proceeds of a trust were not at issue as in the instant matter.

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no way a decision influenced by any other person aside from myself." The letter from Theodore E. Gildred III states that "in 1984, I willingly contributed \$1,000.00 to the Reagan-Bush reelection campaign. The money contributed came from a fund set up by my mother and father for my benefit." The letter from Edward Gildred states that he contributed to the Reagan-Bush campaign "with my funds from a trust created for me by my parents."

During a telephone conversation between staff of this office and counsel for Theodore Gildred, counsel explained that the four children have ownership of the corpus of the trusts, but that Theodore Gildred has a life interest in the income from the trusts, which is deposited into his personal accounts, including the money market used to make the contributions at issue herein.

Pursuant to 11 C.F.R. § 110.1(i)(2), minor children (children under 18 years of age) may contribute up to \$1,000 to a candidate for an election if (i) the decision to contribute is made knowingly and voluntarily by the minor child; (ii) the funds, goods, or services contributed are owned or controlled exclusively by the minor child, such as income earned by the child, the proceeds of a trust for which the child is a beneficiary, or a savings account opened and maintained exclusively in the child's name; and (iii) the contribution is

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not made from the proceeds of a gift, the purpose of which was to provide funds to be contributed, or is not in any other way controlled by another individual.

As set forth at 2 U.S.C. § 441f no person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another.

From the information in hand it appears that only three of the four children, Jennifer Gildred, John Gildred, and Edward Gildred, were minors at the time of their contributions to the Reagan-Bush campaign. Insofar as Theodore E. Gildred III was not a minor at the time of the contribution at issue, the provisions of 11 C.F.R. § 110.1(i)(2) are not applicable to the contribution attributed to him.

The record in this matter demonstrates that the funds used to make the four contributions at issue (\$1,000 from each of the four children) were owned by Theodore Gildred, and not by each of the four children. See, with respect to minor children, 11 C.F.R. § 110.1(i)(2)(ii). This view reflects the fact that the contributions involved herein were made from the income of the trusts, in which Theodore Gildred has a life interest, rather than from the corpus of the trusts which are owned by the children.

Additionally, although the information presented by counsel indicates that the decision to contribute may have been made

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knowingly and voluntarily by each of the three minor children, the funds contributed in their names were not owned or controlled exclusively by them. See 11 C.F.R. § 110.1(i)(2)(i) and (ii). The lack of ownership or exclusive control is evidenced by the fact that the children may draw upon the income from the trusts (which is owned by Theodore Gildred by virtue of his life interest), but only upon request to Theodore Gildred or his secretary, who theoretically could deny the request.

In consideration of the fact that the funds contributed in the name of Theodore E. Gildred III were owned by Theodore Gildred it is the recommendation of this office that the Commission open a Matter Under Review and find reason to believe Theodore Gildred violated 2 U.S.C. § 441f by making a contribution in the name of Theodore Gildred III. In addition, because Jennifer Gildred, John Gildred, and Edward Gildred did not own or exclusively control the funds contained in their father's money market account which were contributed to the Reagan-Bush campaign, it is the recommendation of this office that the Commission find reason to believe Theodore Gildred violated 2 U.S.C. § 441f by making contributions in the name of these three children.

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RECEIVED AT THE FEC
OCC#1796
86 OCT 20 10
P 3: 13

Theodore E. Gildred
Post Office Box 271
16056 El Camino Real
Solana Beach, California 92075

September 29, 1986

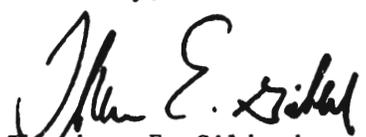
Mr. Jan W. Baran
Willey, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

Dear Jan:

Enclosed are letters from my children regarding contributions that they personally made to the Reagan/Bush re-election campaign in 1984.

Although my youngest daughter, Tory, had a similar trust of her own, she did not make a contribution as she was four years old at that time and could not, knowingly and of her volition, make a similar donation.

Sincerely,


Theodore E. Gildred

enclosures

JAN W. BARAN
ATTORNEY AT LAW

1776 K STREET, N. W.
WASHINGTON, D. C. 20006
(202) 429-7330
WILEY, REIN & FIELDING

16 OCT 21 P 4: 25

GENERAL INVESTIGATIVE

RECEIVED

86040621426

RECEIVED AT THE FEC
HAND DELIVERED
86 OCT 8 AIO: 43
CC# 1708

WILEY, REIN & FIELDING

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

JAN W. BARAN
(202) 429-7330

October 7, 1986

86 OCT 9 AIO: 17

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

Re: Theodore E. Gildred and Family

Dear Ms. Lerner:

Pursuant to our telephone conversation I am transmitting to you the enclosed documents. These documents are copies of letters from Theodore E. Gildred and his children, John, Ted and Edward Ames. I understand that you have received a separate letter from another child, Jennifer, by separate cover.

I trust that these documents will assist the Federal Election Commission in reviewing the above-captioned matter.

Sincerely,



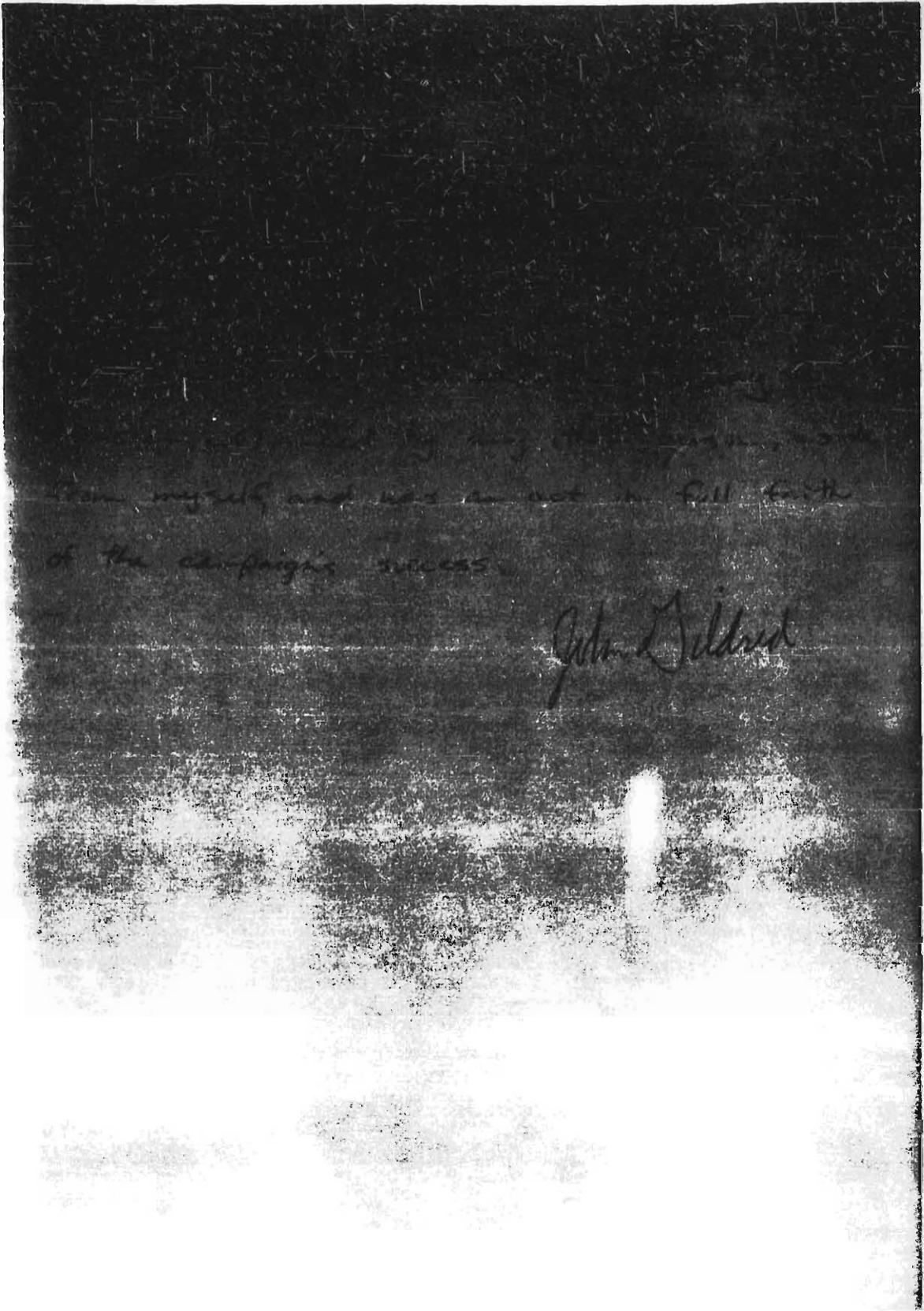
Jan W. Baran

Enclosures

cc: Theodore E. Gildred
William P. Shannahan

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85040521428



TED GILDRED

FEDERAL ELECTION COMMISSION
WASHINGTON D.C.

SEPT. 15, 1986

DEAR SIR,

I WOULD LIKE TO CONFIRM THE
FACT THAT IN 1984, I WILLINGLY
CONTRIBUTED \$ 1000.00 TO THE
REAGAN-BUSH REELECTION CAM-
PAIGN. THE MONEY CONTRIBUTED
CAME FROM A FUND SET UP
BY MY MOTHER AND FATHER
FOR MY BENEFIT.

SINCERELY

J. E. Gilred

95040621429

15 Sept '86

The Federal Election Commission
c/o Washington, D.C.

To whom it may concern,

In 1984, I contributed
one thousand dollars to the Reagan / Bush
re-election campaign with my funds
from a trust created for me by my
parents.

yours truly,

Edward Ames Wilford

86040321430

GCC# 1594

RECEIVED ... FEC

Jennifer Lynne Gildred

SEP 22 1984 P 1:30

To whom it may concern,

I hereby certify that in 1984 I gave knowingly of my own volition \$1,000.00 to the Reagan/Bush Campaign for money that came to me through a trust fund established by my father for my benefit.

Sincerely,

Jennifer Lynne Gildred

85040521431

SEP 23 1984 P 1:55

J. Gildred
Lacoste School of the Arts
84710 Lacoste (Vaucluse)
France



The Federal Election Commission
Washington, D.C.



LR 8 19 973 M

Doc # 1594

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GENERAL COUNSEL

SEP 23 11:55



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~~125-K ST-44~~ 999-E STNW

SEP 23 12:31



1-085743G261 FCA936 INTL 1430

0MC Docket

SENSITIVE



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: THE COMMISSION
FROM: MARJORIE W. EMMONS/ Darlene Small
DATE: September 18, 1986
SUBJECT: PreMur 170 - COMPLAINT

The attached has been circulated for your information.

R 6 0 4 0 6 2 1 4 3 4

Attachment

SENSITIVE

CCC# 1533

Palma 170

WILEY, REIN & FIELDING

FEC
SECRETARY

1776 K STREET, N.W.

WASHINGTON, D. C. 20006

COMM
05 SEP 18

AID: 50

JAN W. BARAN
(202) 429-7330

September 16, 1986

SEP 16 P 4: 36

Charles N. Steele, Esquire
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20006

Dear Mr. Steele:

This office represents Theodore E. Gildred and family of Solana Beach, California. Enclosed please find a letter from Mr. Gildred to me confirming this representation.

The purpose of this letter is to bring to the attention of the Federal Election Commission ("FEC"), and seek its guidance about, certain transactions involving political contributions by Mr. Gildred's children. In January 1984 Mr. Gildred's children, Theodore E. Gildred III, Jennifer Lynn Gildred, Edward Ames Gildred and John Taylor Gildred, each made a contribution of \$1,000 to Reagan-Bush '84. At that time the children were between the ages of 14 and 19.

Each child is the beneficiary of several trusts which have been in existence since 1979 or earlier. The income from these trusts exceeds \$1,000 per year per child. The trust income is distributed to Mr. Gildred and is deposited into his personal accounts, including a money market account. The Gildred children have the right to draw upon the money market account upon request to Mr. Gildred or his secretary. Such drawing rights have been exercised by each child prior to 1984 and never have been denied by Mr. Gildred. The contributions to Reagan-Bush '84 were by cashier's checks purchased with funds from the money market account.

Each child made his contribution knowingly and voluntarily. Each child considered his contribution to be a contribution of funds controlled exclusively by him.

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WILEY, REIN & FIELDING

Charles N. Steele, Esquire
September 16, 1986
Page 2

The Gildred family submits this material to the FEC for review and confirmation that these contributions were made in accordance with FEC regulations. The contributions were made knowingly and voluntarily and from trust proceeds of which trust the children are beneficiaries as required by 11 C.F.R. § 110.1(i)(2)(1986). The Gildreds have been advised by counsel, however, that someone could claim that the funds were not owned or controlled exclusively by each child. Such control was not exclusive in that both Mr. Gildred and each of the children shared access to the funds. On the other hand each child deemed himself to possess exclusive control of a portion of the funds by virtue of his previously exercised drawing rights.

In this regard, the situation appears similar to one addressed by the FEC in MUR 488, In the Matter of George F. and Joan Watford. That case involved contributions by minors from a family fund. Each minor in that instance provided a statement to the FEC that he made a \$1,000 personal contribution. The respondents did not disclose the source of the family fund nor how it may have been replenished. The FEC made a unanimous finding that there was no reasonable cause to believe that the Watfords violated the pertinent provisions of the Federal Election Campaign Act. By analogy, the Gildred money market account was operated akin to the family fund at issue in MUR 488, with the added factual detail that the account contained proceeds of a trust of which the children are beneficiaries.

The Gildreds wish to eliminate any doubt about these contributions. I respectfully ask that this be treated as a "pre-MUR" in order that the FEC have an opportunity to review these transactions.

Sincerely,



Jan W. Baran

Enclosure
cc: Theodore E. Gildred

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Theodore E. Gildred
Post Office Box 271
16056 El Camino Real
Solana Beach, California 92075

September 12, 1986

Jan W. Baran, Esq.
Willey, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

Dear Mr. Baran:

This letter is to authorize you to represent me in the matter of my children's political contributions which I wish to have you review with the Federal Election Commission.

As we discussed, I feel that it would be appropriate to seek the FEC's guidance regarding technical clarification of the election laws as it pertains to the contributions made by my four children in 1984.

Sincerely,



Theodore E. Gildred

86040621437

CCC# 1533

WILEY, REIN & FIELDING

1778 K STREET, N. W.
WASHINGTON, D. C. 20006

JAN W. BARAN
(202) 429-7330

September 16, 1986

16 SEP 16 P 4: 36

RECEIVED
GENERAL COUNSEL

Charles N. Steele, Esquire
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20006

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Each child made his contribution knowingly and voluntarily. Each child considered his contribution to be a contribution of funds controlled exclusively by him.

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WILEY, REIN & FIELDING

Charles N. Steele, Esquire
September 16, 1986
Page 2

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The Gildreds wish to eliminate any doubt about these contributions. I respectfully ask that this be treated as a "pre-MUR" in order that the FEC have an opportunity to review these transactions.

Sincerely,



Jan W. Baran

Enclosure
cc: Theodore E. Gildred

85040621439

Theodore E. Gildred
Post Office Box 271
16056 El Camino Real
Solana Beach, California 92075

September 12, 1986

Jan W. Baran, Esq.
Willey, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

Dear Mr. Baran:

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As we discussed, I feel that it would be appropriate to seek the FEC's guidance regarding technical clarification of the election laws as it pertains to the contributions made by my four children in 1984.

Sincerely,



Theodore E. Gildred

85040521440

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S

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

TO:

Charles N. Steele, Esquire
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20006

Attention: Larry Noble

88 SEP 16 P4:36 040521441 **HAND DELIVERY**

86040521442



FEDERAL ELECTION COMMISSION

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

THIS IS THE BEGINNING OF MUR # 2296

Date Filmed 12/17/86 Camera No. --- 2

Cameraman AS