FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

2/13/87

THE FOLLOWING MATERIAL IS BEING ADDED TO THE PUBLIC FILE OF CLOSED MUR 2299 .

3 7 1 1 0 5 4 2 2 5 5

RECEIVED AT THE FEC
SCC# 2366
86 DEC 29 A9:37

Berkman, Gordon, Murray and Palda
Attorneys and Counselors at Law
2121 The Illuminating Building
55 Public Square
Cleveland, Ohio 44113-1949

216 781-5245

BERNARD A. BERKMAN (1929-1985)
LARRY S. GORDON
J. MICHAEL MURRAY
GEORGE W. PALDA
LORRAINE R. BAUMGARDNER
RICHARD T. BUSH
JONATHAN I. KLEIN
JEREMY A. ROSENBAUM

JULIEN C. RENSWICK
OF COUNSEL

December 23, 1986

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

Attention: Jonathan Levin, Esq.
Office of General Counsel

Re: Mur - 2299
Berkman, Gordon, Murray
and Palda

Dear Mr. Levin:

The firm of Berkman, Gordon, Murray and Palda is in receipt of a letter from Joan D. Aikens, Chairman of the Federal Election Commission, dated December 16, 1986, which letter bears the reference noted in the caption of this letter. The Chairman's letter states that the Federal Election Commission has determined that there is reason to believe that the partnership of Berkman, Gordon, Murray and Palda (the "Partnership") violated Title 2, U.S.C. §441a(a)(1)(A), and further states that the matter has been assigned to you, for which reason this letter is directed to you.

You are advised that the Partnership denies that it violated the cited code section of the Act in any manner whatsoever in the particular alleged, and requests that the Commission re-open the matter for reconsideration of its determination, and that upon such reconsideration that it issue a determination that there is no reason for the Commission to believe that the Partnership violated the Act.

In support of the foregoing request and in response to the allegation which initiated this matter, you are advised that the Partnership contributed the total sum of $1,000 to the Margaret Mueller for Congress Committee, as evidenced by the attached photostat of the Partnership's check, number 2039, dated

May 2, 1986, drawn on its account at Society National Bank, Cleveland, Ohio, in the amount of $1,000. You are advised that Nancy A. Murray of North Royalton, Ohio, who is the spouse of one of the members of our firm, issued her check number 185 drawn on her account at the Cardinal Federal Savings Bank, Cleveland, Ohio, on the same date, addressed to the same payee in like amount, a photostat of which check is also enclosed. Due to inadvertence or error on the part of the party responsible for receipt, recording and reportage of these contributions on behalf of the Margaret Mueller for Congress Committee, the funds received by it from Nancy A. Murray were entered as having been received from the Partnership, and such error was perpetuated in that Committee's report of contributions filed by it. We have brought the error to the attention of the Committee and requested of it that it take whatever action is necessary on its part to correct the error.

Accordingly, and in view of the irrefutable fact that the allegation lodged against the Partnership was founded upon error, we believe that there is good cause and just reason to re-open this case for the purpose of reconsidering the allegation, and upon such reconsideration that the determination of "reason to believe" be reversed, and that a finding of no violation be entered.

Kindly advise us at your earliest opportunity as to the action taken by the Commission on this request. In the event the request is refused, or in any event, we further request that this letter and attachments be spread upon and made a part of the public record in this matter.

Very truly yours,

BERKMAN, GORDON, MURRAY and PALDA

By Lawrey L. Gordon

LSG:bk
Enclosures

cc: Margaret Mueller for
Congress Committee

J. MICHAEL MURRAY
NANCY A. MURRAY
4311 SIR ROBERT AVE
NORTH ROYALTON, OH 44133

185

May 2 1986

6-7037
2410

Pay to the Order of Margaret Mueller For Congress Committee $ 1,000.00

One thousand and no/100 Dollars

Public Square Office
CARDINAL
Federal Savings
BANK
Cleveland, Ohio 44113

2800 08 05-07-86 280001288

For Nancy A. Murray

⑆241070378⑆ 028033075⑈ 0185 ⑈0000100000⑈

PAY TO THE ORDER OF
BANK ONE, CLEVELAND, NA
FAINESVILLE, OHIO 44077
FOR DEPOSIT ONLY
MARGARET MUELLER
FOR CONGRESS COMMITTEE
60056 2748

PAY ANY BANK
TRS CLEVELAND [illegible]
2800 2800 08 [illegible] 280001288

2039

BERKMAN, GORDON
MURRAY AND PALDA
ATTORNEYS AT LAW
2121 THE ILLUMINATING BLDG.
CLEVELAND, OHIO 44113

6-103
410

May 2, 1986

PAY TO THE ORDER OF Margaret Mueller for Congress Committee $ 1,000.00

THE SUM 1000 DOLS 00 CTS DOLLARS

Campaign Contribution

Society 00
NATIONAL BANK

J. Michael Murray

⑈002039⑈ ⑆041001039⑆ 16⑈520⑈0121⑈ ⑈0000100000⑈

THIS CHECK IS DELIVERED FOR PAYMENT ON THE ACCOUNTS SHOWN ABOVE

PAY TO THE ORDER OF
BANK ONE, CLEVELAND, NA
PAINESVILLE, OHIO 44077
FOR DEPOSIT ONLY
MARGARET MUELLER
FOR CONGRESS COMMITTEE
800562748⑈

PEG 6-1543 BKI 86126 50106644

MY 86 07

NATIONAL BANK
CLEVELAND, OHIO
ANY BANK

Berkman, Gordon, Murray and Palda
Attorneys and Counselors at Law
2121 The Illuminating Building
55 Public Square
Cleveland, Ohio 44113

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

Attention: Jonathan Levin, Esq.
Office of General Counsel

04 APR 29 AM 9:37

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 2299 E

DATE FILMED 10/21/87 CAMERA NO. 3

CAMERAMAN AS

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PUBLIC RECORD INDEX MUR 2299

1. Complaint, dtd 2 SEP 86, filed by Tom Tagliamonte (Defective Complaint).

2. Ltr, 17 SEP 86, Lawrence M. Noble (Deputy Gen. Counsel, FEC) to Margaret Mueller (Mueller For Congress Committee).

3. Ltr, 17 SEP 86, Lawrence M. Noble to Tom Tagliamonte, subj: Improper filing of complaint.

4. Ltr, 22 SEP 86, J. Thomas Dean (Treasurer, Mueller for Congress) to FEC.

5. Ltr, 1 Oct 86, L.M. Noble to J. Thomas Dean.

6. First General Counsels Report, 26 NOV 86

7. Memo, 2 DEC 86, Office of Commission Secretary (OCS) to General Counsel, subj: objections to Pre-MUR 173 by Commission Thomas.

8. Certification of Commission Act, 9 DEC 86

9. Ltr, 16 DEC 86, Joan D. Aikens to J. Thomas Dean w/encl (G.C. Legal and Factual Analysis).

10. Ltr, 16 DEC 86, J.D. Aikens to Berman, Gordon, Murray and Palda) w/encl. (G.C.'s Factual and Legal Analysis)

11. Ltr, 23 DEC 86, Larry Gordon (Berkman, Gordon, Murray and Palda) to FEC (Request to reopen case).

12. Ltr. 8 JAN 87, J. Thomas Dean to FEC (Request for correction of record).

13. Memo, 15 Jan 87, L.M. Noble to the Commission.

14. Memo, 21 JAN 87, OCS to OGC subj: objections to memo in MUR 2299.

15. Certification of Commission Action, 4 FEB 87

16. Ltr, 9 Feb 87, L.M. Noble to Larry S. Gordon (Beckman, Gordon, Murray and Palda).

17. Memo, 4 Feb 87, L.M. Noble to the Commission.

18. Certification of Commission Action, 10 Feb 87

19. Ltr, 11 Feb 87, L.M. Noble to J. Thomas Dean.

20. Ltr, 17 Feb 87, Larry Gordon to FEC w/encls

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21. Memo, 5 Mar 87, Lawrence M. Noble to the Commission.

22. Memo, 10 Mar 87, OCS to OGC subj: objection to MUR 2299 by Commissioner Elliott.

23. Certification of Commission Action, 20 Mar 87.

24. General Counsel's Report, 24 Apr 87

25. Ltr, 29 Apr 87, Lawrence M. Noble (Acting General Counsel) to J. Thomas Dean, w/encl. (General Counsel's Brief)

26. Ltr, 29 Apr 87, L.M. Noble to Larry S. Gordon, w/encl. (General Counsel's Brief)

27. Memo, 29 Apr 87, L.M. Noble to the Commission.

28. Ltr, 4 May 87, L. Gordon to FEC, w/encl (Reply Brief)

29. General Counsel's Report, 29 May 87

30. Certification of Commission Action, 10 Jun 87

31. Ltr, 12 Jun 87, L.M. Noble to L.S. Gordon

32. Ltr, 12 Jun 87, L.M. Noble to J. Thomas Dean.

-END-

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

87040560296

Rec. Aikens
9-10-86
GCC# 1470

RE ... D
OFFI ... FEC
COMMIS ... TARY

86 SE 10 P 4:08

86 SEP 10 P4:49

RECEIVED
OFFICE OF THE
GENERAL COUNSEL

7960 Stockbridge Rd.
Mentor, OH 44060
September 2, 1986

Lee Ann Elliott, Chairman
Federal Election Commission
1325 K St., NW
Washington, DC 20463

Dear Chairman Elliott:

I am writing to inquire about the legality of certain actions by a candidate for Congress in Northeast Ohio.

As you know, federal election law (11 CFR 104.5 (f)) requires candidates, or their authorized committees, receiving contributions of $1,000.00 or more between two and twenty days before an election, to report such contributions in writing within 48 hours after receipt. In addition, such contributions are required to be listed on the next Federal Election Commission (FEC) quarterly report.

Mrs. Margaret Mueller, a candidate for the congressional seat in the 11th District of Ohio, has apparently failed to comply with this law. After examining her most recent FEC report (the "July 15th Report"), I have noticed several discrepancies. According to her report, Mrs. Mueller received numerous donations in excess of $1,000.00 within twenty days of the Ohio Primary election May 6th. However, I have since been unable to locate the required letters reporting such contributions within 48 hours of receipt per federal election law. Please find the attached list of contributors for whom I have been unable to verify as being reported, within 48 hours of receipt, by the Mueller for Congress Committee.

I believe that these activities are in violation of federal election laws and contrary to the law's intent to properly keep the public apprised of candidates' financial activity. I respectfully request that you investigate this apparent violation by the Mueller for Congress Committee. I strongly believe, and I am sure that you will agree, that the integrity of our election process must be upheld and such violations cannot be dismissed.

Thank you for your attention to this matter and I look forward to your response.

Sincerely,

Tom Tagliamonte

Tom Tagliamonte

cc: Ohio Secretary of State

8704060297

1	James D. Ireland 650 Citizens Bldg. 850 Euclid Ave. Cleveland, OH 44114	5-1-86	$1000.
2	Robert L. Munger, Jr. 29525 Chagrin Blvd. Pepper Pike, OH 44122	4-28-86	1000.
3	Francis C. Reis 4600 Fremont Ave. South Minneapolis, MN 55409	4-29-86	1000.
4	Oliver Ericson, II 1740 Chester Ave. Cleveland, OH 44114	4-29-86	1000.
5	David S. Ingalls, Jr. Oak Hill Farm Chagrin Falls, OH 44022	5-5-86	1000.
6	Lucia Smith Nash 8595 Fairmount Rd Novelty, OH 44072	5-4-86	1000.
7	William K. Lux 30539 Pinetree Rd. Suite 225 Pepper Pike, OH 44124	5-4-86	1000.
8	Lydia W. Mueller 116 W. 73rd St. Apt. 2-B New York, NY 10023	5-6-86	1000.
9	Cara Smith Stirn 31800 Trillum Trail Cleveland, OH 44124	5-5-86	1000
10	Mr. H. Stirn 31800 Trillum Trail Cleveland, OH 44124	5-5-86	1000.
11	Francis W. Sherwin 6750 Waite Hill Willoughby, OH	4-29-86	1000.
12	John Sherwin 6750 Waite Hill Willoughby, OH	4-29-86	1000.
13	Jeptha H. Wade 251 Old Billerica Rd Bedford, MA 01730	4-29-86	1000.
14	Berkman, Goram, Murray & Palda 2121 Illuminating Bldg. Cleveland, OH 44113	5-1-86	1000.
15	Maxine G. Levin 1 Public Square Bldg. Suite 700 Cleveland, OH 44113	4-30-86	1000.
16	Felice C. Mueller 116 W. 73rd St. New York, NY 10023	5-2-86	1000.
17	Fredrick R. Mueller 4 Traymore St. Cambridge, MA 02140	5-5-86	1000.

8704056029 8

18	George M. Humphrey 480 West Hill Dr. Gates Mills, OH 44040	5-5-86	$1000.00
19	Bonnie Humphrey 480 West Hill Dr. Gates Mills, OH 44040	5-5-86	1000.00
20	Beckman, Gordon, Murray & Palda t 2121 Illuminating Bldg. Cleveland, OH 44113	5-2-86	1000.00

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 17, 1986

Ms. Margaret Mueller
Mueller For Congress Committee
1658 Mentor Avenue
Painesville, OH 44077

Dear Ms. Mueller:

On September 10, 1986, the Federal Election Commission received a letter alleging that you may have violated sections of the Federal Election Campaign Act, as amended. As indicated from the copy of the enclosed letter addressed to the complainant, those allegations do not meet certain specific requirements for the proper filing of a complaint. Thus, no action will be taken on this matter unless the allegations are refiled meeting the requirements for a properly filed complaint. If the matter is refiled, you will be notified at that time.

This matter will remain confidential for 15 days to allow for the correction of the defects. If the defects are not cured and the allegations are not refiled, no additional notification will be provided and the file will be closed.

If you have any questions, please call Retha Dixon at (202) 376-3110.

Sincerely,

Charles N. Steele
General Counsel

By: Lawrence M. Noble
Deputy General Counsel

Enclosures
Copy of Improper Complaint
Copy of letter to the Improper Complainant

2

8704060300

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 17, 1986

Mr. Tom Tagliamonte
7960 Stockbridge Road
Mentor, OH 44060

Dear Mr. Tagliamonte:

This will acknowledge receipt of your letter which we received on September 10, 1986, inquiring about a possible violation of the Federal Election Campaign Act of 1971, as amended, (the "Act").

The 1976 amendments to the Act and Commission regulations require that a complaint meet certain specific requirements. Since your letter does not meet these requirements, the commission can take no action at this time to investigate this matter.

However, if you desire the Commission to look into the matter discussed in your letter, to determine if the FECA has been violated, a formal complaint as described in 2 U.S.C. §437g(a) (1) must be filed. Requirements of this section of the law and Commission regulations at 11 C.F.R. § 111.4 which are a prerequisite to Commission action are detailed below:

(1) A complaint must be in writing. (2 U.S.C. § 437g(a) (1)).

(2) Its contents must be sworn to and signed in the presence of a notary public and shall be notarized. (2 U.S.C. § 437g(a) (1)).

(3) A formal complaint must contain the full name and address of the person making the complaint. This information will be made known to any and all respondents upon the notification of the complaint.

(4) A formal complaint should clearly identify as a respondent each person or entity who is alleged to have committed a violation. (11 C.F.R. § 111.4).

8704060301

(5) A formal complaint should identify the source of information upon which the complaint is based. (11 C.F.R. § 111.4).

(6) A formal complaint should contain a clear and concise recitation of the facts describing the violation of a statute or law over which the Commission has jurisdiction. (11 C.F.R. § 111.4).

(7) A formal complaint should be accompanied by supporting documentation if known and available to the person making the complaint. (11 C.F.R. § 111.4).

Finally, please include your phone number, as well as the full names and addresses of all respondents.

Enclosed are excerpts of the Commission regulations, and your attention is directed to 11 C.F.R. § 111.4 through § 111.10 that deal with preliminary enforcement procedures. I trust these materials will be helpful to you should you wish to file a legally sufficient complaint with the Commission. The file regarding this correspondence will remain confidential for a fifteen day time period during which you may file an amended complaint as specified above. Please forward to us any additional information or correspondence that you may have regarding this matter.

If we can be of any further assistance, please do not hesitate to call me at (202) 376-8200.

Sincerely,

Charles N. Steele
General Counsel

By: Lawrence M. Noble
Deputy General Counsel

Enclosures
Excerpts
Procedures

cc: Respondent

8704056030 2

GCC 1608

86 SEP 24 A11:31

BLAKELY, DEAN, WILSON & KLINGENBERG

ATTORNEYS AT LAW

56 LIBERTY ST., SUITE 304

COMMUNITY FEDERAL BUILDING

P O BOX 526

PAINESVILLE, OHIO 44077

TELEPHONE (216) 354-5636

ELBERT F. BLAKELY (1897-1957)

THOMAS H. BLAKELY (1932-1976)

J. THOMAS DEAN

NEIL R. WILSON

DONALD H. KLINGENBERG

LARRY R. BORDER

September 22, 1986

Mr. Lawrence M. Noble
Deputy General Counsel
Federal Election Commission
Washington, D.C. 20463

RE: Margaret Mueller - 11th Ohio Congressional District Candidate

Dear Mr. Noble:

I am in receipt of your letter of September 17, 1986, concerning the inquiry made by a Mr. Tom Taglimonte.

This inquiry had to do with 20 contributions received by Mrs. Mueller which were within 20 days of the primary in May of this year.

We do acknowledge receipt of these contributions and that they were made on the date indicated in Mr. Taglimonte's letter to you. We did not write any letters acknowledging receipt of such contributions through oversight on our part.

Mrs. Mueller ran unopposed in the primary election. We did not realize that we may have been in non-compliance with the Federal Election Law.

If there is anything which we are required to do in addition to this letter, please advise me.

Very truly yours,

J. Thomas Dean

J. Thomas Dean

JTD/ps

86 SEP 24 P3:37

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Pelm
Pre MUR 173

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 1, 1986

J. Thomas Dean, Treasurer
Margaret Mueller for Congress Committee
1658 Mentor Avenue
Painesville, OH 44077

Dear Mr. Dean:

This is to acknowledge receipt of a letter on September 24, 1986, advising us of the possibility of a violation of the Federal Election Campaign Act of 1971, as amended, (the "Act") by the Margaret Mueller for Congress Committee and you, as treasurer. You will be notified as soon as the Commission takes action on this submission.

If you have any questions, please contact Jonathan Levin, the attorney assigned to this matter, at (202) 376-5690. For your information, we have attached a brief description of the Commission's procedures for handling matters such as these.

Pursuant to 2 U.S.C. § 437g(a)(4)(B) and 437g(a)(12)(A), the Commission's review of this matter shall remain confidential.

Sincerely,

Charles N. Steele
General Counsel

Lawrence M. Noble (RLA)

By: Lawrence M. Noble
Deputy General Counsel

Enclosure

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5

SENSITIVE

RECEIVED
OFFICE OF THE FEC
COMMISSION SECRETARY

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

86 NOV 28 A 8:14

FIRST GENERAL COUNSEL'S REPORT

Pre-MUR: 173
STAFF: Jonathan Levin

SOURCE OF MUR: J. Thomas Dean, Sua Sponte

RESPONDENTS' NAMES: Margaret Mueller for Congress Committee
J. Thomas Dean, as treasurer
Berkman, Gordon, Murray & Palda

RELEVANT STATUTES AND REGULATIONS:
2 U.S.C. § 431(11)
2 U.S.C. § 434(a)(6)
2 U.S.C. § 441a(a)(1)(A)
2 U.S.C. § 441a(f)
11 C.F.R. § 104.5(f)

INTERNAL REPORT CHECKED: Public Records

FEDERAL AGENCIES CHECKED: None

SUMMARY OF ALLEGATIONS

The Margaret Mueller for Congress Committee ("the Committee") and J. Thomas Dean, as treasurer, failed to file notifications to the Commission of contributions of $1,000 or more received after the 20th day but more than 48 hours before the primary election, as required by 2 U.S.C. § 434(a)(6). The Committee also accepted contributions from the firm of Berkman, Gordon, Murray & Palda in excess of the limit of 2 U.S.C. § 441a(a)(1)(A).

FACTUAL AND LEGAL ANALYSIS

The generation of this matter should be noted. On September 10, 1986, the Office of the General Counsel received a letter from Tom Tagliamonte alleging that Margaret Mueller, a candidate

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for the House of Representatives from the Eleventh District of Ohio had violated 11 C.F.R. § 104.5(f) by failing to file notifications to the Commission of contributions of $1,000 or more received after the 20th day but more than 48 hours before the May 6 primary election. Attached to the letter was a list of twenty contributions reported on the next scheduled report, the 1986 July Quarterly, of the Margaret Mueller for Congress Committee, Mrs. Mueller's principal campaign committee. These contributions, however, were not reported on the required notifications. (See Attachment 1, pp 2-3.)

On September 17, this Office sent a letter to Mr. Tagliamonte stating that his correspondence did not meet the requirements for a complaint and a letter to the candidate enclosing the letter from Mr. Tagliamonte. On that date, this Office also sent a letter to the candidate enclosing the improper complaint and stating that "no action will be taken on this matter" unless the allegations are refiled in a proper manner. On September 24, this Office received a reply from J. Thomas Dean, the Committee treasurer, acknowledging the failure to report the contributions in the required notifications. Mr. Dean stated that Mrs. Mueller ran unopposed in the primary and that the failure to file the notifications was an oversight. (See Attachment 2.) Given the fact that Mr. Dean acknowledged this failure, this Office generated a Pre-MUR.

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Section 434(b)(6) states as follows:

> (A) The principal campaign committee of a candidate shall notify the Clerk, the Secretary, or the Commission, and the Secretary of State, as appropriate, in writing, of any contribution of $1,000 or more received by any authorized committee of such candidate after the 20th day, but more than 48 hours before, any election. This notification shall be made within 48 hours after the receipt of such contribution and shall include the name of the candidate and the office sought by the candidate, the identification of the contributor, and the date of receipt and amount of the contribution.
>
> (B) The notification required under this paragraph shall be in addition to all other reporting requirements under this Act.

The Commission Regulations at 11 C.F.R. § 104.5(f) clarify the language of the statute by stating that "before any election" means before 12:01 a.m. of election day. The primary date in Ohio was May 6, 1986. Of the twenty contributions listed in the attachment to Mr. Tagliamonte's letter, nine were received on March 4, 5, or 6, and, therefore, notifications did not have to be sent for these letters. A review of the Committee's July Quarterly Report indicates that one of these nine contributors did, however, make another $1,000 contribution within the period covered by this section. According to the list, George M. Humphrey made a $1,000 contribution on May 5 for the general election. The reports indicate, however, that he also made a $500 contribution on April 21 and a $500 contribution on May 1, both for the primary. It appears, therefore, that notifications

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should have been sent for twelve $1,000 contributions. The contributions, the dates on which the contributions were made, and the amounts of the contributions are as follows:

	CONTRIBUTOR	DATE	AMOUNT
1.	Robert L. Munger, Jr.	4-28-86	$1,000
2.	Frances C. Reid	4-29-86	$1,000
3.	Oliver Emerson, II	4-29-86	$1,000
4.	Frances W. Sherwin	4-29-86	$1,000
5.	John Sherwin	4-29-86	$1,000
6.	Jeptha H. Wade	4-29-86	$1,000
7.	Maxine G. Levin	4-30-86	$1,000
8.	James D. Ireland	5-1-86	$1,000
9.	George M. Humphrey	4-21-86	$ 500
		5-1-86	$ 500
10.	Felice C. Mueller	5-2-86	$1,000
11.	Berkman, Gordon, Murray & Palda	5-2-86	$1,000
12.	Berkman, Gordon, Murray & Palda	5-2-86	$1,000

Based on the foregoing analysis, the Office of the General Counsel recommends that the Commission open a Matter Under Review and find reason to believe that the Margaret Mueller for Congress Committee and J. Thomas Dean, as treasurer, violated 2 U.S.C. § 434(a)(6).

A review of the list of $1,000 contributions also indicates that the Committee received two $1,000 contributions from one source during the period from two to twenty days before the primary. The list discloses two $1,000 contributions on May 2 from the unincorporated law partnership of Berkman, Gordon, Murray & Palda. According to the Committee's July Quarterly Report, both contributions were designated for the primary.

Section 441a(a)(1)(A) of Title 2 states that no person shall make contributions to any candidate and his authorized political

8 7 0 4 0 5 6 0 3 0 8

committees with respect to any election for federal office, which, in the aggregate, exceed $1,000. Section 441a(f) of Title 2 prohibits the knowing acceptance of such contributions that are in violation of 2 U.S.C. § 441a. According to 2 U.S.C. § 431(11), the term "person" includes a partnership. Based on the foregoing analysis, the Office of the General Counsel recommends that the Commission find reason to believe that Berkman, Gordon, Murray & Palda violated 2 U.S.C. § 441a(a)(1)(A) and that the Margaret Mueller for Congress Committee and J. Thomas Dean, as treasurer, violated 2 U.S.C. § 441a(f).

Because of the circumstances of this matter, this Office believes that no further action should be taken with respect to any of the alleged violations. With respect to the apparent failure to file notifications, this Office notes that the contributions at issue were reported on the next scheduled report and that nothing further can be done to remedy this failure. In addition, Mrs. Mueller ran unopposed in the primary and the harm resulting from a lack of timely disclosure may have been less than it would have been in a contested election. With respect to the apparent excessive contribution, this Office notes the insubstantial amount of the apparent violation. When these factors are combined with the circumstances of the generation of this matter, it appears to this Office that further pursuit of an enforcement action is not necessary. Therefore, this Office recommends that the Commission take no further action and close the file in this matter.

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RECOMMENDATIONS

1. Open a Matter Under Review.

2. Find reason to believe that the Margaret Mueller for Congress Committee and J. Thomas Dean, as treasurer, violated 2 U.S.C. § 434(a)(6).

3. Find reason to believe that Berkman, Gordon, Murray & Palda violated 2 U.S.C. § 441a(a)(1)(A).

4. Find reason to believe that the Margaret Mueller for Congress Committee and J. Thomas Dean, as treasurer, violated 2 U.S.C. § 441a(f).

5. Take no further action in this matter.

6. Close the file.

7. Approve the attached letters and analyses.

Charles N. Steele
General Counsel

11/26/86
Date

By: Lawrence M. Noble
Lawrence M. Noble
Deputy General Counsel

Attachments
1. Letter from Mr. Tagliamonte, dated September 2, 1986, with attached list
2. Letter from J. Thomas Dean, dated September 22, 1986
3. Proposed letter and analysis to the Committee
4. Proposed letter and analysis to Berkman, Gordon, Murray & Palda

87040560310

Attachment(s) 1, 2, 3, 4.

to First General Counsel's Report

have been removed from this

position in Public Record File.

See Index Item(s) 1, 4, 9, 10

8704066031 1

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES N. STEELE
GENERAL COUNSEL

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

DATE: DECEMBER 2, 1986

SUBJECT: OBJECTION TO Pre-MUR 173: 1st GC's Report
Signed November 26, 1986

The above-captioned document was circulated to the Commission on Friday, November 28, 1986 at 2:00 P.M.

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

Commissioner Aikens _____

Commissioner Elliott _____

Commissioner Josefiak _____

Commissioner McDonald _____

Commissioner McGarry _____

Commissioner Thomas X

This matter will be placed on the Executive Session agenda for Tuesday, December 9, 1986.

87040603112

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Margaret Mueller for Congress Committee and J. Thomas Dean, as treasurer	)	Pre-MUR 173 (MUR 2299)
Berkman, Gordon, Murray & Palda	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of December 9, 1986, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions with respect to Pre-MUR 173:

1. Open a Matter Under Review.

2. Find reason to believe that the Margaret Mueller for Congress Committee and J. Thomas Dean, as treasurer, violated 2 U.S.C. § 434(a)(6).

3. Find reason to believe that Berkman, Gordon, Murray & Palda violated 2 U.S.C. § 441a(a)(1)(A).

4. Find reason to believe that the Margaret Mueller for Congress Committee and J. Thomas Dean, as treasurer, violated 2 U.S.C. § 441a(f).

(continued)

87040560313

5. Take no further action in this matter.

6. Close the file.

7. Approve the letters and analyses attached to the General Counsel's report dated November 26, 1986.

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

Attest:

12-9-86
Date

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

8704060314

plum

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 16, 1986

J. Thomas Dean, Treasurer
Margaret Mueller for Congress
Committee
1658 Mentor Avenue
Painesville, Ohio 44077

Re: MUR 2299
Margaret Mueller for Congress
Committee
J. Thomas Dean, as treasurer

Dear Mr. Dean:

On December 9, 1986, the Federal Election Commission determined that there is reason to believe that the Margaret Mueller for Congress Committee ("the Committee") and you, as treasurer, violated 2 U.S.C. §§ 434(a)(6) and 441a(f), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"), in connection with the above-referenced MUR. However, after considering the circumstances of this matter, the Commission determined, on December 9, 1986, to take no further action and close its 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 10 days.

The Commission reminds you that a failure of a principal campaign committee to file notifications of any contribution of $1,000 or more received after the 20th day, but more than 48 hours, before any election nevertheless appears to be a violation of 2 U.S.C. § 434(a)(6). In addition, the Commission reminds you that the acceptance by a candidate and his authorized political committees of a contribution in excess of $1,000 from a partnership appears to be a violation of 2 U.S.C. § 441a(f). You should take immediate steps to insure that such violations do not occur in the future.

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9

If you have any questions, please contact Jonathan Levin, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Joan D. Aikens

Joan D. Aikens
Chairman

Enclosure
General Counsel's Factual and Legal Analysis

8704056031 6

FEDERAL ELECTION COMMISSION

GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. _____
STAFF MEMBER & TEL. NO.
Jonathan Levin (202) 376-5690

RESPONDENT: Margaret Mueller for Congress Committee
J. Thomas Dean, as treasurer

SUMMARY OF ALLEGATIONS

The Margaret Mueller for Congress Committee ("the Committee") and J. Thomas Dean, as treasurer, failed to file notifications to the Commission of contributions of $1,000 or more received after the 20th day but more than 48 hours before the primary election, as required by 2 U.S.C. § 434(a)(6). The Committee also accepted contributions from the firm of Berkman, Gordon, Murray & Palda in excess of the limit of 2 U.S.C. § 441a(a)(1)(A).

FACTUAL BASIS AND LEGAL ANALYSIS

On September 10, 1986, the Office of the General Counsel received a letter from Tom Tagliamonte alleging that Margaret Mueller, a candidate for the House of Representatives from the Eleventh District of Ohio had violated 11 C.F.R. § 104.5(f) by failing to file notifications to the Commission of contributions of $1,000 or more received after the 20th day but more than 48 hours before the May 6 primary election. Attached to the letter was a list of twenty contributions reported on the next scheduled report, the 1986 July Quarterly, of the Margaret Mueller for Congress Committee, Mrs. Mueller's principal campaign committee.

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These contributions, however, were not reported on the required notifications.

On September 17, this Office sent a letter to Mr. Tagliamonte stating that his correspondence did not meet the requirements for a complaint and a letter to the candidate enclosing the letter from Mr. Tagliamonte. On September 24, this Office received a reply from J. Thomas Dean, the Committee treasurer, acknowledging the failure to report the contributions in the required notifications. Mr. Dean stated that Mrs. Mueller ran unopposed in the primary and that the failure to file the notifications was an oversight. Given the fact that Mr. Dean acknowledged this failure, this Office generated a Pre-MUR.

Section 434(b)(6) states as follows:

> (A) The principal campaign committee of a candidate shall notify the Clerk, the Secretary, or the Commission, and the Secretary of State, as appropriate, in writing, of any contribution of $1,000 or more received by any authorized committee of such candidate after the 20th day, but more than 48 hours before, any election. This notification shall be made within 48 hours after the receipt of such contribution and shall include the name of the candidate and the office sought by the candidate, the identification of the contributor, and the date of receipt and amount of the contribution.
>
> (B) The notification required under this paragraph shall be in addition to all other reporting requirements under this Act.

The Commission Regulations at 11 C.F.R. § 104.5(f) clarify the language of the statute by stating that "before any election"

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means before 12:01 a.m. of election day. The primary date in Ohio was May 6, 1986. Of the twenty contributions listed in the attachment to Mr. Tagliamonte's letter, nine were received on March 4, 5, or 6, and, therefore, notifications did not have to be sent for these letters. A review of the Committee's July Quarterly Report indicates that one of these nine contributors did, however, make another $1,000 contribution within the period covered by this section. According to the list, George M. Humphrey made a $1,000 contribution on May 5 for the general election. The reports indicate, however, that he also made a $500 contribution on April 21 and a $500 contribution on May 1, both for the primary. It appears, therefore, that notifications should have been sent for twelve $1,000 contributions. The contributions, the dates on which the contributions were made, and the amounts of the contributions are as follows:

	CONTRIBUTOR	DATE	AMOUNT
1.	Robert L. Munger, Jr.	4-28-86	$1,000
2.	Frances C. Reid	4-29-86	$1,000
3.	Oliver Emerson, II	4-29-86	$1,000
4.	Frances W. Sherwin	4-29-86	$1,000
5.	John Sherwin	4-29-86	$1,000
6.	Jeptha H. Wade	4-29-86	$1,000
7.	Maxine G. Levin	4-30-86	$1,000
8.	James D. Ireland	5-1-86	$1,000
9.	George M. Humphrey	4-21-86	$ 500
		5-1-86	$ 500
10.	Felice C. Mueller	5-2-86	$1,000
11.	Berkman, Gordon, Murray & Palda	5-2-86	$1,000
12.	Berkman, Gordon, Murray & Palda	5-2-86	$1,000

Based on the foregoing analysis, the Office of the General Counsel recommends that the Commission open a Matter Under Review

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and find reason to believe that the Margaret Mueller for Congress Committee and J. Thomas Dean, as treasurer, violated 2 U.S.C. § 434(a)(6).

A review of the list of $1,000 contributions also indicates that the Committee received two $1,000 contributions from one source during the period from two to twenty days before the primary. The list discloses two $1,000 contributions on May 2 from the unincorporated law partnership of Berkman, Gordon, Murray & Palda. According to the Committee's July Quarterly Report, both contributions were designated for the primary.

Section 44la(a)(1)(A) of Title 2 states that 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. Section 44la(f) of Title 2 prohibits the knowing acceptance of such contributions that are in violation of 2 U.S.C. § 44la. According to 2 U.S.C. § 431(11), the term "person" includes a partnership. Based on the foregoing analysis, the Office of the General Counsel recommends that the Commission find reason to believe that the Margaret Mueller for Congress Committee and J. Thomas Dean, as treasurer, violated 2 U.S.C. § 44la(f).

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plm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 16, 1986

Berkman, Gordon, Murray & Palda
2121 Illuminating Building
55 Public Square
Cleveland, Ohio 44113

Re: MUR 2299
Berkman, Gordon, Murray & Palda

Dear Sirs:

On December 9, 1986, the Federal Election Commission determined that there is reason to believe that the firm of Berkman, Gordon, Murray, & Palda violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"), in connection with the above-referenced MUR. However, after considering the circumstances of this matter, the Commission determined, on December 9, 1986, to take no further action and close its 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 a part of the public record within 30 days. Should you wish to submit any materials to appear on the public record, please do so within 10 days.

The Commission reminds you that a contribution in excess of $1,000 by a partnership to a candidate and his authorized committees with respect to a federal election nevertheless appears to be a violation of 2 U.S.C. § 441a(a)(1)(A). You should take immediate steps to insure that this activity does not occur in the future.

If you have any questions, please contact Jonathan Levin, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Joan D. Aikens

Joan D. Aikens
Chairman

Enclosure
General Counsel's Factual and Legal Analysis

10

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FEDERAL ELECTION COMMISSION

GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. _____
STAFF MEMBER & TEL. NO.
Jonathan Levin (202) 376-5690

RESPONDENT: Berkman, Gordon, Murray & Palda

SUMMARY OF ALLEGATIONS

The law partnership of Berkman, Gordon, Murray & Palda made contributions totalling $2,000 to the Margaret Mueller for Congress Committee in connection with the 1986 primary election in violation of 2 U.S.C. § 441a(a)(1)(A).

FACTUAL BASIS AND LEGAL ANALYSIS

A review, prompted by a letter from the treasurer of the Margaret Mueller for Congress Committee ("the Committee") of the Committee's 1986 July Quarterly Report disclosed the receipt of two $1,000 contributions from the law partnership of Berkman, Gorton, Murray & Palda. Both contributions were designated for the primary.

Section 441a(a)(1)(A) of Title 2 states that 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. According to 2 U.S.C. § 431(11), the term "person" includes a partnership. Based on the foregoing analysis, the Office of the General Counsel recommends that the Commission find reason to believe that Berkman, Gordon, Murray & Palda violated 2 U.S.C. § 441a(a)(1)(A).

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GCC#2366
86 DEC 29 A9:37

Berkman, Gordon, Murray and Palda
Attorneys and Counselors at Law
2121 The Illuminating Building
55 Public Square
Cleveland, Ohio 44113-1949

216 781-5245

BERNARD A. BERKMAN (1929-1985)
LARRY S. GORDON
J. MICHAEL MURRAY
GEORGE W. PALDA
LORRAINE R. BAUMGARDNER
RICHARD T. BUSH
JONATHAN I. KLEIN
JEREMY A. ROSENBAUM

JULIEN C. RENSWICK
OF COUNSEL

DEC 29 AM 10:59

December 23, 1986

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

Attention: Jonathan Levin, Esq.
Office of General Counsel

Re: Mur - 2299
Berkman, Gordon, Murray
and Palda

Dear Mr. Levin:

The firm of Berkman, Gordon, Murray and Palda is in receipt of a letter from Joan D. Aikens, Chairman of the Federal Election Commission, dated December 16, 1986, which letter bears the reference noted in the caption of this letter. The Chairman's letter states that the Federal Election Commission has determined that there is reason to believe that the partnership of Berkman, Gordon, Murray and Palda (the "Partnership") violated Title 2, U.S.C. §441a(a)(1)(A), and further states that the matter has been assigned to you, for which reason this letter is directed to you.

You are advised that the Partnership denies that it violated the cited code section of the Act in any manner whatsoever in the particular alleged, and requests that the Commission re-open the matter for reconsideration of its determination, and that upon such reconsideration that it issue a determination that there is no reason for the Commission to believe that the Partnership violated the Act.

In support of the foregoing request and in response to the allegation which initiated this matter, you are advised that the Partnership contributed the total sum of $1,000 to the Margaret Mueller for Congress Committee, as evidenced by the attached photostat of the Partnership's check, number 2039, dated

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May 2, 1986, drawn on its account at Society National Bank, Cleveland, Ohio, in the amount of $1,000. You are advised that Nancy A. Murray of North Royalton, Ohio, who is the spouse of one of the members of our firm, issued her check number 185 drawn on her account at the Cardinal Federal Savings Bank, Cleveland, Ohio, on the same date, addressed to the same payee in like amount, a photostat of which check is also enclosed. Due to inadvertence or error on the part of the party responsible for receipt, recording and reportage of these contributions on behalf of the Margaret Mueller for Congress Committee, the funds received by it from Nancy A. Murray were entered as having been received from the Partnership, and such error was perpetuated in that Committee's report of contributions filed by it. We have brought the error to the attention of the Committee and requested of it that it take whatever action is necessary on its part to correct the error.

Accordingly, and in view of the irrefutable fact that the allegation lodged against the Partnership was founded upon error, we believe that there is good cause and just reason to re-open this case for the purpose of reconsidering the allegation, and upon such reconsideration that the determination of "reason to believe" be reversed, and that a finding of no violation be entered.

Kindly advise us at your earliest opportunity as to the action taken by the Commission on this request. In the event the request is refused, or in any event, we further request that this letter and attachments be spread upon and made a part of the public record in this matter.

Very truly yours,

BERKMAN, GORDON, MURRAY and PALDA

By Lawrence S. Gordon

LSG:bk
Enclosures

cc: Margaret Mueller for
Congress Committee

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11

J. MICHAEL MURRAY
NANCY A. MURRAY
4311 SIR ROBERT AVE
NORTH ROYALTON, OH 44133

185

May 2 1986

Pay to the Order of Margaret Mueller For Coupon Committee $ 1,000.00

One thousand and 00/100 Dollars

Public Square Office
CARDINAL
Federal Savings
BANK
Cleveland, Ohio 44103

For

Nancy A. Murray

PAY TO THE ORDER OF
BANK ONE, CLEVELAND, NA
FAINESVILLE, OHIO 44077
FOR DEPOSIT ONLY
MARGARET MUELLER
FOR CONGRESS COMMITTEE

8 7 0 4 0 5 6 0 3 2 5

11

[redacted]MAN, GORDON
[redacted]Y AND PALDA
[redacted]ATTORNEYS AT LAW
2127 THE ILLUMINATING BLDG.
CLEVELAND, OHIO 44113

2039

6-103
410

May 2, 1986

PAY TO THE ORDER OF Margaret Mueller for Congress Committee $ 1,000.00

THE SUM 1000 DOLS 00 CTS DOLLARS

Campaign Contribution

Society co
NATIONAL BANK

J. Michael Flannery

THIS CHECK IS DELIVERED FOR PAYMENT ON THE ACCOUNT SHOWN ABOVE

8 7 0 4 0 5 6 0 3 2 6

MAY 86 07

PAY TO THE ORDER OF
BANK ONE, CLEVELAND, NA
PAINESVILLE, OHIO 44077
FOR DEPOSIT ONLY
MARGARET MUELLER
FOR CONGRESS COMMITTEE

11

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87 JAN 12 P1:13

BLAKELY, DEAN, WILSON & KLINGENBERG

ATTORNEYS AT LAW

56 LIBERTY ST., SUITE 304

COMMUNITY FEDERAL BUILDING

P. O. BOX 526

PAINESVILLE, OHIO 44077

TELEPHONE (216) 354-5636

ELBERT F. BLAKELY (1897-1957)

THOMAS H. BLAKELY (1932-1976)

J. THOMAS DEAN

NEIL R. WILSON

DONALD H. KLINGENBERG

LARRY R. BORDER

January 8, 1987

RECEIVED OFFICE OF THE GENERAL COUNSEL

1 JAN 12 P4:29

Federal Election Commission
999 E. Street, NW
Washington, DC 20463

RE: C 00204651
NUR 2299
Margaret Mueller for Congress Committee

Attention: Jonathan Levin

Gentlemen:

In the July 1986 report to the Federal Election Commission, a contibution by Nancy Murray in the sum of $1,000.00 was mistakenly credited to the law firm of Berkman, Gordon, Murray and Palda. As a result, the July 1986 report incorrectly identified two contributions of $1,000.00 being made by Berkman, Gordon, Murray and Palda. It has been pointed out that this would be a violation of the law regulating contributions in a federal election. However, in fact, no such two contributions were ever made.

Therefore, would you please have the records corrected showing no violation of the regulations governing contributions in federal elections.

I am enclosing photocopies of the two checks written in connection with the contributions discussed in this letter.

Very truly yours,

J. Thomas Dean

J. Thomas Dean

JTD/ps

Enclosures

12

8704056 0327

J. MICHAEL MURRAY
NANCY A. MURRAY
4311 SIR ROBERT AVE
NORTH ROYALTON, OH 44133

185

May 2 1986

Pay to the Order of Margaret Mueller For Congress Committee $ 1,000.00

One thousand and 00/100 Dollars

Public Square Office
CARDINAL FEDERAL SAVINGS BANK
Cleveland, Ohio 44113

For

Nancy A. Murray

8704056032 8

PAY TO THE ORDER OF
BANK ONE, CLEVELAND, NA
FAIRVIEW PARK, OHIO 44107
FOR DEPOSIT ONLY.
MARGARET MUELLER
FOR CONGRESS COMMITTEE

12

[redacted]KMAN, GORDON
[redacted]RAY AND PALDA
ATTORNEYS AT LAW
[redacted] THE ILLUMINATING BLDG.
CLEVELAND, OHIO 44113

2039

6-103
410

May 2, 1986

PAY TO THE ORDER OF Margaret Mueller for Congress Committee $ 1,000.00

THE SUM 1 000 DOLS 00 CTS DOLLARS

Campaign Contribution

Society CO
NATIONAL BANK

J. Michael Murray

NON-NEGOTIABLE UNLESS REDEEMED FOR PAYMENT ON THE ACCOUNT SHOWN ABOVE

8 7 0 4 0 5 6 0 3 2 9

MY '86 07

PAY TO THE ORDER OF
BANK ONE, CLEVELAND, NA
PAINESVILLE, OHIO 44077
FOR DEPOSIT ONLY
MARGARET MUELLER
FOR CONGRESS COMMITTEE

12

SENSITIVE

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

87 JAN 15 P4:46

MEMORANDUM

January 15, 1987

TO: The Commission

FROM: Charles N. Steele
General Counsel

By: Lawrence M. Noble
Deputy General Counsel

SUBJECT: MUR 2299 - Letter from Berkman, Gordon, Murray & Palda in response to the Commission's determination to find reason to believe and take no further action.

On December 9, 1986,the Commission found reason to believe that Berkman, Gordon, Murray & Palda ("the Partnership") violated 2 U.S.C. § 441a(a)(1)(A) in connection with $2,000 in contributions reported as being received by the Margaret Mueller for Congress Committee ("the Committee") for the primary election. On that date, the Commission also determined to take no further action and to close the file in the matter.

On December 29, 1986, this Office received a letter from the Partnership stating that it did not make excessive contributions and requesting that the Commission reopen the matter for reconsideration and find no reason to believe that the Partnership violated the Act.

The Commission had found reason to believe that the Partnership violated 2 U.S.C. § 441a(a)(1)(A) based upon the reporting of two $1,000 contributions made on May 2, 1986. The Partnership states that it made one $1,000 contribution on May 2 and that the second contribution reported as being received from the Partnership was actually a check from Nancy A. Murray, the spouse of one of the firm's partners. The response enclosed two

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checks, a firm check made out to the Committee and a check on the account of J. Michael Murray and Nancy A. Murray made out to the Committee and signed by Mrs. Murray.*/

This Office recommends that the Commission deny the request of the Partnership. A finding of reason to believe is only a preliminary finding based on the information available at the time and does not constitute a determination by the Commission that a violation has occurred. It is within the Commission's discretion to refrain from pursuing further an investigation after a reason to believe finding. Therefore, there is no reason to reopen the investigation in MUR 2299 with respect to the Partnership. This Office recommends that the Commission approve a letter to this effect to be sent to the Partnership.

RECOMMENDATION

1. Deny the request of Berkman, Gordon, Murray & Palda to reopen MUR 2299.

2. Approve the attached letter.

Attachments
1. Letter from the Partnership
2. Proposed letter to the Partnership

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*/ On January 12, 1987, this Office received a letter from the Committee treasurer also stating that the Committee had reported the contributions erroneously and enclosing copies of the checks.

Attachment(s) 1,2

to Memo, dtd 15 JAN 87

have been removed from this

position in Public Record File.

See Index Item(s) 11,16

8704060332

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES N. STEELE
GENERAL COUNSEL

FROM: MWE MARJORIE W. EMMONS / JOSHUA MCFADDEN JM

DATE: JANUARY 21, 1987

SUBJECT: OBJECTION TO MUR 2299 - MEMO. TO THE COMMISSION DATED JANUARY 15, 1987

The above-captioned document was circulated to the Commission on Friday, January 16, 1987 at 2:00 P.M.

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

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

This matter will be placed on the Executive Session agenda for January 27, 1987.

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14

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2299
Berkman, Gordon, Murray & Palda	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of February 3, 1987, do hereby certify that the Commission decided by a vote of 4-2 to take the following actions with respect to MUR 2299:

1. Deny the request of Berkman, Gordon, Murray & Palda to reopen MUR 2299.

2. Approve the letter attached to the General Counsel's report dated January 15, 1987.

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

Attest:

2-4-87
Date

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

8704066034

phm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 9, 1987

Larry S. Gordon, Esquire
Berkman, Gordon, Murray & Palda
2121 The Illuminating Building
55 Public Square
Cleveland, Ohio 44113-1949

Re: MUR 2299
Berkman, Gordon, Murray & Palda

Dear Mr. Gordon:

This is in response to your letter dated December 23, 1986, in which you request action which would require the Commission to reopen the investigation in MUR 2299 with respect to Berkman, Gordon, Murray & Palda ("the Partnership").

On February 3, 1987, the Commission reviewed your letter and determined not to grant the Partnership's request that the Commission reopen the matter for reconsideration and find no reason to believe that the Partnership violated 2 U.S.C. § 441a(a)(1)(A). The Commission's decision reflects the fact that a finding of reason to believe was made on the basis of the information available to the Commission at that time. That information reflected contributions reported to the Commission on the reports of the Margaret Mueller for Congress Committee. Reason to believe is only a preliminary finding and is a statutory prerequisite to an investigation to ascertain whether there is probable cause to believe a violation has occurred. Thus, a finding of reason to believe does not constitute a determination by the Commission that a violation has occurred. The Commission did not determine in the Partnership's case that there was probable cause to believe it has violated the Federal Election Campaign Act of 1971, as amended.

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If you have any questions, please contact Jonathan Levin at (202) 376-5690.

Sincerely,

Charles N. Steele
General Counsel

By: Lawrence M. Noble
Deputy General Counsel

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16

SENSITIVE

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 4, 1987

87 FEB 4 P4:05

MEMORANDUM

TO: The Commission

FROM: Charles N. Steele
General Counsel

By: Lawrence M. Noble
Deputy General Counsel

SUBJECT: MUR 2299 - Letter from the Margaret Mueller for Congress Committee in response to the Commission's determination to find reason to believe and take no further action.

On December 9, 1986, the Commission found reason to believe that the Margaret Mueller for Congress Committee ("the Committee") and J. Thomas Dean, as treasurer, violated 2 U.S.C. § 434(a)(6) in connection with the apparent failure to file 48 hour notices and 2 U.S.C. § 441a(f) in connection with the apparent receipt of two $1,000 contributions disclosed on Committee reports as being made by Berkman, Gordon, Murray & Palda ("the Partnership") on May 2, 1986, for the primary election. On that date, the Commission also determined to take no further action and to close the file in the matter.

On January 12, 1987, this Office received a letter from J. Thomas Dean, treasurer of the Committee, stating that the Committee's report of the contributions was erroneous. The treasurer states that a $1,000 contribution from Nancy Murray, the spouse of one of the members of the Partnership, was mistakenly attributed to the Partnership, and that the Partnership made only one $1,000 contribution. Copies of both contribution checks were enclosed. The treasurer also asks the Commission to "have the records corrected showing no violation of the regulations governing contributions in federal elections." It appears, therefore, that the treasurer is requesting that the Commission reopen MUR 2299 and find no reason to believe that the Committee and its treasurer violated 2 U.S.C. § 441a(f).

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This Office recommends that the Commission deny the request of the treasurer. A finding of reason to believe is only a preliminary finding based on the information available at the time and does not constitute a determination by the Commission that a violation has occurred. It is within the Commission's discretion to refrain from pursuing further an investigation after a reason to believe finding. Therefore, there is no reason to reopen the investigation in MUR 2299 with respect to the Committee and its treasurer. This Office recommends that the Commission approve a letter to this effect to be sent to the treasurer.

RECOMMENDATIONS

1. Deny the request of the treasurer of the Margaret Mueller for Congress Committee to reopen MUR 2299 and to find no reason to believe that the Committee and its treasurer violated 2 U.S.C. § 441a(f).

2. Approve the attached letter.

Attachments
1. Letter from the Committee treasurer
2. Proposed letter to the Committee treasurer

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Attachment(s) 1, 2

to MEMO, dtd 4 Feb 87

have been removed from this

position in Public Record File.

See Index Item(s) 12, 19

8704060339

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	MUR 2299
	)	
Margaret Mueller for Congress Committee	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on February 9, 1987, the Commission decided by a vote of 6-0 to take the following actions in MUR 2299.

1. Deny the request of the treasurer of the Margaret Mueller for congress Committee to reopen MUR 2299 and to find no reason to believe that the Committee and its treasurer violated 2 U.S.C. § 441a(f).

2. Approve the letter, as recommended in the Memorandum to the Commission dated February 4, 1987.

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

Attest:

2/10/87
Date

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

Received in the Office of Commission Secretary:	Wed.,	2-4-87,	4:05
Circulated on 48 hour tally basis:	Thurs.,	2-5-87,	11:00
Deadline for vote:	Mon.,	2-9-87,	11:00

18

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plm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 11, 1987

J. Thomas Dean, Esquire
Blakely, Dean, Wilson & Klingenberg
56 Liberty Street
Suite 304
P.O. Box 526
Painesville, Ohio 44077

Re: MUR 2299
Margaret Mueller for
Congress Committee
J. Thomas Dean, as
treasurer

Dear Mr. Dean:

This is in response to your letter dated January 8, 1987, in which you request action which would require the Commission to reopen the investigation in MUR 2299 with respect to the Margaret Mueller for Congress Committee ("the Committee") and you, as treasurer.

On February 9 , 1987, the Commission reviewed your letter and determined not to grant your request that the Commission reopen the matter and find no reason to believe that the Committee and you, as treasurer, violated 2 U.S.C. § 441a(f). The Commission's decision reflects the fact that a finding of reason to believe was made on the basis of the information available to the Commission at that time. That information was the disclosure on the Committee's reports of the receipt of $2,000 for the primary election from Berkman, Gordon, Murray & Palda. Reason to believe is only a preliminary finding and is a statutory prerequisite to an investigation to ascertain whether there is probable cause to believe a violation has occurred. Thus, a finding of reason to believe does not constitute a determination by the Commission that a violation has occurred. The Commission did not determine that there was probable cause to believe that the Committee and you, as treasurer, violated 2 U.S.C. § 441a(f).

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If you have any questions, please contact Jonathan Levin at (202) 376-5690.

Sincerely,

Charles N. Steele
General Counsel

By: Lawrence M. Noble
Deputy General Counsel

87040603342

GCC # 2726
RECEIVED AT THE FEC

87 FEB 19 A9:38

Berkman, Gordon, Murray and Palda
Attorneys and Counselors at Law
2121 The Illuminating Building
55 Public Square
Cleveland, Ohio 44113-1949

216 781-5245

BERNARD A. BERKMAN (1929-1985)
LARRY S. GORDON
J. MICHAEL MURRAY
GEORGE W. PALDA
LORRAINE R. BAUMGARDNER
RICHARD T. BUSH
JONATHAN I. KLEIN
JEREMY A. ROSENBAUM

JULIEN C. RENSWICK
OF COUNSEL

February 17, 1987

87 FEB 19 A10:36

RECEIVED
OFFICE OF THE
GENERAL COUNSEL

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

Attention: Jonathan Levin, Esq.
Office of General Counsel

Re: Mur - 2299
Berkman, Gordon, Murray and Palda

Dear Mr. Levin:

This law firm is in receipt of a letter from Lawrence M. Noble, deputy general counsel to the Commission, dated February 9, 1987, re the captioned matter, in which Mr. Noble states that any questions we may have concerning the content of his letter should be addressed to you.

Mr. Noble notes in his letter that the Commission on February 3, 1987, reviewed my letter to the Commission of December 23, 1986, in which request was made to the Commission to reopen the investigation of the captioned matter. Mr. Noble further states that the Commission "determined not to grant the Partnership's request that the Commission reopen the matter for reconsideration and find no reason to believe that the Partnership violated 2 U.S.C. §441(a)(1)(A)." The Commission's decision, according to Mr. Noble, is predicated on the fact that "a finding of reason to believe" was made on the basis of information available to the Commission at the time the finding was issued. In reliance upon of that finding, the Commission, on December 16, 1986, notified this Partnership in writing that the Commission had reason to believe that the Partnership "violated 2 U.S.C. §441(a)(1)(A)," and admonished the Partnership to "take immediate steps to insure that this activity does not occur in the future."

The Commission's notice and letter of December 16 was not received without concern by the Partnership, which throughout its long existence has steadfastly endeavored scrupulously to abide by all laws, federal or state, election or otherwise. The

concern of the Partnership was even greater because the notice was issued without affording the Partnership an opportunity to respond to the complaint which apparently motivated the Commission to act in the matter.

The Partnership is similarly exasperated by Mr. Noble's recent letter because the action taken by the Commission on the request for reopening of the matter (a) seeks to minimize the effect of the Commission's finding of "reason to believe" that the Partnership "violated" the cited code section, notice of which was followed by a gratuitous admonition directed to the Partnership "to take immediate steps to insure" against repetition of the apparent violation, and (b) completely fails to take notice that the Commission was notified by letter dated January 8, 1987, from J. Thomas Dean of the Margaret Mueller for Congress Committee, to your attention (a copy of which letter and enclosures are attached) that the Committee had erred in its July, 1986 report of contributions to the Committee to the extent that that report "incorrectly identified two contributions of One Thousand Dollars ($1,000.00) being made by Berkman, Gordon, Murray and Palda," when, "in fact, no such two contributions were ever made."

Therefore, it appears to the Partnership that if the explanatory and corrective evidence which was presented to the Commission were to be taken into account by the Commission, the initial determination of reason to believe would be withdrawn upon reopening and reconsideration of the matter. In view of the foregoing, the Partnership renews its request set out in its letter of December 23, 1986, for a reopening of the matter and for reconsideration and reversal of the Commission's original finding. Your attention to this matter is appreciated.

Very truly yours,

BERKMAN, GORDON, MURRAY and PALDA

By Lawrence S. Gordon

LSG/trm

8 7 0 4 0 5 6 0 3 4 4

BLAKELY, DEAN, WILSON & KLINGENBERG
ATTORNEYS AT LAW
56 LIBERTY ST., SUITE 304
COMMUNITY FEDERAL BUILDING
P. O. BOX 526
PAINESVILLE, OHIO 44077
TELEPHONE (216) 354-5636

ELBERT F. BLAKELY (1897-1957)
THOMAS H. BLAKELY (1932-1976)

J. THOMAS DEAN
NEIL R. WILSON
DONALD H. KLINGENBERG
LARRY R. BORDER

January 8, 1987

Federal Election Commission
999 E. Street, NW
Washington, DC 20463

RE: C 00204651
NUR 2299
Margaret Mueller for Congress Committee

Attention: Jonathan Levin

Gentlemen:

In the July 1986 report to the Federal Election Commission, a contibution by Nancy Murray in the sum of $1,000.00 was mistakenly credited to the law firm of Berkman, Gordon, Murray and Palda. As a result, the July 1986 report incorrectly identified two contributions of $1,000.00 being made by Berkman, Gordon, Murray and Palda. It has been pointed out that this would be a violation of the law regulating contributions in a federal election. However, in fact, no such two contributions were ever made.

Therefore, would you please have the records corrected showing no violation of the regulations governing contributions in federal elections.

I am enclosing photocopies of the two checks written in connection with the contributions discussed in this letter.

Very truly yours,

J. Thomas Dean

J. Thomas Dean

JTD/ps

Enclosures

87040560345

J. MICHAEL MURRAY
NANCY A. MURRAY
4311 SIR ROBERT AVE
NORTH ROYALTON, OH 44133

185

May 2 1986

Pay to the Order of Margaret Mueller For Congress Committee $ 1,000.00

One thousand and 00/100 Dollars

Public Square Office
CARDINAL
Federal Savings
BANK
Cleveland, Ohio 44133

For

Nancy A Murray

PAY TO THE ORDER OR
BANK ONE, CLEVELAND, NA
FAINESVILLE, OHIO 44077
FOR DEPOSIT ONLY.
MARGARET MUELLER
FOR CONGRESS COMMITTEE

8 7 0 4 0 5 6 0 3 4 5

[redacted]MAN, GORDON
[redacted]AY AND PALDA
ATTORNEYS AT LAW
2121 THE ILLUMINATING BLDG.
CLEVELAND, OHIO 44113

2039

6-103
410

May 2, 1986.

PAY TO THE ORDER OF Margaret Mueller for Congress Committee $ 1,000.00

THE SUM 1000 DOLS 00 CTS DOLLARS

Campaign Contribution

Society CO
NATIONAL BANK

J. Michael Murray

THIS CHECK IS DELIVERED FOR PAYMENT ON THE ACCOUNT SHOWN ABOVE

PAY TO THE ORDER OF
BANK ONE, CLEVELAND, NA
PAINESVILLE, OHIO 44077
FOR DEPOSIT ONLY
MARGARET MUELLER
FOR CONGRESS COMMITTEE

MY '86 07

20

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SENSITIVE

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

87 MAR 5 P1:24

MEMORANDUM March 5, 1987

TO: The Commission

FROM: Charles N. Steele
General Counsel

By: Lawrence M. Noble
Deputy General Counsel

SUBJECT: MUR 2299 - Letter from Berkman, Gordon, Murray and Palda in response to the Commission's denial of the request to reopen MUR 2299

On December 9, 1986, the Commission found reason to believe that Berkman, Gordon, Murray and Palda ("the Partnership") violated 2 U.S.C. § 441a(a)(1)(A) based upon the reporting by the Margaret Mueller for Congress Committee ("the Committee") of the receipt of two $1,000 contributions for the primary election. On that date, the Commission also determined to take no further action and to close the file in the matter.

On December 29, 1986, this Office received a letter from the Partnership stating that it did not make excessive contributions and requesting that the Commission reopen the matter for reconsideration and find no reason to believe that the Partnership violated the Act. On February 3, 1987, the Commission determined to deny the request of the Partnership to reopen the matter and approved a proposed letter to be sent to the Partnership. This letter explained that a reason to believe determination is only a preliminary finding that is a prerequisite to an investigation, that it does not constitute a determination that a violation has occurred, and that the Commission did not determine that there was probable cause to believe the Partnership had violated the Act.

On February 19, 1987, this Office received a letter from the Partnership questioning the determinations of December 9, 1986, and February 3, 1987. The Partnership states that, although the letter denying the reopening of the matter "seeks to minimize the effect" of the reason to believe determination, the reason to

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believe notification letter itself had contained "a gratuitous admonition directed to the Partnership 'to take immediate steps to insure' against repetition of the apparent violation." The Partnership also contends that the letter denying the reopening "completely fails to take notice that the Commission was notified" by the treasurer of the Committee that the Committee had erred in identifying two $1,000 contributions as coming from the Partnership. The Partnership concludes by stating that

> it appears to the Partnership that if the explanatory and corrective evidence which was presented to the Commission were to be taken into account by the Commission, the initial determination of reason to believe would be withdrawn upon reopening and reconsideration of the matter.

The Partnership, therefore, is renewing its request for a reopening of the matter and a withdrawal of the reason to believe finding.

Despite the Partnership's concern over the customary admonition contained in the reason to believe notification, the letter denying the Partnership's first request for reconsideration explained the meaning of the reason to believe finding and informed the Partnership that the Commission did not determine that a violation occurred. In addition, despite the Partnership's contention otherwise, this Office's Memorandum to the Commission recommending the denial of the Partnership's first request made reference to the letter from the Committee treasurer and the enclosures with that letter.*/ Based on the foregoing information, this Office recommends that the Commission deny the renewed request of the Partnership to reopen MUR 2299 and approve a letter to this effect to be sent to the Partnership.

RECOMMENDATION

Deny the request of Berkman, Gordon, Murray and Palda to reopen MUR 2299 and to withdraw the finding of reason to believe that it violated 2 U.S.C. § 441a(a)(1)(A) and send attached letter.

Attachments
1. Letter from the Partnership
2. Proposed letter to the Partnership

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*/ The letter and enclosures from the Committee were referred to in a footnote on page 2 of the memorandum. In addition, this Office circulated a copy of the letter and enclosures to the Commission on January 20, i.e., before the Commission considered the memorandum recommending a denial of the Partnership's first request. After considering the ambiguous wording of the letter from the Committee and construing it as a possible request to reopen MUR 2299, this Office sent a Memorandum to the Commission dated February 4, 1987, recommending a denial of the Committee's request. On February 9, 1987, the Commission approved that recommendation.

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Attachment(s) 1

to MEMO, dtd 5 MAR 87

have been removed from this

position in Public Record File.

See Index Item(s) 20

8704060350

21

Attachment(s) 2

to Memo, dtd 5 Mar 87

have been removed from this

position in Public Record File.

See Index Item(s) _____

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21

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES N. STEELE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS /JOSHUA MCFADDEN

DATE: MARCH 10, 1987

SUBJECT: OBJECTION TO MUR 2299 - MEMO. TO THE COMMISSION DATED MARCH 5, 1987

The above-captioned document was circulated to the Commission on Friday, March 6, 1987 at 2:00 P.M.

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

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

This matter will be placed on the Executive Session agenda for March 17, 1987.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2299
Berkman, Gordon, Murray and Palda	)	
	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of March 19, 1987, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions with respect to the above-captioned matter:

1. Reject the recommendation contained in the General Counsel's report dated March 5, 1987.

2. Return the General Counsel's report with the direction that the General Counsel's office reopen the MUR and proceed to the next stage in the enforcement process.

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

Attest:

3-20-87
Date

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

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SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

87 APR 24 P3:49

In the Matter of	)	
	)	
Margaret Mueller for Congress Committee	)	MUR 2299
J. Thomas Dean, as treasurer	)	
	)	
Berkman, Gordon, Murray and Palda	)	

GENERAL COUNSEL'S REPORT

Based on the assessment of the information presently available, the Office of the General Counsel is prepared to close the investigation in this matter as to the Margaret Mueller for Congress Committee and J. Thomas Dean, as treasurer, and as to Berkman, Gordon, Murray and Palda.

Date 4/24/87

Lawrence M. Noble
Acting General Counsel

87040560354

24

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 29, 1987

J. Thomas Dean, Esquire
Margaret Mueller for
Congress Committee
P. O. Box 526
Painesville, Ohio 44077

Re: MUR 2299
Margaret Mueller for
Congress Committee
J. Thomas Dean, as
Treasurer

Dear Mr. Dean:

On December 9, 1986, the Federal Election Commission found reason to believe that the Margaret Mueller for Congress Committee ("the Committee") and you, as treasurer, violated 2 U.S.C. § 441a(f), but decided to take no further action in this matter and to close the file. On March 19, 1987, the Commission directed the Office of the General Counsel to reopen the matter and proceed to the next stage in the enforcement process.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find no probable cause to believe that the Committee and Mr. Dean, as treasurer, violated 2 U.S.C. § 441a(f). The Commission may or may not approve the General Counsel's recommendation.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request to the Commission for an

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extension of time in which to file a brief. The Commission will not grant any extensions beyond 20 days. All requests for extensions of time must be submitted in writing five days prior to the due date. Further, good cause must be shown.

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90, days to settle this matter through a conciliation agreement.

Should you have any questions, please contact Jonathan Levin, the attorney assigned to handle this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
Acting General Counsel

Enclosure
Brief

87040560356

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Margaret Mueller for Congress Committee	)	MUR 2299
	)	
J. Thomas Dean, as treasurer	)	

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

A review of the 1986 July Quarterly Report of the Margaret Mueller for Congress Committee ("the Committee") indicated that the Committee accepted two $1,000 contributions from the law partnership of Berkman, Gordon, Murray & Palda ("the Partnership") on May 2, 1986. Both contributions were designated for the primary election. On December 9, 1986, the Commission found reason to believe that the Committee and J. Thomas Dean, as treasurer, violated 2 U.S.C. § 441a(f). On that date, the Commission also found reason to believe that the Committee and Mr. Dean, as treasurer, violated 2 U.S.C. § 434(a)(6) in connection with the failure to send notifications to the Commission within 48 hours of the receipt of twelve $1,000 contributions. Finally, the Commission determined to take no further action in this matter and to close the file.

On December 29, 1986, the Office of the General Counsel received a letter from the Partnership stating that it did not make excessive contributions and requesting that the Commission reopen the matter for reconsideration and find no reason to believe that the Partnership violated the Act. The Partnership

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asserted that it made one $1,000 contribution on May 2 and that the second contribution reported as received from the Partnership was actually a check from Nancy A. Murray, the spouse of one of the firm's partners. The response enclosed two $1,000 checks, a Partnership check made out to the Committee and a check on the account of J. Michael Murray and Nancy A. Murray made out to the Committee and signed by Mrs. Murray.

On January 12, 1987, the Office of the General Counsel received a letter from the Committee treasurer also stating that the Committee had reported the contributions erroneously. Enclosed were copies of the contribution checks. The treasurer requested that this Office "have the records corrected showing no violation of the regulations governing contributions in federal elections."

On February 3, 1987, the Commission voted to deny the Partnership's request to reopen the matter. On February 9, 1987, the Commission, interpreting the Committee treasurer's letter as a request to reopen the matter, voted to deny the Committee's request. The Commission sent letters to both the Partnership and the Committee treasurer explaining the nature of a reason to believe finding.

On February 19, 1987, the Office of the General Counsel received another letter from the Partnership asking that the Commission reopen the matter and withdraw the reason to believe determination. On March 19, 1987, the Commission voted to reject this Office's recommendation to deny the Partnership's request.

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The Commission instead, directed this Office to reopen the matter and proceed to the next stage in the enforcement process.

II. LEGAL ANALYSIS

Section 441a(a)(1)(A) of Title 2 states that 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. Section 441a(f) of Title 2 prohibits the knowing acceptance of contributions that are in violation of 2 U.S.C. § 441a. According to U.S.C. § 431(11), the term "person" includes a partnership. From the evidence presented by the Committee treasurer and the Partnership, it appears that the Committee did not accept contributions exceeding $1,000 from the Partnership for the primary election. The General Counsel, therefore, recommends that the Commission find no probable cause to believe that the Committee and Mr. Dean, as treasurer, violated 2 U.S.C. § 441a(f).*/

III. RECOMMENDATION

Find no probable cause to believe that the Margaret Mueller for Congress Committee and J. Thomas Dean, as treasurer, violated 2 U.S.C. § 441a(f).

4/29/87
Date

Lawrence M. Noble
Acting General Counsel

*/ The direction to the Office of the General Counsel to reopen this matter was in response to the request from the Partnership received by this Office on February 19. It appears that the Commission intended that this matter be reopened with respect to the allegations of the making and receipt of excessive contributions, not with respect to the allegation that the Committee violated 2 U.S.C. § 434(a)(6). Therefore, no further recommendations are being made with respect to the latter allegation.

8704060359

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 29, 1987

Larry S. Gordon, Esquire
Berkman, Gordon, Murray and Palda
2121 The Illuminating Building
55 Public Square
Cleveland, OH 44113-1949

Re: MUR 2299
Berkman, Gordon,
Murray and Palda

Dear Mr. Gordon:

On December 9, 1986, the Federal Election Commission found reason to believe that Berkman, Gordon, Murray and Palda ("the Partnership") violated 2 U.S.C. § 441a(a)(1)(A), but decided to take no further action in this matter and to close the file. On March 19, 1987, the Commission directed the Office of the General Counsel to reopen this matter and proceed to the next stage in the enforcement process.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find no probable cause to believe that the Partnership violated 2 U.S.C. § 441a(a)(1)(A). The Commission may or may not approve the General Counsel's recommendation.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request to the Commission for an extension of time in which to file a brief. The Commission will

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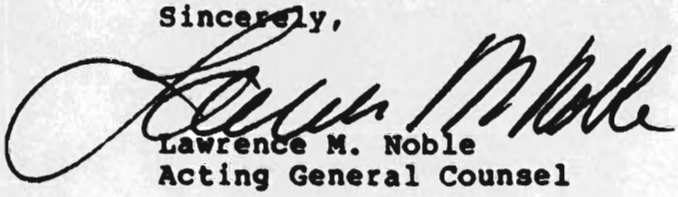
not grant any extension beyond 20 days. All requests for extensions of time must be submitted in writing five days prior to the due date. Further, good cause must be shown.

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less that 30, but not more than 90, days to settle this matter through a conciliation agreement.

Should you have any questions, please contact Jonathan Levin, the attorney assigned to handle this matter, at (202) 376-5690.

Sincerely,



Lawrence M. Noble
Acting General Counsel

Enclosure
Brief

8704056036 1

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Berkman, Gordon, Murray and Palda	)	MUR 2299
	)	

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

A review of the 1986 July Quarterly Report of the Margaret Mueller for Congress Committee ("the Committee") indicated the acceptance of two $1,000 contributions from the law partnership of Berkman, Gordon, Murray & Palda ("the Partnership") on May 2, 1986. Both contributions were designated for the primary election. On December 9, 1986, the Commission found reason to believe that the Partnership violated 2 U.S.C. § 441a(a)(1)(A). On that date, the Commission also determined to take no further action in the matter and to close the file.

On December 29, 1986, the Office of the General Counsel received a letter from the Partnership stating that it did not make excessive contributions and requesting that the Commission reopen the matter for reconsideration and find no reason to believe that the Partnership violated the Act. The Partnership asserted that it made one $1,000 contribution on May 2 and that the second contribution reported as received from the Partnership was actually a check from Nancy A. Murray, the spouse of one of the firm's partners. The response enclosed copies of two $1,000 checks, a Partnership check made out to the Committee and a

8704060362

check on the account of J. Michael Murray and Nancy A. Murray made out to the Committee and signed by Mrs. Murray.

On January 12, 1987, the Office of the General Counsel received a letter from the Committee treasurer also stating that the Committee had reported the contributions erroneously. Enclosed were copies of the contribution checks. The treasurer requested that this Office "have the records corrected showing no violation of the regulations governing contributions in federal elections."

On February 3, 1987, the Commission voted to deny the Partnership's request to re-open the matter. On February 9, 1987, the Commission, interpreting the Committee treasurer's letter as a request to re-open the matter, voted to deny his request. The Commission sent letters to both the Partnership and the Committee treasurer explaining the nature of a reason to believe finding.

On February 19, 1987, the Office of the General Counsel received another letter from the Partnership asking that the Commission reopen the matter and withdraw the reason to believe determination. On March 19, 1987, the Commission voted to reject this Office's recommendation to deny the Partnership's request. The Commission instead, directed this Office to reopen the matter and proceed to the next stage in the enforcement process.

II. LEGAL ANALYSIS

Section 441a(a)(1)(A) of Title 2 states that no person shall make contributions to any candidate and his authorized political

8704060363

committees with respect to any election for federal office which, in the aggregate, exceed $1,000. According to 2 U.S.C. § 431(11), the term "person" includes a partnership. From the evidence presented by the Partnership and the Committee treasurer, it appears that the Partnership did not make contributions exceeding $1,000 for the primary election. The General Counsel, therefore, recommends that the Commission find no probable cause to believe that the Partnership violated 2 U.S.C. § 441a(a)(1)(A).

III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe that Berkman, Gordon, Murray & Palda violated 2. U.S.C. § 441a(a)(1)(A).

7/29/87
Date

Lawrence M. Noble
Acting General Counsel

8704060354

SENSITIVE

RECEIVED
OFFICE OF THE FEC
COMMISSION SECRETARY
87 APR 30 A8:38

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 29, 1987

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
Acting General Counsel

SUBJECT: MUR 2299

Attached for the Commission's review are briefs stating the position of the General Counsel on the legal and factual issues of the above-captioned matter. Copies of these briefs and letters notifying the respondents of the General Counsel's intent to recommend to the Commission findings of no probable cause to believe were mailed on April 29, 1987. Following receipt of the respondents' replies to these notices, this Office will make a further report to the Commission.

Attachments

1. Letter and brief to Berkman, Gordon, Murray and Palda.
2. Letter and brief to the Margaret Mueller for Congress Committee.

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Attachment(s) 1 and 2

to Memorandum

have been removed from this

position in Public Record File.

See Index Item(s) 25 and 26

8704060366

GCC 3320

RECEIVED AT THE FEC

87 MAY 7 A8:54

Berkman, Gordon, Murray and Palda
Attorneys and Counselors at Law
2121 The Illuminating Building
55 Public Square
Cleveland, Ohio 44113-1949

216 781-5245

BERNARD A. BERKMAN (1929-1985)
LARRY S. GORDON
J. MICHAEL MURRAY
GEORGE W. PALDA
LORRAINE R. BAUMGARDNER
JONATHAN I. KLEIN
JEREMY A. ROSENBAUM

JULIEN C. RENSWICK
OF COUNSEL

RECEIVED
GENERAL COUNSEL
87 MAY 7 P2:47

May 4, 1987

Office of General Counsel
Federal Election Commission
Washington, D.C. 20463

Attention: Lawrence M. Noble,
Acting General Counsel

Re: In the Matter of
Berkman, Gordon Murray and Palda
MUR 2299

Dear Mr. Noble:

We enclose herewith three copies of the Brief of Berkman, Gordon, Murray and Palda which was forwarded to the Secretary of the Commission today in the captioned matter.

Very truly yours,

BERKMAN, GORDON, MURRAY and PALDA

By Larry S. Gordon

LSG:bk

Enclosures

8704065037

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2299
Berkman, Gordon, Murray and Palda	)	

BRIEF OF BERKMAN, GORDON, MURRAY and PALDA

Berkman, Gordon, Murray and Palda ("the Partnership") files this brief in the within matter for the purpose of apprising the Commission that the Partnership has reviewed the brief of the General Counsel filed herein, and upon such review, the Partnership gives notice that it concurs in those facts appearing in the General Counsel's statement of the case which are within the knowledge of the Partnership, and takes no issue with those facts recited as to which it has no knowledge.

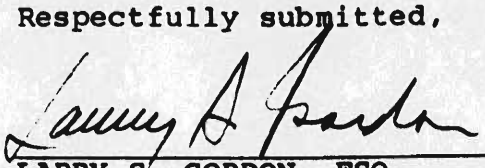
The Partnership has reviewed the General Counsel's legal analysis of the issue presented in the matter under review, and is in complete agreement with the analysis presented by the General Counsel.

Finally, the Partnership is in agreement with the General Counsel's recommendation to the Commission that it find no probable cause to believe that Berkman, Gordon, Murray and

8704060368

Palda violated 2 U.S.C. §441a(a)(1)(A), and urges the Commission to so find.

Respectfully submitted,



LARRY S. GORDON, ESQ.
BERKMAN, GORDON, MURRAY and PALDA
2121 The Illuminating Building
55 Public Square
Cleveland, Ohio 44113
(216) 781-5245

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CERTIFICATE OF SERVICE

Three copies of the foregoing brief of Berkman, Gordon, Murray and Palda were served upon the Office of the General Counsel, Federal Election Commission, Washington, D.C. 20463, by United States mail, this 4th day of May, 1987.

LARRY S. GORDON, ESQ.
BERKMAN, GORDON, MURRAY and PALDA

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SENSITIVE

EXECUTIVE SESSION

JUN 09 1987

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Berkman, Gordon, Murray and Palda	)	MUR 2299
	)	
Margaret Mueller for Congress Committee	)	
J. Thomas Dean, as treasurer	)	

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GENERAL COUNSEL'S REPORT

I. BACKGROUND

A review of the 1986 July Quarterly Report of the Margaret Mueller for Congress Committee ("the Committee") indicated that the Committee accepted two $1,000 contributions from the law partnership of Berkman, Gordon, Murray & Palda ("the Partnership") on May 2, 1986. Both contributions were designated for the primary election. On December 9, 1986, the Commission found reason to believe that the Partnership violated 2 U.S.C. § 441a(a)(1)(A) and that the Committee and J. Thomas Dean, as treasurer, violated 2 U.S.C. § 441a(f). On that date, the Commission also found reason to believe that the Committee and Mr. Dean, as treasurer, violated 2 U.S.C. § 434(a)(6) in connection with the failure to send notifications to the Commission within 48 hours of the receipt of twelve $1,000 contributions. Finally, the Commission determined to take no further action in this matter and to close the file.

On December 29, 1986, the Office of the General Counsel received a letter from the Partnership stating that it did not make excessive contributions and requesting that the Commission reopen the matter for reconsideration and find no reason to

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believe that the Partnership violated the Act. The Partnership asserted that it made one $1,000 contribution on May 2 and that the second contribution reported as received from the Partnership was actually a check from Nancy A. Murray, the spouse of one of the firm's partners. The response enclosed copies of two $1,000 checks, a Partnership check made out to the Committee and a check on the account of J. Michael Murray and Nancy A. Murray made out to the Committee and signed by Mrs. Murray.

On January 12, 1987, the Office of the General Counsel received a letter from the Committee treasurer also stating that the Committee had reported the contributions erroneously. Enclosed were copies of the contribution checks. The treasurer requested that this Office "have the records corrected showing no violation of the regulations governing contributions in federal elections."

On February 3, 1987, the Commission voted to deny the Partnership's request to re-open the matter. On February 9, 1987, the Commission, interpreting the Committee treasurer's letter as a request to re-open the matter, voted to deny his request. The Commission sent letters to both the Partnership and the Committee treasurer explaining the nature of a reason to believe finding.

On February 19, 1987, the Office of the General Counsel received another letter from the Partnership asking that the Commission reopen the matter and withdraw the reason to believe determination. On March 19, 1987, the Commission voted to reject this Office's recommendation to deny the Partnership's request.

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The Commission instead directed this Office to reopen the matter and proceed to the next stage in the enforcement process.

On April 29, 1987, this Office sent a brief to the Partnership stating that the General Counsel was prepared to recommend a finding of no probable cause to believe that the Partnership violated 2 U.S.C. § 441a(a)(1)(A). On that date, this Office also sent a brief to the Committee treasurer stating that the General Counsel was prepared to recommend a finding of no probable cause to believe that the Committee and Mr. Dean, as treasurer, violated 2 U.S.C. § 441a(f). On May 7, 1987, this Office received a reply from the Partnership concurring in the analysis and proposed recommendation of the General Counsel. No reply has been received from the Committee.

II. LEGAL ANALYSIS

This Office refers the Commission to the General Counsel's Briefs, dated April 29, 1987, for an analysis of this matter. Based on the analysis in those briefs, this Office recommends that the Commission find no probable cause to believe that the Partnership violated 2 U.S.C. § 441a(a)(1)(A) and no probable cause to believe that the Committee and Mr. Dean, as treasurer, violated 2 U.S.C. § 441a(f). This Office also recommends that the Commission close the file in this matter.*/

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*/ The direction to the Office of the General Counsel to reopen this matter was in response to the request from the Partnership received by this Office on February 19. It appears that the Commission intended that this matter be reopened with respect to the allegations of the making and receipt of excessive contributions, not with respect to the allegation that the Committee violated 2 U.S.C. § 434(a)(6). Therefore, no further recommendations are being made with respect to the latter allegation.

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III. RECOMMENDATIONS

1. Find no probable cause to believe that Berkman, Gordon, Murray & Palda violated 2. U.S.C. § 441a(a)(1)(A).

2. Find no probable cause to believe that the Margaret Mueller for Congress Congress Committee and J. Thomas Dean, as treasurer, violated 2 U.S.C. § 441a(f).

3. Close the file in this matter.

4. Approve the attached letters.

Date 5/29/87

Lawrence M. Noble
Acting General Counsel

Attachments
1. Reply from the Partnership, dated May 4, 1987.
2. Proposed letter to the Partnership.
3. Proposed letter to the Committee.

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Attachment(s) 1

to General Counsel's Report

have been removed from this

position in Public Record File.

See Index Item(s) 28

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Attachment(s) 2 and 3

to General Counsel's Report

have been removed from this

position in Public Record File.

See Index Item(s) 31 and 32

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of Berkman, Gordon, Murray and Palda Margaret Mueller for Congress Committee J. Thomas Dean, as treasurer	)))))))	MUR 2299

CERTIFICATION

I, Mary W. Dove, recording secretary for the Federal Election Commission executive session on June 9, 1987, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in the above-captioned matter:

1. Find no probable cause to believe that Berkman, Gordon, Murray & Palda violated 2 U.S.C. § 441a(a)(1)(A).

2. Find no probable cause to believe that the Margaret Mueller for Congress Committee and J. Thomas Dean, as treasurer, violated 2 U.S.C. § 441a(f).

3. Close the file in this matter.

4. Approve the letters attached to the General Counsel's report dated May 29, 1987.

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

Attest:

6-10-87
Date

Mary W. Dove
Mary W. Dove
Administrative Assistant

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 12, 1987

Larry S. Gordon, Esquire
Berkman, Gordon, Murray & Palda
2121 The Illuminating Building
55 Public Square
Cleveland, Ohio 44113-1949

Re: MUR 2299
Berkman, Gordon, Murray & Palda

Dear Mr. Gordon:

This is to advise you that, on June 9, 1987, the Federal Election Commission found that there is no probable cause to believe that Berkman, Gordon, Murray & Palda violated 2 U.S.C. § 441a(a)(1)(A). Accordingly, the file in this matter has been closed.

This matter will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days. Such materials should be sent to the Office of the General Counsel.

If you have any questions, please contact Jonathan Levin, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
Acting General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 12, 1987

J. Thomas Dean, Esquire
Margaret Mueller for Congress
Committee
P.O. Box 526
Painesville, Ohio 44077

Re: MUR 2299
Margaret Mueller
for Congress Committee
J. Thomas Dean, as treasurer

Dear Mr. Dean:

This is to advise you that, on June 9, 1987, the Federal Election Commission found that there is no probable cause to believe that the Margaret Mueller for Congress Committee and you, as treasurer, violated 2 U.S.C. § 441a(f). Accordingly, the file in this matter has been closed.

This matter will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days. Such materials should be sent to the Office of the General Counsel.

If you have any questions, please contact Jonathan Levin, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
Acting General Counsel

cc: Margaret Mueller

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 2299 E

DATE FILMED 10/21/87 CAMERA NO. 3

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