



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 2375

DATE FILMED 6/18/87 CAMERA NO. 3

CAMERAMAN AS

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PUBLIC RECORD INDEX - MUR 2375

1. Memo, dtd 17 Nov 86, John D. Gibson (Reports Analysis Division (RAD)) to Charles N. Steele (General Counsel), Subject: Referral of the Republican Party of Florida Federal Campaign Committee.
2. RAD Referral, dtd 17 Nov 86.
3. First General Counsel's Report, dtd 4 March 87.
4. Memo, dtd 5 March 87, Office of General Counsel (OGC) to Office of the Commission Secretary (OCS), Subject: First General Counsel's Report.
5. Memo, dtd 10 March 87, M.W. Emmons to C.N. Steele, Subject: Objections to First General Counsel's Report.
6. Certification of Commission Action, dtd 20 March 87.
7. Closing Ltr, dtd 27 March 87, Scott E. Thomas (FEC) to Elise D. Diggs (Treas, Republican Party of Florida Federal Campaign Committee).
8. Closing Ltr, dtd 27 March 87, Lawrence M. Noble to Philip B. Crosby, Sr. (Treas, Committee to Re-Elect United States Senator Paula Hawkins).

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

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FEDERAL ELECTION COMMISSION

WASHINGTON, D. C. 20463

17 November 1986

MEMORANDUM

TO: CHARLES N. STEELE
GENERAL COUNSEL

THROUGH: JOHN C. SURINA
STAFF DIRECTOR

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

SUBJECT: REFERRAL OF THE REPUBLICAN PARTY OF FLORIDA
FEDERAL CAMPAIGN COMMITTEE (FKA FLORIDA
VICTORY FUND)

This is a referral of the Republican Party of Florida Federal Campaign Committee (FKA Florida Victory Fund) ("the Federal Account") for reimbursing its State Account for the purchase of bumper strips as an apparent coordinated expenditure on behalf of a Federal candidate. The Federal Account transferred \$6,309.61 to its State Account on June 30, 1986, more than thirty (30) days after March 17, 1986, the date on which the State Account originally purchased the bumper strips. According to the RAD Review and Referral Procedures for Unauthorized Committees (Standard 5), this matter requires further examination by your office.

If you have any questions regarding this matter, please contact Joseph Rawson at 376-2480.

Attachment

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REPORTS ANALYSIS REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: 17 November 1986

ANALYST: Joseph Rawson

I. COMMITTEE: The Republican Party of Florida Federal Campaign Committee (FKA Florida Victory Fund) (C00099259)
Elise D. Biggs, Treasurer
(January 1, 1985 - present)
719 North Calhoun Street
P.O. Box 311
Tallahassee, FL 32302

II. RELEVANT STATUTE: 11 CFR 102.5

III. BACKGROUND:

Non-Federal Account Financing Activity in Connection with Federal Elections

The 1986 July Quarterly Report filed by the Republican Party of Florida Federal Campaign Committee (FKA Florida Victory Fund) ("the Federal Account") disclosed a transfer to its State Account totalling \$6,309.61 on June 30, 1986 (Attachment 2). A footnote on Schedule B indicated that this transfer of funds represented "Reimbursement to State Account for Bumper Strips paid in error from State Account."

A Request for Additional Information ("RFAI") was sent regarding the July Quarterly Report on August 13, 1986 (Attachment 3). The RFAI noted the reimbursement to the State Account for the bumper strips and advised the Federal Account that a non-federal account was prohibited by 11 CFR 102.5 from financing activity in connection with federal elections. The RFAI asked the Federal Account to provide further clarifying information regarding the nature and date of the activity conducted by the State Account and whether any of the activity was conducted on behalf of specifically identified federal candidates. In addition, the RFAI noted the possibility of further Commission action concerning this activity.

Ms. Barbara Morrison of the Republican Party of Florida called the Commission on August 19, 1986 to discuss the

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THE REPUBLICAN PARTY OF FLORIDA
FEDERAL CAMPAIGN COMMITTEE
(FKA FLORIDA VICTORY FUND)
REPORTS ANALYSIS OGC REFERRAL
PAGE 2

questions raised by the RFAI (Attachment 4). She stated that the purchase of the bumper strips by the State Account was the result of a bookkeeping error and that the Federal Account reimbursed the State Account as soon as the error was discovered. The Reports Analysis Division ("RAD") analyst advised Ms. Morrison that the Federal Account should file an amendment to the 1986 July Quarterly Report clarifying the circumstances under which the State Account paid for the bumper strips. In addition, the RAD analyst stated that the amendment should also disclose on which candidate's behalf the bumper strips were purchased.

On August 21, 1986 a Certified Public Accountant ("CPA") with the Republican Party of Florida contacted the Commission with questions regarding how to prepare the amendment (Attachment 5). He stated that the expenditures for the bumper strips were to be coordinated expenditures on behalf of Senator Paula Hawkins but now Senator Hawkins' committee^{1/} had decided to purchase the bumper strips on their own. The RAD analyst advised him to file an amendment to the 1986 July Quarterly Report with a cover letter explaining the situation as well as providing the Commission with the date on which the State Account purchased the bumper strips. The RAD analyst stated that the amended report should show a coordinated expenditure of \$6,309.61 on Schedule F supporting Line 23 of the Detailed Summary Page on behalf of Senator Hawkins and that the refund from the Hawkins Committee should be noted on Schedule A supporting Line 17 of the Detailed Summary Page during the reporting period in which the refund is received.^{2/}

On August 28, 1986 the Commission received a letter sent as an amendment to the Federal Account's July Quarterly Report (Attachment 6). In this letter, the Federal Account explained that the bumper strips were paid for by the State Account on March 17, 1986, in error, but that the Federal Account "...was solvent enough to make the payment." The letter further stated the following:

^{1/} The Federal Account referred to this committee as the Paula Hawkins Re-Election Campaign Fund. The properly registered name of the committee is the Committee to Re-Elect United States Senator Paula Hawkins.

^{2/} Since the Detailed Summary Page does not have a specific line item representing refunds of coordinated expenditures, the RAD analyst advised the CPA to report the refund on Line 17 for Other Receipts.

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THE REPUBLICAN PARTY OF FLORIDA
FEDERAL CAMPAIGN COMMITTEE
(FKA FLORIDA VICTORY FUND)
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PAGE 3

In the meantime, Senator Hawkins drew primary opposition. Florida Statute prohibits parties from participating in any involvement during primaries. Because of this the Hawkins campaign has reimbursed the State Party for the bumper strips. All parties feel that it would be inappropriate to expend resources on the campaign. Also because of this action, neither party has had any economic benefits incurred because the reimbursement was for actual costs of the bumper strips.

On September 12, 1986, Mr. Stan Huckaby, an attorney representing the Republican Party of Florida, called the Commission in order to clarify which type of amendments should be filed by the Federal Account (Attachment 7). The RAD analyst advised Mr. Huckaby that an amendment to the July Quarterly Report should be filed since the disbursement on behalf of Senator Hawkins originally occurred during that period. The RAD analyst stated that the amendment should contain a Schedule F supporting Line 23 of the Detailed Summary Page and that the refund of this coordinated expenditure should be disclosed on the 1986 October Quarterly Report on Schedule A supporting Line 17 of the Detailed Summary Page.

Mr. Huckaby indicated that the State Account had received enough permissible funds to make the original expenditure and that a statement would be sent to the Commission to that effect. He also said that a 1986 12 Day Pre-Primary Report would not be filed as they had not participated in the Florida primary and all financial transactions would be adequately covered by the July and October Quarterly Reports.

The 1986 October Quarterly Report was received by the Commission on October 18, 1986. The Report disclosed a \$6,309.61 refund to the Federal Account by the Paula Hawkins Re-Election Campaign Fund on August 13, 1986. This receipt was disclosed on Schedule A supporting Line 17 of the Detailed Summary Page (Attachment 8).

As of this date, the Commission has not received an amendment to the Federal Account's 1986 July Quarterly Report disclosing the disbursement of funds as a coordinated expenditure on behalf of Senator Hawkins nor has it received a statement that there were sufficient permissible funds in the State Account at the time of disbursement.

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THE REPUBLICAN PARTY OF FLORIDA
FEDERAL CAMPAIGN COMMITTEE
(FKA FLORIDA VICTORY FUND)
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IV. OTHER PENDING MATTERS INITIATED BY RAD:

None.

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FEDERAL ELECTION COMMISSION
 COMMITTEE INDEX OF DISCLOSURE DOCUMENTS - (C) (85-86)

DATE 13NOV86
 PAGE 1

PARTY RELATED

COMMITTEE	DOCUMENT	RECEIPTS	DISBURSEMENTS	TYPE OF FILER COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
REPUBLICAN PARTY OF FLORIDA FEDERAL CAMPAIGN COMMITTEE (FKA - FLORIDA VICTORY FUND)				PARTY QUALIFIED		ID #C00099259
1985	MID-YEAR REPORT	489,479	508,660	1JAN85 -30JUN85	17	85FEC/383/4792
	MID-YEAR REPORT - AMENDMENT	-	-	1JAN85 -30JUN85	6	86FEC/403/4138
	REQUEST FOR ADDITIONAL INFORMATION			1JAN85 -30JUN85	1	86FEC/402/2692
	YEAR-END	436,934	227,986	1JUL85 -31DEC85	75	86FEC/400/2519
1986	APRIL QUARTERLY	410,259	454,338	1JAN86 -31MAR86	18	86FEC/411/0092
	JULY QUARTERLY	255,664	436,256	1APR86 -30JUN86	18	86FEC/423/4683
	JULY QUARTERLY - AMENDMENT	-	-	1APR86 -30JUN86	1	86FEC/429/3075
	REQUEST FOR ADDITIONAL INFORMATION			1APR86 -30JUN86	3	86FEC/426/5308
	OCTOBER QUARTERLY	470,709	365,963	1JUL86 -30SEP86	31	86FEC/436/4600
	PRE-GENERAL	302,656	305,062	1OCT86 -15OCT86	12	86FEC/442/3272
	TOTAL	2,365,701	0 2,298,265	0	182	TOTAL PAGES

All Reports referenced above have been reviewed.
 Ending cash-on-hand as of 10/15/86: \$366,958.94
 Debts and Obligations owed TO the Committee as of 10/15/86: \$0
 Debts and Obligations owed BY the Committee as of 10/15/86: \$0

SCHEDULE B

ITEMIZED DISBURSEMENTS

1986 July Quarterly Report

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

Name of Committee (in Full)

Republican Party of Florida - Federal Campaign Committee

A. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
Republican Party of Florida - State Account P. O. Box 311, Tallahassee, Fl. 32302	Disbursement for <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify)	4/86 5/86 6/86	94,000.00 41,800.00 221,600.00
B. Full Name, Mailing Address and ZIP Code Republican Party of Florida - State Account	Purpose of Disbursement Disbursement for <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify)	6/30/86	6,309.61
C. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify)		
D. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify)		
E. Full Name, Mailing Address and ZIP Code NOTE: Reimbursement to State Account for Bumper Strips paid in error from State Account	Purpose of Disbursement Disbursement for <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify)		
F. Full Name, Mailing Address and ZIP Code #10321-3/17 Douglas Screen Printers	Purpose of Disbursement Disbursement for <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify)		
G. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify)		
H. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify)		
I. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify)		
SUBTOTAL of Disbursements This Report Period			
TOTAL To Be Paid to Candidates			\$363,709.61

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FEDERAL ELECTION COMMISSION
WASHINGTON DC 20541

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AUG 13 1986

Elise D. Biggs, Treasurer
Republican Party of Florida
Federal Campaign Committee
(FKA Florida Victory Fund)
719 North Calhoun Street
P.O. Box 311
Tallahassee, FL 32302

Identification Number: C00099259

Reference: July Quarterly Report (4/1/86-6/30/86)

Dear Ms. Biggs:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Schedule B supporting Line 20 discloses \$6,309.61 in disbursements to your state account for bumper strips (pertinent portion(s) attached). You are advised that 11 CFR 102.5 prohibits a non-Federal account from financing activity in connection with Federal elections. Please provide further clarifying information regarding the nature and date of the activity conducted by your non-federal account. In addition, if any of the disbursements disclosed on Schedule B supporting Line 20 were made to influence the election or defeat of specific Federal candidates, the disbursements should be allocated accordingly and disclosed as either in-kind contributions on Schedule B supporting Line 21, or as coordinated expenditures on Schedule F supporting Line 23. See 11 CFR 104.3(b)(3) and 106.1.

Although the Commission may initiate legal action regarding the activities conducted by your non-Federal account, the reimbursement by your Federal account and any clarification you can provide will be taken into consideration.

An amendment to your original report(s), correcting the above problem(s) should be filed with the Federal Election Commission within fifteen (15) days of the date of this letter. If you need

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assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 376-2480.

Sincerely,

Joseph Rawson

Joseph Rawson
Reports Analyst
Reports Analysis Division

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TELECON

ATTACHMENT 4

ANALYST: Joseph Rawson

CONVERSATION WITH: Barbara Morrison

COMMITTEE: Republican Party of Florida Federal Campaign Account (C00099259)

DATE: August 19, 1986

SUBJECT(S): Financing of Federal Activity by a non-Federal Account

Barbara Morrison called to discuss the questions raised by the RFAI sent to the Republican Party of Florida Federal Campaign Account. She said that the purchase of the bumper strips by the State Account was the result of a bookkeeping error and that the Federal Account reimbursed the State Account as soon as the error was discovered.

I advised her that they should file an amendment with the Commission containing a cover letter clarifying the situation. The amendment should also disclose on which candidate's behalf the bumper strips were purchased.

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TELECON

ANALYST: Joseph Rawson

CONVERSATION WITH: Certified Public Accountant of the Florida Republicans

COMMITTEE: Republican Party of Florida Federal Campaign Committee(C00099259)

DATE: August 21, 1986

SUBJECT(S): Financing of Federal Activity by a non-Federal Account

The C.P.A. called to inquire on how to prepare the amendment to their July Quarterly Report. He stated that the expenditures for the bumper strips were to be coordinated party expenditures on behalf of Senator Paula Hawkins. Now, however, Senator Hawkins' committee has decided to purchase the bumper strips on their own.

I advised him to file an amendment to their report with a cover letter explaining the situation as well as providing the Commission with the date on which the State Account purchased the bumper strips. The amended report should disclose the \$6,309.61 on a Schedule F supporting Line 23 of the Detailed Summary Page on behalf of Paula Hawkins. When the Federal Account receives a refund from Senator Paula Hawkins' committee it should be reported on Schedule A supporting Line 17 of the Detailed Summary Page. He then indicated that the funds would be reported as going out on a 12 Day Pre-Primary Report which the committee was about to file and the refund would be noted as soon as it was received which would most likely be on the October Quarterly Report. I then explained to him that the funds should be reported as coordinated expenditures on an amended July Quarterly Report, not the 12 Day Pre-Primary Report, because the activity actually occurred during the July Quarterly reporting period.

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TELECON

ANALYST: Joseph Rawson

CONVERSATION WITH: Stan Huckaby, Attorney for the Republican Party
of Florida

COMMITTEE: Republican Party of Florida Federal Campaign Committee(C00099259)

DATE: September 12, 1986

SUBJECT(S): Financing of Federal Activity by a non-Federal Account

Mr. Huckaby called me to further clarify what type of amendments the Republican Party of Florida should file. I advised him that an amendment to the July Quarterly Report should be filed which contains a Schedule F showing the \$6,309.61 in funds being disbursed as a coordinated party expenditure on behalf of Senator Paula Hawkins. The October Quarterly Report should disclose a refund of these funds from Senator Paula Hawkins on a Schedule A supporting Line 17 of the Detailed Summary Page. The refund of a \$5,000.00 Primary contribution should be disclosed on a Schedule A supporting Line 16 of the Detailed Summary Page.

He also assured me that the State Account had received enough permissible funds as a result of transfers to the State Account from the Federal Account to make the original expenditure for bumper strips on behalf of Paula Hawkins and that they would send to the Commission a statement to that effect.

They had decided to include all refunds of contributions on the October Quarterly Report rather than file a 12 Day Pre-Primary Report as they in actuality have not participated in the Florida Primary. Any activity in connection with the Florida Primary had already been disclosed on the July Quarterly Report.

HAND DELIVERED
AUG 28 11:55



**Republican
Party of
Florida**

719 N. Calhoun
P.O. Box 311
Tallahassee, FL
32302
(904) 222-7020

Jeanie Austin
Chairman

Carlin Purcell
Vice Chairman

Maryanne Morse
Secretary

D.D. Bogg
Treasurer

John Jacobson
Assistant Secretary

David Duke
Assistant Treasurer

Bill Taylor
Assistant Secretary

Paula Hawkins

3 7 0 4 0 5 1 1

August 27, 1986

Mr. Joseph Rawson
Reports Analysis Division
999 "E" Street, N.W.
Washington, D.C. 20463

Dear Mr. Rawson:

This is in response to your letter dated August 13, 1986 where you ask us to clarify the reimbursement of \$6,309.61 to the State account for the purchase of bumper strips.

The bumper strips were paid for in error, out of our state account. In our July 10th quarterly report the federal account reimbursed the state account for that amount. At the time of the purchase and error and at the time of the transfer, the federal account was solvent enough to make the payment.

The original check from the state account was #10321 dated March 17, 1986 payable to Douglas Screen Printers.

In the meantime, Senator Hawkins drew primary opposition. Florida Statute prohibits parties from participating in any involvement during primaries. Because of this the Hawkins campaign has reimbursed the State Party for the purchase of the bumper strips. All parties feel that it would be inappropriate to expend resources on the campaign. Also because of this action, neither party has had any economic benefits incurred because the reimbursement was for actual costs of the bumper strips.

If you have any questions, please feel free to contact me.

Sincerely,

Kay Scott
Executive Director

cc: Mark Braden

SCHEDULE A

ITEMIZED RECEIPTS

1986 October Quarterly Report

Any information copied from such Reports or Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

Name of Committee (in Full)

Republican Party of Florida - Federal Campaign Committee

A. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
Paula Hawkins Re-Election Campaign Fund P. O. Box 193 Winter Park, FL 32790	Purchase of Bumper strips	8/13/86	6,309.61
Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify):	Occupation		
Aggregate Year-to-Date - \$ 6,309.61			
B. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
State of Florida /ofc. of Comptroller The Capitol Tallahassee, FL 32301	Federal Candidates Qualifying Fees	8/14/86	61,677.75
Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify):	Occupation		
Aggregate Year-to-Date - \$ 61,677.75			
C. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
State of Florida /ofc. of Comptroller The Capitol Tallahassee, florida 32301	Federal Candidates Qualifying Fees	9/8/86	3,246.20
Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify):	Occupation		
Aggregate Year-to-Date - \$ 64,923.95			
D. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
Paula Hawkins Re-Election Campaign Fund/General P. O. Box 193 Winter Park, FL 32790	Reimburse Greyhound Package Shipments	9/30/86	19.58
Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify):	Occupation		
Aggregate Year-to-Date - \$ 6,329.19			
E. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
Barnett Bank of Tallahassee P. O. Box 5257 Tallahassee, FL 32314	Interest	7/31/86 8/31/86 9/30/86	352.56 429.08 1,195.32
Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify):	Occupation		
Aggregate Year-to-Date - \$ 3,581.52			
F. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
Robinson Humphrey 355 N. Monroe St. Tallahassee, FL 32301	Interest	7/31/86 8/31/86 9/30/86	584.97 808.17 941.42
Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify):	Occupation		
Aggregate Year-to-Date - \$ 5,200.85			
G. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Occupation		
Aggregate Year-to-Date - \$			

SUBTOTAL of Receipts This Page (optional)

TOTAL This Period (last page this line number only)

75,564.06

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JR

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

SENSITIVE

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FIRST GENERAL COUNSEL'S REPORT

RAD Referral 86L-27
Staff: Jonathan Levin

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

RESPONDENTS' NAMES: The Republican Party of Florida
The Republican Party of Florida Federal Campaign Committee (AKA Florida Victory Fund)
Elise D. Biggs, as treasurer
Committee to Re-Elect United States Senator Paula Hawkins
Philip B. Crosby, Sr., as treasurer

RELEVANT STATUTES AND REGULATIONS:
2 U.S.C. § 431(8)(B)(x)
2 U.S.C. § 441a(a)(1)(C)
2 U.S.C. § 441a(d)
2 U.S.C. § 441a(f)
2 U.S.C. § 441b(a)
11 C.F.R. § 100.8(b)(16)
11 C.F.R. § 102.5

INTERNAL REPORTS CHECKS: Public Records

FEDERAL AGENCIES CHECKED: None

SUMMARY OF ALLEGATIONS

The Republican Party of Florida Federal Campaign Committee ("the Federal Account") was referred to the Office of the General Counsel by the Reports Analysis Division ("RAD") for the acceptance of a transfer from the State Account of the Republican Party of Florida in violation of 11 C.F.R. § 102.5(a) and 2 U.S.C. § 441b(a). It also appears that the Committee to Re-Elect United States Senator Paula Hawkins ("the Hawkins

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Committee") made a contribution to the Federal Account in excess of the limits of 2 U.S.C. § 441a(a)(1)(C).

FACTUAL AND LEGAL ANALYSIS

A. The Facts

The 1986 July Quarterly Report filed by the Federal Account disclosed a transfer to the State Account on June 30, 1986 of \$6,309.61. According to the report, this transfer represented "Reimbursement to State Account for Bumper Strips paid in error from State Account."

According to phone conversations and correspondence between personnel of the Republican Party of Florida ("the Party") and RAD, the following sequence of events occurred. On March 17, 1986, the State Account paid \$6,309.61 to Douglas Screen Printers for bumper stickers. According to the Party, the payment was meant to be an expenditure under 2 U.S.C. § 441a(d) on behalf of Senator Paula Hawkins, the payment from the State Account was a "bookkeeping error," and the Federal Account "was solvent enough to make the payment." Subsequently, the Party discovered the error and, on June 30, 1986, the Federal Account reimbursed the State Account.

After the State Account had made the payment, Senator Hawkins drew primary opposition.^{1/} In a letter dated August 27,

^{1/} According to the reports of the Jon Larsen Shudlick Campaign Committee, the committee of the primary opponent, the committee commenced activities on July 7, 1986. The Statement of Candidacy of Mr. Shudlick was dated August 6, 1986.

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1986, the party's Executive Director stated that, because Florida law "prohibits parties from participating in any involvement during primaries," the Hawkins campaign "reimbursed the State Party" for the bumper stickers on August 13, 1986. The "reimbursement" was disclosed on Schedule A of the Federal Account's 1986 October Quarterly as a "Purchase of Bumper Strips." The Hawkins Committee, on Schedule B of its 12 Day Pre-Primary Report, reported a disbursement of \$6,309.61 to the Party for "Bumper Stickers." In a phone communication with RAD on September 12, 1986, an attorney for the party maintained that, at the time of the original disbursement by the State Account, the State Account had sufficient permissible funds to make the original disbursement and a statement would be sent to that effect. No such statement has been sent.^{2/}

Although the Federal Account has not filed a Schedule F reporting the \$6,309.61 as a coordinated expenditure, the Committee, in partial fulfillment of the instructions from the RAD analyst, reported the figure as a § 441a(d) expenditure on the Detailed Summary Page of the last four reports filed by the Commission, the October Quarterly Report, the 12 Day Pre-General Report, the 30 Day Post-General Report, and the Year End Report.

B. Analysis

1. Allegation as to 11 C.F.R. § 102.5(a) and 2 U.S.C. § 441b(a).

^{2/} The 1986 April Quarterly lists three disbursements from the Federal Account to the State Account. These are \$75,000 in "1/86," \$115,000 in "2/86," and \$142,000 in "3/86."

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To ensure that prohibited monies are not used in connection with federal elections, 11 C.F.R. § 102.5 prescribes certain requirements for organizations that intend to finance both federal and non-federal political activity. An organization that is a political committee under the Act has two available alternatives pursuant to 11 C.F.R. § 102.5(a): (1) it may maintain a single account for both federal and non-federal activity, with such an account containing only contributions subject to the prohibitions and limitations of the Act, or (2) it may maintain a separate account for federal activity. In the latter case, all disbursements, contributions, expenditures, and transfers by the committee in connection with any federal election shall be made from the federal account. In addition, no transfers may be made to such federal account from any other account maintained by such organization for the purpose of financing non-federal election activity. See 11 C.F.R. § 102.5(a)(1)(i). Finally, only contributions meeting the following conditions may be deposited in the federal account: (1) contributions designated for the federal account, (2) contributions that result from a solicitation which expressly states that the contribution will be used in connection with a federal election, and (3) contributions from contributors who are informed that all contributions are subject to the prohibitions and limitations of the Act. See 11 C.F.R. § 102.5(a)(2). In this matter, it appears that the disbursement by the State Account and the subsequent reimbursement by the Federal Account

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may have resulted in a transfer from the State Account to the Federal Account, a violation of 11 C.F.R. § 102.5(a) by the Republican Party of Florida and by the Federal Account and its treasurer.^{3/} Based on the foregoing analysis, this Office recommends that the Commission open a Matter Under Review and find reason to believe that the Party and the Federal Account and Elise D. Biggs, as treasurer, violated 11 C.F.R. § 102.5(a).

Under Florida law, corporations and labor organizations may make contributions up to \$1,000 to a political party committee. Consequently, the \$6,309.61 disbursed from the State Account may have been commingled with funds prohibited by 2 U.S.C. § 441b(a). Accordingly, the Federal Account may have knowingly accepted funds prohibited under 2 U.S.C. § 441b(a). This Office, therefore, recommends that the Commission find reason to believe that the Party and the Federal Account and Ms. Biggs, as treasurer, violated 2 U.S.C. § 441b(a).

2. Allegation as to 2 U.S.C. § 441a(a)(1)(C)

If the disbursement from the State Account was a § 441a(d) expenditure, then the August 13 disbursement was not a simple reimbursement to the Party. Instead, it would appear to be an excessive contribution by the Hawkins Committee to the Federal Account in violation of 2 U.S.C. § 441a(a)(1)(C).

^{3/} Even if this were not considered to be a transfer, however, the original disbursement was not made from the Federal Account and, therefore, the Republican Party of Florida appears to be in violation of 11 C.F.R. § 102.5(a)(1)(i).

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Section 441a(d) provides for expenditures within certain limits by a political party's national committee or state committees in connection with House or Senate campaigns. Such expenditures may be made "[n]otwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions." In order to ascertain whether the State Account's disbursement was a § 441a(d) expenditure, two questions must be answered: (1) was the disbursement exempt from the definition of "expenditure" under 2 U.S.C. § 431(8)(B)(x) and 11 C.F.R. § 100.8(b)(16)? and (2) if the disbursement was not exempt from the definition of "expenditure," do other factors in this matter preclude the disbursement from being a § 441a(d) expenditure?

With respect to the first question, 2 U.S.C. § 431(8)(B)(x) and 11 C.F.R. § 100.8(b)(16) exempt from the definition of expenditure payment by a state or local committee of a political party of the costs of bumper stickers used by such committee in connection with volunteer activities of any nominee of such party if certain conditions are met. Four of these are relevant to this matter and are as follows: (1) such payment is not for costs incurred in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or advertising; (2) the cost of the materials allocable to federal candidates must be paid from contributions subject to the limits and prohibitions of the Act; (3) the payment must not be made from contributions originally

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earmarked for a specific candidate; and (4) the materials are distributed by volunteers. In order to ascertain whether all of these criteria have been met, this Office has proposed questions pertaining to the criteria. This Office has also proposed a request for copies of the reports of the State Account in order to ascertain whether the cost of the materials came from contributions subject to the limits and prohibitions of the Act. In addition, this Office has proposed questions pertaining to when the committee "used" (e.g., distributed) such bumper stickers to determine if the use occurred when Senator Hawkins was the nominee of the party. (The primary occurred on September 2, 1986.)

With respect to the second question, there are three obstacles to considering this disbursement as a § 441a(d) expenditure. First, the expenditure came from a non-federal account. Second, this disbursement was made prior to the September 2 primary election and, after the disbursement (and apparently after the reimbursement to the State Account), Senator Hawkins drew primary opposition. Third, the Hawkins Committee eventually sent \$6,309.61 to the Federal Account on August 13.

With respect to the first obstacle, although the disbursement originated from the State Account, the party intended the disbursement to come from the Federal Account and a reimbursement was made by the Federal Account upon the discovery of the "bookkeeping error." In addition, the Federal Account eventually reported the \$6,309.61 as a § 441a(d) expenditure on

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the Detailed Summary Page of four subsequent reports. The fact that such a disbursement was made originally from a non-federal account is addressed by the application of 11 C.F.R. § 102.5(a) and 2 U.S.C. § 441b(a); this circumstance does not preclude the application of § 441a(d).

With respect to the second obstacle, it should be noted that, at the time of the original disbursement, Senator Hawkins did not have primary opposition and was assumed to be the Party's nominee. Even though opposition later materialized, this was token opposition and the candidate received only 11.2 per cent of the primary vote. In AO 1984-15, the Commission considered the issue of timing in characterizing a disbursement as a § 441a(d) expenditure. The Commission stated that timing was a relevant factor, but not a controlling factor. The Commission noted that nothing in the Act, its legislative history, the regulations, or court decisions indicates that § 441a(d) expenditures must be restricted to the time period between the nomination and the general election. According to this opinion, which dealt with expenditures in connection with a presidential campaign,

[w]here a candidate appears assured of a party's presidential nomination, the general election campaign, at least from the political party's perspective, may begin prior to the formal nomination. Thus, national party expenditures in connection with that campaign are possible. Furthermore, because the national party committee rather than the candidate or his principal campaign committee makes these expenditures, whether a specific nominee has been chosen, or a candidate assured of nomination, at the time the expenditures are made, is immaterial.

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Using this analysis, it appears that the timing of the disbursement and the eventual appearance of token primary opposition should not negate the proposition that this was a § 441a(d) expenditure.^{4/}

The third obstacle, the "reimbursement" by the Hawkins Committee, may indicate that the Hawkins Committee did not consider the original disbursement to be a coordinated expenditure. However, in consideration of the treatment accorded to the disbursement by the party and by the Hawkins Committee until the "reimbursement" by the Hawkins Committee and in consideration of the fact that the original disbursement involved a payment to a vendor, rather than a payment to the Hawkins Committee, this Office believes that the best characterization appears to be that of a coordinated expenditure.

Section 441a(a)(1)(C) of Title 2 states that no person shall make contributions which, in the aggregate, exceed \$5,000 during a calendar year to a political committee other than a candidate's authorized committee or a political committee established and maintained by a national political party. Section 441a(f) of Title 2 states that no political committee shall knowingly accept

^{4/} As stated in footnote 4 of AO 1984-15, it is significant that, unlike 2 U.S.C. § 431(8)(B)(x), 2 U.S.C. § 441a(d) "does not by its terms refer to candidates for Federal office as the party's nominees; it refers to such candidates only as those who 'are affiliated' with the political party." Although Senator Hawkins' status as a nominee when the bumper stickers were used is essential to the application of the expenditure exemption, such status is not essential for characterizing a disbursement as a § 441a(d) expenditure.

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a contribution in violation of the provisions of § 441a. According to 2 U.S.C. § 431(11), the term "person" includes a committee. Because the original disbursement by the State Account appears to have been a § 441a(d) expenditure, it appears that the August 13 disbursement by the Hawkins Committee was not a reimbursement. Instead, it appears to be a payment by the Hawkins Committee to the Federal Account to cover the costs incurred by the Party, and, as such, was a contribution of \$6,309.61. Based on the foregoing analysis, this Office recommends that the Commission find reason to believe that the Hawkins Committee and Philip B. Crosby, Sr., as treasurer, violated 2 U.S.C. § 441a(a)(1)(C) and that the Federal Account and Elise D. Biggs, as treasurer, violated 2 U.S.C. § 441a(f).^{5/}

RECOMMENDATIONS

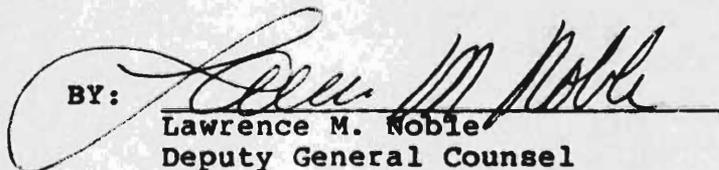
1. Open a Matter Under Review.
2. Find reason to believe that the Republican Party of Florida and the Republican Party of Florida Federal Campaign Committee and Elise D. Biggs, as treasurer, violated 11 C.F.R. § 102.5(a) and 2 U.S.C. § 441b(a).
3. Find reason to believe that the Committee to Re-Elect United States Senator Paula Hawkins and Philip B. Crosby, Sr., as treasurer, violated 2 U.S.C. § 441a(a)(1)(C).
4. Find reason to believe that the Republican Party of Florida Federal Campaign Committee and Elise D. Biggs, as treasurer, violated 2 U.S.C. § 441a(f).

^{5/} The question arises whether, assuming the disbursement in March, 1986, was a coordinated expenditure, the § 441a(d) limit for Hawkins was exceeded because of the expenditure of \$6,309.61. The § 441a(d) limit for Hawkins was \$770,229.20. The NRSC made coordinated expenditures totalling \$714,176.31. The expenditure in this matter is the only coordinated expenditure by the Federal Account. It appears, therefore, that the § 441a(d) limit was not exceeded.

5. Approve the attached letters with General Counsel's Factual and Legal Analyses.
6. Approve the attached questions and request for documents.

Charles N. Steele
General Counsel

Date 3/4/87

BY: 
Lawrence M. Noble
Deputy General Counsel

Attachments

1. Referral from RAD.
2. Proposed letter, analysis, interrogatories, and request for documents to the treasurer of the Federal Account.
3. Proposed letter and analysis to the treasurer of the Hawkins Committee.

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Attachment(s) 1, 2, 3
to First General Counsel's Report
have been removed from this
position in Public Record File.
See Index Item(s) 2, 7+8

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FEDERAL ELECTION COMMISSION
 WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary
 FROM: Office of General Counsel *Caj.*
 DATE: March 5, 1987
 SUBJECT: RAD Referral 86L-27: First General Counsel's Report

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

CIRCULATIONS		DISTRIBUTION	
48 Hour Tally Vote	<input checked="" type="checkbox"/>	Compliance	<input checked="" type="checkbox"/>
Sensitive	<input checked="" type="checkbox"/>	Audit Matters	<input type="checkbox"/>
Non-Sensitive	<input type="checkbox"/>	Litigation	<input type="checkbox"/>
24 Hour No Objection	<input type="checkbox"/>	Closed MUR Letters	<input type="checkbox"/>
Sensitive	<input type="checkbox"/>	Status Sheets	<input type="checkbox"/>
Non-Sensitive	<input type="checkbox"/>	Advisory Opinions	<input type="checkbox"/>
Information	<input type="checkbox"/>	Other (see distribution below)	<input type="checkbox"/>
Sensitive	<input type="checkbox"/>		
Non-Sensitive	<input type="checkbox"/>		
Other	<input type="checkbox"/>		

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES N. STEELE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS / JOSHUA MCFADDEN *JM*

DATE: MARCH 10, 1987

SUBJECT: OBJECTIONS TO RAD Ref. 86L-27: FIRST G.C. REPORT
SIGNED MAR 4, 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	_____ X _____
Commissioner McDonald	_____
Commissioner McGarry	_____
Commissioner Thomas	_____ X _____

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)
)
The Republican Party of Florida)
The Republican Party of Florida)
Federal Campaign Committee)
(AKA Florida Victory Fund))
Elise D. Biggs, as treasurer)
Committee to Re-Elect United States)
Senator Paula Hawkins)
Philip B. Crosby, Sr., as)
treasurer)

RAD Referral 86L-27

(MUR
2375)

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 referral:

1. Open a Matter Under Review (MUR).
2. Find reason to believe that the Republican Party of Florida and the Republican Party of Florida Federal Campaign Committee and Elise D. Biggs, as treasurer, violated 11 C.F.R. § 102.5(a) and 2 U.S.C. § 441b(a), but take no further action.
3. Find no reason to believe that the Committee to Re-Elect United States Senator Paula Hawkins and Philip B. Crosby, Sr., as treasurer, violated 2 U.S.C. § 441a(a)(1)(C).

(continued)

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4. Find no reason to believe that the Republican Party of Florida Federal Campaign Committee and Elise D. Biggs, as treasurer, violated 2 U.S.C. § 441a(f).
5. Direct the Office of General Counsel to send appropriate letters pursuant to the above noted actions.
6. Direct the Office of General Counsel to send an appropriate Factual and Legal Analysis.
7. Close the file.

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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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

March 27, 1987

Elise D. Biggs, Treasurer
Republican Party of Florida Federal
Campaign Committee
Republican Party of Florida
719 North Calhoun Street
P.O. Box 311
Tallahassee, Florida 32302

Re: MUR 2375
Republican Party of
Florida

Republican Party of
Florida Federal
Campaign Committee
Elise D. Biggs, as
treasurer

Dear Ms. Biggs:

On March 19, 1987, the Federal Election Commission determined that there is reason to believe that the Republican Party of Florida and the Republican Party of Florida Federal Campaign Committee ("the Federal Account") and you, as treasurer, violated 11 C.F.R. § 102.5(a), a provision of the Commission Regulations, and 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission also determined to take no further action with respect to this allegation. The Factual and Legal Analysis which formed a basis for the Commission's finding is attached for your information. The Commission reminds you, however, that a disbursement in connection with a federal election from your non-federal account appears to be a violation of 11 C.F.R. § 102.5(a) and 2 U.S.C. § 441b(a). You should take immediate steps to insure that such activity does not occur in the future.

The Commission also considered the issue of whether the Federal Account and you, as treasurer, violated 2 U.S.C. § 441a(f), a provision of the Act, in connection with the receipt of a disbursement of \$6,309.61 from the Committee to Re-Elect United States Senator Paula Hawkins on August 13, 1987. On March 19, 1987, the Commission found that there is no reason to believe that the Federal Account and you, as treasurer, violated

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2 U.S.C. § 441a(f). Accordingly, the Commission has closed the file in this matter.

This matter will become part of the public record within 30 days. If you have any questions, please contact Jonathan Levin, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,



Scott E. Thomas
Chairman

Enclosure
General Counsel's Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 27, 1987

Philip B. Crosby, Sr., Treasurer
Committee to Re-Elect United States
Senator Paula Hawkins
114 E. Comstock Avenue
Suite 201
P.O. Box 193
Winter Park, FL 32789

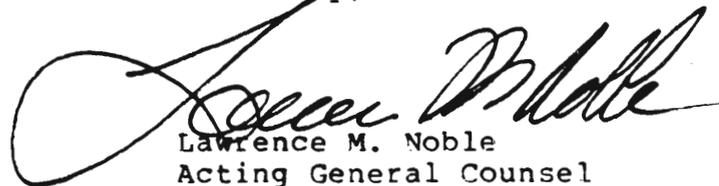
Re: MUR 2375
Committee to Re-Elect United
States Senator Paula Hawkins
Philip B. Crosby, Sr., as
treasurer

Dear Mr. Crosby:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission considered the issue of whether the Committee to Re-Elect United States Senator Paula Hawkins ("the Hawkins Committee") and you, as treasurer, violated 2 U.S.C. § 441a(a)(1)(C), a provision of the Federal Election Campaign Act of 1971, as amended, in connection with a disbursement of \$6,309.61 in August, 1986, to the Republican Party of Florida Federal Campaign Committee. On March 19, 1987, the Commission found that there is no reason to believe that the Hawkins Committee and you, as treasurer, violated 2 U.S.C. § 441a(a)(1)(C). Accordingly, the Commission has closed the file in this matter.

This matter will become part of the public record within 30 days. 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

THIS IS THE BEGINNING OF MUR # 2375
DATE FILMED 6/18/87 CAMERA NO. 3
CAMERAMAN A.S.

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