FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 2570

DATE FILMED 1/24/90 CAMERA NO. 3

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REPORTS ANALYSIS REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: 11 June 1987

ANALYST: Thomas R. White

I. COMMITTEE: Citizens for Jack Kemp
(C00013565)
Malcolm K. Buckley, Treasurer
One Marine Midland Center
Suite 3600
Buffalo, NY 14203

II. RELEVANT STATUTE: 2 U.S.C. §441a(f)
2 U.S.C. §441b(a)

III. BACKGROUND:

Receipt of Apparent Excessive and Prohibited Contributions

Citizens for Jack Kemp ("the Committee") disclosed the receipt of apparent excessive contributions totalling $63,212.50 from sixty-three (63) individuals and three (3) partnerships. The Committee also disclosed the receipt of a $500 apparent prohibited contribution from a corporation. Of the apparent excessive contributions, $54,400 from fifty-seven (57) individuals and one (1) partnership was reported in an escrow account on the 1986 April Quarterly, July Quarterly, 12 Day Pre-Primary, October Quarterly, and 30 Day Post-General Reports. The Committee has refunded, reattributed, or redesignated all of these contributions except for $50 received on the 30 Day Post-General Report.

The remainder of the apparent excessive and prohibited contributions ($9,312.50 from seven (7) individuals, two (2) partnerships and one (1) corporation) was reported on the 1986 April Quarterly, July Quarterly, 12 Day Pre-Primary, 12 Day Pre-General, and 30 Day Post-General Reports. The Committee has refunded all but $1,837.50 of these contributions.

Presented below is a summary of the apparent excessive and prohibited contributions received, notices sent, and responses received. For specific details, please refer to Charts A, B, and C.

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Chart A is an alphabetical listing of contributions from individuals in apparent excess of the limitations, reported in an escrow account, that the Committee has been notified of as a result of the normal review of reports. Chart B is an alphabetical listing of contributions from individuals and one (1) partnership in apparent excess of the limitations, reported in an escrow account, that the Committee has not been notified of as these were identified in the review of all reports during preparation of this referral. Chart C is an alphabetical listing of contributions from individuals and partnerships in apparent excess of the limitations, but not reported in an escrow account, that the Committee has not been notified of as these were identified in the review of all reports during preparation of this referral. Chart C also includes an apparent prohibited contribution from a corporation, of which the Committee has been notified.

1. Possible Violations Discovered During Initial Review

The Committee's 1986 April Quarterly Report disclosed apparent excessive contributions totalling $13,600 from fourteen (14) individuals. On July 12, 1986, the Committee amended its report to show the refund of $5,000 of these contributions.

On August 19, 1986, a Request for Additional Information ("RFAI") was sent regarding the original and amended April Quarterly Reports (Attachment 2). The RFAI noted the refund of some contributions that were in the escrow account and requested the dates that the remaining contributions were reattributed or redesignated. The RFAI warned the Committee of the possibility of legal action by the Commission concerning the Committee's acceptance of contributions in excess of the limits set forth in the Federal Election Campaign Act, as amended ("the Act").

On September 8, 1986, the Committee amended its report to provide the dates that the remaining contributions ($8,600) were reattributed and redesignated. The 1986 July Quarterly Report also disclosed the refunds.

The Committee's 1986 July Quarterly Report disclosed apparent excessive contributions totalling $3,500 from five (5) individuals. On August 26, 1986, the Committee amended its report to show the redesignation of $2,250 of these contributions.

On September 9, 1986, an RFAI was sent regarding the Amended July Quarterly Report (Attachment 3). The RFAI noted the redesignation of some of the contributions in the escrow account and requested the dates that these

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contributions were redesignated. The RFAI also asked for the status of the remaining contributions in the escrow account. The RFAI warned the Committee of the possibility of legal action by the Commission concerning the Committee's acceptance of contributions in excess of the limits set forth in the Act.

On September 9, 1986, the Committee was sent a letter concerning its repeated acceptance of contributions in apparent excess of the limits established by Section 441a of the Act. The letter referenced the Committee's 1986 April and July Quarterly Reports. The letter recommended the Committee examine and adjust its procedures for screening contributions. The letter also advised the Committee that should the next report it file disclose apparent excessive contributions, the Commission might initiate legal enforcement action (Attachment 4).

The Committee's 1986 October Quarterly Report included memo schedules that provided the dates that the remaining contributions in the escrow account were redesignated or refunded. The report also disclosed the refund of $1,000.

The Committee's 1986 12 Day Pre-Primary Report disclosed apparent excessive and prohibited contributions totalling $20,500 from sixteen (16) individuals and one (1) corporation. On September 16, 1986, the Committee was sent an RFAI regarding the 12 Day Pre-Primary Report (Attachment 5). The RFAI noted the acceptance of $20,000 in apparent excessive contributions in an escrow account and the acceptance of a $500 apparent corporate contribution. The RFAI requested the date and amount of any contributions that were reattributed, redesignated or refunded. It also requested the refund of the apparent corporate contribution. The RFAI warned the Committee of the possibility of legal action by the Commission concerning the Committee's acceptance of contributions in excess of the limitations and prohibitions of the Act.

On September 17, 1986, Mr. James Schoener, counsel for the Committee, met with a Reports Analysis Division analyst and Mr. Peter Kell, Jr., Authorized Branch Chief, to discuss how the Committee should report reattributed, redesignated, or refunded contributions in the escrow account. The analyst suggested the Committee include memo schedules with the report covering the period that the contributions were reattributed, redesignated, or refunded. The analyst also suggested the memo schedules be filled out in the method proposed by the Commission in the rule changing process found in the Federal Register (Attachment 6).

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The Committee responded by letter on September 25, 1986 (Attachment 7). The letter included information that the corporate contribution, received on July 16, 1986, was a partnership at the time of contribution; however, the California Secretary of State's Office lists the date of incorporation as July 9, 1986. The letter also outlined the methods the Committee would use to report changes in the status of contributions in the escrow account (Attachment 7).

The Committee's 1986 October Quarterly, 12 Day Pre-General and 30 Day Post-General Reports included memo schedules that provided the dates for $11,650 in reattributed and/or redesignated contributions, and $8,100 in refunded contributions of the apparent excessive amounts in the escrow account. All contributions in the escrow account were either reattributed, redesignated, or refunded.

The Committee's 1986 October Quarterly Report disclosed apparent excessive contributions totalling $3,950 from four (4) individuals. On November 18, 1986, the Committee was sent an RFAI regarding the October Quarterly Report (Attachment 9). The RFAI noted the apparent excessive contributions in the escrow account and advised the refund of the apparent excessive amounts. The RFAI also warned the Committee of the possibility of legal action by the Commission concerning the Committee's acceptance of contributions in excess of the limits of the Act.

On December 2, 1986, Mr. Schoener met with the analyst to ask why the Committee continued to receive RFAIs regarding contributions in the escrow account. The analyst explained that it was his responsibility to question these for the public record. The analyst also explained that all the Committee needed was to respond in writing, for the public record, that it was aware of the contributions and what action it would take regarding them (Attachment 9).

The Committee sent a letter to the Commission on December 5, 1986, that stated the 30 Day Post-General Report would include memo schedules to show changes in the status of contributions in the escrow account (Attachment 10). The Committee's 1986 30 Day Post-General Report included memo schedules that provided the dates of $1,000 in redesignated and $2,950 in refunded contributions in the escrow account.

2. Possible Violations Discovered During Referral Preparation

The final review of reports filed by the Committee prior to this referral disclosed the receipt of additional apparent excessive contributions totalling $22,412.50 from

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twenty-seven (27) individuals and three (3) partnerships. The Committee has not been notified of these apparent excessive contributions; however, the Committee has refunded, redesignated or reattributed $21,025 of the apparent excessive amounts.

A. Listed below are the total additional excessive amounts, reported in the escrow account.

1986 12 Day Pre-Primary Report - $10,650
1986 October Quarterly Report - $2,900
1986 30 Day Post-General Report - $50

B. Listed below are the total additional excessive amounts, not reported in an escrow account.

1986 April Quarterly Report - $5,912.50
1986 July Quarterly Report - $150
1986 12 Day Pre-Primary Report - $500
1986 12 Day Pre-General Report - $750
1986 30 Day Post-General Report - $1,500

IV. OTHER PENDING MATTERS INITIATED BY RAD:

None.

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Chart A

The attached chart is an alphabetical listing of thirty-nine (39) individuals apparently contributing in excess of the per election limitations. Chart A contains only those apparent excessive contributions, in an escrow account, that the Committee has been notified of as a result of the normal review of reports.

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Chart A

Individuals	Total Contributed Excluding The Escrow Account Primary/General	Amount in Escrow Account	Date of Escrow Account Contribution	Total Amount of Apparent Excessive Contributions Primary	Amount Reattributed, Redesignated or Refunded[1]	Date Reattributed Redesignated or Refunded[2]	Pages
Argyros, George	$ 0/$ 0	$2,000	08/12/86	$1,000	$1,000 (redesignated)	09/18/86	61,70
Argyros, Mrs. George L.	$ 0/$ 0	$2,000	08/12/86	$1,000	$1,000 (redesignated)	09/16/86	61,69
Bazarian, Charles J.	$ 0/$ 0	$2,000	02/14/86	$1,000	$1,000 (redesignated)	05/19/86	44,49
Beal, Carlton	$1,000/$ 0	$ 200	08/29/86	$ 200	$ 200 (refunded)	11/24/86	55,63,88,90
Ciminelli, Rosalie G.	$1,000/$ 0	$ 250	06/04/86	$ 250	$ 250 (redesignated)	09/18/86	38,52,65
Clarke, Warner B.	$ 0/$ 0	$2,000	07/18/86	$1,000	$1,000 (redesignated)	10/21/86	59,75
Coburn, Richard J., D.M.D., M.D.	$1,000/$ 700	$ 250	06/17/86	$ 250	$ 250 (redesignated)	08/21/86	15,39,52,54 and 73
Corbin, Donald R.	$ 0/$ 0	$4,000	08/12/86	$3,000	$1,000 (redesignated)	10/27/86	61,84,89
					$2,000 (refunded)	10/31/86	
Corson, Robert L.	$1,000/$ 0	$1,000	02/14/86	$1,000	$1,000 (reattributed)	04/23/86	41,44,49

1/ In instances where contributions were reported with no election designation, RAD designated the contribution in accordance with 11 CFR 110.1(a)(2)(ii).

2/ When date not provided by the Committee, the date that the treasurer signed the report is used.

Individuals	Total Contributed Excluding The Escrow Account Primary/General	Amount in Escrow Account	Date of Escrow Account Contribution	Total Amount of Apparent Excessive Contributions Primary	Amount Reattributed, Redesignated or Refunded	Date Reattributed Redesignated or Refunded	Pages
Crowley, Mary C.	$ 0/$ 0	$2,000	01/24/86	$1,000	$1,000 (refunded)	06/20/86	45,48,53
David Wachs Trust Judith M. Wachs Philip Wachs Tstees u/a 11/30/83	$ 0/$ 0	$2,000	01/24/86	$1,000	$2,000 (attributed & designated)	05/15/86	45,48
Davis, Gregory L.	$1,000/$1,000	$ 500	08/26/86	$ 500	$ 500 (refunded)	11/24/86	50,63,[illegible],90
Davis, Willie D.	$ 0/$ 0	$2,000	07/16/86	$1,000	$1,000 (redesignated)	10/21/86	58,75
Deni, Frank	$1,000/$ 0	$1,000	02/18/86	$1,000	$1,000 (redesignated)	06/30/86	8,19,44,49
Donahue, Paula K.	$ 0/$ 0	$2,000	07/02/86	$1,000	$1,000 (redesignated)	10/15/86	57,71
Garvin, James T.	$ 0/$ 0	$2,000	05/15/86	$1,000	$1,000 (refunded)	09/21/86	52,65,72
Goland, Michael	$ 0/$ 0	$4,000	08/06/86	$3,000	$1,000 (redesignated)	10/21/86	60,8[illegible]
					$2,000 (refunded)	10/22/86	
Hemley, M. Rogue	$ 0/$ 0	$3,000	09/05/86	$2,000	$1,000 (redesignated)	10/21/86	63,87,89
					$1,000 (refunded)	10/22/86	

Chart A

Individuals	Total Contributed Excluding The Escrow Account Primary/General	Amount in Escrow Account	Date of Escrow Account Contribution	Total Amount of Apparent Excessive Contributions Primary	Amount Reattributed, Redesignated or Refunded	Date Reattributed Redesignated or Refunded	Pages
Holt, Paula	$ 0/$ 0	$2,000	07/16/86	$1,000	$1,000 (refunded)	11/24/86	58,85,90
Kemp, Thomas P.	$1,000/$ 0	$2,000	07/16/86	$2,000[3/]	$1,000 (reattributed)	08/29/86	22,58,66
					$1,000 (redesignated)	08/29/86	
Kenzie, Ross B.	$1,000/$ 0	$1,000	03/10/86	$1,000	$1,000	05/15/86	1,44,49
Kluckhohn, Karl F.	$1,000/$1,000	$ 100	01/24/86	$ 100	$ 100 (reattributed)	04/22/86	3,45,48,56
Krieble, Frederick B.	$1,000/$ 0	$1,000	06/17/86	$1,000	$1,000 (redesignated)	09/19/86	27,52,65
Krieble, Robert H.	$1,000/$ 0	$ 500	02/18/86	$ 500	$ 500 (reattributed)	04/22/86	34,44,49
Krotzer, R. Douglas	$1,000/$ 0	$2,000	03/24/86	$2,000	$1,000 (refunded)	06/09/86	29,44,49,53
					$1,000 (refunded)	06/30/86	
Lewis Eckert Ross & Co. (Rick Robb)	$ 0/$ 0	$2,000	04/29/86	$1,000	$1,000 (redesignated)	08/21/86	52,54
Masterpol, Nicholas J.	$ 0/$ 0	$2,000	01/24/86	$1,000	$1,000 (refunded)	06/30/86	45,48,53
McAusland, T. D.	$ 0/$ 0	$2,000	07/02/86	$1,000	$1,000 (redesignated)	09/03/86	57,67

3/ The Committee was only notified of $1,000 of this apparent excessive contribution by RAD.

Individuals	Total Contributed Excluding The Escrow Account Primary/General	Amount in Escrow Account	Date of Escrow Account Contribution	Total Amount of Apparent Excessive Contributions Primary	Amount Reattributed, Redesignated or Refunded	Date Reattributed Redesignated or Refunded	Pages
Montante, Carl J.	$1,000/$ 0	$1,000	01/24/86	$1,000	$1,000 (redesignated)	04/16/86	10,45,48
Nelson, Patrick S., M.D.	$ 0/$ 0	$1,500	07/16/86	$ 500	$ 500 (refunded)	11/24/86	58,85,89
Park, Charlmon C.	$ 0/$ 0	$2,000	07/02/86	$1,000	$1,000 (refunded)	11/24/86	57,85,[illegible]
Riddle, John C.	$1,000/$ 0	$1,000	02/14/86	$1,000	$1,000 (reattributed)	06/30/86	41,44,49
Rippee, Earl	$ 0/$ 0	$2,000	07/08/86	$1,000	$1,000 (redesignated)	11/04/86	57,78,85
					$ 100 (refunded)	10/03/86	
Schlinger, WM	$ 0/$ 0	$2,500	07/02/86	$1,500	$1,500 (refunded)	11/24/86	57,85,89
Snyder, Paul L.	$1,000/$ 0	$1,000	01/24/86	$1,000	$1,000 (redesignated)	05/19/86	12,45,48
Stone, Tommy F.	$ 0/$ 0	$2,000	02/14/86	$1,000	$1000 (refunded)	06/30/86	45,48,[illegible]
Strassler, David H.	$ 750/$ 500	$1,000	08/06/86	$ 750 4/	$1,000 (redesignated)	09/03/86	24,43,59,66 and 72
					$ 250 (refunded)	09/03/86	

4/ At the time the Committee was notified of this apparent excessive contribution, it appeared to exceed the limits by $1,000; however, further research indicated that it was only excessive by $750. The Committee's redesignation of this $1,000 contribution has resulted in an additional apparent $500 excessive for the General Election, of which the Committee has refunded $250. The Committee has not been notified of this additional apparent excessive contribution.

Chart A

Individuals	Total Contributed Excluding The Escrow Account Primary/General	Amount in Escrow Account	Date of Escrow Account Contribution	Total Amount of Apparent Excessive Contributions Primary	Amount Reattributed, Redesignated or Refunded	Date Reattributed Redesignated or Refunded	Pages
Taylor, Joy W.	$ 250/$ 75	$2,000	09/02/86	$1,250	$1,300 (refunded)	11/24/86	42,63,82,88 and 91
Worth, Gary H.	$ 0/$ 0	$2,000	07/02/86	$1,000	$1,000 (redesignated)	09/16/86	57,69

Chart B

The attached chart is an alphabetical listing of eighteen (18) individuals and one (1) partnership apparently contributing in excess of the per election limitations. Chart B contains only those apparently excessive contributions, in an escrow account, that the Committee has not been notified of as these were discovered in the review of all reports during preparation of this referral.

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Chart B

Individuals	Total Contributed Excluding The Escrow Account Primary/General	Amount in Escrow Account	Date of Escrow Account Contribution	Total Amount of Apparent Excessive Contributions Primary	Amount Reattributed, Redesignated or Refunded[1/]	Date Reattributed Redesignated or Refunded	Pages
Barcelona, Charles B.	$1,000/$ 0	$1,000	08/06/86	$1,000	$1,000 (redesignated)	10/21/86	2,60,76
Bechtel, Elizabeth Hogan	$1,000/$ 0	$1,000	07/18/86	$1,000	$1,000 (redesignated)	09/08/86	21,58,67
Billittier, Louis J.	$1,000/$ 250	$ 100	08/14/86	$ 100	$ 100 (redesignated)	09/16/86	13,61,[illegible],81
Earl H. Blaik Family Trust	$ 550/$ 500	$ 500	07/02/86	$ 50	$ 50 (refunded)	11/24/86	11,26,57,85 and 89
Castellani, Armand J.	$1,000/$ 100	$1,000	08/19/86	$1,000	$1,000 (refunded)	09/10/86	10,23,61,67 62 and 72
Cosentino, James A.	$1,000/$ 0	$ 300	08/26/86	$ 300	$ 300 (refunded)	11/24/86	9,63,87,90
Demakos, Gregory	$1,000/$ 0	$ 500	08/06/86	$ 500	$ 500 (redesignated)	10/24/86	25,60,84
Fudoli, Ralph	$1,000/$ 0	$ 100	08/26/86	$ 100	$ 100 (refunded)	11/24/86	62,87,[illegible]
Hill, A. G.	$ 500/$ 0	$2,000	09/08/86	$1,500	$1,000 (redesignated)	10/21/86	16,64,72,77
					$ 500 (refunded)	09/24/86	
Kirchmeyer, Edward G.	$ 500/$ 0	$1,000	08/06/86	$ 500	$ 500 (redesignated)	09/03/86	8,59,66

1/ In instances where contributions were reported with no election designation, RAD designated the contribution in accordance with 11 CFR 110.1(a)(2)(ii).

Chart B

Individuals	Total Contributed Excluding The Escrow Account Primary/General	Amount in Escrow Account	Date of Escrow Account Contribution	Total Amount of Apparent Excessive Contributions Primary	Amount Reattributed, Redesignated or Refunded	Date Reattributed Redesignated or Refunded	Pages
Krise, Shirley A.	$1,000/$ 0	$1,000	08/06/86	$1,000	$1,000 (refunded)	11/24/86	6,59,86,90
Maroone, Katherine C.	$1,125/$ 875	$ 250	08/06/86	$ 375	$ 250 (reattributed)	10/05/86	8,40,59,70
Parks, Fred	$1,000/$ 0	$1,000	07/16/86	$1,000	$1,000 (redesignated)	09/08/86	17,58,[illegible]
Rochwarger, Leonard	$1,000/$ 0	$1,000	08/12/86	$1,000	$1,000 (redesignated)	09/17/86	4,60,70
Salomon & Co. (Partnership)	$ 0/$ 0	$1,000 $ 50	10/31/86 11/04/86	$ 50 2/	$ 0	—	83,92
Teller, Edward	$1,000/$ 0	$ 250	07/18/86	$ 250	$ 250 (redesignated)	10/21/86	33,58,75
Von Platen, Ruth C. (Mrs. Karl G.)	$1,000/$ 0	$1,000	09/08/86	$1,000	$1,000 (redesignated)	10/22/86	18,63,87
Wehle, Richard J.	$1,000/$ 0	$1,000	08/06/86	$1,000	$1,000 (redesignated)	10/21/86	5,59,[illegible]
Williams, James H.	$1,000/$ 0	$1,000	08/07/86	$1,000	$1,000 (refunded)	11/24/86	14,60,86,90

2/ Both contributions were designated for the general election without an allocation of the amounts to be attributed to any partners. The memo Schedule A submitted with the 1986 Year End Report provided the allocation of the amounts to be attributed to two partners but did not disclose a refund.

Chart C

The attached chart is an alphabetical listing of six (6) individuals and two (2) partnerships apparently contributing in excess of the per election limitations. Chart C contains only those apparently excessive contributions, not in an escrow account, that the Committee has not been notified of as these were discovered in the review of all reports during preparation of this referral. Chart C also lists one (1) apparent prohibited contribution from a corporation. The Committee has been notified of this apparent prohibited contribution.

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Chart C

Individuals	Total Contributions Primary/General	Amount Excessive Primary/General	Date of Excessive Contribution	Amount Refund Primary/General	Date of Refund	Pages
Beal, James H.	$1,150/$1,750	$ 150 / $ 750	06/12/86 10/01/86	$ 0 /$ 900	10/15/86	15,20,51,62, 74,78
Blum, Andrew M.	1,000/ 1,500	0 / 500	10/23/86	0 / 500	12/29/86	31,79,93
Davis, Barney & Jones[1/]	500/ 0	500 / 0	07/16/86	0 / 0		56
Drexel, Burnham, Lambert (Partnership)	5,000/ 0	4,000 / 0	01/24/86	5,000 / 0	03/31/86	40,46
Nims, Dr. Jerry C.	1,500/ 1,000	500 / 0	01/15/86	500 / 0	03/31/86	28,35,46
Porter, James R.	1,037.50/ 1,000	37.50 / 0	01/15/86	37.50 / 0	03/31/86	30,36,46
Spear, Leeds & Kellogg (Partnership)	2,000/ 1,000	1,000 / 0	01/15/86	37.50 / 0	03/31/86	30,36
Stevens, Raymond D., Jr.	1,250/ 1,000	250 / 0	01/24/86	250 / 0	03/31/86	7,37,46
Weisl, Edwin L., Jr.	1,000/ 2,000	0 / 1,000	10/29/86	0 /1,000	12/29/86	32,80,93

1/ The Committee was notified of this prohibited contribution.

CANDIDATE/COMMITTEE/DOCUMENT	OFFICE SOUGHT/	PARTY	RECEIPTS PRIMARY	RECEIPTS GENERAL	DISBURSEMENTS PRIMARY	DISBURSEMENTS GENERAL	COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
							TYPE OF FILER		
KEMP, JACK FRENCH	HOUSE 31	REPUBLICAN PARTY				NEW YORK	1988 ELECTION	ID# H6NY38029	
1. STATEMENT OF CANDIDATE									
1985 DISAVOWAL NOTICE							5SEP85	2	85FEC/387/1365
STATEMENT OF CANDIDATE							18SEP85	1	85HSE/291/1261
1986 STATEMENT OF CANDIDATE	- AMENDMENT						29JAN86	1	86HSE/293/1717
STATEMENT OF CANDIDATE	- AMENDMENT						15APR86	1	86HSE/300/0356
STATEMENT OF CANDIDATE							21NOV86	1	86HSE/323/4543
2. PRINCIPAL CAMPAIGN COMMITTEE									
CITIZENS FOR JACK KEMP							ID #C00013565 HOUSE		
1985 MID-YEAR REPORT			101,114		104,877		1JAN85 -30JUN85	38	85HSE/290/0222
MID-YEAR REPORT	- AMENDMENT		101,114		104,877		1JAN85 -30JUN85	27	85HSE/292/0358
1'ST LETTER INFORMATIONAL NOTICE							1JAN85 -30JUN85	1	85FEC/390/3431
YEAR-END			1,048,439		711,591		1JUL85 -31DEC85	150	86HSE/294/2484
YEAR-END	- AMENDMENT		-		-		1JUL85 -31DEC85	5	86HSE/299/0892
REQUEST FOR ADDITIONAL INFORMATION							1JUL85 -31DEC85	3	86FEC/405/1291
1986 STATEMENT OF ORGANIZATION	- AMENDMENT						29JAN86	1	86HSE/293/1716
STATEMENT OF ORGANIZATION	- AMENDMENT						15APR86	1	86HSE/300/0355
MISCELLANEOUS REPORT	TO FEC						16APR86	2	86HSE/300/1705
MISCELLANEOUS NOTICE FROM FEC							9SEP86	1	86FEC/430/0847
MISCELLANEOUS REPORT	TO FEC						25SEP86	4	86HSE/314/3236
48 HOUR CONTRIBUTION NOTICE							27OCT86	2	86HSE/322/5142
48 HOUR CONTRIBUTION NOTICE							29OCT86	2	86HSE/323/0582
48 HOUR CONTRIBUTION NOTICE							30OCT86	2	86HSE/323/0914
48 HOUR CONTRIBUTION NOTICE							31OCT86	2	86HSE/323/1312
48 HOUR CONTRIBUTION NOTICE							3NOV86	3	86HSE/323/1924
48 HOUR CONTRIBUTION NOTICE							3NOV86	2	86HSE/323/2515
48 HOUR CONTRIBUTION NOTICE							5NOV86	2	86HSE/323/3014
48 HOUR CONTRIBUTION NOTICE							5NOV86	2	86HSE/323/3221
48 HOUR CONTRIBUTION NOTICE							6NOV86	2	86HSE/323/3486
APRIL QUARTERLY			231,971		192,339		1JAN86 -31MAR86	45	86HSE/300/4588
APRIL QUARTERLY	- AMENDMENT		231,971		192,339		1JAN86 -31MAR86	31	86HSE/307/4884
APRIL QUARTERLY	- AMENDMENT		-		-		1JAN86 -31MAR86	3	86HSE/313/4382
REQUEST FOR ADDITIONAL INFORMATION							1JAN86 -31MAR86	6	86FEC/427/4428
JULY QUARTERLY			103,374		294,325		1APR86 -30JUN86	37	86HSE/306/3240
JULY QUARTERLY	- AMENDMENT		103,367		294,318		1APR86 -30JUN86	6	86HSE/312/3648
JULY QUARTERLY	- AMENDMENT		103,367		294,318		1APR86 -30JUN86	3	86HSE/324/2164
REQUEST FOR ADDITIONAL INFORMATION							1APR86 -30JUN86	1	86FEC/427/4426
REQUEST FOR ADDITIONAL INFORMATION							1APR86 -30JUN86	1	86FEC/430/0900
PRE-PRIMARY			386,103		388,334		1JUL86 -20AUG86	71	86HSE/313/0705
PRE-PRIMARY	- AMENDMENT		386,103		388,334		1JUL86 -20AUG86	4	86HSE/324/2499
REQUEST FOR ADDITIONAL INFORMATION							1JUL86 -20AUG86	8	86FEC/430/3854
OCTOBER QUARTERLY				241,084		189,597	21AUG86 -30SEP86	56	86HSE/318/4384
OCTOBER QUARTERLY	- AMENDMENT			241,084		189,597	21AUG86 -30SEP86	35	86HSE/324/2174
OCTOBER QUARTERLY	- AMENDMENT			-			-21AUG86 -30SEP86	2	86HSE/325/2907
REQUEST FOR ADDITIONAL INFORMATION							21AUG86 -30SEP86	3	86FEC/444/2983

ATTACHMENT 1
(Page 1 of 2)

CANDIDATE/COMMITTEE/DOCUMENT	OFFICE SOUGHT/	PARTY	RECEIPTS PRIMARY	RECEIPTS GENERAL	DISBURSEMENTS PRIMARY	DISBURSEMENTS GENERAL	COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
							TYPE OF FILER		
PRE-GENERAL				110,062		273,519	10CT86 -15OCT86	28	86HSE/321/4293
PRE-GENERAL	- AMENDMENT			110,062		273,519	10CT86 -15OCT86	14	86HSE/324/2211
REQUEST FOR ADDITIONAL INFORMATION							10CT86 -15OCT86	6	86FEC/444/2987
REQUEST FOR ADDITIONAL INFORMATION 2ND							10CT86 -15OCT86	1	86FEC/451/0504
POST-GENERAL				292,587		404,046	16OCT86 -24NOV86	76	86HSE/327/3717
POST-GENERAL	- AMENDMENT			292,587		404,046	16OCT86 -24NOV86	47	87HSE/331/1469
YEAR-END				16,254		54,984	25NOV86 -31DEC86	21	87HSE/331/0377
TOTAL			1,870,994	659,987	1,691,459	922,146		757	TOTAL PAGES

3. AUTHORIZED COMMITTEES
4. JOINT FUNDRAISING COMMITTEES AUTHORIZED BY THE CAMPAIGN

KEMP SUPERBOWL BRUNCH			ID #C00202440	HOUSE	
1986 STATEMENT OF ORGANIZATION			27JAN86		1 86HSE/293/2105
APRIL QUARTERLY			1JAN86	-31MAR86	9 86FEC/409/1107
APRIL QUARTERLY	- AMENDMENT		1JAN86	-31MAR86	4 86FEC/410/0448
JULY QUARTERLY			1APR86	-30JUN86	8 86FEC/421/4055
OCTOBER QUARTERLY			1JUL86	-30SEP86	2 86HSE/316/0003
YEAR-END	- TERMINATED		10CT86	-31DEC86	2 87HSE/330/1746
1987 MISCELLANEOUS REPORT	FROM FEC		13MAR87		1 87FEC/462/4835
					27 TOTAL PAGES

TERMINATED

Statistics for Citizens for Jack Kemp only:

All reports have been reviewed.
Ending cash-on-hand as of 12/31/86: $52,018
Outstanding debts owed by the committee as of 12/31/86: $87,020

Attachment 2

FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

RQ-2

AUG 19 1986

Malcolm K. Buckley, Jr., Treasurer
Citizens for Jack Kemp
One Marine Midland Center, Suite 3600
Buffalo, NY 14203

Identification Number: C00013565

Reference: Amended April Quarterly Report (1/1/86-3/31/86) Dated 7/9/86

Dear Mr. Buckley:

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:

-Your original April Quarterly Report discloses $18,100 in contributions placed in an escrow account for the purpose of "seeking clarification," "seeking attribution" and "seeking attribution for general election." The Commission notes your refund of $5,000 of this amount on your July Quarterly Report. Please clarify for the public record on what date the remaining contributions were reattributed or redesignated as reported on your amended April Quarterly Report.

Please note that an individual may not make contributions to a candidate for Federal office in excess of $1,000 per election. Although the Commission may take further legal steps, your action in refunding, redesignating and reattributing these contributions will be taken into consideration.

An amendment to your original report(s) correcting the above problem(s) should be filed with the Clerk of the House of Representatives, 1036 Longworth House Office Building, Washington, DC 20515 within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 376-2480.

Sincerely,

Thomas R. White

Thomas R. White
Reports Analyst
Reports Analysis Division

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Attachment 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

SEP 9 1986

Malcolm K. Buckley, Jr., Treasurer
Citizens for Jack Kemp
One Marine Midland Center
Suite 3600
Buffalo, NY 14203

Identification Number: C00013565

Reference: Amended Quarterly Report (4/1/86-6/30/86) (Dated 8/21/86)

Dear Mr. Buckley:

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:

-Your original July Quarterly Report discloses $5,500 in contributions placed in an escrow account for the purpose of "seeking attribution for the general election." The Commission notes your attribution of $2,250 of this amount. Please clarify for the public record on what dates these contributions were reattributed and the current status of the remaining contributions in the escrow account. Please note that an individual may not make contributions to a candidate for Federal office in excess of $1,000 per election. Although the Commission may take further legal steps, your action in reattributing these contributions will be taken into consideration.

An amendment to your original report(s) correcting the above problem(s) should be filed with the Clerk of the House of Representatives, 1036 Longworth House Office Building, Washington, DC 20515 within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 376-2480.

Sincerely,

Thomas R. White

Thomas R. White
Reports Analyst
Reports Analysis Division

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Attachment 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RS-V

Malcolm K. Buckley, Jr., Treasurer
Citizens for Jack Kemp
One Marine Midland Center
Suite 3600
Buffalo, NY 14203

SEP 9 1986

Identification Number: C00013565

Reference: Amended April Quarterly (1/1/86-3/31/86) and Amended July Quarterly (4/1/86-6/30/86) Reports

Dear Mr. Buckley:

This letter is prompted by the Commission's review of the last two reports required to be filed by your committee. A review of these reports indicates that your committee has accepted contributions in excess of the limitations established by Section 441a of the Federal Election Campaign Act.

It is recommended that your procedures for screening contributions be examined and adjustments made to remedy this problem. This communication is to advise you that should the next report required to be filed by your committee disclose excessive contributions, the Commission may initiate legal enforcement action.

If you need assistance or have any questions regarding this matter, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 376-2480.

Sincerely,

Peter Kell Jr.

Peter Kell Jr.
Chief, Authorized Branch
Reports Analysis Division

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

RQ-2

SEP 16

Malcolm K. Buckley, Treasurer
Citizens for Jack Kemp
One Marine Midland Center, Suite 3600
Buffalo, NY 14203

Identification Number: C00013565

Reference: 12 Day Pre-Primary Report (7/1/86-8/20/86)

Dear Mr. Buckley:

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:

-Your report itemizes $50,660 in undesignated contributions placed in an escrow account for the purpose of "seeking attribution" or "seeking attribution for general election." Of this total, it appears that you have accepted $20,000 in apparent excessive contributions (pertinent portions attached). As of this date, none of the contributions in the escrow account have been reattributed or refunded.

Please note that an individual may not make contributions to a candidate for Federal office in excess of $1,000 per election. If you have received a contribution which exceeds the limits, the Commission recommends that you refund to the donor the amount in excess of $1,000. The Commission should be notified in writing if a refund is necessary. In addition, any refund should appear on Line 20 of the Detailed Summary Page and Schedule B of your next report. (2 U.S.C. §§441a(a) and (f))

The term "contribution" includes any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.

If any of the contributions in the escrow account have subsequently been reattributed or refunded, please clarify for the public record the date and the amount of reattribution or refund.

Although the Commission may take further legal steps concerning the acceptance of excessive contributions, prompt action by you to refund the excessive amounts will be taken into consideration.

-Your report discloses contributions which may have been drawn on corporate accounts (pertinent portion attached). You are advised that a contribution from a corporation is prohibited by the Act, unless made from a separate segregated fund established by the corporation. If you have received a corporate contribution, the Commission recommends that you refund the full amount to the donor. The Commission should be notified in writing if a refund is necessary. In addition, any refund should appear on Line 20 of the Detailed Summary Page and Schedule B of your next report. (2 U.S.C. §441b(a))

An amendment to your original report(s) correcting the above problem(s) should be filed with the Clerk of the House of Representatives, 1036 Longworth House Office Building, Washington, DC 20515 within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 376-2480.

Sincerely,

Thomas R White

Thomas R. White
Reports Analyst
Reports Analysis Division

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Attachment 6

MEMORANDUM FOR FILES: TELECON

SUBJECT: Reporting Reattribution, Redesignation, and Refund

FROM: Thomas R. White

TO: Mr. Jim Schoener

NAME OF COMMITTEE: Citizens for Jack Kemp - NY

DATE: September 17, 1986

Mr. Schoener met with Mr. Kell and Mr. White to discuss how Citizens for Jack Kemp should report reattribution, redesignation, or refund of contributions that were in an escrow account for the purpose of seeking reattribution or redesignation. It was suggested that the Committee show the reattribution or redesignation on memo schedules on the reports during the period that the changes were made. The method suggested to make these changes was the method proposed by the Commission in the rule changing prosess as found in the Federal Register.

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LAW OFFICES OF
MILLER, CANFIELD, PADDOCK AND STONE
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
SUITE 1000
1015 FIFTEENTH STREET, N.W.
WASHINGTON, D.C. 20005
TELEPHONE (202) 789 3040

86 SEP 24 AM 11:42

SEP 23 1986

REGULAR MAIL

032182

September 23, 1986

RECEIVED
'86 SEP 25 AM 11:13

Mr. Peter Kell, Jr.
Chief, Authorized Branch
Reports Analysis Division
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: Citizens for Jack Kemp
C00013565

Dear Mr. Kell:

This letter will confirm the statements made to me as counsel for Citizens for Jack Kemp in a conference with you and Thomas R. White of your division. These statements were further confirmed in a telephone conversation today concerning another letter to Mr. Buckley, Treasurer of the Kemp Committee (this one dated September 16, 1986). Earlier letters from the F.E.C. both dated September 9, 1985, and one dated August 19th referred to reattribution or reallocation of questioned contributions that had been placed in an "Escrow" status pending further classification.

You advised that questioned contributions should properly be placed in such escrow account while the treasurer attempted to obtain clarification on the contributor's intent in making what was apparently an excessive contribution.

You approved the manner of placing such contribution in an "escrow" account and footnoting the contribution "seeking reattribution" or similar comment. The treasurer had been amending the original report when such reattribution or reallocation was received. You have advised that such amendment is not necessary (or desired) but rather you prefer a "memo entry" indicating the new status of the particular transaction be filed (instead of an amendment) at the next regular report.

On Monday, September 22, I was informed that another letter had been received at the campaign committee regarding this same topic--this letter also asked a 15-day response. I called you and you confirmed that the memo entry at the next regular reporting period would amount to compliance. This letter also raised a question concerning an entry from Davis, Barney and

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Mr. Peter Kell, Jr.
September 23, 1986
Page 2

Jones and I attach two letters indicating the answer to that problem.

I further reviewed with you the procedure followed by the Kemp Committee in seeking reattribution or reallocation of apparently excessive contributions. First, such contributions are placed in the escrow account. Second, at least two letters and an attempted telephone call are made to try to contact the contributor to obtain proper confirmation in writing from the spouse of the contributor or to obtain primary/general allocation to comply. If after a reasonable length of time no such correction can be obtained, the contribution is refunded. In the case of obvious improper contributions such as corporate checks without indication of a "personal draw," the check is immediately returned to the sender. I believe that you indicated that these procedures satisfied the requirements of the Federal Election Campaign Act and that the response by "memo entry" rather than "amendment" is preferred.

If I have misconstrued any part of our conversation, please let me know so I can properly advise our people.

Very truly yours,

James F. Schoener

James F. Schoener

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cc: Malcolm Buckley, Jr., Esquire
Ms. Erma Fitzpatrick, C.P.A.
Ms. Judy Bassini
Ms. Sharon Zelaska

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DAVIS, BARNEY & JONES
10 HARBORCREST 714-557-4001
IRVINE, CA 92714

4502

5566

7/2 19 86

PAY TO THE ORDER OF Citizens for Jack Kemp $ 500 00/100

Five hundred Dollars and no/100 DOLLARS

BANK OF INDUSTRY

⑈004502⑈ ⑆122238487⑆ 01 406558⑈

Talked with ALAN FINK BY PHONE 9-21-86
HE INFORMED ME WAS
DAVIS BARNEY & JONES
A PARTNERSHIP AT 7-16
THE TIME OF THE
CONTRIBUTION AND WAS
INCORPORATED THE END OF
AUGUST 1986.

J. Appelbaum

Congressman Jack Kemp

Washington, D.C. 20515

Davis, Barney & Jones
ATT: Alan Fink
10 Harborcrest
Irvine, CA 92714

Dear Mr. Fink:

Thank you for your contribution to CITIZENS FOR JACK KEMP in the amount of $500.

Federal statutes allow the acceptance of contributions from partnerships but, the law requires that we obtain, for our records, a designation as to the amount contributed by each partner. Accordingly would you please indicate this information on the enclosed letter.

We appologize for any inconvenience, but this information is required by law.

Yours very truly,

Malcolm K. Buckingham, Jr.
Treasurer
CITIZENS FOR JACK KEMP

ENC.

MEMBER	AMOUNT
Alan M. Fink	$500.00

Signed

FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

RQ-2

NOV 18 1986

Malcolm K. Buckley, Jr., Treasurer
Citizens for Jack Kemp
Suite 3600
One Marine Midland Center
Buffalo, NY 14203

Identification Number: C00013565

Reference: October Quarterly Report (8/21/86-9/30/86)

Dear Mr. Buckley:

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 A of your report (pertinent portion attached) discloses contributions which appear to exceed the limits set forth in the Act. An individual or a political committee other than a multicandidate committee may not make contributions to a candidate for Federal office in excess of $1,000 per election. If you have received a contribution which exceeds the limits, the Commission recommends that you refund to the donor the amount in excess of $1,000. The Commission should be notified in writing if a refund is necessary. In addition, any refund should appear on Line 20 of the Detailed Summary Page and Schedule B of your next report. (2 U.S.C. §§441a(a) and (f))

The term "contribution" includes any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.

If the contributions in question were incompletely or incorrectly reported, you may wish to submit documentation for the public record. Please amend your report with the clarifying information.

Although the Commission may take further legal steps concerning the acceptance of excessive contributions, prompt action by you to refund the excessive amounts will be taken into consideration.

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An amendment to your original report(s) correcting the above discrepancy should be filed with the clerk of the House of Representatives, 231 Longworth House Office Building, Washington, DC 20515 within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me at our toll-free number, (800) 424-9530. My local number is (202) 225-2000.

Sincerely,

Thomas R. White

Thomas R. White
Reports Analyst
Reports Analysis Division

86734442981

Attachment 9

MEMORANDUM FOR FILES: TELECON

SUBJECT: RFAI sent to the Committee

FROM: Mr. James Schoener, Counsel

TO: Thomas White, Reports Analyst

NAME OF COMMITTEE: Citizens for Jack Kemp - NY (C00013565)

DATE: December 2, 1986

Mr. Schoener came into the office to ask why a letter was sent regarding excessive contributions in the Committee's escrow account. He thought that the way the Committee was addressing the problem was the proper way. He said the contributions would be taken care of on the 30 Day Post-General Report. The analyst explained to Mr. Schoener that it was the analyst's responsibility to send the letter to clarify the contributions for the public record. It was also explained that all that was required for a response from the Committee was a letter stating what action the Committee was taking regarding these contributions. Mr. Schoener said he would draft a letter to put on the public record.

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Offices of
MILLER, CANFIELD, PADDOCK AND STONE
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
SUITE 1800
1015 FIFTEENTH STREET, N.W.
WASHINGTON, D.C. 20005
TELEPHONE (202) 789-8640

JAMES F. STROHNER
(202) 789-8643

December 2, 1986

Mr. Thomas R. White
Reports Analyst
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: Citizens for Jack Kemp
Ident. # C00013565

Dear Mr. White:

In response to your letter of November 18, 1986 sent to Mr. Malcolm K. Buckley, Jr., Treasurer of Citizens for Jack Kemp, please be advised that we will shortly be filing amendments to our earlier reports that will include certain late arriving primary invoices that will also justify primary contributions received after the primary date. We will also supplement the information requested on the contributor in every instance in which it was not available previously. As a matter of regular practice, this committee makes at least one extra request for occupational information from each contributor that has failed to supply it with the original donation. Often there may be as high as four or five written and oral requests to obtain this information.

As to the escrow account matters raised in your letter, the treasurer has advised that reattribution or returns has been completed by November 24th and the report of December 4 will contain such memo entry as will report those items. This is the procedure which you indicted you preferred in our conversation of earlier today.

Mr. Thomas R. White
December 2, 1986
Page 2

I hope this letter and the matters noted herein along with the amendments and memo entries to be filed will completely correct any problems you may find in this committee's accounts. If there is any question thereafter, please contact me at your convenience.

Very truly yours,

James F. Schoener

James F. Schoener

bab

cc: Ms. Erma Fitzpatrick
Ms. Sharon Zelaska

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

EXECUTIVE SESSION
JAN 06 1988

FIRST GENERAL COUNSEL'S REPORT

RAD REF: 87-19
STAFF MEMBER
Sandra Dunham

RECEIVED
FEDERAL ELECTION COMMISSION
87 DEC 17 PM 4:19

SOURCE OF MUR: INTERNALLY GENERATED

RESPONDENTS: Citizens for Jack Kemp and
Malcolm K. Buckley, as treasurer
Donald R. Corbin
Michael Goland
R. Douglas Krotzer
W.M. Schlinger
Joy W. Taylor
Davis Barney & Jones

RELEVANT STATUTES: 2 U.S.C. § 441a(a)(1)(A)
2 U.S.C. § 441a(f)
2 U.S.C. § 441b
2 U.S.C. § 441e

INTERNAL REPORTS CHECKED: FEC Disclosure Documents

FEDERAL AGENCIES CHECKED: N/A

I. GENERATION OF MATTER

Citizens for Jack Kemp (the "Committee") was referred to the Office of General Counsel by the Reports Analysis Division ("RAD") for accepting apparent excessive contributions from individuals and partnerships and the possible acceptance of a $500 prohibited contribution from a corporation.

Additionally, a review of the itemized receipts of the 1985 Mid-Year Report disclosed the acceptance of a $1,000 apparent prohibited contribution from a foreign national.

SUMMARY OF ALLEGATIONS

The Committee accepted and reattributed, redesignated or refunded apparent excessive contributions from 63 individuals and 3 partnerships totaling $63,212.50 in 1986. Of this amount

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$9,600 was reattributed, redesignated or refunded within sixty (60) days and was not, therefore, included in the referral.

On the Committee's 1986 April Quarterly, July Quarterly, 12 Day Pre-Primary, October Quarterly, and 30 Day Post-General Reports, most apparent excessive contributions were disclosed as being held in an escrow account for the purpose of seeking attribution or clarification; the Committee would then amend its reports to show changes in the status of the escrow accounts after receiving the necessary information from the contributors. Included in the July Quarterly Report was a receipt for a $1,000 contribution from an individual whose address was outside of the United States. The contribution was placed in escrow while the Committee was seeking attribution for the general election. There was no indication that the Committee investigated the status of the nationality of the contributor.

The following is a summary of the apparent excessive contributions received, notices sent and responses received.

The Committee's 1986 April Quarterly Report disclosed apparent excessive contributions totaling $13,600. On July 12, 1986, the Committee amended its April report to show the refund of $5,000 of these contributions.

On August 19, 1986, a Request for Additional Information ("RFAI") was sent regarding the original and amended April Quarterly Reports. The RFAI noted the refund of some contributions that were in the escrow account and requested the

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dates that the remaining contributions were reattributed or redesignated.

On September 8, 1986, the Committee amended its April report to provide the dates that the remaining contributions ($8,600) were reattributed and redesignated. The 1986 July Quarterly Report also disclosed the refunds.

In addition, the Committee's 1986 July Quarterly Report disclosed apparent excessive contributions totaling $3,500. On August 26, 1986, the Committee amended its July report to show the redesignation of $2,250 of these contributions.

On September 9, 1986, an RFAI was sent regarding the Amended July Quarterly Report. The RFAI noted the redesignation of some of the contributions in the escrow account and requested the dates that these contributions were redesignated. The RFAI also asked for the status of the remaining contributions in the escrow account.

On September 9, 1986, the Committee was sent a letter concerning its repeated acceptance of contributions in apparent excess of the limits established by Section 441a of the Act. The letter referenced the Committee's 1986 April and July Quarterly Reports. The letter recommended the Committee examine and adjust its procedures for screening contributions.

The Committee's 1986 October Quarterly Report included memo schedules that provided the dates that the remaining contributions in the escrow account were redesignated or refunded.

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The Committee's 1986 12 Day Pre-Primary Report disclosed apparent excessive contributions totaling $20,000, plus a possible $500 contribution from a corporation.[1/] On September 16, 1986, the Committee was sent an RFAI regarding the 12 Day Pre-Primary Report. The RFAI noted the acceptance of $20,000 in apparent excessive contributions in an escrow account. The RFAI requested the date and amount of contributions that were reattributed, redesignated or refunded.

On September 17, 1986, counsel for the Committee met with RAD to discuss how the Committee should report reattributed, redesignated or refunded contributions in the escrow account. It was suggested that the Committee include memo schedules with the report covering the period that the contributions were reattributed, redesignated, or refunded.

The Committee responded to the RFAI by letter on September 25, 1986. The letter outlined the methods the Committee would use to report changes in the status of contributions in the escrow account.

The Committee's 1986 October Quarterly, 12 Day Pre-General and 30 Day Post-General Reports included memo schedules that

1/ The Committee was also asked about the possible acceptance of a $500 corporate contribution in the RFAI dated 9/16/86. In its response dated 9/25/86, the Committee indicated that the $500 contribution received on 7/16/86 was from a partnership. However, the California Secretary of State's Office listed the date of incorporation as 7/9/86.

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provided the dates for $11,650 in reattributed and/or redesignated contributions, and $8,100 in refunded contributions of the apparent excessive amounts in the escrow account. All contributions in the escrow account were either reattributed, redesignated, or refunded.

The Committee's 1986 October Quarterly Report disclosed apparent excessive contributions totaling $3,950. On November 18, 1986, the Committee was sent an RFAI regarding the October Quarterly Report. The RFAI noted the apparent excessive contributions in the escrow account and advised the refund of the apparent excessive amounts.

The Committee sent a letter to the Commission on December 5, 1986, that stated the 30 Day Post-General Report would include memo schedules to show changes in the status of contributions in the escrow account. The Committee's 1986 30 Day Post-General Report included memo schedules that provided the dates of $1,000 in redesignated and $2,950 in refunded contributions in the escrow account.

II. LEGAL AND FACTUAL ANALYSIS

Pursuant to 2 U.S.C. § 441a(f), no political committee can knowingly accept a contribution in violation of any limitation imposed on contributions and expenditures. The Committee routinely accepted apparent excessive contributions, violating the contribution limits set forth in 2 U.S.C. 441a. Most of the apparent excessive contributions were placed in an escrow account

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for the purpose of "seeking attribution or clarification" pursuant to 11 C.F.R. § 103.3(b)(1).[2/] While some of the excessive contributions were reattributed, redesignated, or refunded within a "reasonable time," the applicable standard at that time, many of the excessive contributions remained in the escrow account for over 60 days. A total of $60,450.00 remained in the escrow account more than sixty (60) days. One Hundred (100) days was the average amount of time it took for the Committee to clarify those apparent excessive contributions which were in the escrow account more than sixty days. It should be noted that there were nine (9) apparent excessive contributions totaling $8,687.50 which were not placed in the escrow account, but rather into the principal account. The Committee took an average of 68 days to correct the designation or provide a refund for these contributions. Therefore, the Committee violated 2 U.S.C. § 441a(f) by knowingly accepting contributions in violation of the provisions of section 441a.

The attached charts (Attachments 1a and 1b) set forth the length of time the excessive contributions previously discussed were in the escrow account and those that should have been placed in the escrow account while obtaining clarification but were not.

2/ 11 C.F.R. § 103.3 was amended on April 8, 1987. The regulations in effect prior to this amendment apply to this matter.

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Five of the 63 individuals contributed in excess of $2,000, with the excess not having been refunded within 60 days of receipt. These persons are Donald R. Corbin ($4,000), Michael Goland ($4,000), R. Donald Krotzer ($3,000), W.M. Schlinger ($2,500) and Joy W. Taylor ($2,325). This Office therefore recommends that the Commission find reason to believe that these five individuals violated 2 U.S.C. § 441a(a)(1)(A).

Under 2 U.S.C. § 441b, it is unlawful for any political committee to accept or receive a contribution from a corporation. Furthermore, the Act prohibits any corporation or labor organization from making contributions or expenditures in connection with a Federal election. The Committee accepted a $500 contribution from Davis, Barney & Jones on July 16, 1986. The Committee maintains that it contacted the contributor by telephone on September 21, 1986, and was told that the group was a partnership until the end of August 1986 when it incorporated. The California Secretary of State reports the date of incorporation for Davis, Barney & Jones as July 9, 1986. Therefore, it appears that the Committee violated 2 U.S.C. § 441b by accepting a contribution from a corporation and Davis, Barney & Jones violated 2 U.S.C. § 441b by making a contribution to the Committee.

Pursuant to 2 U.S.C. § 441e, foreign nationals are prohibited from directly or indirectly making a contribution or by promising expressly or impliedly to make a contribution in connection with an election for any local, state or federal

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public office. The Committee accepted a contribution from Mr. Frederick Krieble, a contributor with a Canadian address. There were no notations concerning the citizenship of this contributor to indicate he was actually a citizen of the United States. Thus, it appears that the Committee accepted a contribution from a foreign national violating 2 U.S.C. § 441e.[3/]

Accordingly, this Office recommends that the Commission open a MUR and find reason to believe that Citizens for Jack Kemp and Malcolm K. Buckley, as treasurer, violated 2 U.S.C. §§ 441a(f), 441b and 441e. Further, this Ofifce recommends that the Commission find reason to believe that Donald R. Corbin, Michael Goland, R. Douglas Krotzer, W.M. Schlinger and Joy W. Taylor violated 2 U.S.C. § 441a(a)(1)(A). Additionally, this Office recommends that the Commission find reson to believe that Davis, Barney & Jones violated 2 U.S.C. § 441b.

RECOMMENDATIONS

1. Open a MUR.

2. Find reason to believe that Citizens for Jack Kemp and Malcolm K. Buckley, as treasurer, violated 2 U.S.C. § 441a(f), 2 U.S.C. § 441b and 2 U.S.C. § 441e.

3. Find reason to believe that Donald R. Corbin, Michael Goland R. Douglas Krotzer, W.M. Schlinger and Joy W. Taylor violated 2 U.S.C. § 441a(a)(1)(A).

4. Find reason to believe that Davis, Barney & Jones violated 2 U.S.C. § 441b.

3/ Mr. Krieble may be an American living in Canada. Therefore, this Office makes no recommendation regarding him at this time. If the Committee's answers to the proposed question indicate he is a foreign national, appropriate recommendations will be made.

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5. Send the attached letters and the attached legal and factual analyses.

12/17/87
Date

Lawrence M. Noble
General Counsel

Attachments

1. Charts of excessive contributions
2. Referral
3. Proposed letters and legal and factual analyses (7)
4. Proposed Question

9904076004

Staff person: Sandra Dunham

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/SUSAN GREENLEE SG

DATE: DECEMBER 22, 1987

SUBJECT: OBJECTION TO RAD Ref. 87-19: First General Counsel's Report signed Dec. 17, 1987

The above-captioned document was circulated to the Commission on Friday, December 18, 1987 at 12:00 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 January 6, 1988.

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

9904070044

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Citizens for Jack Kemp and Malcolm K. Buckley, as treasurer	)	
Donald R. Corbin	)	RAD REF: 87-19 (MUR 2570)
Michael Goland	)	
R. Douglas Krotzer	)	
W.M. Schlinger	)	
Joy W. Taylor	)	
Davis Barney & Jones	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of January 6, 1988, do hereby certify that the Commission took the following actions with respect to RAD Referral 87-19:

1. Decided by a vote of 5-0 to open a Matter Under Review (MUR).

   Commissioners Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Aikens was not present.

2. Decided by a vote of 5-0 to find reason to believe that Citizens for Jack Kemp and Malcolm K. Buckley, as treasurer, violated 2 U.S.C. § 441a(f) and 2 U.S.C. § 441b, but take no further action with respect to the violation of 2 U.S.C. § 441b.

   Commissioners Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Aikens was not present.

(continued)

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3. Failed in a vote of 1-4 to pass a motion to find reason to believe that Donald R. Corbin, Michael Goland, R. Douglas Krotzer, W.M. Schlinger and Joy W. Taylor violated 2 U.S.C. § 441a(a)(1)(A), but take no further action.

   Commissioner Elliott voted affirmatively for the motion; Commissioners Josefiak, McDonald, McGarry, and Thomas dissented; Commissioner Aikens was not present.

4. Decided by a vote of 5-0 to find reason to believe that Davis, Barney & Jones violated 2 U.S.C. § 441b, but take no further action.

   Commissioners Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively; Commissioner Aikens was not present.

5. Decided by a vote of 4-1 to find reason to believe that Donald R. Corbin, Michael Goland, R. Douglas Krotzer, W.M. Schlinger and Joy W Taylor violated 2 U.S.C. § 441a(a)(1)(A).

   Commissioners Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Elliott dissented; Commissioner Aikens was not present.

6. Decided by a vote of 5-0 to direct the Office of General Counsel to send appropriate amended letters and legal and factual analyses.

   Commissioners Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Aikens was not present.

Attest:

1-7-88
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 19, 1988

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

W. Taylor
0 Kent Drive
klahoma City, Oklahoma 73120

RE: MUR 2570

Dear Ms. Taylor:

On January 6, 1988, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

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

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

plm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 19, 1988

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Joy W. Taylor
2930 Kent Drive
Oklahoma City, Oklahoma 73120

RE: MUR 2570

Dear Ms. Taylor:

On January 6, 1988, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

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

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

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

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Sandra Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Thomas J. Josefiak
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form

9904076004 7

pl/m

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 19, 1988

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

W.M. Schlinger
5379 A. Avenida Sosiega
Laguna Hills, CA 92653

RE: MUR 2570

Dear Mr. Schlinger:

On January 6, 1988, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

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

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

09040700050

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

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Sandra Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Thomas J. Josefiak
Chairman

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9904007 0051

nlm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 19, 1988

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

R. Douglas Krotzer
325 Harlem Road
West Seneca, New York 14224

RE: MUR 2570

Dear Mr. Krotzer:

On January 6, 1988, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

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

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

9204070052

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

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Sandra Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Thomas J. Josefiak
Chairman

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9904407600

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

January 19, 1988

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Michael Goland
5311 Topanga Canyon Blvd.
Woodland Hills, CA 91364

RE: MUR 2570

Dear Mr. Goland:

On January 6, 1988, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

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

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

9904076054

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

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Sandra Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Thomas J. Josefiak
Chairman

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9904070055

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 19, 1988

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Donald R. Corbin
17992 Mitchell South
Irvine, CA 92714

RE: MUR 2570

Dear Mr. Corbin:

On January 6, 1988, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

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

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

90040070500

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

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Sandra Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Thomas J. Josefiak
Chairman

Enclosures
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9904076057

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 19, 1988

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Malcolm K. Buckley, Treasurer
Citizens for Jack Kemp
One Marine Midland Center
Suite 3600
Buffalo, New York 14203

RE: MUR 2570
Citizens for Jack Kemp
and Malcolm K. Buckley,
as treasurer

Dear Mr. Buckley:

On January 6, 1988, the Federal Election Commission found that there is reason to believe that Citizens for Jack Kemp ("Committee") and you, as treasurer, violated 2 U.S.C. §§ 441a(f) and 441b, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances concerning the corporate contribution from Davis, Barney & Jones, the Commission has determined to take no further action as it pertains to this violation. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the Committee and you, as treasurer. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office, along with answers to the enclosed question, within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against the Committee and you, as treasurer, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the

9904076055

General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

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

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Sandra Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Thomas J. Josefiak
Chairman

Enclosures
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Question

cc: The Honorable Jack Kemp

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

January 19, 1988

Alan Fink
Davis, Barney & Jones
10 Harborcrest
Irvine, CA 92714

RE: MUR 2570
Davis, Barney & Jones

Dear Mr. Fink:

On January 6, 1988, the Federal Election Commission found reason to believe that Davis, Barney & Jones, violated 2 U.S.C. § 441b, 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 and close its file as it pertains to Davis, Barney & Jones. 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 corporation making a contribution to a federal candidate is a violation of the Act. Davis, Barney & Jones should take immediate steps to insure that this activity does not occur in the future.

The file will be made part of the public record within 30 days after this matter has been closed with respect to all other respondents involved. Should you wish to submit any materials to appear on the public record, please do so within ten days of your receipt of this letter. Such materials should be sent to the Office of the General Counsel.

The confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed.

If you have any questions, please direct them to Sandra Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Thomas J. Josefiak
Chairman

Enclosure
Factual and Legal Analysis

09040760050

GCC#6272

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

88 FEB -2 PM 1:43

R. Douglas Krotzer

January 28, 1988

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
88 FEB -3 AM 10:37

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Ms. Sandra Dunham
Staff Member
Federal Election Commission
Washington, D.C. 20463

Dear Ms. Dunham:

I am in receipt of your letter dated January 19, 1988 and your reference to "MUR 2570". As I understand your letter, I am being accused of a violation of the Election Campaign Act because Mr. Kemp's campaign people were slow in refunding me excess contributions.

As I am sure you appreciate, it seems odd that you are suing me for someone else's malfeasance.

These contributions, consisting of a check for $1,000 and a check for $2,000, were made on the specific assurances of Mr. Kemp's Committee that they complied with all laws. Relatively quickly, after the second contribution, their campaign people contacted me with respect to the fact that refunds might be necessary and several written and oral communications passed back and forth during which their campaign people showed enormous confusion as to what was legal and what was illegal -- apparently, from your communication, the law recognizes that such a period of confusion could result in a violation and in fact it did.

Confusion resulted, to the best of my recollection, from the fact that two calendar years were involved and the $2,000 contribution was based on the understanding that I was contributing to two separate campaigns as defined in the law. Additional confusion was caused by the Kemp Campaign Committee believing that I was married and that my wife joined in the contribution.

According to your records, the first refund came 2 months and 15 days (and 2 months is now considered legal) late. I thought this refund was slow based on my recollections of the issue and understanding at that time. The second refund came 21 days later and on that refund I can certify that the Committee was terribly confused.

35 FIDDLERS GREEN
EAST AMHERST, NEW YORK 14051

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At all times I endeavored to supply the Committee with pertinent information and obtain from them understanding of what was and was not legal.

At all times I believed, based on their information to me, that the unrefunded contributions were legal.

It may interest you to know that I was so disgusted with this mechanism and with the Committee's inability to be clear on what the law allowed that I have ceased making contributions to Mr. Kemp's campaign since this matter some two years ago. I resent being threatened with a lawsuit based on what appears to be a retroactive application of the concept of reasonable time when the maximum violation is whether we got money 30 days sooner or later.

I believe that this kind of enforcement encourages disrespect for the law and for the elective process.

I trust that you will drop this matter and pursue matters worthy of the salary you are being paid by the U.S. Government.

Very truly yours,

R. Douglas Krotzer

RDK:sh
Copy to: Citizens for Jack Kemp

9 9 0 4 0 7 0 0 0 6 2

CC #6275

LAW OFFICES
MILLER, CASSIDY, LARROCA & LEWIN
2555 M STREET, N. W. SUITE 500
WASHINGTON, D. C. 20037

HERBERT J. MILLER, JR.
JOHN JOSEPH CASSIDY
RAYMOND G. LARROCA
NATHAN LEWIN
MARTIN D. MINSKER
WILLIAM H. JEFFRESS, JR.
R. STAN MORTENSON
THOMAS B. CARR
JAMIE S. GORELICK
JAMES E. ROCAP, III
STEPHEN L. NIGHTINGALE
SETH P. WAXMAN
DAVID OVERLOCK STEWART
JONATHAN B. SALLET
RANDALL J. TURK
STEPHEN L. BRAGA
J. R. CALDWELL, JR.
CYNTHIA A. THOMAS

COURTNEY A. EVANS
OF COUNSEL

WILLIAM W. GREENHALGH
OF COUNSEL

TELEPHONE
(202) 293-6400

TELECOPIER
(202) 293-1827

February 3, 1988

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
88 FEB -3 AM 11: 17

BY HAND

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

re: Michael Goland, MUR 2570

Dear Ms. Dunham:

Enclosed please find a form executed by Mr. Goland designating me as his counsel with respect to the above-referenced case. As I told you by telephone on Monday, Mr. Goland received the Commission's notice on January 25, 1988. Accordingly his response is due on Tuesday, February 9, 1988. I am preparing to travel outside the country on behalf of another client at the end of this week, and I expect to be gone approximately six days. Accordingly, I respectfully request a ten-day extension of time in which to prepare and file Mr. Goland's response. If this is acceptable, I will file our response on or before February 19, 1988.

Thank you for your consideration.

Yours sincerely,

Seth P. Waxman

Seth P. Waxman

cc: Michael Goland

9904076065

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2570

NAME OF COUNSEL: Seth P. Waxman, Esq.

ADDRESS: Miller, Cassidy, Larroca & Lewin
2555 M Street, N.W., Ste. 500
Washington, D.C. 20037

TELEPHONE: (202) 293-6400

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

January 29, 1988
Date

Signature

RESPONDENT'S NAME: Michael Goland

ADDRESS: 5311 Toparga Canyon Blvd.
Woodland Hills, CA 91364

HOME PHONE: (213) 550-0539

BUSINESS PHONE: (818) 888-0355

9904007 0054

plm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 3, 1988

Seth P. Waxman, Esquire
Miller, Cassidy, Larroca & Lewin
2555 M Street, N.W. Suite 500
Washington, D.C. 20037

RE: MUR 2570
Michael Goland

Dear Mr. Waxman:

This is in response to your letter dated February 3, 1988, which we received on the same day, requesting an extension of 10 days to respond the the Commission's findings. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by close of business on February 19, 1988.

If you have any questions, please contact Sandra Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

By: Lois G. Lerner
Associate General Counsel

9904070065

6cc#6338

LAW OFFICES
McGUINESS & WILLIAMS
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
SUITE 1200
1015 FIFTEENTH STREET, N. W.
WASHINGTON, D. C. 20005
202 789-8600

JAMES F. SCHOENER
202 789-8644

RECEIVED
FEDERAL ELECTION COMMISSION
FAX ROOM
88 FEB -8 AM 9:35

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
88 FEB -8 PM 1:33

February 3, 1988

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

Re: MUR 2570 Citizens for Jack Kemp

Dear Sirs:

The letter dated January 19th concerning the above entitled MUR was referred to me for comment. I have reviewed the question of the alleged corporate contribution and point out that the check (a copy of which is enclosed) is dated July 2, 1986, and the supporting attribution letter indicates a single person (Alan Fink) as the attributed partner. In addition to our treasurer's statement that the contribution was from a partnership and legal, the investigation by you has apparently disclosed an incorporation date as July 9, 1986. Thus the date of the execution of the check was a week before incorporation; further it has been my experience that often both the partnership entity and the corporate entity exist side by side for a period when the entities are in transition. Under either concept it is obvious that this was not a corporate check and the care given by the treasurer in handling the various questioned contributions should be commended. Concern for accuracy and proper reporting has been foremost in this entire record.

While I realize that the MUR is to be closed without further action, I believe the record of care in handling these finances made by the treasurer Malcolm K. Buckley and Erma Fitzpatrick is certainly in accordance with the statutory admonition to use best efforts to report and disclose all contributions received.

In the event MUR 2570 is made a part of the public record, please incorporate this response.

Very truly yours,

James F. Schoener

James F. Schoener

Enclosure: 1. copy of July 2, 1986 check
2. letter designation of contributor
3. letter designation of counsel

cc: Honorable Jack Kemp
Malcolm K. Buckley
Erma Fitzpatrick

9904270365

7-9

DATE		AMOUNT	
		500	00
TOTAL OF INVOICES			
LESS ____% DISCOUNT			
LESS FREIGHT			
LESS			
TOTAL DEDUCTIONS			
AMOUNT OF CHECK		500	00

DAVIS, BARNEY & JONES
10 HARBORCREST 714-552-4201
IRVINE, CA 92714

4502

5566

7/2 19 86

80-3841/1222

PAY TO THE ORDER OF Citizens for Jack Kemp $ 500 00/100

Five hundred Dollars and no — 00/100 DOLLARS

BANK OF INDUSTRY
2N N. HACIENDA AT BRANFORD, CITY OF INDUSTRY, CA 91744

Alan M. Fuk

⑈004502⑈ ⑆122238417⑆ 08 406558⑈

9904076006

7-16

U.S. Representative
38th District, New York

Congressman Jack Kemp

Washington, D.C. 20515

Davis, Barney & Jones
ATT: Alan Fink
10 Harborcrest
Irvine, CA 92714

Dear Mr. Fink:

Thank you for your contribution to CITIZENS FOR JACK KEMP in the amount of $500.

Federal statutes allow the acceptance of contributions from partnerships but, the law requires that we obtain, for our records, a designation as to the amount contributed by each partner. Accordingly would you please indicate this information on the enclosed letter.

We appologize for any inconvenience, but this information is required by law.

Yours very truly,

Malcolm K. Buckler, Jr.
Treasurer
CITIZENS FOR JACK KEMP

ENC.

MEMBER	AMOUNT
Alan M. Fink	500 00/100

_____ Signed

Paid for by Citizens for Jack Kemp.
Not prepared or mailed at government expense.

9 9 0 4 0 7 6 0 0 6 8

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2570

NAME OF COUNSEL: James F. Schoener

ADDRESS: 1015 15th St. NW #1200
Washington DC. 20005

TELEPHONE: 789-8640

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

Date

Signature

RESPONDENT'S NAME: Citizens For Jack Kemp

ADDRESS: Suite 3600
One Main Midland Center
Buffalo, N.Y. 14203

HOME PHONE:

BUSINESS PHONE: 716-856-5500

9904407600567

GCC#6362

FEDERAL ELECTION COMMISSION
MAIL ROOM
88 FEB -9 PM 12:02

February 5, 1988

"CERTIFIED - RETURN RECEIPT REQUESTED"

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
88 FEB -9 PM 1:25

FEDERAL ELECTION COMMISSION
Washington, D.C. 20463

Attention: Sandra Dunham

Re: MUR 2570

09040720

Dear Ms. Dunham:

I received the enclosed Notice, February 2, 1988. I have several questions with this Notice which I feel compelled to relate to you.

1. The letter, if it's meant to be sent to a layman like myself, is unintelligible in my opinion to anyone except an expert legal counsel.

2. I am not sure what you mean by "factual or legal materials .... relevant to the Commission"?

3. I am not sure what you mean by "pre-probable cause conciliation .... See 11 C.F.R. § 111.18(d)"?

What I am saying is that I have a philosophical problem with retaining an expensive attorney over what appears to be a net $2,000 political contribution by myself. I confess I am ignorant of all the code sections you have cited in the letter and any seriousness relating to "possible" violations by myself of "laws" created in Washington, D.C. by my donation.

My defenses to your questions is quite simple and as follows:

1. I profess ignorance of all the code sections and laws you have quoted and yes, I did donate $4,000 on behalf of myself and my spouse and my family. Not being a bureaucrat politician, nor an attorney, I was totally unfamiliar with all code sections you have cited.

2. Apparently Jack Kemp's Committee was more familiar with these laws and regulations and refunded in what appears to me "a timely manner" all but the $2,000 from myself and my wife, Jan Corbin, which it felt was legal.

In closing, if my layman's interpretation of page one of your "Factual and Legal Analysis" is correct, I initially may have over contributed funds to Jack Kemp's Committee, but the excess was refunded "within a reasonable time". The remaining $2,000 was a contribution of community funds by my wife and myself, so therefore, I should not be in violation of the quoted regulations and codes.

If I am misinterpreting what you want from me, or if it is absolutely necessary that I retain counsel in this matter, please let me know and I will respond. Otherwise please accept the above explanation in response to your questionnaire.

Yours very truly,

Donald R. Corbin

Donald R. Corbin

DRC:prs

cc: file

Encls.

9904076071

GCC # 6392

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

88 FEB 11 PM 3:28

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

88 FEB 10 PM 12:03

Warren. G. Schlinger
3835 Shadow Grove Rd.
Pasadena, CA 91107

Certified Mail

February 1, 1988

Thomas J. Josefiak, Chairman
Federal Election Commission
Office of The General Council
Washington, D. C. 20463

Ref: MUR 2570

Dear Mr. Josefiak,

Your certified letter dated January 19, 1988 addressed to my father, William M. Schlinger, was received on January 29 after being forwarded from Laguna Hills. My father died last September at the age of 90. A copy of his death certificate is enclosed for your records.

During the last years of his life my father was a very confused man. In the summer of 1986 I found it necessary to work closely with him and oversee his entire financial affairs. I assure you any violation of the Federal Election Campaign Act on his part was entirely unintentional. I recall finding the redemption check from the Kemp campaign in my father's unopened mail but he was unable to shed any light of the origin of the donation.

In the final years of his life my father was a very generous man and made a serious effort to give money to nearly everyone who sent him a request. There certainly was no ulterior motive in his actions.

I assume that based upon these facts you will elect not to proceed with any further action on this violation of the Federal Election Campaign Act. If you feel further documentation is required please advise.

0146
Enclosure

Sincerely,

Warren G. Schlinger

Warren. G. Schlinger
(Son)

2904070072

CERTIFICATE OF DEATH

STATE OF CALIFORNIA

3-87-30-009483

LOCAL REGISTRATION DISTRICT AND CERTIFICATE NUMBER

1A. NAME OF DECEDENT — FIRST: William
1B. MIDDLE: McKinley
1C. LAST: Schlinger
2A. DATE OF DEATH (MONTH, DAY, YEAR): September 8, 1987
2B. HOUR: 1824

3. SEX: Male
4. RACE/ETHNICITY: White
5. SPANISH/HISPANIC: NO
6. DATE OF BIRTH: January 11, 1897
7. AGE: 90 YEARS
IF UNDER 1 YEAR: MONTHS / DAYS
IF UNDER 24 HOURS: HOURS / MINUTES

8. BIRTHPLACE OF DECEDENT (STATE OR FOREIGN COUNTRY): KS
9. NAME AND BIRTHPLACE OF FATHER: Louis Schlinger - Germany
10. BIRTH NAME AND BIRTHPLACE OF MOTHER: Charlotte Hausam - MO

11A. CITIZEN OF WHAT COUNTRY: U.S.A.
11B. IF DECEASED WAS EVER IN MILITARY GIVE DATES OF SERVICE: 19 17 TO 19 18
12. SOCIAL SECURITY NUMBER: 562-05-7230A
13. MARITAL STATUS: Married
14. NAME OF SURVIVING SPOUSE (IF WIFE, ENTER BIRTH NAME): Esther Gleason

15. PRIMARY OCCUPATION: A Vice President
16. NUMBER OF YEARS THIS OCCUPATION: 52
17. EMPLOYER (IF SELF-EMPLOYED, SO STATE): United Parcel Service
18. KIND OF INDUSTRY OR BUSINESS: Parcel Company

19A. USUAL RESIDENCE — STREET ADDRESS (STREET AND NUMBER OR LOCATION): 5379A Avenue Sosiega
19B.
19C. CITY OR TOWN: Laguna Hills

19D. COUNTY: Orange
19E. STATE: California
20. NAME AND ADDRESS OF INFORMANT — RELATIONSHIP: Mr. Warren Schlinger - Son, 3835 Shadow Grove Rd., Pasadena, CA 91107

21A. PLACE OF DEATH: Healthcare Medical Center
21B. COUNTY: Orange
21C. STREET ADDRESS (STREET AND NUMBER OR LOCATION): 14662 Newport Ave.
21D. CITY OR TOWN: Tustin

22. DEATH WAS CAUSED BY: (ENTER ONLY ONE CAUSE PER LINE FOR A, B, AND C)

IMMEDIATE CAUSE (A) Cardiac Arrest — 9/8/87
DUE TO, OR AS A CONSEQUENCE OF (B) Sepsis — 8/26/87
DUE TO, OR AS A CONSEQUENCE OF (C) Pneumonia — 8/26/87

CONDITIONS, IF ANY, WHICH GAVE RISE TO THE IMMEDIATE CAUSE, STATING THE UNDERLYING CAUSE LAST.

APPROXIMATE INTERVAL BETWEEN ONSET AND DEATH

23. OTHER SIGNIFICANT CONDITIONS — CONTRIBUTING TO DEATH BUT NOT RELATED TO CAUSE GIVEN IN 22A: Congestive Heart Failure; Renal Failure
24. WAS DEATH REPORTED TO CORONER? No
25. WAS AUTOPSY PERFORMED? No
26. WAS AUTOPSY PERFORMED? No
27. WAS OPERATION PERFORMED FOR ANY CONDITION IN ITEMS 22 OR 23? TYPE OF OPERATION: No
DATE

28A. I CERTIFY THAT DEATH OCCURRED AT THE HOUR, DATE AND PLACE STATED FROM THE CAUSES STATED.
I ATTENDED DECEDENT SINCE (ENTER MO. DA. YR.): 8/16/87
I LAST SAW DECEDENT ALIVE (ENTER MO. DA. YR.): 9/7/87
28B. PHYSICIAN — SIGNATURE AND DEGREE OR TITLE: R. F. Bader
28C. DATE SIGNED: 9/9/87
28D. PHYSICIAN'S LICENSE NUMBER: 53121
28E. TYPE PHYSICIAN'S NAME AND ADDRESS: Robert F. Bader, M.D. 1626 E. 17th St. Santa Ana, CA

29. SPECIFY ACCIDENT, SUICIDE, ETC.
30. PLACE OF INJURY
31. INJURY AT WORK
32A. DATE OF INJURY — MONTH, DAY, YEAR
32B. HOUR

33. LOCATION (STREET AND NUMBER OR LOCATION AND CITY OR TOWN)
34. DESCRIBE HOW INJURY OCCURRED (EVENTS WHICH RESULTED IN INJURY)

35A. I CERTIFY THAT DEATH OCCURRED AT THE HOUR, DATE AND PLACE STATED FROM THE CAUSES STATED. AS REQUIRED BY LAW I HAVE HELD AN ((INQUEST-INVESTIGATION)
35B. CORONER — SIGNATURE AND DEGREE OR TITLE
35C. DATE SIGNED

36. DISPOSITION: Burial
37. DATE — MONTH, DAY, YEAR: Sept. 12, 1987
38. NAME AND ADDRESS OF CEMETERY OR CREMATORY: Forest Lawn Memorial Park, 21300 Via Verde Dr. Covina, CA
39. EMBALMER'S LICENSE NUMBER AND SIGNATURE: #7592 Jerry Woodall

40A. NAME OF FUNERAL DIRECTOR (OR PERSON ACTING AS SUCH): Forest Lawn Mort., Covina
40B. LICENSE NO.: F1150
41. LOCAL REGISTRAR — SIGNATURE: R. L. Schlinger, M.D.
42. DATE ACCEPTED BY LOCAL REGISTRAR: SEP 11 1987

STATE REGISTRAR: A. B. C. D. E. F.

VS-11 (1-85)

THIS IS TO CERTIFY, IF IMPRESSED WITH THE SEAL OF THE ORANGE COUNTY HEALTH OFFICER, THAT THIS IS A TRUE COPY OF THE PERMANENT RECORD FILED IN THIS OFFICE.

Fee: $7.00 ☐ For Veterans Purposes ☐
Date: SEP 15 1987
Santa Ana, California
Health Officer and Local Registrar of Births and Deaths of Orange County

GCC # 6478

LAW OFFICES
MILLER, CASSIDY, LARROCA & LEWIN
2555 M STREET, N. W. SUITE 500
WASHINGTON, D. C. 20037

HERBERT J. MILLER, JR.
JOHN JOSEPH CASSIDY
RAYMOND G. LARROCA
NATHAN LEWIN
MARTIN D. MINSKER
WILLIAM H. JEFFRESS, JR.
R. STAN MORTENSON
THOMAS B. CARR
JAMIE S. GORELICK
JAMES E. ROCAP, III
STEPHEN L. NIGHTINGALE
SETH P. WAXMAN
DAVID OVERLOCK STEWART
JONATHAN B. SALLET
RANDALL J. TURK
STEPHEN L. BRAGA
J. R. CALDWELL, JR.
CYNTHIA A. THOMAS

COURTNEY A. EVANS
OF COUNSEL

WILLIAM W. GREENHALGH
OF COUNSEL

TELEPHONE
(202) 293-6400

TELECOPIER
(202) 293-1827

FEDERAL ELECTION COMMISSION
88 FEB 18 PM 4:49

February 18, 1988

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
88 FEB 19 PM 1:22

HAND DELIVERED

Thomas J. Josefiak, Chairman
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

re: Michael Goland, MUR 2570

Dear Mr. Josefiak:

By letter dated January 19, 1988, you notified Michael Goland that based on reports filed by Citizens for Jack Kemp, the Commission found reason to believe that Mr. Goland had violated a provision of the Federal Election Campaign Act, 2 U.S.C. § 441(a)(1)(A), by contributing $4000 to Congressman Kemp's 1986 campaign, "the excessive portion of which was not refunded within a reasonable time." As counsel to Mr. Goland, I have investigated the contribution in question and do not believe Mr. Goland violated the law. Rather, the Kemp campaign erroneously attributed to Mr. Goland a joint contribution Mr. Goland made with his wife.

Attached to this letter is an affidavit executed by Mr. Goland which attests that the contribution in question was given jointly by Mr. Goland and his wife, Diane West Goland, based upon a mutual decision. The check was handed personally to a representative of Citizens for Jack Kemp, who asked how the contribution was to be attributed and was told that Mr. and Mrs. Goland were each contributing $1000 to Congressman Kemp's primary campaign and $1000 to the general election campaign. This information was also recorded in writing at the time of the contribution.

In September or October 1986 Mr. Goland received a letter from the Kemp campaign thanking him for the $4000 contribution and asking him to verify attribution of $1000 to the

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primary campaign and $1000 to the general election campaign. [1] A copy of this letter is attached. In retrospect the letter may seem puzzling. Although it acknowledges the receipt of $4000, it seeks attribution only for $2000. Yet at the time the letter simply confirmed Mr. Goland's understanding and intent of the transaction: since no reference was made to his wife or to the other $2000, the campaign was obviously seeking confirmation of his contribution, not his wife's. Mr. Goland signed and returned the letter.

Sometime in late October, Mr. Goland received from the Kemp campaign a check for $2000. No explanation accompanied the letter. Mr. Goland did not question why the money was being returned. In retrospect it appears, however, that the campaign staff must have misplaced or lost the attribution forms filled out at the time of the contribution. In any event, Mr. Goland deposited the check and neither heard nor thought any more about the contribution until receiving the Commission's notice last month.

It is clear from the attached affidavit that the contribution in question was intended to be, and was, within the limits of the Federal Election Campaign Act. Although the statute limits to $1000 the amount any individual can contribute to a candidate for "an election" the Commission's regulations, 11 C.F.R. § 110.1(a)(2), clarify that one individual may properly contribute $1000 to the primary campaign and $1000 to the general election campaign of a single candidate because each is a separate "election." Mr. and Mrs. Goland intended -- and expressly advised the Kemp campaign -- that their $4000 contribution was to be allocated precisely in this manner. Apparently what happened was that the attribution made by Mr. and Mrs. Goland was lost or miscommunicated by the Kemp campaign

---

[1] The letter sought Mr. Goland's confirmation that $1000 was being given to the primary and $1000 to the general election because "your contributions to date exceed the amount allowable under the Federal Election Law for 'an election.'"

staff. 2/ That, however, does not alter the fact that the contribution, as made and intended, was proper.

The Commission's letter questions not only the original contribution, but also the Kemp campaign's failure to return it "within a reasonable time." That is a question more properly addressed to the Kemp committee. So far as the Golands knew, the contribution was entirely proper and therefore no cause existed to seek its return. Even the letter sent to Mr. Goland requesting that he designate $1000 of his contribution to the primary and $1000 to the general election could not have put him on notice that anyone considered that a violation had occurred. Indeed the tenor and substance of the letter is precisely the opposite. And he assumed that this was a request for confirmation of the information he had provided at the time the check was provided.

Certainly the facts of this case are inconsistent with any design to violate any law. No one intent on making excessive contributions would do so by a single check written to the campaign committee of a national political figure. The Golands believed -- and still maintain -- that their contribution was entirely proper. Had it been properly accounted for on the books and records of the Kemp campaign, no question would ever have been raised. In view of the true facts, we request that the Commission terminate its investigation with a finding that no probable cause exists to believe a violation has occurred.

Respectfully submitted,

Seth P. Waxman /NK

Seth P. Waxman

2/ Immediately upon receiving the Commission's Notice in this matter, the undersigned contacted representatives of the Kemp campaign and requested copies of the original written attribution submitted with the Golands' contribution. I was advised by a senior campaign official that it could not be located but that the records of the 1986 campaign were "pretty incomplete."

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AFFIDAVIT OF MICHAEL GOLAND

MICHAEL GOLAND, being duly sworn, deposes and says:

1. I make this affidavit in response to a Notice from the Federal Election Commission dated January 29, 1988.

2. The contribution referred to in the Notice was a joint contribution made by me and my wife, Diane West Goland. The contribution check was handed personally to a person who said he was a member of Congressman Kemp's campaign staff who asked, and was specifically told, that it represented a contribution by each of us of $1,000.00 to Congressman Kemp's primary campaign and $1,000.00 to his general election campaign. At the staff member's request, I indicated this breakdown in writing at the time.

I declare upon penalty of perjury that the foregoing is true and correct.

MICHAEL GOLAND

Executed on: 17 February 1988

9904070077

U.S. Representative
31st District, New York

Congressman Jack Kemp

Washington, D.C. 20515

10-21

Mr. Michael Goland
5311 Topanga Canyon Blvd.
Woodland Hills, CA 91364

Dear Mike:

Thank you for your recent contribution to CITIZENS FOR JACK KEMP in the sum of $4,000. Our records indicate your contributions to date exceed the amount allowable under the Federal Election Law for "an election" thus, the Federal Election Law requires that we obtain certain information from you.

Please check your confirmation of the below indications of usage of your contributions:

X $1,000 contribution, received 7-8-86 for the Primary, and $1,000 received 7-8-86 for the General Election.

If the above distribution does not meet with your satisfaction please do not hesitate to contact me.

Please use the enclosed self-addressed, stamped envelope to return this letter after you have signed where indicated below.

Thank you for your help, and I apologize for the inconvenience.

Sincerely,

Malcolm K. Buckley, Jr.
Treasurer
Citizens for Jack Kemp

ENC.

Your signature

Paid for by Citizens for Jack Kemp.
Not prepared or mailed at government expense.

GCC # 6483

LAW OFFICES
McGUINESS & WILLIAMS
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
SUITE 1200
1015 FIFTEENTH STREET, N. W.
WASHINGTON, D. C. 20005
202 789-8600

JAMES F. SCHOENER
202 789-8644

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
88 FEB 19 AM 11:23

February 12, 1988

Miss Sandra Dunham
Office of the General Counsel
Federal Election Commission
Washington, D.C. 20463

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
88 FEB 19 PM 4:06

Re: MUR 2570 - Citizens for Jack Kemp

Dear Miss Dunham:

This letter will respond to your telephone call of Wednesday, February 10 and your letter dated January 19th. I originally replied on February 3rd and assumed that the General Counsel's office was going to recommend no further action on all phases of MUR 2570. You advised that the Counsel's office still wishes to proceed with enforcement provisions over "apparent excessive contributions" that were placed in escrow accounts pending reattribution or redesignation. As you note, I personally came to the Commission to discuss the compliance with the Act by the treasurer and our bookkeeper.

The record of this committee on complying with the act and in responding to Requests for Additional Information is one of compliance rather than any attempt to evade or frustrate the provisions of the Act. The reporting of questioned contributions and depositing them in an escrow account is in accordance with 11 CFR @ 103 and every action by the treasurer and bookkeeper has been in accordance with the rules as they existed at the time of filing, and the instructions from Reports Analysis Division.

It was with some concern that I talked with you on Wednesday, since I assumed on reading the last page of the legal and factual analysis in this MUR, that no further action was contemplated. When you called and asked if I desired to enter into "pre-probable cause conciliation" on behalf of my client, I was truly surprised and chagrined. I had replied that the complete evidence on the last noted matter of Davis, Barney & Jones was clearly a partnership check and should not have even been mentioned as a corporate contribution whatsoever, and that since the escrow matters had been corrected or refunded that I assumed the entire matter was to be "no further action."

9904007007

I informed you that I thought any further inquiry was contrary to the intent of the statute in that the treasurer had used his "best efforts" to comply, had followed the regulations, and made all the proper amendments as suggested by your Reports Analyst. I informed you further that complete records of compliance were already in your files, but you suggested that I resubmit "such evidence" as would show what already exists. You informed me that the RAD files were not the same as the legal counsel's file and that I should ask for pre-probable cause conciliation and submit such materials. I objected that this was requesting useless acts and causing the respondent to expend funds unnecessarily. I suggested that in view of the Kemp Campaign efforts at compliance the entire matter should be closed forthwith. I have noted any number of files of similar technical "violations" that have been so treated.

You insisted that I reply "in writing" although I suggested that a "fair appraisal" of the file should lead you to the same conclusion, viz. that the file be closed forthwith. I objected that such actions, in effect, wasted the time of Commission personnel and caused my client to incure unnecessary legal and accounting fees.

None the less, unless you, on more careful inspection of all files at the F.E.C. do not reach the same conclusion and recommend such to the Commission, I would request to enter into pre-probable cause conciliation to avoid further, extensive unnecessary and (in my view, unjustified) expense.

Very truly yours,

James F. Schoener

James F. Schoener

cc: Honorable Jack Kemp
Malcolm Buckley
Erma Fitzpatrick

9904070080

QCC#6771

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

88 MAR 14 AM 11:34

R. Douglas Krotzer

March 7, 1988

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Ms. Sandra Dunham
Staff Member
Federal Election Commission
Washington, D.C. 20463

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

88 MAR 14 PM 3:06

Dear Ms. Dunham:

SUBJECT: "MUR 2570"
My letter dated January 28, 1988

In a telephone conversation today with Mr. Thomas Whitehead, your supervisor, he explained that you needed a formal request for pre-probable cause conciliation in accordance with 11 C.F.R. S 111.18(d). Please consider this letter to be such a request.

Please accept my apologies as I felt my letter of January 28, 1988 had set forth the facts that indicate:

1. I made every effort to comply with your law and discussed it with the Kemp campaign committee repeatedly;
2. Under the current law, there would be no violation had they refunded me the money ten days earlier;
3. At the time there was no time deadline; and,
4. The maximum value of the broken law was $10.00 representing interest on $1,000.00 for 10 days.

Since there was:

1. Every attempt to comply with the law,
2. Actual compliance with the law,
3. Near compliance with the law as changed, and
4. A total value of $10.00 involved,

it is ludicrous for us to be still discussing this matter. I would be pleased to send you a check for the $10.00 or, I would suggest that your time and Mr. Whitehead's time involved in this case have already exceeded by many times the total value in dispute. These facts cry out so for a pre-probable cause result of dismissal that I thought it was obvious.

35 FIDDLERS GREEN
EAST AMHERST, NEW YORK 14051

9 9 0 4 0 7 3 0 0 8 1

Since the major purpose of the Federal Election Commission is to foster confidence in the workings of the political system, I would suggest that this entire line of activity does nothing more than torpedo the very cause for which you were established.

This letter is not only a request for pre-probable cause conciliation, it is also a strong suggestion that this matter be dismissed instantly.

Sincerely,

R. Douglas Krotzer

RDK:sh

9904076008

Tdm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 15, 1988

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Donald R. Corbin
17992 Mitchell South
Irvine, CA 92714

RE: MUR 2570

Dear Mr. Corbin:

This is to acknowledge receipt of your letter dated February 5, 1988, responding to the Commission's letter concerning the reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A). You indicated that you had several questions and after several unsuccessful attempts to reach you by telephone, this Office is requesting that you telephone us. Please call Sandra Dunham the staff member assigned to this matter, at (202) 376-8200, as soon as possible. Thank you.

Sincerely,

Lawrence M. Noble
General Counsel

9904070098

6CM#9308

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

88 MAY 18 PM 3:50

PIERSON, BALL & DOWD
ATTORNEYS AT LAW
1200 18TH STREET, N. W.
WASHINGTON, D. C. 20036

(202) 331-8566
CABLE ADDRESS "PIERBALL"
TELECOPIER (202) 331-1448/1449
TELEX NO. 64711

OKLAHOMA OFFICE
FIRST OKLAHOMA TOWER, SUITE 1310
210 W. PARK AVENUE
OKLAHOMA CITY, OKLA. 73102
(405) 235-7686

NEW YORK OFFICE
20 WEST 55TH STREET
NEW YORK, NEW YORK 10019
(212) 307-0520

VIRGINIA OFFICE
510 KING STREET
ALEXANDRIA, VA. 22314
(703) 549-4800

JOHN J. DUFFY
(202) 457-8616

May 18, 1988

By Hand

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

Re: MUR 2570

Dear Ms. Dunham:

This is to inform you that I have been retained to represent Donald R. Corbin in connection with MUR 2570. Please send all notifications and other communications regarding this matter to me at the above address until May 30, 1988. After May 30, 1988, I will be located at the following address:

Piper & Marbury
1200 Nineteenth Street, N.W.
Washington, D.C. 20036
(202) 861-3900

Sincerely,

PIERSON, BALL & DOWD

John J. Duffy

JJD:dp
cc: Mr. Scott B. Mackenzie

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BEFORE THE FEDERAL ELECTION COMMISSION

FEDERAL ELECTION COMMISSION RECEIVED
88 MAY 31 PM 4:23

In the Matter of	)	
	)	
Citizens for Jack Kemp and	)	MUR 2570
Malcolm K. Buckley, as treasurer	)	
Donald R. Corbin	)	
Michael Goland	)	
R. Douglas Krotzer	)	
William M. Schlinger	)	
Joy W. Taylor	)	

SENSITIVE
EXECUTIVE SESSION
JUN 07 1988

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On January 6, 1988, the Commission found reason to believe that Citizens for Jack Kemp (the "Committee") and Malcolm K. Buckley, as treasurer, violated 2 U.S.C. § 441a(f) by knowingly accepting contributions in violation of the limitations imposed on contributions under 2 U.S.C. § 441a. The Commission also found reason to believe that Michael Goland, R. Douglas Krotzer, William M. Schlinger, Joy W. Taylor and Donald R. Corbin violated 2 U.S.C. § 441a(a)(1)(A) by making excessive contributions to a candidate for the United States House of Representatives with respect to any primary or general election.

The Committee made a request for pre-probable cause conciliation on February 12, 1988 (Attachment 1). Only one of the individual respondents, R. Douglas Krotzer, requested pre-probable cause conciliation. (Attachment 2).

Written responses were also received from Donald R.Corbin (Attachment 3), Michael Goland (Attachment 4) and the family of William M. Schlinger (Attachment 5). Additionally, a telephone call placed to the residence of Joy W. Taylor revealed that she

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is currently a resident of a nursing home. In his response, Donald R. Corbin did not request pre-probable cause conciliation and this Office is proceeding to the next stage of enforcement.

The Commission's finding was a result of a referral from the Reports Analysis Division ("RAD") stating that the Committee accepted excessive contributions from 63 individuals and 3 partnerships. Most of these apparent excessive contributions were disclosed as being held in an escrow account for the purpose of seeking attribution or clarification. The Committee would periodically amend its reports to show changes in the status of the escrow account after receiving the necessary information from the contributors.

The RAD referral also revealed that 5 of the 63 individuals contributed in excess of $2,000, with the excess not being refunded within a reasonable time.

II. ANALYSIS

A. Citizens for Jack Kemp and Malcolm K. Buckley, as treasurer (the "Committee")

Pursuant to 2 U.S.C. § 441a(f), no political committee can knowingly accept contributions in violation of the limitations set forth in 2 U.S.C. § 441a. The Committee routinely accepted apparent excessive contributions. Most of the apparent excessive contributions were placed in an escrow account for the purposes of "seeking attribution or clarification" pursuant to 11 C.F.R.

§ 103.3(b)(1).[1/] Some of the excessive contributions were reattributed, redesignated, or refunded within a "reasonable time," the applicable standard at that time. In past matters, the Commission has considered a reasonable amount of time to be 60 days or less in referrals from RAD. Many of the excessive contributions remained in the escrow account for an unreasonable amount of time; the following is a breakdown of the length of time that the excessive contributions were in the escrow account: $2,250 for 30 days or less; $11,350 between 31 and 60 days; $18,850 between 61 and 90 days and $22,550 for more than 90 days.[2/] The Committee took an average of 68 days to correct the designation or provide a refund of these contributions.

Counsel for the Committee contends that the Committee's treasurer had used his "best efforts" in complying with the regulations and had followed RAD's suggested procedures for reporting funds in the escrow account. Counsel argues that the escrow matters had been corrected or refunded, and he urges this Office to recommend that the Commission take no further action in this matter; in the event that this Office does not agree Counsel requests pre-probable cause conciliation.

1/ 11 C.F.R. § 103.3 was amended on April 8, 1987. The regulations in effect prior to this amendment apply to this matter.

2/ An excessive contribution of $50 was never refunded to the partnership of Salomon & Co. It is noted that there were eight (8) apparent excessive contributions totalling $8,187.50 which were not placed in the escrow account, but rather into the principal account.

As discussed, counsel's arguments that the Committee's actions conform to the Commission's regulations are unfounded, therefore, this Office cannot recommend that the Commission take no further action. Accordingly, this Office recommends that the Commission approve the attached conciliation agreement.

B. R. Douglas Krotzer

Pursuant to 2 U.S.C. § 441a(a)(1)(A), no person shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $1,000; Mr. Krotzer made two contributions to the Committee prior to the 1986 primary election. He made a $1,000 contribution on December 12, 1985, and a $2,000 contribution on March 24, 1986. Both of these contributions would be attributed to the primary because they were received prior to the primary. The Committee recognized that the second contribution was excessive because they contacted Mr. Krotzer in order to "reattribute" $1,000 of the contribution to the general election. The Committee so noted this in their 1986 April Quarterly Report.[3/] It is unclear why $1,000 was not designated to the general election. In any event, the Committee sent Mr. Krotzer refund checks for $1,000 each on June 9 and 30, 1986.

3/ In the Itemized Receipts section labeled Citizens for Jack Kemp-Escrow, the Committee indicated it was seeking attribution for the $2,000 contribution.

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In his responses dated January 28, 1988 and March 7, 1988, Mr. Krotzer stated that he made every effort to comply with the law. He alleges that the Committee staff seemed very confused as to the legalities of his contribution. He requested that the Commission take no further action, but also asked to enter into pre-probable cause conciliation. This Office recommends that the Commission approve Mr. Krotzer's request to enter into conciliation.

C. Michael Goland, William M. Schlinger, Joy W. Taylor, and Donald R. Corbin

2 U.S.C. § 441a(a)(1)(A) limits to $1,000 the amount which any person may contribute to a candidate for the United States House of Representatives with respect to any election. Donald R. Corbin, Michael Goland, William M. Schlinger and Joy W. Taylor all exceeded these limits prior to Kemp's 1986 primary election. As previously stated, none of these respondents requested pre-probable cause conciliation.

Counsel for Michael Goland stated in his response that the Committee erroneously attributed the $4,000 to Mr. Goland, when the contribution was actually a joint contribution made with his wife, Diane West Goland. Counsel provided an affidavit sworn to by Mr. Goland which stated that Mr. Goland gave the Committee a written breakdown indicating that the Golands were each contributing $1,000 to the Committee's primary and general election campaigns at the time the contributions were made (Attachment 4, Page 4). He also asked the Committee to produce

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the writing which it could not do. The Committee subsequently refunded $2,000 to him. Further, counsel provided a detailed explanation concerning Mr. Goland's experiences with the Committee, including a letter from the treasurer of the Kemp Committee. Prior to April 8, 1987, and during the period in which this contribution was given, the regulations stated a contribution which represents contributions by more than one person shall indicate on the written instrument, or on an accompanying written statement signed by all contributors the amount to be attributed to each contributor pursuant to 11 C.F.R. § 104.8(d). Furthermore, the regulations stated that absent evidence to the contrary (i.e. the signed written statement) any contribution made by a written instrument shall be reported as a contribution by the last person signing the instrument. 11 C.F.R. §104.8(c). Here, Mr. Goland's affidavit states only that he wrote the designation on the accompanying document. Because the regulations in effect at that time stated that the written instrument or accompanying written statement must be signed by all of the contributors, and because it appears that Mr. Goland was the only signatory on the accompanying designation, the entire $4,000 contribution had to be attributed to Mr. Goland. Therefore, Mr. Goland violated 2 U.S.C. §441a(a)(1)(A) by contributing $4,000 to the Committee.[4/]

4/ It appears the check was signed only by Mr. Goland. In order to confirm this, this Office is requesting a copy of the check.

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This Office also received a letter from the son of William M. Schlinger. In it he stated that his father was deceased and offered that his father had been a confused man during the last years of his life. In these circumstances, this Office recommends that the Commission take no further action and close the file as to Mr. Schlinger.

When this Office did not receive a reply from Joy W. Taylor, a telephone call was placed to her residence. This office was informed that she is no longer living at home but is currently a resident of a nursing home. Considering the apparent health and age of Ms. Taylor, this Office recommends taking no further action and closing the file regarding her.

Donald R. Corbin responded, but did not request pre-probable cause concilation and this Office is proceeding to the next stage of enforcement concerning him.

III. DISCUSSION OF CONCILIATION PROVISIONS AND CIVIL PENALTY

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IV. RECOMMENDATIONS

1. Enter into conciliation with Citizens for Jack Kemp and Malcolm K. Buckley, as treasurer, prior to a finding of probable cause to believe.

2. Enter into conciliation with R. Douglas Krotzer prior to a finding of probable cause to believe.

3. Approve the attached proposed conciliation agreements and letters concerning conciliation.

4. Take no further action against William M. Schlinger and Joy W. Taylor.

5. Close the file as it pertains to William M. Schlinger and Joy W. Taylor.

6. Approve the attached letters concerning no further action.

7. Approve letter to Michael Goland.

5/31/88
Date

Lawrence M. Noble
General Counsel

Attachments
1. Request for conciliation from Citizens for Jack Kemp
2. Responses from R. Douglas Krotzer
3. Response from Donald R. Corbin
4. Response from Michael Goland
5. Response from William M. Schlinger
6. Proposed conciliation agreements and letters concerning conciliation
7. Proposed letters (2) concerning no further action
8. Proposed letter to Michael Goland

Staff Person: Sandra Dunham

9904076009

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JOSHUA MCFADDEN
COMMISSION SECRETARY

DATE: JUNE 1, 1988

SUBJECT: OBJECTION TO MUR 2570 - General Counsel's Report Signed May 31, 1988

The above-captioned document was circulated to the Commission on Wednesday, June 1, 1988 at 11:00 A.M.

Objection(s) have been received from the Commissioner(s) as indicated by the name(s) checked below:

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

This matter will be placed on the meeting agenda for June 7, 1988.

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

90040700069

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Citizens for Jack Kemp and Malcolm K. Buckley, as treasurer	)	
Donald R. Corbin	)	
Michael Goland	)	
R. Douglas Krotzer	)	MUR 2570
William M. Schlinger	)	
Joy W. Taylor	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of June 7, 1988, do hereby certify that the Commission decided by a vote of 4-1 to take the following actions in MUR 2570:

1. Enter into conciliation with Citizens for Jack Kemp and Malcolm K. Buckley, as treasurer, prior to a finding of probable cause to believe.

2. Enter into conciliation with R. Douglas Krotzer prior to a finding of probable cause to believe.

(continued)

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3. Approve the proposed conciliation agreements and letters concerning conciliation, as recommended in the General Counsel's report dated May 31, 1988.

4. Take no further action against William M. Schlinger and Joy W. Taylor.

5. Close the file as it pertains to William M. Schlinger and Joy W. Taylor.

6. Approve the letters concerning no further action as recommended in the General Counsel's report dated May 31, 1988.

7. Approve the letter to Michael Goland as recommended in the General Counsel's report dated May 31, 1988.

Commissioners Aikens, Josefiak, McDonald, and Thomas voted affirmatively for the decision; Commissioner Elliott dissented; Commissioner McGarry was not present at the time of the vote.

Attest:

6/8/88
Date

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

9904070090

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 13, 1988

Joy W. Taylor
2930 Kent Drive
Oklahoma City, Oklahoma 73120

RE: MUR 2570
Joy W. Taylor

Dear Ms. Taylor:

On January 19, 1988, you were notified that the Federal Election Commission found reason to believe that Joy W. Taylor violated 2 U.S.C. § 441a(a)(1)(A).

After considering the circumstances of the matter, the Commission determined on June 7, 1988, to take no further action against you, and closed its file as it pertains to you. The file will be made part of the public record within 30 days after the matter has been closed with respect to all other respondents involved. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days of your receipt of this letter. Such materials should be sent to the Office of the General Counsel.

The confidentiality provisions of 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed.

If you have any questions, please contact Sandra Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

9904070097

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 13, 1988

Warren G. Schlinger
3835 Shadow Grove Road
Pasadena, CA 91107

RE: MUR 2570
William M. Schlinger

Dear Mr. Schlinger:

On January 19, 1988, your father was notified that the Federal Election Commission found reason to believe that he violated 2 U.S.C. § 441a(a)(1)(A). On February 1, 1988, you submitted a response to the Commission's reason to believe finding in this matter.

After considering the circumstances of the matter, the Commission determined on June 7, 1988, to take no further action against William M. Schlinger, and closed its file as it pertains to him. The file will be made part of the public record within 30 days after the matter has been closed with respect to all other respondents involved. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days of your receipt of this letter. Such materials should be sent to the Office of the General Counsel.

The confidentiality provisions of 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed.

If you have any questions, please contact Sandra Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

9904407 0098

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 13, 1988

R. Douglas Krotzer
325 Harlem Road
West Seneca, New York 14224

RE: MUR 2570
R. Douglas Krotzer

Dear Mr. Krotzer:

On January 6, 1988, the Federal Election Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A). At your request, on June 7, 1988, the Commission determined to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe.

Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If you agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

If you have any questions or suggestions for changes in the agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact Sandra Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

9904076097

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 13, 1988

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Seth P. Waxman, Esquire
Miller, Cassidy, Larroca & Lewin
2555 M Street, N.W. Suite 500
Washington, D.C. 20037

RE: MUR 2570
Michael Goland

Dear Mr. Waxman:

On January 19, 1988, your client Michael Goland, was notified that the Federal Election Commission had found reason to believe that your client violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Action of 1971, as amended.

Pursuant to its investigation of this matter, this Commission requests that your client provide a copy of the $4,000 check he gave to Citizens for Jack Kemp on August 6, 1986 and all other documents he may have concerning this contribution. Please submit this document to the General Counsel's Office within 15 days of your receipt of this letter.

If you have any questions, please direct them to Sandra Dunham, the staff member handling this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 13, 1988

James F. Schoener, Esquire
McGuiness & Williams
Suite 1200
1015 Fifteenth Street, N.W.
Washington, D.C. 20005

RE: MUR 2570
Citizens for Jack Kemp
and Malcolm K. Buckley,
as treasurer

Dear Mr. Schoener:

On January 6, 1988, the Federal Election Commission found reason to believe that Citizens for Jack Kemp and Malcolm K. Buckley, as treasurer, violated 2 U.S.C. § 441a(f). At your request, on June 7, 1988, the Commission determined to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe.

Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If your clients agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

If you have any questions or suggestions for changes in the agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact Sandra Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

9904076010

FEDERAL ELECTION COMMISSION
RECEIVED
88 JUN 13 PM 4:31

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Donald R. Corbin	)	MUR 2570
	)	

SENSITIVE

GENERAL COUNSEL'S REPORT

The Office of the General Counsel is prepared to close the investigation in this matter as to Donald R. Corbin, based on the assessment of the information presently available.

6/13/88
Date

Lawrence M. Noble
General Counsel

Staff Person: Sandra Dunham

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RECEIVED
FEDERAL ELECTION COMMISSION
88 JUN 21 PM 1:20

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 21, 1988

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Donald R. Corbin
17992 Mitchell South
Irvine, California 92714

RE: MUR 2570
Donald R. Corbin

Dear Mr. Corbin:

The Office of the General Counsel received a letter from John J. Duffy on May 18, 1988, stating he would be representing you in MUR 2570. He was told by this Office on two separate occasions that we needed a written statement from you informing us that he had been retained by you in this matter. To date we have not received written notification from you. Consequently, this letter and brief are being sent to you.

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, and information supplied by you , the Federal Election Commission, on January 6, 1988, found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), and instituted an investigation in this matter.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

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.

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If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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 Sandra Dunham, the staff member assigned to handle this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Brief

9904070101

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Donald R. Corbin) MUR 2570

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On January 6, 1988, the Commission found reason to believe that Donald R. Corbin violated 2 U.S.C. § 441a(a)(1)(A) by making an excessive contribution to Citizens for Jack Kemp on August 12, 1986.

Mr. Corbin has admitted that he had contributed $4,000, but asserts that the contribution was on behalf of himself and his wife. Citizens for Jack Kemp contacted Mr. Corbin in order to reattribute and/or redesignate the $4,000 contribution. The Committee's 1986 October Quarterly Report indicates they received a letter from Mr. Corbin on October 27, 1986. On October 31, 1986, the Committee redesignated $1,000 to the general election and sent a refund check to Mr. Corbin for the other $2,000; none of the contribution was reattributed to his spouse.

II. ANALYSIS

Pursuant to 11 C.F.R. § 104.8(d)[1/] a contribution which represents contributions by more than one person shall indicate on the written instrument, or on an accompanying written statement signed by all contributors, the amount to be attributed to each contributor. Further, 11 C.F.R. § 110.1(a)(1)[2/] states

1/ 11 C.F.R. § 104.8(d) was amended on April 8, 1987. The regulations in effect prior to this amendment apply to this matter.

2/ 11 C.F.R. § 110.1(a) was also amended on April 8, 1987. The regulations in effect prior to this amendment also apply to this matter.

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that no person (except multicandidate committees under Section 110.2) shall make contributions to any candidate, his or her authorized political committees or agents with respect to any election to Federal office, which in the aggregate, exceed $1,000. Sections 110.1(2)(ii)(A) and (B) define "[w]ith respect to any election" as contributions which are received without a written designation for a particular election which must be designated for the primary election if made on or before the primary election and must be designated for the general election if made after the date of the primary election.

While it appears that Citizens for Jack Kemp was successful in having $1,000 of the contribution redesignated to the general election, there is no evidence that Citizens for Jack Kemp was able to have the remaining $2,000 reattributed and redesignated to Mrs. Corbin. Thus, Mr. Corbin violated 2 U.S.C. § 441a(a)(1)(A) by making the $4,000 contribution to the Citizens for Jack Kemp Committee. Therefore, this Office recommends that the Commission find probable cause to believe that Donald R. Corbin violated 2 U.S.C. § 441a(a)(1)(A).

III. GENERAL COUNSEL'S RECOMMENDATION

1. Find probable cause to believe that Donald R. Corbin violated 2 U.S.C. § 441a(a)(1)(A).

6/20/88
Date

Lawrence M. Noble
General Counsel

9904070010

GC(#9604

PIPER & MARBURY

1200 NINETEENTH STREET, N.W.
WASHINGTON, D.C. 20036
202-861-3900
TELECOPIER 202-223-2085
CABLE PIPERMAR WSH
TELEX 904246

JOHN J. DUFFY
DIRECT DIAL NUMBER
202-861-3938

1100 CHARLES CENTER SOUTH
36 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201
301-539-2530

June 27, 1988

RECEIVED
FEDERAL ELECTION COMMISSION
88 JUN 27 PM 4:46

Lawrence M. Noble, Esq.
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

Attn: Sandra Dunham, Esq.

Re: MUR 2570

Dear Mr. Noble:

We submit herewith a Statement of Designation of Counsel authorizing the undersigned to represent Donald R. Corbin in the above-referenced proceeding.

If you have any questions concerning this matter, please contact me.

Sincerely,

John J. Duffy

JJD:dp
cc: Scott B. Mackenzie

90040010

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2570

NAME OF COUNSEL: John J. Duffy, Esq.

ADDRESS: Piper & Marbury
1200 19th Street, N.W.
Washington, D.C. 20036

TELEPHONE: 202/861-3938

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

6-23-88
Date

Signature

RESPONDENT'S NAME: Donald R. Corbin

ADDRESS: CYP, Inc.
17992 Mitchell South
Irvine, CA 92714

HOME PHONE:

BUSINESS PHONE: 714/660-0970

90040070109

OCC#9615

RECEIVED
FEDERAL ELECTION COMMISSION
ADMINISTRATIVE DIVISION
88 JUN 24 PM 3: 36

LAW OFFICES
MILLER, CASSIDY, LARROCA & LEWIN
2555 M STREET, N. W. SUITE 500
WASHINGTON, D. C. 20037
TELEPHONE
(202) 293-6400
TELECOPIER
(202) 293-1827

HERBERT J. MILLER, JR.
JOHN JOSEPH CASSIDY
RAYMOND G. LARROCA
NATHAN LEWIN
MARTIN D. MINSKER
WILLIAM H. JEFFRESS, JR.
R. STAN MORTENSON
THOMAS B. CARR
JAMIE S. GORELICK
JAMES E. ROCAP, III
STEPHEN L. NIGHTINGALE
SETH P. WAXMAN
DAVID OVERLOCK STEWART
JONATHAN B. SALLET
RANDALL J. TURK

STEPHEN M. MAS[illegible]
[illegible] GOLDWELL, JR.
SCOTT L. NELSON*
CYNTHIA A. THOMAS
DAVID G. WEBBERT*
JULIA E. GUTTMAN
NIKI KUCKES*
ANNE M. COUGHLIN*
JAY L. ALEXANDER
STEVAN E. BUNNELL*
DAVID I. GELFAND*

COURTNEY A. EVANS
WILLIAM W. GREENHALGH
OF COUNSEL

*NOT ADMITTED IN D.C.

June 24, 1988

Hand-Delivered

Sandra Dunham
Federal Election Commission
Office of General Counsel
Sixth Floor
999 E Street, N.W.
Washington, D.C.

RECEIVED
FEDERAL ELECTION COMMISSION
88 JUN 29 AM 11: 38

re: Michael Goland, MUR 2570

Dear Ms. Dunham:

As we discussed by telephone today, I am requesting a 20-day extension of time in which to respond to the letter from Lawrence M. Noble, which I received on June 17th. I will be out of town almost without exception for the next three weeks, and Mr. Goland is in the midst of a business relocation.

Thank you for your consideration.

Yours sincerely,

Seth P. Waxman

Seth P. Waxman

SPW:amf
cc: Michael Goland

9 0 4 0 7 0 1 0 9 9

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 1, 1988

Seth P. Waxman, Esquire
Miller, Cassidy, Larroca & Lewin
2555 M Street, N.W., Suite 500
Washington, D.C. 20037

RE: MUR 2570
Michael Goland

Dear Mr. Waxman:

This is in response to your letter dated June 24, 1988, which we received on June 29, 1988, requesting an extension of 20 days to respond to the Commission's request to produce a document. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on July 22, 1988.

If you have any questions, please contact Sandra Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

9904070110

CCC#966

RECEIVED
FEDERAL ELECTION COMMISSION
ADMINISTRATIVE DIVISION

88 JUN 30 PM 4:31

PIPER & MARBURY

1200 NINETEENTH STREET, N.W.
WASHINGTON, D.C. 20036
202-861-3900
TELECOPIER 202-223-2085
CABLE PIPERMAR WSH
TELEX 904246

JOHN J. DUFFY
DIRECT DIAL NUMBER
202-861-3938

1100 CHARLES CENTER SOUTH
36 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201
301-539-2530

June 30, 1988

RECEIVED
FEDERAL ELECTION COMMISSION
88 JUL -1 AM 11:52

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

Attn: Sandra Dunham, Esq.

Re: MUR 2570
Donald R. Corbin

Dear Mr. Noble:

On behalf of Donald R. Corbin, we request a 20-day extension of time in which to file our reply to the General Counsel's brief. By our calculations, our reply is now due on July 11, 1988. We request an extension up to and including August 1, 1988.

Good cause exists for the extension requested. Counsel needs to review records of the Citizens for Jack Kemp, which records are not readily available, and will take time to locate. In addition, pressure of other work requires this brief extension.

Sincerely,

John J. Duffy

JJD:dp
cc: Mr. James L. Thomas

9904070111

rlm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 7, 1988

John J. Duffy, Esquire
Piper & Marbury
1200 Nineteenth Street, N.W.
Washington, D.C. 20036

RE: MUR 2570
Donald R. Corbin

Dear Mr. Duffy:

This is in response to your letter dated June 30, 1988, which we received on July 1, 1988, requesting an extension of 20 days to respond to the General Counsel's brief. After considering the circumstances presented in your letter, I have granted the extension. Accordingly, your response is due by the close of business on August 1, 1988.

If you have any questions, please contact Sandra J. Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

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GCC #9759

RECEIVED
FEDERAL ELECTION COMMISSION
ADMINISTRATIVE DIVISION
88 JUL 12 PM 3:03

LAW OFFICES
WUNDER & DIEFENDERFER
1615 L STREET, N. W., SUITE 650
WASHINGTON, D. C. 20036
(202) 659-3005
TELECOPIER: 659-3010

July 12, 1988

Thomas Josefiak
Chairman
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

RECEIVED
FEDERAL ELECTION COMMISSION
88 JUL 13 AM 9:50

Re: MUR 2570
Designation of Counsel

Dear Mr. Chairman:

Enclosed, please find an original letter from Congressman Kemp designating me as new counsel in the matter pending before the Commission in regard to Citizens for Jack Kemp; i.e. MUR 2570.

Please have all future correspondence forwarded to my office.

Thank you for your attention to this matter.

Very truly yours,

Paul E. Sullivan

Paul E. Sullivan

cc: Lawrence M. Noble
David Hoppe
Anne Stanley

9040210

RECEIVED
FEDERAL ELECTION COMMISSION
ADMINISTRATIVE DIVISION
88 JUL 12 PM 3:03

JACK KEMP

July 11, 1988

Thomas Josefiak
Chairman
Federal Election Commission
999 E St. NW
Washington, D.C. 20463

Dear Sir:

This is to inform you that Paul Sullivan, Esq., has been named counsel of record to Citizens for Jack Kemp. He is authorized to make and receive communications on behalf of Citizens for Jack Kemp.

Sincerely yours,

Jack Kemp

Jack Kemp

NOT PRINTED AT GOVERNMENT EXPENSE

6CC#9917

PIPER & MARBURY
1200 NINETEENTH STREET, N.W.
WASHINGTON, D.C. 20036
202-861-3900
TELECOPIER 202-223-2085
CABLE PIPERMAR WSH
TELEX 904246

JOHN J. DUFFY
DIRECT DIAL NUMBER
202-861-3938

1100 CHARLES CENTER SOUTH
36 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201
301-539-2530

July 26, 1988

88 JUL 26 AM 11:40
RECEIVED
FEDERAL ELECTION COMMISSION

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

Attn: Sandra J. Dunham, Esq.

Re: MUR 2570
Donald R. Corbin

Dear Mr. Noble:

We submit on behalf of Donald R. Corbin a request for an additional 10-day extension of the time in which to file a response to the General Counsel's Brief in this matter. Mr. Corbin's response is due now on August 1, 1988. We request an extension up to and including August 11, 1988.

Good cause exists to support the extension requested. Additional time is needed to obtain relevant information from the Citizens for Kemp Committee, to review that information in conjunction with Mr. Corbin, and to prepare a response. For these reasons, we request respectfully that the time for Mr. Corbin to respond to the General Counsel's Brief in this matter be extended up to and including August 11, 1988.

Sincerely,

John J. Duffy

JJD:dp

9904070011

6CC#9926
RECEIVED
FEDERAL ELECTION COMMISSION
ADMINISTRATIVE DIVISION
88 JUL 22 PM 12:53

LAW OFFICES
MILLER, CASSIDY, LARROCA & LEWIN
2555 M STREET, N. W. SUITE 500
WASHINGTON, D. C. 20037
TELEPHONE
(202) 293-6400
TELECOPIER
(202) 293-1827

HERBERT J. MILLER, JR.
JOHN JOSEPH CASSIDY
RAYMOND G. LARROCA
NATHAN LEWIN
MARTIN D. MINSKER
WILLIAM H. JEFFRESS, JR.
R. STAN MORTENSON
THOMAS B. CARR
JAMIE S. GORELICK
JAMES E. ROCAP, III
STEPHEN L. NIGHTINGALE
SETH P. WAXMAN
DAVID OVERLOCK STEWART
JONATHAN B. SALLET
RANDALL J. TURK

J. W. CALDWELL, JR.
SCOTT L. NELSON
CYNTHIA A. THOMAS
DAVID G. WEBBERT*
JULIA E. GUTTMAN
NIKI KUCKES*
ANNE M. COUGHLIN*
JAY L. ALEXANDER
STEVAN E. BUNNELL*
DAVID I. GELFAND*

COURTNEY A. EVANS
WILLIAM W. GREENHALGH
OF COUNSEL

*NOT ADMITTED IN D.C.

July 22, 1988

Hand-Delivered

Sandra Dunham
Federal Election Commission
Office of General Counsel
Sixth Floor
999 E Street, N.W.
Washington, D.C.

88 JUL 27 AM 11:09
RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

re: Michael Goland, MUR 2570

Dear Ms. Dunham:

Enclosed, per the request of Lawrence M. Noble dated June 13, 1988, is a copy of the $4,000 check Mr. and Mrs. Goland provided to Citizens for Jack Kemp. As I predicted in our telephone conversation, the check bears only one signature. Actually, though, it is the signature of neither Mr. and Mrs. Goland. See 11 C.F.R. § 104.8(c) (1986). In view of the otherwise uncontradicted evidence that the check was intended, presented, and understood as a joint contribution, I do not believe any justifiable basis exists for proceeding against Mr. Goland. If the Commission or its staff feels differently, I would appreciate the opportunity for a conference before any action is taken.

Yours sincerely,

Seth P. Waxman

Seth P. Waxman

SPW:amf
Enclosure

9904070110

RECEIVED
FEDERAL ELECTION COMMISSION
ADMINISTRATIVE DIVISION

88 JUL 22 PM 12: 53

10

MICHAEL GOLAND
818-888-0355
5311 TOPANGA CANYON BLVD.
WOODLAND HILLS, CA 91364

7/8/1986

80-1046/1222

PAY TO THE ORDER OF Kemp for Congress $ 4000 —

four thousand & 00/100 DOLLARS

INDUSTRIAL BANK
5805 SEPULVEDA BLVD.
VAN NUYS, CALIFORNIA 91411

MEMO

⑆122240463⑈0105⑈00⑆⑈402455⑈

tlm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 28, 1988

John J. Duffy, Esquire
Piper & Marbury
1200 Nineteenth Street, N.W.
Washington, D.C. 20036

RE: MUR 2570
Donald R. Corbin

Dear Mr. Duffy:

This is in response to your letter dated July 26, 1988, which we received on July 26, 1988, requesting an additional extension of 10 days to respond to the General Counsel's Brief. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on August 11, 1988.

If you have any questions, please contact Sandra Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

9904076018

GCC# 25

LAW OFFICES
MILLER, CASSIDY, LARROCA & LEWIN
2555 M STREET, N. W. SUITE 500
WASHINGTON, D. C. 20037
TELEPHONE
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HERBERT J. MILLER, JR.
JOHN JOSEPH CASSIDY
RAYMOND G. LARROCA
NATHAN LEWIN
MARTIN D. MINSKER
WILLIAM H. JEFFRESS, JR.
R. STAN MORTENSON
THOMAS B. CARR
JAMIE S. GORELICK
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STEPHEN L. NIGHTINGALE
SETH P. WAXMAN
DAVID OVERLOCK STEWART
JONATHAN B. SALLET
RANDALL J. TURK

STEPHEN L. BRAGA
J. R. CALDWELL, JR.
SCOTT L. NELSON
CYNTHIA A. THOMAS
DAVID G. WEBBERT*
JULIA E. GUTTMAN
NIKI KUCKES*
ANNE M. COUGHLIN*
JAY L. ALEXANDER
STEVAN E. BUNNELL*
DAVID I. GELFAND*

COURTNEY A. EVANS
WILLIAM W. GREENHALGH
OF COUNSEL

*NOT ADMITTED IN D.C.

August 5, 1988

BY HAND DELIVERY

Saundra Dunham
Federal Election Commission
Office of General Counsel
Sixth Floor
999 E Street, N.W.
Washington, D.C.

RECEIVED
FEDERAL ELECTION COMMISSION
88 AUG -5 PM 2:19

re: Michael Goland, MUR 2570

Dear Ms. Dunham:

Per our telephone conversation this week, Mr. Goland requests pre-probable cause conciliation. Provided that a conciliation agreement recites that Mr. and Mrs. Goland intended the contribution to be joint and so advised the Kemp campaign, I believe this matter can be settled.

Yours sincerely,

Seth P. Waxman/AR

Seth P. Waxman

SPW:amf

9904070117

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
88 AUG 11 PM 4:52

GCC#89

PIPER & MARBURY
1200 NINETEENTH STREET, N.W.
WASHINGTON, D.C. 20036
202-861-3900
TELECOPIER 202-223-2085
CABLE PIPERMAR WSH
TELEX 904246

JOHN J DUFFY
DIRECT DIAL NUMBER
202-861-3938

1100 CHARLES CENTER SOUTH
36 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201
301-539-2530

August 11, 1988

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

Re: MUR 2570
Donald R. Corbin

Dear Sir:

We submit herewith the Brief of Donald R. Corbin in the above-referenced matter. The signed originals of the statements of Donald R. Corbin and Mrs. Corbin have not yet been received. They will be supplied immediately upon receipt, and we hereby request leave of the Commission to do so.

Sincerely,

John J. Duffy

JJD:dp
cc: Lawrence M. Noble, Esq.
Office of General Counsel

9 9 0 4 0 7 0 0 1 2 0

BEFORE THE
FEDERAL ELECTION COMMISSION

88 AUG 11 PM 4:53
RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

In The Matter Of	)	
	)	MUR 2570
Donald R. Corbin	)	

BRIEF OF DONALD R. CORBIN

Donald R. Corbin, by his attorneys, submits this response to the General Counsel's Brief. In his Brief, the General Counsel contends that Mr. Corbin violated 2 U.S.C. §441a(a)(1)(A) by sending a $4,000 check to Citizens for Jack Kemp. For the reasons set forth below, we strongly disagree.

Statement of Facts

Prior to the 1986 primary election in New York State, Donald R. Corbin sent a $4,000 check to Citizens for Jack Kemp ("CFJK"). As Mr. Corbin and his representatives have told the Commission's staff on several occasions, and as he reiterates here (Statement of Donald R. Corbin, attached as Appendix A), the $4,000 check represented $1,000 contributions by Mr. Corbin and his wife, Janet H. Corbin, with respect to both the 1986 primary and the 1986 general elections.

Mr. Corbin was not aware, however, of the need to indicate on the check, or in accompanying documentation, his

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intention to contribute $1,000 with respect to the primary and $1,000 with respect to the general election. Nor was he aware of the need to have his wife sign the check to allow a portion of the face amount to be attributed to her, or the need to have her also indicate her intention to make contributions in each of these two elections. Had Mr. Corbin known about these requirements, he would, of course, have complied with them. (See Appendix A.)

When CFJK received Mr. Corbin's check, CFJK deposited it in an "escrow" account that was segregated from its regular account. On October 1, 1986, CFJK sent Mr. Corbin two letters, attached hereto as Appendix B. The cover letter told Mr. Corbin to complete the second letter and return it on or before October 15, 1986. The second letter thanked Mr. Corbin for his $4,000 contribution, noted that the contribution exceeded the amount allowable for a single election, and asked Mr. Corbin to confirm his intention to contribute to both the primary and the general elections. The letter stated:

> "Please check your confirmation of the below indications of usage of your contributions:
>
> _____ $1,000 contribution, received 7-18-86 for the Primary, and $1,000 received 7-18-86 for the General Election."

This letter did not address the remaining $2,000, and it did not ask Mr. Corbin to obtain from his wife the documentation necessary to attribute the remaining $2,000 to her and to designate that contribution to the primary and

9904070122

general elections.[1/] Mr. Corbin promptly completed and returned the designation documentation provided by the Committee.[2/] On October 31, 1988, CFJK refunded the remaining $2,000 to Mr. Corbin.

In a letter dated January 19, 1988, more than a year and a half after Mr. Corbin wrote the $4,000 check to CFJK, the Commission informed Mr. Corbin that it had found reason to believe that he had violated 2 U.S.C. §441a(a)(1)(A). In the Factual and Legal Analysis that accompanied the Commission's letter, the General Counsel stated that "RAD [Reports Analysis Division] has identified a contribution to [CFJK] from Donald R. Corbin for $4,000 . . . the excessive portion of which was not refunded within a reasonable time," as required by 11 C.F.R. §103.3(b), and therefore, "there is reason to believe that Donald R. Corbin violated 2 U.S.C. §441a(a)(1)(A)." The Factual and Legal Analysis did not mention Mr. Corbin's redesignation letter.

1/ In his Brief (p. 1), the General Counsel states that "Citizens for Jack Kemp contacted Mr. Corbin in order to reattribute and/or redesignate the $4,000 contribution. This is incorrect. CFJK contacted Mr. Corbin only in order to redesignate the contribution. The General Counsel also states (Brief at 2) that "there is no evidence that CFJK was able to have the remaining $2,000 reattributed and redesignated to Mrs. Corbin." Actually, the evidence reflects that CFJK made no effort to have the contribution reattributed.

2/ Mr. Corbin signed the redesignation letter on October 10, 1988.

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Mr. Corbin received the Commission's letter on February 2, 1988. On February 5, 1988, he wrote to the attorney in charge of the investigation a letter, attached hereto as Appendix C. This letter stated:

> My defenses to your questions is quite simple and as follows:
>
> 1. I profess ignorance of all the code sections and laws you have quoted and yes, I did donate $4,000 on behalf of myself and my spouse and my family.
>
> 2. Apparently Jack Kemp's Committee was more familiar with these laws and regulations and refunded in what appears to me "a timely manner" all but the $2,000 from myself and my wife, Jan Corbin, which it felt was legal.
>
> In closing, if my layman's interpretation of page one of your "Factual and Legal Analysis" is correct, I initially may have over contributed funds to Jack Kemp's Committee, but the excess was refunded "within a reasonable time". The remaining $2,000 was a contribution of community funds by my wife and myself, so therefore, I should not be in violation of the quoted regulations and codes.
>
> <u>If I am misinterpreting what you want from me</u>, or if it is absolutely necessary that I retain counsel in this matter, <u>please let me know and I will respond</u>. Otherwise please accept the above explanation in response to your questionnaire. (emphasis supplied)

On April 15, 1988, Mr. Corbin received a letter from the General Counsel asking him to telephone. When an employee of Mr. Corbin called, he was told that a response to the reason to believe finding was required, either requesting pre-probable cause conciliation or providing the Commission with evidence that Mr. Corbin did not violate the law. At no time was Mr. Corbin asked to supply any particular evidence of the

9904078024

"legality" of his contribution, such as a statement from his wife confirming Mr. Corbin's statement that a portion of the face amount of the check should be attributed to her and designating her portion of the check to both the primary and general elections.

Argument

A. Introduction

The General Counsel argues in his Brief, as he did in his Factual and Legal Analysis, that Mr. Corbin violated 2 U.S.C. §441a(a)(1)(A) by sending a $4,000 check to CFJK, but he sets forth in his Brief a different rationale for this conclusion than he set forth in his Factual and Legal Analysis.

In the Factual and Legal Analysis, the General Counsel stated that CFJK had received a $4,000 check from Mr. Corbin on August 12, 1986, prior to the New York State primary election, and that CFJK had refunded $2,000 on October 31; he then concluded that Mr. Corbin had violated §441a(a)(1)(A) because CFJK had not refunded the "excessive portion" of the contribution "within a reasonable time," citing §103.3(b) of the Commission's regulations. No mention was made of CFJK's redesignation of $1,000 to the general election, which was made contemporaneously with the refund.

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In his Brief, however, the General Counsel never mentions the refund, or timeliness, nor does he cite §103.3(b) of the regulations. Instead, he argues that:

> "While it appears that Citizens for Jack Kemp was successful in having $1,000 of the contribution redesignated to the general election, there is no evidence that Citizens for Jack Kemp was able to have the remaining $2,000 reattributed and redesignated to Mrs. Corbin. Thus, Mr. Corbin violated 2 U.S.C. §441a(a)(1)(A) by making the $4,000 contribution to the Citizens for Jack Kemp Committee."

B. Mr. Corbin's Check Constituted A Joint Contribution By Himself And His Wife With Respect To Both The Primary And The General Elections, And Consequently, The Check Did Not Constitute An Excess Contribution In Violation Of §441a(a)(1)(A) With Respect To The Primary Election.

As we read the General Counsel's Brief, he concedes that the reattribution documentation obtained by CFJK confirmed the legality of $2,000 of the $4,000 check,[3/] but contends that the remaining $2,000 constituted an excess contribution because CFJK was unable to have it "reattributed" and redesignated to Mrs. Corbin. He makes this argument notwithstanding Mr. Corbin's repeated assertions that the "contribution was on behalf of himself and his wife." (Appendix C; see also Brief at 1.)

3/ Although we had previously understood the Commission to require contemporaneous designation, we agree that an undocumented intent to contribute to an election other than the election presumed by §110.1(2)(iii)(A) & (B) prevents a violation. (See 2 U.S.C. §431(8)(A)(i): "for the purpose of influencing" a federal election.)

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The General Counsel's refusal to credit Mr. Corbin's assertion appears to be based, at least in part, on his erroneous belief that CFJK attempted to have the contribution "reattributed and/or redesignated" to Mrs. Corbin and was unable to obtain the required documentation. (See Brief at 1.) As we have shown, however, CFJK did not, in fact, seek to obtain "reattribution and/or redesignation" to Mrs. Corbin, only a redesignation by Mr. Corbin to the primary and general elections.

To establish the bona fides of Mr. Corbin's assertions, we submit the statement of Donald R. Corbin (Appendix A) and the statement of Mrs. Donald R. Corbin (Appendix D) confirming that the $4,000 check constituted a joint contribution to both the primary and general elections. We submit, respectfully, however, that if reattribution/redesignation documentation from Mrs. Corbin is sufficient to resolve this matter, it could have, and should have, been obtained by the General Counsel during his investigation. In response to the Commission's January 19 letter informing Mr. Corbin that it had found reason to believe he had violated §441a(a)(1)(A), Mr. Corbin told the General Counsel that the $4,000 check was a joint contribution from him and his wife, and asked for guidance with respect to the type of evidence that would establish the legality of his contribution. (Appendix C.) Surely, at this point, the General

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Counsel could have told Mr. Corbin that a statement from his wife reattributing or redesignating the contribution would resolve this matter. Or the General Counsel could have written to Mrs. Corbin himself as part of his "investigation" to verify Mr. Corbin's statements. Had this been done, both Mr. Corbin and the Commission would have been saved considerable effort and money.

C. Where, As Here, A Committee Deposits A Person's Check In A Segregated Escrow Account, A Contribution Is Not "Made" For Purposes Of 2 U.S.C. §441a(a)(1)(A) Until The Money Is Transferred To The Committee's Regular Account.

Title 2 U.S.C. §441a(a)(1)(A) provides that no person shall "make" a contribution in excess of certain amounts. Where, as here, a committee deposits a contribution in a segregated escrow account, a contribution is not "made" for purposes of §441a(a)(1)(A) until the money is transferred to the committee's regular account. Until that time, the committee acts voluntarily as the agent for the contributor, subject to his direction and control. (See, e.g., §110.1(b)(5)(ii)(A); §9003.3(1)(B)(iii).)

The interpretation of the term "make" that we advance here is not inconsistent with §110.1(b)(6) of the Commission's regulations. Section 110.1(b)(6) does not address directly the deposit of a check into an escrow account. Moreover, it presumes a contribution to be made when the contributor relinquishes control. When a committee deposits a party's

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check in an escrow account, the future disposition of the monies is subject to the party's future direction and control, with the committee acting only as the party's agent.

In addition, any other interpretation of §441a(a)(1)(A) would raise significant problems of constitutionality, for it would result in a burden on First Amendment activity without any substantial governmental interest to justify it. See, e.g., Buckley v. Valeo, 424 U.S. 1 (1976); FEC v. Massachusetts Citizens for Life, Inc., 107 S.Ct. 616 (1986). Monies deposited in an escrow account are quite simply incapable of influencing a federal election, and the application of sanctions to a person whose monies are so isolated serves no governmental purpose.

Conclusion

For the reasons given above, we submit that the Commission should find no probable cause to believe that Donald R. Corbin has violated 2 U.S.C. §441a(a)(1)(A).

Respectfully submitted,

DONALD R. CORBIN

By _____
John J. Duffy

PIPER & MARBURY
1200 19th Street, N.W.
Washington, D.C. 20036
(202) 861-3938

Dated: August 11, 1988

9 9 0 4 0 7 0 1 2 7

APPENDIX A

Statement of Donald R. Corbin

As the result of a Notice received from the Federal Election Commission last February, indicating a possible violation of the "Federal Election Campaign Act" and the resulting conversations and correspondence with the Jack Kemp Committee, legal council, the FEC, etc., I have, to the best of my ability, refreshed my memory back to the time when the campaign contributions were originally made. I submit the following:

a. The reason that the contribution was in the amount of $4,000.00, is that it was always my intention that I was contributing $1,000 to the "primary" and $1,000 to the "general" election on behalf of myself; and likewise $1,000 to the "primary" and $1,000 to the "general" election on behalf of my wife, Janet H. Corbin.

b. I did not designate the allocation of the $4,000.00 campaign contribution to the Jack Kemp Committee at the time the contribution was made because I was unaware that it was necessary to do so.

c. Had I been aware that such a formal process existed, I assure you that I would have followed the prescribed procedures explicitly.

I declare under penalty of perjury that the foregoing is true and correct.

[Signature]

August __, 1988

09040701130

APPENDIX B

October 1, 1988

Mr. Donald R. Corbin
17992 Mitchell South
Irvine, CA 92714

Dear Don:

Federal Election Laws require CITIZEN'S FOR JACK KEMP to indicate usage of each contribution.

To comply with these regulations it is necessary for CFJK to receive the completed attached letter from you. If we do not receive this information on or before October 15th it will be necessary to return your contribution. I have enclosed a self addressed, stamped envelope for your convenience.

If you should have any questions concerning this matter please do not hesitate to contact me.

Thank you for your help, and I apologize for any inconvenience.

Sincerely,

Judith Kosher Bassini
Office Administrator

ENC.

90040701310

Post Office Box 217, Hamburg, New York 14075
Approved and paid for by Citizens for Jack Kemp

Donald R. [redacted]
17992 Mitchell South
Irvine, CA 92714

Dear Don:

Thank you for your recent contribution to CITIZENS FOR JACK KEMP in the sum of $4,000. Our records indicate your contributions to date exceed the amount allowable under the Federal Election Law for "an election" thus, the Federal Election Law requires that we obtain certain information from you.

Please check your confirmation of the below indications of usage of your contributions:

X $1,000 contribution, received 7-18-86 for the Primary, and $1,000 received 7-18-86 for the General Election.

If the above distribution does not meet with your satisfaction please do not hesitate to contact me.

Please use the enclosed self-addressed, stamped envelope to return this letter after you have signed where indicated below.

Thank you for your help, and I apologize for the inconvenience.

Sincerely,

Malcolm K. Buckley, Jr.
Treasurer
Citizens for Jack Kemp

ENC.

10/10/86
Your signature

Post Office Box 217, Hamburg, New York 14075
Approved and paid for by Citizens for Jack Kemp

92040701132

APPENDIX C

February 5, 1988

"CERTIFIED - RETURN RECEIPT REQUESTED"

FEDERAL ELECTION COMMISSION
Washington, D.C. 20463

Attention: Sandra Dunham

Re: MUR 2570

Dear Ms. Dunham:

I received the enclosed Notice, February 2, 1988. I have several questions with this Notice which I feel compelled to relate to you.

1. The letter, if it's meant to be sent to a layman like myself, is unintelligible in my opinion to anyone except an expert legal counsel.

2. I am not sure what you mean by "factual or legal materials .... relevant to the Commission"?

3. I am not sure what you mean by "pre-probable cause conciliation .... See 11 C.F.R. § 111.18(d)"?

What I am saying is that I have a philosophical problem with retaining an expensive attorney over what appears to be a net $2,000 political contribution by myself. I confess I am ignorant of all the code sections you have cited in the letter and any seriousness relating to "possible" violations by myself of "laws" created in Washington, D.C. by my donation.

My defenses to your questions is quite simple and as follows:

1. I profess ignorance of all the code sections and laws you have quoted and yes, I did donate $4,000 on behalf of myself and my spouse and my family. Not being a bureaucrat politician, nor an attorney, I was totally unfamiliar with all code sections you have cited.

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2. Apparently Jack Kemp's Committee was more familiar with these laws and regulations and refunded in what appears to me "a timely manner" all but the $2,000 from myself and my wife, Jan Corbin, which it felt was legal.

In closing, if my layman's interpretation of page one of your "Factual and Legal Analysis" is correct, I initially may have over contributed funds to Jack Kemp's Committee, but the excess was refunded "within a reasonable time". The remaining $2,000 was a contribution of community funds by my wife and myself, so therefore, I should not be in violation of the quoted regulations and codes.

If I am misinterpreting what you want from me, or if it is absolutely necessary that I retain counsel in this matter, please let me know and I will respond. Otherwise please accept the above explanation in response to your questionnaire.

Yours very truly,

Donald R. Corbin

Donald R. Corbin

DRC:prs

cc: file

Encls.

09040070134

APPENDIX D

Statement of Mrs. Donald R. Corbin

This is to confirm my intention to make, by the check dated 7/18/86 and signed by my husband, Donald R. Corbin, a contribution of $1,000 to Citizens for Jack Kemp with respect to the 1986 primary election and a contribution of $1,000 to Citizens for Jack Kemp with respect to the 1986 general election.

I declare under penalty of perjury that the foregoing is true and correct.

_____
[Signature]

August __, 1988

0218k

9904076013

OCC#98

CYP, INC.
A SUBSIDIARY OF CORBIN/YAMAFUJI AND PARTNERS, INC.
ARCHITECTURE/PLANNING

17992 MITCHELL SOUTH
IRVINE, CA 92714
PHONE (714) 660-0970

RECEIVED
FEDERAL ELECTION COMMISSION
88 AUG 12 AM 9:26

August 3, 1988

PIPER AND MARBURY
1200 Nineteenth Street N.W.
Washington, D.C. 20036

Attention: John J. Duffy

Subject: MUR 2570 - Donald R. Corbin

RECEIVED
FEDERAL ELECTION COMMISSION
88 AUG 12 PM 12:19

90040701360

Dear Mr. Duffy:

As the result of a Notice received from the Federal Election Commission last February, indicating a possible violation of the "Federal Election Campaign Act" and the resulting conversations and correspondence with the Jack Kemp Committee, legal council, the FEC, etc., I have, to the best of my ability, refreshed my memory back to the time when the campaign contributions were originally made. I submit the following:

a. The reason that the contribution was in the amount of $4,000.00, is that it was always my intention that I was contributing $1,000 to the "primary" and $1,000 to the "general" election on behalf of myself; and likewise $1,000 to the "primary" and $1,000 to the "general" election on behalf of my wife, Janet H. Corbin.

b. I did not designate the allocation of the $4,000.00 campaign contribution to the Jack Kemp Committee at the time the contribution was made because I was unaware that it was necessary to do so.

c. Had I been aware that such a formal process existed I assure you that I would have followed the prescribed procedures explicitly.

If you have any questions or comments, please feel free to call myself or Jim Thomas as 714/660-0970.

Sincerely,

Donald R. Corbin

DRC:prs

cc: Federal Election Commission
file

IN FORT LAUDERDALE, FL PHONE (305) 462-4944

GCC#165

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

88 AUG 19 PM 3:53

PIPER & MARBURY
1200 NINETEENTH STREET, N.W.
WASHINGTON, D.C. 20036
202-861-3900
TELECOPIER 202-223-2085
CABLE PIPERMAR WSH
TELEX 904246

JOHN J. DUFFY
DIRECT DIAL NUMBER
202 861 3938

1100 CHARLES CENTER SOUTH
36 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201
301-539-2530

August 19, 1988

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

Re: MUR 2570
Donald R. Corbin

Dear Sir:

We enclose for association with our Brief, which was filed in the above-referenced matter on August 11, 1988, signed statements of Mr. Donald R. Corbin and Mrs. Donald R. Corbin.

If you have any questions concerning this matter, please contact the undersigned.

Sincerely,

John J. Duffy

JJD:dp
cc: Lawrence M. Noble, Esq.
Office of General Counsel

9904076137

STATEMENT OF MR. DONALD R. CORBIN

The reason that the contribution was in the amount of $4,000.00, is that it was always my intention that I was contributing $1,000 to the "primary" and $1,000 to the "general" election on behalf of myself; and likewise $1,000 to the "primary" and $1,000 to the "general" election on behalf of my wife, Janet H. Corbin.

I did not designate the allocation of the $4,000.00 campaign contribution to the Jack Kemp Committee at the time the contribution was made because I was unaware that it was necessary to do so.

Had I been aware that such a formal process existed I assure you that I would have followed the prescribed procedures explicitly.

I declare under penalty of perjury that the foregoing is true and correct.

Donald R. Corbin

Donald R. Corbin

August 12, 1988

90040760136

Statement of Mrs. Donald R Corbin

This is to confirm my intention to make, by the check dated 7/18/86 and signed by my husband, Donald R. Corbin, a contribution of $1,000 to Citizens for Jack Kemp with respect to the 1986 primary election and a contribution of $1,000 to Citizens for Jack Kemp with respect to the 1986 general election.

I declare under penalty of perjury that the foregoing is true and correct.

Janet Helen Corbin

Janet Helen Corbin

August 10, 1988

09040701137

GCC#172

R. Douglas Krotzer

August 15, 1988

89 AUG 22 PM 4:52

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

Dear Mr. Noble:

SUBJECT: "MUR 2570"
Your letter dated August 2, 1988

Your letter to me dated August 2, 1988 has just reached my attention since I have been travelling and working out of my other office. Enclosed is an executed copy of the Conciliation Agreement as you have requested. You have already received my personal check dated June 22, 1988 for $500.00 which you have cashed and thus, this document and that payment should end this inquiry.

As I explained to Sandra Dunham, I am entering into this agreement because it does not appear to be worth my time and effort to contest it; but, I have a number of problems with the process whereby you operate and with the agreement itself.

My major concern goes to the fact that you are holding individual citizens liable for a complete understanding of a new and complex law. In this case, I relied on the advise of Jack Kemp's political and financial advisors that the $2,000 contribution attributing $1,000 to the Primary and $1,000 to the General election was legal, in addition to the $1,000 contribution made in the prior year. Once they determined their advice was inaccurate, they refunded the money.

Our "Conciliation Agreement" specifically recites items which do not convey the impression that all parties were trying to comply with the law and Miss Dunham was unwilling to so indicate even though the facts were quite fully before her in the proposed Conciliation Agreement dated June 11 as modified by me. Thus, anyone reading this Conciliation Agreement would not understand the facts as they developed

35 FIDDLERS GREEN
EAST AMHERST, NEW YORK 14051

09040701040

More importantly, the agreement recites that it "has the effect of an agreement entered pursuant to 2 U.S.C. S 441a(a) (1) (A)". I am signing this agreement with the guess that this section says I will not contribute more than $1,000 to an individual politician's individual campaign in the future. I do feel that the FEC should have informed me as to what that section means if it means anything different and probably should have informed me in any event. I have no trouble agreeing with what I guess this section means since, as a result of what I believe to be your unreasonable enforcement techniques, I have resolved to never make future political contributions to individual politicians. In my view, that represents a denial of free speech and it also represents a weakening of the entire election process -- that has to be the effect of the way you are currently enforcing this otherwise good law.

Sincerely,

R. Douglas Krotzer

RDK:sh
Attachment

9 9 0 4 0 7 0 1 4 1

BEFORE THE FEDERAL ELECTION COMMISSION

FEDERAL

In the Matter of)
)
R. Douglas Krotzer) MUR 2570
)

88 SEP -2 AM 2:34

SENSITIVE

GENERAL COUNSEL'S REPORT

I. **BACKGROUND**

Attached is a conciliation agreement which has been signed by R. Douglas Krotzer.

The attached agreement contains no changes from the agreement approved by the Commission on July 29, 1988. A $500.00 check for the civil penalty has been received.

II. **RECOMMENDATIONS**

1. Accept the attached conciliation agreement with R. Douglas Krotzer.

2. Close the file as to this respondent.

3. Approve the attached letter.

Date 9/2/88

Lawrence M. Noble
General Counsel

Attachments
1. Conciliation Agreement
2. Photocopy of civil penalty check
3. Letter to Respondent

Staff Assigned: Sandra J. Dunham

2 0 0 4 0 7 0 1 4 7

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2570
R. Douglas Krotzer	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on September 8, 1988, the Commission decided by a vote of 6-0 to take the following actions in MUR 2570:

1. Accept the conciliation agreement with R. Douglas Krotzer, as recommended in the General Counsel's report signed September 2, 1988.

2. Close the file as to this respondent.

3. Approve the letter, as recommended in the General Counsel's report signed September 2, 1988.

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

Attest:

9-8-88
Date

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

Received in the Office of Commission Secretary:	Fri.,	9-2-88,	2:34
Circulated on 48 hour tally basis:	Tues.,	9-6-88,	11:00
Deadline for vote:	Thurs.,	9-8-88,	11:00

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pln

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 12, 1988

R. Douglas Krotzer
325 Harlem Road
West Seneca, New York 14224

RE: MUR 2570
R. Douglas Krotzer

Dear Mr. Krotzer:

On September 8, 1988, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on your behalf in settlement of a violation of 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter as it pertains to you. This matter will become a part of the public record within 30 days after it has been closed with respect to all other respondents involved. If 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.

Please be advised that information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter has been closed. The Commission will notify you when the entire file has been closed.

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact Sandra J. Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

9904070144

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
R. Douglas Krotzer	)	MUR 2570
	)	

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("the Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that R. Douglas Krotzer ("Respondent") violated 2 U.S.C. § 441a(a)(1)(A).

NOW, THEREFORE, the Commission and the Respondent having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Respondent, R. Douglas Krotzer, is an individual contributor.

2. Respondent made two contributions to Citizens for Jack Kemp; the first one in December, 1985 for $1,000 and the

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second one in March, 1986 for $2,000. Both of these contributions were attributed to the primary election campaign.

3. Respondent did not reattribute any of the excessive $2,000 contribution to the general election. Consequently, Citizens for Jack Kemp refunded the $2,000.

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

VI. Respondent contributed $3,000 to Citizens for Jack Kemp's primary election campaign in violation of 2 U.S.C. § 441a(a)(1)(A). Respondent contends that this was not a knowing and willful violation. Respondent further contends that there would not have been an investigation of this transaction if Citizens for Jack Kemp had refunded the $2,000 in accordance with 11 C.F.R. § 103.3(b).

VII. Respondent will pay a civil penalty to the Federal Election Commission in the amount of Five Hundred dollars ($500.00), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VIII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

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IX. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

X. Respondent shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirement contained in this agreement and to so notify the Commission.

XI. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

Date 9/12/88

FOR THE RESPONDENTS:

R. Douglas Krotzer

Date 8/15/88

9904076017

FEDERAL ELECTION COMMISSION
88 SEP 12 AM 9:39

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Michael Goland	)	MUR 2570
	)	

SENSITIVE
EXECUTIVE SESSION
SEP 20 1988

GENERAL COUNSEL'S REPORT

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I. BACKGROUND

On January 6, 1988, the Commission found reason to believe that Michael Goland violated 2 U.S.C. § 441a(a)(1)(A) by making a $4,000 excessive contribution to Citizens for Jack Kemp. Mr. Goland responded to the Commission's finding, through designated counsel, on February 3, 1988. Mr. Goland asked for and received an extension of time. This Office received a response on February 18, 1988. Counsel was informed that the information provided in the response was insufficient. Therefore, on July 22, 1988, counsel sent another letter along with a copy of the $4,000 check. Counsel requested pre-probable cause conciliation on August 5, 1988. (Attachment 1).

II. ANALYSIS

Pursuant to 11 C.F.R. § 104.8(d)[1/] a contribution which represents contributions by more than one person shall indicate on the written instrument, or on an accompanying written

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1/ 11 C.F.R. § 104.8(d) was amended on April 8, 1987. The regulations in effect prior to this amendment apply to this matter.

statement signed by all contributors, the amount to be attributed to each contributor. Further, 11 C.F.R. § 110.1(a)(1)[2/] states that no person (except multicandidate committees under Section 110.2) shall make contributions to any candidate, his or her authorized political committees or agents with respect to any election to Federal office, which in the aggregate, exceed $1,000. Sections 110.1(2)(ii)(A) and (B) define "[w]ith respect to any election" as contributions which are received without a written designation for a particular election which must be designated for the primary election if made on or before the primary election and must be designated for the general election if made after the date of the primary election.

In a letter dated February 18, 1988, counsel stated that Citizens for Jack Kemp erroneously attributed the $4,000 contribution to Mr. Goland only; he contends that it was supposed to be a joint contribution from Mr. Goland and his wife, Diane West Goland ($1,000 each to the primary campaign and $1,000 each to the general election campaign). In an affidavit submitted with the letter, Mr. Goland attested to these assertions of facts. However, Mr. Goland stated in his affidavit that, at a campaign worker's request, he wrote the breakdown of the $4,000 contribution on a

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2/ 11 C.F.R. § 110.1(a) was also amended on April 8, 1987. The regulations in effect prior to this amendment also apply to this matter.

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piece of paper and gave it to the committee, but he made no mention that his wife signed the accompanying written statement.

This Office contacted counsel concerning the response. He was informed that the information in the affidavit was insufficient, in that we needed some evidence of the signatures of both Mr. and Mrs. Goland either on the check or on the accompanying written statement.

On July 22, 1988, this Office received a copy of the check. It contains neither the signature of Mr. nor that of Mrs. Goland. Rather, it contains the signature of Mr. Goland's accountant and is drawn on an account in the name of Michael Goland. Counsel argued that even though neither signature was on the check, all of the previously submitted materials indicated that the $4,000 was intended as a joint contribution, and, thus, the Commission should take no further action as it pertains to Mr. Goland. In a telephone conversation with a staff person, counsel was informed that this Office could not recommend taking no further action, this response being based upon the amount of the excessive contribution involved. Conciliation was discussed and it was pointed out that this Office must receive a written request for pre-probable cause conciliation prior to conciliation. It was also pointed out that without a request for pre-probable cause conciliation, this Office would be required to go to the next step in the enforcement process. Counsel stated that he would

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promptly send a request to this Office. This Office received the request for pre-probable cause in a letter dated August 5, 1988.

III. DISCUSSION OF CONCILIATION PROVISIONS AND CIVIL PENALTY

IV. RECOMMENDATIONS

1. Enter into conciliation with Michael Goland prior to a finding of probable cause to believe.

2. Approve the attached proposed conciliation agreement and letter.

9/9/88
Date

Lawrence M. Noble
General Counsel

Attachments
1. Request for Conciliation
2. Proposed Conciliation Agreement and letter

Staff Assigned: Sandra J. Dunham

9904076015

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

MEMORANDUM TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS /JOSHUA MCFADDEN

DATE: SEPTEMBER 13, 1988

SUBJECT: OBJECTION TO MUR 2570 - General Counsel's Report Signed September 9, 1988

The above-captioned document was circulated to the Commission on Monday, September 12, 1988 at 4:00 P.M.

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

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

This matter will be placed on the Executive Session agenda for September 20, 1988.

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

9904070154

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2570
Michael Goland	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of September 20, 1988, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in MUR 2570:

1. Enter into conciliation with Michael Goland prior to a finding of probable cause to believe.

2. Approve the proposed conciliation agreement and letter attached to the General Counsel's report dated September 9, 1988.

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

Attest:

9-20-88
Date

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

9904076015

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

September 22, 1988

Seth P. Waxman, Esquire
Miller, Cassidy, Larroca & Lewin
2555 M Street, N.W.
Suite 500
Washington, D.C. 20037

RE: MUR 2570
Michael Goland

Dear Mr. Waxman:

On January 6, 1988, the Federal Election Commission found reason to believe that Michael Goland violated 2 U.S.C. § 441a(a)(1)(A). At your request, on September 20, 1988, the Commission determined to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe.

Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If your client agrees with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

If you have any questions or suggestions for changes in the agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact Sandra J. Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

9904070154

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 24, 1988

Paul E. Sullivan, Esquire
Wunder & Diefenderfer
1615 L Street, N.W.
Suite 650
Washington, D.C. 20036

RE: MUR 2570
Citizens for Jack Kemp and
Malcolm K. Buckley, as
treasurer

Dear Mr. Sullivan:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, on January 6, 1988, the Federal Election Commission found reason to believe that your clients, Citizens for Jack Kemp and Malcolm K. Buckley, as treasurer, violated 2 U.S.C. § 441a(f), and instituted an investigation in this matter.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

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 (ten 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 for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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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 Sandra J. Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Brief

9904070150

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Citizens for Jack Kemp and Malcolm K. Buckley, as treasurer	)	MUR 2570
	)	

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On January 6, 1988, the Commission found reason to believe that Citizens for Jack Kemp and Malcolm K. Buckley, as treasurer (the "Committee"), violated 2 U.S.C. § 441a(f) by knowingly accepting contributions in violation of the limitations imposed on contributions under 2 U.S.C. § 441a.

The basis for this finding was contained in a referral from the Reports Analysis Division ("RAD"). The referral indicated that the Committee had accepted excessive contributions from 63 individuals and 3 partnerships. Most of these excessive contributions were disclosed as being held in what the Committee termed an escrow account for the purpose of seeking attribution or clarification. The Committee would periodically amend its reports to show changes in the status of that separate account after receiving the necessary information from the contributors.

II. ANALYSIS

Pursuant to 2 U.S.C. § 441a(f), no political committee can knowingly accept a contribution in violation of any limitation imposed on contributions or expenditures. The Committee routinely accepted apparent excessive contributions, violating the contribution limits set forth in 2 U.S.C. § 441a. Most of the apparent excessive contributions were placed in a separate

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account for the purpose of "seeking attribution or clarification" pursuant to 11 C.F.R. § 103.3(b)(1).[1/] This regulation stated that all contributions which appeared to be illegal had to be either returned to the contributor or deposited, within ten (10) days of receipt, into the campaign depository and reported. While some of the excessive contributions received by the Committee were reattributed, redesignated or refunded within a reasonable time pursuant to 11 C.F.R. § 103.3(b)(2), the applicable standard at that time, many of the excessive contributions remained in the separate account for sixty (60) days or more. Additionally, the Committee received nine (9) apparent excessive contributions which were never placed in the separate account, but rather into the principal account. The Committee took an average of 68 days to correct the designation or provide a refund for these contributions. Therefore, this Office recommends that the Commission find probable cause to believe that Citizens for Jack Kemp and Malcolm K. Buckley, as treasurer, violated 2 U.S.C. § 441a(f).

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III. GENERAL COUNSEL'S RECOMMENDATION

1. Find probable cause to believe that Citizens for Jack Kemp and Malcolm K. Buckley, as treasurer, violated 2 U.S.C. § 441a(f).

10/27/88
Date

Lawrence M. Noble
General Counsel

1/ 11 C.F.R. § 103.3 was amended on April 8, 1987. The regulations in effect prior to the amendment apply to this matter.

OGC 1692

WUNDER & DIEFENDERFER
1615 L STREET, N.W., SUITE 650
WASHINGTON, DC 20036

(202) 659-3005

PAUL E. SULLIVAN

NOV 17 PM 4:45

November 17, 1988

Lawrence M. Noble, Esq.
General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

HAND DELIVERED

RE: MUR 2570

Dear Mr. Noble:

Enclosed, please find the Probable Cause Response in the abovecaptioned matter.

Very truly yours,

Paul E. Sullivan

Enclosure

cc: Thomas Josefiak, Chairman
Danny L. McDonald, Vice Chairman
Joan D. Aikens
Lee Ann Elliott
Scott E. Thomas
John Warren McGarry

OGC 1092
FEDERAL ELECTION COMMISSION
88 NOV 17 PM 4:45

BEFORE THE FEDERAL ELECTION COMMISSION

In the matter of Citizens for Jack Kemp and Malcolm K. Buckley, as Treasurer	)	MUR 2570 Probable Cause Response

I
INTRODUCTION

Pursuant to 2 U.S.C. 437g (a)(3), this brief is submitted on behalf of Citizens for Jack Kemp and Malcolm K. Buckley, as treasurer (the "Committee") in response to the Commission's general counsel's notice indicating a recommendation of probable cause for a violation of 2 U.S.C. 441a(f). This internally generated matter arose as a result of the committee's activities during the 1986 election cycle. The single issue to be resolved is what constituted a "reasonable time" pursuant to 11 CFR 103.3(b)(2) in 1986 when these activities were occurring. For the reasons setforth below, it is the committee's position that it returned or redesignated the alleged excessive contributions within a "reasonable time"; the statutory standard at the time of the alleged violation. Therefore, the committee requests the commission make a finding of no probable cause and close this matter.

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II
FACTUAL SUMMARY

On January 6, 1988, the commission found reason to believe (RTB) that the committee violated 2 U.S.C. 441a(f) by failing to timely refund or redesignate excessive contributions totalling sixty-three thousand two hundred twelve dollars and fifty cents ($63,212.50) received from some sixty-three (63) individuals and three (3) partnerships[1].

These contributions were properly reported by the committee on its April, July and October quarterly reports, the twelve day pre-primary and the thirty day post election report (see page 1 of commission's Legal and Factual Analysis (LFA hereafter).

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1. The commission also made a finding of RTB but take no further action based on an alleged corporate contribution of $500 from Davis, Barney, and Jones (DBJ) on July 16, 1986. The contribution made was on a DBJ check, dated July 2, 1986 and attributed to Allen Fink, a partner. DBJ was a partnership until it incorporated on July 9, 1986 according to the committee's review of the documents on file with the California Secretary of State's office. Though it is no longer an issue in this matter, the committee's position remains to be that the contribution was properly accepted from a partnership and attributed to a named partner and was not a corporate contribution as alleged by the commission's RTB finding. (See Attachment "A")

9904070161

Commencing in August of 1986, there were a series of requests for further information (RFAIs) issued by the commission, telephone calls, and meetings regarding the manner in which the committee should treat and report the aforementioned questionable contributions (see FLA pages 1-4).

The committee took an average of sixty-eight (68) days to refund or redesignate the contributions (see FLA page 5 and General Counsel's Probable Cause Brief page 2).

In September of 1986, the legal counsel for the committee at the time met with Reports Analysis Division (RAD) staff in order to clarify the information the commission sought through the RFAIs and to review the procedures which the committee employed to refund or redesignate the contributions. There had been ongoing communications by telephone with employees of RAD and of the committee. During these previous discussions, the committee had been instructed by RAD to establish an escrow account into which questionable contributions could be deposited (see ¶ 5 Affidavit of James F. Schoener, Esquire (hereinafter Aff attached hereto as Exhibit B).

The Committee complied with all elements of the guidance provided by the Commission. However, during the course of these various conversations and the aforementioned meeting, there was no indication by staff of what constituted a "reasonable time"

9904076016 2

or specific time parameters during which the refunds were required to be refunded or redesignated (Affidavit ¶ 7).

III
ARGUMENT

A. THE COMMITTEE REFUNDED OR REDESIGNATED THE EXCESSIVE CONTRIBUTIONS WITHIN A REASONABLE TIME.

The issue in this matter does not involve contributions which are excessive or otherwise illegal on their face. Rather, it involves contributions which, when aggregated with past contributions would cause an excessive contribution. The applicable standard in 1986 for determining when these questionable contributions should be refunded, was a "reasonable time" standard.

> When a contribution cannot be determined to be legal, refunds shall be made within a reasonable time, and the treasurer shall note the refund by amending the current report or noting the change on the committee's next required report (11 CFR 103.3(b)(2) revised as of January 1, 1986).

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On its face, the standard of a "reasonable time" is broad and vague and with little direction to the committee which at the time was attempting to diligently determine the basis upon which funds should be redesignated or refunded.

If the commission reflects upon its discussions in 1985 and 1986 regarding the definition of reasonable time under this regulation, it will recall a great divide. Both Congressional principle campaign committees and the 1984 Presidential campaigns saw many instances in which the interpretation of reasonable time varied and which in turn caused a great debate regarding the specified number of days which constituted a reasonable time under this regulatory provision.

By amending this specific provision of the regulations in January, 1987 to specify that such redesignations or reattributions must occur within sixty (60) days of the treasurer's receipt of the contribution, indicates that there was sufficient confusion in the Commission's opinion regarding the interpretation of reasonable time so as to require the regulations to be more specific[2]. However, it is the standard

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2. "If any such contribution (those not excessive on their face but which exceed the aggregate contribution limit) is deposited, the treasurer may request redesignation or reattribution of the contribution by the contributor in accordance with 11 CFR 110.1(b), 110.1(k) or 110.2(b), as appropriate. If redesignation or reattribution is not obtained, the treasurer shall, within sixty (60) days of the treasurer's receipt of the contribution, refund the (Footnote Cont'd on Following Page)

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and the environment of 1986 - not the more specific 1987 regulations - which must be the basis upon which the alleged violation in this MUR is measured. The Committee submits that the sixty-eight (68) day average for the reattribution or refund clearly came within the "reasonable time" standard as applied in 1986.

The discussions between the committee's legal counsel and RAD staff in 1986, occurred during the period in which these aforementioned regulation amendments were being drafted. However, there apparently was no discussion with Committee's counsel regarding specific time limits, (e.g. 60 days) which would constitute a reasonable time. (Affidavit, ¶ 7) It would seem appropriate that if the commission was concerned that the Committee was not complying with a specific time period during which they reattributed or refunded contributions, such specifics should have been communicated to the committee on one of the numerous occasions in which it made inquiries.

Give the absence of such specific direction in 1986, either through regulations or through the informal inquiries with the staff, the committee believed then and submits now that the average sixty-eight (68) days to reattribute or refund the contributions in question clearly fell within the ambit of a

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(Footnote Cont'd)

2. contribution to the contributor. 11 CFR 103.3(b)(3) 52 FR 774 January 9, 1987.

9904073016 5

reasonable time. To argue by taking a mere eight (8) days more than the sixty (60) days now specified in the regulation the Committee somehow took an "unreasonable amount of time" to refund the contributions, is an unjustifible position and, flies in the face of equity in view of the ambiguities of the regulation. In addition, such a judgment cannot be substantiated as being anything but an arbitary time of which the Commission provided no prior notice to the Committee dispite the numerous opportunities.

B. THE COMMITTEE USED DUE DILIGENCE IN ITS ATTEMPT TO COMPLY WITH THE STATUTORY PROVISIONS AND DID NOT BENEFIT FROM THE FUNDS IN QUESTION.

As noted above in the factual summary, the committee made numerous inquiries of the commission and had meetings with the commission staff regarding the method by which to comply with the reasonable time provision of Section 103.3. The committee did establish an escrow account into which the questionable contributions were deposited. (Affidavit ¶ 5) The committee did this on the advice of the commission's staff notwithstanding the fact that the applicable regulations at the time did not so require. See 11 CFR 103.3(b)(1). In addition, the committee sought and complied with reporting advice regarding the memo entry of the refunded or redesignated contributions on the committee's subsequent report. (Affidavit ¶ 6)

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By a virtue of segregating these questionable contributions into an escrow account, the committee had no beneficial use of the funds during the course of the campaign until such time as they were properly redesignated and transferred into the principal account. Therefore, from a policy perspective, there does not appear to be a basis for penalizing the committee at this stage. Clearly, one of the principal policies for this provision is that the committee not be entitled to avail itself of funds which may be excessive. The committee would obviously have a benefit from a cashflow position to utilize these excessive funds during the important days of the campaign if it did not have to refund them to the contributor until a point perhaps subsequent to the date of the election. The committee abided by the policy underlying the law as well as an acceptable interpretation of the reasonable time provision.

In addition, the committee properly reported the various transactions involving these funds. Again, they sought direction from the staff and complied with the provisions of reflecting, by memo entry on subsequent reports, the refunds or reattribution of the contributions in question. (Affidavit ¶ 6) Therefore, from a public disclosure standpoint, the committee was properly disclosing the questionable contributions as was required and this should not subject them to a penalty.

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C. THE COMMITTEE SHOULD NOT BE SUBJECT TO A CIVIL PENALTY GIVEN THEIR LEGAL COMPLIANCE AND FROM THE EQUITIES INVOLVED.

As a summary, it is the committee's position that for the following reasons they should not be subject to a probably cause finding and civil penalty for failure to timely return excessive contributions.

(1) The regulations at the time were very broad and gave no direction to committees.

(2) The committee returned the contributions or redesignated them on an average of sixty-eight (68) days, which was a reasonable time and a mere eight (8) days beyond the specified time period in the present amended regulations.

(3) Given the fact that the committee only had to comply with a standard of "reasonable time", the fact that they complied with the statutory provisions within a mere eight (8) days, would constitute a reasonable time and for the Commission to hold to the contrary would constitute enforcement of an arbitrary time period without giving prior notice to the committee.

9904070168

(4) The committee sought good faith advice from the commission on a number of occasions via phone, letters, and meetings and complied with the advice provided to them so as to avoid the various problems which they presently face with this enforcement action. Again, no specific time period was suggested to the committee as to when redesignation or refunds would be required.

(5) From an equity standpoint, the committee had no beneficial use of the funds in question until lawfully redesignated and in some cases lost use of the funds by virtue of the refunds. Therefore, from a policy position they were in compliance with the spirit of the law as well as the specific requirements of the statute.

IV
CONCLUSION

For the reasons set forth above herein, the committee respectfully requests that the commission make a finding of no probable cause and close this matter.

Respectfully submitted,

Paul E. Sullivan
Counsel to Citizens for Kemp

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EXHIBIT A

FEDERAL ELECTION COMMISSION

In the Matter of

MUR 2570

Citizens for Jack Kemp and
Malcolm K. Buckley, as
Treasurer

Affidavit of James F. Schoener

James F. Schoener being duly sworn, deposes and says as follows:

1. He was formerly counsel for the respondent in this matter and that he dealt with Malcolm K. Buckley, Treasurer, and Erma Fitzpatrick, bookkeeper of the Citizens for Jack Kemp.

2. Citizens for Jack Kemp was the principal campaign committee of Congressman Jack Kemp in the 1986 congressional election.

3. In 1986, 1987 and 1988 he had numerous telephone conversations with members of the staff of the Reports Analysis division and the General Counsel's Office of the Federal Election Commission concerning the subject matter of this MUR.

9904907801170

4. In September of 1986 he personally visited with Peter Kell and Thomas White of the Reports Analysis Division at the offices of the Federal Election Commission to "clear the air" on the procedures to be followed concerning contributions that were in question as to their compliance with the Federal Election Campaign Act.

5. He disclosed to Mr. Kell and Mr. Thomas that Miss Erma Fitzpatrick and Miss Judy Bassini of the Committee had earlier been instructed by long distance telephone conversations with the Federal Election Commission to set up on escrow account into which questioned contributions would be deposited; such an account was established and used for all questioned contributions, and such procedure was confirmed as proper by Mr. Kell and Mr. Thomas.

6. He further disclosed to Mr. Kell and Mr. Thomas that the same persons had been advised to make "memo entry" note of such contributions and to file "memo entry" corrections <u>at the quarterly report</u> and that amendment of such entries need not be made individually as they were determined; they were further advised to show refunds made of those contributions that were determined to be unacceptable (for any reason) in the disbursement schedule filed <u>in the following quarterly report</u>. Mr. Kell and Mr. Thomas both agreed this was the proper method of proceeding.

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7. At those conferences he disclosed that the respondent Kemp Committee had sought additional information as required, reattribution or reallocation of questioned contribution by at least two letters and one telephone call, or, had made immediate refund of clearly improper contributions such as contributions made by corporate checks. No time limit on the length of time involved was set but only that the Committee continue such efforts as soon as possible. A letter of confirmation to Mr. Kell dated September 23, 1986 is attached as Exhibit A.

8. Since the procedures involved were apparently approved by responsible authorities of the Federal Election Commission, he was completely non-plussed when the General Counsel's office took up the same matters discussed in MUR 2570 and he filed the attached letters dated February 3, 1988 and February 12, 1988; see Exhibits B and C.

9. He has been familiar, with filing of reports and procedures for handling questioned contributions by political committees since 1974 and has been counsel for many varied committees and it is his opinion that the procedures followed by this respondent constitute complete compliance with the law, rules, regulations and procedures set forth by the Commission as they existed in 1986 and that this compliance was the best effort of the treasurer and his employees.

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10. As he stated in his letter of February 12, 1988 it is his opinion that this matter is an unnecessary and unjustified harassment of a Committee that has been diligent in complying with the law.

All matters stated above are true and correct to his best information and belief and this affidavit is submitted recognizing the laws of perjury and representation to official agencies of the United States.

James F. Schoener

James F. Schoener
Legal Services Corporation
400 Virginia Avenue, S.W.
Washington, D.C. 20024
(202) 863-1839

City of Washington
District of Columbia

Sworn to before me, a notary public in and for the District of Columbia this 10th day of November 1988.

Barbara A. Thomas

Barbara Thomas
Notary Public

My commission expires 1/2/93

9904070017

EXHIBIT A-1

LAW OFFICES OF
MILLER, CANFIELD, PADDOCK AND STONE
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
SUITE 1200
1015 FIFTEENTH STREET, N.W.
WASHINGTON, D.C. 20005
TELEPHONE (202) 789-8640

SIDNEY T. MILLER (1864-1940)
GEORGE L. CANFIELD (1866-1928)
LEWIS H. PADDOCK (1866-1935)
FERRIS D. STONE (1862-1945)

DETROIT, MICHIGAN
ANN ARBOR, MICHIGAN
BIRMINGHAM, MICHIGAN
BOCA RATON, FLORIDA
GRAND RAPIDS, MICHIGAN
KALAMAZOO, MICHIGAN
LANSING, MICHIGAN
MONROE, MICHIGAN
TRAVERSE CITY, MICHIGAN

JAMES F. SCHOENER
(202) 789-8643

September 23, 1986

Mr. Peter Kell, Jr.
Chief, Authorized Branch
Reports Analysis Division
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: Citizens for Jack Kemp
C00013565

Dear Mr. Kell:

This letter will confirm the statements made to me as counsel for Citizens for Jack Kemp in a conference with you and Thomas R. White of your division. These statements were further confirmed in a telephone conversation today concerning another letter to Mr. Buckley, Treasurer of the Kemp Committee (this one dated September 16, 1986). Earlier letters from the F.E.C. both dated September 9, 1986, and one dated August 19th referred to reattribution or reallocation of questioned contributions that had been placed in an "Escrow" status pending further classification.

You advised that questioned contributions should properly be placed in such escrow account while the treasurer attempted to obtain clarification on the contributor's intent in making what was apparently an excessive contribution.

You approved the manner of placing such contribution in an "escrow" account and footnoting the contribution "seeking reattribution" or similar comment. The treasurer had been amending the original report when such reattribution or reallocation was received. You have advised that such amendment is not necessary (or desired) but rather you prefer a "memo entry" indicating the new status of the particular transaction be filed (instead of an amendment) at the next regular report.

On Monday, September 22, I was informed that another letter had been received at the campaign committee regarding this same topic--this letter also asked a 15-day response. I called you and you confirmed that the memo entry at the next regular reporting period would amount to compliance. This letter also raised a question concerning an entry from Davis, Barney and

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Jones and I attach two letters indicating the answer to that problem.

I further reviewed with you the procedure followed by the Kemp Committee in seeking reattribution or reallocation of apparently excessive contributions. First, such contributions are placed in the escrow account. Second, at least two letters and an attempted telephone call are made to try to contact the contributor to obtain proper confirmation in writing from the spouse of the contributor or to obtain primary/general allocation to comply. If after a reasonable length of time no such correction can be obtained, the contribution is refunded. In the case of obvious improper contributions such as corporate checks without indication of a "personal draw," the check is immediately returned to the sender. I believe that you indicated that these procedures satisfied the requirements of the Federal Election Campaign Act and that the response by "memo entry" rather than "amendment" is preferred.

If I have misconstrued any part of our conversation, please let me know so I can properly advise our people.

Very truly yours,

James F. Schoener

James F. Schoener

bab

cc: Malcolm Buckley, Jr., Esquire
Ms. Erma Fitzpatrick, C.P.A.
Ms. Judy Bassini
Ms. Sharon Zelaska

09040701 7 3

DAVIS, BARNEY & JONES
10 HARBORCREST 714-552-4201
IRVINE, CA 92714

4502

5566

7/2 1986

90-3841/1222

PAY TO THE ORDER OF Citizens for Jack Kemp $ 500 00/100

Five hundred Dollars and no 00/100 DOLLARS

500 44

500 00

BANK OF INDUSTRY
211 N. HACIENDA AT STAFFORD, CITY OF INDUSTRY, CA 91744

Allen M. Fink

⑈004502⑈ ⑆122238417⑆ 01 406558⑈

Talked with ALAN FINK BY PHONE 9-21-86 HE INFORMED ME WAS DAVIS BARNEY & JONES A PARTNERSHIP AT THE TIME OF THE CONTRIBUTION AND WAS INCORPORATED THE END OF AUGUST 1986.

Not prepared c.

Congressman Jack Kemp
Washington, D.C. 20515

Davis, Barney & Jones
ATT: Alan Fink
10 Harborcrest
Irvine, CA 92714

Dear Mr. Fink:

Thank you for your contribution to CITIZENS FOR JACK KEMP in the amount of $500.

Federal statutes allow the acceptance of contributions from partnerships but, the law requires that we obtain, for our records, a designation as to the amount contributed by each partner. Accordingly would you please indicate this information on the enclosed letter.

We appologize for any inconvenience, but this information is required by law.

Yours very truly,

Malcolm K. Buckley, Jr.
Treasurer
CITIZENS FOR JACK KEMP

ENC.

MEMBER	AMOUNT
Alan M. Fink	500 00/100

Signe

Citizens for Jack Kemp.

6CC #6338

EXHIBIT B

LAW OFFICES
McGUINESS & WILLIAMS
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
SUITE 1200
1015 FIFTEENTH STREET, N. W.
WASHINGTON, D. C. 20005
202 789-8600

JAMES F. SCHOENER
202 789-8644

88 FEB -8 PM 1:33

February 3, 1988

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

Re: MUR 2570 Citizens for Jack Kemp

Dear Sirs:

The letter dated January 19th concerning the above entitled MUR was referred to me for comment. I have reviewed the question of the alleged corporate contribution and point out that the check (a copy of which is enclosed) is dated July 2, 1986, and the supporting attribution letter indicates a single person (Alan Fink) as the attributed partner. In addition to our treasurer's statement that the contribution was from a partnership and legal, the investigation by you has apparently disclosed an incorporation date as July 9, 1986. Thus the date of the execution of the check was a week before incorporation; further it has been my experience that often both the partnership entity and the corporate entity exist side by side for a period when the entities are in transition. Under either concept it is obvious that this was not a corporate check and the care given by the treasurer in handling the various questioned contributions should be commended. Concern for accuracy and proper reporting has been foremost in this entire record.

While I realize that the MUR is to be closed without further action, I believe the record of care in handling these finances made by the treasurer Malcolm K. Buckley and Erma Fitzpatrick is certainly in accordance with the statutory admonition to use best efforts to report and disclose all contributions received.

In the event MUR 2570 is made a part of the public record, please incorporate this response.

Very truly yours,

James F. Schoener

James F. Schoener

Enclosure: 1. copy of July 2, 1986 check
2. letter designation of contributor
3. letter designation of counsel

cc: Honorable Jack Kemp
Malcolm K. Buckley
Erma Fitzpatrick

8 7 1 0 0 7 0 4 0 6 9

7-9

THIS CHECK IS DELIVERED FOR PAYMENT ON THE FOLLOWING ACCOUNTS			
DATE		AMOUNT	
		500	00
TOTAL OF INVOICES			
LESS ____% DISCOUNT			
LESS FREIGHT			
LESS			
TOTAL DEDUCTIONS			
AMOUNT OF CHECK		500	00

DAVIS, BARNEY & JONES
10 HARBORCREST 714-552-4201
IRVINE, CA 92714

4502

556b.

7/2 19 86

80-3041/1222

PAY TO THE ORDER OF Attorneys for Josh Klemper $ 500 00/100

Five hundred Dollars and no 00/100 DOLLARS

BANK OF INDUSTRY
SE K. HACIENDA AT BRAFFORD, CITY OF INDUSTRY, CA 91744

Alan M. Fuk

⑈004502⑈ ⑆122238417⑆ 01 406558⑈

7-16

0904070017

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2570

NAME OF COUNSEL: James F. Schoener

ADDRESS: 1015 15th St. NW #1200
Washington DC. 20005

TELEPHONE: 789-8640

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

Date

M K Rudderley Jr.
Signature

RESPONDENT'S NAME: CITIZENS FOR JACK KEMP

ADDRESS: suite 3600
One Main Midland Center
Buffalo, NY 14203

HOME PHONE:

BUSINESS PHONE: 716-856-5500

9904007 0190

EXHIBIT C

LAW OFFICES
McGUINESS & WILLIAMS
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
SUITE 1200
1015 FIFTEENTH STREET, N. W.
WASHINGTON, D. C. 20005
202 789-8600

JAMES F. SCHOENER
202 789-8644

February 12, 1988

Miss Sandra Dunham
Office of the General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 2570 - Citizens for Jack Kemp

Dear Miss Dunham:

This letter will respond to your telephone call of Wednesday, February 10 and your letter dated January 19th. I originally replied on February 3rd and assumed that the General Counsel's office was going to recommend no further action on all phases of MUR 2570. You advised that the Counsel's office still wishes to proceed with enforcement provisions over "apparent excessive contributions" that were placed in escrow accounts pending reattribution or redesignation. As you note, I personally came to the Commission to discuss the compliance with the Act by the treasurer and our bookkeeper.

The record of this committee on complying with the act and in responding to Requests for Additional Information is one of compliance rather than any attempt to evade or frustrate the provisions of the Act. The reporting of questioned contributions and depositing them in an escrow account is in accordance with 11 CFR @ 103 and every action by the treasurer and bookkeeper has been in accordance with the rules as they existed at the time of filing, and the instructions from Reports Analysis Division.

It was with some concern that I talked with you on Wednesday, since I assumed on reading the last page of the legal and factual analysis in this MUR, that no further action was contemplated. When you called and asked if I desired to enter into "pre-probable cause conciliation" on behalf of my client, I was truly surprised and chagrined. I had replied that the complete evidence on the last noted matter of Davis, Barney & Jones was clearly a partnership check and should not have even been mentioned as a corporate contribution whatsoever, and that since the escrow matters had been corrected or refunded that I assumed the entire matter was to be "no further action."

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I informed you that I thought any further inquiry was contrary to the intent of the statute in that the treasurer had used his "best efforts" to comply, had followed the regulations, and made all the proper amendments as suggested by your Reports Analyst. I informed you further that complete records of compliance were already in your files, but you suggested that I resubmit "such evidence" as would show what already exists. You informed me that the RAD files were not the same as the legal counsel's file and that I should ask for pre-probable cause conciliation and submit such materials. I objected that this was requesting useless acts and causing the respondent to expend funds unnecessarily. I suggested that in view of the Kemp Campaign efforts at compliance the entire matter should be closed forthwith. I have noted any number of files of similar technical "violations" that have been so treated.

You insisted that I reply "in writing" although I suggested that a "fair appraisal" of the file should lead you to the same conclusion, viz. that the file be closed forthwith. I objected that such actions, in effect, wasted the time of Commission personnel and caused my client to incure unnecessary legal and accounting fees.

None the less, unless you, on more careful inspection of all files at the F.E.C. do not reach the same conclusion and recommend such to the Commission, I would request to enter into pre-probable cause conciliation to avoid further, extensive unnecessary and (in my view, unjustified) expense.

Very truly yours,

James F. Schoener

James F. Schoener

cc: Honorable Jack Kemp
Malcolm Buckley
Erma Fitzpatrick

9904070184

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Mon 2570

LAW OFFICES
MILLER, CASSIDY, LARROCA & LEWIN
2555 M STREET, N. W. SUITE 500
WASHINGTON, D. C. 20037
TELEPHONE
(202) 293-6400
TELECOPIER
(202) 293-1827

HERBERT J. MILLER, JR
JOHN JOSEPH CASSIDY
RAYMOND G. LARROCA
NATHAN LEWIN
MARTIN D. MINSKER
WILLIAM H. JEFFRESS, JR.
R. STAN MORTENSON
THOMAS B. CARR
JAMIE S. GORELICK
JAMES E. ROCAP, III
SETH P. WAXMAN
DAVID OVERLOCK STEWART
JONATHAN B. SALLET
RANDALL J. TURK
STEPHEN L. BRAGA

J. R. CALDWELL, JR.
SCOTT L. NELSON
CYNTHIA A. THOMAS
DAVID G. WEBBERT*
JULIA E. GUTTMAN
NIKI KUCKES*
ANNE M. COUGHLIN*
JAY L. ALEXANDER
STEVAN E. BUNNELL*
DAVID I. GELFAND*

COURTNEY A. EVANS
WILLIAM W. GREENHALGH
OF COUNSEL

*NOT ADMITTED IN D.C.

December 22, 1988

RECEIVED
FEDERAL ELECTION COMMISSION
88 DEC 22 PM 2:03

Hand Delivery

Lawrence M. Noble, Esquire
General Counsel
Federal Election Commission
999 E Street, N.W.
Sixth Floor
Washington, D.C. 20003

Dear Mr. Noble:

Your letter dated December 9, 1988, and postmarked December 20, 1988, arrived in yesterday's late mail. You request a response within five days. Mr. Goland is on vacation until January 3, 1989, and I myself am hoping to leave town on Sunday. Insofar as only two days remain until the Christmas holidays and your response has arrived over two months after our letter was sent, I respectfully request that we be given until January 9, 1989 (5 working days after New Year's) to respond to your proposal.

Thank you for your consideration.

Yours sincerely,

Seth P. Waxman

SPW:dah

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tlm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 4, 1988

Seth P. Waxman, Esquire
Miller, Cassidy, Larroca and Lewin
2555 M Street, N.W.
Washington, D.C. 20037

RE: MUR 2570
Michael Goland

Dear Mr. Waxman:

This is in response to your letter of December 22, 1988, in which you requested an extension of time until January 9, 1989, to respond to the revised proposed conciliation agreement in the above-cited matter. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response will be due no latter than the close of business on January 9.

If you have any questions, please contact Sandra J. Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

9904070184

FEDERAL ELECTION COMMISSION
RECEIVED
SECRETARIAT
88 NOV -9 AM 11:43

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Donald R. Corbin	)	MUR 2570
	)	

EXECUTIVE SESSION
NOV 29 1988
SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On January 6, 1988, the Commission found reason to believe that Donald R. Corbin violated 2 U.S.C. § 441a(a)(1)(A) by making a $4,000 excessive contribution to Citizens for Jack Kemp (the "Committee"). Mr. Corbin responded to the notification of reason to believe but he did not request pre-probable cause conciliation. Consequently, the Office of the General Counsel sent him a brief on June 21, 1988. Counsel for Mr. Corbin filed his response to the brief on August 11, 1988 (Attachment 1).

II. ANALYSIS

Pursuant to 11 C.F.R. § 104.8(d) (1980)[1/] a contribution which represents contributions by more than one person shall indicate on the written instrument, or on an accompanying written statement signed by all contributors, the amount to be attributed to each contributor. Further, 2 U.S.C. § 441a(a)(1)(A) and 11 C.F.R. § 110.1(a)(1)(1980)[2/] provide that no person shall make contributions to any candidate, his or her authorized political committees or agents with respect to any election to

1/ 11 C.F.R. § 104.8(d) was amended on April 8, 1987. The regulations in effect prior to this amendment apply to this matter.

2/ 11 C.F.R. § 110.1(a) was also amended on April 8, 1987. The regulations in effect prior to this amendment also apply to this matter.

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Federal office, which in the aggregate, exceed $1,000. Sections 110.1(a)(2)(ii)(A) and (B) (1980) provide that "[w]ith respect to any election," with regard to contributions received without a written designation for a particular election, means such a contribution is assumed to be designated for the primary election if made on or before the primary election, or designated for the general election if made after the date of the primary election.

On August 12, 1986, Mr. Corbin contributed $4,000 to the Committee. Because this contribution was made prior to the primary election, the entire $4,000 assertedly was placed in an "escrow" account while the Committee attempted to contact Mr. Corbin. The Committee was successful in obtaining from Mr. Corbin on October 10, 1986, a redesignation of $1,000 from the primary election to the general election. This redesignation was reported by the Committee on October 27, 1986. It is unclear why the Committee did not attempt to have the remaining $2,000 reattributed to Mrs. Corbin and redesignated in part to the general election at the same time, as Mr. Corbin has indicated was his intention in both his response to the reason to believe finding and the responsive brief. The remaining $2,000 was instead refunded on October 31, 1986.

Counsel for Mr. Corbin raises several issues in his response to the General Counsel's Brief. First, he states, inaccurately, that this Office's Brief did not mention the $2,000 refund which the Committee sent to Mr. Corbin on October 31, 1986 and notes

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that the brief did not cite 11 C.F.R. § 103.3(b) which was included in the Factual and Legal Analysis. Second, he states that the General Counsel's Brief incorrectly asserted that the Committee had attempted to have $2,000 of the $4,000 contribution reattributed and/or redesignated to Mrs. Corbin. Counsel provides a copy of the letter received by Mr. Corbin from the Committee which only addressed the redesignation of $1,000 to the general election. Third, he submits affidavits from both Mr. and Mrs. Corbin, dated August 12 and 10, 1988, respectively, (Attachment 2) which assert that the $4,000 contribution was intended to be a $1,000 contribution from each to the primary and the general elections. Mr. Corbin further asserts in his affidavit that he was unaware that it was necessary for him to "designate the allocation" at the time of the contribution.

Fourth, counsel raises the issue that the $4,000 was not an excessive contribution because it was placed into a segregated escrow account rather than the Committee's regular account. He argues that in such a situation the contributor does not "make" a contribution and does not relinquish control of the contribution until the contributor directs the Committee to transfer the money to the regular depository. The Committee merely acts as "the party's agent." Finally, counsel argues that contributions deposited in an escrow account are not available for influencing a federal election. For all of the above reasons, counsel argues

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that the Commission should find no probable cause to believe that Donald R. Corbin violated 2 U.S.C. § 441a(a)(1)(A).

The first three issues that counsel raises in his responsive brief are, at most, mitigating factors. The Committee did not refund the $2,000 and redesignate the $1,000 to the general election within a reasonable time pursuant to 11 C.F.R. § 103.3(b). Nor was the $4,000 check from Mr. Corbin accompanied by any signed statement attributing half of the contribution to his wife and designating half of her share for the general election.[3/] The designation and allocation received from Mrs. Corbin serve only the same purpose as the late refund of $2,000 and redesignation of $1,000; i.e. to mitigate the violation.[4/]

The fourth issue that counsel raises concerns the nature and direction and control of monies which are placed into an "escrow" account, instead of a committee's registered depository account. This Office does not agree with counsel's assertion that a

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3/ The first written designation that the Commission received from Mrs. Corbin was contained in her affidavit dated August 10, 1988.

4/ Counsel for Mr. Corbin argues in the reply brief that this Office should have notified Mr. Corbin (during the investigation period) that a statement from Mrs. Corbin reattributing and redesignating $2,000 from her would resolve this matter. Counsel does not mention that the investigation was closed after he informed this Office that he wanted to proceed to the next stage of enforcement, i.e. the circulation of briefs. Even if the statement had been received during the investigation it would still have served only a mitigating function.

contribution placed in a separate account is not "made" until the money is transferred to the committee's depository account. Pursuant to 11 C.F.R. § 110.1(b)(6), "a contribution shall be considered to be made when the contributor relinquishes control over the contribution. A contributor shall be considered to relinquish control over the contribution when it is delivered by the contributor to the candidate." Consequently, pursuant to the Commission's regulations Mr. Corbin made a $4,000 contribution to the candidate when the check was given to the Committee.

Counsel argues that in the present situation the contributor, not the Committee, controlled the contribution because the Committee placed it in an "escrow account." This Office questions counsel's use of the term "escrow account" to describe the Committee's asserted use of a separate account. In New York State, the state in which the Committee is located, a state court defined "escrow" as follows: "[a]n 'escrow' is a written instrument, which by its terms imports a legal obligation, deposited by the grantor, promisor or obligor, or his agent, with a stranger or third person who is not a party to the instrument, to be kept by the depository until the performance of a condition or the happening of a certain event, then to be delivered over to take effect." Silberstein v. Murdoch et. al., 216 A.D. 665, 215 N.Y.S. 657 (1926) [citation omitted]. Also, in Farago v. Burke et al., 262 N.Y. 229, 186 N.E. 683 (1933), the court found that merely calling something an escrow does not make

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it an escrow. To determine whether a document is being held under an escrow agreement, the court stated that the agreement must be reviewed for compliance. In the present matter, no evidence was provided to show that Mr. Corbin agreed to the placement of his contribution into a separate account or that he even had knowledge of the "escrow" account into which it was placed. It does not appear that there was a written escrow agreement or a separate third party depository which followed the terms of a written escrow agreement. Additionally, no evidence was provided to show that the Committee relinquished control to a separate third party who was obligated to follow the terms of an escrow agreement. The mere placing of the $4,000 contribution into a separate account did not mean that the contribution was placed into an escrow account and that Mr. Corbin controlled the contribution.

Finally, Mr. Corbin argues that contributions deposited into an escrow account are not made for purposes of influencing federal election activity until the money is transferred to the account from which the Committee makes expenditures. This Office's response is that when contributors contribute to a federal candidate they do so for purposes of influencing a federal election. Mr. Corbin intended to influence the federal campaign in which Jack Kemp was involved no matter which account was used by the Committee. Therefore, this Office recommends

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that the Commission find probable cause to believe that Donald R. Corbin violated 2 U.S.C. § 441a(a)(1)(A).

III. DISCUSSION OF CONCILIATION PROVISIONS AND CIVIL PENALTY

IV. RECOMMENDATIONS

1. Find probable cause to believe that Donald R. Corbin violated 2 U.S.C. § 441a(a)(1)(A).

2. Approve the attached proposed conciliation agreement and letter.

11/8/88
Date

Lawrence M. Noble
General Counsel

Attachments
1. Response to Brief dated 8/11/88
2. Executed Affidavits from Donald R. and Janet H. Corbin
3. Conciliation Agreement
4. Letter

Staff Assigned: Sandra J. Dunham

9904076019

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2570
Donald R. Corbin	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of January 10, 1989, do hereby certify that the Commission decided by a vote of 4-2 to take the following actions in MUR 2570:

1. Find probable cause to believe that Donald E. Corbin violated 2 U.S.C. § 441a(a)(1)(A).

2. Approve the proposed conciliation agreement and letter attached to the General Counsel's report dated November 8, 1988.

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

Attest:

Jan. 13, 1989
Date

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

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plm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 18, 1989

John J. Duffy, Esquire
Piper & Marbury
1200 Nineteenth Street, N.W.
Washington, D.C. 20036

RE: MUR 2570
Donald R. Corbin

Dear Mr. Duffy:

On January 10, 1989, the Federal Election Commission found that there is probable cause to believe your client, Donald R. Corbin, violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended, in connection with his $4,000 contribution to Citizens for Jack Kemp's primary election campaign in 1986.

The Commission has a duty to attempt to correct such violations for a period of 30 to 90 days by informal methods of conference, conciliation, and persuasion, and by entering into a conciliation agreement with a respondent. If we are unable to reach an agreement during that period, the Commission may institute a civil suit in United States District Court and seek payment of a civil penalty.

Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If you agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission within ten days. I will then recommend that the Commission accept the agreement. Please make your check for the civil penalty payable to the Federal Election Commission.

If you have any questions or suggestions for changes in the enclosed conciliation agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact Sandra J. Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

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FEDERAL ELECTION COMMISSION
RECEIVED
89 FEB 14 AM 9:10
SENSITIVE
EXECUTIVE SESSION
FEB 28 1989

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Citizens for Jack Kemp and Malcolm K. Buckley, as treasurer	)	MUR 2570
	)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On January 6, 1988, the Commission found reason to believe that Citizens for Jack Kemp and Malcolm K. Buckley, as treasurer (the "Committee"), violated 2 U.S.C. § 441a(f) by knowingly accepting contributions in violation of the limitations imposed on contributions under 2 U.S.C. § 441a.

The Committee designated counsel on February 3, 1988 and requested pre-probable cause conciliation on February 12, 1988. However, on July 12, 1988, the Committee informed the Office of the General Counsel that a new attorney would be representing it and on July 14, 1988, the newly designated counsel indicated that the Committee had rejected the Commission's offer to settle this matter during pre-probable cause conciliation.

The Office of the General Counsel sent the Committee a brief on October 24, 1988. The Committee submitted a response to the brief on November 17, 1988.

II. ANALYSIS

Pursuant to 2 U.S.C. § 441a(f), no political committee can knowingly accept a contribution in violation of any limitation imposed on contributions or expenditures. The Committee routinely accepted contributions which violated the contribution limits set forth in 2 U.S.C. § 441a. Most of these excessive

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contributions were placed in a separate account (labeled an "escrow account" by the Committee) for the purpose of "seeking attribution or clarification" pursuant to 11 C.F.R. § 103.3(b)(1)(1980)[1/]. This regulation stated that all contributions which appeared to be illegal had to be either returned to the contributor or deposited, within ten (10) days of receipt, into the campaign depository and reported. The Committee reattributed, redesignated or refunded some of the excessive contributions which had been placed in the separate account within a reasonable time pursuant to 11 C.F.R. § 103.3(b)(2), the applicable standard at that time. However, many of the excessive contributions remained in the separate account for more than sixty (60) days. Further, some of the excessive contributions received by the Committee were never placed in the separate account; rather, they were deposited into the principal account.

In the Committee's response dated November 17, 1988, counsel argues that the Commission should make a finding of no probable cause and close the matter. Counsel offers several reasons for this request. First, counsel argues that none of the contributions identified in this matter were illegal on their face. Rather, the contributions became excessive when aggregated

1/ 11 C.F.R. § 103.3 was amended on April 8, 1987. The regulations in effect prior to the amendment apply to this matter.

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with previous contributions. Second, counsel contends that the contributions placed in the separate account were refunded in a "reasonable time." He argues that the regulation then in effect was very broad and gave no direction to committees, and invites the Commission to recall the numerous discussions concerning what constituted "a reasonable time" prior to the enactment of the current regulation which went into effect on April 8, 1987. Counsel cites the General Counsel's Brief which he alleges states that the Committee took an average of sixty-eight (68) days (eight (8) more days than the current regulation allows) to either reattribute, redesignate or refund the contributions in the separate account. Third, he provides an affidavit from the originally designated counsel which states that the Committee met with staff members from the Reports Analysis Division ("RAD") on numerous occasions in order to comply with Commission regulations. The affidavit indicates that RAD approved of the Committee's placement of excessive contributions into a separate account and the reporting of these contributions by making a "memo entry" note on the respective reports. He further states that the Committee had no use of the funds placed in the separate account. Consequently, he concludes that the Committee complied with the intent of the law by reporting but not utilizing the funds in the separate account.

For several reasons, the Office of the General Counsel does not agree with the Committee's assertion that it reattributed,

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redesignated or refunded the excessive contributions within a reasonable time. First, it is not true that all of the contributions were legal on their face. The following is a list of contributors and the amount of their contributions which were excessive on their face, all given prior to the 1986 primary election: George Argyros - $2,000; Mrs. George L. Argyros - $2,000; Warner B. Clarke - $2,000; Donald R. Corbin - $4,000; Mary C. Crowley - $2,000; David Wachs Trust - $2,000; Willie D. Davis - $2,000; Paul K. Donahue - $2,000; James T. Garvin - $2,000; Michael Goland - $4,000; M. Rogue Hemley - $3,000; A.G. Hill - $2,000; Paula Holt - $2,000; Thomas P. Kemp - $2,000; R. Douglas Krotzer - $2,000; Lewis Eckert Ross & Co. (Rich Robb) - $2,000; Nicholas J. Masterpol - $2,000; T.D. McAusland - $2,000; Patrick S. Nelson, M.D. - $1,500; Charlman C. Park - $2,000; Earl Rippee - $2,000; William Schlinger - $2,500; Tommy F. Stone - $2,000; Joy W. Taylor - $2,000 and Gary H. Worth - $2,000.

Second, this Office disagrees with counsel's contention that the Committee took a reasonable time to redesignate, reattribute or refund the excessive contributions. As previously stated, many of the excessive contributions remained in the separate account for more than sixty (60) days. Excessive contributions were in the separate account from 22 to 157 days. A total of $18,850 was in the separate account between 61 and 90 days and $22,550 was in the separate account for more than 90 days. Clearly, the

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Committee did not redesignate, reattribute or refund all of its excessive contributions within a reasonable time. Further, there were nine (9) additional excessive contributions totaling $8,187.50 which were never placed into the separate account. It took the Committee an average of sixty-eight (68) days to correct the designation or provide a refund of these particular nine (9) contributions. Counsel mistakenly argues that it took an average of sixty-eight (68) days for all of the contributions in the separate account to be redesignated, reattributed or refunded. (Even if the average period of time for redesignating or refunding all of the contributions was sixty-eight (68) days, this number is only an average and thus obscures the number and amount of contributions held for far longer.)

Third, RAD's staff does not recall approving the Committee's placement of excessive contributions into a separate account, only discussing the reporting of the funds in the separate account. Even if RAD's approval had been discussed, it would not have altered the Committee's responsibility to redesignate, reattribute or refund the funds in the separate account within a reasonable time.

Fourth, this Office does not agree with counsel's contention that the Commission should take no further action in this matter because the Committee had no use of the funds and complied with the intent of the law by placing excessive contributions in a separate account and not using the funds. As discussed in the

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General Counsel's Report in this matter dated November 8, 1988; the Committee's separate account was not an escrow account. The Committee controlled that account and could have used the funds therein. Regardless of the Committee's contention that it complied with the intent of the law by segregating the excessive contributions and not utilizing these funds, the Committee was required to redesignate, reattribute or refund all of these excessive contributions within a reasonable time. The Committee did not do this.

Accordingly, for all of the reasons discussed above, this Office recommends that the Commission find probable cause to believe that the Committee violated 2 U.S.C. § 441a(f).

III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

IV. RECOMMENDATIONS

1. Find probable cause to believe that Citizens for Jack Kemp and Malcolm K. Buckley, as treasurer, violated 2 U.S.C. § 441a(f).

9904076019

2. Approve the attached conciliation agreement and letter.

2/13/89
Date

Lawrence M. Noble
General Counsel

Attachments:
1. Conciliation Agreement
2. Letter

Staff Assigned: Sandra J. Dunham

9904076020

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Citizens for Jack Kemp and Malcolm K. Buckley, as treasurer	)	MUR 2570
	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of February 28, 1989, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in MUR 2570:

1. Find probable cause to believe that Citizens for Jack Kemp and Malcolm K. Buckley, as treasurer, violated 2 U.S.C. § 441a(f).

2. Approve the concliation agreement and letter attached to the General Counsel's report dated February 13, 1989.

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

Attest:

3-1-89
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

March 6, 1989

Paul E. Sullivan, Esquire
Wunder & Diefenderfer
1615 L Street, N.W.
Suite 650
Washington, D.C. 20036

RE: MUR 2570
Citizens for Jack Kemp and
Malcolm K. Buckley, as
treasurer

Dear Mr. Sullivan:

On February 28, 1989, the Federal Election Commission found that there is probable cause to believe your clients, Citizens for Jack Kemp and Malcolm K. Buckley, as treasurer, violated 2 U.S.C. § 441a(f), a provision of the Federal Election Campaign Act of 1971, as amended, in connection with the acceptance of excessive contributions from 63 individuals and 3 partnerships in 1986.

The Commission has a duty to attempt to correct such violations for a period of 30 to 90 days by informal methods of conference, conciliation, and persuasion, and by entering into a conciliation agreement with a respondent. If we are unable to reach an agreement during that period, the Commission may institute a civil suit in United States District Court and seek payment of a civil penalty.

Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If you agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission within ten days. I will then recommend that the Commission accept the agreement. Please make your check for the civil penalty payable to the Federal Election Commission.

If you have any questions or suggestions for changes in the enclosed conciliation agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation

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agreement, please contact Sandra J. Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

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Plm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 15, 1989

CERTIFIED MAIL-
RETURN RECEIPT REQUESTED

John J. Duffy, Esquire
Piper & Marbury
1200 Nineteenth Street, N.W.
Washington, D.C. 20036

RE: MUR 2570
Donald R. Corbin

Dear Mr. Duffy:

On January 18, 1989, you were notified that the Federal Election Commission found probable cause to believe that your client, Donald R. Corbin, violated 2 U.S.C. § 441a(a)(1)(A). On that same date, you were sent a conciliation agreement offered by the Commission in settlement of this matter.

Please note that pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), the conciliation period in this matter may not extend for more than 90 days, but may cease after 30 days. Insofar as more than 30 days have elapsed without a written response from you, a recommendation concerning the filing of a civil suit will be made to the Commission by the Office of the General Counsel unless we receive a written response from you within 5 days of your receipt of this letter.

Should you have any questions, please contact Sandra J. Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

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plm

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

April 13, 1989

Seth P. Waxman, Esquire
Miller, Cassidy, Larroca & Lewin
2555 M Street, N.W.
Suite 500
Washington, D.C. 20037

RE: MUR 2570
Michael Goland

Dear Mr. Waxman:

On January 6, 1988, you were notified that the Federal Election Commission found reason to believe that your client, Michael Goland, violated 2 U.S.C. § 441a(a)(1)(A). On September 20, 1988, you submitted a request to enter into conciliation negotiations prior to a finding of probable cause to believe.

The Commission has considered and rejected your most recent proposed changes to the conciliation agreement. Therefore, this Office considers these negotiations terminated and will proceed to the next stage of the enforcement process.

If you have any questions please contact Sandra J. Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 7, 1989

Seth P. Waxman, Esquire
Miller, Cassidy, Larroca & Lewin
2555 M Street, N.W.
Suite 500
Washington, D.C. 20037

RE: MUR 2570
Michael Goland

Dear Mr. Waxman:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, on January 6, 1988, the Federal Election Commission found reason to believe that your client, Michael Goland, violated 2 U.S.C. § 441a(a)(1)(A), and instituted an investigation in this matter.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

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 (ten 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 for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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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 Sandra J. Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Michael Goland	)	MUR 2570
	)	

GENERAL COUNSEL'S BRIEF

I. BACKGROUND

On January 6, 1988, the Commission found reason to believe that Michael Goland violated 2 U.S.C. § 441a(a)(1)(A) by making an excessive contribution to Citizens for Jack Kemp.

Mr. Goland has admitted that he contributed $4,000 to Citizens for Jack Kemp on July 8, 1986, but asserts that the contribution was on behalf of himself and his wife. Citizens for Jack Kemp contacted Mr. Goland in order to obtain his redesignation of $1,000 of the $4,000 contribution to the general election. The Committee's 1986 30 Day Post-General Report indicates it received a letter from Mr. Goland on October 21, 1986, and on October 22, 1986, the Committee redesignated $1,000 to the general election and sent a refund check to Mr. Goland for the other $2,000. None of the contribution was reattributed to his spouse.

II. ANALYSIS

Pursuant to 11 C.F.R. § 104.8(d)[1/] a contribution which represents contributions by more than one person shall indicate

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1/ 11 C.F.R. § 104.8(d) was amended on April 8, 1987. The regulations in effect prior to this amendment apply to this matter.

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on the written instrument, or on an accompanying written statement signed by all contributors, the amount to be attributed to each contributor. Further, 11 C.F.R. § 110.1(a)(1)[2/] states that no person (except multicandidate committees under Section 110.2) shall make contributions to any candidate, his or her authorized political committees or agents with respect to any election to Federal office, which in the aggregate, exceed $1,000. Sections 110.1(2)(ii)(A) and (B) define "[w]ith respect to any election" as contributions which are received without a written designation for a particular election which must be designated for the primary election if made on or before the primary election and must be designated for the general election if made after the date of the primary election. 11 C.F.R. § 103.3(b)(2)(1980) stated that when a contribution could not be determined to be legal, refunds were to be made within "a reasonable time."[3/]

While it appears that Citizens for Jack Kemp was successful in having $1,000 of the contribution redesignated to the general election, this occurred approximately four months after the date of the contribution and thus not within a reasonable time. There

2/ 11 C.F.R. § 110.1(a) was also amended April 8, 1987. The regulations in effect prior to this amendment apply to this matter.

3/ 11 C.F.R. § 103.3(b) was also amended April 8, 1987. This provision now states that if redesignation or reattribution of an excessive contribution is not obtained, the excessive portion must be refunded within 60 days of receipt.

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is no evidence the remaining $2,000 was reattributed to Mrs. Goland and that half was redesignated for the general election. Thus, Mr. Goland violated 2 U.S.C. § 441a(a)(1)(A) by making the $4,000 contribution to the Citizens for Jack Kemp Committee. This Office recommends that the Commission find probable cause to believe that Michael Goland violated 2 U.S.C. § 441a(a)(1)(A).

III. GENERAL COUNSEL'S RECOMMENDATIONS

1. Find probable cause to believe that Michael Goland violated 2 U.S.C. § 441a(a)(1)(A).

7/6/89
Date

BY: [signature]
Lawrence M. Noble
General Counsel

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OGC 3494

LAW OFFICES
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JOHN JOSEPH CASSIDY
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NATHAN LEWIN
MARTIN D MINSKER
WILLIAM H JEFFRESS JR
R STAN MORTENSON
THOMAS B CARR
JAMIE S GORELICK
JAMES E ROCAP III
SETH P WAXMAN
JONATHAN B BALLET
RANDALL J TURK
STEPHEN L BRAGA

J R CALDWELL JR
SCOTT L NELSON
CYNTHIA A THOMAS
DAVID G WEBBERT
JULIA E GUTTMAN
NIKI KUCKES
ANNE M COUGHLIN*
JAY L ALEXANDER
STEVAN E BUNNELL
DAVID I GELFAND

COURTNEY A EVANS
WILLIAM W GREENHALGH
OF COUNSEL

*NOT ADMITTED IN D C

July 20, 1989

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
89 JUL 21 AM 9:14

HAND DELIVER

Lawrence M. Noble, Esq.
General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

re: MUR 2570

Dear Mr. Noble:

By letter dated July 7, 1989, you notified me that your office "is prepared to recommend that the Commission find probable cause to believe" that my client, Michael Goland, violated 2 U.S.C. § 441a(a)(1)(A). I received that letter on July 11, 1989.

As you are probably aware, I have just completed (on July 10, 1989) a two-month trial in the United States District Court for the Central District of California in the case of United States v. Michael Goland et al. My files, which include the materials related to the subject matter of your letter, only arrived back in Washington today. For these reasons, I request a 20-day extension of time in which to file a brief stating Mr. Goland's position.

Thank you for your consideration.

Yours sincerely,

Seth P. Waxman

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 27, 1989

Seth P. Waxman, Esquire
Miller, Cassidy, Larroca & Lewin
2555 M Street, N.W. Suite 500
Washington, D.C. 20037

RE: MUR 2570
Michael Goland

Dear Mr. Waxman:

This is in response to your letter dated July 20, 1989, which we received on July 21, 1989, requesting an extension of 20 days to respond to The General Counsel's Brief. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on August 15, 1989.

If you have any questions, please contact Sandra J. Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9904076021 7

OGC 3746

LAW OFFICES
MILLER, CASSIDY, LARROCA & LEWIN
2555 M STREET, N. W. SUITE 500
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R STAN MORTENSON
THOMAS B CARR
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JAMES E ROCAP, III
SETH P WAXMAN
JONATHAN B SALLET
RANDALL J TURK
STEPHEN L BRAGA

J R CALDWELL, JR
SCOTT L NELSON
CYNTHIA A THOMAS
DAVID G WEBBERT
JULIA E GUTTMAN
NIKI KUCKES
ANNE M COUGHLIN*
JAY L ALEXANDER
STEVAN E BUNNELL
DAVID I GELFAND
PAUL F ENZINNA*

COURTNEY A EVANS
WILLIAM W GREENHALGH
OF COUNSEL

*NOT ADMITTED IN D C

August 15, 1989

BY HAND

Sandra J. Dunham, Esq.
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Sixth Floor
Washington, D.C. 20003

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
89 AUG 15 AM 10:03

Re: The Matter of Michael R. Goland, MUR 2560

Dear Ms. Dunham:

With this letter I am sending the original and thirteen copies of the Brief for Michael R. Goland in the above-referenced matter. Pursuant to the instructions in your letter of July 7, 1989, and our telephone conversation yesterday, three of these copies are for your office and ten of these copies are for the Secretary of the Commission. You have agreed to forward these copies to the appropriate people. I also am providing an extra copy of the brief to be file-stamped and returned with the messenger carrying this letter. If there is any problem complying with this request, please provide me a written receipt for these papers at your earliest convenience.

Thank you for your assistance.

Sincerely,

David I. Gelfand

DIG:dah
Enclosures

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2570
Michael R. Goland	)	

BRIEF FOR MICHAEL R. GOLAND

Background

For over a year and a half, the general counsel's office has been investigating this matter in an effort to find some evidence that a $4,000 check issued in 1986 to Citizens for Jack Kemp constituted a single contribution from Michael R. Goland, rather than a joint contribution by Mr. Goland and his wife, Diane W. Goland. There is no dispute that if the check did in fact represent a joint contribution, it was perfectly legal under the Federal Election Campaign Act ("FECA") and the Commission's regulations. 1/ Nor do we dispute that a $4,000 contribution from Mr. Goland alone would have been excessive. 2/ The only question, then, is who made the contribution.

1/ At the time the check was issued, the Kemp campaign was eligible to receive up to $1,000 from any individual for the primary campaign and up to $1,000 for the general election campaign. Thus, Mr. and Mrs. Goland were each entitled to contribute $2,000.

2/ We do dispute that Mr. Goland would have made such an excessive contribution knowingly. When the check was issued, Mr. and Mrs. Goland fully intended that it represent a legitimate joint contribution from both of them. Even if the Commission were to conclude that the couple's wishes were somehow defeated by the manner in which the check was issued and delivered, there is no basis to conclude that the resulting violation was intentional. Indeed, common sense should indicate that an individual such as Mr. Goland would not attempt to make an excessive contribution by issuing a single check from his account to the campaign of a national political figure.

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Despite the fact that the general counsel's office has taken such an extraordinarily long time investigating this relatively simple matter, it has uncovered absolutely no evidence that the Golands made anything other than a perfectly legitimate joint contribution. By contrast, we have submitted sworn affidavits explaining precisely what happened in connection with the $4,000 contribution check. [3/] Unless the Commission is willing wholly to discount the import of these affidavits and base its conclusion on sheer speculation, it should not find probable cause to believe an excessive contribution occurred.

The facts are as follows. When Mr. and Mrs. Goland decided to contribute to the Kemp campaign, they caused a check to be issued covering the full amount of their joint contribution. This was done in the same way the couple typically paid their expenses, joint and individual. The Golands maintained an account in Mr. Goland's name, and Mr. Summerhays managed this account. Mr. Summerhays was asked to issue the $4,000 check, and he was specifically advised that the check represented a joint contribution by Mr. and Mrs. Goland to the Kemp committee. Mr. Summerhays completed and signed the check, and gave it to the Golands for delivery.

3/ The affidavit of Michael R. Goland is attached hereto as Exhibit 1. The affidavit of Dale Summerhays -- Mr. Goland's employee who had responsibility for managing the personal finances of both Mr. and Mrs. Goland -- is attached hereto as Exhibit 2. The factual discussion below is based on these affidavits and the other evidence of record in this matter.

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The check was given personally to a member of Mr. Kemp's campaign staff. 4/ Consistent with the committee's practice, the staff member requested a written attribution for the $4,000 contribution. Mr. Goland provided a written statement attributing $2,000 to each of the Golands and designating $1,000 of each amount to the primary and $1,000 to the general election. As so attributed and designated, this was a perfectly legal contribution, and it is wholly unremarkable that the $4,000 was accepted by the Kemp committee. Indeed, it is difficult to imagine how the check would have been accepted by such an established campaign committee without such an attribution and designation since a $4,000 contribution from a single individual is facially invalid.

After the check was delivered, the Golands rightfully thought nothing else of it. Believing they had complied with the requirements for a joint contribution since they had fully attributed and designated the $4,000, the Golands had no cause for concern. What happened within the Kemp committee, however, is unclear. The committee apparently lost the attribution form 5/ because it subsequently wrote to Mr. Goland acknowledging the

---

4/ Should there be any doubt that both Mr. and Mrs. Goland had an active interest in the Kemp campaign, we are submitting as Exhibit 3 a photograph taken of Mr. and Mrs. Goland with then-Representative Kemp shortly before the contribution was given.

5/ We have contacted the Kemp campaign staff and requested that it attempt to locate the attribution form. The campaign treasurer confirmed that the campaign did routinely demand attribution forms under circumstances such as these, but he was unable to locate the form submitted by the Golands. He also advised that the records from the 1986 campaign are "pretty incomplete." The general counsel has had over a year and a half to interview members of the Kemp campaign staff and to audit their records, and has been unable to produce any evidence contrary to this account.

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$4,000 contribution, but seeking arbitration for only $2,000 of that amount. Thereafter, without explanation, it returned $2,000 of the contribution. 6/ At no time prior to the initiation of this action did Mr. Goland have any reason to believe there had been anything improper about the couple's original contribution.

Analysis

We start with the undisputed proposition that there is absolutely nothing improper about a husband and wife -- indeed, any two persons -- making a joint contribution in the form of a single check. This is a common practice with which any experienced campaign worker is familiar. Nor is there anything wrong with combining a primary campaign contribution and a general election campaign contribution in the same check. The Commission's regulations expressly allow for contributions to be combined in a single check. See 11 C.F.R. § 104.8(d) (1986) 7/; 11 C.F.R. §§ 104.8(d), 110.1(k) (1989). So long as the separate amounts included in the check each fall within the separate contribution limits, there is no excessive contribution.

6/ That the Kemp committee mistakenly requested a re-designation and mistakenly refunded $2,000 simply because it misplaced the original attribution form have no relevance to the original character of the contribution. Similarly, the fact that the Kemp committee may have waited an "unreasonable" period of time before mistakenly refunding the $2,000 is a question more properly addressed to the Kemp campaign staff. Indeed, if the committee had followed the law and attempted to refund the money sooner, it may have been able to locate the attribution form before it was permanently misplaced.

7/ References to the 1986 C.F.R. are for sections in effect at the time of the events in question here.

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The evidence shows that this is precisely what the Golands did -- they made four $1,000 contributions in a single check. The general counsel does not attempt to refute this evidence; he simply ignores it. Instead, he cites the requirements of 11 C.F.R. § 104.8(d) (1986) and apparently concludes that they were not fulfilled.

Section 104.8(d) (1986) provided:

> A contribution which represents contributions by more than one person shall indicate on the written instrument, or on an accompanying written statement signed by all contributors, the amount to be attributed to each contributor.

This regulation, now re-codified at § 110.1(k) with modifications, was contained in the reporting part of the C.F.R (Part 104), and imposed a special record-keeping obligation where joint contributions were made in a single instrument, such as the check here. Either the instrument itself, or a separate written statement signed by each contributor, was required to indicate the amount to be attributed to each contributor. Similarly, a designation statement was necessary to avoid an erroneous designation of the entire amount to a single election. See § 110.1(b)(2) and 110.1(b)(4).

Although the Goland's check did not indicate the attribution and designation, the form submitted to the Kemp campaign fully attributed and designated the $4,000 contribution. The only possible violation was a technical one: the Golands may have neglected to sign the form. For this reason, Mr. Goland has been willing throughout the conciliation process to admit to an unintentional violation of § 104.8(d).

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Even assuming that a violation of § 104.8(d) occurred, however, there is nothing in the record of this case to indicate that the $4,000 check represented a single contribution from Mr. Goland. Section 104.8(d) was merely a record-keeping requirement; it was not a substantive provision defining the source of contributions, and there is nothing in the regulations to indicate that a violation of § 104.8(d) converts an otherwise legitimate joint contribution into an excessive contribution by a single individual. This is especially so where, as here, the contributors expressly attributed and designated the contribution in writing, albeit perhaps without the necessary signatures. The same analysis applies to a possible violation of the signature requirement for written designations in § 110.1(b)(4)(ii).

Indeed, the only provision of the regulations that attempts to substantively define the source of contributions made by checks is § 104.8(c), which provides:

> Absent evidence to the contrary, any contribution made by check, money order, or other written instrument shall be reported as a contribution by the last person signing the instrument prior to delivery to the candidate or committee.

If -- as the general counsel seems to imply by his total disregard of the evidence -- there was no written attribution or designation at the time the contribution was made, then the contribution should have been attributed under § 104.8(c) to Mr. Summerhays. This, of course, is an absurd result, and demonstrates the fallacy of the general counsel's exaltation of form over substance. A violation of § 104.8(d) does not and cannot change the substance of a contribution, and the Commission

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should not equate such a technical violation with an excessive contribution by Mr. Goland.

The overriding problem with the general counsel's position in this matter is that it fails to take a realistic view of the Golands' contribution. It is not a coincidence that the check from the Golands amounted to the precise legal limit for a joint contribution from both of them. Obviously they wished to make a joint contribution in the maximum amount. And because they made the payment in the same way they typically paid their joint expenses, out of funds that were available to both of them, there is no basis to contend that the payment came from Mr. Goland alone.

Another troubling aspect of the general counsel's case is that it attempts to shift the consequences of the Kemp committee's shortcomings to Mr. Goland. If the attribution form should have been signed by the Golands, then the Kemp committee should have let them know at the time the contribution was made. The Golands had no warning that a failure to sign the attribution form could result in a determination that the contribution was from Mr. Goland alone. More importantly, the Kemp committee was required by the regulations to retain the Golands' attribution form in its files. See 11 C.F.R. § 110.1(l)(1). Its failure to do so has deprived Mr. Goland of important exculpatory evidence.

As a practical matter, individual contributors rely on the campaign staffs of national political figures to administer the technical requirements of recording and reporting their contributions in accordance with the law. Indeed, Congress chose

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to allocate these responsibilities to the candidates and their committees, not to their contributors. All of the reporting and record-keeping requirements of the FECA (with minor exceptions) fall, not on the contributors, but on the candidates and their committees. Thus, when the Kemp committee asked for and accepted a written attribution and designation form, the Golands had done all that could reasonably be expected to carry out their desire to make a perfectly legitimate joint contribution. The Golands also were entitled to rely on the Kemp committee to retain their attribution form as required by law. It is therefore unfair to hold Mr. Goland accountable for mistakes made by the committee.

Moreover, the Commission itself has recognized that joint contributors often neglect to attribute their contributions in accordance with the regulations, and has even attempted to rectify this problem by changing its regulations since the time of the contribution in question here. In the comments accompanying the recent revisions to § 104.8(d), the Commission stated that "[§ 104.8(d)] has presented some difficulties because joint contributors do not always provide attributions, and recipient committees are obliged to contact the contributors to obtain this information." 52 Fed. Reg. 766 (Jan. 9, 1987). Even if the Golands had completely failed to attribute and designate their contribution, there would be no basis to conclude that the contribution came entirely from Mr. Goland. A fortiori, if the Commission has recognized such a common problem of joint contributors failing to attribute their contributions in any way and has recognized that its own regulations needed to be changed

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to address this problem, how can the general counsel justify an enforcement action simply for a failure to sign the form?

Of course, if the Kemp committee had not in fact received the written form described above (i.e. the common problem recognized by the Commission), and if the check had represented a $4,000 contribution from Mr. Goland, then the committee would have been in blatant disregard of the law when it accepted the check. See 11 C.F.R. §§ 103.3(b), 104.9(a); FEC v. John A. Dramesi for Congress, 640 F. Supp. 985, 987 (D.N.J. 1986) (campaign committee has affirmative duty to investigate propriety of contribution checks exceeding $1,000). Furthermore, once the committee realized it did not have the attribution information, it would have been "obliged to contact the contributors to obtain this information." 52 Fed. Reg. 766. Even the general counsel recognizes that the Kemp committee did not notify Mr. Goland of the perceived problem within a reasonable time. Why, then, if the general counsel does not believe that the Golands provided an attribution form, [8] has no action been initiated against the Kemp committee? If anyone should be before the Commission in this matter, it is the Kemp committee, not Mr. Goland.

In sum, the Commission should reject the general counsel's recommendation -- which is based on absolutely no evidence that Mr. Goland made an excessive contribution -- and should bring a long overdue conclusion to this unjustifiably protracted matter.

---

[8] We note that the general counsel has not taken any position on whether the attribution form was provided. He simply ignores it.

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Conclusion

For all the foregoing reasons, the Commission should find that there is not probable cause to believe Mr. Goland made an excessive contribution in violation of 2 U.S.C. § 441a(a)(1)(A).

Respectfully submitted,

SETH P. WAXMAN
DAVID I. GELFAND
MILLER, CASSIDY, LARROCA & LEWIN
2555 M Street, N.W., Suite 500
Washington, D.C. 20037
(202) 293-6400

Attorneys for Michael R. Goland

August 15, 1989

9904076022

EXHIBIT 1

9904076022 4

AFFIDAVIT OF MICHAEL GOLAND

MICHAEL GOLAND, being duly sworn, deposes and says:

1. I make this affidavit in response to a Notice from the Federal Election Commission dated January 29, 1988.

2. The contribution referred to in the Notice was a joint contribution made by me and my wife, Diane West Goland. The contribution check was handed personally to a person who said he was a member of Congressman Kemp's campaign staff who asked, and was specifically told, that it represented a contribution by each of us of $1,000.00 to Congressman Kemp's primary campaign and $1,000.00 to his general election campaign. At the staff member's request, I indicated this breakdown in writing at the time.

I declare upon penalty of perjury that the foregoing is true and correct.

MICHAEL GOLAND

Executed on: 17 February 1988

9904607 0225

EXHIBIT 2

9904070226

AFFIDAVIT OF DALE SUMMERHAYS

DALE SUMMERHAYS, being duly sworn, deposes and says:

1. In 1986 I served as the controller for Balboa Construction Co., Inc. and its related entities. I was also responsible for handling the books and expenditures of Michael and Diane Goland.

2. I have reviewed the photocopied check attached to this affidavit and verify that it contains my signature. The check is drawn on an account which was used for the personal expenses of both Michael and Diane Goland.

3. At the time I was asked to sign the check, it was my understanding that it represented a joint contribution by Mr. and Mrs. Goland to Congressman Jack Kemp's re-election campaign. I cannot recall if it was Michael Goland, Diane Goland, or both who told me this.

I declare under penalty of perjury that the foregoing is true and correct.

DALE SUMMERHAYS

Dated: 10-11-88

9 9 0 4 0 7 0 2 2 7

MICHAEL GOLAND
818-888-0355
5311 TOPANGA CANYON BLVD.
WOODLAND HILLS, CA 91364

7/8/ 1986

90-4046/1222

PAY TO THE ORDER OF KEMP FOR CONGRESS $ 4000 —

four thousand & 0/100 DOLLARS

INDUSTRIAL BANK
8606 SEPULVEDA BLVD.
VAN NUYS, CALIFORNIA 91411

MEMO

⑆122240463⑈ 0105⑈00 ⑈4024 55⑈

EXHIBIT 3

For Michael & Diane —
With best wishes & friendship
Jack Kemp

OGC 3943

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WILLIAM H. JEFFRESS, JR.
R. STAN MORTENSON
THOMAS B. CARR
JAMIE S. GORELICK
JAMES E. ROCAP, III
SETH P. WAXMAN
JONATHAN B. SALLET
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DAVID G. WEBBERT
JULIA E. GUTTMAN
NIKI KUCKES
ANNE M. COUGHLIN*
JAY L. ALEXANDER
STEVAN E. BUNNELL
DAVID I. GELFAND
PAUL F. ENZINNA*

COURTNEY A. EVANS
WILLIAM W. GREENHALGH
OF COUNSEL

*NOT ADMITTED IN D.C.

August 25, 1989

Sandra J. Dunham, Esquire
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Sixth Floor
Washington, D.C. 20003

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
89 SEP -6 AM 11:22

Re: The Matter of Michael R. Goland, MUR ~~2560~~ 3570

Dear Ms. Dunham:

I am enclosing thirteen copies of the Declaration of David Hoppe dated August 23, 1989, as a supplement to our brief submitted August 15, 1989 in the above-referenced matter. Mr. Hoppe was the representative of the Kemp campaign who accepted the contribution check from Mr. and Mrs. Goland. As you can see, Mr. Hoppe fully corroborates Mr. Goland's account, and leaves no doubt that the Golands took all necessary steps to effectuate a valid joint contribution.

Please circulate these copies as supplemental material to the recipients of the original brief. I also am enclosing an extra copy to be file-stamped and returned to me.

Thank you for your assistance.

Sincerely,

David I. Gelfand

DIG:dah
Enclosures

89 SEP -6 AM 8:40

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DECLARATION OF DAVID HOPPE

DAVID HOPPE, being duly sworn, deposes and says:

1. In 1986 I was an administrative assistant to Congressman Jack Kemp. From time to time during that year, I accepted contribution checks made out to Congressman Kemp's reelection committee and forwarded them to the committee staff.

2. Sometime during the summer of 1986 Michael Goland personally delivered to me a check made out for $4,000 to "Kemp for Congress." Mr. Goland represented to me that the check represented a joint contribution with his wife, and he provided me with properly executed attribution forms, allocating $1,000 from both him and his wife to the primary campaign and $1,000 each for the general election. I forwarded this check to the Kemp committee.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: August 23, 1989

David Hoppe

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RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT
89 SEP -1 PM 3:49

SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2570
Donald R. Corbin	)	

GENERAL COUNSEL'S REPORT

I. **BACKGROUND**

Attached is a conciliation agreement which has been signed by John J. Duffy, the attorney for Donald R. Corbin.

The attached agreement contains no changes from the agreement approved by the Commission on August 1, 1989. A $250.00 check for the civil penalty has been received.

II. **RECOMMENDATIONS**

1. Accept the attached conciliation agreement with Donald R. Corbin.

2. Close the file as to this respondent.

3. Approve the attached letter.

8/31/89
Date

LMNoble (SJD)
Lawrence M. Noble
General Counsel

Attachments
1. Conciliation Agreement
2. Photocopy of civil penalty check
3. Letter to Respondent

Staff Assigned: Sandra J. Dunham

9904078023

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Donald R. Corbin	)	MUR 2570

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on September 7, 1989, the Commission decided by a vote of 4-0 to take the following actions in MUR 2570:

1. Accept the conciliation agreement with Donald R. Corbin.

2. Close the file as to this respondent.

3. Approve the letter attached to the General Counsel's Report dated August 31, 1989.

Commissioners Aikens, Elliott, Mcdonald and McGarry voted affirmatively for the decision; Commissioners Josefiak and Thomas did not vote.

Attest:

9/8/89
Date

Hilda Arnold
for Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Friday, September 1, 1989 3:49
Circulated to the Commission: Tuesday, September 5, 1989 11:00
Deadline for vote: Thursday, September 7, 1989 11:00

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 12, 1989

John J. Duffy, Esquire
Piper & Marbury
1200 Nineteenth Street, N.W.
Washington, D.C. 20036

RE: MUR 2570
Donald R. Corbin

Dear Mr. Duffy:

On September 7 , 1989, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on your client's behalf in settlement of a violation of 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter as it pertains to your client. This matter will become a part of the public record within 30 days after it has been closed with respect to all other respondents involved. If 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.

Please be advised that information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter has been closed. The Commission will notify you when the entire file has been closed.

9904076023

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact Sandra J. Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

9904070230

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Donald R. Corbin	)	MUR 2570
	)	

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("the Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found probable cause to believe that Donald R. Corbin ("Respondent") violated 2 U.S.C. § 441a(a)(1)(A).

NOW, THEREFORE, the Commission and the Respondent, having duly entered into conciliation pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent, and the subject matter of this proceeding.

II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Respondent, Donald R. Corbin, is an individual contributor.

2. Respondent made a $4,000 contribution to Citizens for Jack Kemp on August 12, 1986. This contribution was reported by Citizens for Jack Kemp as being for the primary election campaign.

3. Respondent redesignated $1,000 to the general election on October 10, 1986.

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4. Citizens for Jack Kemp refunded $2,000 on October 31, 1986.

V. Pursuant to 2 U.S.C. § 441a(a)(1)(A), no person shall make contributions to any candidate and his authorized political committee with respect to any election for Federal office, which in the aggregate, exceed $1,000.

VI. Respondent contributed $4,000 to Citizens for Jack Kemp's primary election campaign in violation of 2 U.S.C. § 441a(a)(1)(A).

VII. Respondent will pay a civil penalty to the Federal Election Commission in the amount of Two Hundred and Fifty Dollars ($250.00), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VIII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

IX. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

X. Respondent shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

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XI. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

Date 9/11/89

FOR THE RESPONDENT:

John J. Duffy
Attorney for Respondent

Date 8/04/89

90040702237

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT
89 SEP 13 AM 10: 32

SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Citizens for Jack Kemp	)	MUR 2570
and Malcolm K. Buckley,	)	
as treasurer	)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

Attached is a conciliation agreement which has been signed by Paul E. Sullivan, the attorney for Citizens for Jack Kemp (the "Committee"). A check for the civil penalty has not yet been received.

9904076024 0

II. RECOMMENDATIONS

1. Accept the attached conciliation agreement with Citizens for Jack Kemp and Malcolm K. Buckley, as treasurer.

2. Close the file as to this respondent.

3. Approve the attached letter.

Date 9/12/89

Lawrence M. Noble
General Counsel

Attachments
1. Conciliation Agreement
2. Letter to Respondent

Staff Assigned: Sandra J. Dunham

09040702241

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Citizens for Jack Kemp	)	MUR 2570
and Malcolm K. Buckley,	)	
as treasurer	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on September 18, 1989, the Commission decided by a vote of 4-0 to take the following actions in MUR 2570:

1. Accept the conciliation agreement with Citizens for Jack Kemp and Malcolm K. Buckley, as treasurer, as recommended in the General Counsel's Report dated September 12, 1989.

2. Close the file as to this respondent.

3. Approve the letter, as recommended in the General Counsel's Report dated September 12, 1989.

Commissioners Aikens, Elliott, Josefiak, and McGarry voted affirmatively for the decision; Commissioners McDonald and Thomas did not cast votes.

Attest:

9-18-89
Date

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

Received in the Secretariat: Wednesday, September 13, 1989 10:31 a.m.
Circulated to the Commission: Wednesday, September 13, 1989 4:00 p.m.
Deadline for vote: Friday, September 15, 1989 4:00 p.m.
At the time of deadline, 4 affirmative votes had not been received.
Final vote received: Monday, September 18, 1989 10:46 a.m.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 21, 1989

Paul E. Sullivan, Esquire
Wunder, Ryan, Cannon & Thelen
1615 L Street, N.W. Suite 650
Washington, D.C. 20036

RE: MUR 2570
Citizens for Jack Kemp and
Malcolm K. Buckley, as
treasurer

Dear Mr. Sullivan:

On September 18, 1989, the Federal Election Commission accepted the signed conciliation agreement submitted on your client's behalf in settlement of a violation of 2 U.S.C. § 441a(f), a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter as it pertains to your clients. This matter will become a part of the public record within 30 days after it has been closed with respect to all other respondents involved. If 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.

Please be advised that information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter has been closed. The Commission will notify you when the entire file has been closed.

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Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact Sandra Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Citizens for Jack Kemp and Malcolm K. Buckley, as treasurer	)	MUR 2570
	)	

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("the Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found probable cause to believe that Citizens for Jack Kemp and Malcolm K. Buckley, as treasurer ("Respondents") violated 2 U.S.C. § 441a(f).

NOW, THEREFORE, the Commission and the Respondents, having duly entered into conciliation pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding.

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Respondent Citizens for Jack Kemp is a political committee within the meaning of 2 U.S.C. § 431(4).

2. Respondent Malcolm K. Buckley is the treasurer of Citizens for Jack Kemp.

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3. Respondents accepted apparent excessive contributions totalling $63,212.50 from 63 individuals and 3 partnerships in 1986.

V. Pursuant to 2 U.S.C. § 441a(f), no political committee may knowingly accept a contribution in violation of any limitation imposed on contributions and expenditures.

VI. Respondents accepted apparent excessive contributions in violation of 2 U.S.C. § 441a(f).

VII. Respondents will pay a civil penalty to the Federal Election Commission in the amount of Three Thousand Five Hundred Dollars ($3,500), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VIII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

IX. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

X. Respondents shall have no more than ninety (90) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

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XI. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

Date 9/21/87

FOR THE RESPONDENTS:

Paul E. Sullivan
Attorney for Respondents

Date 8-29-89

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RECEIVED
FEDERAL ELECTION COMMISSION
90 JAN -4 AM 11:45

BEFORE THE FEDERAL ELECTION COMMISSION **SENSITIVE**

In the Matter of	)	
	)	
Michael R. Goland	)	**MUR 2570**
	)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On January 6, 1988, the Commission found reason to believe that Michael R. Goland ("Respondent") violated 2 U.S.C. § 441a(a)(1)(A) by making a $4,000.00 contribution to Citizens for Jack Kemp (the "Committee") in July, 1986.

Following unsuccessful conciliation negotiations prior to a finding of probable cause to believe, the Office of the General Counsel on July 7, 1989, sent Respondent a brief recommending probable cause to believe that he had violated 2 U.S.C. § 441a(a)(1)(A). In response to the brief, Respondent reiterated the arguments he had raised earlier in response to the Commission's reason to believe determination and during conciliation negotiations. In sum, he stated that the $4,000.00 contribution to the Committee was from his wife and himself, with each of them contributing $1,000.00 to both the primary and general election campaigns of Mr. Kemp in 1986. However, Respondent did not produce the written statement assertedly signed by both of the Golands which informed the Committee of their intended designations and attributions.

Later, Respondent submitted a supplemental response to the General Counsel's Brief. This supplement consisted of a Statement

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of Declaration from David Hoppe, an administrative assistant to Jack Kemp in 1986, to whom Mr. Goland assertedly gave the $4,000.00 check at issue. (Attachment 1). Mr. Hoppe declared that Mr. Goland had stated to him that "the check represented a joint contribution with his wife" and had provided him with a properly executed written statement which indicated that the $4,000.00 was a joint contribution from the Golands, with each spouse contributing $1,000.00 to both the primary and general election campaigns. Mr. Hoppe stated that he forwarded the contribution to the Committee.

II. **ANALYSIS**

2 U.S.C. § 441a(a)(1)(A) 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 $1,000.00. Sections 110.1(a)(2)(ii)(A) and (B)(1980)[1] defined "[w]ith respect to any election" as contributions received without a written designation for a particular election which must be designated for the primary election if made on or before the primary election or which must be designated for the general election if made after the date of the primary election. Pursuant to 11 C.F.R. § 104.8(d)(1980)[2], a contribution which represented contributions by more than one person had to indicate on the written instrument, or on an accompanying written statement signed by all contributors, the

1. Amended on April 8, 1987.

2. Id.

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amount to be attributed to each contributor. 11 C.F.R. § 103.3(b)(2)(1980)[3] stated that when a contribution could not be determined to be legal, refunds were to be made within "a reasonable time."

The Committee contacted Respondent by letter approximately four months after the initial contribution was made. The Committee requested that Respondent redesignate $1,000.00 to the general election. Nothing was said about the remaining $2,000.00 excessive amount and the Committee eventually refunded this portion of the contribution. Respondent sent a letter to the Committee which redesignated $1,000.00 to the general election although this was not done within a reasonable time after the initial contribution. Consequently, the Commission found reason to believe that Respondent had violated 2 U.S.C. § 441a(a)(1)(A) by making a $3,000.00 excessive contribution to the Committee. On the same basis, the General Counsel's Brief advocated a probable cause to believe finding in the same regard.

Neither the Committee nor the Respondent has produced a copy of the written statement which Mr. Hoppe now states was given to him at the time of the contribution. However, Mr. Hoppe's sworn Declaration does support Mr. Goland's consistent argument that his original $4,000.00 contribution was intended to be from both his wife and himself, with each $2,000.00 to be divided between the primary and the general elections. Therefore, on the basis of the statement by Mr. Hoppe, and given the unlikelihood of production

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3. Id.

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of the written document discussed therein, the Office of the General Counsel recommends that the Commission take no further action against Mr. Goland and close the file in this matter.

III. **RECOMMENDATIONS**

1. Take no further action against Michael R. Goland.
2. Close the file.
3. Approve the attached letters.

Date 1/3/90

Lawrence M. Noble
General Counsel

Attachments
1. Affidavit from David Hoppe
2. Letter to respondent
3. Letters to other respondents

Staff Assigned: Sandra J. Dunham

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2570
Michael R. Goland	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on January 9, 1990, the Commission decided by a vote of 6-0 to take the following actions in MUR 2570:

1. Take no further action against Michael R. Goland, as recommended in the General Counsel's Report dated January 3, 1990.

2. Close the file.

3. Approve the letters, as recommended in the General Counsel's Report dated January 3, 1990.

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

Attest:

1-10-90
Date

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

Received in the Secretariat: Thurs., Jan. 4, 1990 11:45 a.m.
Circulated to the Commission: Thurs., Jan. 4, 1990 4:00 p.m.
Deadline for vote: Mon., Jan. 8, 1990 4:00 p.m.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 12, 1990

Seth P. Waxman, Esquire
Miller, Cassidy, Larroca & Lewin
2555 M Street, N.W., Suite 500
Washington, D.C. 20037

RE: MUR 2570
Michael R. Goland

Dear Mr. Waxman:

On January 6, 1988, your client, Michael R. Goland, was notified that the Federal Election Commission found reason to believe that he had violated 2 U.S.C. § 441a(a)(1)(A).

After considering the circumstances of the matter, including the response which you have submitted on your client's behalf, the Commission determined on January 9, 1990, to take no further action against Michael R. Goland, and closed the file. The file will be made 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 of your receipt of this letter. Such materials should be sent to the Office of the General Counsel.

The Commission reminds you that a $4,000.00 contribution without the necessary designations or attributions will appear to be a violation of 2 U.S.C. § 441a(a)(1)(A). Your client should take immediate steps to insure that this activity does not occur in the future.

If you have any questions, please contact Sandra J. Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

9904076025

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 12, 1990

Joy W. Taylor
2930 Kent Drive
Oklahoma City, OK 73120

RE: MUR 2570
Joy W. Taylor

Dear Ms. Taylor:

This is to advise you that the entire file in this matter has now been closed and will become part of the public record within 30 days. Should you wish to submit any legal or factual materials to be placed on the public record in connection with this matter, please do so within ten days. Such materials should be sent to the Office of the General Counsel.

Should you have any questions, contact Sandra J. Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 12, 1990

Warren G. Schlinger
3835 Shadow Grove Road
Pasadena, CA 91107

RE: MUR 2570
William M. Schlinger

Dear Mr. Schlinger:

This is to advise you that the entire file in this matter has now been closed and will become part of the public record within 30 days. Should you wish to submit any legal or factual materials to be placed on the public record in connection with this matter, please do so within ten days. Such materials should be sent to the Office of the General Counsel.

Should you have any questions, contact Sandra J. Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 12, 1990

R. Douglas Krotzer
325 Harlem Road
West Seneca, New York 14224

RE: MUR 2570
R. Douglas Krotzer

Dear Mr. Krotzer:

This is to advise you that the entire file in this matter has now been closed and will become part of the public record within 30 days. Should you wish to submit any legal or factual materials to be placed on the public record in connection with this matter, please do so within ten days. Such materials should be sent to the Office of the General Counsel.

Should you have any questions, contact Sandra J. Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

9904070250

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 12, 1990

John J. Duffy, Esquire
Piper & Marbury
1200 Nineteenth Street, N.W.
Washington, D.C. 20036

RE: MUR 2570
Donald R. Corbin

Dear Mr. Duffy:

This is to advise you that the entire file in this matter has now been closed and will become part of the public record within 30 days. Should you wish to submit any legal or factual materials to be placed on the public record in connection with this matter, please do so within ten days. Such materials should be sent to the Office of the General Counsel.

Should you have any questions, contact Sandra J. Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 12,1990

Paul E. Sullivan, Esquire
Wunder, Ryan, Cannon & Thelen
1615 L Street, N.W., Suite 650
Washington, D.C. 20036

RE: MUR 2570
Citizens for Jack Kemp and
Malcolm K. Buckley, as
treasurer

Dear Mr. Sullivan:

This is to advise you that the entire file in this matter has now been closed and will become part of the public record within 30 days. Should you wish to submit any legal or factual materials to be placed on the public record in connection with this matter, please do so within ten days. Such materials should be sent to the Office of the General Counsel.

Should you have any questions, contact Sandra J. Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 2570

DATE FILMED 1/24/90 CAMERA NO. 2

CAMERAMAN AS

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THE FOLLOWING DOCUMENTATION IS ADDED TO

THE PUBLIC RECORD IN CLOSED MUR 2570.

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OGC 9557

CLOSED

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 15, 1990

Alan Fink
Davis, Barney & Jones
10 Harborcrest
Irvine, California 92714

RE: MUR 2570
Davis, Barney & Jones

Dear Mr. Fink:

This is to advise you that the entire file in this matter has now been closed and has become part of the public record. Should you wish to submit any legal or factual materials to be placed on the public record in connection with this matter, please do so within ten days. Such materials should be sent to the Office of the General Counsel.

Should you have any questions, contact Sandra J. Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

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