FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 2589

DATE FILMED 4/23/88 CAMERA NO. 3

CAMERAMAN GPC

6003#5063

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
88 JAN -5 PM 4:34

Petition 187

EPSTEIN BECKER & GREEN, P.C.
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(202) 861-0900
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(203) 348-3737

212 CARNEGIE CENTER
PRINCETON, NEW JERSEY 08540-6212
(609) 452-2445

P.C. NEW YORK, WASHINGTON, D.C.
CONNECTICUT AND VIRGINIA ONLY

FOUR EMBARCADERO
SAN FRANCISCO, CALIFORNIA 94111-5994
(415) 398-3500

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DALLAS, TEXAS 75251-2213
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DETROIT, MICHIGAN 48226-3411
(313) 965-3190

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TALLAHASSEE, FLORIDA 32301-2524
(904) 681-0596

510 KING STREET, SUITE 301
ALEXANDRIA, VIRGINIA 22314-3132
(703) 684-1204

January 5, 1988

HAND-DELIVERED

Lois Lerner, Esquire
Associate General Counsel
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Room 657
Washington, D.C. 20463

Dear Lois:

As discussed, enclosed please find a letter to the Federal Election Commission ("FEC") from Martha A. Golden, the Treasurer of the Citicorp Voluntary Political Fund - Federal Account, concerning payment of tax liabilities by the Fund. As the inadvertent violation of FEC requirements referenced therein has been remedied by the Fund on its own initiative, we trust that the Commission will find no reason to open an enforcement action concerning this matter.

Thank you in advance for you cooperation and assistance. Please do not hesitate to call me at (202) 861-1877 if you need any further information regarding this matter.

Very truly yours,

Leslie J. Kerman

Leslie J. Kerman
Counsel
Citicorp Voluntary Political
Fund - Federal Account

Enclosure

cc: Ms. Martha Golden
LJK:sam:4125

CITICORP VOLUNTARY POLITICAL FUND - FEDERAL
399 Park Avenue - 32nd Floor
New York, New York 10043

FEC ID# C 000 88 088

December 28, 1987

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

Gentlemen:

In reviewing our operating procedures for the Citicorp PAC, it was noted that we had been paying our Federal Income taxes from our corporate treasury funds. Since we first started paying Federal income tax in 1981, we have operated under the belief that payment of Federal income taxes was part of the administrative costs of operating a separate segregated fund and, therefore, an appropriate use of corporate funds.

Citicorp devotes considerable manpower and resources to ensure compliance with Federal election laws in the administration of its PAC. However, we were not aware of the FEC Advisory Opinion which holds that such taxes must be paid from the PAC, not corporate funds. Following is a listing of the amounts paid for the tax years:

1981 -	$ 915.00
1982 -	1,060.00
1983 -	699.77
1984 -	167.00
1985 -	763.00
1986 -	482.00

In light of this inadvertent non-compliance with an FEC Advisory Opinion, I have issued a check in the amount of $4,086.77 (copy attached) from the Citicorp Voluntary Political Fund - Federal to reimburse Citicorp for the tax payments made for those years. This transaction will be reported in our regular periodic filing for the month of December. We will, of course, pay all future tax liabilities directly from our PAC funds.

Sincerely,

Martha A. Golden

Martha A. Golden
Treasurer

CITICORP VOLUNTARY POLITICAL FUND - FEDERAL
399 PARK AVENUE, 32ND FLOOR
NEW YORK, NY 10043

2606

1-8/210 22

December 28 19 87

PAY TO THE ORDER OF Citicorp (4026) $ 4,086.77

Four thousand eighty six and 77/100 ---------- DOLLARS

Citibank, N.A.
399 Park Avenue
New York, N.Y.
10022

CITIBANK

FOR Reimbursement for taxes on interest

Martha L. Golden
Treasurer

⑈002606⑈ ⑆021000089⑆ 022 027176 62⑈

Revised 2/87

Form-5
Acknowledgement of
Sua Sponte Letter
(Sent by Docket)

NAME _____
ADDRESS _____
CITY/STATE/ZIP _____

RE: PreMUR _____

Dear _____:

This is to acknowledge receipt of your letter dated _____, 198_, pertaining to _____. You will be notified as soon as the Federal Election Commission takes action on your submission.

If you have any questions, please call _____, the [attorney] [staff person] assigned to this matter, at (202) _____. For your information, we have attached a brief description of the Commission's procedures for handling matters such as this.

Sincerely,

General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Procedures

rlm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 14, 1988

Leslie J. Kerman, Esq.
Epstein, Becker & Greene, P.C.
1140 19th Street, NW
Washington, DC 20036-6601

Re: Pre-MUR 197

Dear Ms. Kerman:

This is to acknowledge receipt of your letter on January 5, 1988, pertaining to the Citicorp Voluntary Political Fund-Federal Account. You will be notified as soon as the Commission takes action on your submission.

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

Sincerely,

Lawrence M. Noble
General Counsel

By: Lois G. Lerner
Associate General Counsel

Enclosure
Procedures

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/SUSAN GREENLEE S.G.

DATE: MARCH 1, 1988

SUBJECT: OBJECTION TO PreMur 187: First General Counsel's Report signed Feb. 26, 1988

The above-captioned document was circulated to the Commission on Tuesday, March 1, 1988 at 11:00 a.m.

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

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

This matter will be placed on the Executive Session agenda for March 8, 1988.

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

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JOSHUA MCFADDEN

DATE: MARCH 2, 1988

SUBJECT: OBJECTIONS TO PreMUR 187: FIRST G.C. REPORT
SIGEND FEBRUARY 26, 1988

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

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

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

This matter will be placed on the Executive Session agenda for March 8, 1988.

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

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JOSHUA MCFADDEN

DATE: MARCH 4, 1988

SUBJECT: OBJECTIONS TO PreMUR 187 - FIRST G.C. REPORT SIGNED FEB., 26, 1988

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

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

Commissioner Aikens	x
Commissioner Elliott	x
Commissioner Josefiak	x
Commissioner McDonald	
Commissioner McGarry	
Commissioner Thomas	

This matter will be placed on the Executive Session agenda for March 8, 1988.

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

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EXECUTIVE SESSION

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FEDERAL ELECTION COMMISSION
SEC

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MAR 08 1988

SENSITIVE

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

FIRST GENERAL COUNSEL'S REPORT

Pre-MUR 187
Staff Member: Celia Jacoby

SOURCE OF MUR: Sua Sponte

RESPONDENTS: Citicorp Voluntary Political Fund-Federal Account and Martha A. Golden, as treasurer; Citibank, N.A.

RELEVANT STATUTES: 2 U.S.C. § 441b(a)
11 C.F.R. § 114.1(b)
AO 1977-19

INTERNAL REPORTS CHECKED: Disclosure Reports

EXTERNAL REPORTS CHECKED: None

I. GENERATION OF MATTER

This matter was initiated sua sponte by a communication from Citicorp Voluntary Political Fund-Federal Account and Martha A. Golden, as treasurer (the "Respondents"). The principal issue is the payment of federal income taxes attributable to the Respondents' accounts by its corporate sponsor.

II. FACTUAL AND LEGAL ANALYSIS

On January 5, 1988, the Commission received a letter from counsel for the Respondents transmitting a letter from Ms. Golden which was dated December 28, 1987. The Golden letter stated that during calendar years 1981 through 1986, inclusive, the federal income taxes attributable to the Respondents' income had been paid by its corporate sponsor, Citibank, N.A. These payments amounted to $4,086.77, and had been paid through the corporate treasury on the belief that payment of federal income taxes was an

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administrative cost of operating a separate segregated fund, and therefore, a permitted corporate expenditure. Following a review of its operating procedures, the Respondents ascertained that such payment by corporate funds was contrary to a Commission Advisory Opinion and refunded the sums expended to its corporate sponsor.

Section 441b of Title 2, United States Code prohibits a corporation from making a "contribution or expenditure" in connection with federal elections. That section, however, also provides that a "contribution or expenditure" does not include "the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation." 2 U.S.C. § 441b(b)(2)(C). Pursuant to 11 C.F.R. § 114.1(b), "establishment, administration and solicitation costs" include the "cost of office space, phones, salaries, utilities, supplies, legal and accounting fees, fund-raising and other expenses incurred in setting up and running the separate segregated fund."

The liability for taxes attributable to income earned on the deposit of contributed funds is not, according to AO 1977-19, an obligation incurred in the solicitation, maintenance or utilization of such contributions for "political purposes." In that advisory opinion a separate segregated fund earned interest on the contributions received. The Commission determined that because the tax obligation was incurred as a result of the production of income, that obligation was distinguishable from

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the costs incurred in "setting up and running" the separate segregated fund. Accordingly, the tax liability does not constitute an administrative expense payable by corporate treasury funds.

During the years 1981-1986, the income tax obligations of the Respondents were paid by corporate treasury funds contrary to the guidelines set forth in AO 1977-19. Accordingly, the sponsor corporation made an expenditure on behalf of its separate segregated fund, and the Respondents received a contribution, contrary to the provisions of 2 U.S.C. § 441b(a). Therefore, this Office recommends that the Commission find reason to believe that Citicorp Voluntary Political Fund-Federal Account and Martha A. Golden, as treasurer, and Citibank, N.A. violated 2 U.S.C. § 441b(a).

III. RECOMMENDATIONS

1. Open a MUR.
2. Find reason to believe that Citicorp Voluntary Political Fund-Federal Account and Martha A. Golden, as treasurer, and Citibank, N.A. violated 2 U.S.C. § 441b(a).
3. Approve and send the attached letters.

Lawrence M. Noble
General Counsel

2/26/88
Date

By: Lois G. Lerner
Associate General Counsel

Attachments
1. Correspondence from Respondents.
2. Proposed Letter.
3. Factual and Legal Analysis.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Citicorp Voluntary Political Fund - Federal Account and Martha A. Golden, as treasurer;	)	Pre-MUR 187 (MUR 2589)
Citibank, N.A.	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of March 8, 1988, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions with respect to Pre-MUR 187:

1. Open a MUR.

2. Find reason to believe that Citicorp Voluntary Political Fund - Federal Account and Martha A. Golden, as treasurer, and Citibank, N.A. violated 2 U.S.C. § 441b(a) and close the file.

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

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

Attest:

3/9/88
Date

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

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Plus

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 11, 1988

Leslie J. Kerman, Esquire
Epstein, Becker & Green, P.C.
1140 19th Street, N.W.
Washington, D.C. 20036-6601

RE: MUR 2589
Citicorp Voluntary
Political Fund-Federal
Account and Martha A.
Golden, as treasurer,
and Citibank, N.A.

Dear Ms. Kerman:

On January 5, 1988, the Federal Election Commission received a letter from you which indicated that your clients, Citicorp Voluntary Political Fund - Federal Account and Martha A. Golden, as treasurer, and Citibank, N.A., may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act").

Upon further review of the information supplied by you, the Commission, on March 8, 1988, found that there is reason to believe your clients violated 2 U.S.C. § 441b(a), a provision of the Act. However, after considering the circumstances of this matter, the Commission also determined to take no further action and closed its file. The Factual and Analysis which formed a basis for the Commission's finding is attached for your information. The Commission reminds you, however, that payment of non-administrative expenses (income tax obligations) of a separate segregated fund with corporate treasury funds appears to be a violation of 2 U.S.C. § 441b(a).

The file will be made part of the public record within thirty days. 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.

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Leslie J. Kerman, Esquire

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

Sincerely,

Thomas J. Josefiak
Chairman

Enclosure
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Citicorp Voluntary Political Fund-Federal Account and Martha A. Golden, as treasurer; Citibank, N.A.

MUR: 2589

On January 5, 1988, the Commission received a letter from counsel for the Respondents transmitting a letter from Ms. Golden which was dated December 28, 1987. The Golden letter stated that during calendar years 1981 through 1986, inclusive, the federal income taxes attributable to the Respondents' income had been paid by its corporate sponsor, Citibank, N.A. These payments amounted to $4,086.77, and had been paid through the corporate treasury on the belief that payment of federal income taxes was an administrative cost of operating a separate segregated fund, and therefore, a permitted corporate expenditure. Following a review of its operating procedures, the Respondents ascertained that such payment by corporate funds was contrary to a Commission Advisory Opinion and refunded the sums expended to its corporate sponsor.

Section 441b of Title 2, United States Code prohibits a corporation from making a "contribution or expenditure" in connection with federal elections. That section, however, also provides that a "contribution or expenditure" does not include "the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation." 2 U.S.C. § 441b(b)(2)(C). Pursuant to 11 C.F.R. § 114.1(b), "establishment, administration

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and solicitation costs" include the "cost of office space, phones, salaries, utilities, supplies, legal and accounting fees, fund-raising and other expenses incurred in setting up and running the separate segregated fund."

The liability for taxes attributable to income earned on the deposit of contributed funds is not, according to AO 1977-19, an obligation incurred in the solicitation, maintenance or utilization of such contributions for "political purposes." In that advisory opinion a separate segregated fund earned interest on the contributions received. The Commission determined that because the tax obligation was incurred as a result of the production of income, that obligation was distinguishable from the costs incurred in "setting up and running" the separate segregated fund. Accordingly, the tax liability does not constitute an administrative expense payable by corporate treasury funds.

During the years 1981-1986, the income tax obligations of the Respondents were paid by corporate treasury funds contrary to the guidelines set forth in AO 1977-19. Accordingly, the sponsor corporation made an expenditure on behalf of its separate segregated fund, and the Respondents received a contribution, contrary to the provisions of 2 U.S.C. § 441b(a). Therefore, this Office recommends that the Commission find reason to believe that Citicorp Voluntary Political Fund-Federal Account and Martha A. Golden, as treasurer, and Citibank, N.A. violated 2 U.S.C. § 441b(a).

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 2589

DATE FILMED 4/23/88 CAMERA NO. 3

CAMERAMAN GPC

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