FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 2691

DATE FILMED 4/5/90 CAMERA NO. 4

CAMERAMAN AS

9004080318 5

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
88 SEP -9 AM 9:10
88 SEP -9 AM 11:50
RECEIVED
COMMISSION SECRETARY

ACC#3 3
Mur 2691

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

Dear Commission Members:

I am writing to file a formal complaint which alledges violation of 11CFR104.5 (a)(1)(i); 2 U.S.C. #439(a)(2)(B); 11 CFR 105.2; 434(a)(2)(A) (iii) and 434(a) (2)(A)(i).

Specifically, I am alledging Dave Moss, P.O. 1013, Sun City, Az 85372 (602-955-7364) and/or his principal campaign committee as noted upon FEC Form 2 (Statement of Organization) has failed to file FEC Form 3 for the Pre-Primary period as required by laws cited above. Mr. Moss is a declared candidate for U.S. Congress in District 3 in Arizona.

Mr. Moss and/or his principal campaign committee did not indicate receipts or expenditures in excess of $5,000 on the second quarter report July 15. If the candidate or his committee has not yet raised $5,000 by August 24, 1988, no filing of Form 3 for the Pre-Primary period would have been required.

However, I have strong reason to believe the candidate and his committee has raised more than $5,000 and may have willfully with intent failed to file Pre-Primary FEC Form 3 by September 1, 1988, as required by laws cited above.

Mr. Moss has made several statements to various electronic and print media today, September 6, 1988, that he has raised more than $5000 but is not required to file FEC Form 3 in the Pre-Primary. He has further stated he has until October 15, 1988, to file these forms. In one conversation with media he alledgedly stated a possible degree of willingnessto face a small fine as a result of an unspecified "strategy" to withhold or delay this information as regards the curiosity of his opponents.

I believe sufficient evidence exists in light of his statements to members of the media to consider the possibility of willful intent to withhold this report as required by law. In any event, it would appear he and/or his campaign committee has raised in excess of $5,000, based upon statements to the media and that timely filing of the report would be required by applicable federal laws.

I should note here that Mr. Moss declared his intentions to campaign for this seat in November, 1988, to members of the Coconino County Democratic organization. He has conducted regular travels throughout the 50,000-plus sq. mi. district in the last two years.

9 0 0 4 0 0 3 1 3 6

He has union-printed posters and multi-color bumper stickers. Based upon his protracted activities; the number of campaign items visible to the public, and recent statements to the media I would suggest sufficient evidence exists to seek a determination as to whether he and/or his campaign committee has raised over the $5,000 mark and is in violation of requirements for prompt filing.

I urge the Federal Election Commission to look into this matter at once and to consider whether to refer this matter to the U.S. Attorney General's Office if evidence exists of willful intent to withhold required information. I believe this is a very serious matter of utmost importance.

I affirm I believe the above two pages of information to be a complete and true account of an alledged violation of federal election laws. Thank you for your consideration.

Sincerely,

John Parsons

John Parsons
P.O. 1147
Flagstaff, AZ 86002
602-774-2667

Subscribed and sworn to before me:

Diana Lynn Thomas

On This, the 6th day of September, 1988
in Coconino County, Arizona.

My Commission expires: My Commission Expires March 21, 1992

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GCC#370

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
Mur 2691

88 SEP 13 AM 7:59

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

Dear Commission Members:

I am writing to correct a typographical error in a sworn complaint I prepared and mailed to you, September 7, 1988.

The error appears on Paragraph 7 of Page One of Two. "November, 1988" should read "November, 1986". This is critical to my allegations concerning whether Mr. Moss may, in fact, be over the $5,000 mark.

I believe sufficient reason exists to determine whether Mr. Moss has exceeded the $5,000 mark.

For example, at least one member of the electionic media in Flagstaff, Arizona, would be willing to provide a sworn affadavit that Mr. Moss stated and emphasized he had collected over $5,000 during a conversation on September 6, 1988.

I believe Mr. Moss may not be including significant contributions and expenses incurred from 11/86 to 12/31/87.

As you know, any "testing the waters" contributions and expenses, whether paid by the potential candidate or his/her supporter(s), incurred from November 4, 1986 to present must be counted in the total calculations.

Mr. Moss has been steadily attending meetings and touting his candidacy since November, 1986. I can provide names and addresses of people who can recall his "campaign" activity during this time. Presumably, Mr. Moss would have had some or all of the following expense categories: gas, food, lodging, telephone, postage, printing, etc. As you know, a candidate must report money which the candidate has provided for his/her campaign. Mr. Moss is apparently now indicating he has received contributions and incurred expenses only from January 1, 1988, to August 24, 1988. Who paid for his "testing the waters" expenses during 1986-1987? These expenses must be included in the total.

I urge you to audit Mr. Moss to determine whether he is indeed over the $5,000 mark and, if so, apparently failed to file correct documents, as required by law.

Thank you for your consideration.

Sincerely,

John Parsons

John Parsons
P.O. 1147
Flagstaff, AZ 86002
602-774-2667

Subscribed and sworn to before me:
Sandra M. Berg
On this, the 9th day of September, 1988
in Coconino County, Arizona.
My Commission expires: Jul 6, 1990

Page One of One

88 SEP 13 AM 8:48
RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

00040031133

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

Dear Commission Members:

I am writing to file a formal complaint which alledges violation of 11CFR104.5 (a)(1)(i); 2 U.S.C. #439(a)(2)(B); 11 CFR 105.2; 434(a)(2)(A) (iii) and 434(a) (2)(A)(i).

Specifically, I am alledging Dave Moss, P.O. 1013, Sun City, Az 85372 (602-955-7364) and/or his principal campaign committee as noted upon FEC Form 2 (Statement of Organization) has failed to file FEC Form 3 for the Pre-Primary period as required by laws cited above. Mr. Moss is a declared candidate for U.S. Congress in District 3 in Arizona.

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I should note here that Mr. Moss declared his intentions to campaign for this seat in November, 1988, to members of the Coconino County Democratic organization. He has conducted regular travels throughout the 50,000-plus sq. mi. district in the last two years.

9004080319

He has union-printed posters and multi-color bumper stickers. Based upon his protracted activities; the number of campaign items visible to the public, and recent statements to the media I would suggest sufficient evidence exists to seek a determination as to whether he and/or his campaign committee has raised over the $5,000 mark and is in violation of requirements for prompt filing.

I urge the Federal Election Commission to look into this matter at once and to consider whether to refer this matter to the U.S. Attorney General's Office if evidence exists of willful intent to withhold required information. I believe this is a very serious matter of utmost importance.

I affirm I believe the above two pages of information to be a complete and true account of an alledged violation of federal election laws. Thank you for your consideration.

Sincerely,

John Parsons
P.O. 1147
Flagstaff, [illegible]
602-774-266[illegible]

Subscribed and sworn to before me:

Gladyn Sidner

On This, the 6th day of September, 1988
in Coconino County, Arizona.

My Commission expires: My Commission Expires March 21, 1992

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1988

Mr. John Parsons
PO Box 1147
Flagstaff, AZ 86002

RE: MUR 2871

Dear Mr. Parsons:

This letter acknowledges receipt on September 8, 1988, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended (the "Act"). I have assigned the [illegible] to the matter. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 2871. Please refer to this number in all future correspondence. For your information, we have attached a brief description of the Commission's procedures for handling complaints. If you have any questions, please contact Rachel [illegible], Staff Attorney, at [illegible].

Sincerely,

Lawrence M. Noble
General Counsel

By: Lois G. Lerner
Associate General Counsel

Enclosure
Procedures

9040203171

Plan

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1988

Al Breemay, Treasurer
Dave Moss For US Congress
Maricopa County Press
Headquarters
1409 E. Colter
Phoenix, AZ 85016

RE: MUR 2691
Dave Moss For US Congress
and Al Breemay, as
treasurer

Dear Mr. Breemay:

The Federal Election Commission received a complaint which alleges that Dave Moss For US Congress and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2691. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you and Dave Moss For US Congress in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with Section 437g(a)(4)(B) and Section 437g(a)(12)(A) of Title 2 unless you notify the Commission in writing that you wish the matter to be made public. 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.

2 0 0 4 0 8 0 3 1 9 2

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

Sincerely,

Lawrence M. Noble
General Counsel

By: Lois G. Lerner
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

cc: David R. Moss
Box 125
Wikieuo, AZ 85360

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RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

88 SEP 30 PM 1:55

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

88 SEP 30 AM 11:40

2049 E. Colter
Phoenix, AZ 85016
September 27, 1988

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

Re: MUR 2691

Dear Sandra:

In response to your letter of September 16, directed to Al Breznay, and our telephone conversation this morning, the following information relates to the above-captioned matter.

1. Copy of letter to Breznay sans enclosures received September 24, 1988.

2. Al Breznay, treasurer, is and has been out of state and unreachable.

3. Amended FEC Report filed September 15, 1988 (copy enclosed).

4. Purported complaint against Moss campaign made public by a John Parsons (see enclosed news items).

Since no copy of the purported complaint is available, I can only respond to the hearsay allegations garnered by campaign workers and others.

As to an allegation that Federal reporting requirements were violated, we had previously called Washington for clarification on the reporting period and ended up still confused. At the time of first filing we had papers only and no instruction guidelines. We were under the impression that all the FEC wanted was from year to year. When we later ascertained that funds had to be accumulated, we amended our form, filings made both to Washington, D.C. and to Arizona.

After being contacted by the press regarding a "complaint," we learned that a John Parsons had been calling the newspapers, radio stations, and television throughout the state expounding that Moss was purposely being deceitful. We were inundated by media calls. Since to our knowledge we had filed all papers in order, we were at a loss for immediate response.

2 1 0 4 0 2 3 1 7 4

Subsequently, the media has mentioned that Parsons has been calling them on a consistent basis, but not much credence has been given to his barrage. Other information divulged that Parsons has dabbled in politics before and now seems to be an ego-involved, headline hunter. As quoted in a rare news clip (see enclosed), he seems bent on mainly "being heard."

At this point, we can only consider Parson's diatribe as his vehicle to acquire publicity for HIS cause.

The Moss campaign against the incumbent will be a very close race. We are seeking to represent ALL of Congressional District 3--six counties, 55,000 square miles, rather than one county.

Any additional information that we can provide to satisfactorily and expeditiously settle this unfounded matter will be gladly furnished.

Thank you, Sandra, for your courtesy and patience. I appreciate the information you shared.

Sincerely,

Dave Moss

Dave Moss

DM/ms

Enclosures: Affidavit
Amended FEC Report
News clips

2004080351795

AFFIDAVIT

STATE OF ARIZONA)
COUNTY OF MARICOPA) S.S.

I DAVE MOSS, being first duly sworn, depose & say:

That I have filed an amendment F.E.C. report with Washington & with the Arizona Secretary of State.

That there was an initial misunderstanding of filing requirements with respect to "CALENDAR YEAR"

That to date campaign expenditures & receipts have been ineligible.

Further affiant saith not.

Dave Moss

SUBSCRIBED AND SWORN TO BEFORE ME THIS 27TH DAY OF SEPTEMBER, 1988, BY DAVE MOSS

Sandra B. Hathy

SANDRA B HATHY
NOTARY PUBLIC

MY COMMISSION EXPIRES:
7-18-91

REPORT OF RECEIPTS AND DISBURSEMENTS

For An Authorized Committee
(Summary Page)

USE FEC MAILING LABEL OR TYPE OR PRINT

1. NAME OF COMMITTEE (in full)
DAVE MOSS FOR U.S. CONGRESS

ADDRESS (number and street) ☐ Check if different than previously reported.
2049 E. COLTER

CITY, STATE and ZIP CODE — STATE/DISTRICT
PHOENIX AZ 85016 — CD 3

2. FEC IDENTIFICATION NUMBER
129267

3. IS THIS REPORT AN AMENDMENT?
☒ YES ☐ NO

4. TYPE OF REPORT

☐ April 15 Quarterly Report
☐ July 15 Quarterly Report
☐ October 15 Quarterly Report
☐ January 31 Year End Report
☐ July 31 Mid-Year Report (Non-election Year Only)

☒ Twelfth day report preceding PRIMARY (Type of Election) election on 9/13/88 in the State of AZ
☐ Thirtieth day report following the General Election on _____ in the State of _____
☐ Termination Report

This report contains activity for ☒ Primary Election ☐ General Election ☐ Special Election ☐ Runoff Election

SUMMARY

	COLUMN A This Period	COLUMN B Calendar Year-to-Date
5. Covering Period 3-12-87 through 8-24-88		
6. Net Contributions (other than loans)		
(a) Total Contributions (other than loans) (from Line 11(e))	10,576.00	10,576.00
(b) Total Contribution Refunds (from Line 20(d))		
(c) Net Contributions (other than loans) (subtract Line 6(b) from 6(a))	10,576.00	10,576.00
7. Net Operating Expenditures		
(a) Total Operating Expenditures (from Line 17)	10,454.28	10,454.28
(b) Total Offsets to Operating Expenditures (from Line 14)		
(c) Net Operating Expenditures (subtract Line 7(b) from 7(a))	10,454.28	10,454.28
8. Cash on Hand at Close of Reporting Period (from Line 27)	121.72	
9. Debts and Obligations Owed TO the Committee (Itemize all on Schedule C and/or Schedule D)		
10. Debts and Obligations Owed BY the Committee (Itemize all on Schedule C and/or Schedule D)		

For further information contact:
Federal Election Commission
999 E Street, NW
Washington, DC 20463
Toll Free 800-424-9530
Local 202-376-3120

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer: AL BREZNAY

Signature of Treasurer: Al Brezny by D. Brown — Date: 9/15/88

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g.

FEC FORM 3
(revised 4/87)

DETAILED SUMMARY PAGE

of Receipts and Disbursements

(Page 2, FEC FORM 3)

Name of Committee (in full): DAVE MOSS FOR U.S. CONGRESS

Report Covering the Period: From: 3-12-87 To: 8-24-88

I. RECEIPTS	COLUMN A Total This Period	COLUMN B Calendar Year-To-Date	
11. CONTRIBUTIONS (other than loans) FROM:			
(a) Individuals/Persons Other Than Political Committees			
(i) Itemized (use Schedule A)	650.00		11(a)(i)
(ii) Unitemized			11(a)(ii)
(iii) Total of contributions from individuals	650.00	650.00	11(a)(iii)
(b) Political Party Committees	54.20	54.20	11(b)
(c) Other Political Committees (such as PACs)			11(c)
(d) The Candidate	9,871.80	9,871.80	11(d)
(e) TOTAL CONTRIBUTIONS (other than loans)(add 11(a)(iii), (b), (c) and (d))	10,576.00	10,576.00	11(e)
12. TRANSFERS FROM OTHER AUTHORIZED COMMITTEES			12
13. LOANS			
(a) Made or Guaranteed by the Candidate			13(a)
(b) All Other Loans			13(b)
(c) TOTAL LOANS (add 13(a) and (b))			13(c)
14. OFFSETS TO OPERATING EXPENDITURES (Refunds, Rebates, etc.)			14
15. OTHER RECEIPTS (Dividends, Interest, etc.)			15
16. TOTAL RECEIPTS (add 11(e), 12, 13(c), 14 and 15)	10,576.00	10,576.00	16
II. DISBURSEMENTS			
17. OPERATING EXPENDITURES	10,454.28	10,454.28	17
18. TRANSFERS TO OTHER AUTHORIZED COMMITTEES			18
19. LOAN REPAYMENTS:			
(a) Of Loans Made or Guaranteed by the Candidate			19(a)
(b) Of All Other Loans			19(b)
(c) TOTAL LOAN REPAYMENTS (add 19(a) and (b))			19(c)
20. REFUNDS OF CONTRIBUTIONS TO			
(a) Individuals/Persons Other Than Political Committees			20(a)
(b) Political Party Committees			20(b)
(c) Other Political Committees (such as PACs)			20(c)
(d) TOTAL CONTRIBUTION REFUNDS (add 20(a), (b) and (c))			20(d)
21. OTHER DISBURSEMENTS			21
22. TOTAL DISBURSEMENTS (add 17, 18, 19(c), 20(d) and 21)	10,454.28	10,454.28	22

III. CASH SUMMARY

23. CASH ON HAND AT BEGINNING OF REPORTING PERIOD	$ -0-	23
24. TOTAL RECEIPTS THIS PERIOD (from Line 16)	$ 10,576.00	24
25. SUBTOTAL (add Line 23 and Line 24)	$ 10,576.00	25
26. TOTAL DISBURSEMENTS THIS PERIOD (from Line 22)	$ 10,454.28	26
27. CASH ON HAND AT CLOSE OF THE REPORTING PERIOD (subtract Line 26 from 25)	$ 121.72	27

ITEMIZED RECEIPTS

Separate schedule(s) for each category of the Detailed Summary Page

PAGE 1 OF 3

FOR LINE NUMBER 11(a)(i)

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

NAME OF COMMITTEE (in Full)

DAVE MOSS FOR U.S. CONGRESS

Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation	Date (month, day, year)	Amount of Each Receipt this Period
A. TONY MASON 86 BILTMORE ESTATES PHOENIX, AZ 85016 Receipt For: [X] Primary [ ] General [ ] Other (specify):	Occupation: LAWYER Aggregate Year-to-Date > $ 250.00	7/20/88	250.00
B. CHARLES LEWIS BOX 1842 BULLHEAD CITY AZ 86430 Receipt For: [X] Primary [ ] General [ ] Other (specify):	Occupation: RETIRED Aggregate Year-to-Date > $ 50.00	7/30/88	50.00
C. DENNIS ESKE 9200 INDIAN CREEK PARKWAY KANSAS CITY KS 66210 Receipt For: [X] Primary [ ] General [ ] Other (specify):	Name of Employer: SELF EMPLOYED Occupation: BUILDER Aggregate Year-to-Date > $ 250.00	8/17/88	250.00
D. VICTOR RICHTER 1025 HIGLEY RD KINGMAN, AZ 86401 Receipt For: [X] Primary [ ] General [ ] Other (specify):	Occupation: RETIRED Aggregate Year-to-Date > $ 50.00	8/21/88	50.00
E. PETER TRITTEN / Billy LARSON BOX 743 RIVIERA AZ 86442 Receipt For: [X] Primary [ ] General [ ] Other (specify):	Occupation Aggregate Year-to-Date > $ 50.00	1987	50.00
F. Full Name, Mailing Address and ZIP Code Receipt For: [ ] Primary [ ] General [ ] Other (specify):	Name of Employer Occupation Aggregate Year-to-Date > $	Date (month, day, year)	Amount of Each Receipt this Period
G. Full Name, Mailing Address and ZIP Code Receipt For: [ ] Primary [ ] General [ ] Other (specify):	Name of Employer Occupation Aggregate Year-to-Date > $	Date (month, day, year)	Amount of Each Receipt this Period

SUBTOTAL of Receipts This Page (optional)	650.00
TOTAL This Period (last page this line number only)	650.00

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ITEMIZED RECEIPTS

Use separate schedule(s) for each category of the Detailed Summary Page

PAGE 2 OF 3

FOR LINE NUMBER 11 (b)

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

Committee (In Full)

DAVE MOSS FOR U.S. CONGRESS

A. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Period
DEMOCRATIC CONGRESSIONAL CAMPAIGN COMMITTEE 430 S CAPITOL ST SE 2nd FL WASHINGTON, DC 20003	IN-KIND	8/15/83	54.20
Receipt For: ✓ Primary ☐ General ☐ Other (specify): LABELS	Occupation		
	Aggregate Year-to-Date > $ 54.20		
B. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Period
Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Occupation		
	Aggregate Year-to-Date > $		
C. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Period
Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Occupation		
	Aggregate Year-to-Date > $		
D. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Period
Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Occupation		
	Aggregate Year-to-Date > $		
E. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Period
Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Occupation		
	Aggregate Year-to-Date > $		
F. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Period
Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Occupation		
	Aggregate Year-to-Date > $		
G. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Period
Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Occupation		
	Aggregate Year-to-Date > $		

SUBTOTAL of Receipts This Page (optional)	
TOTAL This Period (last page this line number only)	54.20

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LE A

ITEMIZED RECEIPTS

Use separate schedule(s) each category of the Detailed Summary Page

PAGE 3 OF 3

FOR LINE NUMBER 11 (d)

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

NAME OF COMMITTEE (In Full)

DAVE MOSS FOR U.S. CONGRESS

A. Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation	Date (month, day, year)	Amount of Each Receipt this Period
DAVE MOSS 2049 E COLTER PHOENIX, AZ 85016 Receipt For: ☑ Primary ☐ General ☐ Other (specify):	CANDIDATE Aggregate Year-to-Date > $ 9,871.80	3/12/87 THRU 8/24/87	9,871.80
B. Full Name, Mailing Address and ZIP Code Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer / Occupation Aggregate Year-to-Date > $	Date (month, day, year)	Amount of Each Receipt this Period
C. Full Name, Mailing Address and ZIP Code Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer / Occupation Aggregate Year-to-Date > $	Date (month, day, year)	Amount of Each Receipt this Period
D. Full Name, Mailing Address and ZIP Code Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer / Occupation Aggregate Year-to-Date > $	Date (month, day, year)	Amount of Each Receipt this Period
E. Full Name, Mailing Address and ZIP Code Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer / Occupation Aggregate Year-to-Date > $	Date (month, day, year)	Amount of Each Receipt this Period
F. Full Name, Mailing Address and ZIP Code Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer / Occupation Aggregate Year-to-Date > $	Date (month, day, year)	Amount of Each Receipt this Period
G. Full Name, Mailing Address and ZIP Code Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer / Occupation Aggregate Year-to-Date > $	Date (month, day, year)	Amount of Each Receipt this Period

SUBTOTAL of Receipts This Page (optional)	
TOTAL This Period (last page this line number only)	9,871.80

LE B

ITEMIZED DISBURSEMENTS

Use separate schedule(s) for each category of the Detailed Summary Page

PAGE 1 OF 4

FOR LINE NUMBER 17

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

NAME OF COMMITTEE (in Full)

DAVE MOSS FOR U.S. CONGRESS

A. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
ARRCO BUTTON COMPANY 3518 RIVERSIDE DR COLUMBUS, OHIO 43221	MEDIA Disbursement for: ☐ Primary ☐ General ☑ Other (specify) TESTING	3/12/87	500.00
B. Full Name, Mailing Address and ZIP Code	**Purpose of Disbursement**	**Date (month, day, year)**	**Amount of Each Disbursement This Period**
MARICOPA COUNTY DEMOCRATS 1525 N CENTRAL AV #107 PHOENIX, AZ 85004	MEDIA - YARDSTICKS Disbursement for: ☐ Primary ☐ General ☑ Other (specify) TESTING	3/12/87	489.00
C. Full Name, Mailing Address and ZIP Code	**Purpose of Disbursement**	**Date (month, day, year)**	**Amount of Each Disbursement This Period**
ARRCO BUTTON COMPANY 3518 RIVERSIDE DR COLUMBUS, OH 43221	MEDIA Disbursement for: ☐ Primary ☐ General ☑ Other (specify) TESTING	3/19/87	559.50
D. Full Name, Mailing Address and ZIP Code	**Purpose of Disbursement**	**Date (month, day, year)**	**Amount of Each Disbursement This Period**
ARRCO BUTTON COMPANY 3518 RIVERSIDE DR COLUMBUS, OH 43221	MEDIA Disbursement for: ☐ Primary ☐ General ☑ Other (specify) TESTING	5/18/87	200.00
E. Full Name, Mailing Address and ZIP Code	**Purpose of Disbursement**	**Date (month, day, year)**	**Amount of Each Disbursement This Period**
ARRCO BUTTON COMPANY 3518 RIVERSIDE DR COLUMBUS, OH 43221	MEDIA Disbursement for: ☐ Primary ☐ General ☑ Other (specify) TESTING	6/1/87	294.40
F. Full Name, Mailing Address and ZIP Code	**Purpose of Disbursement**	**Date (month, day, year)**	**Amount of Each Disbursement This Period**
ARRCO BUTTON COMPANY 3518 RIVERSIDE DR COLUMBUS, OH 43221	MEDIA Disbursement for: ☐ Primary ☐ General ☑ Other (specify) TESTING	6/20/87	291.50
G. Full Name, Mailing Address and ZIP Code	**Purpose of Disbursement**	**Date (month, day, year)**	**Amount of Each Disbursement This Period**
ARRCO BUTTON COMPANY 3518 RIVERSIDE DR COLUMBUS, OH 43221	MEDIA Disbursement for: ☐ Primary ☐ General ☑ Other (specify) TESTING	6/29/87	349.80
H. Full Name, Mailing Address and ZIP Code	**Purpose of Disbursement**	**Date (month, day, year)**	**Amount of Each Disbursement This Period**
ARRCO BUTTON COMPANY 3518 RIVERSIDE DR COLUMBUS, OH 43221	MEDIA Disbursement for: ☐ Primary ☐ General ☑ Other (specify) TESTING	7/14/87	459.82
I. Full Name, Mailing Address and ZIP Code	**Purpose of Disbursement**	**Date (month, day, year)**	**Amount of Each Disbursement This Period**
KLFF RADIO 100 W CLARENDON AVE #1720 PHOENIX, AZ 85013	MEDIA Disbursement for: ☐ Primary ☐ General ☑ Other (specify) TESTING	8/31/87	1,037.91

SUBTOTAL of Disbursements This Page (optional)	4,181.93
TOTAL This Period (last page this line number only)	

P00408032 02

ITEMIZED DISBURSEMENTS

Use separate schedule(s) for each category of the Detailed Summary Page

PAGE 2 OF 4

FOR LINE NUMBER 17

...ed from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial ... using your name and address of any political committee to solicit contributions from such committee.

...TTEE (In Full)

...DAVE MOSS FOR U.S. CONGRESS

A. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
KCLS RADIO P.O. BOX 640 FLAGSTAFF AZ 86002	MEDIA Disbursement for: ☐ Primary ☐ General ☑ Other (specify) TESTING	8/7/87	400.00
B. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
ARRCO BUTTON COMPANY 3518 RIVERSIDE DR COLUMBUS, OH 43221	MEDIA Disbursement for: ☐ Primary ☐ General ☑ Other (specify) TESTING	9/1/87	107.40
C. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
ARRCO BUTTON COMPANY 3518 RIVERSIDE DR COLUMBUS, OH 43221	MEDIA Disbursement for: ☐ Primary ☐ General ☑ Other (specify) TESTING	9/22/87	242.40
D. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: ☐ Primary ☐ General ☐ Other (specify)		
E. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: ☐ Primary ☐ General ☐ Other (specify)		
F. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: ☐ Primary ☐ General ☐ Other (specify)		
G. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: ☐ Primary ☐ General ☐ Other (specify)		
H. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: ☐ Primary ☐ General ☐ Other (specify)		
I. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: ☐ Primary ☐ General ☐ Other (specify)		

SUBTOTAL of Disbursements This Page (optional)	749.80
TOTAL This Period (last page this line number only)	

40305203

SCHEDULE B — ITEMIZED DISBURSEMENTS

Separate schedule(s) for each category of the Detailed Summary Page

PAGE 3 OF 4

FOR LINE NUMBER 17

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

NAME OF COMMITTEE (In Full): DAVE MOSS FOR U.S. CONGRESS

Full Name, Mailing Address and ZIP Code	Purpose of Disbursement / Disbursement for: ☑ Primary ☐ General ☐ Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
A. CAMERA ARTS, 1809 E INDIAN SCH RD, PHOENIX AZ 85016	PORTRAIT	6/6/88	137.64
B. CAMERA ARTS, 1809 E INDIAN SCH RD, PHOENIX, AZ 85016	PORTRAIT	6/30/88	122.71
C.			
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E.			
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G.			
H.			
I.			

SUBTOTAL of Disbursements This Page (optional) 260.35

TOTAL This Period (last page this line number only) .....

ITEMIZED DISBURSEMENTS

Use separate schedule(s) for each category of the Detailed Summary Page

PAGE 4 OF 4

FOR LINE NUMBER 17

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Committee (in Full)

DAVE MOSS FOR U.S. CONGRESS

Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: ☐ Primary ☐ General ☐ Other (specify)		
B. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: ☐ Primary ☐ General ☐ Other (specify)		
C. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: ☐ Primary ☐ General ☐ Other (specify)		
D. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: ☐ Primary ☐ General ☐ Other (specify)		
E. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: ☐ Primary ☐ General ☐ Other (specify)		
F. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: ☐ Primary ☐ General ☐ Other (specify)		
G. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: ☐ Primary ☐ General ☐ Other (specify)		
H. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: ☐ Primary ☐ General ☐ Other (specify)		
I. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: ☐ Primary ☐ General ☐ Other (specify)		

SUBTOTAL of Disbursements This Page (optional) ..... TOTAL OF INDEPENDENT EXPENDITURES LESS THAN 200.00 — 5,262.20

TOTAL This Period (last page this line number only) 10,454.28

SCHEDULE C
(Revised 3/80)

LOANS

Page 1 of 1 for
LINE NUMBER _____
(Use separate schedules for each numbered line)

Name of Committee (in Full)
DAVE MOSS FOR U.S. CONGRESS

A. Full Name, Mailing Address and ZIP Code of Loan Source	Original Amount of Loan	Cumulative Payment To Date	Balance Outstanding at Close of This Period
NONE Election: ☐ Primary ☐ General ☐ Other (specify):			
Terms: Date Incurred _____ Date Due _____ Interest Rate _____%(apr) ☐ Secured			
List All Endorsers or Guarantors (if any) to Item A			
1. Full Name, Mailing Address and ZIP Code	Name of Employer Occupation Amount Guaranteed Outstanding: $		
2. Full Name, Mailing Address and ZIP Code	Name of Employer Occupation Amount Guaranteed Outstanding: $		
3. Full Name, Mailing Address and ZIP Code	Name of Employer Occupation Amount Guaranteed Outstanding: $		

B. Full Name, Mailing Address and ZIP Code of Loan Source	Original Amount of Loan	Cumulative Payment To Date	Balance Outstanding at Close of This Period
Election: ☐ Primary ☐ General ☐ Other (specify):			
Terms: Date Incurred _____ Date Due _____ Interest Rate _____%(apr) ☐ Secured			
List All Endorsers or Guarantors (if any) to Item B			
1. Full Name, Mailing Address and ZIP Code	Name of Employer Occupation Amount Guaranteed Outstanding: $		
2. Full Name, Mailing Address and ZIP Code	Name of Employer Occupation Amount Guaranteed Outstanding: $		
3. Full Name, Mailing Address and ZIP Code	Name of Employer Occupation Amount Guaranteed Outstanding: $		

SUBTOTALS This Period This Page (optional)	
TOTALS This Period (last page in this line only)	

Carry outstanding balance only to LINE 3, Schedule D, for this line. If no Schedule D, carry forward to appropriate line of Summary.

9 0 0 4 0 8 0 3 2 0 6

SCHEDULE D
(Revised 3/80)

SCHEDULE D
Existing Loans

(use separate schedule for each numbered line)

Name of Committee (in Full) DAVE MOSS FOR U.S. CONGRESS	Outstanding Balance Beginning This Period	Amount Incurred This Period	Payment This Period	Outstanding Balance at Close of This Period
A. Full Name, Mailing Address and Zip Code of Debtor or Creditor NONE				
Nature of Debt (Purpose):				
B. Full Name, Mailing Address and Zip Code of Debtor or Creditor				
Nature of Debt (Purpose):				
C. Full Name, Mailing Address and Zip Code of Debtor or Creditor				
Nature of Debt (Purpose):				
D. Full Name, Mailing Address and Zip Code of Debtor or Creditor				
Nature of Debt (Purpose):				
E. Full Name, Mailing Address and Zip Code of Debtor or Creditor				
Nature of Debt (Purpose):				
F. Full Name, Mailing Address and Zip Code of Debtor or Creditor				
Nature of Debt (Purpose):				
1) SUBTOTALS This Period This Page (optional)				
2) TOTAL This Period (last page this line only)				
3) TOTAL OUTSTANDING LOANS from Schedule C (last page only)				
4) ADD 2) and 3) and carry forward to appropriate line of Summary Page (last page only)				

40803207

Report revised by Moss

Adviser blamed for discrepancy

By Michael Murphy
Phoenix Gazette

Perennial political hopeful Dave Moss has amended his financial disclosure statements amid allegations he violated federal reporting requirements in his campaign to unseat Rep. Bob Stump, R-Ariz.

Moss, who filed an amended statement Monday, blamed his failure to report more than $7,000 in contributions on his accountant.

"We've got nothing to hide," said Moss, a Democrat who is making his fourth run for office.

Questions about Moss' campaign finances were raised last week by a Flagstaff man seeking to win a spot on the Nov. 8 ballot as an independent candidate for the Congressional District 3 seat.

In a letter to the Federal Election Commission, John Parsons said he believed Moss had intentionally failed to make a full financial disclosure to confuse his political opponents.

"I believe this is a very serious matter of utmost importance," Parsons wrote.

An FEC spokesman in Washington, D.C., said the FEC is required to look into every complaint.

Moss, who has made three unsuccessful bids for governor, said he filed the amended report to avoid "any hassle." He said any problems resulted from ambiguities in the federal reporting requirements.

9 0 0 4 0 8 0 3 2 0 8

Moss has criticized Stump's environmental record and Parsons followed suit by saying that Stump's record speaks for itself. Parsons said he would be the best advocate for the environment because he has more experience with nature than any other candidate in Arizona federal politics. Parsons has extensively been in the Grand Canyon as a guide, cultural interpreter, river runner and hiker.

"I want to be the Grand Canyon congressman. I've been showing people for years what we have at the Grand Canyon, and now we're about to lose it," he said. "We haven't had a resources congressman in Arizona except for Mo Udall. We need one as an advocate for our natural resources in order to raise awareness."

He said that the jobs and money which uranium mining at the Grand Canyon would bring into the area is not worth the risk.

"We could lose much much more than that. If the Havasupais water was contaminated it would cost much more in taxes to alleviate the situation," Parsons said.

•••

P00408032097

District 3 hopeful amends financial repo

By Don Harris
The Arizona Republic

Congressional candidate Dave Moss has filed an amended campaign-spending report after being accused in a complaint to federal elections officials of understating his expenditures.

Moss, the Democratic candidate in District 3, blamed his accountant, saying neither he nor the accountant understood federal reporting requirements.

"It certainly wasn't done on purpose," Moss said. "The Moss campaign has nothing to hide."

Moss is running against Rep. Bob Stump, R-Ariz., in a district that takes in the northwest Valley, part of Yuma County and extends to the northwestern corner of the state. Moss ran in Democratic gubernatorial primaries in 1986 and 1978.

In early September, Moss reported contributions of $3,442 and expenditures of $3,075 through Aug. 24.

His amended report, filed Sept. 15, shows he collected $10,576 and spent $10,454 from March 12, 1987, through Aug. 24, leaving $122 in his campaign fund. Of the contributions, $9,871 was Moss' own money, the report said.

Federal law requires that candidates file reports on their campaign finances when they raise or spend more than $5,000.

Moss said he did not realize that the $5,000 threshold applies to the entire campaign, dating back to the day after the 1986 general election, and is not calculated on an annual basis.

Moss' accountant, Donald Dies of Phoenix, said the federal report provides for expenditures and contributions in a calendar year.

"We called the FEC (Federal Elections Commission) and asked what they wanted, and they said everything, and we asked what were the appropriate steps," Dies said. "They told us to file an amended report, and that's what we did."

A spokesman for the commission in Washington, Fred Eiland, said it is required by law to investigate the complaint against Moss, which was filed by John Parsons of Flagstaff.

If the six-member commission determines that Moss violated federal campaign laws, he could be fined $5,000 or the amount of the violation, whichever is greater, Eiland said.

Parsons, a Flagstaff environmentalist, hopes to run as an independent in District 3. To get on the ballot, he must obtain by Friday the valid signatures of 1,958 registered voters who did not vote in the primary.

In his complaint, filed Sept. 6, Parsons charged that Moss "may not be including significant contributions and expenses" incurred since the start of his campaign last year.

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^(ARIZONA NEWS)

FRESHMAN ARIZONA HOUSE REPRESENTATIVE DON STRAUCH SAYS HE'LL DECIDE TODAY WHETHER HE'LL RUN FOR STATE SENATOR JACK TAYLOR'S SEAT. STRAUCH AND TAYLOR LOST IN THEIR PRIMARY BIDS FOR RENOMINATION LAST WEEK. NOW, ATTORNEY GENERAL BOB CORBIN SAYS THEY CAN RUN FOR EACH OTHER'S SEATS IN NOVEMBER AS LONG AS THEY DO SO AS INDEPENDENTS.

GOVERNOR ROSE MOFFORD SAYS ARIZONA IS PARTICIPATING IN A NATIONAL CAMPAIGN AGAINST ILLEGAL DRUGS. SHE DECLARED THE WEEK OF OCTOBER 23RD AS ARIZONA RED RIBBON WEEK, PART OF THE NATIONAL RED RIBBON WEEK FOR DRUG-FREE YOUTH. DRUG ENFORCEMENT AGENCY SPECIAL AGENT TOM CHILDERS SAYS THE CAMPAIGN IS DESIGNED TO SEND A MESSAGE THAT THERE IS A UNIFIED COMMITTMENT TOWARD THE CREATION OF A DRUG-FREE AMERICA.

THE LAWYER FOR REPUTED MARIJUANA KINGPIN JAIME JAVIER FIGUEROA-SOTO HAS ASKED FOR A SIX-WEEK DELAY IN THE START OF HIS CLIENT'S TRIAL. ROBERT HOOKER HAD INSISTED THAT FIGUEROA-SOTO'S TRIAL START AS SOON AS STATE LAW MANDATED OCTOBER FOURTH. BUT NOW HE SAYS HE NEEDS MORE TIME TO GET READY. PIMA COUNTY SUPERIOR COURT JUDGE PRO TEM RANER COLLINS RESET THE START DATE FOR NOVEMBER 14TH.

CONGRESSIONAL CANDIDATE DAVE MOSS SAYS NEITHER HE NOR HIS ACCOUNTANT UNDERSTOOD FEDERAL REPORTING REQUIREMENTS ON CAMPAIGN CONTRIBUTIONS. HE'S FILED AN AMENDED CAMPAIGN-SPENDING REPORT AFTER BEING ACCUSED IN A COMPLAINT TO FEDERAL ELECTIONS OFFICIALS OF UNDERSTATING HIS EXPENDITURES.

AP-NP-09-20-88 0917EDT(-

As an independent, Parsons believes he can beat his Democratic competition, but acknowledges he may have a difficult time ousting incumbent Bob Stump.

"I think I've got a good chance to place second," he explained. "There is a chance I can win, but it's extremely thin. The purpose of my running is to promote public education (about natural resources)."

06C#587

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

88 OCT -4 AM 11:14

Mur 2691

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

Dear Commission Members:

This is a follow-up complaint to sworn complaints already submitted (#1 on 6SEPT88 and #2 on 9SEPT88).

I am enclosing news articles concerning Dave Moss which may be useful in determining whether willful intent to violate federal election laws existed. In addition to these articles, a local radio reporter will (if requested) submit an affidavit attesting that Mr. Moss told her he would be "willing to spend two or three days in jail for all this publicity".

Also, I wish to call Commission attention to the fact that Mr. Moss was conducting "testing the waters" activities in Flagstaff, Arizona, as early as mid-November, 1986. His new information, as reflected by dates included in the "Arizona Republic" article, do not appear to include expenses he may have incurred during that time period.

Please pursue a speedy investigation as to whether Mr. Moss may be held responsible for willful violation of federal election laws. I hope some determination can be made prior to the upcoming election as I feel this is important information which should be known by the voters in District 3, Arizona.

Thank you,

John Parsons

John Parsons
P.O. 1147
Flagstaff, AZ 86002
602-774-2667

Subscribed and sworn to before me:
Dianalynn Fidwell
On this, the 28th day of September, 1988
in Coconino County, Arizona.

My Commission expires: My Commission Expires March 21, 1992

Page One of One

RECEIVED
FEDERAL ELECTION COMMISSION
88 OCT -4 PM 3:02

District 3 hopeful amends financial report

By Don Harris
The Arizona Republic

Congressional candidate Dave Moss has filed an amended campaign-spending report after being accused in a complaint to federal elections officials of understating his expenditures.

Moss, the Democratic candidate in District 3, blamed his accountant, saying neither he nor the accountant understood federal reporting requirements.

"It certainly wasn't done on purpose," Moss said. "The Moss campaign has nothing to hide."

Moss is running against Rep. Bob Stump, R-Ariz., in a district that takes in the northwest Valley, part of Yuma County and extends to the northwestern corner of the state. Moss ran in Democratic gubernatorial primaries in 1986 and 1978.

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Moss said he did not realize that the $5,000 threshold applies to the entire campaign, dating back to the day after the 1986 general election, and is not calculated on an annual basis.

Moss' accountant, Donald Dies of Phoenix, said the federal report provides for expenditures and contributions in a calendar year.

"We called the FEC (Federal Elections Commission) and asked what they wanted, and they said everything, and we asked what were the appropriate steps," Dies said. "They told us to file an amended report, and that's what we did."

A spokesman for the commission in Washington, Fred Eiland, said it is required by law to investigate the complaint against Moss, which was filed by John Parsons of Flagstaff.

If the six-member commission determines that Moss violated federal campaign laws, he could be fined $5,000 or the amount of the violation, whichever is greater, Eiland said.

Parsons, a Flagstaff environmentalist, hopes to run as an independent in District 3. To get on the ballot, he must obtain by Friday the valid signatures of 1,958 registered voters who did not vote in the primary.

In his complaint, filed Sept. 6, Parsons charged that Moss "may not be including significant contributions and expenses" incurred since the start of his campaign last year.

Parsons also alleged that Moss told reporters in Flagstaff that he would willingly face "a small fine as a result of an unspecified 'strategy' to withhold or delay" campaign-spending details.

Moss said his campaign strategy was to delay making the reports for as long as possible to keep Stump, his Republican foe, off guard.

Stump, who is seeking his seventh two-year term, could not be reached for comment.

His latest campaign report shows that so far this year, he has received $163,061 and has spent $95,268. Combined with contributions from previous years, Stump reporting having $251,708 in his campaign treasury.

Pair plead guilt in Prescott; 1 fa

— PAIR, *from page B1*

maximum term of 14 years bu eligible for probation.

During an initial court appear in Holbrook on the day of her ar Lewis said her husband planned abduction because he d a c of his own. At a later c appearance in Prescott, she said husband beat her when she balke his plan.

She has three children of her from previous marriages.

Judge James Sult of Yav County Superior Court will sent

Suspect fled unlocked cell 3 weeks ago

This i

Moss looks clean on financial report requi

BY CHRIS ROSE
Sun Washington Bureau

WASHINGTON — Democrat David Moss hasn't filed his pre-primary campaign finance report, but Federal Elections Commission staff say that is neither unlawful nor unusual.

Moss was accused this week by Independent challenger John Parsons of missing deadline for filing the report. Parsons, who like Moss is running for the District 3 congressional seat held by Republican Bob Stump, demanded during a press conference in Flagstaff that Moss drop out of the race.

Joan Hedges, campaign chairwoman for Moss, said Thursday that Moss had not received more than $5,000 prior to Aug. 24.

Parsons said Moss had told other news media previously that he had exceeded the $5,000 mark before Aug. 24, which would mean Moss should have filed. But Hedges was among those who appreciated Parsons' press conference claims.

"I think the publicity on this helped us. It sure didn't hurt us," she said.

The FEC, which oversees federal campaign finances, defines a "candidate" subject to reporting rules as one who " has received contributions aggregating in excess of $5,000 or has made expenditures aggregating in excess" of that amount.

Moss filed statements of candidacy and organization in July. He also filed a report of receipts and disbursements stating he had no contributions or expenditures in excess of $5,000, FEC records show.

"We have candidates all over the country that don't file with us. We don't pursue them unless someone files a complaint about their finances," said FEC spokesman Fred Eiland.

If a letter is submitted to the FEC alleging a violation of the law, "then we follow up and investigate the candidate's finances, but not until," he said.

Federal law prohibits the commission from revealing whether a complaint has been filed. "It becomes public only when the commission files our action," Eiland said. But if an allegation is made, "someone generally holds a press conference to say they're doing it."

While Moss hasn't enough money to warrant an FEC report, Stump's August filing indicates he has cash on hand in excess of $250,000. From July 1 through August 24, Stump received $27,006.25 in contributions. About $3,000 of that total was given by individuals, and almost $24,000 came from political action committees (PACs).

Stump's largest contribution during the current reporting period came from the American Medical PAC which financed a survey worth almost $5,000. Other PAC contributors include the Committee for the Advancement of Cotton, Santa Fe Southern Pacific Corporation, Northrop Employees and the Florida Sugar Cane League.

Fewer than 10 individuals funneled money into

Stump's cam
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Five Flags
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Five candidates ha iled
three more are carrying petit
for three seats on the Flag
School Board that will be fille
November.

With the deadline near, tw
cumbents, Elsie Eyer and Ge
Hershey, have filed to retain s
they now hold. Eyer is see
reelection to a seat she won in
Hershey is seeking election to
seat he has held by appoint
since September 1987.

Other candidates who have
petitions are James Cox,
Donaldson and Joseph Cavanau

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While Moss hasn't enough money to warrant an FEC report, Stump's August filing indicates he has cash on hand in excess of $250,000. From July 1 through August 24, Stump received $27,006.25 in contributions. About $3,000 of that total was given by individuals, and almost $24,000 came from political action committees (PACs).

Stump's largest contribution during the current reporting period came from the American Medical PAC which financed a survey worth almost $5,000. Other PAC contributors include the Committee for the Advancement of Cotton, Santa Fe Southern Pacific Corporation, Northrop Employees and the Florida Sugar Cane League.

Fewer than 10 individuals funneled money into Stump's campaign war chest during July and August, but from April through June, he received more than $70,000 in individual contributions.

Five Flagstaff residents contributed a total of $1,200 in May: Northern Arizona University President Eugene Hughes and his wife, Caroline; Douglas Wall; Kenneth Moore; and Glynn Sirpless.

That same month 32 employees of Sundstrand Aviation, a defense contractor based in Rockford, Ill., contributed $690. The company currently is under grand jury investigation in Seattle, Wash. and Illinois for price gouging and other offenses.

Stump reports no loans. His campaign expenditures include the purchase of a $17,000 van from Tony Coury Buick/GMC in Mesa, airline tickets totaling $4,207 for a May fundraiser, hats, T-shirts, bumper stickers and printing. Overall, he has spent almost $96,000 this year and received about $163,000.

Five file for school board, deadline here

Five candidates have filed and three more are carrying petitions for three seats on the Flagstaff School Board that will be filled in November.

With the deadline near, two incumbents, Elsie Eyer and George Hershey, have filed to retain seats they now hold. Eyer is seeking reelection to a seat she won in 1984. Hershey is seeking election to the seat he has held by appointment since September 1987.

Other candidates who have filed petitions are James Cox, Joe Donaldson and Joseph Cavanaugh.

Those carrying petitions a Robert Bratz, JoAnn Holpuch and Manuel "Manny" Ulibarri.

Candidates have until 5 p.m. today to file petitions for the three Flagstaff seats and also for 22 other school board seats in districts scattered across the county.

Petitions must be filed with the office of the Coconino County Superintendent of Schools in the courthouse in Flagstaff.

School board elections will be held in conjunction with the general election Nov. 8. Winners will take office Jan. 1.

Fire towers close

Zah said that the relocation problem ... administration's 1974 term. The dispute involves Navajos living on Hopi-partitioned land that has been contested between the two tribes for more than 100 years. Congress partitioned land in 1974.

"MacDonald blames other people, but he is now supporting the same comprehensive plan which I originally supported," Zah said.

Zah agreed with McCann's assessment that MacDonald is using the relocation issue as a publicity stunt. Zah said the Navajo Tribe has slowly been repairing houses in the relocation areas for years.

Zah said MacDonald took the relocation repair-action at this time because of his personal political problems.

Zah said a lot of the relocation problems could be worked out if the chairmen of the Navajo and Hopi tribes would sit down and negotiate.

McCann said MacDonald concentrated on publicity for the sake of personal enhancement.

Peter Segall, a spokesman for MacDonald, said all of McCann's allegations were untrue.

MacDonald said if everyone deserted him it wouldn't bother him. He said as leader of the Navajo Nation he has a purpose and he will lead the charge.

"If there's some cowards and those who feel they cannot hack it, I have no problem," MacDonald said.

McCann also said that MacDonald jeopardized 25,000 Navajo general assistance checks by refusing to sign BIA documents in order to cause a confrontation with the BIA.

McCann said MacDonald would rather bad-mouth the BIA than go through proper channels.

"There's no press in peace and conciliation," McCann said.

Segall also rebutted those charges.

Parsons questions opponents' record

By Stan Bindell
Observer Editor

Independent John Parsons filed a formal complaint with the Federal Election Commission last week asking the government agency to see whether Democrat Dave Moss has broken any election laws.

The FEC has 15 days from the filing date to review the case and will not comment on it until the review is complete.

Parsons and Moss are attempting to unseat incumbent U.S. Rep. Bob Stump in Congressional District 3, which includes the Tuba City area.

Parsons is questioning Moss' financial report and called for Moss to resign from the race. Parsons said he would not second-guess whether the FEC would find any impropriety because everyone is innocent until proven guilty. However, Parsons said Moss is "on ...ous ground."

Moss, who said he will not resign, said Parsons is "just out rabble-rousing." Moss said these technical questions are immaterial and he questions why Parsons is criticizing him rather than the incumbent.

"Is he really a Republican (registered as an Independent) who doesn't want to attack Bob Stump?" Moss asked.

Moss questioned whether Parsons is a credible candidate since he hasn't received enough signatures yet to be placed on the ballot. Parsons must obtain some 2,000 signatures between the primary and Sept. 23 to have his name placed on the ballot.

Moss said a bi-partisan letter has been sent out to candidates asking them not to sling mud at their opponents unless they have factual information. Stan Turley, Dino DeConcini and former Sen. Barry Goldwater are members of the group asking candidates to fight fair.

See RECORDS page 2

the business ... sanitation standards.

Lero[illegible]ingoitewa, the governor of Upper Moencopi, said he was thrilled to have another business operating on the Hopi Reservation.

Shingoitewa said the Hopi government closed the business down last year after it failed to meet the health and sanitation codes. Shingoitewa said he didn't know what the problem was since he wasn't governor at that time. However, he said it is "up to standards now."

Leonard Dallas, community developer for Upper Moencopi, said there were eight main areas which the eatery did not meet last year. He said the cafe has upgraded every area of concern.

Dallas said the problems were an unclean walk-in refrigerator; a leaking cooling unit; thermometers were not installed; two wooden freezers were outside and belonged inside; the meat slicer was not level and could have produced a safety hazard; janitorial supplies were stored inside and should have been stored outside; the men's and women's bathroom lacked handsoap, and the food warmer was not cleaned.

Dallas said the walk-in refrigerator is now clean; the cooler doesn't leak; the thermometers were installed; the outside freezers were eliminated; the meat slicer is on level ground; the janitorial supplies are not stored inside; the bathrooms have handsoap and the food warmer is clean.

Dallas, who said the business will be inspected periodically, said the cafe will help the Hopi Reservation.

"We lost money while the cafe was closed," Dallas said. "The communication between the management and the village board is good. Its been busy at the restaurant and it's a good business."

Shingoitewa was more vocal about the need for the cafe on the Hopi Reservation.

"We're glad to have it," he said. "We're always looking at a means of revenue and we want to offer as many options as possible."

Tuba City teams seek parent support

Carl Christensen, public relations director for the Tuba City School District, announced that a sports club has formed at the high school.

Supporters of the boys and girls sports met last week to discuss plans and ideas for gaining support in the community.

Christensen said student athletes will be holding several fundraising events including an ice cream social, a t-shirt sale and a benefit pow wow.

He said that all community members will be invited to join these fundraising events in order to show support for the athletes. He added that due to some recent budget cuts that the athletic program is in need of additional funds.

Christensen said that football players need special turf shoes to play at the NAU dome in the upcoming game against Coconino High School. He said the football team is hoping to stay overnight in Mohave when they play that team there and they need funds to pay the hotel bill.

"We just have little shortages here and there," he said.

Christensen said more support from the parents is needed.

"It would make life easier for the coaches and players," he said. "Win or lose we want to show support for our players in every sport."

Future meetings of the support club will be posted on Channel 6 and throughout the community. The club will elect its officers at its next meeting.

RECORDS

Continued from page 1

"Has Parsons signed this? He probably hasn't received it yet since he's not a candidate," Moss said in reference to Parsons not being on the ballot yet.

Parsons said Moss didn't file his latest financial report on time and has given different accounts of the finances he has brought into his campaign.

FEC laws state that candidates must file a financial report by Sept. 1 if they receive more than $5,000 in contributions. Parsons said several reporters have told him that Moss told them that he had raised more than $5,000 in which case he needed to file the report on time. Moss told the Observer that he raised less than $5,000 by the filing date, but he filed the report anyway.

The two interpret the election laws differently. Moss began "testing the waters" to see if he would run in 1986. Parsons said the law states that any funds donated or spent from that point need to be accounted for once the candidate has spent more than $5,000. Moss said the FEC only asks that the candidate's statement go back one year and that he didn't know he would join the race until June 14.

"The bottom line is that people deserve accountability. That's why the law exists," Parsons said.

Moss said he gave this accountability in his latest filing report even though the law doesn't require it since his campaign has brought in less than $5,000. He said every expense of $200 or more is listed and the law doesn't require anything more than that.

When Parsons said Moss did not file, Moss responded that the report was in the mail.

"That's no big deal, but it's an incredibly big deal if he is over the $5,000 mark and says he's not," Parsons said.

Parsons said Rep. Stump followed the letter of the law meticulously, showing $204,276 raised and $119,000 in expenses. Parsons for the same period shows $6,243 raised and $3,259 in expenses.

Parsons said his goal in this election is to outcollect the Democratic candidate.

"I have a chance to win this race, but I at least want to finish second," Parsons said. "I want to show that I'm more of a viable candidate than the Democrat for this district."

Parsons said that Moss hasn't raised much money despite some form of campaigning since 1986 and that shows that Moss is not a credible candidate.

"Any other Democratic candidate by this time would have raised tens of thousands of dollars," Parsons said. "He doesn't have the support of the party and he is not even close to the mainstream of the party."

Moss said he has the support of the party, including Arizona's Democratic Chairman Sam Goddard. Moss added that the party waits until after the primary election to funnel funds into campaigns.

Moss said that he is not sure if it is true that previous challengers have raised so much money, but he said those campaigns did not work and occurred in a different era.

"I'm just concerned about my campaign and it's going very well," Moss said.

Moss, who unsuccessfully ran for governor, said he hasn't sought to spend a lot of money in previous campaigns. He compared his race to Republican Keith DeGreen's race with U.S. Sen. Dennis DeConcini. He said DeGreen has received only $55,000 despite the support of the Republican Party in a state that has a Republican majority.

"You just have to know where to spend the money to make a race of it," Moss said.

Parsons said Moss' defense for any financial problems state that his accountants and lawyers worked on the forms.

"If he doesn't understand these finances how can he deal with the finances for the country in Washington, D.C.?" Parsons asked.

Moss said he must spend his time campaigning, rather than working on forms, in order to win the race and that he hopes Parsons continues to spend more time on bookkeeping rather than the race.

School district changes the clock

Alice Weekley, superintendent for the Tuba City Unified School District, said that for the safety of students the governing board approved on Sept. 1 that the school district would change from daylight savings time to mountain standard time on Sept. 11.

The national time change does not occur for another seven weeks.

School pla conference

Jerry Diebel, princi City Boarding School last week that the scho a parents' conference a.m.-3 p.m. Sept. 16 a

The event is free.

Diebel said the idea i ents ways to help the their children while th are going through sch there will be speaker group sessions.

Participants in the co receive lunch free.

For more informatio the school at 283-453

Forum sch

The second indiger mining forum will 15-18 at Red Butte, Grand Canyon. T invited to attend for donations will be sou

The event is spon Havasupai Tribe in or uranium mining issue

LIBERAL REWARD
Left "tree of life" head shaped ing at roadside Indian stand on p.m. Located on Highway 89 sou 160 to Tuba City. Stand on we on a double ring with black stone on stand. Ring of greatest senti Call collect Frances Edmonson 671-6239

SALAD
fresh and delicious
at:
MIKE
OPEN 7 D
EAT IN OR T
Tuba City
283-5276

Parsons cries foul, wants Moss out o

Contribution report cited

BY TED BARTIMUS
AND GAYLE RYBERG
Sun Staff Reporters

Independent congressional candidate John Parsons alleged today that Democrat Dave Moss missed a deadline for reporting campaign contributions and demanded that his District 3 opponent drop out of the race.

"It's already been filed and it's already been mailed," Moss campaign chairwoman Joan Hedges responded to The Sun shortly after Parsons made his allegations to a press conference outside the Coconino County Courthouse this morning.

Hedges said she was uncertain when the report was mailed. Moss could not be reached for comment.

Nonetheless, neither the Federal Elections Commission nor the Arizona Secretary of State's office had received Moss' pre-primary reports as of today, according to officials with both agencies. That would indicate that Moss may have missed the deadline even if he did file.

"I am demanding Dave Moss withdraw from this race today," Parsons said in a prepared statement. "His blustery confusion and belligerent attitude about filing forms, which are simpler than your annual tax returns, is ridiculous."

Parsons alleged that Moss failed to report more than $5,000 in campaign contributions to the FEC by the Sept. 1 deadline.

Parsons and Moss are vying for Republican Congressman Bob Stump's seat.

Parsons, a Flagstaff resident, said that if Moss does drop out, "it would be a viable two-way race" between him and Stump.

Nonetheless, Parsons said Stump has not broken any campaign-reporting laws.

"He (Stump) follows the law to the letter," Parsons said.

Hedges dimissed Parsons' allegations as a bid for publicity.

"Parsons isn't viable to the campaign. What we feel is that Parsons is trying to get a name for himself," Hedges said.

In his prepared statement, Parsons said, "Dave Moss must drop out of this race now to spare us yet another sad saga. To say voters are sick and tired of contempt for campaign finance laws is an ultimate understatement in modern Arizona."

Parsons made the statement in reference to former Gov. Evan Mecham's impeachment, stemming from Mecham's failure to identify a campaign contributor.

Parsons said he is filing a sworn complaint with the FEC alleging Moss violated federal election laws. He said he also is asking the state Attorney General's and Secretary of State's offices to determine whether reporting laws were violated on the state level.

According to Judy Wright, assistant reports examiner for the office of the clerk in the U.S. House of Representatives, a congressional candidate must file a pre-primary finance statement by Sept. 1 if the aspirant has more than $5,000 in contributions before Aug. 24. If the $5,000 mark is surpassed after Aug. 24, the candidate has until Oct. 15 to file.

If there is a violation, the FEC can impose a penalty, according to FEC spokesman Fred Eiland. Penalties could range widely, Eiland said, but he indicated that a financial penalty would not exceed $5,000.

CANDIDA

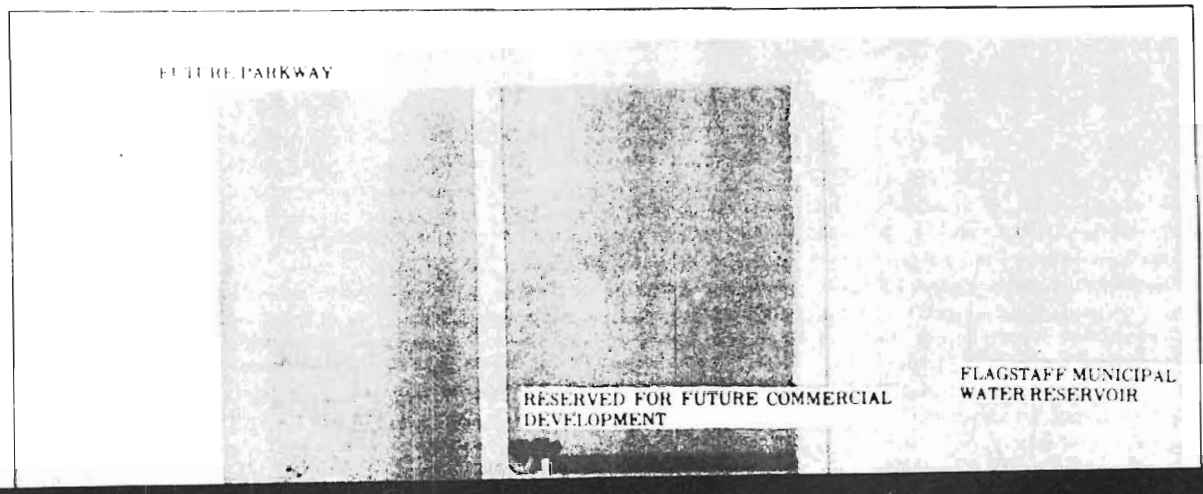
COLLINS

CONTINUED FROM PAGE 1

prosecution. Collins will pay restitution for medical bills of the woman. He also will be placed on university probation for the year and required to perform community services, county and school officials announced last week.

As many as 30 faculty members are expected to sign a letter telling NAU President Eugene Hughes that the punishment is too lenient, says Janet Schnorr, president of the NAU Faculty Women's Association.

"The letter will say we disagree



VOTE:

CONTINUED FROM PAGE 1

public benefits from private
terests of some developers who
tempt to maximize profits
minimizing development costs, s
Hannah.

"Costs of off-site improveme
are part of doing business," s
Hannah. "You can't eliminate th
development costs in fairness to
consumer.

"What I've tried to do is learn
much as I can about a developm

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ns cries foul, wants Moss out of race

Contribution report cited

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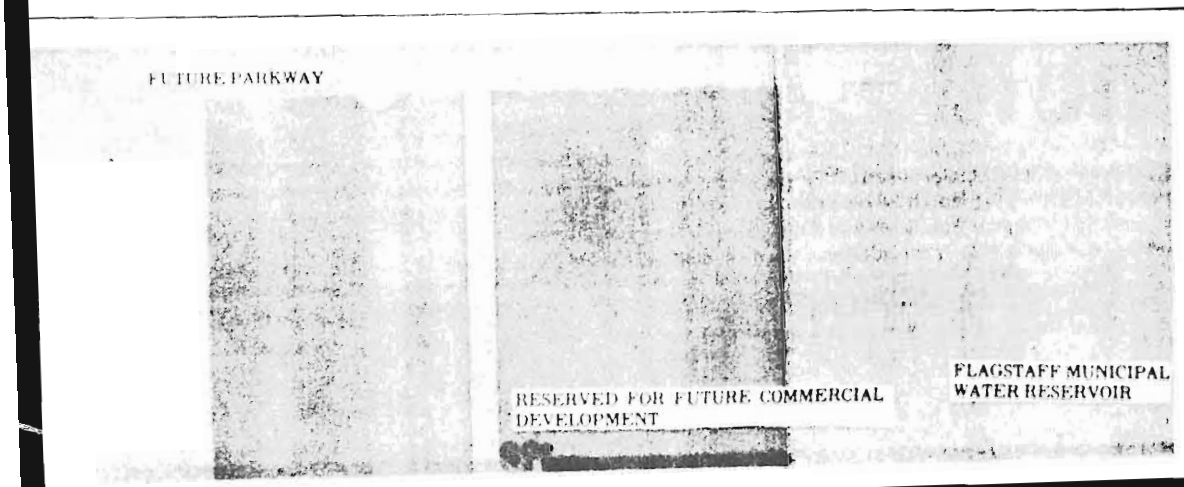
CANDIDATE JOHN PARSONS



VOTE: District 4

CONTINUED FROM PAGE 1

public benefits from private interests of some developers who attempt to maximize profits by minimizing development costs, said Hannah.

"Costs of off-site improvements are part of doing business," said Hannah. "You can't eliminate those development costs in fairness to the consumer.

"What I've tried to do is learn as much as I can about a development

paving is required, he said.

"We need to change the county road standards to meet the needs of the individual rural communities," said Hollander. "Why not let the property owners who have access to the road decide its fate?"

After reaching a majority consensus on desired levels of improvements to roads in existing subdivisions, residents should form improvement districts to finance the improvements, said Hollander.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 13, 1988

David R. Moss
Box 125
Wikieup, Arizona 85360

RE: MUR 2691
Dave Moss for U.S. Congress
and Al Breznay, as treasurer

Dear Mr. Moss:

On September 16, 1988, you were notified that the Federal Election Commission received a complaint from John Parsons alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time you were given a copy of the complaint and informed that a response to the complaint should be submited within 15 days of receipt of the notification.

On October 4, 1988, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

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

Enclosure

40803021

FEDERAL ELECTION COMMISSION
89 FEB 14 AM 11:10

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

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

MUR # 2691
DATE COMPLAINT RECEIVED
BY OGC 9/13/88
DATE OF NOTIFICATION TO
RESPONDENTS 9/16/88
STAFF MEMBER Sandra Dunham

COMPLAINANT: John Parsons

RESPONDENTS: Dave Moss
Dave Moss for U.S. Congress and Al Breznay, as treasurer

RELEVANT STATUTES: 2 U.S.C. § 432
2 U.S.C. § 433
2 U.S.C. § 434(a)(2)(A)(i)
2 U.S.C. § 434(a)(2)(A)(iii)
2 U.S.C. § 434(b)(2) and (4)
2 U.S.C. § 439(a)(1)

INTERNAL REPORTS CHECKED: Documents on C Index

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

On September 9, 1988, the Office of the General Counsel received a complaint filed by John Parsons against Dave Moss and Dave Moss for U.S. Congress and Al Breznay, as treasurer. Dave Moss responded to the complaint on September 27, 1988. (Attachment I). John Parsons filed two additional complaints; one on September 13, 1988 which was circulated to the Commission with the original complaint, and the other on October 4, 1988. (Attachment II). Neither of these supplemental complaints alleged any additional violations.

9004080322

SUMMARY OF ALLEGATIONS

The Complainant alleged that Respondent Dave Moss and/or his principal campaign committee, Dave Moss for U.S. Congress (the "Committee"), and Al Breznay, as treasurer, had failed to file a Statement of Candidacy in a timely fashion and had failed to file a Pre-Primary Report. Specifically, Complainant stated that Respondents had not reported receipts or expenditures in excess of $5,000 on their 1988 July Quarterly Report, and indicated that because the Committee had not filed a Pre-Primary Report, Respondents were still maintaining at the time of the complaint that the $5,000 threshold for registration and reporting had not been met. Complainant alleged that Respondents had not reported any "testing the waters" contributions or expenditures, and asserted that sufficient evidence existed to indicate that Respondents had met the $5,000 threshold by the close of the Pre-Primary Report period.

On September 15, 1988, Respondents filed a Pre-Primary Report with the Reports Analysis Division ("RAD"). The report indicated that it covered the time period of March 12, 1987 through August 24, 1988 and listed receipts and expenditures in excess of $5,000.

II. FACTUAL AND LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 431(2), an individual becomes a candidate after having received contributions aggregating in excess of $5,000 or having made expenditures aggregating in

2004080322 3

excess of $5,000. 2 U.S.C. § 432(e)(1) requires each candidate to designate, in writing, a political committee to serve as his or her principal campaign committee. Within 15 days after becoming a candidate, the candidate shall designate his or her principal campaign committee by filing a Statement of Candidacy with the Commission.

Dave Moss filed a Statement of Candidacy on July 12, 1988, and a July Quarterly Report on July 12, 1988. The July Report indicated that the Committee had not received contributions nor made expenditures in excess of $5,000. According to the Pre-Primary Report filed by Respondents on September 15, 1988, the Committee reported a total of $9,871.80 in contributions from the candidate (Attachment I, 8) and disbursements of $4,931.73 between March 12, 1987 and September 22, 1987 (Attachment I, 9-10).[1/] The Committee also reported for an unspecified period of time a total of $5,262.20 in "independent expenditures less than $200.00." (Attachment I, 12).

Mr. Moss' personal contributions to his campaign by September 22, 1987 exceeded $5,000. On the basis of these

1/ The $4,931.73 in disbursements are reported for "testing the waters." This appears to be an incorrect identification of these disbursements because the report lists the purpose of these disbursements as "media." Pursuant to 11 C.F.R. §§ 100.7(b)(1) and 100.8(b)(1) funds received or payments made to help an individual decide whether to become a candidate are neither contributions nor expenditures if the individual does not become a candidate. However, funds received or payments made for this exemption only apply to such activities as conducting a poll, making telephone calls, traveling, etc. It does not apply to general public political advertising such as media activities.

9004080322 4

contributions alone Mr. Moss apparently had met the $5,000 threshold for candidacy at least as of that date. Further, the Committee reported $4,931.78 in disbursements between March 12, 1987 and September 22, 1987 and, as will be discussed below, the Committee also made $5,262.20 in expenditures questionably designated "independent" prior to the filing of the 1988 Pre-Primary Report. Therefore, this Office recommends that the Commission find reason to believe that Dave Moss violated 2 U.S.C. § 432(e)(1) by not filing a Statement of Candidacy when he exceeded the $5,000 contribution and/or expenditure thresholds.

Pursuant to 2 U.S.C. § 433(a), each authorized campaign committee must file a Statement of Organization no later than ten (10) days after designation pursuant to section 432(e)(1). Because the candidate did not timely file a Statement of Candidacy, it follows that the Committee did not timely file a Statement of Organization. Therefore, this Office recommends that the Commission find reason to believe that the Committee violated 2 U.S.C. § 433.[2/]

Pursuant to 2 U.S.C. § 434(a)(2)(A)(i), a principal campaign committee of a candidate for the House of Representatives must file a pre-election report no later than the 12th day before an election in which such candidate is seeking election, which shall

2/ This recommendation is consistent with the Commission's finding in MUR 2262.

9004080322 5

be complete as of the 20th day before such election. The primary was held on September 12 in the State of Arizona. Consequently, the Committee should have filed a Pre-Primary Report by September 1 which was complete as of August 24. The Committee did not file its Pre-Primary Report until September 15. Therefore, this Office recommends that the Commission find reason to believe that the Committee violated 2 U.S.C. § 434(a)(2)(A)(i) by failing to file its Pre-Primary Report in a timely manner.

Pursuant to 2 U.S.C. § 434(a)(2)(A)(iii), each treasurer of a principal campaign committee of a candidate for the House of Representatives must file quarterly reports of receipts and disbursements in any calendar year during which there is a regularly scheduled election for which such candidate is seeking election, except that the report for the quarter ending December 31 shall be filed no later than January 31 of the following calendar year. The Committee filed its first quarterly report on July 12, 1988. That report indicated that the Committee had not received contributions or made expenditures in excess of $5,000. As set forth above, the Pre-Primary Report revealed that this was not correct. It also indicated that the July Quarterly Report should not have been the first report filed by the Committee; rather, the Committee should have filed a 1987 Year End Report and a 1988 April Quarterly Report. Therefore, this Office recommends that the Commission find reason to believe that the Committee violated 2 U.S.C. § 434(a)(2)(A)(iii).

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Pursuant to 2 U.S.C. § 434(b), the total amount of all receipts and disbursements must be reported for the reporting period in which they are received or made and must include the aggregate for the calendar year. The Committee's Pre-Primary Report revealed both receipts and disbursements other than testing the waters expenditures, not reported during the reporting period in which they were received or made. Furthermore, the Committee incorrectly reported no receipts or disbursements on its 1988 July Quarterly Report when in fact disbursements totalling $260.35 ($137.64 on June 6, 1988 and $122.71 on June 30, 1988) were itemized on the Committee's 1988 Pre-Primary Report.

Pursuant to 2 U.S.C. § 431(17), an independent expenditure is an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate or any authorized committee or agent of such candidate, and which is not made in concert with or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate. There is no evidence to support Mr. Moss' assertion that the $5,262.20 reported as "independent expenditures" in the 1988 Pre-Primary Report was in fact such because there is no indication that he made these expenditures on behalf of any other candidate. It appears that he made them on behalf of himself. Even if he had declared his candidacy, a candidate cannot make independent

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expenditures on his own behalf. Consequently, these expenditures apparently should have been included with the other reported expenditures. Therefore, this Office recommends that the Commission find reason to believe that the Committee violated 2 U.S.C. § 434(b)(2) and (4) by not reporting the correct total amounts of all receipts and disbursements in the reporting period in which they were received or made.

Pursuant to 2 U.S.C. § 434(a)(2) and 11 C.F.R. § 104.5(a)(1) and (2) treasurers of principal campaign committees of candidates for the House of Representatives must file reports of receipts and disbursements in accordance with the provisions of the subsections of those sections of the Act and regulations. Pursuant to 2 U.S.C. § 439(a)(1) and 11 C.F.R. § 108.3 authorized committees are required to file with the Secretary of State (or equivalent State officer), a copy of each report and statement filed with the Commission in connection with the campaign of a candidate to the Office of Representative. 11 C.F.R. § 108.5 states that all reports required under Section 108 must be filed with the appropriate state officer at the same time the original is filed. The Complainant stated that the Committee also violated this section of the Act. This Office telephoned Arizona's Secretary of State to determine whether the Committee had filed any reports with its office. Arizona's Secretary of State indicated that the first report the Committee filed with that Office was its Pre-Primary Report on September 19, 1988. As

9004080242 3

previously discussed, this report should have been filed with the Commission and Arizona's Secretary of State by September 1, 1988 and the Committee should have earlier filed with the Arizona Secretary of State, a 1987 Year End Report and a 1988 April Quarterly. Therefore, this Office recommends that the Commission find reason to believe that the Committee violated 2 U.S.C. § 439(a)(1).

III. RECOMMENDATIONS

1. Find reason to believe that Dave Moss violated 2 U.S.C. § 432(e)(1).

2. Find reason to believe that Dave Moss for U.S. Congress and Al Breznay, as treasurer, violated 2 U.S.C. § 433, 2 U.S.C. § 434(a)(2)(A)(i), 2 U.S.C. § 434(a)(2)(A)(iii), 2 U.S.C. § 434(b)(2) and (4) and 2 U.S.C. § 439(a)(1).

3. Approve the attached letters and Factual and Legal Analyses.

Lawrence M. Noble
General Counsel

2/13/89
Date

BY: Lois G. Lerner
Associate General Counsel

Attachments
1. Response to Complaint
2. Complaint dated October 4, 1988
3. Proposed Letters and Factual and Legal Analyses (2)
4. Questions

Staff Person: Sandra J. Dunham

9004080329

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Dave Moss	)	MUR 2691
Dave Moss for U.S. Congress and Al Breznay, as treasurer	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on February 16, 1989, the Commission decided by a vote of 6-0 to take the following actions in MUR 2691:

1. Find reason to believe that Dave Moss violated 2 U.S.C. § 432(e)(1).

2. Find reason to believe that Dave Moss for U.S. Congress and Al Breznay, as treasurer, violated 2 U.S.C. § 433, 2 U.S.C. § 434(a)(2)(A)(i), 2 U.S.C. § 434(a)(2)(A)(iii), 2 U.S.C. § 434(b)(2) and (4) and 2 U.S.C. § 439(a)(1).

3. Approve the letters and Factual and Legal Analyses, as recommended in the First General Counsel's report signed February 13, 1989.

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

Attest:

2-16-89
Date

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

Received in the Office of Commission Secretary: Tues., 2-14-89, 11:10
Circulated on 48 hour tally basis: Tues., 2-14-89, 4:00
Deadline for vote: Thurs., 2-16-89, 4:00

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 27, 1989

CERTIFIED MAIL - RETURN RECEIPT

Al Breznay, Treasurer
Dave Moss for U.S. Congress
Maricopa County Press Headquarters
2409 E Colter
Phoenix, Arizona 85016

RE: MUR 2691
Dave Moss for U.S. Congress
and Al Breznay, as treasurer

Dear Mr. Breznay:

On September 16, 1988, the Federal Election Commission notified Dave Moss for U.S. Congress ("Committee") and you, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to the Committee and you, as treasurer, at that time.

Upon further review of the allegations contained in the complaint, and information supplied by the candidate, the Commission, on February 16, 1989, found that there is reason to believe the Committee and you, as treasurer, violated 2 U.S.C. §§ 433, 434(a)(2)(A)(iii), 434(a)(2)(A)(i), 434(b)(2) and (4), and 439(a)(1), provisions of 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 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 questions within 15 days of 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.

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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 matter to be made public.

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

Sincerely,

Danny L. McDonald
Chairman

Enclosures
Questions
Designation of Counsel Form
Factual and Legal Analysis

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	MUR 2691
	)	
	)	
	)	

INTERROGATORIES

TO: **Al Breznay, Treasurer**
Dave Moss for U.S. Congress
Maricopa County Press Headquarters
Phoenix, Arizona 85016

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 15 days of your receipt of this request.

1. Please list the specific purpose for each expenditure identified as for "testing the waters" on the 1988 Pre-Primary Report.

2. Please identify the recipients of all of the disbursements listed as independent expenditures in the 1988 Pre-Primary Report and state the purpose for each of these disbursements.

Al Breznay, Treasurer

INSTRUCTIONS

In answering these interrogatories, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: **Dave Moss for U.S. Congress and Al Breznay, as treasurer** MUR: 2691

The Complainant alleged that Respondents, Dave Moss and/or his principal campaign committee, Dave Moss for U.S. Congress (the "Committee"), and Al Breznay, as treasurer had failed to file Statement of Candidacy in a timely fashion and had failed to file a Pre-Primary Report. Specifically, Complainant stated that Respondents had not reported receipts or expenditures in excess of $5,000 on their 1988 July Quarterly Report, and indicated that because the Committee had not filed a Pre-Primary Report, Respondents were still maintaining at the time of the complaint that the $5,000 threshold for registration and reporting had not been met. Complainant alleged that Respondents had not reported any "testing the waters" contributions or expenditures, and asserted that sufficient evidence existed to indicate that Respondents had met the $5,000 threshold by the close of the Pre-Primary Report period.

On September 15, 1988, Respondents filed a Pre-Primary Report with the Reports Analysis Division ("RAD"). The report indicated that it covered the time period of March 12, 1987 through August 24, 1988 and listed receipts and expenditures in excess of $5,000.

Pursuant to 2 U.S.C. § 433(a), each authorized campaign committee must file a Statement of Organization no later than ten (10) days after designation pursuant to section 432(e)(1).

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Dave Moss filed a Statement of Candidacy on July 12, 1988, and a July Quarterly Report on July 12, 1988. The July Report indicated that the Committee had not received contributions nor made expenditures in excess of $5,000. According to the Pre-Primary Report filed by Respondents on September 15, 1988, the Committee reported a total of $9,871.80 in contributions from the candidate and disbursements of $4,931.73 between March 12, 1987 and September 22, 1987. The Committee also reported for an unspecified period of time a total of $5,262.20 in "independent expenditures less than $200.00."

Mr. Moss' personal contributions to his campaign by September 22, 1987 exceeded $5,000. On the basis of these contributions Mr. Moss apparently had met the $5,000 threshold for candidacy at least as of that date. Further, the Committee reported $4,931.73 in disbursements between March 12, 1987 and September 22, 1987, 1/ and the Committee also made $5,262.20 in expenditures questionably designated "independent" prior to the filing of the 1988 Pre-Primary Report. Because the candidate

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1/ The $4,931.73 in disbursements are reported for "testing the waters." This appears to be an incorrect identification of these disbursements because the report lists the purpose of these disbursements as "media." Pursuant to 11 C.F.R. §§ 100.7(b)(1) and 100.8(b)(1) funds received or payments made to help an individual decide whether to become a candidate are neither contributions nor expenditures if the individual does not become a candidate. However, funds received or payments made for this exemption only apply to such activities as conducting a poll, making telephone calls, traveling, etc. It does not apply to general public political advertising such as media activities.

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did not timely file a Statement of Candidacy, it follows that the Committee did not timely file a Statement of Organization.

Pursuant to 2 U.S.C. § 434(a)(2)(A)(i), a principal campaign committee of a candidate for the House of Representatives must file a pre-election report no later than the 12th day before an election in which such candidate is seeking election, which shall be complete as of the 20th day before such election. The primary was held on September 12 in the State of Arizona. Consequently, the Committee should have filed a Pre-Primary Report by September 1 which was complete as of August 24. The Committee did not file its Pre-Primary Report until September 15.

Pursuant to 2 U.S.C. § 434(a)(2)(A)(iii), each treasurer of a principal campaign committee of a candidate for the House of Representatives must file quarterly reports of receipts and disbursements in any calendar year during which there is a regularly scheduled election for which such candidate is seeking election, except that the report for the quarter ending December 31 shall be filed no later than January 31 of the following calendar year. The Committee filed its first quarterly report on July 12, 1988. That report indicated that the Committee had not received contributions or made expenditures in excess of $5,000. As set forth above, the Pre-Primary Report revealed that this was not correct. It also indicated that the July Quarterly Report should not have been the first report filed

by the Committee; rather, the Committee should have filed a 1987 Year End Report and a 1988 April Quarterly Report.

Pursuant to 2 U.S.C. § 434(b), the total amount of all receipts and disbursements must be reported for the reporting period in which they are received or made and must include the aggregate for the calendar year. The Committee's Pre-Primary Report revealed both receipts and disbursements other than testing the waters expenditures, not reported during the reporting period in which they were received or made. Furthermore, the Committee incorrectly reported no receipts or disbursements on its 1988 July Quarterly Report when in fact disbursements totalling $260.35 ($137.64 on June 6, 1988 and $122.71 on June 30, 1988) were itemized on the Committee's 1988 Pre-Primary Report.

Pursuant to 2 U.S.C. § 431(17), an independent expenditure is an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate or any authorized committee or agent of such candidate, and which is not made in concert with or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate. There is no evidence to support Mr. Moss' assertion that the $5,262.20 reported as "independent expenditures" in the 1988 Pre-Primary Report was in fact such because there is no indication that he made these expenditures on behalf of any other candidate. It

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appears that he made them on behalf of himself. Even if he had declared his candidacy, a candidate cannot make independent expenditures on his own behalf. Consequently, these expenditures apparently should have been included with the other reported expenditures.

Pursuant to 2 U.S.C. § 434(a)(2) and 11 C.F.R. § 104.5(a)(1) and (2) treasurers of principal campaign committees of candidates for the House of Representatives must file reports of receipts and disbursements in accordance with the provisions of the subsections of those sections of the Act and regulations. Pursuant to 2 U.S.C. § 439(a)(1) and 11 C.F.R. § 108.3 authorized committees are required to file with the Secretary of State (or equivalent State officer), a copy of each report and statement filed with the Commission in connection with the campaign of a candidate to the Office of Representative. 11 C.F.R. § 108.5 states that all reports required under Section 108 must be filed with the appropriate state officer at the same time the original is filed. The Complainant stated that the Committee also violated this section of the Act. This Office telephoned Arizona's Secretary of State to determine whether the Committee had filed any reports with its office. Arizona's Secretary of State indicated that the first report the Committee filed with that Office was its Pre-Primary Report on September 19, 1988. As previously discussed, this report should have been filed with the Commission and Arizona's Secretary of State by September 1, 1988 and the Committee should have earlier filed with the Arizona

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Secretary of State, a 1987 Year End Report and a 1988 April Quarterly.

Therefore, there is reason to believe that Dave Moss for U.S. Congress and Al Breznay, as treasurer, violated 2 U.S.C. § 433, 2 U.S.C. § 434(a)(2)(A)(i), 2 U.S.C. § 434(a)(2)(A)(iii), 2 U.S.C. § 434(b)(2) and (4) and 2 U.S.C. § 439(a)(1).

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 27, 1989

David R. Moss
Box 125
Wikieup, Arizona 85360

RE: MUR 2691
Dave Moss

Dear Mr. Moss:

On September 16, 1988, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to you, Dave Moss for U.S. Congress, and Al Breznay, as treasurer, at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on February 16 , 1989, found that there is reason to believe you violated 2 U.S.C. § 432((e)(1), a provision of 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 along with answers to the enclosed questions within 15 days of 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 matter to be made public.

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

Sincerely,

Danny L. McDonald
Chairman

Enclosures
Questions
Designation of Counsel Form
Factual and Legal Analysis

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 2691
)
)
)

INTERROGATORIES

TO: **David R. Moss**
Box 125
Wikieup, Arizona 85360

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the question set forth below within 15 days of your receipt of this request.

1. Please state the exact dates and specific amounts for each contribution you gave to the Dave Moss for U.S. Congress Committee and each expenditure you made on behalf of the Committee between March 12, 1987 and August 24, 1987.

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David R. Moss

INSTRUCTIONS

In answering these interrogatories, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: **Dave Moss** MUR: 2691

The Complainant alleged that Respondents, Dave Moss and/or his principal campaign committee, Dave Moss for U.S. Congress (the "Committee"), and Al Breznay, as treasurer had failed to file a Statement of Candidacy in a timely fashion and had failed to file a Pre-Primary Report. Specifically, Complainant stated that Respondents had not reported receipts or expenditures in excess of $5,000 on their 1988 July Quarterly Report, and indicated that because the Committee had not filed a Pre-Primary Report, Respondents were still maintaining at the time of the complaint that the $5,000 threshold for registration and reporting had not been met. Complainant alleged that Respondents had not reported any "testing the waters" contributions or expenditures, and asserted that sufficient evidence existed to indicate that Respondents had met the $5,000 threshold by the close of the Pre-Primary Report period.

On September 15, 1988, Respondents filed a Pre-Primary Report with the Reports Analysis Division ("RAD"). The report indicated that it covered the time period of March 12, 1987 through August 24, 1988 and listed receipts and expenditures in excess of $5,000.

Pursuant to 2 U.S.C. § 431(2), an individual becomes a candidate after having received contributions aggregating in

excess of $5,000 or having made expenditures aggregating in excess of $5,000. 2 U.S.C. § 432(e)(1) requires each candidate to designate, in writing, a political committee to serve as his or her principal campaign committee. Within 15 days after becoming a candidate, the candidate shall designate his or her principal campaign committee by filing a Statement of Candidacy with the Commission.

Dave Moss filed a Statement of Candidacy on July 12, 1988, and a July Quarterly Report on July 12, 1988. The July Report indicated that the Committee had not received contributions nor made expenditures in excess of $5,000. According to the Pre-Primary Report filed by Respondents on September 15, 1988, the Committee reported a total of $9,871.80 in contributions from the candidate and disbursements of $4,931.73 between March 12, 1987 and September 22, 1987.[1/] The Committee also reported for an unspecified period of time a total of $5,262.20 in "independent expenditures less than $200.00."

1/ The $4,931.73 in disbursements are reported for "testing the waters." This appears to be an incorrect identification of these disbursements because the report lists the purpose of these disbursements as "media." Pursuant to 11 C.F.R. §§ 100.7(b)(1) and 100.8(b)(1) funds received or payments made to help an individual decide whether to become a candidate are neither contributions nor expenditures if the individual does not become a candidate. However, funds received or payments made for this exemption only apply to such activities as conducting a poll, making telephone calls, traveling, etc. It does not apply to general public political advertising such as media activities.

Mr. Moss' personal contributions to his campaign by September 22, 1987 exceeded $5,000. On the basis of these contributions Mr. Moss apparently had met the $5,000 threshold for candidacy at least as of that date. Further, the Committee reported $4,931.73 in disbursements between March 12, 1987 and September 22, 1987, and the Committee also made $5,262.20 in expenditures questionably designated "independent" prior to the filing of the 1988 Pre-Primary Report.

Therefore, there is reason to believe that Dave Moss violated 2 U.S.C. § 432(e)(1) by not filing a Statement of Candidacy when he met the $5,000 threshold.

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RECEIVED
FEDERAL ELECTION COMMISSION
ADMINISTRATIVE DIVISION

89 APR 10 AM 9:02

MUR 2691

2049 E. Colter
Phoenix, AZ 85016
April 4, 1989

Federal Elections Committee
Attention Sandra J. Dunham
999 "E" Street NW
Washington, D.C. 20463

89 APR 10 PM 12:10

Re: Dave Moss

Ladies and Gentlemen:

As discussed by phone today with Ms. Dunham, and in response to letter from Danny L. McDonald, I am formally requesting Pre-Probable Cause Conciliation.

I also respectfully ask for more time in order to prepare an affidavit

Thank you, Ms. Dunham, for your courtesy in speaking with me. I would greatly appreciate an extension in time and to get Pre-Probable Cause Conciliation.

Sincerely,

Dave Moss

DM/mg

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

April 12, 1989

David R. Moss
2049 E. Colter
Phoenix, Arizona 85016

RE: MUR 2691
Dave Moss for U.S. Congress
and David R. Moss

Dear Mr. Moss:

This is in response to your letter dated April 4, 1989, which we received on April 11, 1989, requesting an extension of time to respond to the Commission's reason to believe finding. After considering the circumstances presented in your letter, I have granted an extension of fifteen (15) days. Accordingly, your response is due by the close of business on April 25, 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: George F. Rishel
Acting Associate
General Counsel

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FEDERAL ELECTION COMMISSION RECEIVED
89 MAY -1 PM 2:36

FEDERAL ELECTION COMMISSION RECEIVED
89 MAY -1 PM 3:42

MUR 2691

April 22, 1989

RE: MUR 2691

Mr. Danny L. McDonald
Chairman
FEC
999 E. Street N.W.
Washington, DC 20463

Dear Mr. McDonald:

Thank you very much for giving me an extension of time. I still don't understand what pre-probable cause conciliation is or if I have it. As you can see from the enclosed copy of letter (Larson), I am in the absence of an attorney, so I will just try to respond to your letter and to the Interrogatories in the best way I can. Without knowing what the full rules or codes are that you listed, I can only do my best. I never had anything to hide.

When I first received your announcement of an investigation back in September, 1988, I spoke with Sandra Dunham and tried to get some clarification as to what was going on and what I needed to do about it. After our discussion, I wrote a letter to her attention and sent an Affidavit of the facts in in the matter. I then heard nothing further. This was quite a relief, as I took the lack of any further correspondence or phone call to mean that all was well and that everything had been resolved.

Meantime, I continued to file the FEC reports, the campaigning contined, the General Election arrived, and I lost my bid for the U.S. Congressional seat. By then, I was very exhausted from the rigors of campaigning and the stress of the election. I just wanted everything done and to be a closed book. Within a week or so of the General Election, I closed up shop and "cleaned house." There was no need to keep records because nothing was deductible for income tax. I lost the race and the situation was moot.

Now, some five months after my last contact with the FEC regarding the initial complaint, I am left with only what I can personally remember to aid me in giving you this response and in attempting to accurately answer your interrogatories.

89 MAY -1 PM 4:15

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By way of some explanation, shortly after I announced and began my campaign, my initial treasurer Al Greznay went on a lengthy vacation. I had only a couple campaign volunteers, no official paid staff and was running on a shoe-string.

In the absence of Al, I endeavored to do my best to keep going, and in so doing, I sought the help of my personal accountant in getting work done. Since he was as unfamiliar with political campaigning as I was, he, on several occasions, especially concerning the fact that I was accused (in Parson's Complaint) of not reporting everything and talking about a $5,000 threshold, and if things were to be all inclusive or just for or by calendar year, etc., called the FEC office and spoke several times with a Linda Tangey and also with a Noriega Janes. We tried to do what was required and right.

In actuality, eliminating the erroneous entry of yard stakes ($489) on the Amended Report, I had not reached a $5,000 threshold of expenditures as of the date when I announced my formal candidacy in June, 1988. At that time, I'd only spent about $4,850, and of that amount, more may be questionably included and shouldn't be, but I don't have the records, so I included items anyway. However, at the time of announcing and for filing the first report, I didn't realize that the minimal expenses I'd incurred in 1987 (the prior calendar year) were even to be considered. The heading on the for was "Calendar Year-to-Date."

Items listed as "independent expenditures" were really my personal food type expenses which I'd paid for from my personal funds as I was testing the waters in my territory. At the time of filing the amended return I wanted to be sure nothing got missed and I interpreted independent to be what I spent on myself, hence my catchall category for small, trivial items

Now, after this long time, and especially since I barely had a campaign, all expenses were small, and funds were really not forthcoming, I feel at a loss as to what to say. I diligently recorded all monies (apparently too much), and as to the mislabels, it was only due to

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inexperience and to the typical difficulties one would have in trying to absorb everything at once about lengthy and confusing rules and regulations. As I mentioned, I didn't have the support staff and extra bodies that candidates usually have helping and working in a campaign. It was a pretty much "do-it-yourself operation."

I've answered your questions to the best of my ability and recollection and spent a lot of time trying to get all of the information accurately down on paper so I could try and get someone to type it. Having run for a Federal office and with a skeletal campaign, doing most all myself, I felt I did a commendable job. How many candidates running for big offices accomplish as much as I did with so little. Yet, it's the little guy who ends up getting picked on--the one without any real means for handling allegations. And, the bigger the others are, the more they get away with--both in terms of no one daring to challenge them and in being able to have ample help and means for staying any challenges.

In summary, I've honestly answered your questions to the best of my ability and I strongly and sincerely believe that no action should be taken against me by the FEC. The election is long over and yet the paltry and meager items are still being quibbled over. I'd like to consider seriously running again for office and would like to have a clean slate.

respectfully request that this matter be dismissed and the file closed

Sincerely

Dave Moss

DM:gt

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A. ELWYN LARSON
ATTORNEY AT LAW
2314 EAST MULBERRY
PHOENIX, ARIZONA 85016
PHONE: 955-4505

March 29, 1989

Mr. Dave Moss
2049 E. Colter
Phoenix, AZ 85016

Hi Dave:

Since Elwyn's death on March 15th, attorney Richard Wilson has been helping me through some of Elwyn's business affairs.

Mr. Wilson wishes to talk with you regarding the Hackamore Inn real estate, and he hasn't been able to reach you by phone. Would you please give Mr. Wilson a call at his office, 254-8698. Thanks a bunch.

Rita

Rita

My phone is the same - 955-4607
My address has changed -
4402 N. 36th St., #38
Phoenix, AZ 85018

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 2691
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)
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INTERROGATORIES

TO: **David R. Moss**
Box 125
Wikieup, Arizona 85360

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the question set forth below within 15 days of your receipt of this request.

1. Please state the exact dates and specific amounts for each contribution you gave to the Dave Moss for U.S. Congress Committee and each expenditure you made on behalf of the Committee between March 12, 1987 and August 24, 1987.

re: Contributions:

In the absence of being able to locate any of the cancelled checks from my personal account to account for each contribution I made to the Dave Moss for U.S. Congress account, I've asked my bank to get me copies of the desired checks.

Please see copy of letter from Citibank confirming my solicitation of such items.

re: Expenditures

3/30/87	to U.S. Post Office for stamps	$ 22.00
4/23/87	Hilltop Union Oil - car expense	83.00
4/27/87	to U.S. Post Office for stamps	44.00
6/10 87	telephone calls L.D.	60.00
6/30/87	L.D. telephone calls	25.00
8/17/87	stamps reimbursement to J. Hedges	25.00
8/17/87	support of Maricopa Dem. Party	100.00
		$359.00

Dave Moss
DAVE MOSS

STATE OF ARIZONA)
) ss.
County of Maricopa)

SUBSCRIBED AND SWORN to before me this 25th day of April, 1989, by DAVE MOSS.

Sandra B. Hatly
Notary Public

My Commission Expires: 7/19/91

2140803254

CITIBANK

Citibank (Arizona)
A subsidiary of
Citicorp
P.O. Box 2908
Phoenix, AZ
85062-2908
602/248-2200

Greg Barrett
Assistant Vice President
Home Office Commercial Loan Department
(602) 248-2303

April 24, 1989

Federal Election Committee
c/o Dave Moss
2049 East Colter
Phoenix, Arizona 85016

Re: Dave Moss For Congress

To Whom It May Concern:

Dave Moss has requested copies of checks drawn on his personal account made payable to his "Dave Moss For Congress Account" for the period 3/12/87-8/24/87.

We are in the process of ordering copies of these checks. If additional information is needed, please don't hesitate to call me.

Sincerely,

Greg Barrett

Greg Barrett
Assistant Vice President

GFB/mm

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 2691
)
)
)

INTERROGATORIES

TO: **Al Breznay, Treasurer**
Dave Moss for U.S. Congress
Maricopa County Press Headquarters
Phoenix, Arizona 85016

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 15 days of your receipt of this request.

1. Please list the specific purpose for each expenditure identified as for "testing the waters" on the 1988 Pre-Primary Report.

2. Please identify the recipients of all of the disbursements listed as independent expenditures in the 1988 Pre-Primary Report and state the purpose for each of these disbursements.

SEE ATTACHED

9004080325 6

INTERROGATORY 1

I had no campaign or organization. I just, as you put it, "tested the waters" by trying various activities to try and find out if it would be worthwhile for me to run for a Federal office. Finally, friends talked me into it in 1988.

Now, after I'd filed the FEC Report and after several phone calls and conversations, by my personal accountant who was helping me, with a Linda Tanney and a Noriega Janes, and the brouhaha by Parsons, I filed an "Amended" FEC pre-primary report. I made every effort to do what was needed and do it correctly. I had been told to list everything. That's why I even put down the yardsticks (3/12/87, Maricopa Democratic Party, $489) which in reality were yard stakes which I'd bought in 1986 (and were a back billing) for something else, and which were inadvertently included. Please see attached note from Maricopa County Democrats to that effect.

But, I did buy buttons by the boxful from ARRCO Button Company. They were just my name buttons (see attached) and nice, cute, handy things (souvenirs) to pass out to people while I was out sporadically walking and talking with people throughout the areas in the district--a large district of 55,000 square miles--and trying to learn whether they'd heard my name before or knew me in attempting to make up my mind as to whether or not I wanted to, or if it would be worthwhile for me to run for a Federal office such as U.S. Congress. While I'm still not clear on time frames, even going back to 1987, my expenses were barely $5,000. In fact, I understood that if I spent under $5,000 that I didn't even have to file according to section 100. something. As I said, I have no papers or access to what your codes were that you listed. Since I thought that everything I spent, since it was for trying to find out something of what the communities in which I was thinking of running were thinking of, or was spent while I was, I just tried to include everything and thought it was all testing.

Items from ARRCO Button Company:

3/12/87; 3/19/87; 5/18/87; 6/1/87; 6/20/87; 6/29/87; 7/14/87; 9/1/87; 9/22/87

were orders for [redacted] "Moss" buttons.

During the campaign I filed the required reports, and after the campaign was ended, I cleaned up everything and tossed it. Consequently, I don't recall if I bought items other than the boxes of buttons from ARRCO two years ago.

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moss

They were just things I was getting at the time in case I would run, and I did decide to in 1988, and that I d have handy then and could in the meantime or at any time have for general use.

8/7/87 KILS radio (Flagstaff, AZ) - I believe I had a few 30-second spots for "Testing" to see if there would be any response or interest for the populace. It turned out to be an isolated exercise in futility.

8/31/87 KLFF Radio (Phoenix, AZ) - likewise a few spots to "Test" in a different part of the State to find out if anyone took note; also, no feedback from this.

DAVE MOSS

STATE OF ARIZONA)
) ss.
County of Maricopa)

SUBSCRIBED AND SWORN to before me this 25th day of April, 1989, by DAVE MOSS.

Sandra B. Hathy
Notary Public

My Commission Expires:

7/19/91

9004080325 8

INTERROGATORY 2

Items listed as "independent expenditures" were actually independent (personal) expenses of the candidate. In other words, personal food, accommodations, etc. while testing the marked campaign territory (about 55,000 square miles) and later, after announcing, during the campaign. The items were all small amounts for postage, long-distance phone calls, etc., hence the note "less than $200." In my effort to leave no stone unturned and cover everything, apparently more confusion was created. With the exception of the items noted below, from the category "independent expenditures," all other personal expenses were made from my personal funds. I now understand that my living expenses paid for with my own funds are not considered part of the reporting requirements. Likewise, while I was "testing the waters," I understand I was exempt for the "testing" expenses from the aggregate total of $5,000 for a threshold amount which would have required any report prior to my official announcement in June, 1988.

3/30/87	postage stamps	$22
4/23/87	car expense	83
4/27/87	postage stamps	44
6/10/87	long-distance calls	60
6/30/87	" " "	25
8/17/87	stamps - reimburse Hedges	25
8/17/87	support for Maricopa County Democratic Party	100

DAVE MOSS

STATE OF ARIZONA)
) ss.
County of Maricopa)

SUBSCRIBED AND SWORN to before me this 25th day of April, 1989, by DAVE MOSS.

Sandra B. Hathy
Notary Public

My Commission Expires:

7/19/91

0004080325 9

MARICOPA COUNTY DEMOCRATS

1525 N CENTRAL AVENUE, SUITE 107 • PHOENIX, AZ 85004 • (602) 254-4179

JENNIE P. COX
CHAIRMAN

APRIL 24, 1989

S T A T E M E N T

DAVE MOSS FOR GOVERNOR CAMPAIGN, period 1986-1987.

PURCHASED WOODEN STAKES USED FOR CAMPAIGN SIGNS

FOR THE AMOUNT OF $489.00.

Jennie P. Cox, Chairman
Maricopa County Democrats

plm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 1, 1989

Dave Moss
2049 E. Colter
Phoenix, AZ 85016

RE: MUR 2691
Dave Moss for U.S. Congress
and Al Breznay, as treasurer

Dear Mr. Moss:

On May 5, 1989, you requested that the Federal Election Commission permit Dave Moss for U.S. Congress ("Committee") to terminate pursuant to 2 U.S.C. § 433(d) and Section 102.3 of the Commission's Regulations. Because of the ongoing enforcement matter involving your Committee, this request has been denied. Therefore, you are reminded that the Committee must continue to file all the required reports with the Commission until such time as the enforcement matter has been closed as to the Committee.

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

9004030261

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

90 JAN -9 AM 11:18

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of	)	
	)	
Dave Moss	)	MUR 2691
Dave Moss for U.S.	)	
Congress and Al	)	
Breznay, as treasurer	)	

GENERAL COUNSEL'S REPORT

The Office of the General Counsel is prepared to close the investigation in this matter as to Dave Moss and Dave Moss for U.S. Congress and Al Breznay, as treasurer, based on the assessment of the information presently available.

Date 1/8/90

Lawrence M. Noble
General Counsel

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RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

90 JAN 11 PM 12:54

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

MEMORANDUM January 11, 1990

TO: The Commission

FROM: Lawrence M. Noble,
General Counsel

SUBJECT: MUR 2691

Attached for the Commission's review are two briefs stating the positions of the General Counsel on the legal and factual issues in the above-captioned matter. Copies of these briefs and letters notifying the respondents of the General Counsel's intent to recommend to the Commission findings of no probable cause to believe that certain violations have occurred and findings of probable cause to believe that there have been other violations were mailed on January 11, 1990. Following receipt of the respondents' replies to these notices, this Office will make a further report to the Commission.

Attachments
1. Briefs
2. Letters to respondents (2)

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

SENSITIVE

January 11, 1990

Dave Moss
2049 E. Colter
Phoenix, Arizona 85016

RE: MUR 2691
Dave Moss

Dear Mr. Moss:

Based on a complaint filed with the Federal Election Commission on September 9, 1988, and information supplied by you the Commission, on February 16, 1989, found that there was reason to believe you violated 2 U.S.C. § 432(e)(1), and instituted an investigation of 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 no probable cause to believe that a violations 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.

2 0 0 4 0 0 3 2 5 4

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

9004080265

probable cause to believe that Mr. Moss violated 2 U.S.C. § 432(e)(1).

III. **GENERAL COUNSEL'S RECOMMENDATION**

1. Find no probable cause to believe that Dave Moss violated 2 U.S.C. § 432(e)(1).

1/10/90
Date

Lawrence M. Noble
General Counsel

9004030256

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Dave Moss	)	MUR 2691
	)	

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On February 16, 1989, the Federal Election Commission found reason to believe that Dave Moss violated 2 U.S.C. § 432(e)(1) by not filing a Statement of Candidacy when he exceeded the $5,000.00 contribution and/or expenditure thresholds which establish candidate status. The basis for this finding was information contained in a complaint filed by John Parsons.

On April 22, 1989, Mr. Moss responded to the Commission's findings for both himself as the candidate and for Dave Moss for U.S. Congress and Al Breznay, as treasurer (the "Committee"). Mr. Moss indicated that he had destroyed all of his records and, as a result of this, all of his responses were from memory. Additionally, he did not request pre-probable cause conciliation; rather, he asked that the Commission dismiss this matter and close the file.

II. ANALYSIS

Pursuant to 2 U.S.C. § 431(2), an individual becomes a candidate after having received contributions aggregating in excess of $5,000.00 or having made expenditures in excess of $5,000.00. 2 U.S.C. § 432(e)(1) requires each candidate to designate, in writing, a political committee to serve as his or

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her principal campaign committee. Within 15 days after becoming a candidate, the candidate shall designate his or her principal campaign committee by filing a Statement of Candidacy with the Commission.

Mr. Moss stated in his response that he was confused as to what he was supposed to include as contributions and/or expenditures on the 1988 12 Day Pre-Primary Report (which he erroneously called an amended Pre-Primary Report). Consequently, he reported $9,871.80 in contributions from himself between March 12, 1987 and August 24, 1987. This amount alone would have triggered the threshold for candidacy and was the basis for the Section 432(e)(1) reason to believe finding. However, Mr. Moss wrote in his response that the actual amount spent on behalf of his campaign during that period of time was $359.00. Mr. Moss stated that he had mistakenly reported his personal expenses (for food, gasoline, etc.) as contributions from himself.

This Office has recomputed the contributions and expenditures made and received by the candidate prior to his filing a Statement of Candidacy on July 12, 1988. As of June 30, 1988 (the date of the last disbursement prior to the filing of the Statement of Candidacy), Mr. Moss had received $409.00 in contributions and had made $4,703.08 in expenditures. The responses and reports filed with the Commission indicate that Mr. Moss exceeded the $5,000.00 threshold after June 30, 1988. Therefore, it appears that Mr. Moss did file his Statement of Candidacy in a timely manner. Accordingly, this Office recommends that the Commission find no

9004030263

FEDERAL ELECTION COMMISSION
WASHINGTON D C 20463

January 11, 1990

Al Breznay, Treasurer
Dave Moss for U.S. Congress
2049 E. Colter
Phoenix, Arizona 85016

RE: MUR 2691
Dave Moss for U.S. Congress and
Al Breznay, as treasurer

Dear Mr. Breznay:

Based on a complaint filed with the Federal Election Commission on September 9, 1988, and information supplied by the candidate, Dave Moss, on February 16, 1989, the Federal Election Commission found reason to believe that Dave Moss for U.S. Congress (the "Committee") and you, as treasurer, violated 2 U.S.C. §§ 433(a), 434(a)(2)(A)(i) and (iii), 434(b)(2) and (4), and 439(a)(1) 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 no probable cause to believe that the Committee violated 2 U.S.C. §§ 433(a) and 434(a)(2)(A)(iii) and probable cause to believe that the Committee violated 2 U.S.C. §§ 432(d), 434(b)(2) and (4), 434(a)(2)(A)(i) and 439(a)(1). Please note that the 2 U.S.C. § 432(d) violation is a new finding; it concerns the destruction of documents.

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.

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

0 7 2 3 0 4 0 0 1 1

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Dave Moss for U.S. Congress and Dave Moss, acting as treasurer	)	MUR 2691
	)	
	)	

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On February 16, 1989, the Commission found reason to believe that Dave Moss for U.S. Congress (the "Committee") and Al Breznay, as treasurer, violated 2 U.S.C. §§ 433, 434(a)(2)(A)(i) and (iii), 434(b)(2) and (4) and 439(a)(1). The basis for these findings was information contained in a complaint filed by John Parsons.

On April 22, 1989, the candidate, Dave Moss, responded to the Commission's findings on behalf of both himself as the candidate and the Committee. Mr. Moss indicated that he had destroyed all of his records and, as a result of this, all of his responses were from memory. Consequently, this Office is relying upon the information contained in Mr. Moss' notarized responses to the interrogatories sent to him rather than upon underlying documentation. Mr. Moss did not request pre-probable cause conciliation on behalf of the Committee; instead, he asked that the Commission dismiss this matter and close the file.

II. ANALYSIS

Preliminarily, the Commission found reason to believe that the Committee and Al Breznay, as treasurer, violated the above mentioned sections of the Federal Election Campaign Act (the

9004030271

"Act"). However, it does not appear that Mr. Breznay has been acting as treasurer since the early stages of the campaign. The only reports signed by Mr. Breznay and filed with the Commission were the Statement of Organization and the 1988 July Quarterly Report. All of the subsequent reports have been signed by Mr. Moss. Further, Mr. Moss has referred to Mr. Breznay as his initial treasurer and he has stated that Mr. Breznay took an extended vacation at the beginning of the campaign. Consequently, this Office believes that Mr. Moss has been the acting treasurer since September, 1988 and the recommendations contained herein reflect this belief.

Pursuant to 2 U.S.C. § 433(a), each authorized campaign committee must file a Statement of Organization no later than 10 days after designation, pursuant to Section 432(e)(1). The Commission found reason to believe that the Committee had violated 2 U.S.C. § 433(a) because it appeared that Mr. Moss had not timely filed his Statement of Candidacy and that the Committee had therefore not timely filed a Statement of Organization.

Mr. Moss stated in his response that he was confused as to what he was supposed to include as contributions and/or expenditures on the 1988 12 Day Pre-Primary Report (which he erroneously called an amended Pre-Primary Report). Consequently, he reported $9,871.80 in contributions from himself between March 12, 1987 and August 24, 1987. This amount alone would have triggered the threshold for candidacy and was the basis for the Commission finding reason to believe that the Committee had violated Section 433. However, Mr. Moss wrote in his response

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that the actual amount spent on behalf of his campaign during that period of time was $359.00. Mr. Moss stated that he had mistakenly reported his personal expenses (for food, gasoline, etc.) as contributions from himself.

This Office has recomputed the contributions and expenditures made and received by the candidate prior to his filing a Statement of Candidacy on July 12, 1988. As of June 30, 1988 (the date of the last disbursement prior to the filing of the Statement of Candidacy), Mr. Moss had received $409.00 in contributions and had made $4,703.08 in expenditures. The responses and reports filed with the Commission indicate that Mr. Moss exceeded the $5,000.00 threshold after June 30, 1988. Therefore, it appears that Mr. Moss did file his Statement of Candidacy in a timely manner. Because the Committee filed its Statement of Organization on the same day, this Office recommends that the Commission find no probable cause to believe that the Committee violated 2 U.S.C. § 433(a).

Pursuant to 2 U.S.C. § 434(a)(2)(A)(iii), each treasurer of a principal campaign committee of a candidate for the House of Representatives must file quarterly reports of receipts and disbursements in any calendar year during which there is a regularly scheduled election for which such candidate is seeking election, except that the report for the quarter ending December 31 shall be filed no later than January 31 of the following calendar year.

The first report filed by the Committee was the 1988 July Quarterly Report. It appeared from reports subsequently filed by

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the Committee that the Committee should have filed the two previous reports in the reporting cycle. Consequently, the Commission found reason to believe that the Committee had violated 2 U.S.C. § 434(a)(2)(A)(iii) by not filing a 1987 Year End Report and a 1988 April Quarterly Report. However, based upon Mr. Moss' adjustments in the amounts of the contributions and expenditures received and made prior to July 12, 1988, it now appears that the 1988 July Quarterly Report was the first report required to be filed with the Commission. Therefore, this Office recommends that the Commission find no probable cause to believe that the Committee violated 2 U.S.C. § 434(a)(2)(A)(iii).

2 U.S.C. § 432(d) states that treasurers must preserve all records required to be kept by Section 432 for three years after a report is filed. As discussed above, Mr. Moss indicated in his response to the Commission's reason to believe findings and interrogatories that he had destroyed all of the campaign records after his unsuccessful general election campaign in 1988. This Office recommends that the Commission find probable cause to believe that the Committee and Dave Moss, acting as treasurer, violated 2 U.S.C. § 432(d).

Pursuant to 2 U.S.C. § 434(b), the total amount of all receipts and disbursements must be reported for the reporting period in which they are received or made, and must include the aggregate for the calendar year. The Committee's 1988 July Quarterly Report and the 1988 Pre-Primary Report both contained inaccuracies in the reporting of receipts and expenditures. The Committee incorrectly reported no receipts or disbursements on its

9004080327/4

1988 July Quarterly Report when in fact disbursements totaling $260.35 ($137.64 on June 6, 1988 and $122.71 on June 30, 1988) were itemized on the Committee's subsequent filing, the 1988 Pre-Primary Report. In its 1988 Pre-Primary Report, the Committee reported $5,262.20 in independent expenditures; however, Mr. Moss has written in his response that these items, listed as independent expenditures, were actually his personal expenses for items such as food, etc. Because the Committee's reports contained several reporting errors, this Office recommends that the Commission find probable cause to believe that the Committee violated 2 U.S.C. §§ 434(b)(2) and (4).

Pursuant to 2 U.S.C. § 434(a)(2)(A)(i), a principal campaign committee of a candidate for the House of Representatives must file a pre-election report no later than the 12th day before an election in which such candidate is seeking election, which shall be complete as of the 20th day before such election. The primary was held on September 12, 1988 in the State of Arizona. Consequently, the Committee should have filed a Pre-Primary Report by September 1, 1988, which should have been complete as of August 24, 1988. The Committee did not file its Pre-Primary Report until September 15, 1988. Therefore, this Office recommends that the Commission find probable cause to believe that the Committee violated 2 U.S.C. § 434(a)(2)(A)(i) by failing to file its 1988 Pre-Primary Report in a timely manner.

Pursuant to 2 U.S.C. § 439(a)(1) and 11 C.F.R. § 108.3, authorized committees are required to file with the Secretary of State (or equivalent State officer) a copy of each report filed

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with the Commission in connection with the campaign of a candidate for the Office of United States Representative. 11 C.F.R. § 108.5 states that all reports required under Section 108 must be filed with the appropriate State officer at the same time the original is filed with the Commission. The Secretary of State of Arizona has informed this Office by telephone that the first report filed with that Office by the Committee was its Pre-Primary Report on September 19, 1988. As previously discussed, that report should have been filed with the Commission and with Arizona's Secretary of State by September 1, 1988. Further, the Committee should have filed its 1988 July Quarterly Report with the Arizona Secretary of State, but it never did. Therefore, this Office recommends that the Commission find probable cause to believe that the Committee violated 2 U.S.C. § 439(a)(1).

III. GENERAL COUNSEL'S RECOMMENDATIONS

1. Find no probable cause to believe that Dave Moss for U.S. Congress and Dave Moss, acting as treasurer, violated 2 U.S.C. §§ 433(a) and 434(a)(2)(A)(iii).

2. Find probable cause to believe that Dave Moss for U.S. Congress and Dave Moss, acting as treasurer, violated 2 U.S.C. §§ 432(d), 434(b)(2) and (4), 434(a)(2)(A)(i) and 439(a)(1).

Date 1/10/90

Lawrence M. Noble
General Counsel

9004030276

OGC 53151

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

90 FEB -6 AM 11:45

January 31, 1990

Mr. Lawrence M. Noble

General Counsel
Attention: Sandra J. Dunham
Federal Election Commission
999 E. Street N.W.
Washington, D.C., 20463

RE: MUR 2691

Dave Moss for U.S. Congress
& Al Breznay as Treasuer

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

90 FEB -6 PM 12:46

Dear Mr. Noble:

Answering 432 (d), after receipt of your letter of January 11, 1990 and brief, someone mentioned that checks are the records and I'd been thinking only of statements and since I'm not an accountant this possibility did not register, especially since I was the candidate and my mind was on more important matters to me and not nuisance paper work. Anyway, the expense was put down after I got my return checks from the bank and that's why it was put on next report.

This would also apply to 432 (d) because I do have my cancelled checks and someone told me, they are records.

In response to counsel's recommendation regarding the alleged violations 2 U.S.C., 434 (a) (2) (A) (i) and 439 (a) (1), I have nothing further to add, I just did my best.

Sincerely,

Dave Moss

9004003217

OGC 5316

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

90 FEB -6 AM 11:32

January 31, 1990

Lawrence M Noble
General Council

Attention: Sandra J. Dunham

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

RE: MUR 2691

Dave Moss

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

90 FEB -6 PM 12:46

Based on evidence previously submitted, I concur with councils recomendation that there is no probable cause that I violated 2 U.S.C. - 432 (e) (1).

Sincerely,

Dave Moss

Dave Moss

90040032778

OAC 5526

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

90 FEB 26 AM 9:15

MUR 2691

February 20, 1990

Sandra J. Dunham
C/O General Counsel
Federal Election Commission
999 E Street N.W.
Washington, D.C. 20463

Dear Ms. Dunham:

Enclosed find the copies of the two checks you requested.

If you cannot read the writing on them, they were for pictures obtained from a Photo/Shop called Camera Arts.

Thanks again for the courtesy.

P.S. I certainly hope this can be resolved without fault as it could hurt me in the upcoming election.

Sinerely,

Dave Moss

Dave Moss

90 FEB 26 PM 2:51
RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

90040052179

DAVID MOSS
~~BARBARA MOSS~~
6121 E. FOREST
APACHE JUNCTION, AZ 85220

6/30 10/88 5144

91-283/1221

Pay to the Order of _____ $ 12271

One hundred forty two + 71 Dollars

Home Office
UNITED BANK
OF ARIZONA
3800 N. Central, Phoenix, AZ 85012-2301

SAGE
Salvia officinalis

Memo _____

⑆122102831⑈5144⑈ 098490100 3⑈ ⑈0000012271⑈

DAVID MOSS
~~BARBARA MOSS~~
6121 E. FOREST
APACHE JUNCTION, AZ 85220

6/7 10/88 5115

91-283/1221

Pay to the Order of _____ $ 13764

One hundred thirty seven + 64 Dollars

Home Office
UNITED BANK
OF ARIZONA
3800 N. Central, Phoenix, AZ 85012-2301

RED PEPPER
Capsicum longum

Memo _____

⑆122102831⑈5115⑈ 098490100 3⑈ ⑈0000013764⑈

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

90 JUN 22 PM 3:13

BEFORE THE FEDERAL ELECTION COMMISSION

JUL 10 1990

In the Matter of	)	
	)	
Dave Moss	)	MUR 2691
Dave Moss for U.S. Congress and	)	
Dave Moss, acting as treasurer	)	

EXECUTIVE SESSION

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On February 16, 1989, the Commission found reason to believe that Dave Moss violated 2 U.S.C. § 432(e)(1) by not filing a Statement of Candidacy when he exceeded the $5,000 contribution and/or expenditure thresholds which establish candidate status. On that same date, the Commission also found reason to believe that Dave Moss for U.S. Congress (the "Committee") and Al Breznay, as treasurer, violated 2 U.S.C. §§ 433, 434(a)(2)(A)(i) and (iii), 434(b)(2) and (4) and 439(a)(1). The basis for these findings was information contained in a complaint filed by John Parsons.

On January 11, 1990, the Office of the General Counsel sent briefs to both the candidate and the Committee. In the brief to Mr. Moss, as candidate, this Office recommended that the Commission find no probable cause to believe that he violated 2 U.S.C. § 432(e)(1). In the brief to the Committee, this Office recommended that the Commission find no probable cause to believe that the Committee and Dave Moss, acting as treasurer, violated 2 U.S.C. §§ 433(a) and 434(a)(2)(A)(iii). However, this Office did recommend that the Commission find probable cause to believe that the Committee and Dave Moss, acting as treasurer, violated

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2 U.S.C. §§ 432(d) 1/, 434(b)(2) and (4), 434(a)(2)(A)(i) and 439(a)(1).

Mr. Moss responded to the brief in letters dated January 31, 1990, and February 20, 1990. (Attachment 1). In the January 31, 1990 letter, he asserted that he had some canceled checks which someone had told him were "financial records;" however, he did not enclose any copies of these canceled checks. On February 20, 1990, he sent copies of two canceled checks.

II. **ANALYSIS** (General Counsel's Briefs incorporated by reference)

A. **Dave Moss**

Pursuant to 2 U.S.C. § 431(2), an individual becomes a candidate after having received contributions aggregating in excess of $5,000 or having made expenditures in excess of $5,000. 2 U.S.C. § 432(e)(1) requires each candidate to designate, in writing, a political committee to serve as his or her principal campaign committee. Within 15 days after becoming a candidate, the candidate shall designate his or her principal campaign committee by filing a Statement of Candidacy with the Commission.

The Commission found reason to believe that Mr. Moss violated Section 432(e)(1) because it appeared that he had received contributions aggregating in excess of $5,000 by August, 1987, but had not filed a Statement of Candidacy until July 12, 1988. In his response to the reason to believe finding, Mr. Moss wrote

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1/ In a letter dated April 22, 1989, Mr. Moss indicated that he had destroyed all of his financial records at the end of the campaign. Consequently, this Office included in the brief a recommendation that the Commission find probable cause to believe that the Committee violated Section 432(d).

that he had mistakenly reported his personal expenses for food, gasoline, etc. as contributions from himself. Consequently, he did not trigger the threshold for filing as a candidate until after June 30, 1988 and he thus filed his Statement of Candidacy within the required 15 days. Therefore, this Office recommends that the Commission find no probable cause to believe that Dave Moss violated 2 U.S.C. § 432(e)(1).

B. Dave Moss for U.S. Congress

1. No Probable Cause Recommendations

Pursuant to 2 U.S.C. § 433(a), each authorized campaign committee must file a Statement of Organization no later than 10 days after designation, pursuant to Section 432(e)(1). The Commission found reason to believe that the Committee had violated 2 U.S.C. § 433(a) because it appeared that Mr. Moss had not timely filed his Statement of Candidacy and that the Committee had therefore not timely filed a Statement of Organization. As previously discussed, it now appears that Mr. Moss did timely file his Statement of Candidacy. Because this document seems to have been timely filed, it follows that the Statement of Organization, which was filed on the same day, was timely filed also. Accordingly, this Office recommends that the Commission find no probable cause to believe that the Committee violated 2 U.S.C. § 433(a).

Pursuant to 2 U.S.C. § 434(a)(2)(A)(iii), each treasurer of a principal campaign committee of a candidate for the House of Representatives must file quarterly reports of receipts and disbursements in any calendar year during which there is a

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regularly scheduled election for which such candidate is seeking election, except that the report for the quarter ending December 31 shall be filed no later than January 31 of the following calendar year. The Commission found reason to believe that the Committee violated 2 U.S.C. § 434(a)(2)(A)(iii) by failing to file a 1987 Year End Report and a 1988 April Quarterly Report. However, based upon Mr. Moss' adjustments in the amounts of the contributions and expenditures received and made prior to July 12, 1988, it now appears that the 1988 July Quarterly Report was the first report required to be filed with the Commission. This was the first report the Committee filed. Therefore, this Office recommends that the Commission find no probable cause to believe that the Committee violated 2 U.S.C. § 434(a)(2)(A)(iii).

2. Probable Cause Recommendations

2 U.S.C. § 432(d) states that treasurers must preserve all records required to be kept by Section 432 for three years after a report is filed. Mr. Moss indicated in his response to the Commission's reason to believe findings and interrogatories that he had destroyed all campaign records after his unsuccessful general election campaign in 1988. When notified that this Office was including an additional probable cause recommendation in its brief regarding the destruction of documents, Mr. Moss sent this Office a copy of two checks. These two checks were made out to a photography shop for photographs taken for the campaign. Both of these items were listed as expenditures in the 1988 Pre-Primary Report. However, Mr. Moss did not produce supporting documents

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related to other items listed on the financial reports. Consequently, this Office recommends that the Commission find probable cause to believe that the Committee violated 2 U.S.C. § 432(d).

Pursuant to 2 U.S.C. § 434(b), the total amount of all receipts and disbursements must be reported for the reporting period in which they are received or made, and must include the aggregate for the calendar year. The Committee's 1988 July Quarterly Report and the 1988 Pre-Primary Report both contained inaccuracies in the reporting of receipts and expenditures. The Committee incorrectly reported no receipts or disbursements on its 1988 July Quarterly Report when in fact disbursements totaling $260.35 were itemized on the Committee's subsequent filing, the 1988 Pre-Primary Report. In its 1988 Pre-Primary Report, the Committee reported $5,262.20 in independent expenditures; however, Mr. Moss has written in his response that these items were actually his personal expenses for items such as food, etc. Because the Committee's reports did contain reporting errors, this Office recommends that the Commission find probable cause to believe that the Committee violated 2 U.S.C. §§ 434(b)(2) and (4).

A principal campaign committee of a candidate for the House of Representatives must file a pre-election report no later than the 12th day before an election in which such candidate is seeking election. 2 U.S.C. § 434(a)(2)(A)(i). The primary was held on September 12, 1988 in the State of Arizona. Consequently, the Committee should have filed a Pre-Primary Report by September 1, 1988. The Committee did not file its Pre-Primary Report until

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September 15, 1988. Therefore, this Office recommends that the Commission find probable cause to believe that the Committee violated 2 U.S.C. § 434(a)(2)(A)(i).

Pursuant to 2 U.S.C. § 439(a)(1) and 11 C.F.R. § 108.3, authorized committees are required to file with the Secretary of State (or equivalent State officer) a copy of each report filed with the Commission in connection with the campaign of a candidate for the Office of United States Representative. 11 C.F.R. § 108.5 states that all reports required under Section 108 must be filed with the appropriate State officer at the same time the original is filed with the Commission. The Committee did not file the 1988 Pre-Primary Report with the State of Arizona until September 19, 1988 and it never did file its 1988 July Quarterly Report with the State of Arizona. Therefore, this Office recommends that the Commission find probable cause to believe that the Committee violated 2 U.S.C. § 439(a)(1).

III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

Attached for the Commission's approval is a proposed conciliation agreement with Dave Moss for U.S. Congress and Dave Moss, acting as treasurer.

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IV. RECOMMENDATIONS

1. Find no probable cause to believe that Dave Moss violated 2 U.S.C. § 432(e)(1).

2. Find no probable cause to believe that Dave Moss for U.S. Congress and Dave Moss, acting as treasurer, violated 2 U.S.C. §§ 433(a) and 434(a)(2)(A)(iii).

3. Find probable cause to believe that Dave Moss for U.S. Congress and Dave Moss, acting as treasurer, violated 2 U.S.C. §§ 432(d), 434(b)(2) and (4), 434(a)(2)(A)(i) and 439(a)(1).

4. Close the file as it pertains to Dave Moss individually.

5. Approve the attached conciliation agreement and the appropriate letters.

6/22/90
Date

Lawrence M. Noble
General Counsel

Attachments:
1. Letters from D. Moss dated 1/31/90 and 2/20/90
2. Conciliation Agreement

Staff assigned: Sandra J. Dunham

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2691
Dave Moss	)	
Dave Moss for U.S. Congress and	)	
Dave Moss, acting as treasurer	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of July 10, 1990, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MUR 2691:

1. Find no probable cause to believe that Dave Moss violated 2 U.S.C. § 432(e)(1).

2. Find no probable cause to believe that Dave Moss for U.S. Congress and Dave Moss, acting as treasurer, violated 2 U.S.C. §§ 433(a) and 434(a)(2)(A)(iii).

3. Find probable cause to believe that Dave Moss for U.S. Congress and Dave Moss, acting as treasurer, violated 2 U.S.C. §§ 432(d), 434(b)(2)and (4), 434(a)(2)(A)(i) and 439(a)(1).

4. Close the file as it pertains to Dave Moss individually.

(continued)

5. Approve the conciliation agreement and the appropriate letters as recommended in the General Counsel's report dated June 22, 1990.

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

Attest:

7-10-90
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 17, 1990

Mr. Dave Moss
2049 E. Colter
Phoenix, Arizona 85016

RE: MUR 2691
Dave Moss

Dear Mr. Moss:

This is to advise you that on July 10, 1990, the Federal Election Commission found that there is no probable cause to believe you violated 2 U.S.C. § 432(e)(1). Accordingly, the file in this matter has been closed as it pertains to you individually as a candidate.

The file will be made part of the public record within 30 days after it has been closed with respect to all of the other violations involved. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days. Such materials should be sent to the Office of the General Counsel.

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. In the event you wish to waive confidentiality under 2 U.S.C. § 437g(a)(12)(A), written notice of the waiver must be submitted to the Commission. Receipt of the waiver will be acknowledged in writing by the Commission.

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 17, 1990

Dave Moss, Acting Treasurer
Dave Moss for U.S. Congress
2049 E. Colter
Phoenix, Arizona 85016

RE: MUR 2691
Dave Moss for U.S. Congress and
Dave Moss, acting as treasurer

Dear Mr. Moss:

On July 10, 1990, the Federal Election Commission found that there is probable cause to believe Dave Moss for U.S. Congress (the "Committee") and you, acting as treasurer, violated 2 U.S.C. §§ 432(d), 434(b)(2) and (4), 434(a)(2)(A)(i) and 439(a)(1), provisions of the Federal Election Campaign Act of 1971, as amended, in connection with a complaint filed by John Parsons. At the same time, the Commission found that there was no probable cause to believe that the Committee and you, acting as treasurer, violated 2 U.S.C. §§ 433(a) and 434(a)(2)(A)(iii).

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.

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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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MOSS for GOVERNOR
2049 E. Colter
Phoenix, AZ 85016
956-MOSS

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Sandra Thurlow —

Thanks for the courtesy extended me during the press.

As I mentioned previously if you and your Dept can hold the public announcement on this until after Sept 11, I would surely appreciate it.

Thanks again

Doug Moss

Paid for by Moss for Governor Committee - Chris Collier, Sec -Treasurer

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

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SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Dave Moss for U.S. Congress	)	MUR 2691
and Dave Moss, acting as	)	
treasurer	)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

Attached is a conciliation agreement which has been signed by Dave Moss, the candidate and acting treasurer for Dave Moss for U.S. Congress (the "Committee"). Attachment 1.

The attached agreement contains no changes from the agreement approved by the Commission on July 10, 1990. A $1,500.00 check for the civil penalty has been received. Attachment 2.

In the cover letter accompanying the signed agreement and civil penalty check (Attachment 3), Mr. Moss requests that the Commission not make the conciliation agreement public until after September 11, 1990, the date of the Arizona Democratic gubernatorial primary. While the Office of General Counsel would normally recommend that the Commission deny such a request, no recommendation is being made here, as the date has passed and the matter is moot.

II. RECOMMENDATIONS

1. Accept the attached conciliation agreement with Dave Moss for U.S. Congress and Dave Moss, acting as treasurer.

2. Close the file.

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3. Approve the appropriate letters.

Lawrence M. Noble
General Counsel

October 4, 1990
Date

BY: Lois G. Lerner
Lois G. Lerner
Associate General Counsel

Attachments
1. Conciliation Agreement
2. Photocopy of civil penalty check
3. Cover letter

Staff Assigned: Sandra J. Dunham

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2691
Dave Moss for U.S. Congress	)	
and Dave Moss, acting as	)	
treasurer.	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on October 11, 1990, the Commission decided by a vote of 5-0 to take the following actions in MUR 2691:

1. Accept the conciliation agreement with Dave Moss for U.S. Congress and Dave Moss, acting as treasurer, as recommended in the General Counsel's Report dated October 4, 1990.

2. Close the file.

3. Approve the appropriate letters, as recommended in the General Counsel's Report dated October 4, 1990.

Commissioners Aikens, Elliott, Josefiak, McDonald, and Thomas voted affirmatively for the decision; Commissioner McGarry did not cast a vote.

Attest:

10-11-90
Date

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

Received in the Secretariat: Fri., October 5, 1990 3:19 p.m.
Circulated to the Commission: Tues., October 9, 1990 11:00 a.m.
Deadline for vote: Thurs., October 11, 1990 11:00 a.m.

dh

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

October 22, 1990

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. John Parsons
P.O. Box 1147
Flagstaff, Arizona 86002

RE: MUR 2691
Dave Moss, as candidate
Dave Moss for U.S. Congress
and Dave Moss, acting as
treasurer

Dear Mr. Parsons:

This is in reference to the complaints you filed with the Federal Election Commission on September 9, September 13 and October 4, 1988, concerning Dave Moss, candidate for U.S. House of Representatives and the Dave Moss for U.S. Congress committee.

After conducting an investigation in this matter and considering the General Counsel's and respondents' respective briefs, the Commission found that there was no probable cause to believe that Dave Moss, as candidate, violated 2 U.S.C. § 432(e)(1), a provision of the Federal Election Campaign Act of 1971, as amended. However, the Commission did find probable cause to believe that Dave Moss for U.S. Congress and Dave Moss, acting as treasurer, violated 2 U.S.C. §§ 432(d), 434(b)(2) and (4), 434(a)(2)(A)(i) and 439(a)(1), provisions of the Federal Election Campaign Act of 1971, as amended. On October 11, 1990, a conciliation agreement signed by these latter respondents was accepted by the Commission, thereby concluding the matter. Accordingly, the Commission closed the file in this matter on the same day. A copy of this agreement is enclosed for your information.

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's partial dismissal of this action. See 2 U.S.C. § 437g(a)(8).

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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

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Dave Moss for U.S. Congress	)	MUR 2691
and Dave Moss, acting as	)	
treasurer	)	

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by John Parsons. An investigation was conducted, and the Federal Election Commission (the "Commission") found probable cause to believe that Dave Moss for U.S. Congress and Dave Moss, acting as treasurer, ("Respondents"), violated 2 U.S.C. §§ 432(d), 434(b)(2) and (4), 434(a)(2)(A)(i) and 439(a)(1).

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 his matter.

III. Respondents enter voluntarily into this agreement with the Commission.

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

1. Dave Moss for U.S. Congress is a political committee within the meaning of 2 U.S.C. § 431(4).

2. Dave Moss has been acting as the treasurer for Dave Moss for U.S. Congress.

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3. Pursuant to 2 U.S.C. § 432(d), each treasurer must preserve all records required to be kept by 2 U.S.C. § 432 for three years after a report is filed.

4. The candidate, Dave Moss, has stated that he destroyed all of the records concerning his campaign for the United States House of Representatives after the 1988 election campaign except for two checks.

5. Pursuant to 2 U.S.C. § 434(b), the total amount of all of a committee's receipts and disbursements must be reported for the reporting period in which they are received or made, and must include the aggregate for the calendar year.

6. The Committee's 1988 July Quarterly Report and 1988 Pre-Primary Report both contained inaccuracies in the reporting of receipts and expenditures. The July Quarterly Report listed no receipts and no disbursements although the Committee had made $260.35 in disbursements. The 1988 Pre-Primary Report listed $5,262.20 in independent expenditures; however, the candidate, Dave Moss, has stated that these were actually personal expenses, not independent expenditures.

7. Pursuant to 2 U.S.C. § 434(a)(2)(A)(i), a principal campaign committee of a candidate for the United States House of Representatives must file a pre-election report no later than the 12th day before an election in which such candidate is seeking election, which shall be complete as of the 20th day before such election.

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8. A primary for the United States House of Representatives was held on September 12, 1988 in the State of Arizona. Consequently, the Committee should have filed its Pre-Primary Report by September 1, 1988. The Committee did not file its Pre-Primary Report until September 15, 1988, 14 days late.

9. Pursuant to 2 U.S.C. § 439(a)(1) and 11 C.F.R. § 108.3, authorized committees are required to file with the appropriate Secretary of State (or equivalent State officer) a copy of each report filed with the Commission in connection with the campaign of a candidate for the United States House of Representatives. 11 C.F.R. § 108.5 further states that all reports required under Section 108 must be filed with the appropriate State officer at the same time the original is filed with the Commission.

10. The Office of the Secretary of State of Arizona has stated that the Committee never filed its July Quarterly Report with that office. The Committee did not file its 1988 Pre-Primary Report until September 19, 1988, 18 days late.

V. Respondents destroyed records which were required to be kept for three years in violation of 2 U.S.C. § 432(d).

VI. Respondents' 1988 July Quarterly Report and 1988 Pre-Primary Report contained inaccuracies in the reporting of receipts and expenditures in violation of 2 U.S.C. § 434(b)(2) and (4).

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VII. Respondents failed to file the 1988 Pre-Primary Report in a timely manner in violation of 2 U.S.C. § 434(a)(2)(A)(i).

VIII. Respondents failed to file the 1988 July Quarterly Report with the Office of the Secretary of State of Arizona and failed to file the 1988 Pre-Primary Report with the Office of the Secretary of State of Arizona in a timely manner in violation of 2 U.S.C. § 439(a)(1).

IX. Respondents will pay a civil penalty to the Federal Election Commission in the amount of One Thousand Five Hundred dollars ($1,500.00), pursuant to 2 U.S.C. § 437g(a)(5)(A).

X. 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.

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

XII. Respondents 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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XIII. 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

BY: _____ Date 9/22/90
Lois G. Lerner
Associate General Counsel

FOR THE RESPONDENTS:

_____ Date 7/26/90
(Name)
(Position)

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

October 22, 1990

CLOSED

Mr. Dave Moss
Dave Moss for U.S. Congress
2049 E. Colter
Phoenix, Arizona 85016

RE: MUR 2691
Dave Moss, as candidate
Dave Moss for U.S. Congress and
Dave Moss, acting as treasurer

Dear Mr. Moss:

On October 11, 1990, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted by you in settlement of violations of 2 U.S.C. §§ 432(d), 434(b)(2) and (4), 434(a)(2)(A)(i) and 439(a)(1), provisions of the Federal Election Campaign Act of 1971, as amended, by the Dave Moss for U.S. Congress committee and you, as treasurer. Enclosed you will find a copy of the fully executed conciliation agreement for your files.

As you will recall, the Commission previously found that there was no probable cause to believe that you, as candidate, violated 2 U.S.C. § 432(e)(1). Accordingly, the entire file has now been closed in this matter.

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

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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

Enclosure
Conciliation Agreement

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 2691

DATE FILMED 11/5/90 CAMERA NO. 1

CAMERAMAN AS

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