



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # A736

DATE FILMED 4/28/90 CAMERA NO. 4

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OGC # 725

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DEMOCRATIC
CONGRESSIONAL
CAMPAIGN COMMITTEE

Beryl Anthony, Jr., AR
Chairman

October 21, 1988

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

Dear Commissioners:

The Democratic Congressional Campaign Committee ("DCCC") files this complaint challenging violations of the Federal Election Campaign Act of 1971, as amended ("FECA") 2 U.S.C. Sections 431 et seq., and related regulations of the Federal Election Commission ("FEC"), 11 C.F.R. Sections 100.1 et seq., by L. William Paxon, People for Paxon Committee and Paxon for Congress '88 (referred to collectively hereafter as "Respondents").

Respondents have violated the FECA by failing to register and adequately disclose the activities of a committee operating on behalf of Mr. Paxon. Respondents also appear to have used funds prohibited under federal law to support the candidacy of Mr. Paxon for United States Congress.

Failure to Register and Report

On July 8, 1987, Mr. Paxon's state committee (also called "People for Paxon", but hereinafter referred to as the "State Committee") reported a transfer of \$2,000 to Paxon for Congress '88. On this report the State Committee reported no debts or obligations. The State Committee report indicates that the election for which the report indicates that the election for which the report was filed was held on November 4, 1986. Mr. Paxon was not an announced candidate for state office at the time transfer was made.

Under Advisory Opinions of the Federal Election Commission, a state committee which transfers in excess of \$1,000 to a federal committee is required to take several steps to comply with federal law. The state committee must register as a federal committee with the Federal Election Commission. It must show as

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cash-on-hand the amount transferred to the federal committee. Finally, the state committee must itemize (as necessary) those contributors which make up the amount of cash-on-hand shown on the report.

In order to determine which contributions are considered to have been transferred the state committee must use a "last in/first on hand" process. That is, the last contributions received by the state committee are considered to be the first on-hand in the amount transferred to the federal committee. The state committee must exclude from funds transferred any amount prohibited under federal law. In addition, the funds transferred must be aggregated with any other contribution already received by the federal committee to ensure that the aggregate contribution to the two committees does not exceed the federal limit. See, e.g., FEC Advisory Opinions 1982-52, 1983-34, 1984-46 and 1985-2, 1 Fed. Election Camp. Fin. Guide (CCH Paragraphs 5692, 5738, 5788, and 5806.

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This apparently was not done. A committee calling itself People for Paxon registered with the Federal Election Commission, but the Statement of Organization was not filed until November 4, 1987, long after the transfer of \$2,000 in July. A committee must file a statement of organization within 10 days of becoming a political committee, 2 U.S.C Section 433(a). Confusingly, the first report filed by the federal People for Paxon Committee showed no cash-on-hand, and showed only \$2,220 in unitemized contributions. Further closing the situation, this report covered the period from 7/1/86 through 12/31/86, and not the period when the transfer was made.^{1/}

On the next report filed by the state committee, the state committee again transferred funds to Paxon for Congress. The funds were transferred on July 31, 1987 (\$2,000) and on August 19, 1987 (\$5,000).

^{1/} Even if Respondents argue that this committee is the State Committee, Respondents could not have used the proper method for figuring the transferred cash-on-hand. Many of the most recent contributions received by the State Committee before the transfer were from PACs, which must be itemized, regardless of amount. Thus, the unitemized individual contribution shown on the first report filed would not accurately reflect the funds transferred.

These transfers suffer from the same problems discussed above. The year-end report in 1987 for People for Paxon reflects only the activity of an ongoing committee. The cash-on-hand for that report simply reflects prior contributions received by the committee. During the period covering the transfers from the State Committee, only \$75 was received by People for Paxon. Nonetheless, the committee shows two transfers totaling \$9,000 to Paxon for Congress '88. None of the contributions received by People for Paxon were itemized. If the funds were transferred from the State Committee, there is no record of it. The State Committee reports indicate the transfers were made directly to Paxon for Congress '88. Yet People for Paxon also claim the transfers came from them.

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Use of State Committee for Federal Activities

There are many other questions that need to be answered about these transactions. Not the least is whether the state committee was, in fact, raising funds for Mr. Paxon's federal candidacy. This activity needs to be closely investigated to ensure that no prohibited funds were used to benefit the federal committee. The administrative expenses of the State Committee were paid with funds which are not lawful under federal law. If Respondents used the State Committee to amass campaign funds for the congressional race during the period prior to Mr. Paxon's announcement that he would seek federal office, they have violated the law, by taking advantage of a more liberal state law to amass campaign funds and by failing to disclose their activity to the public. The Federal Election Commission must investigate to ensure that there were no prohibited funds transferred to the federal committee, that there were no excessive contributions received when aggregated with contributions to the federal committee, and that adequate disclosure on the public record is achieved so that everyone can know the full extent of Mr. Paxon's activities as a federal candidate.

There is evidence that Mr. Paxon used a state committee to support his federal candidacy. Mr. Paxon formally announced his candidacy for the United States House of Representatives on July 15, 1987. But as of June 21, 1987, there is no question that he was running for the office. In a newspaper report published on that day, it was noted that Mr. Paxon was "off to an early start in his unannounced campaign for the Republican nomination for the seat" of Jack Kemp. The clipping went on to discuss how Mr.

Federal Election Commission
October 21, 1988
Page 4

Paxon had already publicized the receipt of numerous endorsements by various Republican county party committees prior to June 21. He is quoted as stating that "These important early endorsements certainly will give my candidacy a boost."

In a second newspaper clipping on July 15, 1987, Mr. Paxon's official announcement for federal office was reported. The article notes that prior to the date of this announcement, Mr. Paxon had conducted a series of fundraisers. Yet the first expenditures reported by Mr. Paxon's federal political committees are on July 24 and July 31. Who paid for Mr. Paxon's federal campaign activities up to that date?

An answer can be found by looking at the spending undertaken by the State Committee prior to the date of his announcement. The State Committee had significant expenditures during the period of January 1987 through July 1987. As noted above, this committee had prohibited funds in its accounts. The Commission must investigate whether these funds were used to support Mr. Paxon's early activities as a federal candidate. If the State Committee spent in excess of \$5,000 when Mr. Paxon was clearly a federal candidate, it should have registered and reported its activity. Even if Mr. Paxon were using the committee to test the waters, he could not use prohibited funds. And once he became a formally announced candidate these expenditures should have been reported on the first report filed after that date.

Finally, further evidence of the use of the State Committee as shown by the payment of a "consultant," Harry Spector, by both the state and federal committees. The State Committee paid Mr. Spector \$4,100 on July 23, 1987 for "wages and expenses through June 30." He had never been paid as an employee of the State Committee before in 1987. Mr. Spector is subsequently paid as a consultant on Mr. Paxon's subsequent federal reports. Since Paxon was apparently not seeking state office in 1988, for what purpose was this "consultant" hired for his state campaign?

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Federal Election Commission
October 21, 1988
Page 5

Conclusion

The Commission must investigate these allegations and take action immediately to correct the use of prohibited funds and the failure to adequately report the activities of these committees on Mr. Paxon's behalf.

Very truly yours,


RICHARD M. BATES
EXECUTIVE DIRECTOR

SUBSCRIBED AND SWORN TO BEFORE ME this
21st day of October, 1988

Wilton A. Smith, Jr.
Notary Public

Commission Expires:

Wilton A. Smith, Jr.
Notary Public, District of Columbia
Commission Expires October 14, 1992

00040764450



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 25, 1988

SPECIAL DELIVERY

L. William Faxon
PO Box 1988
S. Aurora, IL 60501

RE: MLE 2706
L. William Faxon

Dear Mr. Faxon:

This letter is to notify you that on October 24, 1988, the Federal Election Commission received a complaint which alleges that you may have violated certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MLE 2706. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no violation of the Act has been committed by you or that the evidence submitted in support of the complaint is insufficient to warrant the filing of a complaint. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. You are encouraged to respond to this notification promptly. In order to facilitate an expeditious response, we have enclosed a pre-addressed, postage paid, special delivery envelope. If no response is received within 15 days, the Commission may take further action based on the available information.

The complaint may be dismissed by the Commission prior to the receipt of your response if the evidence submitted does not indicate that a violation of the Act has been committed. Should the Commission dismiss the complaint, you will be notified by overnight express mail.

This matter will remain confidential in accordance with Sections 437g(a)(4) and 437g(a)(5) and Section 437g(a)(1)(D) of Title 2 unless you notify the Commission in writing that you wish the matter to be made public.

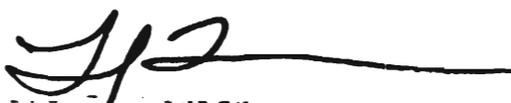
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If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other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

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

Sincerely,

Lawrence M. Noole
General Counsel


By: Lois E. Lerner
Associate General Counsel

Enclosures
Complaint
Procedures
Envelope
Form

00040734469



FEDERAL ELECTION COMMISSION

WASHINGTON, DC 20463

October 25, 1988

SPECIAL DELIVERY

Robert H. Meyer, Treasurer
People For Faxon Committee
PO Box 1985
E. Aurora, NY 14052

RE: MUR 2736
People For Faxon
Committee and Robert H.
Meyer, as treasurer

Dear Mr. Meyer:

This letter is to notify you that on October 24, 1988, the Federal Election Commission received a complaint which alleges that the People For Faxon Committee and you, as treasurer, may have violated certain sections of the Federal Election Campaign Act of 1971, as amended, the "Act." A copy of the complaint is enclosed. It is being referred to a matter MUR 2736. Please refer to this matter in all future correspondence.

Under the Act, you have the responsibility to participate in taking any action which should be taken against you and the People For Faxon Committee 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. You are encouraged to respond to this notification promptly. In order to facilitate an expeditious response, we have enclosed a pre-addressed, postage paid, special delivery envelope. If no response is received within 15 days, the Commission may take further action based on the available information.

The complaint may be dismissed by the Commission prior to the receipt of your response if the evidence submitted does not indicate that a violation of the Act has been committed. Should the Commission dismiss the complaint, you will be notified by overnight express mail.

This matter will remain confidential in accordance with Section 4374(a)(4)(B) and Section 4373(a)(12)(A) of Title 2 unless you notify the Commission in writing that you wish the matter to be made public.

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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.

If you have any questions, please contact Joan Stieber at (202) 375-3690.

Sincerely,

Lawrence M. Noble
General Counsel


Lois G. Lerner
Associate General Counsel

Enclosures
Complaint
Proceedings
Envelope
Form

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 25, 1988

SPECIAL DELIVERY

Robert H. Meier, Treasurer
Paxon For Congress '88
PO Box 1988
E. Aurora, NY 14052

RE: MUR 2776
Paxon For Congress '88
and Robert H. Meier,
as treasurer

Dear Mr. Meier:

This letter is to notify you that on October 14, 1988, the Federal Election Commission received a complaint which alleges that Paxon For Congress '88 and you, as treasurer, may have violated certain sections of the Federal Election Campaign Act of 1971, as amended (the Act). A copy of the complaint is enclosed. We are enclosing this matter MUR 2776. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to be heard and to submit evidence that no action should be taken against you and Paxon For Congress '88 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. You are encouraged to respond to this notification promptly. In order to facilitate an expeditious response, we have enclosed a pre-addressed, postage paid, special delivery envelope. If no response is received within 15 days, the Commission may take further action based on the available information.

The complaint may be dismissed by the Commission prior to the receipt of your response if the evidence submitted does not indicate that a violation of the Act has been committed. Should the Commission dismiss the complaint, you will be notified by overnight express mail.

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.

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EXPEDITED FIRST GENERAL COUNSEL'S REPORT

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MUR #2736

DATE COMPLAINT RECEIVED BY OGC:
October 24, 1988

DATE OF NOTIFICATION TO
RESPONDENTS: October 25, 1988

STAFF MEMBER: Joan Stieber

SENSITIVE

COMPLAINANT: Democratic Congressional Campaign Committee

RESPONDENTS: L. William Paxon
People for Paxon, and Robert H. Meier, as
treasurer
Paxon for Congress '88, and Robert H. Meier,
as treasurer

RELEVANT STATUTES: 2 U.S.C. § 431(4) (A)
2 U.S.C. § 432(c) (4)
2 U.S.C. § 433(a)
2 U.S.C. § 434(a)
2 U.S.C. § 441a(a)
2 U.S.C. § 441b(a)
11 C.F.R. § 102.6(a) (1) (i) and (iv)

INTERNAL REPORTS CHECKED: Referral Materials

FEDERAL AGENCIES CHECKED: None

I. SUMMARY OF ALLEGATIONS

A complaint was received from the Democratic Congressional Campaign Committee alleging several violations of the Act by Congressional candidate L. William Paxon, Paxon for Congress '88 (a principal campaign committee), and People for Paxon (an authorized political committee). The complaint alleges that Respondents failed to register and report in a timely and accurate manner, and used prohibited funds in support of a federal campaign.

II. PRELIMINARY LEGAL ANALYSIS

A. Alleged registration violations

All committees must file a Statement of Organization with the FEC within ten days of becoming a political committee.

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2 U.S.C. § 433(a). A committee becomes a political committee when it has received aggregate contributions or made aggregate expenditures over \$1,000 during a calendar year. 2 U.S.C. § 431(4)(A). People for Paxon ("the Committee") filed a Statement of Organization on November 4, 1987. Complainant alleges, however, that the Committee transferred \$9,000 to Paxon for Congress '88 in July and August 1987, several months prior to its registration with the FEC.

B. Alleged reporting violations

Each treasurer of a political committee must file reports of receipts and disbursements in accordance with the Act. 2 U.S.C. § 434(a). Complainant alleges several irregularities in People for Paxon's FEC reports.

First: on July 3, 1987, the Committee allegedly transferred \$2,000 to Paxon for Congress '88. Complainant states that the report in which this transfer was disclosed was filed in connection with an election held on November 4, 1986. However, Mr. Paxon did not announce his candidacy for office until July 15, 1987.

Second: the Committee's first report filed with the FEC covers the period from July 1, 1986 through December 31, 1986, prior to the filing of its Statement of Organization. This report allegedly disclosed no cash-on-hand balance, and \$2,220 in unitemized contributions. Complainant believes that many of these contributions were received from PACs, which must be itemized, regardless of amount. See 2 U.S.C. § 432(c)(4).

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Third: Complainant alleges that the Committee's 1987 Year-End Report discloses two transfers totalling \$9,000 to Paxon for Congress '88. During this period, the Committee reported the receipt of only \$75 in unitemized contributions. The complaint appears to imply that Respondent disbursed funds which it had not accounted for in its reported receipts. However, Complainant appears to disregard \$12,175 in receipts disclosed by the Committee in its 1987 Mid-Year Report.

C. Alleged use of prohibited funds

It is unlawful for any corporation or labor organization to make a contribution or expenditure in connection with a federal election. 2 U.S.C. § 441b(a). No candidate or political committee may knowingly accept such a contribution. Id. While transfers of funds may be made without limit between affiliated committees, such transfers may be made only from funds which are permissible under the Act. 11 C.F.R. § 102.6(a)(1)(i) and (iv). The complaint alleges that Mr. Paxon accepted funds from the Committee to support his federal candidacy, prior to the Committee's FEC registration as a political committee. Complainant suggests that, during this period, the Committee transferred funds to Paxon for Congress '88 which would be prohibited by federal law but were allowed under more liberal state law. Complainant also urges the Commission to investigate whether contributions were received which would be excessive when aggregated with other contributions to Paxon's principal campaign committee. See 2 U.S.C. § 441a(a).

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The allegations made by Complainant, if true, would appear to violate 2 U.S.C. §§ 432(c)(4), 433(a), 434(a), 441a(a), 441b(a) and 11 C.F.R. § 102.6(a)(1)(iv). However, the information contained in the complaint is insufficient to establish the facts alleged. The Office of the General Counsel believes, therefore, that it is necessary to await the respondents' reply to the complaint before making recommendations to the Commission regarding this matter.

Lawrence M. Noble
General Counsel

10-25-88
Date

By: 
Lois G. Lerner
Associate General Counsel

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06C# 916

RECEIVED
FEDERAL ELECTION COMMISSION
WASHINGTON

88 NOV -7 AM 10: 02

DIFILIPPO, BENNETT & DAUMEN

LAW OFFICES

RONALD P. BENNETT
ANTHONY DIFILIPPO III
MICHAEL P. DAUMEN
*
JOEL R. KURTZHALTS

LEGAL ASSISTANTS
Peggy Merlino
Mary Labuzzetta
Beverly Zywiczynski

Two North Main
Holland, New York 14080
716-537-2272

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RECEIVED
FEDERAL ELECTION COMMISSION

November 4, 1988

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

Re: Complaint No. MUR 2736

ATTORNEYS
AT
LAW

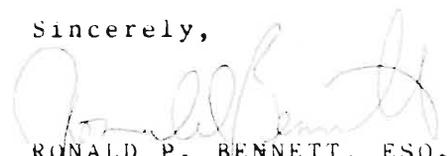
Dear Mr. Noble:

Please be advised that I represent the People For Paxon Political Committee and Robert H. Meier, Treasurer, regarding the above-referenced complaint filed with your office.

Pursuant to your letter dated October 25, 1988, I respectfully request a twenty (20) day adjournment regarding our response to the aforementioned complaint. I am unable to respond within the 15 days set forth in your letter because of other pressing legal matters.

Thank you for your consideration in this matter.

Sincerely,



RONALD P. BENNETT, ESQ.
Attorney at Law
2 North Main Street
Holland, New York 14080
(716) 537-2272

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STATEMENT OF DESIGNATION OF COUNSEL

RECEIVED
FEDERAL ELECTION COMMISSION
MAY 1991

MUR 2736

88 NOV -7 AM 10:58

NAME OF COUNSEL: RONALD P. BENNETT

ADDRESS: 2 North Main Street
Holland, New York 14080

TELEPHONE: (716) 537-2272

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

Date 11/4/88

Signature Robert H Meier

RESPONDENT'S NAME: Robert H. Meier, Treasurer

ADDRESS: People for Paxon Committee
Post Office Box 1938
East Aurora, New York 14052

HOME PHONE: (716) 674-3157

BUSINESS PHONE: (716) 674-7664

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 10, 1988

Ronald P. Bennett, Esq.
DiFilippo, Bennett & Daumen
2 North Main Street
Holland, New York 14080

RE: MUR 2736
People for Paxon

Dear Mr. Bennett:

This is in response to your letter dated November 4, 1988, which we received on November 7, 1988, requesting an extension of 20 days to respond to the complaint in MUR 2736. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on November 30, 1988.

If you have any questions, please contact Joan Stieber, the staff member assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

00040764480

plm

HAND DELIVERED
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FEDERAL ELECTION COMMISSION

OGC#1200

PAXON'88
FOR CONGRESS

88 NOV 29 AM 10: 56

P.O. Box 1988
East Aurora, New York 14052
(716) 674-8822

November 28, 1988

Ms. Joan Stieber
Office of General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

RE: MUR 2736

Dear Ms. Stieber:

This letter is to inform you that the People for Paxon Committee and I will no longer be represented by Ronald P. Bennett, Esq. as was earlier indicated in our Statement of Designation of Counsel.

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

Name of Counsel: Daniel J. Swillinger, Esq.
Address: Barnett and Alagia
1000 Thomas Jefferson, N.W.
Suite 600
Washington, DC 20007
Telephone: (202) 342-9089

Thank you for your time in this regard and I apologize for any inconvenience.

Sincerely,

Robert H. Meier
Robert H. Meier
Treasurer
People for Paxon

88 NOV 29 AM 11: 14

860#1207

LAW OFFICES

BARNETT & ALAGIA

1000 THOMAS JEFFERSON STREET, N.W.

WASHINGTON, D.C. 20007

(202) 342-0342

TELECOPIER (202) 775-9089

CABLE ALBAR

TELEX 44-0712

November 29, 1988

OFFICES IN:
ATLANTA, GEORGIA
FRANKFORT, KENTUCKY
LOUISVILLE, KENTUCKY
MIAMI, FLORIDA
NASHVILLE, TENNESSEE
NEW ALBANY, INDIANA
PALM BEACH, FLORIDA
BANGKOK, THAILAND

DANIEL J. SWILLINGER
PARTNER

BY MESSENGER

Ms. Joan Stieber
Office of the General Counsel
Federal Election Commission
999 E Street, N.W., Suite 657
Washington, D.C. 20463

Re: MUR 2736

Dear Ms. Stieber:

I was asked yesterday afternoon by the respondents in this matter to represent them. A response to the Commission's initial letter is due tomorrow, November 30.

As I understand the situation, the respondents' designated counsel, who sought and received a 20-day extension, to November 30. The respondents learned yesterday that counsel had not prepared a response and did not intend to, and immediately sought other counsel. I agreed to take on the matter yesterday afternoon. (A new designation of counsel is on its way to you.)

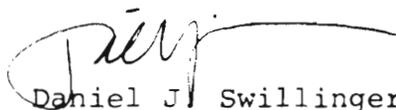
As a result of this situation, I have not had an opportunity to review any of the relevant reports or other materials, or talk with any campaign personnel about the matter.

I, therefore, request an extension of time within which to reply, to the close of business on Friday, December 9. No further extension will be requested.

I appreciate your consideration.

Sincerely,

BARNETT & ALAGIA



Daniel J. Swillinger

DJS:md

cc: Honorable Bill Paxon

88 NOV 29 PM 1:03
FEDERAL ELECTION COMMISSION



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 1, 1988

Daniel J. Swillinger, Esq.
Barnett & Alagia
1000 Thomas Jefferson Street, NW
Washington, DC 20007

RE: MUR 2736
People for Paxon

Dear Mr. Swillinger:

This is in response to your letter dated November 29, 1988, which we received on November 29, 1988, requesting an extension of 9 days to respond to the complaint in MUR 2736. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on December 9, 1988.

If you have any questions, please contact Joan Stieber, the staff member assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: 
Lois G. Lerner
Associate General Counsel

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plm

06C 1321

FEDERAL ELECTION COMMISSION

LAW OFFICES

FEDERAL ELECTION COMMISSION

88 DEC -9 PM 3:33

BARNETT & ALAGIA -9 PM 1:47

1000 THOMAS JEFFERSON STREET, N.W.

WASHINGTON, DC. 20007

(202) 342-0342

TELECOPIER (202) 775-9089

CABLE ALBAR

TELEX 44-0712

DANIEL J SWILLINGER
PARTNER

OFFICES IN:
ATLANTA, GEORGIA
FRANKFORT, KENTUCKY
LOUISVILLE, KENTUCKY
MIAMI, FLORIDA
NASHVILLE, TENNESSEE
NEW ALBANY, INDIANA
PALM BEACH, FLORIDA
BANGKOK, THAILAND

December 9, 1988

BY MESSENGER

Lawrence A. Noble, Esq.
General Counsel
Federal Election Commission
999 E Street, N.W. Suite 657
Washington, D.C. 20463

Re: MUR 2736

Dear Mr. Noble,

This letter is in response to yours of October 25, 1988, which enclosed a complaint filed with the Commission by the Democratic Congressional Campaign Committee against People for Paxon, Paxon for Congress '88, Representative-elect L. William Paxon, and Robert Meier, treasurer of the two committees.

Based upon the factual and legal presentation set forth below, it is evident that no action should be taken by the Commission, and that the matter should be closed.

I. Introduction

At the outset, it should be noted that it was somewhat difficult for Rep.-elect Paxon and his committees to discern precisely what activities the complaint was directed at. Various factual and syntactical errors in the complaint require a more detailed reply than might otherwise be necessary, in order to fully respond.

II. Factual and Legal Presentation

A. Factual Presentation

The basic factual situation is as follows:

Rep.-elect E. William Paxon was first elected to the New York State Assembly in 1982 and was re-elected in 1984 and 1986. His Assembly campaign committee was called "People for Paxon."

Lawrence A. Noble, Esq.
December 9, 1988
Page 2

During the 1986 Assembly campaign, in contemplation of the possibility that he would be a candidate for Congress in 1988, Rep.-elect Paxon established in mid-1986 a second People for Paxon committee, called "People for Paxon Committee A." The only contributions deposited into the Committee A bank account were contributions from individuals of less than \$150. Since such contributions are permissible under the FECA, any balance in Committee A could be transferred to a Congressional campaign committee should Rep.-elect Paxon become a candidate for Federal office. At the end of 1986, \$2220 remained in the Committee A account.

During the first half of 1987, Rep.-elect Paxon began to raise funds for his 1988 Assembly re-election campaign, and continued to segregate the receipts so that only small, individual contributions were deposited in Committee A's account.

Rep.-elect Paxon publicly announced his candidacy for Congress on July 15, 1987, and signed a Statement of Candidacy on July 21, which was received by the Commission on August 3, along with a Statement of Organization signed by Mr. Meier, also on July 21. These documents established Paxon for Congress '88 as the principal campaign committee.

People for Paxon Committee A made three transfers to Paxon for Congress during this period: \$2000 on July 13, \$2000 on July 31, and \$5000 on August 19. In addition, Committee A made one expenditure in support of the Federal campaign, a \$773 payment for telephone service on July 8, 1987. Each of these transactions was disclosed by both People for Paxon Committee A and by Paxon for Congress.

People for Paxon Committee A filed a Statement of Organization dated November 2, 1987, and received by the Commission on November 4, 1987. This filing was the result of newly-hired campaign staff's review of past activity, and a discovery that a Statement of Organization for People for Paxon Committee A had not been filed earlier in the year.

Subsequently, People for Paxon filed four disclosure reports detailing all of the required information for Committee A's activity related to the Federal campaign. It filed a year-end 1986 report to show the source of the first \$2220 expended and/or transferred, two reports covering 1987 activity, and an April, 1988 quarterly report, which was also a termination report.

In the meantime, Paxon for Congress '88 filed each required report, which reflected its own and People for Paxon's activities as appropriate.

Lawrence A. Noble, Esq.
December 9, 1988
Page 3

The complaint makes reference to Harry Spector, and questions his role in the Paxon campaign. Mr. Spector was a part-time member of Rep.-elect Paxon's New York Assembly staff, and was also the campaign manager for the Assembly re-election campaign. Payments to him prior to the Federal candidacy were for state campaign activities; payments to him by Paxon for Congress were for Federal campaign activities, for both management and media services.

B. Legal Presentation

It is clear that the complaint has one thing right -- People for Paxon Committee A was four months late in registering with the Commission -- but that appears to be the only correct allegation. That, standing alone, is hardly the basis for a reason to believe finding, especially when the committee did register and disclose all of its limited activity.

Various Advisory Opinions, i.e. AO 1984-46, set out the responsibilities of a state candidate's committee which transfers funds to a Federal committee. The Paxon committees fully complied with those requirements. People for Paxon Committee A's receipts were from individuals, and were of an amount below the \$200 disclosure threshold, see 11 CFR 104.2(b). All of People for Paxon's activity in support of Paxon for Congress was disclosed, both in its own disclosure reports and in the Paxon for Congress reports.

In addition, each contribution made to the Committee A which was among the funds transferred to Paxon for Congress (calculated as set forth in AO 1984-46) was aggregated with contributions by the individual to Paxon for Congress to be certain that no person gave more than \$1000 per election to the Federal campaign.

As a member of the state Assembly, Rep.-elect Paxon had a number of official and campaign staff members. Mr. Spector was paid by the Assembly campaign committee for services prior to the start of the Congressional campaign. Thereafter, he was paid by Paxon for Congress for services to the Congressional campaign.

Finally, there is no factual support for the allegation that the Assembly committee improperly spent funds on the Federal campaign. The single expenditure -- \$773 to the phone company from Committee A -- was disclosed. Permissible funds were transferred from Committee A to Paxon for Congress. Until he became a Congressional candidate, Rep.-elect Paxon was preparing to seek re-election to the Assembly, and the expenditures made by his Assembly committee were solely for that purpose.

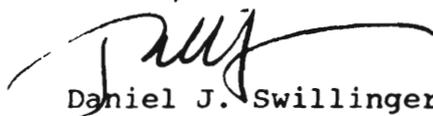
Lawrence A. Noble, Esq.
December 9, 1988
Page 4

II. Conclusion

For the reasons set forth above, the Federal Election Commission should take no further action in this matter, and should close the file.

Respectfully submitted,

BARNETT & ALAGIA



Daniel J. Swillinger

Counsel for Rep.-elect E. William Paxon,
People for Paxon, Paxon for Congress,
and Robert Meier, as Treasurer

December 9, 1988

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 20, 1989

Kenneth N. Alico, Treasurer
Paxon for Congress '88
4280 South Buffalo Street
Orchard Park, NY 14127

RE: MUR 2736

Dear Mr. Alico:

On July 31, 1988, you requested that the Federal Election Commission permit Paxon for Congress '88 ("the 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 Jim Brown, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

A handwritten signature in black ink, appearing to be "Lerner", written over a horizontal line.

BY: Lois G. Lerner
Associate General Counsel

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FEDERAL ELECTION COMMISSION

WASHINGTON, DC 20463

November 27, 1989

New York State Board of Elections
P.O. Box 4
1 Commerce Plaza
Albany, N.Y.
12260

To whom it may concern:

This letter is sent to request all state campaign contribution and expenditure records regarding the New York People for Paxon Committee between the beginning of 1986 and the present. These documents are necessary for an official investigation being conducted by the Federal Election Commission.

It is the understanding of this office that all expenses in forwarding this requested information will be waived due to the fact that it is requested in connection with official business of the federal government.

The Commission asks that this request remain confidential in line with the provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A).

All correspondence should be addressed to Jim Brown, the attorney assigned to this matter, at the address denoted on this stationary letterhead. Any questions may also be directed to Mr. Brown at (202)-376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

BY: 
Lois G. Lerner
Associate General Counsel

90 JAN -5 AM 9:54

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

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

MUR 2736
DATE COMPLAINT RECEIVED
BY OGC: 10/24/88
DATE OF NOTIFICATION TO
RESPONDENTS: 10/25/88
STAFF MEMBER: J. Albert Brown

COMPLAINANT: Richard M. Bates, Executive Director of the
Democratic Congressional Campaign Committee

RESPONDENTS: L. William Paxon

People for Paxon and Robert H. Meier,
as treasurer

Paxon for Congress '88 and Robert H. Meier, as
treasurer

RELEVANT STATUTES: 2 U.S.C. § 431(2)
2 U.S.C. § 431(4)(A)
2 U.S.C. § 432(e)(1)
2 U.S.C. § 433(a)
2 U.S.C. § 441a(a) and (f)
2 U.S.C. § 441b(a)
2 U.S.C. § 441c(a)(1)
2 U.S.C. § 441e(a)
11 C.F.R. § 102.6(a)(1) and (2)
11 C.F.R. § 104.12
11 C.F.R. § 100.5(g)(1)
11 C.F.R. § 104.3(a)

INTERNAL REPORTS CHECKED: People for Paxon
-Federal Disclosure Reports
Paxon for Congress '88
-Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

This matter arose from a complaint filed by Richard M. Bates,
Executive Director of the Democratic Congressional Campaign
Committee (Attachment I). The complaint alleges violations of the

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Federal Election Campaign Act of 1971, as amended (the "Act"), by Representative L. William Paxon; his principal campaign committee, Paxon for Congress '88 ("the Federal Committee"); and People for Paxon, his New York State Assembly Campaign Committee ("the State Committee"). Although the complaint is inartfully drafted, it appears to allege that Respondents failed to register and report in a timely manner, failed to follow proper procedures in transferring funds from a state committee to a federal committee and used prohibited funds in support of a federal campaign. Complainant also urges the Commission to investigate whether the funds transferred would constitute excessive contributions when aggregated with prior contributions received by the Federal Committee. Finally, the complaint alleges that a consultant who worked on the Federal campaign was paid illegally by Paxon's state campaign.

II. FACTUAL AND LEGAL ANALYSIS

A. THE FACTS

Representative Paxon was elected to the New York State Assembly in 1982 and was re-elected in 1984 and 1986. Representative Paxon's committee during those state assembly elections was called People for Paxon. In 1986, People for Paxon established a separate bank account, "People for Paxon Committee Account A." The response states that this account was established in contemplation of a possible run for the United States Congress in 1988 and that only contributions from individuals of less than \$150 were deposited into this bank account. The response goes on to assert that during early 1987 the People for Paxon Committee

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began to raise funds for the 1988 New York Assembly re-election campaign, segregating receipts so that only contributions permissible under the Act were deposited into this separate account. (Attachment I, page 2)

Paxon publicly announced his candidacy for the United States Congress on July 15, 1987, and signed a Statement of Candidacy on July 21, 1987, which was received by the Commission on August 3, 1987. The Federal Committee filed its Statement of Organization on August 5, 1987. Two days before Paxon announced that he would run for Federal office, his State Committee transferred \$2,000 from Account A to the Federal Committee. Thereafter, on November 6, 1987, People for Paxon registered Account A with the Commission as a separate political committee, under the name "People for Paxon (Committee A)" (hereafter "Committee A").

Committee A's Statement of Organization was filed on November 6, 1987. In addition to timely filing the required 1987 Year-End Report, Committee A also filed a 1986 Year-End Report on February 3, 1988, and filed a 1987 Mid-Year Report on April 8, 1988. The latter reports covered periods prior to the registration requirement. A review of these reports reveals that Committee A initially registered with \$2,200 in unitemized contributions which were not transfers from other authorized committees. These reports further reveal that Committee A transferred a total of \$9,000 to the Federal Committee between July 13, 1987 and August 19, 1987. Additionally, the April Quarterly Report filed by Committee A as of April 15, 1988,

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reveals that Committee A transferred all its remaining funds (\$4,656.70) to the Federal Committee during the first quarter of 1988.¹

B. THE LAW AND ANALYSIS

1. Alleged Registration and Initial Cash on Hand Reporting Violations

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All authorized committees of the same candidate are considered to be affiliated committees. 11 C.F.R. § 100.5(g)(1). Transfers of funds may be made without limit on amounts between affiliated committees, whether or not they are political committees, under the Act. 11 C.F.R. § 102.6(a)(1)(i). When a state committee transfers more than \$1,000 to a federal committee within a calendar year, it becomes a political committee subject to the reporting requirements of the Act. 2 U.S.C. § 431(4)(A), 11 C.F.R. § 102.6(a)(2). Such a committee must file a Statement of Organization with the Commission no later than 10 days after becoming a political committee. 2 U.S.C. § 433(a). Thereafter, the committee must file reports of receipts and disbursements on the same schedule as those required by the principal campaign committee. See 2 U.S.C. § 434(a)(2). The first report filed by a committee must include all receipts received prior to becoming a political committee, even if such receipts were not received during the current reporting period. 11 C.F.R. § 104.3(a). The report also must disclose the sources of all cash on hand at the time of registration. 11 C.F.R. § 104.12.

1. The Federal Committee's Reports reflect all of these transfers from Committee A.

On February 3, 1988, Committee A filed two year-end Reports: the 1987 Year-End Report covering the period in which it became a political committee under the Act, and a 1986 Year-End Report covering a period prior to its becoming a political committee. On April 5, 1988, in response to a Request for Additional Information ("RFAI") regarding a discrepancy between its 1986 Year-End closing balance and its 1987 Year-End beginning balance, Committee A filed a Mid-Year Report for 1987, which again covered a period prior to its becoming a political committee.

As noted earlier, in its 1987 Year-End Report Committee A disclosed \$9,000 in transfers to the Federal Committee in July and August, 1987. The first transfer occurred on July 13, 1987, and since it involved \$2,000, the transfer triggered the registration requirement for Committee A under 2 U.S.C. § 433(a). Committee A concedes that it filed its Statement of Organization on November 4, 1987, one hundred and six (106) days late. In response to the complaint, counsel explains that during the staff's review of previous activity, it was discovered that Committee A's Statement of Organization had not been filed. Thus, People for Paxon (Committee A) failed to register within 10 days of becoming a political committee, and the Office of the General Counsel therefore recommends that the Commission find reason to believe that People for Paxon (Committee A) and Robert H. Meier, as treasurer, violated 2 U.S.C. § 433(a).

Complainant further asserts that Committee A failed to properly disclose its cash on hand in its initial report with the Commission in violation of 11 C.F.R. § 104.3(a) because it did not

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itemize the \$2,200 in contributions that were reported on the 1986 Year-End Report. As a result, complainant contends that the Committee failed to disclose adequately the source of funds transferred to the Federal Committee.

Contrary to complainant's assertion, however, it appears that Committee A met all legal requirements in disclosing its cash on hand in its initial report to the Commission. Under 11 C.F.R. § 104.12, a Committee must itemize its cash on hand in its initial report in accordance with the requirements set forth at 11 C.F.R. § 104.3(a). That section only requires itemized disclosure of cash on hand to the extent that it consists of contributions not made by individuals or of contributions in amounts greater than \$200. The first reports filed by Committee A consisted of a 1986 Year-End Report and a 1987 Year-End Report. These reports delineated Committee A's cash on hand at the time it became a federal committee. As previously noted, Account A, which became Committee A, was specifically established to accept only individual contributions of less than \$150, and thus no itemized disclosure was required. Therefore, the Office of the General Counsel recommends that the Commission find no reason to believe that the People for Paxon Committee (Committee A) violated 11 C.F.R. § 104.12.

Each candidate for Federal office shall designate in writing a political committee to serve as the principal campaign committee of such candidate. 2 U.S.C. § 432(e)(1). Such designation must be made no later than 15 days after becoming a candidate. Id. A candidate for Federal office is an individual who has received

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contributions or expenditures aggregating in excess of \$5,000, or has given his or her consent to receive contributions or to make expenditures in excess of that amount. 2 U.S.C. § 431(2). The complaint alleges that Representative Paxon became a candidate for Federal Office well before his official announcement on July 15, 1987. If this allegation were true, Paxon would have filed his Federal Committee's Statement of Organization after the expiration of the 15 day time-frame established by Section 432(e)(1). The only support provided for complainant's contention, however, consists of a reference to an undisclosed newspaper article. The campaign's disclosure reports, on the other hand, do not support complainant's allegation that Paxon was a candidate prior to July 15, 1987. In fact, from the reports filed, it appears that Representative Paxon did not cross the \$5,000 threshold until July 31, 1987, nearly two weeks after he announced his candidacy. Therefore, the Office of General Counsel recommends that the Commission find no reason to believe that L. William Paxon violated 2 U.S.C. § 432(e)(1).

2. Alleged Procedural Violations Involving Transfer of Funds and Cash on Hand in Subsequent Reports

With respect to the transfers from Committee A to the Federal Committee, complainant suggests that Committee A violated the Act by transferring funds which it had not accounted for in its previous cash on hand balance. Complainant appears to have disregarded Committee A's 1987 Mid-Year Report (filed out of sequence on April 5, 1988), and to have misunderstood the cash-on-hand reporting requirement. The "cash-on-hand" line item

is for cash on hand at the close of a reporting period. Because transfers may consist of funds received during the same reporting period, a committee would not necessarily show sufficient cash on hand in the report preceding that in which a transfer is disclosed. In any event, Committee A's 1987 Mid-Year Report, which was filed out of sequence on April 5, 1988, disclosed a cash on hand balance of \$14,355.50. This amount was clearly sufficient to cover the transfers made in July and August of 1987. Therefore, the Office of the General Counsel recommends that the Commission find no reason to believe that People for Paxon (Committee A) violated 11 C.F.R. § 104.3(a).

3. Alleged Use of Prohibited Funds

The complaint alleges improper campaign contributions were accepted by the Federal Committee, without specifically denoting any improper source. Under the Act, it is unlawful for any national bank, corporation, labor organization, government contractor, or foreign national to make a contribution or expenditure in connection with a federal election. 2 U.S.C. §§ 441b(a), 441c(a)(1), 441e(a). Section 441b(a) also makes it unlawful for a candidate or political committee to knowingly accept any contribution prohibited by § 441b(a). Transfers of funds between affiliated committees may be made only from funds which are permissible under the Act. 11 C.F.R. § 102.6(a)(1)(iv).

Moreover, when a state committee transfers funds to an affiliated federal committee, the contributions of any person to the state committee must be aggregated with any contributions made by that person to the federal committee. See Advisory Opinions

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1982-52 and 1984-46. For individual contributors, the total may not exceed \$1,000 per election. 2 U.S.C. § 441a(a)(1)(A). Any portion of a contributor's contributions that exceeds the limits of § 441a(a) may not be transferred from the state committee to the federal committee. Advisory Opinions 1982-52 and 1984-46. No candidate or political committee may knowingly accept a contribution which exceeds the limitations imposed by the Act. 2 U.S.C. § 441a(f).

Complainant suggests that the state committee may have used prohibited funds to benefit the Federal campaign. The complaint provides no support for this allegation, nor does it specify the nature of the allegedly prohibited funds. Indeed, the very premise of complainant's suggestion that the state committee was "taking advantage of a more liberal state law to amass campaign funds," appears to be negated by the fact that only permissible funds were deposited into Account A and later transferred to the Federal Committee. As explained by counsel for Respondents, all funds received and transferred were contributions from individuals, and the sole expenditure made on behalf of the federal committee, a \$773 disbursement for telephone service, was fully disclosed. In addition, counsel asserts that when the Paxon for Congress '88 Committee aggregated contributions from the same donors, they did not exceed the limits. Given this segregation, the funds involved in the transfer would be from permissible sources and not in excess of any contribution limitations. In light of the above, this Office recommends that the Commission find no reason to believe that improper funds were

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used by People for Paxon or Paxon for Congress '88 in connection with Representative Paxon's campaign for Federal office based on this complaint.

4. Remaining Allegations

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The complaint also alleges that the State Committee paid the salary of Harry Spector while he purportedly worked for both the State and Federal campaigns. This allegation is denied by Respondents, who maintain that "Mr. Spector was paid by the Assembly campaign committee for services prior to the start of the Congressional campaign. Thereafter, he was paid by Paxon for Congress for services to the Congressional campaign." See Attachment I at p. 3. Thus, there appears to be no factual basis upon which to find reason to believe a violation occurred related to this allegation. Finally, there is no evidence to support the complaint's assertion that the candidate, L. William Paxon, was personally involved in the alleged violations. Therefore, this Office also recommends that the Commission find no reason to believe L. William Paxon committed any violations based on this complaint.

III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

IV. RECOMMENDATIONS

1. Find reason to believe that People for Paxon (Committee A) and Robert H. Meier, as treasurer violated 2 U.S.C. § 433(a).

2. Find no reason to believe that People for Paxon (Committee A) or Robert H. Meier, as treasurer, violated 2 U.S.C. §§ 441a(a), 441b(a), 441c(a)(1), 441e(a) or 11 C.F.R. §§ 104.3(a) or 104.12.

3. Find no reason to believe that Paxon for Congress '88 or Robert H. Meier violated 2 U.S.C. §§ 441a(f), 441b(a) or 11 C.F.R. § 104.12.

4. Find no reason to believe that L. William Paxon violated 2 U.S.C. § 432(e)(1) or any other provision of the Act or Commission Regulations as it pertains to the complaint filed in this matter.

5. Approve the attached proposed Conciliation Agreement, Factual and Legal analysis, and letter.

Lawrence M. Noble
General Counsel

Date 1/4/90

By: 
Lois G. Lerner
Associate General Counsel

Attachments

- I. Response
- II. Proposed Factual and Legal Analysis
- III. Proposed Conciliation Agreement
- IV. Proposed letter to Respondent
- V. Letter requesting pre-probable cause conciliation

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FEDERAL ELECTION COMMISSION

WASHINGTON D C 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/DELORES HARRIS ^{OH}
COMMISSION SECRETARY

DATE: JANUARY 9, 1990

SUBJECT: MUR 2736 - FIRST GENERAL COUNSEL'S REPORT
DATED JANUARY 4, 1990

The above-captioned document was circulated to the Commission on Friday, January 5, 1990 at 12:00 p.m.

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

Commissioner Aikens	_____
Commissioner Elliott	XXXX
Commissioner Josefiak	XXXX
Commissioner McDonald	_____
Commissioner McGarry	_____
Commissioner Thomas	_____

This matter will be placed on the meeting agenda for Tuesday, January 23, 1990

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

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2736
 L. William Paxon)
 People for Paxon and Robert H. Meier,)
 as treasurer)
 Paxon for Congress '88 and Robert H.)
 Meier, as treasurer)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on January 30, 1990, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 2736:

1. Find reason to believe that People for Paxon (Committee A) and Robert H. Meier, as treasurer, violated 2 U.S.C. § 433(a).
2. Find no reason to believe that People for Paxon (Committee A) or Robert H. Meier, as treasurer, violated 2 U.S.C. §§ 441a(a), 441b(a), 441c(a)(1), 441e(a) or 11 C.F.R. §§ 104.3(a) or 104.12.
3. Find no reason to believe that Paxon for Congress '88 or Robert H. Meier violated 2 U.S.C. §§ 441a(f), 441b(a) or 11 C.F.R. § 104.12.

(continued)

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4. Find no reason to believe that L. William Paxon violated 2 U.S.C. § 432(e)(1) or any other provision of the Act or Commission Regulations as it pertains to the complaint filed in this matter.
5. Approve the proposed Conciliation Agreement, Factual and Legal Analysis, and letter attached to the General Counsel's report dated January 4, 1990.

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

Attest:

Date

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

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FEDERAL ELECTION COMMISSION

WASHINGTON DC 20463

February 5, 1990

Daniel J. Swillinger, Esq.
Barnett and Alagia
1000 Thomas Jefferson, N.W.
Suite 600
Washington, D.C. 20007

RE: MUR 2736
-U.S. Representative L. William Paxon
-People for Paxon and Robert H. Meier,
as treasurer
-Paxon for Congress '88 and Robert H.
Meier, as treasurer

Dear Mr. Swillinger:

On October 25, 1988, the Federal Election Commission notified your clients, U.S. Representative L. William Paxon; People for Paxon and Robert H. Meier, as treasurer; Paxon for Congress '88 and Robert H. Meier, 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 your clients at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on January 30, 1990, found that there is reason to believe the People for Paxon Committee and Robert H. Meier, as treasurer, violated 2 U.S.C. § 433(a), a provision of the Act. On that same date the Commission determined that there is no reason to believe that any other sections of the Act or Commission regulations were violated by any of the respondents on the basis of the complaint filed in MUR 2736. 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 its 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 within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

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Daniel J. Swillinger, Esq.
Page 2

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

In order to expedite the resolution of this matter, the Commission has also decided to offer to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Enclosed is a conciliation agreement that the Commission has approved.

If you are interested in expediting the resolution of this matter by pursuing preprobable cause conciliation and if you agree with the provisions of the enclosed agreement, please sign and return the agreement, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

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.

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

If you have any questions, please contact Jim Brown, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,


- Lee Ann Elliott
Chairman

Enclosures
Conciliation Agreement
Factual & Legal Analysis

90 MAR 20 AM 10:55

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of)
)
People for Paxon (Committee A)) MUR 2736
and Robert M. Meier, as treasurer)

GENERAL COUNSEL'S REPORT

On January 30, 1990, the Commission found reason to believe that People for Paxon (Committee A) and Robert M. Meier, as treasurer, violated 2 U.S.C. § 433(a), and entered into conciliation. On February 5, 1990, the Committee was notified of the Commission's finding. Based on contacts with Committee counsel, it appears that the matter can be resolved through conciliation. Accordingly, this Office will continue conciliation for another 15 days.

Lawrence M. Noble
General Counsel

3/19/90
Date

BY: 
Lois G. Lerner
Associate General Counsel

Staff assigned: A. James Brown

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SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
) MUR 2736
 People for Paxon (Committee A))
 and Robert H. Meier, as treasurer)
)

GENERAL COUNSEL'S REPORT

I. BACKGROUND

Attached is a conciliation agreement which has been signed by counsel for People for Paxon (Committee A) and Robert H. Meier, as treasurer.

II. RECOMMENDATIONS

1. Accept the attached conciliation agreement with People for Paxon (Committee A) and Robert H. Meier, as treasurer.
2. Close the file.

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3. Approve the attached letters.

Lawrence M. Noble
General Counsel

Date 3/30/90 BY: 
Lois G. Lerner
Associate General Counsel

Attachments

1. Photocopy of signed Conciliation Agreement and letter from counsel.
2. Letter to Respondent.
3. Letter to Complainant.

Staff Assigned: J. Albert Brown

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2736
People for Paxon (Committee A))
and Robert H. Meier, as treasurer)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on April 4, 1990, the Commission decided by a vote of 5-0 to take the following actions in MUR 2736:

1. Accept the conciliation agreement with People for Paxon (Committee A) and Robert H. Meier, as treasurer, as recommended in the General Counsel's report dated March 30, 1990.
2. Close the file.
3. Approve the letters, as recommended in the General Counsel's report dated March 30, 1990.

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

Attest:

4-4-90

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Monday, April 2, 1990 11:46 a.m.
Circulated to the Commission: Monday, April 2, 1990 4:00 p.m.
Deadline for vote: Wednesday, April 4, 1990 4:00 p.m.

00040764510



FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

April 9, 1990

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Richard M. Bates
Executive Director
Democratic Congressional Campaign
Committee
430 South Capitol Street
Washington, D.C. 20003

RE: MUR 2736

Dear Mr. Bates:

This is in reference to the complaint you filed with the Federal Election Commission on October 24, 1988, concerning L. William Paxon, the People for Paxon Committee and Paxon for Congress '88 ("the Respondents").

The Commission found that there was reason to believe People for Paxon (Committee A) and Robert H. Meier, as treasurer, violated 2 U.S.C. § 433(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"), and conducted an investigation in this matter. The Commission further found that there was no reason to believe that any of the above Respondents violated other sections of the Act related to allegations contained in your complaint. On April 4, 1990, a conciliation agreement signed by counsel for People for Paxon (Committee A) and Robert H. Meier, as treasurer, was accepted by the Commission. Accordingly, the Commission closed the file in this matter on April 4, 1990. A copy of this agreement is enclosed for your information.

If you have any questions, please contact Jim Brown, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel


BY: Lois G. Lerner
Associate General Counsel

Enclosure
Conciliation Agreement

CLOSED



FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

April 9, 1990

Daniel J. Swillinger
1000 Thomas Jefferson St., N.W.
Suite 600
Washington, D.C. 20007

RE: MUR 2736
People for Paxon (Committee A)
and Robert H. Meier, as treasurer

Dear Mr. Swillinger:

On April 3, 1990, the Federal Election Commission accepted the signed conciliation agreement submitted by you on behalf of your clients, People for Paxon (Committee A) and Robert H. Meier, as treasurer, in settlement of a violation of 2 U.S.C. § 433(a), a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has 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 respondents 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.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: 
Lois G. Lerner
Associate General Counsel

Enclosure
Conciliation Agreement

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2736
People for Paxon (Committee A))
and Robert H. Meier, as treasurer)

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by Richard M. Bates, Executive Director of the Democratic Congressional Campaign Committee. The Federal Election Commission ("Commission") found reason to believe that People for Paxon (Committee A) and Robert H. Meier, as treasurer ("Respondents"), violated 2 U.S.C. § 433(a).

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

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

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

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

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

1. People for Paxon (Committee A) is a political committee within the meaning of 2 U.S.C. § 431(4).

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2. Robert H. Meier is the treasurer of People for Paxon (Committee A).

3. Respondents were required to file a Statement of Organization within 10 days of becoming a political committee within the meaning of 2 U.S.C. § 431(4).

4. Respondents became a political committee by virtue of a \$2,000 transfer to Paxon for Congress '88 on July 13, 1987.

5. Respondents were required to file a Statement of Organization by July 23, 1987. Respondents filed a Statement of Organization on November 6, 1987.

V. Respondents did not file the required Statement of Organization in a timely manner thus violating 2 U.S.C. § 433(a).

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of three hundred dollars (\$300), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. 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.

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

IX. Respondents shall have no more than 30 days from the

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date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. 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.

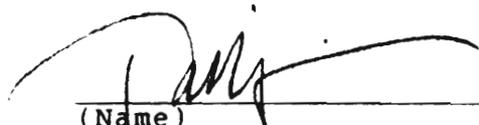
FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

BY: 
Lois G. Lerner
Associate General Counsel

4-6-90
Date

FOR THE RESPONDENTS:


(Name)
(Position)
Counsel for
Respondents

3/19/90
Date

0040704510



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 2236

DATE FILMED 4/28/90 CAMERA NO. 4

CAMERAMAN AS

00040784510



FEDERAL ELECTION COMMISSION
WASHINGTON, D. C. 20463

THE FOLLOWING DOCUMENTATION IS ADDED TO
THE PUBLIC RECORD IN CLOSED MUR 2736.

90040790589

OGC 6030

DANIEL J. SWILLINGER
ATTORNEY AT LAW
1000 THOS. JEFFERSON ST., N.W., SUITE 600
WASHINGTON, DC 20007
202-342-0342

CLOSED

April 23, 1990

HAND DELIVERED

J. Albert Brown, Esquire
Office of the General Counsel
Federal Elect Commission
999 E Street, N.W., Room 657
Washington, D.C. 20463

RE: MUR 2736

Dear Mr. Brown:

Enclosed is a check payable to the FEC in the amount of \$300, pursuant to the conciliation agreement.

Also enclosed is a letter to the Chairman which is to be placed in the public file.

Please call me if you have any questions. Thank you for your cooperation.

Sincerely,


Daniel J. Swillinger

DJS/dmr

00047790590

DANIEL J. SWILLINGER
ATTORNEY AT LAW
1000 THOS. JEFFERSON ST., N.W., SUITE 600
WASHINGTON, DC 20007
202-342-0342

April 23, 1990

Hon. Lee Ann Elliot
Chairman
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RE: People For Paxon
MUR 2736

Dear Chairman Elliot:

In an effort to more fully explain the Committee's willingness to enter into the conciliation agreement and to pay a token civil penalty in this matter, the following points need to be made:

1. The Commission concluded that :

There is no evidence to support the complaint's assertion that the candidate, L. William Paxon, was personally involved in the alleged violations. Therefore, there is no reason to believe that L. William Paxon committed any violations based on this complaint.

This statement is found on pg. 9-10 of the Commission's Factual and Legal Analysis, which should also be part of the public record.

2. The Paxon campaign discovered and corrected this minor violation long before the Democratic Campaign Committee complaint was filed. The Statement of Organization for Committee A was filed on November 7, 1987. The DCCC complaint, virtually all of which was dismissed by the Commission, was filed on October 24, 1988, in a last-ditch attempt to adversely influence the election.

3. The Committee and Rep. Paxon decided that it was in their interests to conclude the matter through the agreement, rather than engage in an extended legal process, which even if successful, would have taken many months and entailed significant legal expenses.

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Hon. Lee Ann Elliot
April 23, 1990
Page 2

I request that this letter and the entire General Counsel's Report, including the Factual and Legal Analysis, be included in the materials regarding this MUR which are made public.

Please call me if you have any questions. Thank you.

Sincerely,



Daniel J. Swillinger
Counsel for People
for Paxon

DJS/dmr

00940740592

OGC 6030



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 24, 1990

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF FEDERAL COUNSEL
90 APR 26 PM 9:51

TWO WAY MEMORANDUM

TO: Fabrae Brunson
OGC, Docket

FROM: *for* Richard Pullen *RWP*
Accounting Officer

SUBJECT: Account Determination for Funds Received

We recently received a check from Pawn for Congress, check number 1150, dated 4/26/90, and in the amount of \$ 300.00. Attached is a copy of the check and any correspondence that was forwarded. Please indicate below the account into which it should be deposited, and the MUR number and name.

TO: Richard Pullen
Accounting Officer

FROM: Fabrae Brunson
OGC, Docket

In reference to the above check in the amount of \$ 300, the MUR number is 2736 and in the name of Pawn for Congress (Brown). The account into which it should be deposited is indicated below:

- Budget Clearing Account (OGC), 95F3875.16
- Civil Penalties Account, 95-1099.160
- Other: _____

Fabrae Brunson
Signature

4/26/90
Date

00040790593

90040790594

PAXON FOR CONGRESS
P.O. BOX 1995
WILLIAMSVILLE, NY 14231

GOLDOME
EVANS-SHERIDAN OFFICE
WILLIAMSVILLE, NY 14221

10-7017/2220

0001150

Check No.

Three hundred dollars

DATE

4/20/90

AMOUNT

300.00

FEDERAL ELECTION COMMISSION

Kenneth A. Paxon

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