



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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November 3, 1989

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

THROUGH: JOHN C. SURINA
STAFF DIRECTOR

FROM: ROBERT J. COSTA
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: REFERRAL TO OFFICE OF GENERAL COUNSEL - FINAL AUDIT
REPORT ON PETE du PONT FOR PRESIDENT

[Handwritten signatures]

On October 30, 1989, the Commission voted to refer the matter concerning Allocation of Expenditures to States, appended here as Exhibit B.

Should you have any questions, please contact Cornelia Riley or Alex Boniewicz.

Attachment:

Exhibit B - Allocation of Expenditures to States

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Allocation of Expenditures to States

Section 9035(a) of Title 26 of the United States Code states, in part, that no candidate shall knowingly incur qualified campaign expenses in excess of the expenditure limitations applicable under section 441a(b)(1)(A) of Title 2.

Section 9038.2(b)(2)(i)(A) of Title 11 of the Code of Federal Regulations provides, in part, that the Commission may determine that amount(s) of any payments made to a candidate from the matching payment account were used for purposes other than to defray qualified campaign expenses. Section 9038.2(b)(2)(ii)(A) of Title 11 of the Code of Federal Regulations states that an example of a Commission repayment determination under paragraph (b)(2) of this section includes determinations that a candidate, a candidate's authorized committee(s) or agents have made expenditures in excess of the limitations set forth in 11 C.F.R. § 9035.

Sections 441a(b)(1)(A) and 441a(c) of Title 2 of the United States Code provide, in part, that no candidate for the office of President of the United States who is eligible under Section 9033 of Title 26 to receive payments from the Secretary of the Treasury may make expenditures in any one State aggregating in excess of the greater of 16 cents multiplied by the voting age population of the State, or \$200,000, as adjusted by the change in the Consumer Price Index.

Section 106.2(a)(1) of Title 11 of the Code of Federal Regulations states, in part, that expenditures incurred by a candidate's authorized committee(s) for the purpose of influencing the nomination of the candidate for the office of the President with respect to a particular State shall be allocated to that State. An expenditure shall not necessarily be allocated to the State in which the expenditure is incurred or paid.

Section 110.8(c)(2) of Title 11 of the Code of Federal Regulations states that for State limitations, expenditures for fundraising activities targeted at a particular State and occurring within 28 days before that state's primary election, convention or caucus shall be presumed to be attributable to the expenditure limitation for that State.

During fieldwork, the Audit staff identified a project used by the Committee involving a telemarketing and mail program ("the Program"). Discussions with Committee officials and a review of Committee records made available indicated that the Program operated out of the Committee's headquarters in Wilmington, Delaware primarily from June, 1987 through February, 1988.

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The Program was a computer-based system which appears to have accommodated up to 35 telephone stations. Each station accessed one of six predominately used scripts through a CRT screen linked to an automatic dial feature used in placing calls. The operator, using a headset, would work through the screen script inputting responses received from the person contacted. When the call was completed an in-house mailing was automatically generated, if needed. The Program appears to have been operated mainly during evening and weekend hours employing, on a part time basis, two shifts of operators.

The Audit staff reviewed the Committee's expenditure files for the vendors that could be identified as part of the Program and calculated apparent Program costs totaling \$745,439.24.

The Audit staff then reviewed the Committee's allocation of expenditures to states to determine the extent to which these Program costs were allocated to Iowa. The Audit staff determined that \$117,606.04* in Program costs were allocated to Iowa. The following table provides a detailed comparison of identified Program costs and costs allocated to Iowa by the Committee:

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	<u>Total Identified Program Costs</u>	<u>Program Costs Allocated by Committee</u>	<u>Program Costs Allocated by Audit</u>
Telephone	\$157,833.32	\$ 21,378.00	\$101,436.29
Computer & related services	171,792.26	2,880.00	42,747.59
Rent & utilities	28,396.39	---	6,708.29
Payroll	277,371.62	72,243.79	197,858.73
Postage	97,202.18	17,020.78	17,020.78
Wiring installation	8,760.00	---	5,694.00
Miscellaneous**/	<u>4,083.47</u>	<u>4,083.47</u>	<u>4,083.47</u>
Totals	<u>\$745,439.24</u>	<u>\$117,606.04</u>	<u>\$375,549.15</u>

During this review it became apparent to the Audit staff that the Program focused to a large extent on Iowa. A March 23, 1987 memorandum from a consultant, directed to

* / Committee allocation workpapers indicated that \$134,293.95 had been allocated to Iowa with respect to the Program. However, the Audit Staff reduced this amount by \$16,687.91 which represented an overallocation made by the Committee in applying the 28 Day Rule. It should be noted that the Committee's overall allocation to Iowa has been adjusted accordingly.

** / Based on Committee allocation workpapers and documentation made available, costs included in this category could not be directly associated with any of the other categories noted.

Committee representatives, outlined in a fairly detailed fashion the consultant's understanding of the "goals and objectives for the du Pont telemarketing and mail program." Although Committee officials did not acknowledge that this plan was the basis of their telemarketing program, the Audit staff is of the opinion that the basic components of this plan with respect to the telemarketing effort directed at Iowa were implemented by the Committee and indicate a focus on Iowa.

Second, a review of the billings by the long distance telecommunications company used by the Committee for the Program indicated that the majority of the calls were to Iowa. During the period June, 1987 to February, 1988, the Committee incurred \$157,171.32 for the Program's long distance service, or about \$17,500 per month. A review of the bills for the above mentioned period indicated that the costs of calls made to Iowa comprised from 48% to 90% of the cost of all calls made. Further analysis of the cost, the number, and the length of calls, indicates that the Program was used primarily in the evenings, during which hours the calls were directed almost exclusively at Iowa.

Finally, the auditors reviewed all scripts considered for use in the Program by the Committee. Of the 28 scripts reviewed, at least 11 seemed to be targeted at Iowa. The Committee provided an explanatory letter dated May 12, 1988, along with copies of six scripts that according to the Committee were used almost exclusively in the telemarketing program during the period 6/87 through 12/87, and copies of letters^{*} mailed as a result of the response to each script. One of these scripts was a poll, four of the scripts appear political in nature with no appeal for contributions and the final script did contain a fundraising appeal. In all six scripts the text appears specifically directed at Iowa by virtue of the caucus or debate in Iowa being mentioned at some point.

The Committee's letter of May 12, 1988 notes that of these scripts, only two were not fundraising in nature. The Committee's position with respect to the scripts was that money could not be raised from people who did not know or support their issues. The Committee provided, as further support that these scripts were used extensively, workpapers detailing the days and number of calls made daily with respect to each of the scripts. As noted in their May 12, 1988 letter the Committee's position is that the rent, HVAC (utilities) and computer rental "were correctly reported as national office overhead, consistent with the treatment of other computer and office rental within the campaign headquarters...and...both...were used Monday through Friday 7 a.m. to 5 p.m. by both the Legal and Accounting

^{*}/ Of the five follow-up letters mailed as a result of the scripts, three included appeals for contributions.

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operation and the Direct Mail and Event Fundraising staffs." Further, expenses associated with payroll, telephone, postage, and software were charged directly "to either fundraising, the Iowa allocation or Exempt Legal/Accounting as appropriate."

As noted above, the Audit staff calculated the apparent cost of the Program to be \$745,439.24, while the Committee only allocated \$117,606.04, or about 16% of identified Program costs to Iowa, although it is apparent that the Program focused on Iowa. The Audit staff also noted that as of March 31, 1988, according to the State Allocation Report, FEC Form 3P, page 3, the Committee had allocated expenditures totaling \$616,995.09 to the Iowa limitation of \$775,217.60. The Audit staff's review of expenditures allocated to Iowa determined this figure to be materially correct, except as noted with respect to the Program.

Based on the Audit staff's review of the information and documentation made available, it is our opinion that the following Program costs, totaling \$375,549.15, require allocation to Iowa.

o Program Costs Within the 28 Day Rule

The Audit staff reviewed Program costs occurring within 28 days of the Iowa caucus and determined that \$52,709.67 in telephone, rent, utilities, payroll and computer related services should have been allocated to Iowa. As stated in the Committee's letter, dated May 12, 1988, for the period subsequent to January 1, 1988, expenses were allocated 100% against the Iowa limitation due to the "FEC regulation eliminating the Fundraising Exemption within 28 days of a primary election." The Audit staff reviewed Committee allocation workpapers with respect to the Program and determined, based on the information available, that the Committee allocated \$41,500.04 in salary, phone and miscellaneous Program costs to Iowa.

o Program Costs outside the 28 Day Rule

The Audit staff reviewed Program costs occurring outside of the 28 day rule and determined that \$322,839.48 in telephone, rent, utilities, payroll, computer related services, postage, wiring and miscellaneous costs should have been allocated to Iowa. Based upon the scripts and telephone logs provided as part of the Committee's May 12, 1988 letter, it was determined that \$86,378.48 in long distance telecommunication charges and \$168,339.00 in payroll costs with respect to the Program should have been allocated to Iowa. With respect to rent and utilities, the Audit staff determined that, based on the hours of operation as provided by the Committee in their letter dated May 12, 1988, \$5,713.70 in expenditures should have been allocated to Iowa. The Audit staff determined that \$35,610.05 in computer related Program costs should have been allocated to Iowa. Finally, the Audit staff determined that postage totaling \$17,020.78; wiring installation costs of \$5,694 and miscellaneous

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costs totaling \$4,083.47 should have been allocated to Iowa. The Audit staff's review of Committee workpapers indicated that \$76,106 in salary, phone, postage, supplies and computer related costs with respect to the Program were allocated to Iowa.

The following recap and analysis was provided with respect to the Iowa state expenditure limitation in the interim audit report:

Telemarketing Program costs allocable to Iowa per the Audit staff:

Within 28 Day Rule	\$ 52,709.67	
Outside 28 Day Rule	<u>322,839.48</u>	\$375,549.15
Less Program costs allocated by the Committee:		
Within 28 Day Rule	\$ 41,500.04	
Outside 28 Day Rule	<u>76,106.00</u>	<u>(117,606.04)</u>
Additional Program costs requiring allocation to Iowa		\$257,943.11
Expenditures allocated to Iowa per Committee FEC Form 3P, page 3, as of March 31, 1988		<u>616,995.09</u>
Expenditures subject to Iowa limitation		\$874,938.20
Less: 2 U.S.C. Section 441(a) State Spending Limitation		<u>(775,217.60)</u>
Total Expenditures in Excess of State Limitation		<u>\$ 99,720.60</u>

In the interim audit report the Audit staff recommended that within 30 calendar days after service of the report the Committee provide evidence showing that it had not exceeded the limitation as set forth above. Absent such a showing, the Audit staff recommended that the Committee adjust its records to reflect the expenditures allocated in Iowa, and where necessary file amended reports to reflect the correct amount allocable to Iowa.

In addition, the Audit staff recommended that the Committee provide a detail listing for all vendors related to the telemarketing program and an itemization of all associated costs incurred with respect to each vendor. Such costs include those incurred with respect to development and implementation of the telemarketing program.

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Analysis of Committee Response

The Committee filed its response on November 4, 1988.*/ In its response, the Committee stated that it believes the Audit staff's conclusions are incorrect and offered its reasons in support of this position. Each of the topical areas addressed by the Committee are discussed in the following paragraphs.

1. The Telemarketing Effort was a Fundraising Program

The Committee contends that the Program "was conceived and implemented by the campaign as a significant fundraising effort." According to the Committee's response, the Audit staff mischaracterized the Program for three fundamental reasons: (a) misplaced reliance on a memorandum from a consultant; (b) a failure to understand the program's Iowa focus; and (c) a failure to comprehend modern campaign fundraising.

With respect to (a), the Committee submitted an affidavit from the deputy campaign manager which specifically stated that the memorandum from the consultant was not adopted as the campaign's telemarketing plan and that fundraising was a prime objective of telemarketing.

In the Audit staff's opinion, the Committee's contention that "misplaced reliance" existed on the part of the Audit staff is without merit. Although this report refers to the March 23, 1987 memorandum, our conclusion "that the basic components of this plan with respect to the telemarketing effort directed at Iowa were implemented by the Committee and indicate a focus on Iowa" (Report, page 4) is based, as stated in the report, on our review of documentation for expenditures related to the telemarketing effort. The Committee's contention that the consultant's proposal was not adopted does not, in the Audit staff's opinion, change or require revision to the Audit staff's conclusion that a significant telemarketing effort was directed at the voting age population in Iowa.

Concerning the Committee's assertion regarding the Program's Iowa focus (item (b)), the Committee argues that the Audit staff's position "fails to recognize the uniqueness of circumstances surrounding an 'underdog' campaign. An unknown candidate must focus first on Iowa, to present his positions, to become known, and to raise funds to support these efforts. Momentum from success in Iowa permits the candidate to be a factor in New Hampshire." The Committee further states that [since] "Iowa voters could be educated, and would have a stake in the election because of their participation in the early caucuses. That stake would cause them to contribute...once they knew the candidate."

*/ The Committee requested a 60 day extension in which to respond to the interim audit report. The Commission granted a 30 day extension to November 4, 1988.

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The Audit staff does not dispute the Committee's position that a person is not likely to contribute to a candidate about whom he or she knows little. Nor does the Audit staff necessarily disagree with the Committee's statement that the Iowa caucuses and the New Hampshire primary are the beginning and the end for most campaigns. However for the Committee to then conclude "For an unknown like Pete du Pont, it is essential to raise funds in those states, because those are the states in which he is becoming known" seems more appropriate in support of an attempt to influence a candidate's chances of a win or reputable position in the Iowa caucuses or New Hampshire primary rather than a justification that it is essential to that end to raise funds in these two states and thus the telemarketing effort should be viewed as primarily a fundraising program.

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The Committee's third point (item (c)) is an attempt to identify similarities between "sophisticated telemarketing" and "traditional direct mail." The Committee provides as an example a situation where a phone call is made and, based on the response/exchange concerning issues without a solicitation being mentioned, a follow-up solicitation is sent. The Committee made the decision "to give Iowans multiple opportunities to know the candidate and the issues, and only then to ask for funds." The Committee's position is simply that both the phone call and the follow-up solicitation should be viewed as components of a single fundraising appeal. The total costs as such would be considered fundraising and not allocable to a state limit, unless occurring within 28 days of the election. The Committee states correctly that the Audit staff viewed the expenses related to the phone calls as separate and distinct from any follow-up mailings^{*/} which may have occurred. Further, the Audit staff viewed as fundraising-related phone calls only those calls made outside the 28 days for which the script used actually contained a solicitation of funds. The Audit staff's position, based on the information submitted by the Committee, remains unchanged in this regard.

2. Expenses for Rent, Computer Equipment and Wiring

The Committee contends that the headquarters expenses for rent, computer expenses, and wiring allocated to Iowa by the Audit staff are general overhead expenses and not allocable to Iowa under 11 C.F.R. § 106.2(c)(1)(i) and § 106.2(b)(2)(iv). These sections, in relevant part, define overhead expenses as rent, utilities, equipment and telephone service base charges, and exempt from allocation [such] operating expenditures incurred for administrative, staff, and overhead expenditures of the national campaign headquarters.

^{*/} The costs of any follow-up mailings were not charged to the Iowa limit outside 28 days before the election.

the Response appear to be derived from the total charges for night and weekend tolls to all area codes less \$34.18 per day (estimated non-telemarketing evening and weekend charges). Furthermore, the Committee did not provide the Audit staff the documentation used in the sampling process.

The Audit staff recognizes the probability that all calls to Iowa were not telemarketing related. Therefore the Audit staff has revised the gross amount of calls to Iowa and has reduced these amounts by credits and a business use (presumed non-telemarketing) percentage. The Audit staff based the business use reduction on the percentage of the toll charges made during business hours relative to the total toll charges. This percentage reduction was applied only to the calls made to Iowa, not to the total evening/weekend tolls. The Audit staff applied an average business use reduction percentage to the Iowa tolls for the month of February because the Committee acknowledged that some daytime calling was made during this period. These Audit staff adjustments have reduced the allocable amount from \$101,436.29 to \$81,173.80. This reduction of \$20,262.49 is reflected in the revised telemarketing program costs allocable to Iowa per the Audit staff. In addition, allocation of wiring installation, based on the allocable percentage of telephone costs, has been reduced accordingly from \$5,694 to \$4,667.60.

5. Application of Advisory Opinion 1988-6

In the alternative the Committee suggests that Advisory Opinion 1988-6 is applicable to the telemarketing program. The Advisory Opinion allowed 50% of the cost of a television advertisement to be allocated to exempt fundraising. The Committee states that "In that opinion, the Commission concluded that a three-second visual listing, 'Vote - Volunteer - Contribute,' plus a voice-over giving a phone number for contributors to call..would permit the allocation of 50% of the ad's cost to exempt fundraising." The Committee further asserts that a greater percentage of the du Pont telemarketing program was directed to fundraising than the corresponding fundraising percentage of time used for fundraising in the television advertisement.

The Committee contends that "telemarketing fundraising has multiple components, which combine to produce results...[and] the audit report treats the phone call and the mailing as two separate events, rather than two components of a fundraising package, and considers the phone call not to be part of the fundraising effort." The Audit staff's discussion and rejection of the Committee's rationale that the telemarketing program was basically a fundraising program and thereby subject to a fundraising exemption was discussed under paragraph (1) of this section.

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The Audit staff is of the opinion that the Advisory Opinion 1988-6 applies only to a specific factual situation - a television commercial - and does not extend beyond the specifics of that case. Both the political issue and solicitation request was contained within one message, whereas the du Pont telemarketing program sought political interest first and then addressed solicitation requests from identified supporters. The Audit staff notes that it did not allocate the costs of any of the follow-up letters sent by the Committee to Iowa outside 28 days before the election.

Finally, the Committee presented in its response an allocation of telemarketing program expenses based on a 50% exemption for fundraising. The Audit staff notes that certain figures used in the Committee's analysis of allocable costs based on a 50% fundraising exemption are incorrect. In one case, the figure shown did not represent total cost, but rather only the non-fundraising portion as determined by the Audit staff. In another instance, the Committee did not include total costs within 28 days of the election. The Audit staff did not perform a detailed analysis of the Committee's figures because the Advisory Opinion exemption does not appear to apply to this program.

Conclusion

Based on the Audit staff's review of the Committee's response to the interim audit report and the information and documentation made available, it is our opinion that the following Program costs, totaling \$354,260.26 require allocation to Iowa.

	<u>Total Identified Program Costs</u>	<u>Program Costs Allocated by Committee</u>	<u>Program Costs Allocated by Audit</u>
Telephone	\$157,833.32	\$ 21,378.00	\$ 81,173.80
Computer & related services	171,792.26	2,880.00	42,747.59
Rent & utilities	28,396.39	---	6,708.29
Payroll	277,371.62	72,243.79	197,858.73
Postage	97,202.18	17,020.78	17,020.78
Wiring installation	8,760.00	---	4,667.60
Miscellaneous	4,083.47	4,083.47	4,083.47
Totals	<u>\$745,439.24</u>	<u>\$117,606.04</u>	<u>\$354,260.26</u>

The following recap and analysis, as revised for reduced telephone toll charges and wiring installation, is provided with respect to the Iowa state expenditure limitation:

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Revised Telemarketing Program costs allocable to Iowa per the Audit staff:

Within 28 Day Rule	\$ 50,358.13	
Outside 28 Day Rule	<u>303,902.13</u>	\$354,260.26
Less Program costs allocated by the Committee:		
Within 28 Day Rule	\$ 41,500.04	
Outside 28 Day Rule	<u>76,106.00</u>	<u>(117,606.04)</u>
Additional Program costs requiring allocation to Iowa		\$236,654.22
Expenditures allocated to Iowa per Committee FEC Form 3P, page 3, as of April 30, 1988		<u>616,010.80</u>
Expenditures subject to Iowa limitation		\$852,665.02
Less: 2 U.S.C. Section 441(a) State Spending Limitation		<u>(775,217.60)</u>
Revised Total Expenditures in Excess of State Limitation		<u>\$ 77,447.42*/</u>

In the final audit report, the Audit staff recommended that within 30 calendar days of service of that report the Committee provide documentation of all associated costs related to the telemarketing program. This documentation was to include: (1) a detail listing of all vendors who provided services toward both the development and implementation of the telemarketing program; and (2) an itemization of all associated costs incurred with respect to each vendor. These vendor costs would also include both direct services and collateral services (such as materials, printing, and distributive costs) associated with the telemarketing program.

In addition, the Audit staff recommended that the Committee adjust its records to reflect the expenditures allocated in Iowa, and where necessary file amended reports to reflect the correct amount allocable to Iowa.

*/ Total is based on limited vendor information. The Committee did not respond to the recommendation that it provide a detail listing for all vendors related to the Program.

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The Committee submitted a response to the final audit report on April 21, 1989 and presented the same arguments used in the response to the interim audit report to support the exempt fundraising nature of the telemarketing expenditures (see pages 6-10, this Exhibit). With regard to the list of vendors associated with the telemarketing program, the Committee indicated that the vendor and associated costs listed in the audit report include all costs associated with the telemarketing program. No additional documentation has been provided. Additionally, the Committee requested an opportunity to address the Commission.

The Committee addressed the Commission on June 28, 1989 and presented oral arguments in support of the fundraising nature of the telemarketing program. In addition to reasserting the arguments presented on the two prior occasions (responses to interim audit report and final audit report) the Committee representative also contended: (1) that the calls to Iowa constituted a cost of list development for fundraising purposes; and (2) that the telemarketing program was planned as a nationwide campaign operating out of headquarters and that the only reason it was targeted to one or two states was because the campaign ended early. In support of the nationwide campaign intent the Committee representative stated that the Iowa people who had contributed were solicited continually by telephone/telemarketing until the date after the New Hampshire primary on February 16, 1988.

With regard to (1) above, the Audit staff notes the following:

- (a) The Committee representative stated during the oral presentation that the telemarketing program started with a universe of 60,000 people thought most likely to contribute;
- (b) In March 1987 the Committee planned to obtain voter tapes from Iowa for use in the telemarketing program; and
- (c) The Committee reported payments for a voter list rental from the registrar of Iowa, and from the Republican National Committee in April 1987.

In the opinion of the Audit staff these activities do not support list development for the telemarketing program.

With respect to (2) above:

- (a) The Audit staff was not provided any documentation to support the nationwide nature of the telemarketing program;

- (b) Available documentation indicates that Iowa voters were not called after February 8, 1989, the date of the Iowa caucus; and
- (c) February payments for in-house metered mail (the mail associated with the telemarketing program) totaled \$5,000 and probably correspond to the \$4,936.15 allocated by the Committee to New Hampshire in February. No in-house metered mail postage was allocated to Iowa in February.

In the opinion of the Audit staff this evidence refutes the Committee's contention that the telemarketing program was part of a nationwide campaign.

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The Committee responded to the Commission's subpoena for records on August 14, 1989. The Committee (1) explained that the postage costs allocated to Iowa were derived from in-house metered mail vended by RMRS, (2) acknowledged indirect costs already identified and allocated by the Audit staff (software modifications for printing), and (3) stated that the mailings for the telemarketing program were designed and printed in-house by the campaign staff. Finally, the Committee stated that two outside vendors associated with direct mail and printing were not involved with the telemarketing program. Although this response does not specifically state that the Audit staff has identified all costs associated with the telemarketing program, the Committee does state that the Audit staff fully identified the indirect costs, and that the direct costs from outside vendors for direct mail and printing were not associated with the telemarketing program. The Audit staff examined the documentation on these vendors during the audit and was not able to associate them with the telemarketing program. The Audit staff does acknowledge, as contended by the Committee, that some direct mail costs were allocated to Iowa and were apparently not a part of the telemarketing program.

The Committee in its responses has provided no basis on which the Audit staff can assign additional costs associated with the printing (computer time and overhead) and the preparation (personnel salaries and/or overhead) costs of the mailings to Iowa.

With regard to (1) above, the Committee's description of postage allocation does not materially explain the allocation of the in-house metered mail associated with the telemarketing program. Detailed documentation to support the description was not provided. The Audit staff determined that \$68,427.84 of the \$100,802.18 in-house metered mail costs incurred during the telemarketing period were not allocated to either Iowa or New Hampshire. In particular, the Audit staff notes that:

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- (a) Although political mail was sent to Iowa as early as June 11, 1987, the Committee allocated no metered mail postage to Iowa until September, 1987. During June, July and August 1987, the Committee paid \$20,000 for in-house metered mail of which it allocated \$160 to New Hampshire and \$0 to Iowa. This activity strongly suggests that the Committee underallocated postage costs during this period; and
 - (b) the Committee apparently underallocated the in-house metered mail costs to Iowa during the 28-day period preceding the Iowa caucus. From January 14 to February 1, 1988, the Committee paid RMRS \$20,600 of which it allocated \$3,600 to Iowa and \$8,605.22 to New Hampshire. The Audit staff is of the opinion that the balance of metered mail costs for this period (\$8,394.78) should be allocated to Iowa.

In conclusion, the Audit staff is satisfied that the bulk of the telemarketing costs has been identified. Based on (b) above, the Audit staff has increased the Revised Expenditures in Excess of State Limitation (see p. 11) to \$85,842.20 (\$77,447.42 + \$8,394.78).

Recommendation

The Audit staff recommends that this matter be referred to the Office of General Counsel.

SENSITIVE

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

FIRST GENERAL COUNSEL'S REPORT

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FEDERAL ELECTION COMMISSION
SECRETARIAT
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MUR 3002
STAFF MEMBER: Mary Ann Bumgarner

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

RESPONDENTS: Pete du Pont for President, Inc.
and Frank A. Ursomarso, as treasurer

RELEVANT STATUTES: 26 U.S.C. § 9035(a)
2 U.S.C. § 441a(b)(1)(A)
2 U.S.C. § 441a(c)
2 U.S.C. § 431(9)(B)(vi)
11 C.F.R. § 106.2
11 C.F.R. § 100.8(b)(21)
11 C.F.R. § 110.8(c)(2)
11 C.F.R. § 9038.2

INTERNAL REPORTS
CHECKED: Referral Materials

FEDERAL AGENCIES
CHECKED: None

I. GENERATION OF MATTER

The Commission, upon the recommendation of the Audit Division, referred Pete du Pont for President, Inc. ("the Committee") and Frank A. Ursomarso, as treasurer, to the Office of the General Counsel on October 30, 1989. The basis for the attached referral is the Committee's apparent making of expenditures in excess of a state limitation in violation of 26 U.S.C. § 9035(a) and 2 U.S.C. § 441a(b)(1)(A).

(Attachment I).

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II. FACTUAL AND LEGAL ANALYSIS

A. Background

During fieldwork, the Audit staff identified a Committee project involving a telemarketing and mail program ("the Program"). The Program operated out of the Committee's headquarters in Wilmington, Delaware primarily from June, 1987 through February, 1988. The Audit staff reviewed the Committee's expenditure files for the vendors that could be identified as part of that Program and calculated apparent Program costs totaling \$745,439.24. The Committee allocated \$117,606.04 in Program costs to Iowa. The Audit Division reviewed the scripts used in the Program and the long distance telephone bills, and concluded that Iowa was a primary focus of the telemarketing program and that additional amounts should be allocated to the Committee's Iowa expenditure limit.

In the Interim Audit Report, which was approved by the Commission on August 30, 1988, the Commission allocated \$375,549.15 of the Program's costs to Iowa, resulting in expenditures in excess of the Iowa state limitation totaling \$98,736.31. The report recommended that the Committee either provide evidence that it had not exceeded the limitation or adjust its records and reports to reflect the correct amount allocable to Iowa. It also requested that the Committee provide a listing of all vendors related to the telemarketing program and an itemization of all expenditures incurred with respect to each vendor. The Interim Report contained a

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preliminary repayment calculation in the amount of \$29,942.71, based on the amount spent in excess of the Iowa state expenditure limitation.

The Committee responded to the Interim Report on November 4, 1988. The Committee's principal argument was that the Program was essentially fundraising in nature. Therefore, the Committee asserted that no additional amounts were allocable to the Iowa state expenditure limit because they constituted exempt fundraising expenses pursuant to 2 U.S.C. § 431(9)(B)(vi) and 11 C.F.R. § 100.8(b)(21). To support this contention, the Committee submitted an affidavit from the deputy campaign manager which stated that fundraising was a prime objective of the Program. In the alternative, the Committee argued that Advisory Opinion ("AO") 1988-6 applies to the telemarketing program, and that half of the expenses for the program were fundraising costs exempt from allocation pursuant to that opinion. Moreover, the Committee argued that expenditures for rent, computer expenses, and wiring allocated to Iowa by the Audit staff were general overhead expenses of the national headquarters which are not allocable to Iowa. The Committee also contended that the Audit staff understated payroll expenses, and miscalculated telephone toll charges to Iowa, because certain telephone calls were not related to the telemarketing program.

The Commission approved the Final Audit Report on the

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Committee on March 9, 1989. The report recommended that the Committee provide documentation of all associated costs related to the telemarketing program; adjust its records to reflect the expenditures allocated to Iowa; and where necessary, file amended reports to reflect the correct amount allocable to Iowa. The report rejected the Committee's contentions that the Program was essentially a fundraising appeal or, in the alternative, that the 50% exemption for fundraising in AO 1988-6 should be applied to the costs allocated to the Iowa expenditure limit by the Audit Division. The report also rejected the Committee's contention that certain expenditures were exempt as national campaign headquarters overhead. However, the Audit staff accepted the Committee's contention that not all calls to Iowa were related to the Program, and accordingly, reduced the telephone and wiring allocations. This reduction was determined based on credits on telephone bills which had not previously been included in the allocation, and the application of a business use percentage for presumed non-telemarketing calls. The report concluded that \$354,260.26 in Program costs should be allocated to Iowa, resulting in expenditures in excess of the Iowa state expenditure limitation in the amount of \$77,447.42. Therefore, the Commission made an initial determination that the Committee should repay \$23,254.83 to the United States Treasury pursuant to 26 U.S.C. § 9038(b)(2).

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The Audit staff provided the following analysis with respect to the Iowa state expenditure limitation based on the Committee's response to the interim audit report and the information and documentation made available.

Revised Telemarketing Program costs allocable to Iowa per the Audit staff:

Within 28 Day Rule	\$ 50,358.13	
Outside 28 Day Rule	<u>303,902.13</u>	\$354,260.26
Less Program costs allocated by the Committee:		
Within 28 Day Rule	\$ 41,500.04	
Outside 28 Day Rule	<u>76,106.00</u>	(117,606.04)
Additional Program costs requiring allocation to Iowa		\$236,654.22
Expenditures allocated to Iowa per Committee FEC Form 3P, page 3, as of April 30, 1988		<u>616,010.80</u>
Expenditures subject to Iowa limitation		\$852,665.02
Less: 2 U.S.C. § 441(a) State Spending Limitation		(775,217.60)
Revised Total Expenditures in Excess of State Limitation		\$ <u>77,447.42</u>

The Committee responded to the Final Audit Report on April 21, 1989. In the response, counsel for the Committee requested an opportunity to address the Commission in open session regarding the audit report and initial repayment determination pursuant to 11 C.F.R. § 9038.2(c)(3). The Commission granted the Counsel's request for an oral presentation on behalf of the

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Committee and this hearing was held on June 28, 1989. In addition to reasserting the arguments presented on the two prior occasions (responses to interim audit report and final audit report) counsel also contended that the calls to Iowa constituted a cost of list development for fundraising purposes. Further, he contended that the telemarketing program was planned as a nationwide campaign operating out of headquarters and that the only reason it appeared to be targeted to one or two states was because the campaign ended early.

On June 2, 1989, the Commission issued a subpoena for Committee records relating to the telemarketing program. The Committee responded to the Commission's subpoena on August 14, 1989. Based on the response of the Committee, the Audit staff became aware that the Committee had apparently underallocated in-house metered mail costs to Iowa during the 28-day period preceding the Iowa caucus. From January 14 to February 1, 1988, the Committee paid metered mail costs totaling \$20,600 and allocated \$3,600 to Iowa and \$8,605.22 to New Hampshire. The Audit staff found that the balance of metered mail costs for this period (\$8,394.78) should be allocated to Iowa.

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Audit staff increased the Revised Expenditures in Excess of State Limitation (see page 5) to \$85,842.20 (\$77,447.42 + \$8,394.78). On December 14, 1989, the Commission issued its Final Repayment Determination and Statement of Reasons which found that the Committee had exceeded the Iowa state limitation by \$85,842.20. The Commission's Final Repayment Determination called for a \$25,775.49 repayment by the Committee to the United States Treasury pursuant to 26 U.S.C. § 9038(b)(2).

B. Statutory and Regulatory Provisions

The Federal Election Campaign Act of 1971, as amended ("the Act"), establishes national and state expenditure limitations for candidates who receive public financing while seeking nomination for the office of President. 2 U.S.C. § 441a(b)(1)(A).

Commission Regulations contain rules governing the allocation of expenditures by publicly-financed primary candidates to particular states. 11 C.F.R. § 106.2. Generally, expenditures incurred by a candidate's authorized committee for the purpose of influencing the nomination of that candidate with respect to a particular state must be allocated to that state on a reasonable basis. 11 C.F.R. § 106.2(a)(1).

The Act and the Commission Regulations exclude from the definition of expenditure any fundraising costs to the extent that the aggregate of such costs does not exceed 20% of the expenditure limitation applicable to the candidate. 2 U.S.C. § 431(9)(A)(vi); 11 C.F.R. § 100.8(b)(21). Such expenditures

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are not allocable to any state. However, 11 C.F.R. § 110.8(c)(2) provides that expenditures for fundraising activities targeted at a particular state, and occurring within 28 days before that state's primary election are presumed to be allocable to the expenditure limitation for that state, the fundraising exemption of Section 100.8(b)(21) notwithstanding. A fundraising cost is any cost incurred in connection with the solicitation of contributions. 2 U.S.C. § 431(9)(A)(vi). Examples of exempt fundraising expenditures include printing and postage for solicitations, airtime for fundraising advertisements, and the cost of refreshments for fundraising receptions and dinners. 11 C.F.R. § 106.2(c)(5)(ii).

C. Committee's Arguments

In its responses to the interim and final audit reports and during counsel's oral presentation, the Committee has made three principal arguments to justify its allocation of program costs. The arguments are based on the premise that the telemarketing and direct mail program was a national fundraising effort: 1) the expenditures at issue were exempt fundraising costs which are not allocable to the Iowa state expenditure limit; 2) Advisory Opinion 1988-6 applies to the telemarketing program, and thus, half of the program costs were for exempt fundraising; and 3) certain expenditures were national headquarters overhead and thus should not be allocated to Iowa.

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1. The Committee's main contention is that the program expenditures were exempt fundraising costs which are not allocable to the Iowa state limitation under 11 C.F.R. § 106.2(c)(5)(ii). First, the Committee argues that the program in question used six scripts, of which only two were purely political. The other four scripts, it argues, were part of the fundraising program, and should be exempt from allocation. The Audit staff, however, concluded that only one script was in fact fundraising in nature, and that five were not fundraising and thus subject to allocation.

The Committee further argues that the telemarketing program was analogous to a direct mail fundraising effort. The Committee states that a direct mail fundraising scheme involves postage, printing and the fundraising letter itself, but only the letter contains a fundraising message. Therefore, the Committee argues that, as with traditional direct mail, telemarketing fundraising has multiple components, which combine to produce results, but which individually are not productive. The Committee's position is simply that both the phone call and the follow-up written solicitation should be viewed as components of a single fundraising appeal. Therefore, the Committee contends that the telemarketing program costs related to the four scripts are related to fundraising activities and should be exempt from allocation.

Counsel for the Committee elaborated upon this argument

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during the oral presentation. Counsel stated that there was a "very prompt" follow-up fundraising letter after each phone call and names obtained through the phone calls often received several fundraising solicitations. Counsel argued that the telemarketing program was designed to create a list of potential contributors or, rather, as counsel stated, the Program "created our own vendor list." Thus, he argued, "[i]f the purchase of a vendor list for a direct mail is a cost associated with fund-raising... a targeted telephone call to elicit exactly the same thing, which is a list of people who would be most likely to contribute to the campaign, is also a cost related to fundraising."

2. The Committee also believes that Advisory Opinion 1988-6 applies to this situation. In that opinion, a three-second fundraising statement in a sixty-second political advertisement supported the exemption of 50% of the commercial's cost as fundraising expenses. The Committee argues that in the present situation "far more than one-tenth" of the program costs had a "clear fundraising purpose." Thus, it argues, "even accepting arguendo the Audit Report's conclusion" that program expenditures relate to Iowa, half of the costs are exempt fundraising. The Committee argues that this instance "is not materially distinguishable from AO 1988-6 and the principle established there may not be ignored." Therefore, the Committee concludes that "under either method"

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it has not exceeded the Iowa limit, and no repayment is required.

3. The Committee contends that certain program expenditures for rent, utilities, computer expenses and wiring, allocated to Iowa by the Audit Report, are national headquarters overhead and thus, not allocable to Iowa. The Committee argues that these expenditures were general overhead expenses "which would have been incurred regardless of whether the telemarketing program ever called Iowa resident." Counsel for the Committee stated that the telephones and computers used in the program were also used for other national headquarters functions. Further, during Counsel's oral presentation, he contended that the telemarketing program was planned as a nationwide campaign operating out of headquarters and that the only reason it appeared to be targeted to one or two states was because the campaign ended early.

D. Discussion

As set out above, the Committee's argument are based upon that assumption that the telemarketing program was essentially fundraising in nature. However, the evidence does not support this assumption. Of the six scripts used in the telemarketing program, only one contained an overt fundraising message. (Attachment 2). The Committee relies on the premise that a voter contact program with several discrete elements, which may eventually lead to an explicit fundraising appeal, should be

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considered entirely fundraising in nature. The Committee contends that the telephone calls without any apparent fundraising message had the fundraising purpose of educating potential contributors for subsequent fundraising appeals; however, the absence of a fundraising appeal in the calls makes them indistinguishable from campaign devices intended to educate voters and garner voting support. The Committee's contention that the prompt follow-up letter rendered the initial telephone call fundraising is equally flawed.

Proximity in time is insufficient to establish a connection. Moreover, in an exempt direct mail program, each mailing contains a fundraising message and each contact with the public consists of one mailing with a fundraising message. The telemarketing program consisted of several contacts with voters, but only some of these contacts contained a fundraising message. The limited fundraising exemption was not intended to cover expenditures with no apparent fundraising message.

Further, the Committee's attempt to analogize the program to the creation of a list of potential contributors for a direct mail operation is unpersuasive. The Committee purchased vendor lists for Iowa, and based the program on a list of 60,000 likely contributors. These facts contradict the contention that the program was used to create a list of potential contributors.

The Committee's reliance on AO 1988-6 is misplaced. That opinion applied to a specific factual situation which is

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distinguishable from the facts at issue here. In the opinion, both the political issue and solicitation request were contained in one cohesive advertisement, so that the fundraising message was clearly related to the entire advertisement. In contrast, the Committee asserts that the telephone calls and mailings which did not contain any fundraising message should be exempt. The Commission's decision in AO 1988-6, however, would not permit a candidate to exempt as fundraising expenses a fundraising program which includes several separate messages and contacts with potential voters which do not contain an explicit fundraising message.

The Committee's contention that the program costs are exempt national headquarters overhead is also not persuasive. The exemption for overhead operating expenses of a national campaign headquarters does not exempt the operating expenses of a specific program focused on a particular state simply because it was conducted from the national office. The regulations exempt operating expenditures of the national campaign headquarters from allocation to any state. 11 C.F.R. § 106.2(c)(1)(i). Generally, however, state allocations are based on upon whether an expenditure is intended to influence the nomination of a candidate in a particular state. Thus, the exemption for general overhead expenses should not be applied to costs directed toward the Iowa election, as distinguished from the general costs of running the national headquarters.

The Committee has also contended that the program was a

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national operation cut short by the failure of the campaign and that people in Iowa were solicited continually until after the date of the New Hampshire primary on February 16, 1988. There is, however, no documentation of the nationwide nature of the program, nor is there evidence of telephone calls or mail to Iowa after the Iowa caucus on February 8, 1988. In a successful campaign, any program which had proven useful in the early states could be expanded to other states. Nevertheless, since the program was in actuality limited to Iowa, the program costs should be allocated to Iowa.

Based on the facts presented, Pete du Pont for President, Inc. made \$85,842.20 in expenditures in excess of the Iowa state expenditure limitation. Therefore, this Office recommends that the Commission find reason to believe that Pete du Pont for President, Inc. and Frank A. Ursomarso, as treasurer, violation 26 U.S.C. § 9035(a) and 2 U.S.C. § 441a(b)(1)(A).

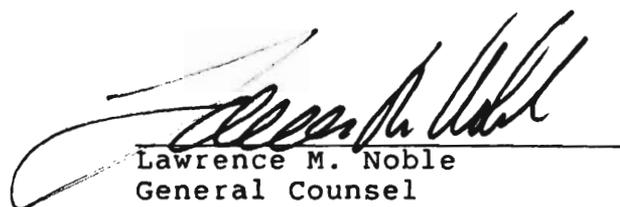
III. RECOMMENDATIONS

1. Find reason to believe that Pete du Pont for President, Inc. and Frank A. Ursomarso, as treasurer, violated 26 U.S.C. § 9035(a) and 2 U.S.C. § 441a(b)(1)(A).
2. Approve the attached Factual and Legal Analysis and letter.

Date

5/9/90

Lawrence M. Noble
General Counsel



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Attachments

1. Audit Referral
2. Copies of 6 scripts
3. Factual and Legal Analysis
4. Letter

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FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS /DELORES HARRIS *DH*
COMMISSION SECRETARY

DATE: MAY 14, 1990

SUBJECT: MUR 3002 - FIRST GENERAL COUNSEL'S REPORT
DATED MAY 9, 1990.

The above-captioned document was circulated to the Commission on Thursday, May 10, 1990 at 11:00 a.m.

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

Commissioner Aikens	<u>XXXX</u>
Commissioner Elliott	<u> </u>
Commissioner Josefiak	<u> </u>
Commissioner McDonald	<u> </u>
Commissioner McGarry	<u> </u>
Commissioner Thomas	<u> </u>

This matter will be placed on the meeting agenda for Tuesday, May 22, 1990.

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

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FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

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TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/DELORES HARRIS *DH*
COMMISSION SECRETARY

DATE: MAY 14, 1990

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Commissioner Thomas	<u> </u>

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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 3002
Pete du Pont for President, Inc. and)
Frank A. Ursomarso, as treasurer)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on May 22, 1990, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in MUR 3002:

1. Find reason to believe that Pete du Pont for President, Inc. and Frank A. Ursomarso, as treasurer, violated 26 U.S.C. § 9035(a) and 2 U.S.C. § 441a(b)(1)(A).
2. Approve the Factual and Legal Analysis and letter attached to the General Counsel's report dated May 9, 1990.

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

Attest:

5-23-90
Date

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

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

May 25, 1990

Frank A. Ursomarso, Treasurer
Pete du Pont for President
270 Presidential Drive
Greenville, DE 19807

RE: MUR 3002
Pete du Pont for President
and Frank A. Ursomarso, as
treasurer

Dear Mr. Ursomarso:

On May 22, 1990, the Federal Election Commission found that there is reason to believe Pete du Pont for President ("Committee") and you, as treasurer, violated 2 U.S.C. § 441a(b)(1)(A) and 26 U.S.C. § 9035(a), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act") and Chapter 96 of Title 26, U.S. Code. 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 within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

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

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

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Page 2
Mr. Ursomarso

pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

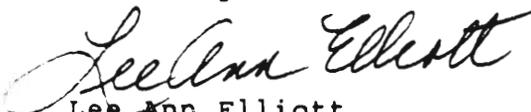
Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Mary Ann Bumgarner, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,


Lee Ann Elliott
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Pete du Pont for President
and Frank A. Ursomarso, as
treasurer

MUR: 3002

I. FACTUAL AND LEGAL ANALYSIS

A. Background

During fieldwork, the Audit staff identified a Committee project involving a telemarketing and mail program ("the Program"). The Program operated out of the Committee's headquarters in Wilmington, Delaware primarily from June, 1987 through February, 1988. The Audit staff reviewed the Committee's expenditure files for the vendors that could be identified as part of that Program and calculated apparent Program costs totaling \$745,439.24. The Committee allocated \$117,606.04 in Program costs to Iowa. The Audit Division reviewed the scripts used in the Program and the long distance telephone bills, and concluded that Iowa was a primary focus of the telemarketing program and that additional amounts should be allocated to the Committee's Iowa expenditure limit.

In the Interim Audit Report, which was approved by the Commission on August 30, 1988, the Commission allocated \$375,549.15 of the Program's costs to Iowa, resulting in expenditures in excess of the Iowa state limitation totaling \$98,736.31. The report recommended that the Committee either

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provide evidence that it had not exceeded the limitation or adjust its records and reports to reflect the correct amount allocable to Iowa. It also requested that the Committee provide a listing of all vendors related to the telemarketing program and an itemization of all expenditures incurred with respect to each vendor. The Interim Report contained a preliminary repayment calculation in the amount of \$29,942.71, based on the amount spent in excess of the Iowa state expenditure limitation.

The Committee responded to the Interim Report on November 4, 1988. The Committee's principal argument was that the Program was essentially fundraising in nature. Therefore, the Committee asserted that no additional amounts were allocable to the Iowa state expenditure limit because they constituted exempt fundraising expenses pursuant to 2 U.S.C. § 431(9)(B)(vi) and 11 C.F.R. § 100.8(b)(21). To support this contention, the Committee submitted an affidavit from the deputy campaign manager which stated that fundraising was a prime objective of the Program. In the alternative, the Committee argued that Advisory Opinion ("AO") 1988-6 applies to the telemarketing program, and that half of the expenses for the program were fundraising costs exempt from allocation pursuant to that opinion. Moreover, the Committee argued that expenditures for rent, computer expenses, and wiring allocated to Iowa by the Audit staff were general overhead expenses of

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the national headquarters which are not allocable to Iowa. The Committee also contended that the Audit staff understated payroll expenses, and miscalculated telephone toll charges to Iowa, because certain telephone calls were not related to the telemarketing program.

The Commission approved the Final Audit Report on the Committee on March 9, 1989. The report recommended that the Committee provide documentation of all associated costs related to the telemarketing program; adjust its records to reflect the expenditures allocated to Iowa; and where necessary, file amended reports to reflect the correct amount allocable to Iowa. The report rejected the Committee's contentions that the Program was essentially a fundraising appeal or, in the alternative, that the 50% exemption for fundraising in AO 1988-6 should be applied to the costs allocated to the Iowa expenditure limit by the Audit Division. The report also rejected the Committee's contention that certain expenditures were exempt as national campaign headquarters overhead. However, the Audit staff accepted the Committee's contention that not all calls to Iowa were related to the Program, and accordingly, reduced the telephone and wiring allocations. This reduction was determined based on credits on telephone bills which had not previously been included in the allocation, and the application of a business use percentage for presumed non-telemarketing calls. The report concluded that

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Therefore, the Committee contends that the telemarketing program costs related to the four scripts are related to fundraising activities and should be exempt from allocation.

Counsel for the Committee elaborated upon this argument during the oral presentation. Counsel stated that there was a "very prompt" follow-up fundraising letter after each phone call and names obtained through the phone calls often received several fundraising solicitations. Counsel argued that the telemarketing program was designed to create a list of potential contributors or rather, as counsel stated, the Program "created our own vendor list." Thus, he argued, "[i]f the purchase of a vendor list for a direct mail is a cost associated with fund-raising... a targeted telephone call to elicit exactly the same thing, which is a list of people who would be most likely to contribute to the campaign, is also a cost related to fundraising."

2. The Committee also believes that Advisory Opinion 1988-6 applies to this situation. In that opinion, a three-second fundraising statement in a sixty-second political advertisement supported the exemption of 50% of the commercial's cost as fundraising expenses. The Committee argues that in the present situation "far more than one-tenth"

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of the program costs had a "clear fundraising purpose." Thus, it argues, "even accepting arguendo the Audit Report's conclusion" that program expenditures relate to Iowa, half of the costs are exempt fundraising. The Committee argues that this instance "is not materially distinguishable from AO 1988-6 and the principle established there may not be ignored." Therefore, the Committee concludes that "under either method" it has not exceeded the Iowa limit, and no repayment is required.

3. The Committee contends that certain program expenditures for rent, utilities, computer expenses and wiring, allocated to Iowa by the Audit Report, are national headquarters overhead and thus, not allocable to Iowa. The Committee argues that these expenditures were general overhead expenses "which would have been incurred regardless of whether the telemarketing program ever called Iowa residents." Counsel for the Committee stated that the telephones and computers used in the program were also used for other national headquarters functions. Further, during Counsel's oral presentation, he contended that the telemarketing program was planned as a nationwide campaign operating out of headquarters and that the only reason it appeared to be targeted to one or two states was because the campaign ended early.

D. Discussion

As set out above, the Committee's arguments are based upon

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the assumption that the telemarketing program was essentially fundraising in nature. However, the evidence does not support this assumption. Of the six scripts used in the telemarketing program, only one contained an overt fundraising message. The Committee relies on the premise that a voter contact program with several discrete elements, which may eventually lead to an explicit fundraising appeal, should be considered entirely fundraising in nature. The Committee contends that the telephone calls without any apparent fundraising message had the fundraising purpose of educating potential contributors for subsequent fundraising appeals; however, the absence of a fundraising appeal in the calls makes them indistinguishable from campaign devices intended to educate voters and garner voting support. The Committee's contention that the prompt follow-up letter rendered the initial telephone call fundraising is equally flawed. Proximity in time is insufficient to establish a connection. Moreover, in an exempt direct mail program, each mailing contains a fundraising message and each contact with the public consists of one mailing with a fundraising message. The telemarketing program consisted of several contacts with voters, but only some of these contacts contained a fundraising message. The limited fundraising exemption was not intended to cover expenditures with no apparent fundraising message.

Further, the Committee's attempt to analogize the program

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to the creation of a list of potential contributors for a direct mail operation is unpersuasive. The Committee purchased vendor lists for Iowa, and based the program on a list of 60,000 likely contributors. These facts contradict the contention that the program was used to create a list of potential contributors.

The Committee's reliance on AO 1988-6 is misplaced. That opinion applied to a specific factual situation which is distinguishable from the facts at issue here. In the opinion, both the political issue and solicitation request were contained in one cohesive advertisement, so that the fundraising message was clearly related to the entire advertisement. In contrast, the Committee asserts that the telephone calls and mailings which did not contain any fundraising message should be exempt. The Commission's decision in AO 1988-6, however, would not permit a candidate to exempt as fundraising expenses a fundraising program which includes several separate messages and contacts with potential voters which do not contain an explicit fundraising message.

The Committee's contention that the program costs are exempt national headquarters overhead is also not persuasive. The exemption for overhead operating expenses of a national campaign headquarters does not exempt the operating expenses of a specific program focused on a particular state simply because it was conducted from the national office. The regulations

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exempt operating expenditures of the national campaign headquarters from allocation to any state. 11 C.F.R. § 106.2(c)(1)(i). Generally, however, state allocations are based on upon whether an expenditure is intended to influence the nomination of a candidate in a particular state. Thus, the exemption for general overhead expenses should not be applied to costs directed toward the Iowa election, as distinguished from the general costs of running the national headquarters.

The Committee has also contended that the program was a national operation cut short by the failure of the campaign and that people in Iowa were solicited continually until after the date of the New Hampshire primary on February 16, 1988. There is however, no documentation of the nationwide nature of the program, nor is there evidence of telephone calls or mail to Iowa after the Iowa caucus on February 8, 1988. In a successful campaign, any program which had proven useful in the early states could be expanded to other states. Nevertheless, since the program was in actuality limited to Iowa, the program costs should be allocated to Iowa.

Based on the facts presented, Pete du Pont for President, Inc. made \$85,842.20 in expenditures in excess of the Iowa state expenditure limitation. Therefore, there is reason to believe that Pete du Pont for President, Inc. and Frank A. Ursomarso, as treasurer, violated 26 U.S.C. § 9035(a) and 2 U.S.C. § 441a(b)(1)(A).

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OGC 6421

RICHARDS, LAYTON & FINGER

ONE RODNEY SQUARE
P.O. Box 551

WILMINGTON, DELAWARE 19899

TELEPHONE (302) 658-6541

TELECOPIER (302) 658-6548

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CHARLES F. RICHARDS, JR.
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ROBT. H. RICHARDS, III
R. FRANKLIN BALOTTI
MARTIN I. LUBAROFF
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WENDELL FENTON
ALLEN M. TERRELL, JR.
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JULIAN H. BAUMANN, JR.
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KEVIN G. ABRAMS
C. STEPHEN BIGLER
JOSEPH J. BODNAR
WILLIAM P. BOWDEN
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EMILY B. HORTON
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ROBERT J. KRAPP
ROBERT J. KRINER
JAMES G. LEYDEN, JR.
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WILLIAM F. MORGAN
MARK A. MORTON
NINA A. PALA
DAVID A. PEARL
NATHAN B. PLOENER
THEODOSIA PRICE*
LINDA J. SCHUTJER
W. DONALD SPARKS, II
JAMES C. STRUM
ROBERT L. SYMONDS, JR.
GREGORY V. VARALLO
ROBERT W. WHETZEL
HELEN L. WINSLOW
DAVID L. ZICHERMAN
PRESTON F. ZOLLER

(302) 651-7726

May 31, 1990

*ADMITTED PA ONLY

Lee Ann Elliott, Chairman
Federal Election Commission
Washington, DC 20463

Re: MUR 3002

Dear Mrs. Elliott:

This is in response to your May 25, 1990 letter
Mr. Ursomarso in the above-stated matter.

Would you please be good enough to enter me as the
counsel of record in this matter. Furthermore, we are
interested in pursuing pre-probable cause concilation and by
this letter to do request.

Very truly yours,


Glenn C. Kenton

GCK/jbo

cc: Frank A. Ursomarso
Pierre S. du Pont

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF CLERK OF COMMISSION
JUN 4 1990 4:33 PM

RECEIVED
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SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Pete du Pont for President,) MUR 3002
Inc. and Frank A. Ursomarso,)
as treasurer)

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On May 22, 1990, the Federal Election Commission found reason to believe that Pete du Pont for President, Inc. ("the Committee") and Frank A. Ursomarso, as treasurer, violated 2 U.S.C. § 441a(b)(1)(A) and 26 U.S.C. § 9035(a) by making \$85,842.20 in expenditures in excess of the Iowa state expenditure limitation. By letter dated May 31, 1990, counsel on behalf of the Committee requested pre-probable cause conciliation. (Attachment I).

II. ANALYSIS

The Federal Election Campaign Act of 1971, as amended ("the Act"), establishes national and state expenditure limitations for candidates who receive public financing while seeking nomination for the office of President. 2 U.S.C. § 441a(b)(1)(A).

Commission Regulations contain rules governing the allocation to particular states of expenditures by publicly-financed primary candidates. 11 C.F.R. § 106.2.

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Generally, expenditures incurred by a candidate's authorized committee for the purpose of influencing the nomination of that candidate with respect to a particular state must be allocated to that state on a reasonable basis. 11 C.F.R. § 106.2(a)(1).

The Act and the Commission Regulations exclude from the definition of expenditure any fundraising costs to the extent that the aggregate of such costs does not exceed 20% of the expenditure limitation applicable to the candidate. 2 U.S.C. § 431(9)(B)(vi); 11 C.F.R. § 100.8(b)(21). Such expenditures are not allocable to any state. However, 11 C.F.R. § 110.8(c)(2) provides that expenditures for fundraising activities targeted at a particular state, and occurring within 28 days before that state's primary election are presumed to be allocable to the expenditure limitation for that state, the fundraising exemption of Section 100.8(b)(21) notwithstanding.

During fieldwork, the Audit staff identified a Committee project involving a telemarketing and mail program ("the Program"). The Program operated out of the Committee's headquarters in Wilmington, Delaware primarily from June, 1987 through February, 1988. Costs for the Program totaling \$362,655.04 should have been allocated to the Committee's Iowa state expenditure limit. The Committee allocated \$117,606.04 of these Program costs to Iowa, thereby resulting in \$245,049.00 in additional Program costs requiring allocation.

After adding other expenditures totaling \$616,010.80 to

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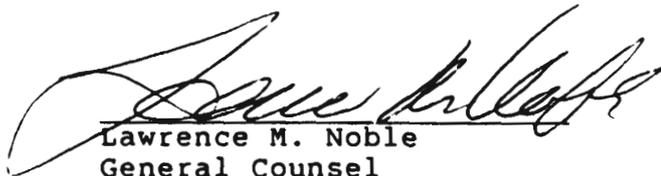
the amount of additional Program costs allocable to Iowa, it was determined that the Committee made a total of \$861,059.80 in expenditures allocable to Iowa. The 1988 expenditure limitation for Iowa, pursuant to 2 U.S.C. § 441a(b)(a)(A), was \$775,217.60. Therefore, the Committee violated 2 U.S.C. § 441a(b)(1)(A) and 26 U.S.C. § 9035 by making expenditures in excess of the Iowa state expenditure limitation in the amount of \$85,842.20.

III. DISCUSSION OF CONCILIATION PROVISIONS AND CIVIL PENALTY

IV. RECOMMENDATIONS

1. Enter into conciliation with Pete du Pont for President, Inc. and Frank A. Ursomarso, as treasurer, prior to a finding of probable cause to believe.
2. Approve the attached proposed conciliation agreement and appropriate letter.

Date 6/28/90


Lawrence M. Noble
General Counsel

Staff Person: Mary Ann Bumgarner

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Attachments

1. Request for conciliation dated May 31, 1990.
2. Proposed conciliation agreement.

Staff Person: Mary Ann Bumgarner

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Pete du Pont for President,) MUR 3002
Inc. and Frank A. Ursomarso,)
as treasurer)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on July 3, 1990, the Commission decided by a vote of 5-1 to take the following actions in MUR 3002:

1. Enter into conciliation with Pete du Pont for President, Inc. and Frank A. Ursomarso, as treasurer, prior to a finding of probable cause to believe.
2. Approve the proposed conciliation agreement and appropriate letter, as recommended in the General Counsel's Report dated June 28, 1990.

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

Attest:

7-3-90
Date

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

Received in the Secretariat:	Thurs., June 28, 1990	3:55 p.m.
Circulated to the Commission:	Fri., June 29, 1990	12:00 p.m.
Deadline for vote:	Tues., July 3, 1990	4:00 p.m.

dr/s

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

July 11, 1990

Glenn C. Kenton, Esquire
Richards, Layton & Finger
One Rodney Square
P.O. Box 551
Wilmington, Delaware 19899

RE: MUR 3002
Pete du Pont for President,
Inc. and Frank A.
Ursomarso, as treasurer

Dear Mr. Kenton:

On May 22, 1990, the Federal Election Commission found reason to believe that Pete du Pont for President, Inc. and Frank A. Ursomarso, as treasurer, violated 2 U.S.C. § 441a(b)(1)(A) and 26 U.S.C. § 9035(a). At your request, on July 3, 1990, the Commission determined to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe.

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

If you have any questions or suggestions for changes in the agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact Mary Ann Bumgarner, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: 
Lois G. Lerner
Associate General Counsel

Enclosure
Conciliation Agreement

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91 MAR -0 PM 4:20

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Pete du Pont for President)
and Frank A. Ursomarso, as)
treasurer)

MUR 3002

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

Attached is a conciliation agreement which has been signed by Glenn C. Kenton, counsel for Pete du Pont for President (the "Committee") and Frank A. Ursomarso, as treasurer.

II. RECOMMENDATIONS

1. Accept the attached conciliation agreement with Pete du Pont for President and Frank A. Ursomarso, as treasurer.
2. Close the file.

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3. Approve the appropriate letter.

Date 3/8/91

Lawrence M. Noble
General Counsel

Attachment

1. Conciliation Agreement

Staff Assigned: Mary Ann Bumgarner

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Pete du Pont for President) MUR 3002
and Frank A. Ursomarso, as)
treasurer.)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on March 13, 1991, the Commission decided by a vote of 6-0 to take the following actions in MUR 3002:

1. Accept the conciliation agreement with Pete du Pont for President and Frank A. Ursomarso, as treasurer, as recommended in the General Counsel's Report dated March 8, 1991.
2. Close the file.
3. Approve the appropriate letter, as recommended in the General Counsel's Report dated March 8, 1991.

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

Attest:

3-13-91
Date

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

Received in the Secretariat: Fri., Mar. 8, 1991 4:33 p.m.
Circulated to the Commission: Mon., Mar. 11, 1991 11:00 a.m.
Deadline for vote: Wed., Mar. 13, 1991 11:00 a.m.

dr

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 20, 1991

CLOSED

Glenn C. Kenton, Esquire
Richards, Layton & Finger
One Rodney Square
P.O. Box 551
Wilmington, Delaware 19899

RE: MUR 3002
Pete du Pont for President
and Frank A. Ursomarso, as
treasurer

Dear Mr. Kenton:

On March 13, 1991, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on your clients' behalf in settlement of violations of 2 U.S.C. § 441a(b) and 26 U.S.C. 9035(a), provisions of the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, U.S. Code. 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 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.

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact Mary Ann Bumgarner, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble (LMN)
Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Pete du Pont for President, Inc.) MUR 3002
and Frank A. Ursomarso, as)
treasurer)

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission") pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that Pete du Pont for President, Inc. and Frank A. Ursomarso, as treasurer, ("Respondents") violated 2 U.S.C. § 441a(b)(1)(A) and 26 U.S.C. § 9035(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.

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

1. Pete du Pont for President, Inc. is a political committee within the meaning of 2 U.S.C. § 431(4).
2. Frank A. Ursomarso is the treasurer of Pete du Pont for President.
3. 2 U.S.C. § 441a(b)(1)(A) establishes national and state expenditure limitations for candidates who receive public financing while seeking nomination for the office of President.
4. 26 U.S.C. § 9035(a) prohibits presidential candidates who accept public funds pursuant to 26 U.S.C. § 9034 from knowingly incurring qualified campaign expenses in excess of the expenditure limitations established by 2 U.S.C. § 441a(b)(1)(A).
5. Expenditures incurred by a candidate's authorized committee for the purpose of influencing the nomination of that candidate with respect to a particular state must be allocated to that state on a reasonable basis. 11 C.F.R. § 106.2(a)(1).
6. Excluded from the definition of expenditure are any fundraising costs to the extent that the aggregate of such costs does not exceed 20% of the expenditure limitation applicable to the candidate. 2 U.S.C. § 431(9)(B)(vi) and 11 C.F.R. § 100.8(b)(21). Pursuant to 11 C.F.R. § 110.8(c)(2), expenditures for fundraising activities targeted at a particular state, and occurring within 28 days before that state's primary election, are presumed to be allocable to the

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expenditure limitation for that state, the fundraising exemption of Section 100.8(b)(21) notwithstanding.

7. Respondents operated a telemarketing and mail program (the "Program") for which \$362,655.04 in costs should have been allocated to Respondent's Iowa state expenditure limitation. The Committee allocated \$117,606.04 of these expenditures to Iowa.

8. Respondents made a total of \$861,059.80 in expenditures allocable to Iowa.

9. The 1988 expenditure limitation for Iowa, pursuant to 2 U.S.C. § 441a(b)(1)(A), was \$775,217.60.

10. Respondents exceeded the Iowa state expenditure limitation by \$85,842.20.

V. Respondents violated 2 U.S.C. § 441a(b)(1)(A) and 26 U.S.C. § 9035 by making expenditures in excess of the Iowa state expenditure limitation in the amount of \$85,842.20.

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of Two Thousand Five Hundred (\$2,500.00) Dollars 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

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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.

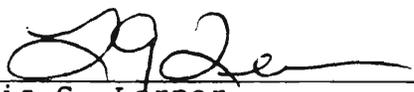
IX. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

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 agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

BY:

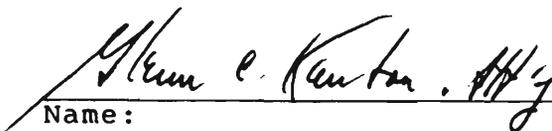

Lois G. Lerner
Associate General Counsel

Date

3-20-91

FOR THE RESPONDENTS:

Name:
Position:



Date

2/27/91

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3002

DATE FILMED 3/29/91 CAMERA NO. 4

CAMERAMAN AS

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THE FOLLOWING DOCUMENTATION IS ADDED TO
THE PUBLIC RECORD IN CLOSED MUR 3002.

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RICHARDS, LAYTON & FINGER

ONE RODNEY SQUARE

P.O. Box 551

WILMINGTON, DELAWARE 19899

TELEPHONE (302) 658-6541

TELECOPIER (302) 658-6548

WRITER'S DIRECT DIAL NUMBER

(302) 651-7726

April 4, 1991

LOUIS J. FINGER
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E. NORMAN VEASEY
MAX S. BELL, JR.
RICHARD J. ABRAMS
CHARLES F. RICHARDS, JR.
THOMAS P. SWEENEY
PIERRE S. DUPONT, III
ROBT. H. RICHARDS, III
R. FRANKLIN BALOTTI
MARTIN I. LUBAROFF
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KEVIN G. ABRAMS
C. STEPHEN BIGLER
SYBIL M. L. BURGE
NICHOLAS J. CASANO
J. MICHAEL CHRISTOPHER
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ROBERT J. STARR, JR.
ROBERT W. WHITZEL
HELEN L. WINSLOW
WILLIAM A. YENC
DAVID L. ZICHERMAN
PRESTON F. ZOLLER

CLOSED

Lawrence M. Noble
General Counsel
Federal Election Commission
Washington, DC 20463

Re: MUR 3002 Pete du Pont for President, Inc.
and Frank Ursomarso, as Treasurer

Dear Mr. Noble:

Pursuant to the Conciliation Agreement dated as of March 20, 1991 in the above matter, enclosed please find a check in the amount of \$2,500 as a civil penalty pursuant to Paragraph VI of the aforesaid Conciliation Agreement.

We trust this finalizes all outstanding matters with respect to Pete du Pont for President, Inc. If this is not so, please advise us promptly.

Very truly yours,

Glenn C. Kenton
Glenn C. Kenton

GCK/gyw
Enclosure

RECEIVED
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OFFICE OF GENERAL COUNSEL
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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 9, 1991

TWO WAY MEMORANDUM

TO: Fabrae Brunson
OGC, Docket

FROM: Philomena Brooks ^{RB}
Accounting Technician

SUBJECT: Account Determination for Funds Received

We recently received a check from Elise R. Dupont, check number 9979, dated April 6, 1991, and in the amount of \$ 2,500.00. 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: Philomena Brooks
Accounting Technician

FROM: Fabrae Brunson ^{JOB}
OGC, Docket

In reference to the above check in the amount of \$ 2,500, the MUR number is 3002 and in the name of Dite du Port for President. 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

April 10, 1991
Date

91040842814

ELISE R. DUPONT
PIERRE S. DUPONT, IV
HOUSEHOLD ACCOUNT

WILMINGTON TRUST COMPANY
WILMINGTON, DELAWARE
62-9/311 1

3979

4/1/91

PAY TO THE ORDER OF Federal Election Commission

\$ ***2,500.00

Two Thousand Five Hundred and 00/100***** DOLLARS

91040842815