FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 3023

DATE FILMED 1/16/91 CAMERA NO. 2

CAMERAMAN AS

21040314923

EISENDRATH for Congress

1708 N. Sedgwick
Chicago, IL 60614

RECEIVED FEDERAL ELECTION COMMISSION MAIL ROOM
90 JAN 25 AM 11:00

January 22, 1990

MUR 3023

BY CERTIFIED MAIL

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

RECEIVED FEDERAL ELECTION COMMISSION OFFICE OF GENERAL COUNSEL
90 JAN 25 AM 11:49

Re: Complaint Against U.S. Rep. Sidney R. Yates and Supporting Committees

Dear Sir or Madam:

I reside at the above address and am a candidate for the Democratic nomination to represent the 9th Congressional District of Illinois. Based on the advice of legal counsel, I hereby file a complaint against the campaign practices of my opponent, U.S. Representative Sidney R. Yates. As the attached documents demonstrate, Mr. Yates's fundraising practices have violated the Federal Election Campaign Act, as amended (the "Act"). Mr. Yates and his supporters have violated the Act in at least three fundamental respects: (1) by failing to register with the Commission a political committee that is raising funds for Mr. Yates; (2) by failing to disclose properly who is soliciting funds on the Congressman's behalf; and (3) by encouraging illegal contributions from (not-for-profit) corporations.

The attached documents provide ample evidence of violations of the Act:

(A) Letter dated December 21, 1989 on the letterhead of Mr. Edward H. Able, Jr. and an enclosed contribution card captioned "MUSEUMS FOR YATES."

(B) Chicago Tribune article dated January 11, 1990, with the headline "Yates asked Art Institute for money, opponent says."

(C) Chicago Tribune article dated January 12, 1990, with the headline "Eisendrath to file complaint against Yates fundraising letter."

The Yates campaign has committed a serious violation of the Act by failing to register "Museums for Yates" with the Commission. Section 433(a) of the Act requires that every "political committee" register with the Commission within 10 days of its establishment. There can be little doubt that "Museums

P.O. Box 6717 2033 N. Clybourn Chicago, Illinois 60614 312 • 883 • 1661

PAID FOR BY THE EDWIN EISENDRATH CAMPAIGN COMMITTEE

for Yates" falls within the definition of "political committee" under Section 431(4) of the Act: "any committee, club, association, or other group of persons which receives contributions aggregating in excess of $1,000 during a calendar year or which makes expenditures aggregating in excess of $1,000 during any calendar year." Since the date of the "Museums for Yates" mailing was made on December 21, 1989, a filing was required with the Commission by December 31, 1989 -- at the latest. According to our inquiry last week to the Commission's Public Records Office, no such filing has been made relating to "Museums for Yates."

The solicitation on Mr. Able's letterhead for contributions to Mr. Yates also violates Section 441d of the Act by failing to "clearly state" who paid for it. A disclaimer that appears at the bottom of the contribution card states "Paid for by the Yates for Congress Committee." However, according to the January 11th Tribune article, Mr. Able said that he paid for mailing the solicitation himself. But there is no statement anywhere in the letter or on the contribution card making the legally required disclosure that Mr. Able paid for the "communication." Further, the use of the logo "MUSEUMS FOR YATES" on Mr. Able's contribution cards fosters the impression that a group called "Museums for Yates" may have paid for the mailing. The solicitation is thus inaccurate, if not misleading. The "Paid for by the Yates Committee" disclaimer diverts attention from whether Mr. Able complied with other provisions of the Act. In fact, since it appears that the entire mailing was not paid for by the Yates for Congress Committee, the fundraising activities of Mr. Able may have violated the Act's prohibition against accepting contributions from corporations.

Under Section 441b of the Act, contributions may not be made by corporations and may not be accepted by campaign committees. The Act defines "contributions" to include not just money but "any services, or anything of value." Since this definition includes such things as mailing lists, secretarial services, photocopying and postage, the Commission should investigate whether contributions in such form were made to the Yates for Congress Committee by the American Association of Museums, of which Mr. Able is executive director. There is ample ground for concern that such an illegal contribution was made by the American Association of Museums given that fact that, according to the January 12th Tribune article, the Able solicitation was sent to "300 museum officials." A further basis for this concern is that the solicitations were made, as the January 11th Tribune article put it, from "not-for profit museums . . . that rely on Yates for federal funding." In any event, it would appear likely that Mr. Able made an illegal contribution through his corporate employer because he explicitly encouraged such activity in his letter. The "p.s." of his letter encourages the recipients to distribute contribution cards "to members of your board and staff

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corporations, if the museums followed Mr. Able's suggestion, they would violate Section 441b of the Act by making contributions in the form of employees' services. At least one such violation is already a matter of public record. According to the Tribune articles, the Able solicitation letter was distributed to the trustees of the Art Institute of Chicago at a meeting on January 8, 1990.

Mr. Yates's attempt to exploit our nation's museums in his campaign is in itself a violation of the Act. As a challenger to Congressman Yates, I am concerned that his failure to comply with the Act further tilts the playing field in favor of the incumbent. But I am equally concerned that Mr. Yates and his supporters have done a disservice to the cause they claim to promote. The political activity that the Yates campaign has encouraged the museums to undertake would jeopardize the critical tax-exempt status of not-for-profit institutions.

As outlined above, the Yates campaign has committed several violations of the Act. I urge the Commission to commence an investigation not just of Mr. Able's fundraising efforts but of all communications by special interest groups and their affiliates and associates which are authorized by Mr. Yates or the Yates for Congress Committee. The voters of Illinois' Ninth District have a right to know who is raising funds for the incumbent Congressman. The need for accurate disclosure, in compliance with the Act, is particularly acute in light of the incumbent's attempt to solicit funds for his re-election from special interest groups that rely on him for federal funding.

Sincerely yours,

Edwin Eisendrath

Edwin W. Eisendrath III

Attachments

Subscribed and sworn before me this 22nd day of January, 1990 by Edwin W. Eisendrath, III.

Kristine Kula

KRISTINE KULA, Notary Public

My Commission Expires July 18, 1992

2 1 0 4 0 3 1 4 2 9 6

Edward H. Able, Jr.
3025 Arizona Avenue, N.W.
Washington, D.C. 20016

December 21, 1989

Dear Colleague:

Museums' great champion in the House of Representatives needs your help. Congressman Sidney Yates is being challenged in a primary this spring by a young, very well-financed Chicago alderman who has announced he is prepared to spend $1 million to defeat Rep. Yates. In his twenty terms in Congress, Sid Yates has never faced such a formidable obstacle to re-election.

As Chairman of the House Appropriations Subcommittee on the Interior and Related Agencies which has jurisdiction over the budgets of the Arts and Humanities Endowments and the Institute of Museum Services, Sid Yates has for years been in the vanguard of congressional support for federal funding of cultural activities.

At times of crisis, such as the early Reagan administration's attempts to halve the Endowments' funds and totally eliminate IMS, it has been Rep. Yates's leadership that has made the difference. Without Sid Yates, last summer's efforts by Senator Helms and Co. to gut the NEA and NEH might well have succeeded.

Perhaps the best way to put it is this: imagine what might happen to funding for museums in a Congress without Sid Yates.

And that possibility is very real - unless enough dollars can be raised for the Yates campaign to beat back the primary challenge. All around the country the call has gone out to the cultural community to back Sid Yates in his battle, as he has backed us in ours, so many times. I think museum professionals and trustees can - and should - play a major role in this effort.

Please join me in making a generous contribution to the Yates campaign today, by filling out the enclosed MUSEUMS FOR YATES card, and sending it in the enclosed envelope with your check. The election is in March 1990, but funds are urgently needed <u>now</u> in order to purchase media and counter his opponent's aggressive and expensive efforts.

Sidney Yates has always been there for us; now is the time for us to be there for him. Thank you.

With best regards,

Ed Able

p.s. I have enclosed extra MUSEUMS FOR YATES cards. Please distribute them to members of your board and staff so they may help as well. If you need more, please give me a call at 202-362-1109.

9 1 5 4 0 3 1 4 9 9 7

MUSEUMS FOR YATES

☐ I will be happy to support Sid Yates. Enclosed is my contribution of $_____.

Federal Law requires the following information:

Name _____

Address _____

City _____ Zip _____ Phone _____

Employer _____ Occupation _____

Phone _____

Please make checks payable to: YATES FOR CONGRESS
P.O. Box 906
Chicago, IL 60690

Federal Law prohibits accepting corporate checks. Paid for by the Yates For Congress Committee.

9104031149998

Yates asked Art Institute for money, opponent says

By R. Bruce Dold

Ald. Edwin Eisendrath sent ripples through the arts community Wednesday with the allegation that U.S. Rep. Sidney Yates is soliciting contributions from not-for-profit museums, including the Art Institute of Chicago, that rely on Yates for federal funding.

The 43rd Ward alderman said he obtained copies of a letter sent on behalf of Yates by Edward H. Able Jr., executive director of the American Association of Museums, and distributed Monday to the board of directors of the Art Institute.

The letter seeks funds to help Yates fend off Eisendrath's challenge in the March Democratic primary.

It sparked a brief controversy at the board meeting before it was quickly withdrawn and all references to the letter were removed from the minutes of the meeting. Eisendrath became aware of the letter because his stepfather, Lewis Manilow, is a member of the Art Institute's board.

Such a controversy over highbrow arts patrons aiding politicians might not have surfaced anywhere but in the 9th Congressional District, where the Democratic primary has been dubbed the battle of wine and brie.

It is also not the first political controversy to embroil the Art Institute. Last year, politicians picketed the museum after it allowed a student exhibition that included an American flag draped on the floor of the institute's school. In 1988 several aldermen stormed the school of the institute and removed an objectionable painting of Harold Washington.

The new controversy plays into Eisendrath's contention that Yates is part of a congressional "old boys network" that looks out for its own interests.

Yates is the chairman of the House Appropriations Subcommittee on the Interior, which handles federal appropriations for the arts, including the $320 million in annual appropriations for the National Endowment for the Arts and National Endowment for the Humanities. Last year, Yates led the fight against Sen. Jesse Helms' bid to bar the use of federal funds for "obscene or indecent" art projects.

Able's letter calls on "museum professionals and trustees" to contribute to the Yates campaign. "Perhaps the best way to put it is this: Imagine what might happen to funding for museums in a Congress without Sid Yates," the letter says.

"It's a typical incumbent's move to shake down the special interests," Eisendrath said in an interview. "It's disgraceful and a typical example of the scandal of incumbency in Washington. The Yates for Congress committee is jeopardizing the tax status of all the great museums."

Art Institute officials said that when the letter came up at the board meeting, trustee and attorney James Silliman declared the board should not engage in political activity and the matter was dropped immediately.

Able said he mailed the solicitation at his own expense to "key people in the museum community," although he acknowledged that it included an envelope for checks that was provided by the Yates campaign. The solicitation, he said, was done without connection to the American Association of Museums.

"There are individuals in the museum world who support Mr. Yates and what he has done for the humanities," Able said. "It is not tied directly to his role in support of us in Congress."

Members of Yates' campaign staff also defended contributions from the arts. "Most of the support Mr. Yates will receive is going to come from those who are interested in the quality of life he has championed," said spokeswoman June Rosner.

City/suburbs

Eisendrath to file complaint against Yates fundraising letter

By R. Bruce Dold

Ald. Edwin Eisendrath (43rd) said Thursday that he will file a complaint with the Federal Elections Commission alleging that a fundraising letter sent to museum officials around the country on behalf of U.S. Rep. Sidney Yates (D., Ill.) violates election law.

Eisendrath, who obtained a copy of the letter that was given to the board of directors of the Art Institute of Chicago, said that federal elections officials have indicated that it might violate federal prohibitions on campaign contributions by corporations.

But Robert Bauer, general counsel of the Democratic Congressional Campaign Committee, said he saw no violation in the letter, and Yates denied he was making any effort to use his office to garner contributions.

The letter was sent by Edward Able Jr., executive director of the American Association of Museums. It included a contribution envelope provided by the Yates campaign.

The complaint is likely to focus on whether employees of museums or the American Association of Museums helped distribute the letter, which could violate federal law that prohibits contributions, including services, by corporations in federal campaigns.

Eisendrath, who is challenging Yates in the March Democratic primary, also charged that the incumbent used his position as chairman of the House Appropriations Subcommittee on the Interior to seek donations from officials of not-for-profit museums that rely on the subcommittee for funds.

Yates, however, said that his subcommittee handles appropriations by the National Endowments for the Arts and Humanities but has no control over grants made by those agencies to museums.

"As far as trying to extract money, obviously he's totally wrong," Yates said. "Friends of mine throughout the country are trying to raise money. After all, Edwin has said he wll have a campaign fund of $1 million. If he does, I have to raise some money too."

Bauer, who consulted with the Yates campaign on the issue, said he was "at a loss" to find any violations in the solicitation.

Able said that he sent the letter to 300 museum officials, including James Wood, director of the Art Institute. Copies were distributed to trustees of the institute at a meeting on Monday.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 1, 1990

Edwin W. Eisendrath
Eisendrath for Congress
1708 N. Sedwick
Chicago, IL 60614

RE: MUR 3023

Dear Mr. Eisendrath:

This letter acknowledges receipt on January 25, 1990, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"),* by Rep. Sidney R. Yates. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 3023. Please refer to this number in all future correspondence. For your information, we have attached a brief description of the Commission's procedures for handling complaints. If you have any questions, please contact Retha Dixon, Docket Chief, at (202) 376-3110.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Procedures

9104081500 1

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 1, 1990

Sherman Rosenfield, Treasurer
Yates for Congress Committee
421 W. Melrose
Chicago, IL 60657

RE: MUR 3023

Dear Mr. Rosenfield:

The Federal Election Commission received a complaint which alleges that the Yates for Congress Committee and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3023. Please refer to this number in all future correspondence.

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

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you 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 Xavier McDonnell, the attorney assigned to this matter at (202) 376-5690.

2104031500 2

For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures

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

cc: Sidney R. Yates

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 1, 1990

James Wood, Director
Art Institute of Chicago
Michigan Avenue at Adams Street
Chicago, IL 60603

RE: MUR 3023

Dear Mr. Wood:

The Federal Election Commission received a complaint which alleges that the Art Institute of Chicago may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3023. Please refer to this number in all future correspondence.

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

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

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For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures

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

21040315005

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 1, 1990

Edward H. Able, Jr., Executive Director
American Association of Museums
1225 I Street, N.W.
Washington, D.C. 20005

RE: MUR 3023

Dear Mr. Able:

The Federal Election Commission received a complaint which alleges that the American Association of Museums may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3023. Please refer to this number in all future correspondence.

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

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

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For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 1, 1990

Edward H. Able, Jr.
3025 Arizona Avenue, N.W.
Washington, D.C. 20016

RE: MUR 3023

Dear Mr. Able:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3023. Please refer to this number in all future correspondence.

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

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

9104031500 8

For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures

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

9104031500 9

SCHUYLER, ROCHE & ZWIRNER
A PROFESSIONAL CORPORATION
ONE PRUDENTIAL PLAZA
SUITE 3800
130 EAST RANDOLPH STREET
CHICAGO, ILLINOIS 60601

MICHAEL C. DORF
DIRECT DIAL NUMBER
312/565-8354

TELEPHONE 312/565-2400
FACSIMILE 312/565-8300
FACSIMILE 312/565-8498

NBD PLAZA, SUITE 1190
1603 ORRINGTON AVENUE
EVANSTON, ILLINOIS 60201
TELEPHONE 708/491-9760
FACSIMILE 708/491-0658

February 12, 1990

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

Re: Matter MUR 3023-Yates for Congress Committee

Dear Mr. Noble:

I am writing on behalf of the Yates for Congress Committee (the "Committee") and Sherman Rosenfield, its Treasurer, in response to your letter of February 1, 1990 concerning a complaint lodged against the Committee and Mr. Rosenfield by Edwin W. Eisendrath, III (the "Complaint"). The Committee is the principal campaign committee of Congressman Sidney R. Yates (D. Illinois). Pursuant to 2 U.S.C. 437(g)(a)(1) and 11 C.F.R. §111.6(a), the Committee and Mr. Rosenfield shall demonstrate that the Federal Election Commission should not only dismiss the Complaint but should consider the issuance of a finding that Mr. Eisendrath and Eisendrath for Congress have violated 11 C.F.R. §111.21(a).

The Complaint alleges three violations of the Federal Election Campaign Act: "(1) by failure to register with the Commission a political committee that is raising funds for Mr. Yates; (2) by failing to disclose properly who is soliciting funds on the Congressman's behalf; and (3) by encouraging illegal contributions from (not-for-profit) corporations."

The three allegations arise out of a single incident. Mr. Edward H. Able, Jr., of Washington, D.C., volunteered to distribute, on behalf of the Committee, a fundraising postcard and return envelope. The postcard, intended to be sent to the many individuals around the country who support Congressman Yates' efforts to aid museums, was titled "Museums for Yates". Mr. Eisendrath has attached a copy of the postcard to the Complaint and, as the Complaint acknowledges, the postcard was clearly labelled "Paid for by Yates for Congress Committee". In addition, the postcard directed contributions to be made payable to the Committee and both the postcard and the return envelope were addressed to the Committee at its post office box in Chicago.

Mr. Able, who, as Executive Director of the American Association of Museums, is well-known and well respected by those in the museum community, wrote a cover letter accompanying the postcard on his personal stationery. Mr. Able paid for the printing of the letter and the expenses of this printing were reported as an in-kind contribution by Mr. Able on Schedule A of the Committee's January 31 (1990) Year End report. A copy of the relevant page of the report, as filed with the Federal Election Commission, is attached as Exhibit A to this letter.

The procedure by which an individual distributes material of a campaign committee is well established and is clearly authorized by FEC Advisory Opinion AO 1981-60, which states: "An individual may distribute solicitations he receives to friends and relatives, but if the solicitation is from a candidate, any expenses involved in the redistribution is considered a contribution." A copy of the Advisory Opinion is attached as Exhibit B to this letter.

Moreover, 11 C.F.R. §102.8(a) clearly contemplates the situation where an individual not the treasurer of a political committee may receive political contributions on behalf of the committee and sets forth a procedure for transmitting such contributions to the committee.

With respect to the allegation in the Complaint that solicitations were made to corporations, the postcard clearly states that: "Federal law prohibits accepting corporate checks," and, in accordance with 11 C.F.R. §103.3, the Committee would have returned any such contributions.

Accordingly, it is clear that 1) fundraising was done only by the Committee or its agent; 2) the fundraising materials clearly indicated that they were paid for by the Committee and that contributions were to be directed to it; and 3) no corporate solicitations were made. Mr. Eisendrath's allegations are groundless.

Finally, it is apparent to the Committee and Mr. Rosenfield that Mr. Eisendrath's Complaint was made solely to smear Congressman Yates and raise a non-existent campaign issue which could be exploited in the media. In fact, Mr. Eisendrath held a press conference to announce that he was filing the Complaint. A copy of a story in the Chicago Sun-Times dated January 23, 1990 is attached as Exhibit C to this letter.

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The disclosure of the contents of a complaint filed with the Federal Election Commission explicitly violates 11 C.F.R. §111.21(a), which states: "Except as provided in 11 C.F.R. §111.20, no complaint filed with the Commission, nor any notification sent by the Commission, nor any investigation conducted by the Commission, nor any findings made by the Commission shall be made public by the Commission or by any person or entity without the written consent of the respondent with respect to whom the complaint was filed, the notification sent, the investigation conducted, or the finding made." (emphasis added) No exception to this rule is made for the complainant.

The Committee and Mr. Rosenfield respectfully request, therefore, that the Complaint be dismissed and that Mr. Eisendrath and Eisendrath for Congress be cited for violation of 11 C.F.R. §111.21(a).

I would be pleased to provide any additional information.

Sincerely,

Michael C. Dorf

MCD/ls

I have read the aforesaid letter and the statements set forth therein are true and correct.

Sherman Rosenfield, Individually
and on behalf of Yates for
Congress Committee

Subscribed and sworn
before me this 12th
day of February, 1990.

Leona Strait
Notary Public

My Commission Expires:

May 30, 1990

"OFFICIAL SEAL"
LEONA STRAIT
Notary Public, State of Illinois
Cook County
My Commission Expires May 30, 1990

SCHEDULE A MATTER MUR 2023 EXHIBIT A ITEMIZED RECEIPTS

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

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

Name of Committee (in Full): Yates for Congress Committee

Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation	Date (month, day, year)	Amount of Each Receipt this Period
A. James Zacharias 755 Sheridan Winnetka, Illinois 60093 Receipt For: X Primary ☐ General ☐ Other (specify):	Precision Plating Co. Occupation: Owner Aggregate Year-to-Date—$ 500.	11/27/89	$ 500.
B. Sidney S. Zlotnick 2507 Massachusetts Ave. NW Washington, D.C. 20008 Receipt For: X Primary ☐ General ☐ Other (specify):	Self-Employed Occupation: Attorney Aggregate Year-to-Date—$ 500.	12/7/89	500.
C. W. McNeil Lowry 3938 Washington Street San Francisco, CA 94118 Receipt For: X Primary ☐ General ☐ Other (specify):	San Francisco Ballet Occupation: President Aggregate Year-to-Date—$ 500.	11/27/89	500.
D. Esther M. Ridder 3117 Hawthorne Pl Washington, D.C. 20008 Receipt For: X Primary ☐ General ☐ Other (specify):	Occupation: Homemaker Aggregate Year-to-Date—$ 1,000.	12/4/89	1,000.
E. Albert K. Webster 158 W. 94th St. New York, NY 10025 Receipt For: X Primary ☐ General ☐ Other (specify):	New York Philharmonic Occupation: Executive Vice Pres. Aggregate Year-to-Date—$ 250.	12/12/89	250.
F. Lois Zoller 3180 N. Lake Shore Drive Chicago, Il 60657 Receipt For: X Primary ☐ General ☐ Other (specify):	Self-Employed Occupation: Investor Aggregate Year-to-Date—$ 1,000.	11/27/89	1,000.
G. Edward H. Able, Jr. 3025 Arizona Ave. NW Washington, D.C. 20016 (See Schedule B) Receipt For: X Primary ☐ General ☐ Other (specify):	American Assn. of Museums Occupation: Executive Dir. Aggregate Year-to-Date—$327.41	12/27/89	327.41 IN KIND CONTRIBUTION Printing Stationery and Fund-Raising Letter

SUBTOTAL of Receipts This Page (optional)	4,077.41
TOTAL This Period (last page this line number only)	147,627.41

21940313013

[¶5645] AO 1981-60: Forwarding Solicitations by Individual

[An Individual may distribute solicitations he receives to friends and relatives, but if the solicitation is from a candidate, any expense involved in the redistribution is considered a contribution. Answer to Robert Bearce, 3928 Amherst, Houston, Texas 77005.]

This responds to your letter of December 21, 1981, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the forwarding of solicitation letters received by you.

Your letter states that you received many solicitation letters from different political action committees and candidates. You state that in order to support these political action committees or candidates, you wish to take the original solicitation letter you receive, type your own message*/ on it, and send the letter to a friend, neighbor, or relative of yours. You note that the letter you receive does not ask you to do this and that you would not make copies of the original letters. Your sole concern is "that of bringing to the attention of other people the opportunity" to contribute to the particular political action committee or candidate. You state that you will receive no pay or remuneration other "than the satisfaction of knowing I have brought good candidates to the attention of other people, giving them the chance to make their own decision." You ask whether this is permissible under the Act and Commission regulations.

The Commission concludes that nothing in the Act or Commission regulations prohibits you from undertaking the described activity although it may be subject to contribution limitations.

Under the first situation you describe in your request a solicitation letter received from an unauthorized committee would be sent to another individual. Under the Act, any costs incurred with respect to forwarding the letters are not considered a contribution to the political action committee, so long as the forwarding of such letters is not done at the direction of or in coordination with the political action committee. Thus, costs incurred for forwarding the letters by you are not subject to limitation or reportable.

Under the second situation you describe in your request, a solicitation letter from a candidate or his or her authorized committee would be sent to another individual. Under the Act, the financing by any person of the dissemination, distribution, or republication, in whole or part, of any written or other form of campaign materials prepared by a candidate or his/her authorized committee constitutes both an expenditure and a contribution. As a contribution the costs incurred would be subject to the contribution limitations. 2 U.S.C. §441a(a)(7) and 11 CFR 109.1(d)(1); see Advisory Opinion 1980-46 [¶5508] and compare Advisory Opinion 1978-49 [¶5339], copies enclosed. Thus, while it is permissible for you to send a letter you may have received from a candidate to friends, neighbors, and relatives, the postage costs and any other costs you incur in forwarding those letters represent a contribution from you to that candidate and therefore are subject to the $1,000 per election, per candidate, limitation on contributions by individuals to candidates. See 2 U.S.C. §441a(a)(1) and 11 CFR 110.1(a).

This response constitutes an advisory opinion concerning application of the Act, or regulations prescribed by the Commission, to the specific transaction or activity set forth in your request. See 2 U.S.C. §437f.

Dated: February 26, 1982.

*/ The message you propose to type on a letter from a PAC would read as follows: "TO WHOM IT MAY CONCERN: please read over the following letter from _____. If you believe their efforts should be supported, (1) contribute if you can and (2) pass this letter on to someone else you might think would be interested in working for the principles American [sic] was founded upon." When you receive a letter from a candidate (e.g. The Committee to Elect John Doe for Senate) you would type the following message: "TO WHOM IT MAY CONCERN: If you think John Doe is the right man for the Senate, (1) contribute if you can and (2) pass this letter on to someone else you think might be interested in supporting John Doe."

[¶5646] AO 1981-56: Formation of Political Action Committee by Corporate Partnership

[A partnership composed of corporations may not form a political action committee. Answer to John J. Duffy and Joseph M. Sellers of Pierson, Ball & Dowd, 1000 Ring Building, 1200 18th Street, N. W., Washington, D. C. 20036.]

This responds to your letter of December 14, 1981, requesting an advisory opinion on behalf of Satellite Business Systems concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act") to the establishment of a separate segregated fund by a partnership of corporations. Specifically, your request poses three questions:

1. May a partnership of corporations establish a separate segregated fund to solicit voluntary contributions from the partnership's executive or administrative employees?

2. May such a partnership solicit all of its employees or, in the alternative, only its executive or administrative employees for contributions to a separate segregated fund of a trade association to which the partnership belongs?

3. May a trade association to which such a partnership belongs, and which has the consent of the partnership, solicit the partnership's executive or administrative employees for voluntary contributions to the trade association's separate segregated fund?

Your request sets forth the following facts:

Satellite Business Systems ("SBS") is a partnership composed of three unrelated corporations. The partners are Comsat General Business Communications, Inc., a subsidiary of Comsat General Corporation; Information Satellite Corporation, a subsidiary of International Business Machines Corporation (IBM), and Aetna Satellite Communications, Inc., a subsidiary of the Aetna Casualty and Surety Company. (The parent company of a partner in SBS is referred to in your request as the "sponsor" of that partner.)

Managerial control of SBS rests in a partners' committee, which acts unanimously or by majority vote depending upon the matter under consideration. The partners' committee has nine members. Each partner appoints three members, and the appointees of each partner collectively cast the single vote to which the partner they represent is entitled. No director, officer or employees of any of the partners, or their sponsors or affiliated companies may be an officer or an employee of SBS.

SBS is a general (full) member of the Ad Hoc Committee for Competitive Telecommunications (ACCT), which is a non-profit corporation exempt from taxation under 26 U.S.C. §501(c)(6).1/ None of SBS's partners, nor their sponsors, are members of ACCT. ACCT intends to establish a separate segregated fund and solicit contributions from the executive or administrative employees of its members. Provided that SBS annually gives ACCT its consent, ACCT proposes to solicit SBS's executive or administrative employees for contributions to ACCT's separate segregated fund.

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10 CHICAGO SUN-TIMES, TUESDAY, JANUARY 23, 1990

DAILY DIGEST

Metro

$20 MILLION LOTTO PRIZE: The Lotto prize in this Saturday's drawing was increased by $8 million Monday, making the jackpot $20 million. "Two consecutive rollovers have caused significant growth in the Lotto jackpot and stimulated player interest in the game," said Sharon Sharp, lottery director.

LOTTO WINNERS SURFACE: A group of 11 workers from the J. I. Case manufacturing plant in Burlington, Iowa, stepped forward Monday to claim a $20,888,664 prize from the Dec. 2 Illinois Lotto drawing. The Gantry Group Partnership will receive the prize in 20 annual payments of more than $1 million. "Gantry" is the name of the unit of J. I. Case where they work. Most of the winners said they plan to pay bills or purchase items such as new trucks or boats. But for one couple, David Clark and his wife, Joyce, the prize had an extra meaning. Their son can now undergo a kidney transplant that previously they could not afford.

YATES FUND-RAISING HIT: Ald. Edwin W. Eisendrath (43rd) filed a complaint with the Federal Election Commission on Monday charging Rep. Sidney Yates (D-Ill.) with improper fund-raising activities. Eisendrath, challenging Yates in the March 20 Democratic primary, accused Yates of "encouraging illegal contributions from nonprofit corporations." A Yates spokesman responded, "This is a continuation of a publicity stunt that Eisendrath began two weeks ago, without merit then and without merit now." Eisendrath's complaint stems from a recent fund-raising letter distributed to the Art Institute board. Yates serves as chairman of the House Appropriations subcommittee on the Interior, which handles appropriations for the arts.

9 1 0 4 0 3 1 5 0 1 6

S[illegible]NT OF DESIGNATION OF [illegible]EL

HAND DELIVERED

RECEIVED
FEDERAL ELECTION COMMISSION

90 FEB 15 PM 2:05

MUR 3023-Yates for Congress Committee

NAME OF COUNSEL: Michael C. Dorf

ADDRESS: Schuyler, Roche and Zwirner
One Prudential Plaza, Suite 3800
130 East Randolph Street -
Chicago, Illinois 60601

TELEPHONE: 312-565-2400

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.

Feb. 12, 1990
Date

Sherman V. Rosenfield
Signature

RESPONDENT'S NAME: Yates for Congress Committee
c/o Sherman Rosenfield

ADDRESS: 421 W. Melrose
Chicago, Illinois 60657

HOME PHONE: 312-525-8902

BUSINESS PHONE:

90 FEB 16 AM 10:21

9104031501 7

FROM:CONG. YATES -- WASH. TO:CONG. YATES CHICAGO FEB 12. 1990 4:55PM #729 P.21

OGC 5443

HAND DELIVERED

Edward H. Able, Jr.
3025 Arizona Avenue, N.W.
Washington, D.C. 20016

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

90 FEB 16 PM 3:05

15 February 1990

Lois G. Lerner
Associate General Counsel
Federal Election Commission
Washington, D. C. 20463

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

90 FEB 16 PM 3:28

RE: MUR 3023

Dear Ms. Lerner:

Enclosed is my response to the complaint filed by Edwin W. Eisendrath. My counsel, Richard Meltzer of Winston & Strawn, discussed the submission deadline of this response with Mr. Xavier McDonnell of your office who agreed that since the complaint was received by me on February 4, 1990, the deadline for submitting a response is February 20, 1990 (the day following the President's Day Federal holiday).

Sincerely,

Edward H. Able, Jr.

Edward H. Able, Jr.

BEFORE THE FEDERAL ELECTION COMMISSION
OF THE UNITED STATES

In the Matter of

YATES FOR CONGRESS AND SUPPORTING COMMITTEES	))	MUR No. 3023

RESPONSE

I. Summary of Complaint

A complaint dated January 22, 1990, was filed against "U.S. Rep. Sidney R. Yates and Supporting Committees." It is not clear from the complaint whether the complainant is Edwin W. Eisendrath III, the Edwin Eisendrath Campaign Committee or an organization called Eisendrath for Congress. The complaint was forwarded to Edward H. Able, Jr. ("Able") by the Federal Election Commission (the Commission") and received by him on February 4, 1990.

The complaint alleges four violations of the Federal Election Campaign Act of 1971, as amended (the "Act"):

1. "Museums for Yates" should have registered as a political committee.

2. The Able letter (the "Letter") failed to state who paid for it.

3. The American Association of Museums (the "AAM") paid for the Letter.

4. The Letter encourages corporations to make contributions for employee services.

II. Applicable Law

A. "Museums for Yates" should have registered as a political committee.

A political committee is "any committee, club, association, or other group of persons which receives contributions aggregating in excess of $1,000 or which makes expenditures

aggregating in excess of $1,000 during a calendar year." 2 U.S.C. §431 (4); 11 C.F.R. §100.5(a). In this case, no political committee exists; therefore, no registration is required.

No committee, club, association, other group of persons or entity of any kind called "Museums for Yates" exists or is contemplated. The Letter was sent by Able in his individual capacity. In addition, Able has not and will not receive any contributions, since the card enclosed with the Letter makes clear that any contribution is to be sent directly to the Yates for Congress Committee (the "Committee"). Thus, two essential elements required by the statute and regulations in order to establish the existence of a political committee are absent in this case: no group activity occurred and no contributions were received.

B. The Letter failed to state who paid for it.

The Act requires a disclosure statement identifying the person financing a communication advocating the election of a candidate or soliciting contributions through "any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising." 2 U.S.C. §441d(a); 11 C.F.R. §110.11(a)(1).

It is difficult to determine from the complaint the category which the complainant believes is applicable to the Letter. Clearly, the Letter was not made through any public media or other general public advertising. Therefore, it must be assumed that the complainant believes that the Letter is a "direct mailing." A direct mailing means any mailing by a commercial vendor or any mailing made from commercial lists. 11 C.F.R. §100.8(16)(i). Since the Letter was neither made by a commercial vendor nor from commercial lists, it is not subject to the disclosure statement requirement.

The Commission also has issued an advisory opinion that confirms the preceding conclusion in a situation involving similar facts. A.O. 1981-60; CCH Federal Election Campaign Financing Guide ("CCH Guide") ¶5645 (February 26, 1982). The Commission approved a letter forwarding a solicitation from a candidate in which the sender of the letter did not indicate that he was paying the forwarding costs. The Letter is in all important respects identical to the letter at issue in A.O. 1981-60. The Letter merely forwarded the Committee solicitation card, and any contributions that the recipient of the Letter wishes to make are made directly to the Committee.

The Commission did state in A.O. 1981-60 that costs associated with forwarding the letter must be treated as a contribution by the sender to the candidate whose solicitation materials were enclosed. In this case, Able reported the costs

he incurred as an in-kind contribution, and the costs were included in the January 31, 1990, filing of the Committee.

C. The AAM paid for the Letter.

The AAM did not pay any of the costs associated with the Letter. The AAM did not compensate Able or any other employee for time spent in composing, typing and signing the Letter. Therefore, no corporate contribution was made by AAM.

The Commission also has opined that appearances by corporate officials in television and radio advertisements on behalf of candidates for federal office are not contributions by the individual or by his corporate employer even when the corporate employer is identified and the advertisement is paid for by the candidate. A.O. 1984-43; CCH Guide ¶5783 (September 14, 1984). A.O. 1978-77; CCH Guide ¶5365 (October 20, 1978). In this case, neither the AAM nor Able's position with the AAM is mentioned in the Letter in any way. Thus, the facts are narrower than those present in the advisory opinions.

D. The Letter encourages corporations to make contributions for employee services.

The Letter does not encourage any activities prohibited under the Act. A recipient of the Letter could engage in any number of lawful activities. For example, corporate employees are permitted to volunteer their services to candidates provided that they are not compensated. 11 C.F.R. §100.7(b)(3); A.O. 1984-43; A.O. 1978-77. If the logic employed by the complainant is pursued, it would lead to an absurd result. The position put forth by the complainant would prohibit the solicitation of any individual since the possibility exists in all cases that the individual will act or fail to act in a manner contrary to law.

III. Conclusion.

The Commission should find that no reason exists to believe that the complaint sets forth any possible violation of the Act and, accordingly, the Commission should close the file in the matter.

Respectfully submitted,

Edward H. Able, Jr.

Edward H. Able, Jr.

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OGC 5446

American
Association
of
Museums

Edward H. Able, Jr.
Executive Director

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 FEB 16 PM 4:09

February 15, 1990

Ms. Lois G. Lerner
Associate General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 3023

Dear Ms. Lerner:

Enclosed is our response to the complaint filed by Edwin W. Eisendrath. Our counsel, Richard Meltzer of Winston & Strawn discussed the submission deadline of this response with Mr. Xavier McDonnell of your office who agreed that since the complaint was received by us on February 4, 1990, the deadline for submitting a response is February 20, 1990 (the day following the President's Day federal holiday).

Sincerely,

American Association of Museums

By: Edward H. Able, Jr.
Edward H. Able, Jr.
Executive Director

2 1 0 4 0 3 1 5 0 2 2

1225 Eye Street
Northwest
Washington DC
20005

Telephone
(202) 289-1818

BEFORE THE FEDERAL ELECTION COMMISSION
OF THE UNITED STATES

In the Matter of

YATES FOR CONGRESS	)	
AND SUPPORTING COMMITTEES	)	MUR No. 3023

RESPONSE

I. Summary of Complaint

A complaint dated January 22, 1990, was filed against "U.S. Rep. Sidney R. Yates and Supporting Committees." It is not clear from the complaint whether the complainant is Edwin W. Eisendrath III, the Edwin Eisendrath Campaign Committee or an organization called Eisendrath for Congress. The complaint was forwarded to Edward H. Able, Jr. ("Able"), Executive Director of the American Association of Museums ("AAM"), by the Federal Election Commission (the Commission") and received by the AAM on February 4, 1990.

The complaint alleges four violations of the Federal Election Campaign Act of 1971, as amended (the "Act"):

1. The Able letter (the "Letter") failed to state who paid for it.

2. The American Association of Museums (the "AAM") paid for the Letter.

II. Applicable Law

A. The AAM paid for the Letter.

The AAM did not pay any of the costs associated with the Letter. The AAM did not compensate Able or any other employee for time spent in composing, typing and signing the Letter. Therefore, no corporate contribution was made by AAM.

The Commission also has opined that appearances by corporate officials in television and radio advertisements on behalf of candidates for federal office are not contributions by the

9104081502 3

individual or by his corporate employer even when the corporate employer is identified and the advertisement is paid for by the candidate. A.O. 1984-43; CCH Guide ¶5783 (September 14, 1984). A.O. 1978-77; CCH Guide ¶5365 (October 20, 1978). In this case, neither the AAM nor Able's position with the AAM is mentioned in the Letter in any way. Thus, the facts are narrower than those present in the advisory opinions.

B. The Letter failed to state who paid for it.

The Act requires a disclosure statement identifying the person financing a communication advocating the election of a candidate or soliciting contributions through "any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising." 2 U.S.C. §441d(a); 11 C.F.R. §110.11(a)(1).

It is difficult to determine from the complaint the category which the complainant believes is applicable to the Letter. Clearly, the Letter was not made through any public media or other general public advertising. Therefore, it must be assumed that the complainant believes that the Letter is a "direct mailing." A direct mailing means any mailing by a commercial vendor or any mailing made from commercial lists. 11 C.F.R. §100.8(16)(i). Since the Letter was neither made by a commercial vendor nor from commercial lists, it is not subject to the disclosure statement requirement.

The Commission also has issued an advisory opinion that confirms the preceding conclusion in a situation involving similar facts. A.O. 1981-60; CCH Federal Election Campaign Financing Guide ("CCH Guide") ¶5645 (February 26, 1982). The Commission approved a letter forwarding a solicitation from a candidate in which the sender of the letter did not indicate that he was paying the forwarding costs. The Letter is in all important respects identical to the letter at issue in A.O. 1981-60. The Letter merely forwarded the Committee solicitation card, and any contributions that the recipient of the Letter wishes to make are made directly to the Committee.

The Commission did state in A.O. 1981-60 that costs associated with forwarding the letter must be treated as a contribution by the sender to the candidate whose solicitation materials were enclosed. In this case, Able reported the costs he incurred as an in-kind contribution, and the costs were included in the January 31, 1990, filing of the Committee.

III. Conclusion.

The Commission should find that no reason exists to believe that the complaint sets forth any possible violation of the Act

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and, accordingly, the Commission should close the file in the matter.

Respectfully submitted,

American Association of Museums

By: Edward H. Able, Jr.

Edward H. Able, Jr.,
Executive Director

9104031502 5

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3023

NAME OF COUNSEL: Richard Meltzer

ADDRESS: Winston & Strawn
2550 M Street, N.W., Suite 500
Washington, D.C. 20037

TELEPHONE: (202) 828-8444

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.

February 15, 1990
Date

Edward H. Able Jr.
Signature

RESPONDENT'S NAME: Edward H. Able, Jr., Executive Director

ADDRESS: American Association of Museums
1225 Eye Street, N.W., Suite 200
Washington, D.C. 20005

HOME PHONE:

BUSINESS PHONE: (202) 289-1818

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OGC 5967

PERCY B. ECKHART (1877-1969) PAUL HASSELL OF COUNSEL WILLIAM A. McSWAIN OF COUNSEL JAMES O. SILLIMAN ROY W SEARS
JON C. JACOBSON GERALD R SINGER DAVID A. ULLRICH RAYMOND P. KOLAK

ECKHART, McSWAIN, SILLIMAN & SEARS
ATTORNEYS AT LAW
ONE FIRST NATIONAL PLAZA · CHICAGO, ILLINOIS 60603
312/236-0646
TELECOPIER 312/236-0105

90 FEB 20 PM 9:55
RECEIVED FEDERAL ELECTION COMMISSION WASHINGTON
90 FEB 20 PM 3:52
RECEIVED FEDERAL ELECTION COMMISSION WASHINGTON

February 15, 1990

Federal Election Commission
Washington, D.C. 20463

Attn: Lois G. Lerner
Associate General Counsel

RE: MUR 3023

Dear Ms. Lerner:

We represent the Art Institute of Chicago. We are enclosing, with this letter, a statement of Designation of Counsel whereby James O. Silliman and Gerald R. Singer of this firm have been designated as counsel for the Art Institute.

We have reviewed your letter of February 1, 1990 to Mr. James Wood, Director of the Art Institute of Chicago. We have also reviewed the letter of January 22, 1990 from Mr. Edwin W. Eisendrath, III to General Counsel of your Commission. A copy of your letter of February 1, 1990 and Mr. Eisendrath's letter of January 22, 1990 are enclosed with this letter.

The Art Institute of Chicago has not committed a violation of the Federal Election Campaign Act of 1971, as amended, and no action should be taken against it in response to the Complaint. The letter from Mr. Able was received by Mr. Mars, a Vice-President of the Art Institute, on or about January 2, 1990. After a discussion of the letter among Mr. Mars, Mr. James Wood, Director of the Art Institute, Mr. Anthony Jones, President of the School of the Art Institute and Mr. Larry Ter Molen, a Vice-President of the Art Institute, it was their consensus that its receipt and all matters with respect to the letter be referred to the Board of Trustees of the Art Institute at the next regular meeting scheduled to be held on January 8, 1990.

On that date Mr. Ter Molen advised the Board of the receipt of the letter as a part of his regular report concerning events and activities within his area of responsibility. Immediately following Mr. Ter Molen's report, legal counsel advised the Chairman of the meeting that there should be no discussion or response to the letter. The Chairman ruled that the matter of the letter be dropped. No further discussion of the letter occurred and copies of the letter previously made available to the Trustees were collected by the Secretary.

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We believe the facts demonstrate that no acts were committed by the Art Institute which are prohibited by the Federal Election Campaign Act of 1971. Those actions that did occur come within permitted activities under Section 441b(b)(2)(A) of the Act as communications within the Art Institute in the form of a notification by the officers of the Art Institute to its Board of Trustees of the receipt of the letter. By this action these officers were carrying out in a lawful manner their responsibilities to their supervisors, the Board of Trustees.

Sincerely,

ECKHART, McSWAIN, SILLIMAN & SEARS

By

9104031502 8

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3023

NAME OF COUNSEL: James O. Silliman
Gerald R. Singer

ADDRESS: Eckhart, McSwain, Silliman & Sears
One First National Plaza, Suite 3160
Chicago, Illinois 60603

TELEPHONE: (312 236-0646

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

The Art Institute of Chicago

February 14 , 1990

By [signature]
President

RESPONDENT'S NAME: The Art Institute of Chicago

ADDRESS: Michigan Avenue at Adams Street
Chicago, Illinois 60603

HOME PHONE: (708) 234-6007

BUSINESS PHONE: (312) 443-3600

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EISENDRATH for Congress

MUR 3023

1708 N. Sedgwick
Chicago, IL 60614

January 22, 1990

BY CERTIFIED MAIL

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

Re: Complaint Against U.S. Rep. Sidney R. Yates and Supporting Committees

Dear Sir or Madam:

I reside at the above address and am a candidate for the Democratic nomination to represent the 9th Congressional District of Illinois. Based on the advice of legal counsel, I hereby file a complaint against the campaign practices of my opponent, U.S. Representative Sidney R. Yates. As the attached documents demonstrate, Mr. Yates's fundraising practices have violated the Federal Election Campaign Act, as amended (the "Act"). Mr. Yates and his supporters have violated the Act in at least three fundamental respects: (1) by failing to register with the Commission a political committee that is raising funds for Mr. Yates; (2) by failing to disclose properly who is soliciting funds on the Congressman's behalf; and (3) by encouraging illegal contributions from (not-for-profit) corporations.

The attached documents provide ample evidence of violations of the Act:

(A) Letter dated December 21, 1989 on the letterhead of Mr. Edward H. Able, Jr. and an enclosed contribution card captioned "MUSEUMS FOR YATES."

(B) Chicago Tribune article dated January 11, 1990, with the headline "Yates asked Art Institute for money, opponent says."

(C) Chicago Tribune article dated January 12, 1990, with the headline "Eisendrath to file complaint against Yates fundraising letter."

The Yates campaign has committed a serious violation of the Act by failing to register "Museums for Yates" with the Commission. Section 433(a) of the Act requires that every "political committee" register with the Commission within 10 days of its establishment. There can be little doubt that "Museums

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PO Box 6717 2033 N. Clybourn Chicago, Illinois 60614 312 • 883 • 1661

PAID FOR BY THE BILL EISENDRATH CAMPAIGN COMMITTEE

for Yates" falls within the definition of "political committee" under Section 431(4) of the Act: "any committee, club, association, or other group of persons which receives contributions aggregating in excess of $1,000 during a calendar year or which makes expenditures aggregating in excess of $1,000 during any calendar year." Since the date of the "Museums for Yates" mailing was made on December 21, 1989, a filing was required with the Commission by December 31, 1989 -- at the latest. According to our inquiry last week to the Commission's Public Records Office, no such filing has been made relating to "Museums for Yates."

The solicitation on Mr. Able's letterhead for contributions to Mr. Yates also violates Section 441d of the Act by failing to "clearly state" who paid for it. A disclaimer that appears at the bottom of the contribution card states "Paid for by the Yates for Congress Committee." However, according to the January 11th Tribune article, Mr. Able said that he paid for mailing the solicitation himself. But there is no statement anywhere in the letter or on the contribution card making the legally required disclosure that Mr. Able paid for the "communication." Further, the use of the logo "MUSEUMS FOR YATES" on Mr. Able's contribution cards fosters the impression that a group called "Museums for Yates" may have paid for the mailing. The solicitation is thus inaccurate, if not misleading. The "Paid for by the Yates Committee" disclaimer diverts attention from whether Mr. Able complied with other provisions of the Act. In fact, since it appears that the entire mailing was not paid for by the Yates for Congress Committee, the fundraising activities of Mr. Able may have violated the Act's prohibition against accepting contributions from corporations.

Under Section 441b of the Act, contributions may not be made by corporations and may not be accepted by campaign committees. The Act defines "contributions" to include not just money but "any services, or anything of value." Since this definition includes such things as mailing lists, secretarial services, photocopying and postage, the Commission should investigate whether contributions in such form were made to the Yates for Congress Committee by the American Association of Museums, of which Mr. Able is executive director. There is ample ground for concern that such an illegal contribution was made by the American Association of Museums given that fact that, according to the January 12th Tribune article, the Able solicitation was sent to "300 museum officials." A further basis for this concern is that the solicitations were made, as the January 11th Tribune article put it, from "not-for profit museums . . . that rely on Yates for federal funding." In any event, it would appear likely that Mr. Able made an illegal contribution through his corporate employer because he explicitly encouraged such activity in his letter. The "p.s." of his letter encourages the recipients to distribute contribution cards "to members of your board and staff

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corporations, if the museums followed Mr. Able's suggestion, they would violate Section 441b of the Act by making contributions in the form of employees' services. At least one such violation is already a matter of public record. According to the Tribune articles, the Able solicitation letter was distributed to the trustees of the Art Institute of Chicago at a meeting on January 8, 1990.

Mr. Yates's attempt to exploit our nation's museums in his campaign is in itself a violation of the Act. As a challenger to Congressman Yates, I am concerned that his failure to comply with the Act further tilts the playing field in favor of the incumbent. But I am equally concerned that Mr. Yates and his supporters have done a disservice to the cause they claim to promote. The political activity that the Yates campaign has encouraged the museums to undertake would jeopardize the critical tax-exempt status of not-for-profit institutions.

As outlined above, the Yates campaign has committed several violations of the Act. I urge the Commission to commence an investigation not just of Mr. Able's fundraising efforts but of all communications by special interest groups and their affiliates and associates which are authorized by Mr. Yates or the Yates for Congress Committee. The voters of Illinois' Ninth District have a right to know who is raising funds for the incumbent Congressman. The need for accurate disclosure, in compliance with the Act, is particularly acute in light of the incumbent's attempt to solicit funds for his re-election from special interest groups that rely on him for federal funding.

Sincerely yours,

Edwin Eisendrath

Edwin W. Eisendrath III

Attachments

Subscribed and sworn before me this 22nd day of January, 1990 by Edwin W. Eisendrath, III.

Kristine Kula

KRISTINE KULA, Notary Public

My Commission Expires July 18, 1992

2 1 0 4 0 3 1 5 0 3 2

Edward H. Able, Jr.
3025 Arizona Avenue, N.W.
Washington, D.C. 20016

December 11, 1989

Dear Colleague:

Museums' great champion in the House of Representatives needs your help. Congressman Sidney Yates is being challenged in a primary this spring by a young, very well-financed Chicago alderman who has announced he is prepared to spend $1 million to defeat Rep. Yates. In his twenty terms in Congress, Sid Yates has never faced such a formidable obstacle to re-election.

As Chairman of the House Appropriations Subcommittee on the Interior and Related Agencies which has jurisdiction over the budgets of the Arts and Humanities Endowments and the Institute of Museum Services, Sid Yates has for years been in the vanguard of congressional support for federal funding of cultural activities.

At times of crisis, such as the early Reagan administration's attempts to halve the Endowments' funds and totally eliminate IMS, it has been Rep. Yates's leadership that has made the difference. Without Sid Yates, last summer's efforts by Senator Helms and Co. to gut the NEA and NEH might well have succeeded.

Perhaps the best way to put it is this: Imagine what might happen to funding for museums in a Congress without Sid Yates.

And that possibility is very real - unless enough dollars can be raised for the Yates campaign to beat back the primary challenge. All around the country the call has gone out to the cultural community to back Sid Yates in his battle, as he has backed us in ours, so many times. I think museum professionals and trustees can - and should - play a major role in this effort.

Please join me in making a generous contribution to the Yates campaign today, by filling out the enclosed MUSEUMS FOR YATES card, and sending it in the enclosed envelope with your check. The election is in March 1990, but funds are urgently needed <u>now</u> in order to purchase media and counter his opponent's aggressive and expensive efforts.

Sidney Yates has always been there for us: now is the time for us to be there for him. Thank you.

With best regards,

Ed Able

P.S. I have enclosed extra MUSEUMS FOR YATES cards. Please distribute them to members of your board and staff so they may help as well. If you need more, please give me a call at 202-362-1109.

P10403153033

MUSEUMS FOR YATES

☐ I will be happy to support Sid Yates. Enclosed is my contribution of $_____.

[illegible]

Name _____

Address _____

City _____ Zip _____ Phone _____

Employer _____ Occupation _____

Phone _____

Please make checks payable to: YATES FOR CONGRESS
P.O. Box 906
Chicago, IL 60690

Federal Law prohibits accepting corporate checks. Paid for by the Yates For Congress Committee.

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Yates asked Art Institute for money, opponent says

By R. Bruce Dold

Ald. Edwin Eisendrath sent ripples through the arts community Wednesday with the allegation that U.S. Rep. Sidney Yates is soliciting contributions from not-for-profit museums, including the Art Institute of Chicago, that rely on Yates for federal funding.

The 43rd Ward alderman said he obtained copies of a letter sent in behalf of Yates by Edward H. Able Jr., executive director of the American Association of Museums, and distributed Monday to the board of directors of the Art Institute.

The letter seeks funds to help Yates fend off Eisendrath's challenge in the March Democratic primary.

It sparked a brief controversy at the board meeting before it was quickly withdrawn and all references to the letter were removed from the minutes of the meeting. Eisendrath became aware of the letter because his stepfather, Lewis Manilow, is a member of the Art Institute's board.

Such a controversy over highbrow arts patrons aiding politicians might not have surfaced anywhere but in the 9th Congressional District, where the Democratic primary has been dubbed the battle of wine and brie.

It is also not the first political controversy to embroil the Art Institute. Last year, politicians picketed the museum after it allowed a student exhibition that included an American flag draped on the floor of the institute's school. In 1988 several aldermen stormed the school of the institute and removed an objectionable painting of Harold Washington.

The new controversy plays into Eisendrath's contention that Yates is part of a congressional "old boys network" that looks out for its own interests.

Yates is the chairman of the House Appropriations Subcommittee on the Interior, which handles federal appropriations for the arts, including the $320 million in annual appropriations for the National Endowment for the Arts and National Endowment for the Humanities. Last year, Yates led the fight against Sen. Jesse Helms' bid to bar the use of federal funds for "obscene or indecent" art projects.

Able's letter calls on "museum professionals and trustees" to contribute to the Yates campaign. "Perhaps the best way to put it is this: Imagine what might happen to funding for museums in a Congress without Sid Yates," the letter says.

"It's a typical incumbent's move to shake down the special interests," Eisendrath said in an interview. "It's disgraceful and a typical example of the scandal of incumbency in Washington. The Yates for Congress committee is jeopardizing the tax status of all the great museums."

Art Institute officials said that when the letter came up at the board meeting, trustee and attorney James Silliman declared the board should not engage in political activity and the matter was dropped immediately.

Able said he mailed the solicitation at his own expense to "key people in the museum community," although he acknowledged that it included an envelope for checks that was provided by the Yates campaign. The solicitation, he said, was done without connection to the American Association of Museums.

"There are individuals in the museum world who support Mr. Yates and what he has done for the humanities," Able said. "It is not tied directly to his role in support of us in Congress."

Members of Yates' campaign staff also defended contributions from the arts. "Most of the support Mr. Yates will receive is going to come from those who are interested in the quality of life he has championed," said spokeswoman June Rosner.

City/suburbs

Eisendrath to file complaint against Yates fundraising letter

By R. Bruce Dold

Ald. Edwin Eisendrath (43rd) said Thursday that he will file a complaint with the Federal Elections Commission alleging that a fundraising letter sent to museum officials around the country on behalf of U.S. Rep. Sidney Yates (D., Ill.) violates election law.

Eisendrath, who obtained a copy of the letter that was given to the board of directors of the Art Institute of Chicago, said that federal elections officials have indicated that it might violate federal prohibitions on campaign contributions by corporations.

But Robert Bauer, general counsel of the Democratic Congressional Campaign Committee, said he saw no violation in the letter, and Yates denied he was making any effort to use his office to garner contributions.

The letter was sent by Edward Able Jr., executive director of the American Association of Museums. It included a contribution envelope provided by the Yates campaign.

The complaint is likely to focus on whether employees of museums or the American Association of Museums helped distribute the letter, which could violate federal law that prohibits contributions, including services, by corporations in federal campaigns.

Eisendrath, who is challenging Yates in the March Democratic primary, also charged that the incumbent used his position as chairman of the House Appropriations Subcommittee on the Interior to seek donations from officials of not-for-profit museums that rely on the subcommittee for funds.

Yates, however, said that his subcommittee handles appropriations by the National Endowments for the Arts and Humanities but has no control over grants made by those agencies to museums.

"As far as trying to extract money, obviously he's totally wrong," Yates said. "Friends of mine throughout the country are trying to raise money. After all, Edwin has said he will have a campaign fund of $1 million. If he does, I have to raise some money too."

Bauer, who consulted with the Yates campaign on the issue, said he was "at a loss" to find any violations in the solicitation.

Able said that he sent the letter to 300 museum officials, including James Wood, director of the Art Institute. Copies were distributed to trustees of the institute at a meeting on Monday.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 1, 1990

James Wood, Director
Art Institute of Chicago
Michigan Avenue at Adams Street
Chicago, IL 60603

RE: MUR 3023

Dear Mr. Wood:

The Federal Election Commission received a complaint which alleges that the Art Institute of Chicago may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3023. Please refer to this number in all future correspondence.

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

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you 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 Xavier McDonnell, the attorney assigned to this matter at (202) 376-5690.

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For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures

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

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

FIRST GENERAL COUNSEL'S REPORT

MUR: 3023
DATE COMPLAINT RECEIVED
BY OGC: 1-25-90
DATE OF NOTIFICATION TO
RESPONDENTS: 2-1-90
STAFF MEMBER: Xavier K. McDonnell

COMPLAINANTS: Edwin W. Eisendrath, III
Eisendrath for Congress Committee

RESPONDENTS: Yates for Congress Committee, and
Sherman Rosenfield, as treasurer
Edward H. Able, Jr.
American Association of Museums
Art Institute of Chicago

RELEVANT STATUTES: 2 U.S.C § 433(a)
2 U.S.C. § 441b
2 U.S.C. § 441d(a)

REPORTS CHECKED: Yates for Congress Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

Edwin W. Eisendrath, III ("Complainant"), a former Democratic House candidate from Illinois, filed a complaint with the Commission alleging that the American Association of Museums (the "AAM"), Edward H. Able, Jr., Executive Director of the AAM, and the Yates For Congress Committee (the "Yates Committee" or the "Committee"), (collectively, "the Respondents") violated 2 U.S.C. §§ 433(a), 441b(a), and 441d(a). The complaint further alleges that the Art Institute of Chicago ("AIC") and other unidentified museums or museum officials also violated Section 441b(a).

The allegations arise out of Mr. Able's apparent

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distribution of fundraising materials to museum officials. The fundraising materials consisted of a cover letter, which was written and allegedly paid for by Mr. Able, and a contribution card and envelope which were paid for by the Yates Committee. The contributor card, which indicated that it was paid for by Yates for Congress, was entitled "Museums For Yates," and the envelope was addressed to the Committee's post office box in Chicago. Neither the cover letter nor the envelope contained a disclaimer.

II. FACTUAL AND LEGAL ANALYSIS

A. Corporate Contributions/Solicitations

1. Applicable Law

Under the Federal Election Campaign Act of 1971, as amended (the "Act"), it is unlawful for a corporation to make a contribution or expenditure in connection with the election of a Federal candidate, or for any candidate, political committee or other persons to knowingly accept or receive such a contribution. 2 U.S.C. § 441b(a). Under the Act, a contribution or expenditure includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or giving anything of value to a candidate or a candidate's committee. 2 U.S.C. § 441b(b)(2). The value of services provided without compensation by any individual who volunteers on behalf of a candidate or political committee is not a contribution. 2 U.S.C. § 431(8)(B)(i). While the Commission's regulations permit an employee or executive to engage in individual volunteer activity, the Act prohibits an individual from soliciting funds for a particular candidate or committee while acting in his or her

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corporate capacity. See MUR 1690. (Chairman and CEO of corporation who solicited contributions from fellow executives and employees was acting in "corporate capacity" and in violation of Section 441b.)

A corporation, a membership organization or a corporation without capital stock may make communications, including partisan communications, to its members or executive and administrative personnel and their families. 2 U.S.C. § 441b(b)(2)(A); 11 C.F.R. § 114.3(a)(1),(2). A corporation or a membership organization may also distribute partisan publications to this restrictive class, as long as such materials have been produced at its own expense, and the materials are not the republication or reproduction, in whole or in part, of any materials prepared by the candidate or the candidate's committee. 11 C.F.R. § 114.3(c)(1)(i) and (ii). However, in transmitting 11 C.F.R. § 114.3 to Congress, the Commission stated that this section does not permit a corporation to "facilitate the making of contributions to a particular candidate or political committee other than its segregated fund, as by providing envelopes addressed to the candidate or committee." A.O. 1982-2; citing, Explanation and Justification, H.R. Doc NO. 95-44, 95th Cong., 1st Sess. at 104-105.

2. Summary of Complaint and Responses

In his complaint, Mr. Eisendrath suggests that the Commission investigate whether Mr. Able used the AAM's mailing lists, secretarial services, photocopier, postage and office equipment to create or distribute the mailings, thereby making a

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corporate contribution to the Yates Committee in violation of 2 U.S.C. § 441b(a). The Complainant contends that by soliciting contributions from museum officials in his corporate capacity, Mr. Able made a contribution through his corporate employer, in violation of Section 441b. The complaint also alleges that distribution of the fundraising materials by the museum officials would result in additional corporate contributions to the Yates Committee.[1]

The Yates Committee acknowledges that Mr. Able volunteered to distribute the "Museums for Yates" cards and envelopes on Congressman Yates' behalf. In addition, the Committee has stated that Mr. Able was their fundraising "agent" and the Committee has reported receiving a $327.41 in-kind contribution for the "Printing [of] Stationary and Fund-Raising Letter" from Mr. Able. Attachment 2, page 3. Mr. Able states that he wrote the letter on his personal stationary, and he asserts that he paid for the cover letter. The Respondents contend that Mr. Able was acting in his individual capacity, and that the AAM did not pay any of the costs associated with the cover letter, and did not "compensate Able or any other employee for time spent in composing, typing and signing the Letter." Attachment 3, page 3. Based upon newspaper articles cited in the Complaint, it appears that Mr. Able also paid for the

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1. The complaint charges that by requesting museum officials to distribute the extra Museums for Yates contributor cards to their board and staff, Mr. Able made a contribution through his corporate employer and states that if these "not for profit" museums followed Able's advice they would be providing employee services to the Committee and would also endanger their tax-exempt status.

distribution of the materials and that they were sent to museum officials. See Attachment 1, at pages 6 and 7.

3. **Analysis**

a. **Use of Corporate Services and Facilities**

A review of the responses submitted reveals that they do not fully address all of the allegations raised in Mr. Eisendrath's complaint. To begin with, the responses do not clearly indicate whether the AAM's facilities, equipment or supplies were used to produce, mail, or otherwise distribute these solicitations. 11 C.F.R. § 100.7(a)(1)(E)(iii)(A). The Respondents also have not disclosed the identity of those solicited, nor have they offered any evidence to counter the allegation that those solicited were museums or museum officials. In fact, the Respondents do not even attempt to address the Complainant's assertion that Mr. Able used the AAM's membership or mailing lists in order to solicit museums or museum trustees and professionals. Mailing lists are specifically included in Commission regulations as "goods and services." 11 C.F.R. § 100.7(a)(1)(E)(iii)(A); 2 U.S.C. § 441b(a). Finally, while the Respondent AAM asserts that no employee was compensated for creating the letter, Respondents do not definitively state whether Mr. Able or any other employee composed, produced or distributed the letter during "working hours."

With respect to the legality of the transactions, Respondents cite two advisory opinions, A.O. 1984-43 and A.O. 1978-77, which they contend support their position that these solicitations were lawful. However, Respondents' reliance upon

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those Opinions appears to be misplaced. In those Opinions, the Commission concluded that corporate officials could engage in "individual" volunteer activity through public endorsements of a candidate in advertisements paid for by a political committee. See A.O. 1984-43; A.O. 1978-77. The activity challenged here is distinguishable: rather than publicly soliciting contributions as a corporate official in his individual capacity, Mr. Able appears to have acted implicitly in his capacity as Director of the AAM in soliciting contributions from specific museum officials.[2] For example, the salutation of the solicitation reads "Dear Colleague." The letter also refers to the recipients as "museum professionals and trustees," the card is entitled "Museums for Yates" and the letter requests that those solicited distribute the extra cards and envelopes to members of their "board and staff."

Although the letter does not expressly refer to the AAM, its language and message strongly suggest that it was targeted to reach museum officials who would be familiar with Mr. Able's position as Executive Director of the organization. In fact, as discussed below, the reaction of individuals associated with the AIC confirms that these materials were perceived to be directed to museums and museum personnel in their professional, not their individual, capacity.

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2. The American Association of Museums is reported to have 10,000 members, a staff of 35, and a budget of $2,500,000. Among its members are a variety of museums, and "trustees and professional employees of museums." Encyclopedia of Associations, 24th Ed. 1990. It may be that some, or all, of those solicited were members of the AAM, which would certainly tend to indicate that Mr. Able was acting in his corporate capacity.

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In sum, while many questions remain unanswered, the information presently available suggests that Mr. Able used his position as the Director of the AAM, as well as the organization's resources to solicit contributions from museum officials and staff on behalf of the Committee. It therefore appears that these solicitations may not have been made in Mr. Able's "individual" capacity, and as such constituted a corporate contribution. See MUR 1690; 2 U.S.C. § 431(8)(B)(i); 11 C.F.R. § 100.7(b)(3). Accordingly, the Office of General Counsel recommends that the Commission find reason to believe the AAM, and Edward H. Able, as Executive Director, violated Section 441b(a).

In addition, it appears that the Yates Committee actively participated in this fundraising activity. It purchased the "Museums for Yates" cards and envelopes, and accepted the costs of the letter as an in-kind contribution from their acknowledged fundraising "agent." Therefore, the Office of General Counsel recommends that the Commission find reason to believe the Yates for Congress Committee, and Sherman Rosenfield, as treasurer, knowingly accepted a corporate contribution in violation of 2 U.S.C. § 441b(a).

b. Potential Liability of Recipients

Assuming that those solicited were museum officials, professionals and trustees, the question then arises whether they solicited their board and staff as requested in the letter. The information presently available indicates that at least one recipient of the letter, Mr. Mars, a Vice President of the Art Institute of Chicago, shared the letter and materials with the

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other AIC executives. It also appears that copies were made and distributed and then discussed during a corporate board meeting.

In their response, the AIC states that the subject of the Museums for Yates solicitation was dropped on the advice of counsel, and the solicitation letters were collected after the brief presentation at the meeting. Therefore, Counsel for the AIC asserts no violation of the Act occurred, and that those communications which did occur were lawful because they were made to executive or administrative personnel. 2 U.S.C. § 441b(b)(2)(A).

Contrary to the AIC's contention, the distribution of these solicitations to the corporation's executive and administrative personnel would not appear to be within the communication exemption of Section 441b(b)(2)(A). As noted above, the Commission has stated that corporations are prohibited from facilitating the making of contributions to a particular candidate or committee other than through a separate segregated fund, and this would clearly encompass the contributor cards and envelopes at issue here. 2 U.S.C. § 441b(a). See A.O. 1982-2. In addition, even the Commission's regulations which permit a corporation to communicate with its restricted class provide that the materials distributed for such communications must be produced at corporate expense and may not be materials prepared by the

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candidate. 11 C.F.R. § 114.3(c)(1).[3] Therefore, the Office of General Counsel recommends that the Commission find reason to believe that the AIC violated Section 441b(a).

B. **Disclaimer Violation**

1. **Applicable Law**

The Act provides that whenever any person makes an expenditure for the purpose of financing a communication which expressly advocates the election or defeat of a clearly identified candidate or solicits any contribution through any type of general public advertising, including a direct mailing, such communication must contain a disclaimer which clearly states who paid for and authorized the communication. 2 U.S.C. § 441d(a).

The term "direct mail" as it applies to Section 441d, is not defined in the Act or in Commission regulations. See 11 C.F.R. § 110.11(a)(1). In the context of communications by a political committee, the Commission has looked to the definition of "direct mail" provided in 11 C.F.R. §§ 100.7(b)(15)(i) and 100.7(b)(16)(i). See, e.g. MUR 2756; MUR 2692. In those sections, "direct mail" is defined as any mailings by a commercial vendor or any mailings made from a commercial list. Id. The Commission's policy and regulations provide that the definition of "commercial lists" excludes lists developed by a committee of volunteers or previous contributors, list developed by state or

3. In any event, it is presently unclear whether the distribution of the solicitation materials was as limited as AIC suggests. AIC's response does not disclose whether the original recipient, Mr. Mars, or any other persons employed by the Institute distributed the materials to or solicited contributions from any other staff members or executive personnel.

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local committees or lists obtained from a public office, such as lists of eligible voters. Id.; 45 Fed. Reg. No. 47, 1508. (March 7, 1980); A.O. 1988-40; MUR 2756; MUR 2692.

2. **Analysis**

In his complaint, Mr. Eisendrath notes that while the disclaimer on the contributor card provides that the communication was paid for by the Yates Committee, Mr. Able actually paid for the letter and evidently its distribution costs. Complainant therefore argues that the disclaimer is inaccurate, if not misleading, as it does not "clearly state" who paid for the communication, in violation of Section 441d(a).[4] The AAM and Mr. Able assert that since the mailing was not made by a "commercial vendor" or from a "commercial list," it did not constitute "direct mail" that would require a disclaimer.

To begin with, it is unclear whether the disclaimer exemption for non-commercial lists would apply here as the entity is not a political committee. In any event, while the Respondents contend that the names of those solicited did not come from a "commercial list," they have not indicated how the mailing list was derived, nor whether the Yates Committee was involved in creating this list. Respondents have also failed to offer any support for their contention that the solicitations of Mr. Able's colleagues, these "museum professionals and trustees," should not

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4. The Complainant also states the use of the logo "Museums for Yates" fosters the impression that there was a political committee of that name which paid for the mailing. However, the use of such a logo would not appear to violate the disclaimer requirement, as long a communication clearly states who paid for it. 2 U.S.C. § 441d(a).

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be considered to be of a commercial nature. This Office believes, however, that a list of individuals who are members of the AAM or a list of those museum officials with whom Mr. Able became acquainted pursuant to his position as Director of that organization is distinguishable from the types of lists which the Commission has found not to be "commercial." See MUR 2756; MUR 2692.

The Respondents also cite A.O. 1981-60 to support their contention that the cover letter did not require a disclaimer. Respondents' reliance A.O. 1981-60 appears to be misplaced as that Opinion did not even involve any discussion of disclaimers required under Section 441d(a). At issue in that Opinion was the application of Act's reporting requirements and contribution limitations where an individual adds a personal message to fundraising letters received from committees or PACs, which are then forward to the individual's family, friends and neighbors.

Unlike the situation presented in A.O. 1981-60, Mr. Able did not merely add a message to a pre-existing solicitation. Instead, he printed a separate letter in which he enclosed the Candidate's authorized materials which were then mailed to at least 300 museum officials. The cover letter at issue did not contain a disclaimer which "clearly stated" who paid for its production nor did it indicate whether such letter was authorized by the Yates Committee. In addition, none of the materials indicated who paid the distribution costs. Accordingly, the fundraising materials at issue did not contain a disclaimer which accurately disclosed who

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actually paid for and authorized the entire communication.[5] Therefore, the Office of General Counsel recommends that the Commission find reason to believe Edward H. Able, Jr., violated Section 441d(a).

C. **Alleged Registration and Reporting Violations**

Under the Act, the term political committee means any club, association or other group of persons which accepts contributions or makes expenditures in excess of $1,000 during a calendar year. 2 U.S.C. § 431(4)(A). Political committees are required to register with the Commission within 10 days after establishment. 2 U.S.C. § 433(a). The Complainant alleges that Museums for Yates falls within the definition of a political committee, and therefore was required to register within 10 days of its formation. Since no such committee is registered with the Commission, Complainant contends that the Yates campaign violated 2 U.S.C. § 433(a).

Mr. Able has stated that all contributions were sent directly to the Yates Committee, that he did not receive contributions in excess $1,000 and that Museums for Yates is not a political committee. While it is not clear whether the $327.41

5. In A.O. 1980-145, the Commission stated that one disclaimer was sufficient for a solicitation mailing which consisted of a cover letter, a contribution card and an envelope. 11 C.F.R. § 110.11(a)(1). Accordingly, the lack of a disclaimer on the Museums for Yates cover letter would not itself appear to be a violation of Section 441d. However, the issue here is not simply whether the disclaimer was sufficient, but whether it was accurate and complete. As noted in the analysis, the disclaimer which appeared on the card was not complete or accurate, and therefore did not "clearly state" who paid for and authorized the communication.

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which was reported as an in-kind expenditure included the distribution costs, and if not, what those costs were, it does not appear that Mr. Able's activities required him to register Museums for Yates as a political committee with the Commission. 2 U.S.C. § 431(4)(A).

In their response, the Yates Committee has stated that Mr. Able was their "agent," and that all contributions were sent directly to the Committee's post office box in Chicago. Therefore, Museums for Yates does not appear to be a separate committee required to be registered with the Commission. Accordingly, the Office of General Counsel recommends that the Commission find no reason to believe a violation of Section 433(a) occurred.

III. DISCOVERY

The Office of General Counsel has drafted questions to determine the identity of the museums or museums officials solicited, and to determine whether any AAM equipment or employee services were used to make these solicitations. Included are questions to determine whether the AAM's membership list was used in making these solicitations. This Office has also drafted questions to clarify the Yates Committee's role in the Museums for Yates solicitations.

IV. RECOMMENDATIONS

1. Find reason to believe that the American Association of Museums, and Edward H. Able, Jr., as Executive Director, violated 2 U.S.C. § 441b(a).

2. Find reason to believe that the Yates for Congress Committee, and Sherman Rosenfield, as treasurer, violated 2 U.S.C. § 441b(a).

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3. Find reason to believe the Art Institute of Chicago violated 2 U.S.C. § 441b(a).

4. Find reason to believe that Edward H. Able, Jr. violated 2 U.S.C. § 441d(a).

5. Find no reason to believe that the Yates for Congress Committee and Sherman Rosenfield, as treasurer, or Edward H. Able, Jr. violated 2 U.S.C. § 433(a).

6. Approve the appropriate Letters and Factual and Legal Analysis.

Lawrence M. Noble
General Counsel

May 18, 1990
Date

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

Attachments
1. Complaint
2. Response from the Yates Committee
3. Response from Edward H. Able, Jr.
4. Response from the American Association of Museums
5. Response from the Art Institute of Chicago
6. Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

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

DATE: MAY 24, 1990

SUBJECT: MUR 3023 - WITHDRAWAL OF 1st GENERAL COUNSEL'S REPORT DATED MAY 22, 1990.

The above-captioned document was circulated to the Commission on Tuesday, May 22, 1990 at 4:00 p.m.

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

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

This matter will be placed on the meeting agenda for Tuesday, June 5, 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 3023
Yates for Congress Committee, and	)	
Sherman Rosenfield, as treasurer	)	
Edward H. Able, Jr.	)	
American Association of Museums	)	
Art Institute of Chicago	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on June 12, 1990, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MUR 3023:

1. Find reason to believe that the American Association of Museums, and Edward H. Able, Jr., as Executive Director, violated 2 U.S.C. § 441b(a).

2. Find reason to believe that the Yates for Congress Committee, and Sherman Rosenfield, as treasurer, violated 2 U.S.C. § 441b(a)

3. Take no action at this time against the Art Institute of Chicago.

4. Find reason to believe that Edward H. Able, Jr. violated 2 U.S.C. § 441d(a).

5. Find no reason to believe that the Yates for Congress Committee and Sherman Rosenfield, as treasurer, or Edward H. Able, Jr. violated 2 U.S.C. §433(a).

(continued)

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6. Approve the Factual and Legal Analysis attached to the General Counsel's report submitted under memorandum dated May 22, 1990, subject to amendment as agreed during the meeting discussion.

7. Direct the Office of General Counsel to send appropriate letters pursuant to the above-noted actions.

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

Attest:

6-13-90
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

June 19, 1990

Michael C. Dorf
Schuyler, Roche and Zwirner
One Prudential Plaza
Suite 3800
130 East Randolph Street
Chicago, Illinois 60601

RE: MUR 3023
Yates for Congress Committee
Sherman Rosenfield, as treasurer

Dear Mr. Dorf:

On February 1, 1990, the Federal Election Commission notified your clients, the Yates for Congress Committee and Sherman Rosenfield, as treasurer, ("Respondents") 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 your clients, the Commission, on June 12, 1990, found that there is no reason to believe the Respondents violated 2 U.S.C. § 433(a), a provision of the Act. Moreover, on that day the Commission found that there is reason to believe that your clients violated 2 U.S.C. § 441b(a). 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 Respondents. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office, along with answers to the enclosed questions, within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

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

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

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

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

If you have any questions, please contact Xavier K. McDonnell, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
1. Questions
2. Factual & Legal Analysis

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 3023
)

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Yates for Congress Committee, and
Sherman Rosenfield, as treasurer
c/o Michael C. Dorf
Schuyler, Roche and Zwirner
One Prudential Plaza, Suite 3800
130 East Randolph Street
Chicago, Illinois 60601

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 15 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

INSTRUCTIONS

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

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

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

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

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1989 to present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

DEFINITIONS

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

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"Letter" shall mean the fundraising letter written by Mr. Edward H. Able, Jr., Executive Director of the American Association of Museums ("AAM") on behalf of the Yates for Congress Committee ("Committee"), dated December 21, 1989. "Card" and "Envelope" shall mean the Museums for Yates contribution card and envelope. "Fundraising Materials" means the Letter, Card and Envelope.

"You" shall mean the named respondents in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

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

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

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

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INTERROGATORIES

1. With respect to the Fundraising Materials defined on page 3 which were distributed on behalf of the Yates for Congress Committee (the "Yates Committee" or the "Committee"):

a) Identify the person(s) who first proposed or conceived of the Museums for Yates Fundraising Materials.

b) Identify who paid to have the Letters, Cards and Envelopes produced, and identify who produced them.

c) Identify, separately and in detail, who paid the costs for mailing or distributing the Letters, Cards and Envelopes to solicitees, and identify who distributed them.

d) Indicate the amount of funds expended on each of the solicitation items identified above.

2. Describe your role in the creation, purchase and distribution of the Letter, the Contributor Card and the Envelope:

a) State particularly whether any person from the Committee read, reviewed, approved, or authorized each of the Fundraising Materials before they were produced and distributed.

b) Identify the persons within your Committee referred to in response to Question 2(a).

3. Indicate the total number of Cards and Envelopes you purchased, created or authorized to be produced:

a) Indicate the number which you distributed to Mr. Able.

b) Indicate the total number which you distributed to all persons.

4. Identify all individuals or fundraising agents who distributed these Materials on your behalf, and describe all other methods by which these Museums for Yates Fundraising Materials were distributed.

5. Indicate whether you used or referred to the AAM's mailing list or membership list in connection with the Committee's fundraising efforts. If so, describe in detail your use of said list.

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6. Produce each and every document concerning, relating to, or pertaining to the Museums for Yates Fundraising Materials, including but not limited to:

a) All documents identified or used in response to the above interrogatories.

b) All documents relating to the costs for these Fundraising Materials, including but not limited to receipts and invoices for the Cards, Envelopes and Letters.

c) All communications between Mr. Able or the AAM and the Yates Committee which relate to the Museums for Yates fundraising, or any other fundraising which Mr. Able or the AAM undertook on your behalf.

d) All membership, mailing or other lists used or referenced when making these solicitations on behalf of the Yates Committee.

e) All documents relating to or accompanying any of the Museums for Yates Fundraising Materials which you distributed.

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

MUR: 3023

COMPLAINANTS: Edwin W. Eisendrath, III
Eisendrath for Congress Committee

RESPONDENTS: Yates for Congress Committee, and
Sherman Rosenfield, as treasurer

I. GENERATION OF MATTER

Edwin W. Eisendrath, III ("Complainant"), a former Democratic House candidate from Illinois, filed a complaint with the Commission alleging that the Yates For Congress Committee (the "Yates Committee", or the "Committee"), violated 2 U.S.C. §§ 433(a) and 441b(a).

The allegations arise out of the apparent distribution of fundraising materials to museum officials by Edward H. Able, Jr., the Executive Director of the American Association of Museums. The fundraising materials consisted of a cover letter, which was written and allegedly paid for by Mr. Able, and a contribution card and envelope which were paid for by the Yates Committee. The contributor card, which indicated that it was paid for by Yates for Congress, was entitled "Museums For Yates," and the envelope was addressed to the Committee's post office box in Chicago.

II. FACTUAL AND LEGAL ANALYSIS

A. Corporate Contributions/Solicitations

1. Applicable Law

Under the Federal Election Campaign Act of 1971, as amended (the "Act"), it is unlawful for a corporation to make a

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contribution or expenditure in connection with the election of a Federal candidate, or for any candidate, political committee or other persons to knowingly accept or receive such a contribution. 2 U.S.C. § 441b(a). Under the Act, a contribution or expenditure includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or giving anything of value to a candidate or a candidate's committee. 2 U.S.C. § 441b(b)(2). The value of services provided without compensation by any individual who volunteers on behalf of a candidate or political committee is not a contribution. 2 U.S.C. § 431(8)(B)(i). While the Commission's regulations permit an employee or executive to engage in individual volunteer activity, the Act prohibits an individual from using corporate facilities to produce materials in connection with a Federal election without reimbursement. 2 U.S.C. § 441b(a); 11 C.F.R. § 114.9(c); See also MUR 1690.

2. Summary of Complaint and Response

In his complaint, Mr. Eisendrath suggests that the Commission investigate whether Mr. Able used the AAM's mailing lists, secretarial services, photocopier, postage and office equipment to create or distribute the mailings, thereby making a corporate contribution to the Yates Committee in violation of 2 U.S.C. § 441b(a). The Complainant contends that by soliciting contributions from museum officials in his corporate capacity, Mr. Able made a contribution through his corporate employer, in violation of Section 441b. The complaint also alleges that distribution of the fundraising materials by the museum officials

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would result in additional corporate contributions to the Yates Committee.

The Yates Committee acknowledges that Mr. Able volunteered to distribute the "Museums for Yates" cards and envelopes on Congressman Yates' behalf. In addition, the Committee has stated that Mr. Able was their fundraising "agent" and the Committee has reported receiving a $327.41 in-kind contribution for the "Printing [of] Stationary and Fund-Raising Letter" from Mr. Able. It appears that Mr. Able wrote the letter on his personal stationary, and paid for the cover letter. Based upon newspaper articles cited in the Complaint, it further appears that Mr. Able also paid for the distribution of the materials and that they were sent to museum officials.

3. <u>Analysis</u>

A review of the response submitted reveals that it does not fully address all of the allegations raised in Mr. Eisendrath's complaint. To begin with, the response does not clearly disclose the Committee's role in these solicitations. The Respondents also have not indicated whether the AAM's facilities, equipment or supplies were used to produce, mail, or otherwise distribute these solicitations. 11 C.F.R. § 100.7(a)(1)(E)(iii)(A); 11 C.F.R. § 114.9(c). They have also not disclosed the identity of those persons whom Mr. Able solicited on their behalf, nor have they offered any evidence to counter the allegation that those solicited were museums or museum officials. In fact, the Respondents do not address the Complainant's assertion that Mr. Able used the AAM's membership or

mailing lists in order to solicit museums or museum trustees and professionals. Mailing lists are specifically included in Commission regulations as "goods and services." 11 C.F.R. § 100.7(a)(1)(E)(iii)(A); 2 U.S.C. § 441b(a).

With respect to the legality of the transactions, the Respondents assert that the contributor card indicated that the Committee did not accept corporate contributions. However, this assertion is inapposite to the allegation here; namely that Mr. Able was acting in his capacity as Director of the AAM and used the AAM's facilities to solicit contributions from museum officials on behalf of the Yates Committee. For example, the salutation of the solicitation reads "Dear Colleague." The letter also refers to the recipients as "museum professionals and trustees," the Committee's card was entitled "Museums for Yates" and the letter requests that those solicited distribute the extra cards and envelopes to members of their "board and staff."

Although the letter does not expressly refer to the AAM, its language and message strongly suggest that it was targeted to reach museum officials who would be familiar with Mr. Able's position as Executive Director of the organization. In fact, as noted in the newspaper articles enclosed with the complaint, the reaction of individuals associated with the Art Institute of Chicago confirms that these materials were perceived to be directed to museums and museum personnel in their professional, not their individual, capacity.

In sum, while many questions remain unanswered, the information presently available suggests that Mr. Able used the

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AAM's resources to solicit contributions from museum officials and staff on behalf of the Yates Committee. It therefore appears that these solicitations constituted a corporate contribution. See MUR 1690; 2 U.S.C. § 431(8)(B)(i); 11 C.F.R. § 100.7(b)(3). It appears that the Yates Committee participated in these fundraising solicitations. It purchased the "Museums for Yates" cards and envelopes which were to be distributed on their behalf to "museum personnel," and accepted the costs of the letter as an in-kind contribution from their acknowledged fundraising "agent." Therefore, there is reason to believe the Yates for Congress Committee, and Sherman Rosenfield, as treasurer, knowingly accepted a corporate contribution, in violation of 2 U.S.C. § 441b(a).

B. Alleged Registration and Reporting Violations

Under the Act, the term political committee means any club, association or other group of persons which accepts contributions or makes expenditures in excess of $1,000 during a calendar year. 2 U.S.C. § 431(4)(A). Political committees are required to register with the Commission within 10 days after establishment. 2 U.S.C. § 433(a). The Complainant alleges that Museums for Yates falls within the definition of a political committee, and therefore was required to register within 10 days of its formation. Complainant contends that the failure to register "Museums for Yates" as a political committee resulted in a violation of 2 U.S.C. § 433(a).

In their response, the Yates Committee has stated that Mr. Able was their "agent," and that all contributions were sent

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directly to the Committee's post office box in Chicago. Therefore, Museums for Yates does not appear to be a separate committee required to be registered with the Commission. Accordingly, there is no reason to believe a violation of Section 433(a) occurred.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 19, 1990

Richard Meltzer
Winston & Strawn
2550 M Street, N.W.
Suite 500
Washington, D.C. 20037

RE: MUR 3023
American Association of Museums
and Edward H. Able, Jr.,
as Executive Director

Dear Mr. Meltzer:

On February 4, 1990, the Federal Election Commission notified your clients of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to you at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on June 12, 1990, found that there is no reason to believe that the American Association of Museums and Edward H. Able, Jr., as Executive Director, violated 2 U.S.C. § 433(a), a provision of the Act. Moreover, on that day the Commission found that there is reason to believe your clients violated 2 U.S.C. § 441b(a). 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 American Association of Museums. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office, along with answers to the enclosed questions, within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

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

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

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

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

If you have any questions, please contact Xavier K. McDonnell the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
1. Questions
2. Factual & Legal Analysis

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 3023
)

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: American Association of Museums, and
Edward H. Able, Jr., Executive Director
c/o Richard Meltzer
Winston & Strawn
2550 M Street, N.W., Suite 500
Washington, D.C. 20037

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 15 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

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INSTRUCTIONS

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

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

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

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

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1989 to present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

DEFINITIONS

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

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"Letter" shall mean the fundraising letter written by Mr. Edward H. Able, Jr., Executive Director of the American Association of Museums ("AAM") on behalf of the Yates for Congress Committee ("Committee"), dated December 21, 1989. "Card" and "Envelope" shall mean the Museums for Yates contribution card and envelope. "Fundraising Materials" means the Letter, Card and Envelope.

"You" shall mean the named respondents, in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

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

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

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

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INTERROGATORIES

With respect to the Fundraising Materials defined on page 3:

1. State whether any AAM funds were used to pay for the production or distribution of the Letters, Cards or Envelopes.

2. State whether any AAM equipment or supplies including but not limited to, photocopying machines, computers, typewriters, postage, telephones, paper or office supplies were used to create, produce, or distribute the Letter, Card or Envelope. If the answer to this Question is in the affirmative:

a) Identify the type of supplies or equipment used.

b) Describe the purpose and indicate the amount of such use.

c) State whether the AAM was reimbursed for such use.

d) Identify the person(s) who approved or authorized such use.

3. State whether any director, executive or other employee of the AAM provided services to the Committee or assisted in creating, designing, writing, or distributing any of the Fundraising Materials during the AAM's working hours of operation, or while such persons were being compensated by the AAM. If the answer to this Question is in the affirmative:

a) Identify such persons, and describe the services provided.

b) Indicate the amount of time expended, and state the salary or wage earned for such time period.

c) Identify the person(s) who approved or authorized that such employees provide these services.

4. State whether the AAM authorized any director, executive or employee to distribute the fundraising materials to the Art Institute of Chicago ("AIC"). If the answer to such question is in the affirmative, identify such persons.

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5. Indicate whether any AAM director, officer executive or employee used or referred to the AAM's mailing list or membership list in connection with any fundraising undertaken or behalf of the Yates Committee. If the answer to this questions is in the affirmative:

a) Describe the use of such list.

b) Indicate whether the use of such list was approved by any AAM Board member or executive.

c) State whether such lists were ever shared with anyone from the Yates Committee. If so, identify the persons within the Yates Committee with whom such lists were shared.

d) Indicate whether the AAM was paid or reimbursed for the use of such list.

e) Describe in detail the AAM's policy regarding the use or sale of such list by employees or other persons.

6. State whether the AAM is tax exempt under Section 501(c) of the Internal Revenue Code.

7. Explain and describe any fundraising activities in which the AAM participated on behalf of the Yates Committee.

8. Produce each and every document concerning, relating to, or pertaining to any fundraising done by the AAM on behalf of the Yates Committee, including but not limited to:

a) All documents identified or used in response to the above interrogatories.

b) All documents relating to fundraising costs, including but not limited to receipts and invoices for the production of the Fundraising Materials.

c) All communications between the AAM and the Yates for Congress Committee which relate to this fundraising.

d) All membership, mailing or other lists used or referenced when making these solicitations on behalf of the Yates for Congress Committee.

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

MUR: 3023

COMPLAINANTS: Edwin W. Eisendrath, III
Eisendrath for Congress Committee

RESPONDENTS: The American Association of Museums
and Edward H. Able, Jr., as Executive Director

I. GENERATION OF MATTER

Edwin W. Eisendrath, III ("Complainant"), a former Democratic House candidate from Illinois, filed a complaint with the Commission alleging that the American Association of Museums (the "AAM"), and Edward H. Able, Jr., Executive Director of the AAM, ("Respondents") violated 2 U.S.C. §§ 433(a) and 441b(a). The allegations arise out of Mr. Able's apparent distribution of fundraising materials to museum officials. The fundraising materials consisted of a cover letter, which was written and allegedly paid for by Mr. Able, and a contribution card and an envelope which were paid for by the Yates Committee. The contributor card, which indicated that it was paid for by Yates for Congress, was entitled "Museums For Yates," and the envelope was addressed to the Committee's post office box in Chicago. Neither the cover letter nor the envelope contained a disclaimer.

II. FACTUAL AND LEGAL ANALYSIS

A. Corporate Contributions/Solicitations

1. Applicable Law

Under the Federal Election Campaign Act of 1971, as amended (the "Act"), it is unlawful for a corporation to make a

contribution or expenditure in connection with the election of a Federal candidate, or for any candidate, political committee or other persons to knowingly accept or receive such a contribution. 2 U.S.C. § 441b(a). Under the Act, a contribution or expenditure includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or giving anything of value to a candidate or a candidate's committee. 2 U.S.C. § 441b(b)(2). The value of services provided without compensation by any individual who volunteers on behalf of a candidate or political committee is not a contribution. 2 U.S.C. § 431(8)(B)(i). While the Commission's regulations permit an employee or executive to engage in individual volunteer activity, the Act prohibits an individual from using corporate facilities to produce materials in connection with a Federal election without reimbursement. 2 U.S.C. § 441b(a); 11 C.F.R. § 114.9(c); See also MUR 1690.

2. Summary of Complaint and Response

In his complaint, Mr. Eisendrath suggests that the Commission investigate whether Mr. Able used the AAM's mailing lists, secretarial services, photocopier, postage and office equipment to create or distribute the mailings, thereby making a corporate contribution to the Yates Committee. 2 U.S.C. § 441b(a). The Complainant contends that by soliciting contributions from museum officials in his corporate capacity, Mr. Able made a contribution through his corporate employer, in violation of Section 441b. The complaint also alleges that distribution of the fundraising materials by the museum officials

would result in additional corporate contributions to the Yates Committee.

It appears that Mr. Able volunteered to distribute the "Museums for Yates" cards and envelopes on Congressman Yates' behalf. The Committee has reported receiving a $327.41 in-kind contribution for the "Printing [of] Stationary and Fund-Raising Letter" from Mr. Able. Mr. Able states that he wrote the letter on his personal stationary, and he asserts that he paid for the cover letter. The Respondents contend that Mr. Able was acting in his individual capacity, and that the AAM did not pay any of the costs associated with the cover letter, and did not "compensate Able or any other employee for time spent in composing, typing and signing the Letter." Based upon newspaper articles cited in the Complaint, it appears that Mr. Able also paid for the distribution of the materials and that they were sent to museum officials.

3. Analysis

A review of the responses submitted reveals that they do not fully address all of the allegations raised in Mr. Eisendrath's complaint. To begin with, the responses do not clearly indicate whether the AAM's facilities, equipment or supplies were used to produce, mail, or otherwise distribute these solicitations. 11 C.F.R. § 100.7(a)(1)(E)(iii)(A); 11 C.F.R. § 114.9(c). The Respondents also have not disclosed the identity of those solicited, nor have they offered any evidence to counter the allegation that those solicited were museums or museum officials. In fact, the Respondents do not even attempt to address the Complainant's assertion that Mr. Able used the AAM's

membership or mailing lists in order to solicit museums or museum trustees and professionals. Mailing lists are specifically included in Commission regulations as "goods and services." 11 C.F.R. § 100.7(a)(1)(E)(iii)(A); 2 U.S.C. § 441b(a). Finally, while the AAM asserts that no employee was compensated for creating the letter, Respondents do not definitively state whether Mr. Able or any other employee composed, produced or distributed the letter during "working hours."

With respect to the legality of the transactions, Respondents cite two advisory opinions, A.O. 1984-43 and A.O. 1978-77, which they contend support their position that these solicitations were lawful. However, Respondents' reliance upon those Opinions appears to be misplaced. In those Opinions, the Commission concluded that corporate officials could engage in "individual" volunteer activity through public endorsements of a candidate in advertisements paid for by a political committee. See A.O. 1984-43; A.O. 1978-77. The activity challenged here is distinguishable: rather than publicly soliciting contributions as a corporate official in his individual capacity, Mr. Able appears to have acted in his capacity as Director of the AAM and used the corporation's facilities to solicit contributions from museum officials. For example, the salutation of the solicitation reads "Dear Colleague." The letter also refers to the recipients as "museum professionals and trustees," the card is entitled "Museums for Yates" and the letter requests that those solicited distribute the extra cards and envelopes to members of their "board and staff."

Although the letter does not expressly refer to the AAM, its language and message strongly suggest that it was targeted to reach museum officials who would be familiar with Mr. Able's position as Executive Director of the organization. The reaction of individuals associated with the AIC confirms that these materials were perceived to be directed to museums and museum personnel in their professional, not their individual, capacity.

In sum, while many questions remain unanswered, the information presently available suggests that Mr. Able used the AAM's resources to solicit contributions from museum officials and staff on behalf of the Committee. It therefore appears that these solicitations constituted a corporate contribution. See MUR 1690; 2 U.S.C. § 431(8)(B)(i); 11 C.F.R. § 100.7(b)(3). Accordingly, there is reason to believe that the American Association of Museums, and Edward H. Able, Jr., as Executive Director, violated Section 441b(a).

B. Alleged Registration and Reporting Violations

Under the Act, the term political committee means any club, association or other group of persons which accepts contributions or makes expenditures in excess of $1,000 during a calendar year. 2 U.S.C. § 431(4)(A). Political committees are required to register with the Commission within 10 days after establishment. 2 U.S.C. § 433(a). The Complainant alleges that Museums for Yates falls within the definition of a political committee, and therefore was required to register within 10 days of its formation. Complainant contends that the failure to register "Museums for Yates" as a political committee resulted in a

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violation of 2 U.S.C. § 433(a).

Mr. Able has stated that all contributions were sent directly to the Yates Committee, that he did not receive contributions in excess $1,000 and that Museums for Yates is not a political committee. While it not clear whether the $327.41 which was reported as an in-kind expenditure included the distribution costs, and if not, what those costs were, it does not appear that Mr. Able's activities required him to register Museums for Yates as a political committee with the Commission. 2 U.S.C. § 431(4)(A). Accordingly, there is no reason to believe that the Respondents violated 2 U.S.C. § 433(a).

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

June 19, 1990

Edward H. Able, Jr.
3025 Arizona Avenue, N.W.
Washington, D.C. 20016

RE: MUR 3023

Dear Mr. Able:

On February 4, 1990, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was enclosed with that notification.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on June 12, 1990, found that there is no reason to believe that you violated 2 U.S.C. § 433(a), a provision of the Act. Moreover, on that day the Commission found that there is reason to believe that you violated 2 U.S.C. § 441d(a). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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

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

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

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

If you intend to be represented by counsel, 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 notification or 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.

If you have any questions, please contact Xavier K. McDonnell, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
1. Questions
2. Designation of Counsel Form
3. Factual and Legal Analysis

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 3023
)

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Edward H. Able, Jr.
3025 Arizona Avenue, N.W.
Washington, D.C. 20016

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 15 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

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INSTRUCTIONS

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

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

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

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

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1989 to present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

DEFINITIONS

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

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"Letter" shall mean the fundraising letter written by Mr. Edward H. Able, Jr., Executive Director of the American Association of Museums ("AAM") on behalf of the Yates for Congress Committee ("Committee"), dated December 21, 1989. "Card" and "Envelope" shall mean the Museums for Yates contribution card and envelope. "Fundraising Materials" means the Letter, Card and Envelope.

"You" shall mean the named respondents in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

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

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

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

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INTERROGATORIES

1. With respect to the Fundraising Materials defined on page 3:

a) Identify the person(s) who first proposed or conceived of the "Museums for Yates" Fundraising Materials, and describe your role in the creation of these Materials.

b) Identify who paid to have the Letters, Cards and Envelopes produced, and identify who produced them.

c) Identify, separately and in detail, who paid the costs for mailing or distributing the Letters, Cards and Envelopes to solicitees, and identify who distributed each.

d) Indicate separately the amount of funds expended for each of the solicitation items referred to above.

e) Describe the Yates for Congress Committee's (the "Yates Committee" or the "Committee") involvement in the creation of the Letter, and state whether any person from the Committee read, reviewed, approved, or authorized the Letter before it was distributed. Identify such persons.

2. State whether you used any AAM equipment or supplies, including but not limited to, photocopying machines, computers, typewriters, postage, telephones, paper or office supplies to create, produce, or distribute the Letter, Card or Envelope. If the answer to this Question is in the affirmative:

a) Indicate the type of supplies or equipment used,

b) Describe the purpose and amount of such use.

3. State whether you provided services to the Committee or assisted in creating, designing, writing, or distributing any of the Fundraising Materials during your working hours at the AAM. If the answer to this Question is in the affirmative:

a) Describe the services provided.

b) Indicate the amount of time expended, and state the salary or wage for such period.

4. State how many Cards and Envelopes you received from the Yates Committee.

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5. State whether you sent the Fundraising Materials to the Art Institute of Chicago ("AIC"), or to any person who is a board member or executive at that institution. If the answer to this question is in the affirmative:

a) Identify the persons to whom the Fundraising Materials were addressed, and indicate the address where the Materials were sent;

b) State how many extra Cards and Envelope were enclosed in each such mailing or package;

c) Indicate whether the AIC is a member of the AAM.

6. State the total number of persons and institutions to whom you distributed the Fundraising Materials, and indicate the number of extra Cards and Envelopes which were contained in each mailing or distribution.

7. Identify all persons and institutions to whom you sent these Fundraising Materials, and,

a) Explain the basis upon which the recipients of the Fundraising Materials were selected.

b) Identify the persons who participated in the process of deciding to whom the Fundraising Materials would be distributed.

c) Indicate which recipients are AAM members.

8. Indicate whether you used or referred to the AAM's mailing list or membership list at any time in connection with your fundraising for the Yates Committee. If the answer to this question is in the affirmative:

a) Describe your use of such a list.

b) Indicate whether your use of the list was approved by any AAM Board Member, Trustee, Executive or any other employee. If so, identify such persons.

c) State whether such lists were ever shared with anyone from the Yates Committee. If so, identify the persons within the Yates Committee with whom such lists were shared.

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9. Explain and describe all other fundraising activities you undertook on behalf of the Yates Committee.

10. Produce each and every document concerning, relating to, or pertaining to all fundraising you performed on behalf of the Yates Committee, including but not limited to:

a) All documents identified or used in response to the above interrogatories.

b) All documents relating to fundraising costs, including but not limited to receipts and invoices for the production of Fundraising Materials.

c) All communications between you and the Yates Committee which relate to your fundraising on their behalf.

d) All membership, mailing or other lists used or referenced when making these solicitations on behalf of the Yates Committee.

e) All documents related to any solicitations in which you sought contributions on behalf of the Yates Committee.

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

MUR: 3023

COMPLAINANTS: Edwin W. Eisendrath, III
Eisendrath for Congress Committee

RESPONDENT: Edward H. Able, Jr.

I. GENERATION OF MATTER

Edwin W. Eisendrath, III ("Complainant"), a former Democratic House candidate from Illinois, filed a complaint with the Commission alleging that Edward H. Able, Jr., Executive Director of the the American Association of Museums (the "AAM"), ("Respondent") violated 2 U.S.C. §§ 433(a), and 441d(a). The allegations arise out of Mr. Able's apparent distribution of fundraising materials to museum officials. The fundraising materials consisted of a cover letter, which was written and allegedly paid for by Mr. Able, and a contribution card and an envelope which were paid for by the Yates Committee. The contributor card, which indicated that it was paid for by Yates for Congress, was entitled "Museums For Yates," and the envelope was addressed to the Committee's post office box in Chicago. Neither the cover letter nor the envelope contained a disclaimer.

II. FACTUAL AND LEGAL ANALYSIS

A. Disclaimer Violation

1. Applicable Law

The Act provides that whenever any person makes an expenditure for the purpose of financing a communication which

expressly advocates the election or defeat of a clearly identified candidate or solicits any contribution through any type of general public advertising, including a direct mailing, such communication must contain a disclaimer which clearly states who paid for and authorized the communication. 2 U.S.C. § 441d(a).

The term "direct mail" as it applies to Section 441d, is not defined in the Act or in Commission regulations. See 11 C.F.R. § 110.11(a)(1). In the context of communications by a political committee, the Commission has previously looked to the definition of "direct mail" provided in 11 C.F.R. §§ 100.7(b)(15)(i) and 100.7(b)(16)(i). In those sections, "direct mail" is defined as any mailings by a commercial vendor or any mailings made from a commercial list. Id. The Commission's policy and regulations provide that the definition of "commercial lists" excludes lists developed by a committee of volunteers or previous contributors, list developed by state or local committees or lists obtained from a public office, such as lists of eligible voters. Id.; 45 Fed. Reg. No. 47, 1508. (March 7, 1980); A.O. 1988-40; MUR 2756; MUR 2692.

2. **Analysis**

In his complaint, Mr. Eisendrath notes that while the disclaimer on the contributor card provides that the communication was paid for by the Yates Committee, Mr. Able actually paid for the letter and evidently its distribution costs. Complainant therefore argues that the disclaimer is inaccurate, if not misleading, as it does not "clearly state" who paid for the

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communication, in violation of Section 441d(a).[1] Mr. Able asserts that since the mailing was not made by a "commercial vendor" or from a "commercial list," it did not constitute "direct mail" that would require a disclaimer.

To begin with, it is unclear whether the disclaimer exemption for non-commercial lists would apply here as the entity is not a political committee. In any event, while the Respondent contends that the names of those solicited did not come from a "commercial list," he has not indicated how the mailing list was derived, nor whether the Yates Committee was involved in creating this list. Respondent has also failed to offer any support for his contention that the solicitations of Mr. Able's colleagues, these "museum professionals and trustees," should not be considered to be of a commercial nature. Certainly a list of individuals who are members of the AAM or a list of those museum officials with whom Mr. Able became acquainted pursuant to his position as Director of that organization is distinguishable from the types of lists which the Commission has found not to be "commercial." See MUR 2756; MUR 2692.

The Respondent also cites A.O. 1981-60 to support the contention that the cover letter did not require a disclaimer. Respondent's reliance A.O. 1981-60 appears to be misplaced as that Opinion did not even involve any discussion of disclaimers

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1. The Complainant also states the use of the logo "Museums for Yates" fosters the impression that there was a political committee of that name which paid for the mailing. However, the use of such a logo would not appear to violate the disclaimer requirement, as long a communication clearly states who paid for it. 2 U.S.C. § 441d(a).

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required under Section 441d(a). At issue in that Opinion was the application of Act's reporting requirements and contribution limitations where an individual adds a personal message to fundraising letters received from committees or PACs, which are then forward to the individual's family, friends and neighbors.

Unlike the situation presented in A.O. 1981-60, Mr. Able did not merely add a message to a pre-existing solicitation. Instead, he printed a separate letter in which he enclosed the Candidate's authorized materials which were then mailed to at least 300 museum officials. The cover letter at issue did not contain a disclaimer which "clearly stated" who paid for its production nor did it indicate whether such letter was authorized by the Yates Committee. In addition, none of the materials indicated who paid the distribution costs. Accordingly, the fundraising materials at issue did not contain a disclaimer which accurately disclosed who actually paid for and authorized the entire communication.[2] Therefore, there is reason to believe Edward H. Able, Jr. violated Section 441d(a).

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2. In A.O. 1980-145, the Commission stated that one disclaimer was sufficient for a solicitation mailing which consisted of a cover letter, a contribution card and an envelope. 11 C.F.R. § 110.11(a)(1). Accordingly, the lack of a disclaimer on the Museums for Yates cover letter would not itself appear to be a violation of Section 441(d). However, the issue here is not simply whether the disclaimer was sufficient, but whether it was accurate and complete. As noted in the analysis, the disclaimer which appeared on the card was not complete or accurate, and therefore did not "clearly state" who paid for the communication.

B. **Alleged Registration and Reporting Violations**

Under the Act, the term political committee means any club, association or other group of persons which accepts contributions or makes expenditures in excess of $1,000 during a calendar year. 2 U.S.C. § 431(4)(A). Political committees are required to register with the Commission within 10 days after establishment. 2 U.S.C. § 433(a). The Complainant alleges that Museums for Yates falls within the definition of a political committee, and therefore was required to register within 10 days of its formation. Complainant contends that the failure to register "Museums for Yates" as a political committee, resulted in as violation of 2 U.S.C. § 433(a).

Mr. Able has stated that all contributions were sent directly to the Yates Committee, that he did not receive contributions in excess $1,000 and that Museums for Yates is not a political committee. While it not clear whether the $327.41 which was reported as an in-kind expenditure included the distribution costs, and if not, what those costs were, it does not appear that Mr. Able's activities required him to register Museums for Yates as a political committee with the Commission. 2 U.S.C. § 431(4)(A). Accordingly, there is no reason to believe that Edward H. Able, Jr. violated 2 U.S.C. § 433(a).

HAND DELIVERED

RECEIVED
FEDERAL ELECTION COMMISSION

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SCHUYLER, ROCHE & ZWIRNER
A PROFESSIONAL CORPORATION
ONE PRUDENTIAL PLAZA
SUITE 3800
130 EAST RANDOLPH STREET
CHICAGO, ILLINOIS 60601

MICHAEL C. DORF
DIRECT DIAL NUMBER
312/565-8354

TELEPHONE 312/565-2400
FACSIMILE 312/565-8300
FACSIMILE 312/565-8498

NBD PLAZA, SUITE 1190
1603 ORRINGTON AVENUE
EVANSTON, ILLINOIS 60201
TELEPHONE 708/491-9760
FACSIMILE 708/491-0658

July 9, 1990

By Federal Express

Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 JUL 10 PM 2:51

Attention: Xavier K. McDonnell

Re: MUR 3023/Yates for Congress Committee
Sherman Rosenfield, as Treasurer

Dear Mr. McDonnell:

On behalf of the Yates for Congress Committee and its Treasurer, Sherman Rosenfield (collectively, the "Committee"), I am enclosing the Committee's "Response to Interrogatories and Request for Production", as requested by the Federal Election Commission (the "Commission").

In addition, by letter dated June 19, 1990, Commission Chairman Lee Ann Elliott invited the Committee to "submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter." The Committee appreciates the opportunity to demonstrate that the Commission's Factual and Legal Analysis (the "Analysis") is flawed insofar as it finds that "there is reason to believe the [Committee] knowingly accepted a corporate contribution in violation of 2 U.S.C. §441b(a)."

1. The Commission has Misinterpreted the Use of the Term "Museums" as used in "Museums for Yates". As part of the Analysis' determination that the Committee "knowingly" accepted corporate contributions, it notes that "the Committee's card was entitled 'Museums for Yates'" and that "these materials were perceived to be directed to museums and museum personnel in their professional, not their individual, capacity." (emphasis added). The Analysis apparently assumes that by calling its card

"Museums for Yates", the Committee must have intended to receive contributions from "museums", i.e., corporate entities.

The Committee believes that the Commission has confused the use of the term "museums" as relating to buildings and corporate institutions, as opposed to "museums", as relating to a cultural discipline, along with dance, theatre, literature and the like. Congressman Yates is nationally known as a champion of the arts and the Committee has solicited individuals involved in each of the arts disciplines. Along with Museums for Yates, the Committee has authorized fundraising materials directed to "Arts for Yates", "Dance for Yates", "Opera for Yates" as well as "Lawyers for Yates" and other efforts similarly directed to professionals in various fields. Copies of examples of these materials are attached as Exhibit A.

2. The Commission's Reliance on MUR 1690 is Misplaced. The Analysis cites MUR 1690 as its sole precedent for finding reason to believe that the Committee knowingly accepted corporate contributions in violation of 2 U.S.C. 441b(a). The Committee finds such reliance particularly misplaced. The Commission in MUR 1690, regarding activities related to the candidacy of Senator John Glenn, stated that "neither the John Glenn Presidential Committee, Inc. nor Senator Glenn have been named as respondents in this matter thus far. This Office does not recommend that the Commission make a reason to believe finding against the Glenn Committee and/or Senator Glenn at this time." (General Counsel's Report, Footnote 8). The Commission made this determination despite the fact that respondents in MUR 1690 had extensive direct contact with the Glenn Committee, including membership on the Glenn Committee's National Finance Council, communications and meetings with Glenn Committee staff, and provision of an airplane and chauffered car for the candidate. In light of the minimal contact between the Committee and other respondents in the instant matter, and the Commission's refusal to charge the Glenn Committee despite its far more extensive involvement in MUR 1690, the Commission's refusal to dismiss the Committee from the present action is inexplicable.

3. The Allegations of MUR 3023 are De Minimis. Finally, the Analysis asserts that the Committee did not address the allegation that other respondents may have used a corporate mailing list. We have received no information that any such action took place and the Commission's suggestion that we "knowingly" did is without any foundation.

In the course of our subsequent investigation, moreover, the Committee has learned that the American Association of Museums has an Institutional Members List which is available to individual members of the AAM for $100.00.

It appears then that the contribution which the Committee is alleged to have "knowingly accepted" is at most a $100.00 contribution. The Committee in no way admits this allegation. Even if true, however, the Committee believes that such violation is de minimis and should have been resolved well short of these proceedings, and certainly before the necessity of a probable cause determination.

Accordingly, the Committee requests that all remaining allegations of MUR 3023 against it be dismissed.

Respectfully submitted,

YATES FOR CONGRESS COMMITTEE
AND SHERMAN ROSENFIELD, ITS
TREASURER

By: _____
Michael C. Dorf, its
Authorized Attorney

Enclosure

Exhibit A-1

ARTS FOR YATES

☐ I will be happy to support Sid Yates. Enclosed is my contribution of $_____.

Federal Law requires the following information:

Name _____

Address _____

City _____ Zip _____ Phone _____

Employer _____ Occupation _____

Phone _____

Please make checks payable to: YATES FOR CONGRESS
P.O. Box 906
Chicago, IL 60690

Federal Law prohibits accepting corporate checks. Paid for by the Yates For Congress Committee.

DANCE FOR YATES

☐ I will be happy to support Sid Yates. Enclosed is my contribution of $_____.

Federal Law requires the following information:

Name _____

Address _____

City _____ Zip _____ Phone _____

Employer _____ Occupation _____

Phone _____

Please make checks payable to: YATES FOR CONGRESS
P.O. Box 906
Chicago, IL 60690

Federal Law prohibits accepting corporate checks. Paid for by the Yates For Congress Committee.

Exhibit A-2

LAWYERS FOR YATES

Here's my check for $ _____ made payable to **YATES FOR CONGRESS COMMITTEE.**

Federal law prohibits accepting corporate checks.

Name _____

Address _____

Phone _____ Zip Code _____

No. of People _____ Cannot Attend _____

PAID FOR BY
YATES FOR CONGRESS COMMITTEE
1053 West Belmont Avenue
Chicago, IL 60657

OPERA FOR YATES

☐ I will be happy to support Sid Yates. Enclosed is my contribution of $_____.

Federal Law requires the following information.

Name _____

Address _____

City _____ Zip _____ Phone _____

Employer _____ Occupation _____

Phone _____

Please make checks payable to: YATES FOR CONGRESS
P.O. Box 906
Chicago, IL 60690

Federal Law prohibits accepting corporate checks. Paid for by the Yates For Congress Committee.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3023
Yates for Congress Committee,	)	
et al.,	)	

RESPONSE OF YATES FOR CONGRESS COMMITTEE
AND SHERMAN ROSENFIELD, AS TREASURER, TO
INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

Respondents Yates for Congress Committee and Sherman Rosenfield, as Treasurer (collectively, the "Committee") respond to the Interrogatories and Request for Production of Documents of the Federal Election Commission, as follows:

INTERROGATORIES

1. With respect to the Fundraising Materials defined on page 3 which were distributed on behalf of the Yates for Congress Committee (the "Yates Committee" or the "Committee"):

a) Identify the person(s) who first proposed or conceived of the Museums for Yates Fundraising Materials.

The Committee is unable to determine who specifically proposed or conceived of the Letters. The Cards and Envelopes are fundraising materials which have been used by the Committee for many years and the Committee is unable to determine who initially proposed or conceived of them.

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b) Identify who paid to have the Letters, Cards and Envelopes produced, and identify who produced them.

It is the Committee's understanding that Mr. Edward Able, 3025 Arizona Avenue, N.W., Washington, D.C. 20016, paid to have the Letters produced. The Committee paid to have the Cards and Envelopes produced. The Committee does not know who produced the Letters. The Cards and Envelopes were printed by David R. Ramage, Majority Room-Rayburn Building, Washington, D.C. 20515, (202) 225-5371.

c) Identify, separately and in detail, who paid the costs for mailing or distributing the Letters, Cards and Envelopes to solicitees, and identify who distributed them.

To the best of the Committee's information and belief, Mr. Geoffrey Platt, 5142 Worthington Drive, Bethesda, Maryland 20816 paid $75.00 in personal funds for stamps used to distribute the Letters, Cards and Envelopes. To the best of the Committee's information and belief, Mr. Edward Able, Mr. Geoffrey Platt and various volunteers distributed the Fundraising Materials. The Committee is unaware of the identity of the volunteers.

d) Indicate the amount of funds expended on each of the solicitation items identified above.

Mr. Edward Able reported to the Committee that $327.41 was expended on the Letters, and this amount was reported as an in-kind contribution to the Committee on its January 31 (1990) Year End Report. The Committee expended $75.00 on the Cards, which included a reprinting due to an error. The Committee expended $51.50 on the Envelopes.

2. Describe your role in the creation, purchase and distribution of the Letter, the Contributor Card and the Envelope:

a) State particularly whether any person from the Committee read, reviewed, approved, or authorized each of the Fundraising Materials before they were produced and distributed.

With respect to the Letters, the Committee did not read, approve or review the Letters, but did authorize the Letters. The Committee read, reviewed, approved and authorized the Cards. The Committee read, reviewed, approved and authorized the Envelopes.

b) Identify the persons within your Committee referred to in response to Question 2(a).

Mary Anderson Bain, 6017 Woodley Road, McLean, Virginia 22101, (703) 237-0717. Ms. Bain is a part-time re-employed annuitant in the office of Congressman Sidney R. Yates.

3. Indicate the total number of Cards and Envelopes you purchased, created or authorized to be produced:

a) Indicate the number which you distributed to Mr. Able.

The Committee authorized 1,000 Cards to be produced. The Committee discarded an initial order due to an error and authorized a new order of 1,000 Cards. The Committee distributed 1,000 Cards to Mr. Able. The Committee purchased, created and authorized 1,000 Envelopes and distributed 1,000 Envelopes to Mr. Able.

b) Indicate the total number which you distributed to all persons.

The Committee distributed in total 1,000 Cards and 1,000 Envelopes.

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4. Identify all individuals or fundraising agents who distributed these Materials on your behalf, and describe all other methods by which these Museums for Yates Fundraising Materials were distributed.

Mr. Edward Able and Mr. Geoffrey Platt distributed Fundraising Materials on behalf of the Committee. To the best of the Committee's information and belief, Mr. Able and Mr. Platt were assisted by other volunteers. The Committee does not know the identity of such volunteers. The Committee has also been informed that Fundraising Materials were distributed at a Meeting of Trustees of the Art Institute of Chicago. This distribution was not authorized by the Committee. The Committee is unaware of the distribution of the Fundraising Materials by any other methods.

5. Indicate whether you used or referred to the AAM's mailing list or membership list in connection with the Committee's fundraising efforts. If so, describe in detail your use of said list.

The Committee did not use or refer to the AAM's mailing list or membership list in connection with the Committee's fundraising efforts.

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6. Produce each and every document concerning, relating to, or pertaining to the Museums for Yates Fundraising Materials, including but not limited to:

a) All documents identified or used in response to the above interrogatories.

1. Portion of Committee's January 31, 1990 Year End Report, marked Attachment 6.a.1.

2. Letter dated January 11, 1990 from Mr. Geoffrey Platt, Jr. to Yates for Congress Committee, marked Attachment 6.a.2.

b) All documents relating to the costs for these Fundraising Materials, including but not limited to receipts and invoices for the Cards, Envelopes and Letters.

1. Invoice dated December 19, 1989 from David R. Ramage for Order No. 7394, which included order for the Cards, marked Attachment 6.b.1.

2. Invoice dated January 22, 1990 from David R. Ramage concerning Order No. 7827, regarding the Cards and Envelopes, marked Attachment 6.b.2.

3. Recapitulation of Invoice from David R. Ramage, specifying the Cards and Envelopes, marked Attachment 6.b.3.

c) All communications between Mr. Able or the AAM and the Yates Committee which relate to the Museums for Yates fundraising, or any other fundraising which Mr. Able or the AAM undertook on your behalf.

1. Letter dated January 17, 1990 from Mr. Edward Able to Yates for Congress Committee, marked Attachment 6.c.1.

2. Standard thank you note dated March 16, 1990, sent to Mr. Edward Able, representative of notes sent to all volunteers and contributors, marked Attachment 6.c.2.

d) All membership, mailing or other lists used or referenced when making these solicitations on behalf of the Yates Committee.

None

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e) **All documents relating to or accompanying any of the Museums for Yates Fundraising Materials which you distributed.**

None

The undersigned has read the above statements and certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verify believes the same to be true.

YATES FOR CONGRESS COMMITTEE
AND SHERMAN ROSENFIELD, ITS
TREASURER

Sherman V. Rosenfield

Sherman Rosenfield

Subscribed and sworn to
before me this 9th day
of July, 1990.

Leona Strait

Notary Public

OFFICIAL SEAL
LEONA STRAIT
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXP: 6/4/94

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SCHEDULE A — Attachment [redacted].1. — [redacted]

LINE NUMBER 11B
(Use separate schedule(s) for each category of the Detailed Summary Page)

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

Name of Committee (in Full): Yates for Congress Committee

Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation	Date (month, day, year)	Amount of Each Receipt this Period
A. James Zacharias 755 Sheridan Winnetka, Illinois 60093 Receipt For: XX Primary ☐ General ☐ Other (specify):	Precision Plating Co. Occupation: Owner Aggregate Year-to-Date—$ 500.	11/27/89	$ 500.
B. Sidney S. Zlotnick 2507 Massachusetts Ave. NW Washington, D.C. 20008 Receipt For: X Primary ☐ General ☐ Other (specify):	Self-Employed Occupation: Attorney Aggregate Year-to-Date—$ 500.	12/7/89	500.
C. W. McNeil Lowry 3938 Washington Street San Francisco, CA 94118 Receipt For: X Primary ☐ General ☐ Other (specify):	San Francisco Ballet Occupation: President Aggregate Year-to-Date—$ 500.	11/27/89	500.
D. Esther M. Ridder 3117 Hawthorne Pl Washington, D.C. 20008 Receipt For: X Primary ☐ General ☐ Other (specify):	Occupation: Homemaker Aggregate Year-to-Date—$ 1,000.	12/4/89	1,000.
E. Albert K. Webster 158 W. 94th St. New York, NY 10025 Receipt For: XX Primary ☐ General ☐ Other (specify):	New York Philharmonic Occupation: Executive Vice Pres. Aggregate Year-to-Date—$ 250.	12/12/89	250.
F. Lois Zoller 3180 N. Lake Shore Drive Chicago, Il 60657 Receipt For: X Primary ☐ General ☐ Other (specify):	Self-Employed Occupation: Investor Aggregate Year-to-Date—$ 1,000.	11/27/89	1,000.
G. Edward H. Able, Jr. 3025 Arizona Ave. NW Washington, D.C. 20016 (See Schedule B) Receipt For: X Primary ☐ General ☐ Other (specify):	American Assn. of Museums Occupation: Executive Dir. Aggregate Year-to-Date—$327.41	12/27/89 IN KIND CONTRIBUTION Printing Stationery and Fund-Raising Letter	327.41
SUBTOTAL of Receipts This Page (optional)			4,077.41
TOTAL This Period (last page this line number only)			147,627.41

Attachment 6.a.2.

GEOFFREY PLATT JR.
5142 WORTHINGTON DRIVE
BETHESDA, MARYLAND 20816

11 January 1990

Yates for Congress Committee
Box 906
Chicago, ILL 60690

To whom it may concern:

The following lists the in-kind contributions made to the Committee by me, and the dates made:

12/21/89	USPS, postage for mailing	$75.00
12/21/89	Domino's - pizza for volunteers	41.43
12/21/89	Cash for cabs for volunteers	14.00
	total	$130.43

I am employed by the American Association of Museums and serve as its Director of Government Affairs. My phone number is 301-229-7039

91040315109

Dav[illegible] R. Ramage, Inc.
U.[illegible]use of Representat
Room WA29 Rayburn Building
Wash[illegible]gton D.C., 20515

At[illegible]ment 6.b.1.

SID[illegible]EY YATES COMMITTEE
ROOM 323[illegible]
RA[illegible]BURN BLDG. HOUSE OF REP.
WA[illegible]HINGTON DC 20515

Invoice Number: 471[illegible]
Date : 12/19/[illegible]
Customer Type : C
Customer # : 6[illegible]

ORDER DATE	ORDER NUMBER	ORDER DESCRIPTION	ORDER PRICE
12/11/89	7394	5 DIFFERENT CONTRI. [illegible]DS	240.[illegible]

INVOICE TOTAL $ 240.[illegible]

HOPE YOU AND YOUR STAFF HAVE A VERY MERRY CHRISTMAS
AND A HAPPY NEW YEAR!

Attachment 6.b.2.

David F. Ramage, Inc.
U.S. House of Representatives
Room 4029 Rayburn Building
Washington D.C., 20515

SIDNEY YATES COMMITTEE
ROOM 2234
RAYBURN BLDG. HOUSE OF REP.
WASHINGTON DC 20515

Invoice Number: 5124
Date : 01/22/90
Customer Type : C
Customer # : 558

ORDER DATE	ORDER NUMBER	ORDER DESCRIPTION	ORDER PRICE
01/08/90	7827	1,000 CONTRIBUTION CDS.&ENV.	89.00
01/09/90	7828	800 LETTERS,2 ENV. & CONT.CDS.	184.00

INVOICE TOTAL $ 273.00

HAPPINESS IS NEVER STOPPING TO THINK IF YOU ARE.

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At[redacted]ment 6.b.3.

[redacted]NVOICE

DAVID R. RAMAGE
PH. 202-225-5371
MAJORITY ROOM - RAYBURN BUILDING
WASHINGTON, DC 20515

3409

DATE 26 JUNE 90 | ORDER NO.

TO
YATES FOR CONGRESS
P.O. BOX 906
CHICAGO, IL 60690

SHIP TO

SALESPERSON	DATE SHIPPED	SHIPPED VIA	F.O.B. POINT	TERMS

QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL
1000	MUSEUM CARDS - JOB# 7394 11 DECEMBER 89		37 50
1000	MUSEUM CARDS - JOB# 7827 (REDUN - TEXT CHANGE) 8 JANUARY 90		37 50
1000	6 3/4 ENVELOPES		51 50
	PAID IN FULL David R. Ramage		
			126 50
	TOTAL		~~75 00~~

011003

Thank You

Atta[illegible]t 6.c.1.

Edward H. Able, Jr.
3025 Arizona Avenue, N.W.
Washington, D.C. 20016

17 January 1990

Yates for Congress Committee
Box 906
Chicago, Illinois 60690

To whom it may concern:

The following lists the in-kind contributions made to the committee by me and the dates made:

12/27/89	Printing of 1000 letterhead and 1000 envelopes	$275.00
12/27/90	Printing of letter on letterhead	33.88
12/27/90	Sales Tax on above	18.53
	Total	$327.41

I am employed by the American Association of Museums and serve as its Executive Director. My telephone number (home) is 202-362-1109

Sincerely,

Edward H. Able, Jr.

Edward H. Able, Jr.

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Attachment 6.c.2.

HOUSE OF REPRESENTATIVES
WASHINGTON, D. C.

SIDNEY R. YATES

March 16, 1990

Mr. E. Harrison Able, Jr.
3025 Arizona Avenue, NW
Washington, DC 20016

Dear Ed:

I so much appreciate your generous contribution to my campaign.

Election Day is just around the corner and I am confident that our efforts will bring victory March 20 with the help of friends like you.

I am pleased - and honored - to have you as a supporter.

Thanks!

Sincerely,

Sid

Sidney R. Yates

21040311114

OGC 6877

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3023

NAME OF COUNSEL: Richard Meltzer

ADDRESS: Winston & Strawn
2550 M Street, N.W., Ste. 500
Washington, D.C. 20037

TELEPHONE: (202) 828-8444

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.

RECEIVED
FEDERAL ELECTION COMMISSION
90 JUL 10 AM 10:47

July 6, 1990
Date

Edward H. Able Jr.
Signature

RESPONDENT'S NAME: Edward H. Able, Jr.

ADDRESS: 3025 Arizona Avenue, N.W.
Washington, D.C. 20016

HOME PHONE: (202) 362-1109

BUSINESS PHONE: (202) 289-1818

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)))	MUR 3023

RESPONSES OF
EDWARD H. ABLE, JR.

TO

INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS

Edward H. Able, Jr., hereby submits the following responses to the "Interrogatories and Request for Production of Documents" propounded by the Federal election Commission dated June 19,1990.

1. With respect to the Fundraising Materials defined on page 3:

   a) Identify the person(s) who first proposed or conceived of the "Museums for Yates" Fundraising Materials, and describe your role in the creation of these materials.

   b) Identify who paid to have the Letters, Cards and Envelopes produced, and identify who produced them.

   c) Identify, separately and in detail, who paid the costs for mailing or distributing the Letters, Cards and Envelopes to solicitees, and identify who distributed each.

   d) Indicate separately the amount of funds expended for each of the solicitation items referred to above.

   e) Describe the Yates for Congress Committee's (the Yates Committee" or the "Committee") involvement in the creation of the Letter, and state whether any person from the Committee read, reviewed, approved, or authorized the Letter before it was distributed. Identify such persons.

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The "Museums for Yates" idea was conceived at a meeting of individuals active in the arts community who wanted to assist the Yates for Congress Committee. I did not attend the meeting, but was informed of the following by Geoffrey Platt, Jr., who did attend. Among the other attendees was Mary Bain, a member of the Yates staff. One of the people attending the meeting whom Platt cannot now remember suggested that individuals interested in museums, dance companies, theater groups and symphonies should seek out support from among each of these communities. The group discussed how the Cards and Envelopes could be obtained, and Bain said that she believed the Yates for Congress Committee could make them available.

The Letter was created by Platt at his home outside of working hours after discussing the contents with me. I reviewed the Letter prior to having it printed. No one associated with the Yates for Congress Committee was involved in the creation of the Letter, or read, reviewed, approved or authorized the Letter before it was distributed. The Fundraising Materials consisting of the Letter, Card and Envelope are attached hereto as Exhibits 1A, 1B and 1C, respectively.

I paid the costs of printing the Letter which was done at Press Express at 1250 Eye Street, N.W., Washington, D.C. 20005, and amounted to $327.41. A copy of the invoice, receipt and cancelled check is attached hereto as Exhibit 2. Platt purchased $75.00 of stamps from the U.S. Postal Service for distributing the Fundraising Materials (of which approximately $72.00 worth of stamps actually were used). A copy of the receipt for the purchase of stamps is attached hereto as Exhibit 3. Platt and I reported the amounts paid as an in-kind contribution to the Yates for Congress Committee. A copy of each such report is attached hereto as Exhibit 4A and 4B. The business and resident addresses, telephone numbers and present occupation of Platt are contained in Attachment 1.

2. State whether you used any AAM equipment or supplies, including but not limited to, photocopying machines, computers, typewriters, postage, telephones, paper or office supplies to create, produce or distribute the Letter, Card or Envelope. If the answer to this Question is in the affirmative:

   a) Indicate the type of supplies or equipment used,

   b) Describe the purpose and amount of such use.

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No AAM equipment or supplies of any kind were used to create the Fundraising Materials except for the use of the AAM Wang and Macintosh computers for a total of one hour to prepare the letterhead for the Letter and to transcribe the Letter. The letterhead was prepared by Claudia Harris, and the Letter was transcribed by Dennis Amari. The AAM was not reimbursed for the use of the computers. The business and resident addresses, telephone numbers and present occupation of the individuals listed in this paragraph are contained in Attachment 1.

The use of the two AAM computers for a total of one hour is an "occasional, isolated, or incidental use" of corporate facilities by a volunteer within the meaning of 11 C.F.R. §114.9(a)(1). The time spent on the computers by the two employees did not prevent the employee from completing the normal amount of work which that employee usually carries out during working hours, nor did it exceed one hour per week.

3. State whether you provided services to the Committee or assisted in creating, designing, writing, or distributing any of the Fundraising Materials during your working hours at the AAM. If the answer to the Question is in the affirmative:

   a) Describe the services provided.

   b) Indicate the amount of time expended, and state the salary or wage for such period.

Over a period of approximately ten days I spent a total of approximately two hours in discussing and reviewing the Fundraising Materials. During this period, I spent considerably more on average than seven hours per working day at the AAM. Therefore, the two hours did not reduce my working day below a seven hour total. The salary that would have been allocated for this period of time is provided in Attachment 2 for which I claim the privilege of confidentiality.

4. State how many Cards and Envelopes you received from the Yates Committee.

I received approximately 1,000 of each.

5. State whether you sent the Fundraising Materials to the Art Institute of Chicago ("AIC"), or to any person who is a board member of executive of that institution. If the answer to this question is in the affirmative:

a) Identify the persons to whom the Fundraising Materials were addressed, and indicate the address where the Materials were sent;

b) State how many extra Cards and Envelopes were enclosed in each such mailing or package;

c) Indicate whether the AIC is a member of the AAM.

The Fundraising Materials were sent to James Wood, director (chief of staff) of the AIC at Michigan Avenue at Adams Street, Chicago, Illinois 60603. The Letter included three Cards and Envelopes; however, several weeks later, I received a call at my home from someone other than James Wood (whose name I do not recall) requesting additional Cards and Envelopes. The caller did not specify an amount, but I arranged to have fifty more Cards and Envelopes sent from the supply of 1,000. The AIC is a member of the AAM, but James Wood is not.

6. State the total number of persons and institutions to whom you distributed the Fundraising Materials, and indicate the number of extra Cards and Envelopes which were contained in each mailing or distribution.

No Fundraising Materials were mailed or distributed to institutions. Approximately 285 sets of Fundraising Materials were mailed to individuals, and each set contained three Cards and Envelopes.

7. Identify all persons and institutions to whom you sent these Fundraising Materials, and,

a) Explain the basis upon which the recipients of the Fundraising Materials were selected.

b) Identify the persons who participated in process of deciding to whom the Fundraising Materials would be distributed.

c) Indicate which recipients are AAM members.

The Fundraising Materials were sent to a group of approximately 285 individuals. The individuals were selected because they were either (i) personal friends or professional acquaintances of mine, or (ii) active participants in public debate on museum issues. Platt and Amari suggested individuals who met the second criteria. No record of this list of individuals was kept and, consequently, no such list exists. A large percentage

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of the individuals who received the Fundraising Materials--unknown to me, but probably more than half--were not members of the AAM although they may have been associated with a museum that was a member.

The friends and professional colleagues to whom I sent the Fundraising Materials do not constitute a commercial list within the meaning of Section 441(d) of the Federal Election Act of 1971, as amended (the "Act"). In fact no list of such people existed before or after the mailing. The single isolated creation of a group of individuals (a large percentage of whom are either my friends or are not members of the AAM) cannot be considered a "commercial list" since it could not possible have had any commercial use.

The development and distribution of the list of individuals to whom the Fundraising Materials were distributed clearly demonstrates that no disclaimer violation occurred. The disclaimer rule would apply only if the distribution of the Fundraising Materials was "direct mail" as that term is defined in the Act.

The Act does not define the term "direct mail" for purposes of section 441d. In the past, the Commission has applied the definition of direct mail that appears in 11 C.F.R. §§ 100.7(b)(16) and (b)(17) to allegations of disclaimer violations. MUR 2756; MUR 2692. This application is incorrect. The question of whether a distribution of materials is direct mail requires a different analysis in the context of political committee activity than nonpolitical committee activity.

In the case of political committee activity, the Commission is concerned with whether or not the direct mail was undertaken by volunteers and whether or not expenditures and contributions were properly reported. In MUR 3023, no political committee activity was involved and the question of volunteer activity and proper reporting are largely irrelevant. Therefore, the direct mail definition of §§ 100.7(b)(16) and (b)(17) should not be applied to a section 441d issue.

However, even if the definition is applied, the activities which occurred in MUR 3023 do not amount to dirct mail. The mailing was not made by a commercial vendor nor taken from a commercial list. The mailing and associated activities were arranged and paid for by two volunteer individuals and the list was put together by volunteers. The list had no existence prior to or after this single event. Clearly, such a single and transitory creation of a group of individuals cannot be considered a commercial list.

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FEC counsel questions whether the disclaimier exclusion for non-commercial lists applies where the entity is not a political committee. We believe the question demonstrates why §§ 100.7(b)(16) and (b)(17) cannot be applied to a section 441d issue. The fact that the list was not developed by a political committee should have no relevance. The question of who developed the list is important only when a political committee paid for the mailing since it goes to the proper reporting of contributions and expenditure.

The reliance on MUR 2756 and MUR 2692 is misplaced. In each case, the mailing was paid for by a political committee, the identities of the persons who were solicited remained in the political committee's possession for future use after the incidents complained of occurred, and significantly more people were solicited (450 in the case of MUR 2756 and 4,000 in the case of MUR 2692).

For all of the preceding reasons, the mailing at issue here should not be considered a direct mailing. Therefore, no disclaimer violation occurred.

8. Indicate whether you used or referred to the AAM's mailing list or membership list at any time in connection with your fundraising for the Yates Committee. If the answer to this question is in the affirmative:

   a) Describe your use of such a list.

   b) Indicate whether your use of the list was approved by any AAM Board Member, Trustee, Executive or any other employee. If so, identify such persons.

   c) State whether such lists were ever shared with anyone from the Yates Committee. If so, identify the persons within the Yates Committee with whom such lists were shared.

In order to identify the addresses of the individuals to whom the Fundraising Materials were sent, a list of museums that are AAM members and which employ the individuals was referenced (known as the "AAM Institutional Members List," and attached hereto as Exhibit 5). The use of the List to identify addresses was authorized by Platt. At no time, before or since the Fundraising Materials were distributed has the Yates for Congress Committee seen a list of the individuals to whom the Materials were mailed.

9. Explain and describe all other fundraising activities you undertook on behalf of the Yates Committee.

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I undertook no other activities on behalf of the Yates Committee.

10. Produce each and every document concerning, relating to, or pertaining to all fundraising you performed on behalf of the Yates Committee, including but not limited to:

a) All documents identified or used in response to the above interrogatories.

b) All documents relating to fundraising costs, including but not limited to receipts and invoices for the production of Fundraising Materials.

c) All communications between you and the Yates Committee which relate to your fundraising on their behalf.

d) All membership, mailing or other lists used or referenced when making these solicitations on behalf of the Yates Committee.

e) All documents related to any solicitations in which you sought contributions on behalf of the Yates Committee.

The preceding Exhibits 1 through 5 comprise all documents identified or used in response to these interrogatories, all documents relating to fundraising costs (since no other fundraising occurred, no such documents exist), and all lists used or referenced in connection with making solicitations on behalf of the Yates for Congress Committee. There were no communications between the Yates for Congress Committee and me which relate to this fundraising.

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VERIFICATION

I hereby declare under penalty of perjury that the foregoing answers to the "Interrogatories and Request for Production of Documents" are true and correct to the best of knowledge and belief. Executed at Washington, D.C. this 6th day of July, 1990.

Signing with respect to the responses:

Edward H. Able, Jr.

Edward H. Able, Jr.

DESIGNATED COUNSEL

Signing with respect to the application of the Federal Election Campaign Act of 1971, as amended

Richard Meltzer

Richard Meltzer
Winston & Strawn

ATTACHMENT 1

Geoffrey Platt, Jr., Director of Government Affairs
1225 Eye Street, NW
Washington, D.C. 20005
202/289-1818
Home address:
5142 Worthington Drive
Bethesda, MD 20816
301-229-7039

Dennis Amari, Legislative Aide
1225 Eye Street, NW
Washington, D.C. 20005
202/289-1818
Home address:
2335 North 11th Street, #301
Arlington, VA 22201
703-524-6181

Claudia Harris, Legislative Aide
1225 Eye Street, NW
Washington, D.C. 20005
202/289-1818
Home address:
126 13th Street, S.E.
Washington, D.C. 20003
202-543-4174

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DOCUMENT FOR WHICH PRIVILEGE IS CLAIMED

ATTACHMENT 2

The allocation of annual salary to the amount of time spent creating, designing, writing, or distributing the Fundraising Materials is privileged information. The allocation would reveal the annual salary paid by the AAM for the period in question. Such information should not be publicly available as it reveals confidential information about the employment relationship.

The salary that would have been allocated for the two hours of time spent in connnection with the Fundraising Materials is $114.00.

DOCUMENT FOR WHICH PRIVILEGE IS CLAIMED

2104031512 5

EXHIBIT 1A

Edward H. Able, Jr.
3025 Arizona Avenue, N.W.
Washington, D.C. 20016

December 21, 1989

Dear Colleague:

Museums' great champion in the House of Representatives needs your help. Congressman Sidney Yates is being challenged in a primary this spring by a young, very well-financed Chicago alderman who has announced he is prepared to spend $1 million to defeat Rep. Yates. In his twenty terms in Congress, Sid Yates has never faced such a formidable obstacle to re-election.

As Chairman of the House Appropriations Subcommittee on the Interior and Related Agencies which has jurisdiction over the budgets of the Arts and Humanities Endowments and the Institute of Museum Services, Sid Yates has for years been in the vanguard of congressional support for federal funding of cultural activities.

At times of crisis, such as the early Reagan administration's attempts to halve the Endowments' funds and totally eliminate IMS, it has been Rep. Yates's leadership that has made the difference. Without Sid Yates, last summer's efforts by Senator Helms and Co. to gut the NEA and NEH might well have succeeded.

Perhaps the best way to put it is this: imagine what might happen to funding for museums in a Congress without Sid Yates.

And that possibility is very real - unless enough dollars can be raised for the Yates campaign to beat back the primary challenge. All around the country the call has gone out to the cultural community to back Sid Yates in his battle, as he has backed us in ours, so many times. I think museum professionals and trustees can - and should - play a major role in this effort.

Please join me in making a generous contribution to the Yates campaign today, by filling out the enclosed MUSEUMS FOR YATES card, and sending it in the enclosed envelope with your check. The election is in March 1990, but funds are urgently needed <u>now</u> in order to purchase media and counter his opponent's aggressive and expensive efforts.

Sidney Yates has always been there for us; now is the time for us to be there for him. Thank you.

With best regards,

Ed Able

p.s. I have enclosed extra MUSEUMS FOR YATES cards. Please distribute them to members of your board and staff so they may help as well. If you need more, please give me a call at 202-362-1109.

EXHIBIT 1B

MUSEUMS FOR YATES

☐ I will be happy to support Sid Yates. Enclosed is my contribution of $_____.

Federal Law requires the following information:

Name _____

Address _____

City _____ Zip _____ Phone _____

Employer _____ Occupation _____

Phone _____

Please make checks payable to: YATES FOR CONGRESS
P.O. Box 906
Chicago, IL 60690

Federal Law prohibits accepting corporate checks. Paid for by the Yates For Congress Committee

EXHIBIT 1C

91040815128

Yates for Congress Committee
P.O. Box 906
Chicago, IL 60690

EXHIBIT 2

E. HARRISON ABLE, JR.
3025 ARIZONA AVE., N.W.
WASHINGTON, D.C. 20016

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91040815132

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EFFIE YEAW EF0009 083190
EFFIE YEAW NATURE CENTER
KRIS STEVENS, DIRECTOR
PO BOX 579
CARMICHAEL CA 95609

SACRAMENTO SA0043 113090
SACRAMENTO MUS & HIST COMMIS
JAMES E HENLEY, DIRECTOR
551 SEQUOIA PACIFIC BOULEVAR
SACRAMENTO CA 95814

CHICO MUSE CH0394 113090
CHICO MUSEUM ASSOCIATION
DIANNE S. WILKINSON
141 SALEM STREET
CHICO CA 95928

PLUMAS COU PL0039 013191
PLUMAS COUNTY MUSEUM
LINDA C BRENNAN, DIRECTOR
PO BOX 776
QUINCY CA 95971

NATIONAL L NA0375 123190
NATIONAL LOGGING & TIMBER
PRODUCTS MUSEUM
P.O. BOX 2291
REDDING CA 96099

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CARTER HOU CA1506 073191

LYMAN EDIS LY0009 013191

FRIENDS OF FR0341 013191

MAUI OCEAN MA1214 013191

CARTER HOU CA0584 073190
CARTER HOUSE SCIENCE MUSEUM
MARCIA HOWE, DIRECTOR
PO BOX 185
REDDING CA 96099

LYMAN HOUS LY0509 013191
LYMAN HOUSE MEMORIAL MUSEUM
LEON H. DRUNG, DIRECTOR
276 HAILI STREET
HILO HI 96720

FRIENDS OF FR0341 013191
FRIENDS OF R W MEYER SUGAR
MILL & THE MOLOKAI MUSEUM
P O BOX 966
KAUNAKAKAI HI 96748

MAUI OCEAN MA1214 013191
MAUI OCEAN CENTER
JOHN NIGHTINGALE
975 LIMAHANA PLACE
LAHAINA HI 96761

NATIONAL T NA0464 123190
NAT'L TROPICAL BOTANICAL GAR
ATTN: LIBRARY
P.O. BOX 340-
LAWAI,KAUAI HI 96765

KAUAI MUSE KA0018 113090
KAUAI MUSEUM
DAN DAHL, DIRECTOR
POST OFFICE BOX 248
LIHUE HI 96766

ALEXANDER AL0094 022891
ALEXANDER & BALDWIN SUGAR MU
GAYLORD KUBOTA, DIRECTOR
PO BOX 125
PUUNENE HI 96784

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FRIENDS OF IOLANI PALACE
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HONOLULU HI 96804

MISSION HO MI0519 123190
MISSION HOUSES MUSEUM
DEBORAH POPE, DIRECTOR
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HONOLULU HI 96813

JUDICIARY JU0074 053191
JUDICIARY HISTORY CENTER
THALIA O. MAA
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HONOLULU A HU0075 053191
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BERNICE P BE0033 053191
BERNICE P BISHOP MUSEUM
W. DONALD DUCKWORTH, DIRECTO
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HONOLULU HI 96817

CONTEMPORA CO0181 113090
THE CONTEMPORARY MUSEUM
FRITZ FRAUCHUGER, DIRECTOR
2411 MAKIKI HEIGHTS DRIVE
HONOLULU HI 96822

ISLA CENTE IS0038 013191
ISLA CENTER FOR THE ARTS AT
TOM FINKE, DIRECTOR
UNIVERSITY OF GUAM
BOX 5203 UOG STATION
MANGILAO GU 96923

GRESHAM HI GR0519 043091
GRESHAM HISTORICAL SOCIETY
BETTY CHISUM, PRESIDENT
BOX 65
GRESHAM OR 97030

COLUMBIA R CO0046 083191
COLUMBIA RIVER MARITIME MUSE
JERRY OSTERMILLER, DIRECTOR
1792 MARINE DRIVE
ASTORIA OR 97103

PACIFIC UN PA0250 103190
PACIFIC UNIVERSITY MUSEUM
RICHARD T. READ, CURATOR
PACIFIC UNIVERSITY
FOREST GROVE OR 97116

TILLAMOOK TI0012 113090
TILLAMOOK COUNTY PIONEER MUS
M WAYNE JENSEN JR, DIRECTOR
2106 2ND STREET
TILLAMOOK OR 97141

REED COLLE RE0196 043091
REED COLLEGE
WILLIAMS R. HADEN, VP FOR PR
3203 SOUTHEAST WOODSTOCK BLV
PORTLAND OR 97202

OREGON MAR OR0036 083190
OREGON MARITIME CTR & MUSEUM
EVERETT E. JONES, PRESIDENT
113 S.W. FRONT AVENUE
PORTLAND OR 97204

PORTLAND A PO0011 053191
PORTLAND ART MUSEUM
GERALD D. BOLAS, DIRECTOR
1219 SW PARK AVENUE
PORTLAND OR 97205

OREGON MUS OR0008 022891
OREGON MUS OF SCIENCE & INDU
MARILYNNE EICHINGER, PRESIDE
4015 SW CANYON ROAD
PORTLAND OR 97221

GILBERT HO GI0202 073191
THE GILBERT HOUSE
DR. MARTIN MORRIS, DIRECTOR
CHILDREN'S MUSEUM
116 MARION STREET, NE
SALEM OR 97301-3437

SALEM ART SA0280 113090
SALEM ART ASSOC/BUSH HOUSE A
CYNTHIA GREEN, DIRECTOR
BARN ART CENTER
600 MISSION ST., S.E.
SALEM OR 97302

PAUL JENSE PA0532 033191
PAUL JENSEN ARCTIC MUSEUM
PAUL H. JENSEN
WESTERN OREGON STATE COLLEGE
MONMOUTH OR 97361

LINCOLN CO LI0307 123190
LINCOLN COUNTY HISTORICAL SO
CLIFFORD MURK, DIRECTOR
545 SW NINTH STREET
NEWPORT OR 97365

OREGON STA OR0061 022891
OREGON STATE UNIVERSITY
LAVERN J WEBER, DIRECTOR
HATFIELD MARINE SCIENCE CENT
MARINE SCIENCE DRIVE
NEWPORT OR 97365

BENTON CO BE0356 083190
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BILL LEWIS, DIRECTOR
1101 MAIN STREET
PO BOX 47
PHILOMATH OR 97370-0047

OREGON AIR OR0106 013191
OREGON AIR & SPACE MUSEUM
JANICE E. ELLIS, EXEC. DIR.
P.O. BOX 8037
COBURG OR 97401

MUSEUM OF MU0063 053190
MUSEUM OF ART
STEPHEN C MCGOUGH, DIRECTOR
UNIV OF OREGON
EUGENE OR 97403

MUSEUM OF MU0546 022891
MUSEUM OF NATURAL HISTORY
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EUGENE OR 97403-1224

UNIVERSITY UN0304 123190
UNIV OF OREGON MUSEUM OF ART
MICHAEL WHITENACK, DIRECTOR
VISUAL ARTS RESOURCES
1802 MOSS STREET
EUGENE OR 97403-1947

COOS ART M CO0928 013191
COOS ART MUSEUM
LARRY WATSON, DIRECTOR
235 ANDERSON AVENUE
COOS BAY OR 97420

OREGON AVI OR0118 013191
OREGON AVIATION MUSEUM
CYNTHIA BOUNDS, EXEC DIRECTO
78833 AIRPORT ROAD
COTTAGE GROVE OR 97424

COOS COUNT CO0508 083190
COOS COUNTY HIST SOC MUSEUM
ANN KOPPY, CURATOR
SIMPSON PARK
NORTH BEND OR 97459

SOUTHERN O SO0022 022891
SOUTHERN OREGON HIST SOCIETY
THE HISTORY CENTER
106 N. CENTRAL AVENUE
MEDFORD OR 97501-5926

PACIFIC IN PA0479 113090
PACIFIC INST. OF NATURAL SCI
RONALD LAMB, ACTING DIRECTOR
521 SOUTH MOUNTAIN AVENUE
ASHLAND OR 97520

KLAMATH CO KL0037 043091
KLAMATH COUNTY MUSEUM
PATSY H. MCMILLAN, DIRECTOR
1451 MAIN STREET
KLAMATH FALLS OR 97601

COLLIER ST CO0047 053190
COLLIER ST PARK LOGGING MUSE
LOWELL N. JONES, DIRECTOR
P O BOX 428
KLAMATH FALLS OR 97601

HIGH DESER HI0360 083190
HIGH DESERT MUSEUM
DONALD M. KERR, DIRECTOR
59800 S HIGHWAY 97
BEND OR 97702

BELLEVUE A BE0085 053191
BELLEVUE ART MUSEUM
LEMAR HARRINGTON, DIRECTOR
301 BELLEVUE SQUARE
BELLEVUE WA 98004

PLESTCHEEF PL0093 083190
PLESTCHEEFF INSTITUTE FOR TH
DECORATIVE ARTS
814 EAST HIGHLAND DRIVE
SEATTLE WA 98102

KING COUNT KI0229 013191
KING COUNTY ARTS COMMISSION
PEGGY HOLMES, VISUAL ART COO
1115 SMITH TOWER
506-2ND AVE.
SEATTLE WA 98104

MUSEUM FLI MU0386 022891
MUSEUM OF FLIGHT
HOWARD LOVERING, DIRECTOR
9404 EAST MARGINAL WAY SOUTH
SEATTLE WA 98108

PACIFIC SC PA0044 053191
PACIFIC SCIENCE CENTER
GEORGE P. MOYNIHAN, DIRECTOR
200 SECOND AVENUE NORTH
SEATTLE WA 98109

SEATTLE AR SE0012 103190
SEATTLE ART MUSEUM
JAY GATES, DIRECTOR
VOLUNTEER PARK
SEATTLE WA 98112

MUSEUM HIS MI0120 053191
MUSEUM OF HISTORY & INDUSTRY
CARL B. LIND, DIRECTOR
2700 24TH AVENUE EAST
SEATTLE WA 98112

THOMAS BUR TH0018 053190
THOMAS BURKE MEMORIAL MUSEUM
SIEVERT ROHWER, DIRECTOR
UNIVERSITY OF WASHINGTON
SEATTLE WA 98195

HENRY GALL HE0028 083190
HENRY ART GALLERY
RICHARD ANDREWS, DIRECTOR
UNIVERSITY OF WASHINGTON
DE-15
SEATTLE WA 98195

WILSON LIB WI0328 103190
WILSON LIBRARY/SERIALS DEPT
WESTERN WASHINGTON UNIVERSIT
BELLINGHAM WA 98225

WESTERN GA WE0495 043091
WESTERN GALLERY
SARA CLARK-LANGAGER, DIRECTO
FINE ARTS COMPLEX
WESTERN WASHINGTON UNIVERSIT
BELLINGHAM WA 98225

WHATCOM MU WH0013 022891
WHATCOM MUS OF HISTORY & ART
GEORGE E THOMAS, DIRECTOR
121 PROSPECT STREET
BELLINGHAM WA 98225

WHALE MUSE WH0187 123190
THE WHALE MUSEUM
SUE VERNON, DIRECTOR
P.O. BOX 945
FRIDAY HARBOR WA 98250

SKAGIT CO SK0002 093090
SKAGIT CO HIST MUSEUM
EUNICE W DARVILL
P O BOX 818
LA CONNER WA 98257

VALLEY MUS VA0255 013191
VALLEY MUSEUM OF NORTHWEST A
ART HUPY, DIRECTOR/CURATOR
BOX 557
LA CONNNER WA 98257

NAVAL UNDE NA0176 013191
NAVAL UNDERSEA MUSEUM
CODE 0163
KEYPORT WA 98345-0580

JEFFERSON JE0008 053191
JEFFERSON COUNTY HIST SOC MU
DIXIE ROMADKA, DIRECTOR
CITY HALL
PORT TOWNSEND WA 98368

KARSHNER M KA0027 022891
KARSHNER MUSEUM
ROSEMARY ECKERSON, DIRECTOR
426 4TH AVE. N.E.
PUYALLUP WA 98372

KITSAP COU KI0045 063091
KITSAP COUNTY HISTORICAL SOC
SUZANNE T ANEST, DIRECTOR
3343 N W BYRON STREET
SILVERDALE WA 98383

TACOMA ART TA0016 013191
TACOMA ART MUSEUM
WENDELL OTT, DIRECTOR
12TH & PACIFIC AVENUE
TACOMA WA 98402

WASHINGTON WA0033 053191
WASHINGTON STATE HIST SOCIET
DAVID L NICANDRI, DIRECTOR
315 NORTH STADIUM WAY
TACOMA WA 98403

JAMES R SL JA0200 043091
JAMES R SLATER MUS OF NAT HI
DENNIS R. PAULSON, DIRECTOR
UNIV OF PUGET SOUND
TACOMA WA 98416

WASHINGTON WA0319 022891
WASHINGTON STATE CAPITAL MUS
DEREK R VALLEY, DIRECTOR
211 WEST 21ST AVENUE
OLYMPIA WA 98501

MARYHILL M MA0084 022891
MARYHILL MUS OF FINE ARTS
LINDA BRADY MOUNTAIN
35 MARYHILL MUSEUM DRIVE
GOLDENDALE WA 98620

SKAMANIA C SK0003 083190
SKAMANIA CNTY HIST SOC & MUS
SHARON TIFFANY
P.O. BOX 396
STEVESON WA 98648

YAKIMA VAL YA0023 022891
YAKIMA VALLEY MUSEUM
VERSA C K'ANG, DIRECTOR
2105 TIETON DRIVE
YAKIMA WA 98902

CLYMER MUS CL0283 013191
CLYMER MUSEUM
JANICE LUDTKA, PRESIDENT
P.O. BOX 1102
ELLENSBURG WA 98926

YAKIMA NAT YA0031 083190
YAKIMA NATION MUSEUM
PO BOX 151 (FORT RD)
TOPPENISH WA 98948

WASHINGTON WA0055 053191
WASHINGTON STATE UNIVERSITY
PATRICIA WATKINSON, DIRECTOR
MUSEUM OF ART
PULLMAN WA 99164-7460

MUSEUM OF MU0210 043091
MUSEUM OF NATIVE AMER. CULTU
LYNETTE MILLER, EXEC. DIRECT
E. 200 CATALDO
SPOKANE WA 99202

EASTERN WA EA0008 123190
EASTERN WASHINGTON STATE HIS
GLENN MASON, DIRECTOR
CHENEY COWLES MEMORIAL MUSEU
W 2316 FIRST AVE
SPOKANE WA 99204

SHEEHAN GA SH0285 013191
SHEEHAN GALLERY
ATTN: DIRECTOR
WHITMAN COLLEGE
345 BOYER AVENUE
WALLA WALLA WA 99362

FORT WALLA FO0283 013191
FORT WALLA WALLA MUS COMPLEX
BILL BURK, DIR., WALLA WALLA
PIONEER AND HISTORICAL SOCIE
P.O. BOX 1616
WALLA WALLA WA 99362

ANCHORAGE AN0015 113090
ANCHORAGE MUS. OF HIST. & AR
PATRICIA B. WOLF, DIRECTOR
121 WEST 7TH AVENUE
ANCHORAGE AK 99501

NATIONAL P NA0314 073190
REGIONAL CURATOR
NATIONAL PARK SERVICE, ARO
2525 GAMBELL STREET
SUITE 107
ANCHORAGE AK 99503-2892

HERITAGE L HE0153 063091
HERITAGE LIBRARY & MUSEUM
JOANN SHORE, DIRECTOR
NATIONAL BANK OF ALASKA
PO BOX 1006000
ANCHORAGE AK 99510-0600

HOMER SOCI HO0041 083190
HOMER SOC OF NATURAL HISTORY
BETSY PITZMAN, DIRECTOR
PRATT MUSEUM
3779 BARTLETT STREET
HOMER AK 99603

MUSEUM OF MU0515 043091
MUS. OF ALASKA TRANSPORTATIO
TRANSPORATION & INDUSTRY
PO BOX 909
PALMER AK 99645

SIMON PANE SI0301 053191
SIMON PANEAK MEMORIAL MUSEUM
WARREN MATUMEAK
P.O. BOX 21085
ANAKTUVUK
PASS AK 99721

UNIVERSITY UN0047 022891
UNIVERSITY OF ALASKA MUSEUM
WALLACE STEFFAN, DIRECTOR
UNIVERSITY OF ALASKA
907 YUKON DRIVE
FAIRBANKS AK 99775

JUNEAU-DOU JU0042 022891
JUNEAU-DOUGLAS CITY MUSEUM
MARY PAT WYATT, DIRECTOR/CUR
155 S SEWARD
JUNEAU AK 99801

WICKERSHAM WI0483 103190
WICKERSHAM SOCIETY
LINDA KRUGER
213 7TH STREET
JUNEAU AK 99801

ALASKA STA AL0077 013191
ALASKA STATE MUSEUM
BRUCE KATO, ACTING ADMIN.
DEPT. OF EDUCATION
395 WHITTER STREET
JUNEAU AK 99811

SHELDON MU SH0199 013191
SHELDON MUSEUM & CULTURAL CT
ELISABETH S HAKKINEN, DIRECT
BOX 623
HAINES AK 99827

SHELDON JA SH0196 013191
SHELDON JACKSON MUSEUM
PETER L. COREY
104 COLLEGE DRIVE
SITKA AK 99835

TONGASS HI TO0008 053191
TONGASS HISTORICAL MUSEUM
LIZ WILLIAMS, PRESIDENT
CITY OF KETCHIKAN
629 DOCK STREET
KETCHIKAN AK 99901

TOTAL LABELS 2,418

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 3023

RESPONSES OF
AMERICAN ASSOCIATION OF MUSEUMS
AND
EDWARD H. ABLE, JR., EXECUTIVE DIRECTOR
TO
INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS

90 JUL 10 AM 10:47
RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

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The American Association of Museums (the "AAM") and Edward H. Able, Jr., Executive Director of the AAM, hereby submit the following responses to the "Interrogatories and Request for Production of Documents" propounded by the Federal Election Commission dated June 19, 1990.

1. State whether any AAM funds were used to pay for the production or distribution of the Letters, Cards or Envelopes.

No AAM funds were used to pay for the production or distribution of the Fundraising Materials. The Fundraising Materials consisting of the Letter, Card and Envelope are attached hereto as Exhibits 1A, 1B and 1C, respectively. The Letters were produced by Press Express located at 1250 Eye Street, N.W., Washington, D.C. 20005. The cost of producing the Letters was $327.41 which was paid to Press Express by Edward H. Able, Jr. Able listed his home telephone and address on the letter. A copy of the invoice, receipt and cancelled check is attached hereto as Exhibit 2. The Cards and Envelopes were supplied to Able by the Yates for Congress Committee.

Geoffrey Platt, Jr., purchased $75.00 worth of stamps from the U.S. Postal Service for distributing the Fundraising Materials (of which approximately $72.00 worth of stamps actually were used). A copy of the receipt for the purchase of stamps is attached hereto as Exhibit 3. Able and Platt reported the amounts paid as an in-kind contribution to the Yates for Congress Committee. A copy of each such report is attached hereto as Exhibit 4A and 4B.

2. State whether any AAM equipment or supplies including but not limited to, photocopying machines, computers, typewriters, postage, telephones, paper or office supplies were used to create, produce, or distribute the

Letter, Card or Envelope, If the answer to this question is in the affirmative:

a) Identify the type of supplies or equipment used.

b) Describe the purpose and indicate the amount of such use.

c) State whether the AAM was reimbursed for such use.

d) Identify the person(s) who approved or authorized such use.

No AAM equipment or supplies of any kind were used to create the fundraising material except for the use of the AAM Wang and Macintosh computers for a total of one hour to prepare the letterhead for the Letter and to transcribe the Letter. The AAM was not reimbursed for the use of the computers. Such use was approved by Able.

The use of the two AAM computers for a total of one hour is an "occasional, isolated, or incidental use" of corporate facilities by a volunteer within the meaning of 11 C.F.R. §114.9(a)(1). The time spent on the computers did not prevent any employee from completing the normal amount of work which that employee usually carries out during working hours, nor did it exceed one hour per week.

3. State whether any director, executive or other employee of the AAM provided services to the Committee or assisted in creating, designing, writing, or distributing any of the Fundraising Materials during the AAM's working hours of operation, or while such persons were being compensated by the AAM. If the answer to this Question is in the affirmative:

a) Identify such persons, and describe the services provided.

b) Indicate the amount of time expended, and state the salary or wage earned for such time period.

c) Identify the person(s) who approved or authorized that such employees provide these services.

Platt composed the Letter at his home during the evening. No director, executive or other employee of the AAM provided services or assisted in any of the other enumerated activities during the AAM's working hours of operation or while such persons were being compensated by the AAM except for (i) a period of one-half hour which it took Claudia Harris to create the letterhead for the Letter, (ii) a period of one-half hour which it took Dennis Amari

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to transcribe the Letter, and (iii) a period of two hours which it took Geoffrey Platt, Claudia Harris, Dennis Amari, Gary Knoblock, Ellen Myrick and Amy Ingram to insert the Letters and Cards into the Envelopes and address and stamp the Envelopes. Platt, Harris, Amari, Knoblock, Myrick and Ingram were employees of the AAM at the time the activities were performed. Each of these individuals volunteered to assist in the activities described. The business and resident addresses, telephone numbers and present occupation of the individuals listed in this paragraph are contained in Attachment 1.

Although the activities described above occurred during the AAM's working hours of operation (i.e., between 9:00 am and 5:00 pm), the AAM Personnel Policies and Procedures Manual provides that each staff member has one unpaid hour for lunch each day, and may deviate from the schedule on an occasional basis. A copy of the relevant excerpt from the AAM Personnel Policies and Procedures Manual is attached hereto as Exhibit 5. The time spent by Harris and Amari in creating the letterhead and transcribing the Letter did not interfere with the normal seven hours of work required by the AAM. The time spent by Platt, Harris, Amari, Knoblock, Myrick and Ingram in preparing the Fundraising Materials for mailing is attributable to the one hour lunch period provided to each employee and to one hour of deviation from the schedule which is permitted on an occasional basis. To the extent that the lunch period was exceeded, (i) Harris and Amari received authorization to extend their lunch period from Platt, and (ii) Knoblock, Myrick and Ingram received authorization from their supervisor.

No compensation was paid by the AAM to any of the individuals described above because at the time the activities were undertaken each individual was a salaried employee who made up or completed any time spent on such activities within a reasonable time--generally on the same day that the activities occurred. 11 C.F.R. §100.7(a)(3)(i).

The preparation of the Fundraising Materials for mailing was not done at the office of the AAM. The individuals who assisted in the preparation travelled by taxi to a different location. The cost of the taxi and the cost of lunch for the individuals was paid for by Platt. The receipts for the taxi and for the lunch are attached hereto as Exhibits 6 and 7, respectively. Platt reported the amounts paid for the taxi and lunch as an in-kind contribution to the Yates for Congress Committee. A copy of such report is attached hereto as Exhibit 4B.

The facts involved herein are clearly distinguishable from MUR 1690 which included the following activities--

(1) "a series of memoranda [from the chief executive officer of a corporation] to executives and professional employees, through the firm's internal mail, soliciting

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contributions in connection with a candidate's fundraiser to be held at the firm,"

(2) the chairman of the board of a corporation "solicited contributions to two different fundraisers, one of which was held at the corporation, by using corporate staff and facilities to contact various vendors, business contacts and executives of the firm" and provided transportation to the candidate in the corporate airplane and car, and

(3) the chief executive officer of a corporation "engaged in numerous fundraising activities" including enlisting the president of a corporate division to collect contributions, involving other corporate employees in the forwarding of contributions and the distribution of information about fundraisers, and the soliciting of corporate vendors on corporate letterhead.

Each of the corporate officers described in MUR 1690 engaged in activities that were far more numerous and intense than those at issue in this case. The officers were involved in more than one fundraising activity, the activities extended over a long period of time, the activities involved use of corporate facilities to host the fundraisers or made physical assets of the corporation available, and communications were on corporate letterhead and generally identified the officer by his position in the company. Finally, there is no indication that any of the corporate officers reported in-kind contributions to the political campaigns which they were supporting as Able and Platt did.

4. State whether the AAM authorized any director, executive or employee to distribute the fundraising materials to the Art Institute of Chicago ("AIC"). If the answer to such question is in the affirmative, identify such persons.

The AAM did not authorize any director, executive or employee to distribute the Fundraising Materials to the AIC or to undertake any other activity of any kind that involved any political activity. In fact, as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code, the AAM is prohibited from engaging in any political activity of any kind. Therefore, the AAM could not authorize a director, executive or employee to distribute the Fundraising Materials or to undertake any other kind of political activity.

5. Indicate whether any AAM director, officer, executive or employee used or referred to the AAM's mailing list or membership list in connection with any fundraising undertaken on behalf of the Yates Committee. If the answer to this questions is in the affirmative:

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a) Describe the use of such list.

b) Indicate whether the use of such list was approved by any AAM board member or executive.

c) State whether such lists were ever shared with anyone from the Yates Committee. If so, identify the persons within the Yates Committee with whom such lists were shared.

d) Indicate whether the AAM was paid or reimbursed for the use of such list.

e) Describe in detail the AAM's policy regarding the use or sale of such list by employees or other persons.

The Fundraising Materials were sent to a group of approximately 285 individuals. The individuals were selected because they were either (i) personal friends or professional acquaintances of Able, or (ii) active participants in public debate on museum issues. With respect to (ii), Platt and Amari made suggestions. No record of this list of individuals was kept and, consequently, no such list exists. In order to identify the addresses of these individuals, Amari referred to a list of museums who are AAM members (known as the "AAM Institutional Members List," and attached hereto as Exhibit 8). A large percentage of the individuals who received the Fundraising Materials--unknown to the AAM and to Able, but probably more than half--were not members of the AAM although they may have been associated with a museum that was a member.

The use of the AAM Institutional Members List in order to identify addresses is an "occasional, isolated, or incidental use" of corporate facilities by a volunteer within the meaning of 11 C.F.R. §114.9(a)(1). The time spent in identifying addresses by Amari did not prevent the employee from completing the normal amount of work which that employee usually carries out during working hours, nor did it exceed one hour per week.

The use of the AAM Institutional Members List to identify addresses did not constitute "anything of value" as that term is defined in 11 C.F.R. §100.7(a)(1)(iii)(A). Although the List does have a value of $100 for purposes of identifying substantial numbers of museums who are members of the AAM, it does not have a value for the limited purpose of checking addresses for individuals whose identity is already known to the person who is mailing the information as is the case here.

No board member or executive of the AAM approved the use of the AAM Institutional Members List. The AAM Institutional Members List was never shared with anyone from the Yates Committee. The

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AAM was not paid or reimbursed for the use of such List. The use of such List was authorized by Platt who, if payment had been made, would have paid $100.00, because he is a member of the AAM. The AAM "Mailing List Price" is attached hereto as Exhibit 9.

6. State whether the AAM is tax-exempt under section 501(c)(3) of the Internal Revenue Code.

The AAM is a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code.

7. Explain and describe any fundraising activities in which the AAM participated on behalf of the Yates Committee.

The AAM did not participate in any fundraising activities on behalf of the Yates Committee.

8. Produce each and every document concerning, relating to, or pertaining to any fundraising done by the AAM on behalf of the Yates Committee, including but not limited to:

a) All documents identified or used in response to the above interrogatories.

b) All documents relating to fundraising costs including, but not limited to, receipts and invoices for the production of the Fundraising Materials.

c) All communications between the AAM and the Yates for Congress Committee which relate to this fundraising.

d) All membership, mailing or other lists used or referenced when making these solicitations on behalf of the Yates for Congress Committee.

The preceding Exhibits 1 through 9 comprise all documents identified or used in response to these interrogatories, all documents relating to fundraising costs, and all lists used or referenced in connection with making solicitations on behalf of the Yates for Congress Committee. There were no communications between the AAM and the Yates for Congress Committee which relate to this fundraising.

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VERIFICATION

I hereby declare under penalty of perjury that the foregoing answers to the "Interrogatories and Request for Production of Documents" are true and correct to the best of my knowledge and belief. Executed at Washington, D.C. this 6th day of July, 1990.

Signing with respect to the responses:

Edward H. Able, Jr.

Edward H. Able, Jr., Executive Director

DESIGNATED COUNSEL
Signing with respect to the application of the Federal Election Campaign Act of 1971, as amended:

Richard Meltzer

Richard Meltzer
Winston & Strawn

9104081519 6

ATTACHMENT 1

Geoffrey Platt, Jr., Director of Government Affairs
1225 Eye Street, NW
Washington, D.C. 20005
202/289-1818
Home address:
5142 Worthington Drive
Bethesda, MD 20816
301-229-7039

Dennis Amari, Legislative Assistant
1225 Eye Street, NW
Washington, D.C. 20005
202/289-1818
Home address:
2335 North 11th Street, #301
Arlington, VA 22201
703-524-6181

Claudia Harris, Legislative Aide
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Washington, D.C. 20005
202/289-1818
Home address:
126 13th Street, S.E.
Washington, D.C. 20003
202-543-4174

Gary Knoblock
2817 28th Street, N.W., #3
Washington, D.C. 20008
202-387-3192 (last known home address and phone)
(currently not employed)

Ellen Myrick
Reference Files/Smithsonian Institution
National Museum of American History
12th & Constitution Avenues, N.W.
Washington, D.C. 20560
202-357-3293
Home address:
7402 Colshire Dr. #6
McLean, VA 22102
703-3567-4548

Amy Ingram
Quarters 2960B, MCCDC
Quantico, VA 22134]
703-221-4477 (home)
(currently not employed)

9104031597

EXHIBIT 1A

Edward H. Able, Jr.
3025 Arizona Avenue, N.W.
Washington, D.C. 20016

December 21, 1989

Dear Colleague:

Museums' great champion in the House of Representatives needs your help. Congressman Sidney Yates is being challenged in a primary this spring by a young, very well-financed Chicago alderman who has announced he is prepared to spend $1 million to defeat Rep. Yates. In his twenty terms in Congress, Sid Yates has never faced such a formidable obstacle to re-election.

As Chairman of the House Appropriations Subcommittee on the Interior and Related Agencies which has jurisdiction over the budgets of the Arts and Humanities Endowments and the Institute of Museum Services, Sid Yates has for years been in the vanguard of congressional support for federal funding of cultural activities.

At times of crisis, such as the early Reagan administration's attempts to halve the Endowments' funds and totally eliminate IMS, it has been Rep. Yates's leadership that has made the difference. Without Sid Yates, last summer's efforts by Senator Helms and Co. to gut the NEA and NEH might well have succeeded.

Perhaps the best way to put it is this: imagine what might happen to funding for museums in a Congress without Sid Yates.

And that possibility is very real - unless enough dollars can be raised for the Yates campaign to beat back the primary challenge. All around the country the call has gone out to the cultural community to back Sid Yates in his battle, as he has backed us in ours, so many times. I think museum professionals and trustees can - and should - play a major role in this effort.

Please join me in making a generous contribution to the Yates campaign today, by filling out the enclosed MUSEUMS FOR YATES card, and sending it in the enclosed envelope with your check. The election is in March 1990, but funds are urgently needed <u>now</u> in order to purchase media and counter his opponent's aggressive and expensive efforts.

Sidney Yates has always been there for us; now is the time for us to be there for him. Thank you.

With best regards,

Ed Able

p.s. I have enclosed extra MUSEUMS FOR YATES cards. Please distribute them to members of your board and staff so they may help as well. If you need more, please give me a call at 202-362-1109.

EXHIBIT 1B

MUSEUMS FOR YATES

☐ I will be happy to support Sid Yates. Enclosed is my contribution of $_____.

Federal Law requires the following information:

Name _____

Address _____

City _____ Zip _____ Phone _____

Employer _____ Occupation _____

Phone _____

Please make checks payable to: YATES FOR CONGRESS
P.O. Box 906
Chicago, IL 60690

Federal Law prohibits accepting corporate checks. Paid for by the Yates For Congress Committee

21040315129

EXHIBIT 1C

Yates for Congress Committee
P.O. Box 906
Chicago, IL 60690

21040315200

EXHIBIT 2

E. HARRISON ABLE, JR.
80[illegible]IZONA AVE., N.W.
WA[illegible]NGTON, D.C. 20016

4989

1/10 1990

15-4/540 12

PAY TO THE ORDER OF Press Express $ 327.41

Three Hundred Twenty Seven & 41/100 DOLLARS

1ST AMERICAN BANK
FIRST AMERICAN BANK, N.A., WASHINGTON, D.C. 20005

FOR Inv. #1834 E. Harrison Able Jr.

⑆054000043⑆ 5 419 190⑈ 4989 ⑈0000032741⑈

1250 Eye Street, N.W., Washington, D.C. 20005 202/898-0890

PRESSXPRESS

INVOICE

Printing • Copying • Photostats

Edward H. Able Jr.
825 Arizona Ave NW
Washington D.C.
20016

Invoice No. 1834
P.O. No.
Date 12/27/89

Description	Amount
Printing 1/1000 Letterhead	$125.00
Printing 1/1000 Envelopes	$150.00
484 Copies	$33.88
Stick / Bright White Lead	
Ink / Black	
Sub Total	$308.88
Tax	+18.53
Total	$327.41

Pd 1/10
CK#4989

Payment due on receipt.
Accounts 30 days past invoice date subject to a 5% surcharge.

2 1 0 4 0 3 1 5 2 0 2

ENDORSE CHECK

PAY TO THE ORDER OF
THE PALMER NATIONAL BANK
WASHINGTON, D.C. 20005
⑆054001550⑆
FOR DEPOSIT ONLY
PRESS X PRESS
0 2 2 0 0 2 8 7

X

DO NOT SIGN - WRITE / STAMP BELOW THIS LINE

FOR FINANCIAL INSTITUTION USAGE ONLY

FOR FINANCIAL INSTITUTION USAGE ONLY

JA '90 11

054000550

EXHIBIT 3

HOUSE OF REPRESENTATIVES
POST OFFICE
WASHINGTON, DC

MEMORANDUM

75-00

Postage Stamps

WASHINGTON, DC STA. NO. 2
DEC 21 1989
USPO

ROBERT V. ROTA,
POSTMASTER.

GPO: 1989 22-659 (m)

9104031 5 2 0 3

EXHIBIT 4A

Edward H. Able, Jr.
3025 Arizona Avenue, N.W.
Washington, D.C. 20016

17 January 1990

Yates for Congress Committee
Box 906
Chicago, Illinois 60690

To whom it may concern:

The following lists the in-kind contributions made to the committee by me and the dates made:

12/27/89	Printing of 1000 letterhead and 1000 envelopes	$275.00
12/27/90	Printing of letter on letterhead	33.88
12/27/90	Sales Tax on above	18.53
	Total	$327.41

I am employed by the American Association of Museums and serve as its Executive Director. My telephone number (home) is 202-362-1109

Sincerely,

Edward H. Able, Jr.

2104031520 4

EXHIBIT 4B

GEOFFREY PLATT JR.
5142 WORTHINGTON DRIVE
BETHESDA, MARYLAND 20816

11 January 1990

Yates for Congress Committee
Box 906
Chicago, ILL 60690

To whom it may concern:

The following lists the in-kind contributions made to the Committee by me, and the dates made:

12/21/89	USPS, postage for mailing	$75.00
12/21/89	Domino's - pizza for volunteers	41.43
12/21/89	Cash for cabs for volunteers	14.00
	total	$130.43

I am employed by the American Association of Museums and serve as its Director of Government Affairs. My phone number is 301-229-7039

21040315205

EXHIBIT 5

HOURS OF WORK

The Association's work year is the calendar year which runs from January 1 through December 31. The Association's work week is from 12:01 AM Monday through 12:00 AM (midnight) the following Sunday.

The standard work week in the United States as defined in the Fair Labor Standards Act of 1938 [as amended] (FLSA) is 40 hours, and it is to that standard to which related labor laws address themselves, and with which AAM and all other U.S. businesses must comply.

The American Association of Museums has established normal office hours of 9:00 AM-5:00 PM Monday through Friday, with one unpaid hour for lunch. That works out to 35 hours per week, which provides AAM staff with a weekly 5-hour benefit below the standard United States work week for the majority of the calendar year. There are times, however, when the needs of the Association will require work beyond the normal AAM work week. See "OVERTIME AND ADDITIONAL TIME" for more information on that point.

If a staff member feels he/she has an occasional need to deviate from the above schedule, arrangements must be worked out in advance with his/her supervisor(s), including the Department Director and the appropriate Deputy Executive Director. Such an arrangement may only be approved when, in management's judgment, it will not negatively affect the work of the requesting employee's operating unit, Department, or the Association.

Each staff member is to work out with his/her immediate supervisor when the lunch hour is to be taken to ensure proper coverage of the operating unit throughout the period each staff member in the unit is taking his/her lunch period. It is essential that all operating units have coverage from 9:00 AM-5:00 PM Monday through Friday. Therefore, a certain degree of flexibility on the part of both individual staff members and supervisors regarding lunch schedules is desirable.

Excluding the Executive Director and the Deputy Executive Directors, all staff members are required to sign in and out, including at lunch time, at the receptionist's desk in order that message forwarding and communication throughout each work day may be facilitated; and, until January, 1990, when the new Individual Time Log will become effective, to ensure the maintenance of complete hourly records by the Association.

9104081 5206

EXHIBIT 6

TAXI DRIVER CUSTOMER RECEIPT

Company / Ass'n. _____

Time _____ Date _____ 19 ____

Cab# _____ ID# _____

Origin of Trip 2550 M

Destination 1225 I Fare $ 7.00

Signature _____

TAXICAB RECEIPT

[illegible]

[illegible]

[illegible]

[illegible] M St NW

[illegible]

[illegible]

[illegible]

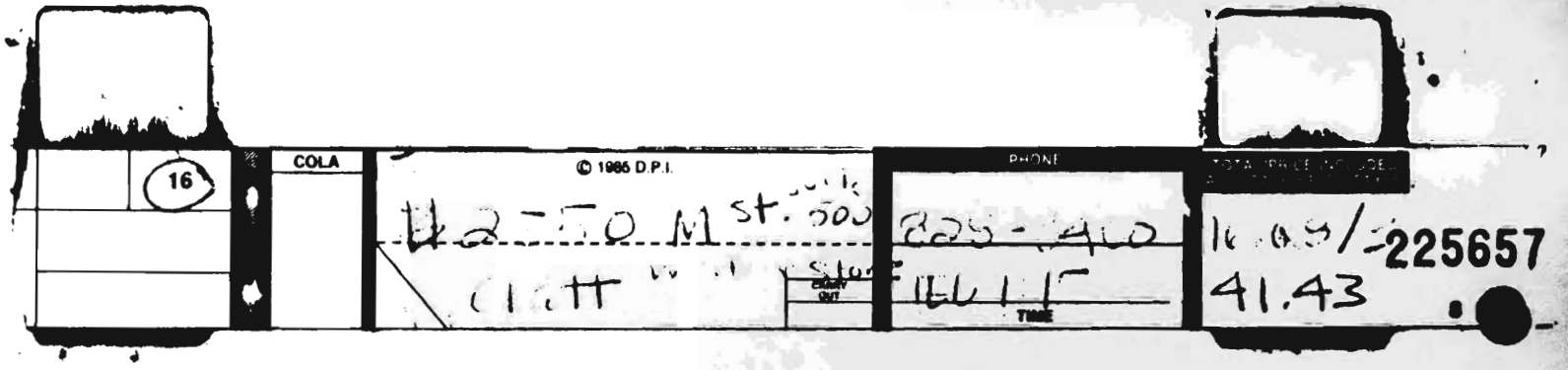
[illegible]

[illegible]

9104031 5207

EXHIBIT 7

9 1 0 4 0 8 1 5 2 0 8



[illegible]
MUSEO DE ARTE DE PONCE
APARTADO 1492
PONCE PR 00733

INSTITUTE IN0180 043091
INST DE CULTURA PUERTORRIQUE
C RAMIREZ
DIVISION DE ARTES PLASTICAS
APARTADO 4184
SAN JUAN PR 00905

UNIVERSITY UN0106 053191
UNIVERSITY GALLERY
DIRECTOR
UNIVERSITY OF MASSACHUSETTS
35 FINE ARTS CENTER
AMHERST MA 01003

STORROWTON ST0496 063091
STORROWTON VILLAGE MUSEUM
GAIL HANO, DIRECTOR
1305 MEMORIAL AVENUE
W SPRINGFIELD MA 01089

BERKSHIRE BE0001 053191
BERKSHIRE MUSEUM
BARRY DRESSEL, DIRECTOR
PITTSFIELD MA 01201

AMERICAN M AM0154 083190
AMERICAN MUSEUM OF ANTIQUE T
AARON SCHROEDER, DIRECTOR
35 STONEY BROOK ROAD
BARRINGTON MA 01230

AMERICAS AM0202 113090
THE AMERICAS FOUNDATION
STEPHEN KRAMER, DIRECTOR
BOX 728
GREENFIELD MA 01302

HARVARD HI HA0532 113090
HARVARD HISTORICAL SOCIETY
DR JOSEPH HUMPHRIES, PRESIDE
PO BOX 542
HARVARD MA 01451

HIGGINS AR HI0262 053191
HIGGINS ARMORY MUSEUM
JOHN F STEVENS, DIRECTOR
100 BARBER AVENUE
WORCESTER MA 01606

DISCOVERY DI0259 053191
THE DISCOVERY MUSEUMS
KATHLEEN A. CUMPTON, DIRECTO
177 MAIN STREET
ACTON MA 01720

ANDOVER HI AN0063 083190
ANDOVER HISTORICAL SOCIETY M
CHARLOTTE E. SMITH, DIRECTOR
97 MAIN STREET
ANDOVER MA 01810

DANVERS HI DA0200 022191

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TRUJILLO ALTO PR 00760

CONTEMPORA CO0993 073190
CONTEMPORARY ART MUSEUM OF P
MARIA E. SOMOZA, PRESIDENT
P.O. BOX 2377
BAYO REY PR 00936

WISTARIAHU WI0001 103190
WISTARIAHURST MUSEUM
ELIZABETH NEWELL, DIRECTOR
238 CABOT STREET
HOLYOKE MA 01040

SCIENCE MU SC0045 053191
SCIENCE MUSEUM
TOM COSTELLA, ACTING DIRECTO
236 STATE STREET
SPRINGFIELD MA 01103

BERKSHIRE BE0002 022891
BERKSHIRE CO HISTORICAL MUSE
CAROLYN BANFIELD, EXEC DIR
780 HOLMES ROAD
PITTSFIELD MA 01201

NORMAN ROC NO0248 053191
THE NORMAN ROCKWELL MUSEUM A
LAURIE NORTON MOFFATT, DIR
STOCKBRIDGE, INC.
STOCKBRIDGE MA 01262

HISTORIC D HI0030 053191
HISTORIC DEERFIELD, INC
DONALD FRIARY, DIRECTOR
THE STREET, P.O. BOX 321
DEERFIELD MA 01342

FRUITLANDS FR0000 113090
FRUITLANDS MUSEUMS INC
ROBERT D. FARWELL, DIRECTOR
102 PROSPECT HILL ROAD
HARVARD MA 01451

WORCESTER WO0023 053191
WORCESTER ART MUSEUM
JAMES A. WELU, DIRECTOR
55 SALISBURY STREET
WORCESTER MA 01608

CONCORD MU CO0002 073190
CONCORD MUSEUM
DENNIS A FIORI, DIRECTOR
200 LEXINGTON ROAD
CONCORD MA 01742

NORTH ANDO NO0077 073191
NORTH ANDOVER HISTORICAL SOC
153 ACADEMY ROAD
NORTH ANDOVER MA 01845

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ST CROIX VI 00840

PRATT MUSE PR0256 053191
PRATT MUSEUM OF NAT'L HISTOR
LINDA L. THOMAS
AMHERST COLLEGE
AMHERST MA 01002

SMITH COLL SM0000 053191
SMITH COLLEGE MUSEUM OF ART
EDWARD J. NYGREN, DIRECTOR
NORTHAMPTON MA 01060

MUSEUM OF MU0651 073190
MUS OF FINE ARTS & GWV SMITH
HOLLISTER STURGES, DIRECTOR
ART MUSEUM
49 CHESTNUT STREET
SPRINGFIELD MA 01103

HANCOCK SH HA0496 053190
HANCOCK SHAKER VILLAGE INC
LAWRENCE VERDON, DIRECTOR
P O BOX 898
PITTSFIELD MA 01202

WILLIAMS C WI0138 053191
WILLIAMS COLLEGE MUS OF ART
W ROD FAULDS, ASST DIRECTOR
WILLIAM COLLEGE
WILLIAMSTOWN MA 01267

FITCHBURG FI0001 053191
FITCHBURG ART MUSEUM
PETER TIMMS, DIRECTOR
185 ELM STREET
FITCHBURG MA 01420

WORCESTER WO0130 123190
WORCESTER CO HORTICULTURAL S
JOHN TREXLER, EXEC DIRECTOR
TOWER HILL BOTANIC GARDENS
30 TOWER HILL ROAD
BOYLSTOWN MA 01505

WORCESTER WO0036 043091
WORCESTER HISTORICAL MUSEUM
WILLIAM D WALLACE, DIRECTOR
30 ELM STREET
WORCESTER MA 01609

DE CORDOVA DE0000 053190
DE CORDOVA & DANA MUSEUM
PAUL MASTER-KARNIK, DIRECTOR
SANDY POND ROAD
LINCOLN MA 01773

MUSEUM OF MU0566 053191
MUS OF AMERICAN TEXTILE HIST
800 MASSACHUSETTS AVENUE
NORTH ANDOVER MA 01845

[illegible]
SAN JUAN PR 00905

AMHERST CO [illegible] 053191
[illegible]
[illegible]
AMHERST COLLEGE
AMHERST MA 01002

MOUNT HOLY MO0002 022891
MOUNT HOLYOKE COLLEGE ART MU
TERI COELSTIN, DIRECTOR
MOUNT HOLYOKE ART MUSEUM
SOUTH HADLEY MA 01075

CONNECTICT CO0000 083190
CONNECTICUT VALLEY HIST MUSE
JOSEPH CARVALHO, DIRECTOR
194 STATE STREET
SPRINGFIELD MA 01103

ALBERT SCH AL0274 053191
ALBERT SCHWEITZER CENTER
ANDJE B. LEMKE, PRESIDENT
HURLHURT ROAD
GT BARRINGTON MA 01230

STERLING & ST0001 022891
STERLING & FRANCINE CLARK
DAVID S. BROOKE, DIRECTOR
ART INSTITUTE
P.O. BOX 8
WILLIAMSTOWN MA 01267

GARDNER MU GA0056 013191
GARDNER MUSEUM, INC
MARY ELLEN RADZIEWICZ, DIR.
P.O. BOX 511
GARDNER MA 01440

OLD STURBR OL0000 022891
OLD STURBRIDGE VILLAGE
CRAWFORD LINCOLN, PRESIDENT
STURBRIDGE MA 01566

DANFORTH M DA0000 022891
DANFORTH MUSEUM OF ART
ROBERT J. EVANS, DIRECTOR
123 UNION AVENUE
FRAMINGHAM MA 01701

ADDISON GA AD0068 113090
ADDISON GALLERY OF AMER ART
JOCK REYNOLDS, DIRECTOR
PHILLIPS ACADEMY
ANDOVER MA 01810

WHISTLER H WH0146 123190
WHISTLER HOUSE MUSEUM
FLORENCE M MARION, DIRECTOR
243 NORTHEN STREET
LOWELL MA 01852

[illegible]
MANCHEST [illegible] 022891
HISTORICAL HI0374 053191
[illegible] 113090

EXHIBIT 8

DANVERS HI DA0200 022891
DANVERS HISTORICAL SOCIETY
JOAN M REEDY, CURATOR
BOX 381
DANVERS MA 01923

MANCHESTER HI MA0144 022891
MANCHESTER HISTORICAL SOCIET
DANIEL SENECAL, PRESIDENT
10 UNION STREET
MANCHESTER MA 01944

HIST SOCIETY OF OLD NEWBURY
SUZANNE SIMON
98 HIGH STREET
NEWBURYPORT MA 01950

NEWBURYPORT MARITIME SOC. IN
JANET H. HOWELL, PRES./DIR.
NEWBURYPORT MA 01950

ROCKPORT RO0373 053191
ROCKPORT ART ASSOCIATION &
ANN L FISK, DIRECTOR
MUSEUM OF ART
12 MAIN STREET
ROCKPORT MA 01965

PEABODY MU PE0030 053191
PEABODY MUSEUM OF SALEM
PETER FETCHKO, DIRECTOR
EAST INDIA SQUARE
SALEM MA 01970

HOUSE OF S HO0264 123190
HOUSE OF SEVEN GABLES
EDITH T. HARMAN, DIRECTOR
54 TURNER STREET
SALEM MA 01970

ESSEX INST ES0063 053190
ESSEX INSTITUTE
ELSIE FARNAM, DIRECTOR
123 ESSEX STREET
SALEM MA 01970

WENHAM HIS WE0001 053191
WENHAM HISTORICAL ASSOCIATIO
ELEANOR THOMPSON, DIRECTOR
AND MUSEUM
132 MAIN STREET
WENHAM MA 01984

SOUTH SHOR SO0183 123190
SOUTH SHORE NATRL SCI CTR, I
KATHY BUSH, ADMIN. DIRECTOR
PO BOX 429
JACOBS LANE
NORWELL MA 02061

KENDALL WH KE0001 093090
KENDALL WHALING MUSEUM
STUART FRANK, DIRECTOR
PO BOX 297
SHARON MA 02067

OLD SOUTH OL0121 113090
OLD SOUTH MEETING HOUSE
CYNTHIA STONE, DIRECTOR
WASHINGTON & MILK STREETS
BOSTON MA 02108

BOSTONIAN BO0000 053191
BOSTONIAN SOCIETY
JOAN C. HULL, EXEC. DIRECTOR
OLD STATE HOUSE
206 WASHINGTON STREET
BOSTON MA 02109

NEW ENGLAN NE0103 013191
NEW ENGLAND AQUARIUM INC
JOHN H. PRESCOTT, DIRECTOR
CENTRAL WHARF
BOSTON MA 02110

PAUL REVER PA0118 033191
PAUL REVERE HOUSE
NINA ZANNIERI, DIRECTOR
19 NORTH SQUARE
BOSTON MA 02113

SOCIETY FO SO0066 073191
SOCIETY FOR THE PRESERVATION
NANCY R. COOLIDGE, DIRECTOR
OF NEW ENGLAND ANTIQUITIES
141 CAMBRIDGE ST.
BOSTON MA 02114

MUSEUM OF MU0636 033191
MUSEUM OF AFRO AMERICAN HIST
46 JOY STREET
BOSTON MA 02114

MUSEUM OF MU0005 103190
MUSEUM OF SCIENCE
JRAD I TOWLE, INTERIM DIRECT
SCIENCE PARK
BOSTON MA 02114-1099

MUSEUM OF MU0007 123190
MUSEUM OF FINE ARTS
ALAN SHESTACK, DIRECTOR
479 HUNTINGTON AVENUE
BOSTON MA 02115

ISABELLA S IS0003 022891
ISABELLA STEWART GARDNER MUS
ANNE HAWLEY
2 PALACE ROAD
BOSTON MA 02115

INSTITUTE IN0037 113090
INTSITUTE OF CONTEMPORARY AR
DAVID ROSS
955 BOYLSTON
BOSTON MA 02115

SHIRLEY-EO SH0352 022891
SHIRLEY-EUSTIS HOUSE ASSN
94 SHIRLEY STREET
BOSTON MA 02119

COMMONWEAL CO0833 043091
COMMONWEALTH MUSEUM
THEODORE Z PENN, DIRECTOR
220 MORRISSEY BLVD
BOSTON MA 02125

USS CONSTI US0031 033191
USS CONSTITUTION MUSEUM
ATTN: DIRECTOR
P O BOX 1812
CHARLESTOWN MA 02129

NEW ENGLAN NE0366 113090
NEW ENGLAND SPORTS MUSEUM
DAVID W COWENS DIRECTOR
1175 SOLDIERS FIELD ROAD
BOSTON MA 02134

HARVARD SE HA0162 033191
HARVARD SEMITIC MUSEUM
PROF. LAWRENCE STAGER, DIR
HARVARD UNIVERSITY
6 DIVINITY AVENUE
CAMBRIDGE MA 02138

PEABODY MU PE0123 073190
PEABODY MUS-ARCHAE/ETHNOLOGY
C.C. LAMBERG-KARLOVSKY
11 DIVINITY AVENUE
CAMBRIDGE MA 02138

HARVARD UN HA0835 043091
HARVARD UNIVERSITY ART MUSEU
E P BOWRON, DIRECTOR
32 QUINCY STREET
CAMBRIDGE MA 02138

GRAY HERBA GR0258 123190
GRAY HERBARIUM
DONALD H PFISTER, CURATOR
22 DIVINITY AVENUE
CAMBRIDGE MA 02138

MASS INSTI MA0156 073190
MASS INSTITUTE OF TECHNOLOGY
WARREN A SEAMANS, DIRECTOR
N52-260
265 MASSACHUSETTS AVE
CAMBRIDGE MA 02139

POLAROID C PO0191 033191
POLAROID CORPORATE ARCHIVES
ROBERT ALTER, DIRECTOR
119 WINDSOR STREET
CAMBRIDGE MA 02139

LONGYEAR H LO0297 022891
LONGYEAR HISTORICAL SOCIETY
LOETTA L LEWIS, ASST DIRECTO
120 SEAVER STREET
BROOKLINE MA 02146

CHARLES RI CH0155 022891
CHARLES RIVER MUSEUM-INDUSTR
GAIL F. MOHANTY, DIRECTOR
154 MOODY STREET
WALTHAM MA 02154

GORE PLACE GO0072 022891
GORE PLACE SOCIETY
ATTN: DIRECTOR
52 GORE STREET
WALTHAM MA 02154

GALLERY EL GA0109 103190
GALLERY ELEVEN
ERICA KETEHOHN
TUFTS UNIVERSITY
11 TALBOT AVENUE
MEDFORD MA 02155

BOSTON COL BO0481 053191
BOSTON COLLEGE ART GALLERY
DR. NANCY NETZER
DEVLIN HALL CHESTNUT HILL
NEWTON MA 02167

MUSEUM OF MU0152 093090
MUS OF OUR NATIONAL HERITAGE
CLEMENT M SILVESTRO, DIR
PO BOX 519
33 MARRETT ROAD
LEXINGTON MA 02173

OLD SCHWAM OL0059 033191
THE OLD SCHWAMB MILL
PATRICIA C. FITZMAURICE
17 MILL LANE
ARLINGTON MA 02174

WELLESLEY WE0181 093090
WELLESLEY HISTORICAL SOCIETY
BARBARA GORELY TELLER, CURAT
P.O. BOX 81-142
WELLESLEY HIL MA 02181

WELLESLEY WE0003 093090
WELLESLEY COLLEGE MUSEUM
SUSAN TAYLOR, DIRECTOR
JEWETT ARTS CENTER
WELLESLEY MA 02181

CAPTAIN RO CA0750 123190
CAPTAIN ROBERT BENNET FORBES
DR DANA D RICCIARDI, DIRECTO
HOUSE CHARITABLE TRUST
215 ADAMS STREET
MILTON MA 02186

CARDINAL S CA0185 073191
CARDINAL SPELLMAN PHILATELIC
RUSSEL W. DILLAWAY, DIRECTOR
REGIS COLLEGE
235 WELLESLEY ST
WESTON MA 02193

BOSTON FIR BO0486 053191
BOSTON FIRE MUSEUM
MICHAEL W. GERRY
344 CONGRESS STREET
BOSTON MA 02210

CHILDREN'S CH0000 053191
CHILDREN'S MUSEUM
KENNETH BRECHER, DIRECTOR
300 CONGRESS STREET
BOSTON MA 02210

COMPUTER T C02405 022391
THE COMPUTER MUSEUM
MUSEUM WHARF
300 CONGRESS STREET
BOSTON MA 02210-1003

[illegible]
BOSTON UNIVERSITY ART GALLERY
ARLETTE ILLARIO, ASSOC. DIR.
855 COMMONWEALTH AVENUE
BOSTON MA 02215

[illegible]
ROSE ART MUS [illegible]
CARL BELZ, DIRECTOR
BRANDEIS UNIVERSITY
PO BOX 9110
WALTHAM MA 02254

[illegible]
JOHN ALDEN HOUSE
JAMES A TIFFIN, PRESIDENT
ALDEN KINDRED OF AMERICA, IN
BOX 1754
PLYMOUTH MA 02331

ART COMPLE AR0003 093090
ART COMPLEX INC
CHARLES A.MEYERHAUSER
189 ALDEN STREET
P.O. BOX 2814
DUXBURY MA 02331

MASSACHUSE MA1220 013191
MASS. ARCHAEOLOGICAL SOCIETY
THOMAS E. LUX, DIRECTOR
ROBBINS MUSEUM OF ARCHAEOLOG
MIDDLEBORO MA 02346

EASTON CHI CA0293 093190
EASTON CHILDREN'S MUSEUM, IN
ROSE SCANLON, PRESIDENT
PO BOX 417
NO EASTON MA 02356

PILGRIM [illegible]
PILGRIM SOCIETY
LAURENCE R PIZZO, DIRECTOR
75 COURT STREET
PLYMOUTH MA 02360

FULLER MUS FU0086 123190
FULLER MUSEUM OF ART
JAMES KENEKLIS, ASSOC DIRECT
455 OAK STREET ORTER
BROCKTON MA 02401-1399

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WEST POINT WE0011 083190
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SCIENCE MU SC0267 093090

POLISH AMI PO0059 033191

MASS [illegible]

SALAMANDR SC0157 123190

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SCIENCE MU SC0267 [illegible]
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[illegible] 053191
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ART INST FOR THE PERMIAN BAS
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MUSEUM OF OUTDOOR ARTS
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#150E
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5900 S. SANTA FE DRIVE
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LITTLETON MUSEUM
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LEISURE SERVICES
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HEARD MUSEUM
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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 13, 1990

Ellen Myrick
418 B 10th Street, S.E.
Washington, D.C. 20003

RE: MUR 3023
American Association of
Museums

Dear Ms. Myrick:

Enclosed is the affidavit which this Office has drafted reflecting the facts as you presented them to Xavier K. McDonnell. Please have the affidavit notarized and return it to the Commission in the enclosed pre-addressed envelope.

Because this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies. That section prohibits making public any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

Thank you for your cooperation in this matter. If you have any questions, please contact Xavier K. McDonnell, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
1. Affidavit
2. Envelope

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter	)	MUR 3023
	)	
	)	

AFFIDAVIT

I, Ellen Myrick, being first duly sworn, depose and say as follows:

1. I reside at 418 B. 10th Street, S.E. in Washington, D.C.

2. I was employed by the American Association of Museums (the "AAM") in Washington, D.C. from October of 1989 until approximately March of 1990.

3. To the best of my knowledge, Mr. Able, the Executive Director of the AAM, indicated during a staff meeting that he was engaging in volunteer activity on behalf of the Yates for Congress Committee ("Yates Committee"). I was not present at that meeting. At some subsequent time, I learned that Mr. Able was writing a fundraising letter on behalf of the Yates Committee, and that he was looking for volunteers who would be willing to help out with this fundraising project. I was informed that these activities would be voluntary, would be conducted during our lunch hour and that they could not be conducted on the premises of the AAM.

4. I am a supporter of Sidney Yates. I agreed to volunteer during my lunch hour on behalf of the Yates Committee.

5. In December of 1989, six AAM employees, including myself, took a taxicab to an attorney's office somewhere near Dupont Circle. The attorney was a friend of Mr. Platt. The other employees present were Dennis Amari, Claudia Harris, Amy Ingram, Gary Knoblock and Geoffrey Platt, Jr. At that office, we divided among ourselves a printed list which contained the names and addresses of institutions along with the names of contact persons employed by such institutions. I believe that the list was provided by Mr. Able. We copied the names and addresses of these persons and institutions from this list onto the envelopes. We then placed a contributor card and return envelope and Mr. Able's letter into the envelopes we had addressed. We did not stamp the envelopes. I am not certain how may envelopes we addressed and sealed. These activities took one hour.

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6. I am currently employed at the National Museum of American History, also in Washington, D.C. I have been in contact with persons who are employed by the AAM, but did not discuss with them the matter which is the subject of this affidavit.

Further the affiant sayeth not.

Ellen Myrick

Ellen Myrick

Subscribed and sworn to before me, on this 10th day of December, 1990.

Nancy L Card

Notary Public
My Commission Expires November 30, 1991

7. There was only one computer generated list which was divided among the volunteers. Names and addresses were highlighted on the list which indicated to us that that address was to receive a mailing from Mr. Able. A small portion of the total list, or less that half of the total list, was to receive a mailing from Mr. Able. Ellen Myrick

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RECEIVED
FEDERAL ELECTION COMMISSION

BEFORE THE FEDERAL ELECTION COMMISSION

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SENSITIVE

In the Matter of	)	
	)	
American Association of Museums	)	
Edward H. Able, Jr.	)	MUR 3023
Geoffrey Platt, Jr.	)	
Yates for Congress Committee, and	)	
Sherman Rosenfield, as treasurer	)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter arose from a complaint filed by Edwin W. Eisendrath, III, and the Eisendrath for Congress Committee. On June 12, 1990, the Commission found reason to believe that Edward H. Able, Jr., the Executive Director of the American Association of Museums (the "AAM"), violated 2 U.S.C. § 441d(a) by failing to place disclaimers on fundraising letters distributed on behalf of the Yates for Congress Committee (the "Yates Committee"). At the same time, the Commission found reason to believe that the AAM and the Yates Committee and Sherman Rosenfield, as treasurer, violated Section 441b(a). Responses to the Commission's findings and discovery requests have been received. See Attachments 1-3.

II. FACTUAL AND LEGAL ANALYSIS

A. FACTS OBTAINED THROUGH DISCOVERY

The fundraising materials at issue consisted of a contributor card entitled "Museums for Yates," a return envelope which was addressed to the Yates Committee, and a cover letter signed by Mr. Able. While the contributor cards and return envelopes indicated that they were paid for and authorized by the Yates Committee, the cover letter did not contain a disclaimer.

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Approximately 285 packets of the fundraising materials, each containing three contributor cards and envelopes, were distributed to individuals within the museum community, and an additional 50 cards and envelopes were sent to the Art Institute of Chicago, at its request. Attachment 1 at page 4.

The Respondent AAM asserts that no corporate funds were used to pay the production and distribution costs for the fundraising materials. Attachment 2 at page 1. Rather, the Yates Committee expended $126.50 to have 1,000 contributor cards and return envelopes produced. Attachment 3 at pages 3 and 18.[1] The printing costs for 1,000 cover letters and envelopes, totaling $327.41, were paid for by Mr. Able, and postage costs, totaling approximately $72.00, were paid for by Geoffrey Platt, the AAM's Director of Government Affairs. Attachment 2 at pages 12-16. Mr. Platt also paid $55.43 for taxi fare and meal costs for the volunteers who assisted Able and Platt in preparing the materials for distribution. Id at page 16.[2] The responses include copies of receipts for these costs, as well as letters informing the Yates Committee that Able and Platt had made these in-kind contributions. Attachment 3 at pages 14, 15 and 19.

The responses to discovery requests indicate that seven employees, including Able and Platt, volunteered to work on this

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1. According to Mr. Able, it was at a meeting of Yates' supporters within the arts community that Mary Bain, an employee of the Yates Committee, informed the AAM's Director of Government Affairs, Geoffrey Platt, that the Committee could make these materials available to volunteers. See Attachment 1 at page 2.

2. The volunteer activities were not performed on the premises of the AAM. In addition, Mr. Platt is alleged to have composed the letter at home. Attachment 2 at page 2.

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fundraising project. Specifically, two AAM employees, Dennis Amari and Claudia Harris, drafted the letterhead and transcribed the letter, using two corporate computers for a total of one hour. Attachment 2 at pages 2-3. In addition, six AAM employees, Amari, Harris, Ingram, Knoblock, Myrick and Platt spent two hours each, one hour of which was lunch, addressing, stuffing and posting the fundraising materials. Id. at page 3. Mr. Able is alleged to have spent a total of approximately two hours discussing and reviewing the fundraising materials. Attachment 1 at page 3.

The Respondents AAM and Able assert that packets of the fundraising materials were sent to individuals who were selected either because they were friends or professional acquaintances of Mr. Able, or because they were known to be active participants in public debate on museum issues. Attachment 1 at page 4, Attachment 2 at page 5. They have produced a copy of the AAM's Members list, which they assert the volunteers referenced in order to identify the addresses of persons whose identities were already known. Attachment 1 at pages 19-73; Attachment 2 at pages 20-74.

During a telephone interview with a member of the Office of General Counsel, Ellen Myrick, one of the volunteers from the AAM who assisted on the fundraising packets, stated that the volunteers used a list to copy the names and addresses of institutions as well as the "contact persons" at each. The Members list appears to fit the description provided by Ms. Myrick: it consists of the names and addresses of museums and other similar institutions, along with the names of the respective director of each. See Attachment 1 at pages 19-73; Attachment 2

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at pages 20-74. Therefore, packets of the fundraising materials sent to persons whose names were on the Mailing list were mailed to institutions they were associated with, not to their individual residences. Finally, the Respondents indicate that the volunteers did not pay the AAM for the use of the list, that the use of the list was authorized by Mr. Platt, and that for an AAM member the purchase price of the list was $100. Attachment 2 at page 6. For non-members, the AAM Member's list can be purchased for $160. Id. at 76.

B. ANALYSIS

1. 441d(a) Violation

The Federal Election Campaign Act of 1971, as amended (the "Act") and Commission regulations require persons making an expenditure for the purpose of expressly advocating the election or defeat of a clearly identified candidate, or for the purpose of soliciting any contributions through any form of general public advertising, including direct mail, to include an appropriate disclaimer within the communication. 2 U.S.C. § 441d(a); 11 C.F.R. § 110.11(a)(1). The disclaimer must clearly state whether or not it was paid or authorized by a candidate or a candidate's authorized committee, and must clearly state who paid for the communication. 2 U.S.C. § 441d(a).

The Act does not define "direct mail" as that term pertains to the disclaimer provision. However, "direct mail" is defined within the section of the Commission's regulations which exempts payments for certain campaign materials used in connection with voluntary activities from the definition of contribution.

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11 C.F.R. §§ 100.7(b)(15) and (16). This exemption applies only to payments made by state or local party committees or by candidates or authorized candidate committees. 2 U.S.C. §§ 431(8)(x) and (xi); 11 C.F.R. §§ 100.7(b)(15) and (16).[3] The Commission has previously looked to the definition of "direct mail" found in these regulations when evaluating whether disclaimers were required on communications made by authorized candidate committees. See MUR 2756; MUR 2692; A.O. 1988-40.

Respondent Able contends that the Commission's application of the direct mail definition in cases involving disclaimers is "incorrect." Attachment 1 at page 5. He asserts that the question of whether the distribution of materials constitutes direct mail requires a different analysis based upon whether it is distributed by a political committee or an entity which is not a political committee. Id.[4] Respondent argues that since "no political committee activity was involved" in this matter, these issues are "largely irrelevant," and he asserts that

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3. With respect to state or local party committees, "direct mail" is defined as any mailings made by a commercial vendor or any mailing made from commercial lists. 11 C.F.R. § 100.7(b)(15). With respect to candidate committees, "direct mail" is defined as any mailing by commercial vendors or made from lists which were not developed by the candidate. 11 C.F.R. § 100.7(b)(16).

4. He asserts that when the entity is a political committee, the Commission is concerned with whether the activity was undertaken by volunteers, and with whether the payments have been properly reported. For the same reasons, he asserts that whether the list was developed by a political committee is only significant when a political committee paid for the mailing. Id. at page 6. However, the Respondent's arguments ignore that the disclaimer requirement serves the important informational purpose of identifying who paid for and authorized a communication which expressly advocates the election or defeat of a clearly identified candidate. 2 U.S.C. § 441d(a).

this establishes that the direct mail definition should not be applied to a Section 441d issue. Attachment 1 at page 5. However, he does not explain why this fundraising letter, which was accompanied by a contributor card and envelope, and which expressly solicited contributions and advocated the election of Mr. Yates, would not constitute direct mail for purposes of Section 441d(a).

In the alternative, the Respondent argues that, even under the definition found in the Commission's regulations, the Museums for Yates mailing does not constitute direct mail as it was paid for and arranged by volunteers, and because the mailing list consisted of persons who were Mr. Able's friends and professional colleagues. Attachment 1 at page 5.

This Office agrees that the definitions of direct mail under 11 C.F.R. §§ 100.7(b)(15) and (16) are not directly applicable here, albeit for reasons other than those advanced by Mr. Able. First of all, the purpose of these provisions is to permit local or "grassroots" political activity by exempting payments for certain voluntary activities from the Act's limitations on contributions and expenditures. 2 U.S.C. §§ 441(a)-(d). Under the Act and the Commission's regulations, only certain entities and persons qualify for these exemptions; namely, state or local party committees, candidates or candidate's authorized committees. 2 U.S.C. §§ 8(x)(xi) and (9)(viii)(ix); 11 C.F.R §§ 100.7(b)(15) and (16); 11 C.F.R. §§ 100.8(b)(16) and (17).

In any event, contrary to the Respondent's assertions, even if the factors contained in that definition were applied

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here, the communication at issue constitutes "direct mail." The list was not developed by the candidate or candidate's committee. 11 C.F.R. § 100.7(b)(16).[5] Rather, the volunteers used a corporation's membership list to check addresses of institutions, and, according to one volunteer, to obtain the names of institutions and their respective directors. The AAM Members list is a corporate asset with commercial value: it is sold to both profit and nonprofit organizations. See Attachment 2 at page 76. The list, therefore, is a commercial list within the meaning of 11 C.F.R. § 100.7(b)(15), and the distribution of the Museums for Yates fundraising materials constituted "direct mail," requiring appropriate disclaimers. 2 U.S.C. § 441d(a).

2. Section 441(b)(a) Violation

The Act prohibits corporations from making any contribution or expenditure in connection with the election of a Federal candidate, and prohibits any candidate, political committee or other person from knowingly accepting or receiving any such contribution. 2 U.S.C. § 441b(a). A contribution is defined as "anything of value." 2 U.S.C. § 441(b)(b)(2). In-kind contributions and other goods and services are considered

5. As such, the mailing at issue is distinguishable from those in which an authorized candidate committee was responsible for the distribution of the mailing or for the development of the mailing list. For instance, in MUR 2756 and MUR 2692, the Commission found that disclaimers were not required on communications distributed to persons whose names were derived from lists developed by candidate committees. In A.O. 1988-40, the Commission did not require a candidate committee to place disclaimers on post cards sent to persons whose names the committee derived from a list of eligible voters, when the mailing came under the coattails exception in 2 U.S.C. § 431(8)(B)(xi). See also A.O. 1986-29 (No disclaimers required on slate cards sent to recipients when names derived from candidate's list).

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contributions. 11 C.F.R. § 100.7(a)(E)(iii).

Employees of a corporation may make occasional, isolated, or incidental use of corporate facilities for individual activity in connection with a Federal election. 11 C.F.R. § 114.9. No corporate contribution results if an employee engages in political activity in what would otherwise be a regular work period, if the employee is paid on a salaried basis and is expected to work a number of hours per pay period, provided that the employee makes up or completes any time spent on the political activity within a reasonable time. 11 C.F.R. § 100.7(a)(3)(i).

The Respondents AAM and Mr. Able contend that the use of the two corporate computers for a total of one hour constitutes "occasional, isolated or incidental" use of corporate facilities. 11 C.F.R. § 114.9. Attachment 2 at page 2. The regulations provide that such use generally means an amount of activity during any particular work period which does not prevent the employee from carrying out work usually performed during such period. Employee activity which does not exceed a period of one hour per week or four hours per month is considered "occasional, isolated, or incidental." The use of the two computers by employees for a total of one hour appears to qualify as "occasional, isolated or incidental" use of corporate facilities within the meaning of 11 C.F.R. § 114.9, and therefore no corporate contribution resulted from such use.

With respect to the employee services, the Respondents assert that four salaried employees, Platt, Knoblock, Myrick and Ingram, spent a maximum of two hours on the volunteer activities,

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half of which was their lunch hour, and the remainder of which was made up within a reasonable time. Attachment 2 at page 3. Another two salaried employees, Amari and Harris, spent a maximum of two and one half hours on these activities, one hour of which was a lunch hour. Id. They contend the remaining hour and a half did not interfere with the normal seven hours of work required, and was made up within a reasonable time. Id. at page 3. In addition, the Respondents have produced a copy of their Personnel Policies and Procedures Manual, which provides that employees may deviate from their schedule on an occasional basis, if such deviation is approved by their supervisor, as it was in this instance. Id. at pages 3 and 17. Finally, Mr. Able contends that, during the period of time he undertook these activities, he worked considerably more than his required seven hours, and therefore the two hours he spent on these activities were made up within a reasonable time. Attachment 1 at page 3. As the responses disclose that employees were not compensated by the AAM for the time spent on these fundraising activities, no corporate contribution resulted from their services. 11 C.F.R. § 100.7(a)(3)(i).

The Respondents argue that referring to the Members list simply to check the addresses of individuals is "incidental use of corporate facilities" within the meaning of 11 C.F.R. § 114.9. They also argue that the use of such list simply to check addresses did not constitute "anything of value" within the meaning of 11 C.F.R. § 100.7(a)(1)(iii)(A). Attachment 2 at page 5. Contrary to the Respondents' assertions, a list is not a

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corporate facility. In fact, "membership lists" and "mailing lists" are given as separate and distinct examples of "goods and services" which constitute in-kind contributions under the Commission's regulations. 11 C.F.R.§ 100.7(a)(1)(iii)(A).[6] The Members list is an asset of the corporation which the AAM sells to both profit and nonprofit organizations. 11 C.F.R. § 114.9.

The Respondents' contention that use of the list to check addresses has no value is also unavailing: the list has value irrespective of whether the names, the addresses, or both were used to label the fundraising materials. Moreover, one volunteer has stated during a telephone interview that the list was actually used to obtain the names as well as the addresses of recipients. Furthermore, the list provided consists entirely of the names and addresses of institutions, and individuals were only named as directors. This undermines the Respondents' contention that recipients were chosen only because they were friends of Mr. Able or individuals known to be active on museum issues. See Attachment 1, pages 18-74; Attachment 2, pages 20-74.

With respect to the value of the Members list, the value of the list as a contribution is the usual and normal market price. 11 C.F.R. § 100.7(a)(1)(iii)(B). In this instance, the usual market price would be the cost for non-members, or $160. See Attachment 2 at page 76. As the volunteers used a corporate asset, the mailing list, to label the fundraising materials for distribution, it appears that the AAM made a corporate

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6. Other examples of goods and services include securities, equipment, supplies, personnel and advertising services. 11 C.F.R. § 100.7(a)(1)(iii)(A).

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contribution to the Yates Committee, in violation of Section 441b(a).

The Yates Committee acknowledges that it purchased the 1,000 Museums For Yates contributor cards and return envelopes, which they distributed to Edward H. Able, Jr. See Attachment 3, page 9 answer to question 3(a). The Committee contends that it was aware that the fundraising materials were to be distributed by Mr. Able and Geoffrey Platt, the AAM's Director of Government Affairs, but contend that they were unaware of the identity of the intended recipients. As noted above, the Committee's reports disclose Mr. Able's contribution. See Attachment 3 at page 14.

The Committee asserts that its contributor cards and return envelopes are entitled "Museums for Yates" to target contributions from individuals who are active within the museum community, not to target contributions from museums as institutions. Id. at pages 1 and 2. To establish this contention, the Committee enclosed in its response contributor cards for other "disciplines" such as "Arts for Yates," Dance for Yates," and "Lawyers for Yates." Id at pages 4 and 5.

In addition, the Respondents argue that the contacts between the Yates Committee and employees of the AAM were minimal, and in any event were far less extensive than in MUR 1690. Finally, the Committee contends that it did not use or refer to the AAM's Members list and had no knowledge that the list was used by the volunteers during the fundraising until the investigation began. The Committee also asserts that even if it had known the list was used, such a violation would be de minimus as the list is valued

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at $100. Id. at page 3.

The responses submitted suggest that the Committee did not know that Mr. Able and Mr. Platt used the AAM's Members list during the preparation and distribution of the fundraising materials, or that persons within the Committee were aware of the identity of the intended recipients. 2 U.S.C. § 441b(a).

III. SUMMARY

The information obtained through discovery confirms that Edward H. Able, Jr. violated Section 441d(a) by failing to place a disclaimer on the "Museums for Yates" fundraising letter. In addition, as noted earlier, Geoffrey Platt, Jr. also made expenditures for the Yates mailing, totaling $130.43, which would require him to be included in the disclaimer. Therefore, the Office of General Counsel recommends that the Commission find reason to believe that Geoffrey Platt, Jr. violated Section 441d(a). The responses also confirm that the use of the AAM's Members list resulted in a corporate contribution, in violation of Section 441b(a). On the other hand, it does not appear that the Yates Committee and Sherman Rosenfield, as treasurer, knowingly accepted that corporate contribution.

Discovery has also disclosed that the amounts involved with each respondent are minimal. (Mr. Able's totaled $327.41, Mr. Platt's totaled $130.43, and the AAM's list is valued at $160). Accordingly, this Office recommends that the Commission, consistent with the proper ordering of its priorities and resources, take no further action against the AAM, Edward H. Able, Jr., Geoffrey Platt, Jr., the Yates for Congress Committee, and

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Sherman Rosenfield, as treasurer, and close the file. See Heckler v. Chaney, 470 U.S. 821 (1985).

IV. RECOMMENDATIONS

1. Find reason to believe that Geoffrey Platt, Jr. violated 2 U.S.C. § 441d(a), and take no further action.

2. Take no further action against Edward H. Able, Jr.

3. Take no further action against the American Association of Museums and Edward H. Able, Jr. as Executive Director.

4. Take no further action against the Yates for Congress Committee, and Sherman Rosenfield, as treasurer.

5. Approve the attached Factual and Legal Analysis and appropriate letters.

6. Close the file

Lawrence M. Noble

11/30/90
Date

BY: Lois G. Lerner
Associate General Counsel

Attachments
1. Response of Edward H. Able, Jr.
2. Response of AAM
3. Response of Yates Committee
4. Factual and Legal Analysis

Staff Assigned: Xavier K. McDonnell

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
American Association of Museums;	)	MUR 3023
Edward H. Able, Jr.;	)	
Geoffrey Platt, Jr.;	)	
Yates for Congress Committee, and	)	
Sherman Rosenfield, as treasurer.	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on December 11, 1990, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 3023:

1. Find reason to believe that Geoffrey Platt, Jr. violated 2 U.S.C. § 441d(a), and take no further action.

2. Take no further action against Edward H. Able, Jr.

3. Take no further action against the American Association of Museums and and Edward H. Able, Jr. as Executive Director.

(continued)

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4. Take no further action against the Yates for Congress Committee, and Sherman Rosenfield, as treasurer.

5. Approve the Factual and Legal Analysis attached to the General Counsel's report dated November 30, 1990, subject to amendment and correction as agreed during the meeting discussion.

6. Approve appropriate letters as recommended in the General Counsel's report dated November 30, 1990.

7. Close the file.

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

Attest:

12-13-90
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 26, 1990

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Edwin W. Eisendrath, III
Eisendrath for Congress
1708 N. Sedwick
Chicago, IL 60614

RE: MUR 3023

Dear Mr. Eisendrath:

This is in reference to the complaint you filed with the Federal Election Commission on January 25, 1990, concerning the Yates for Congress Committee (the "Yates Committee"), Sherman Rosenfield, as treasurer, the American Association of Museums ("AAM"), Edward H. Able, Jr., the Art Institute of Chicago ("AIC"), and Geoffrey Platt, Jr. (collectively "Respondents").

Based on that complaint, on June 12, 1990, the Commission found that there was reason to believe that the Yates Committee and Sherman Rosenfield, treasurer, and the AAM violated 2 U.S.C. § 441b(a). The Commission also found that there was reason to believe that Edward H. Able, Jr. violated 2 U.S.C. § 441d(a), and that there was no reason to believe the Respondents violated 2 U.S.C. § 433(a). On the same date, the Commission rejected the Office of General Counsel's recommendation that there was reason to believe the AIC violated 2 U.S.C. § 441b(a), and voted to take no action at that time against that organization.

Following an investigation in this matter, on December 11, 1990, the Commission found reason to believe Geoffrey Platt, Jr. violated 2 U.S.C. § 441a(d). By same date, after considering the circumstances involved in this matter, the Commission determined to take no further action against the Respondents, and closed the file in this matter. Enclosed is the General Counsel's report, which discloses the information obtained during the investigation as well as the basis for the General Counsel's recommendations. A statement of reasons for the Commission's decision with respect to

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the AIC will follow. This matter will become part of the public record within 30 days. The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report

21040815285

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 26, 1990

Michael C. Dorf, Esquire
Schuyler, Roche & Swirner
One Prudential Plaza, Suite 3800
130 East Randolph Street
Chicago, Illinois 60601

Re: MUR 3023
Yates for Congress Committee, and
Sherman Rosenfield, as treasurer

Dear Mr. Dorf:

On June 19, 1990, the Yates for Congress Committee and Sherman Rosenfield, as treasurer ("your clients") were notified that the Federal Election Commission found reason to believe that they violated 2 U.S.C. § 441b(a). On July 9, 1990, you submitted a response to the Commission's reason to believe finding.

After considering the circumstances of the matter, the Commission determined on December 11, 1990, to take no further action against your clients, and closed the file. The file will be made part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days of your receipt of this letter. Such materials should be sent to the Office of the General Counsel.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 26, 1990

Richard Meltzer
Winston & Strawn
2550 M Street, N.W., Suite 500
Washington, D.C. 20037

RE: MUR 3023
Edward H. Able, Jr.

Dear Mr. Meltzer:

On June 19, 1990, your client in the above-referenced matter was notified that the Federal Election Commission found reason to believe that he violated 2 U.S.C. § 441d(a), a provision of the Federal Election Campaign Act of 1971, as amended. On July 10, 1990, you submitted a response to the Commission's reason to believe finding.

After considering the circumstances of the matter, the Commission determined on December 11, 1990, to take no further action against Edward H. Able, Jr. and closed the file. The file will be made part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days of your receipt of this letter. Such materials should be sent to the Office of the General Counsel.

The Commission reminds your client that failing to place adequate disclaimers on communications which expressly advocate the election or defeat of a clearly identified candidate, or which solicit any contribution through a direct mailing, appears to be a violation of 2 U.S.C. § 441d(a). Your client should take immediate steps to insure that this activity does not occur in the future.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner (SK)
Lois G. Lerner
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 26, 1990

Richard Meltzer
Winston & Strawn
2550 M Street, N.W., Suite 500
Washington, D.C. 20037

RE: MUR 3023
American Association of Museums

Dear Mr. Meltzer:

On June 19, 1990, the American Association of Museums (the "AAM" or "your client") was notified that the Federal Election Commission found reason to believe that it violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended. On July 10, 1990, you submitted a response to the Commission's reason to believe finding.

After considering the circumstances of the matter, the Commission determined on December 11, 1990, to take no further action against the AAM, and closed the file. The file will be made part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days of your receipt of this letter. Such materials should be sent to the Office of the General Counsel.

The Commission reminds your client that use, free of charge, of a corporate asset such as the AAM's Members list, in connection with a federal election constitutes a prohibited corporate contribution under 2 U.S.C. § 441b. Your client should take immediate steps to insure that this activity does not occur in the future.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

90040315238

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 26, 1990

James O. Silliman
Gerard R. Singer
Eckhart, McSwain, Silliman & Sears
One First National Plaza, Suite 3160
Chicago, Illinois 60603

RE: MUR 3023
Art Institute Of Chicago

Dear Mr. Silliman and Mr. Singer:

On February 1, 1990, the Federal Election Commission notified the Art Institute of Chicago, and James Wood, Executive Director, ("Respondents" or "your clients") of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On June 12, 1990, on the basis of the information in the complaint, and information provided by you, the Commission rejected the Office of General Counsel's recommendation that there was reason to believe the Respondents violated 2 U.S.C. § 441b(a), and voted to take no action at that time against your clients. Following an investigation in this matter, on December 11, 1990, the Commission determined to take no further action in this matter and closed the file. A statement of reasons for the Commission's decision will follow. This matter will become a part of the public record within 30 days. If you wish to submit any materials to appear on the public record, please do so within ten days. Please send such materials to the Office of the General Counsel.

If you have any questions, please call Xavier K. McDonnell, the attorney assigned to this matter at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 26, 1990

CLOSED

Geoffrey Platt, Jr.
5142 Worthington Drive
Bethesda, MD 20816

Re: MUR 3023

Dear Mr. Platt:

On December 11, 1990, the Federal Election Commission found reason to believe that you violated 2 U.S.C. § 441d(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission also determined to take no further action and closed its file. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

The Commission reminds you that failing to place adequate disclaimers on communications which expressly advocate the election or defeat of a clearly identified candidate, or which solicit contributions, through any form of general public advertising, including direct mail, appears to be a violation of 2 U.S.C. § 441d(a). You should take immediate steps to insure that this activity does not occur in the future.

The file will be made part of the public record within 30 days. Should you wish to submit any materials to appear on the public record, please do so within ten days of your receipt of this letter. Please send such materials to the General Counsel's Office.

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

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosure
Factual and Legal Analysis

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THE FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

MUR: 3023

Respondent: Geoffrey Platt, Jr.

The Federal Election Campaign Act of 1971, as amended (the "Act") and Commission regulations require persons making an expenditure for the purpose of expressly advocating the election or defeat of a clearly identified candidate, or for the purpose of soliciting any contributions through any form of general public advertising, including direct mail, to include a disclaimer within the communication. 2 U.S.C. § 441d(a). The disclaimer must clearly state whether or not the communication was paid for or authorized by a candidate or a candidate's authorized committee, and must clearly state who paid for the communication. Id.

In the normal course of carrying out its supervisory responsibilities, the Commission discovered that Geoffrey Platt, Jr., the Director of Government Affairs for the American Association of Museums (the "AAM") made expenditures on behalf of a clearly identified federal candidate. The expenditures were made in connection with a fundraising mailing distributed on behalf of the Yates for Congress Committee (the "Yates Committee"). The fundraising materials at issue consisted of a contributor card entitled "Museums for Yates," a return envelope which was addressed to the Yates Committee, and a cover letter which solicited contributions from Museum trustees and officials on behalf of the Yates Committee. Mr. Platt is alleged to have

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written the cover letter at home. The contributor cards and return envelopes indicated that they were paid for and authorized by the Yates Committee, but the cover letter did not contain a disclaimer.

Packets of the fundraising materials, each containing three contributor cards and return envelopes, were distributed to at least 285 individuals within the museum community. Mr. Platt paid the postage costs for the distribution of fundraising materials, totaling approximately $72.00. Mr. Platt also paid transportation and meal costs, totaling $55.43, for the AAM employees who voluntarily prepared the fundraising materials for distribution. Mr. Platt reported these costs to the Yates Committee. It appears, therefore, that Mr. Platt made expenditures for the Museums for Yates fundraising letter, which did not contain an adequate disclaimer. Accordingly, there is reason to believe that Geoffrey Platt, Jr. violated 2 U.S.C. § 441(d).

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3023

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