



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 3037

DATE FILMED 1/16/91 CAMERA NO. 2

CAMERAMAN AS

21040313989

RECEIVED  
FEDERAL ELECTION COMMISSION  
SECRETARIAT

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90 FEB 26 AM 11:09

MUR 3037

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

TELEPHONE 312/565-2400  
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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.

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Mr. Lawrence M. Noble  
Federal Election Commission  
February 12, 1990  
Page 2

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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Mr. Lawrence M. Noble  
Federal Election Commission  
February 12, 1990  
Page 3

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.

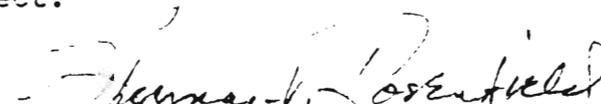
Sincerely,



Michael C. Dorf

MCD/lis

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



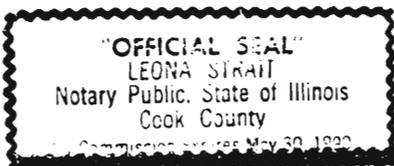
Sherman Rosenfield, individually  
and on behalf of Yates for  
Congress Committee

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

\_\_\_\_\_  
Notary Public

My Commission Expires:

March 31, 1992



21040313992

SCHEDULE A

MATTER NO. 2023

EXHIBIT A  
ITEMIZED RECEIPTS

Page 45 of 49 for  
LINE NUMBER 112  
(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

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

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04 4-15-82

Opinions

10,831

[95645] 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 Pearce, 3928 Amberst, 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 [95508] and compare Advisory Opinion 1978-49 [95339], 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.

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10.832

## Advisory Opinions

04 4-15-82

- a/ 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."

[95646] 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).<sup>1</sup> 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.

¶ 5646

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10 CHICAGO SUN TIMES, TUESDAY, JANUARY 23, 1980

**DAILY DIGEST****Metro**

**\$20 MILLION LOTTO PRIZE:** The lotto prize in this Saturday's drawing was increased by \$3 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 80 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.

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**SENSITIVE**

February 23, 1990

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble  
General Counsel

THROUGH: Lois G. Lerner  
Associate General Counsel

SUBJECT: MUR 3037

On January 25, 1990, the Commission received a complaint from Edwin Eisendrath III, which alleged that the Yates for Congress Committee, and Sherman Rosenfeld, as treasurer ("Respondents") may have violated the Federal Election Campaign Act of 1971 (the "Act"). The Commission opened MUR 3023, and notified the Respondents of this complaint. On February 16, 1990, the Respondents filed a response to Mr. Eisendrath's complaint. That response contains allegations that Mr. Eisendrath and the Eisendrath for Congress Committee may have violated a provision of the Act. A copy of this response, which contains this new allegation is attached. This complaint has been numbered MUR 3037.

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OCC9614



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

February 26, 1990

Edwin W. Eisendrath, III  
Eisendrath for Congress  
1708 North Sedwick  
Chicago, Illinois 60614

RE: MUR 3037

Dear Mr. Eisendrath:

This letter is to inform you that the Yates for Congress Committee has recently filed its response to the complaint in MUR 3023. That response contains an allegation that you and your Committee may have violated the Federal Election Act of 1971, as amended (the "Act"). A copy of this signed and notarized complaint is enclosed. We have numbered this matter MUR 3037. Please refer to this number in all future correspondence which relate to this matter.

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.

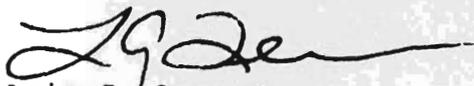
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Edwin W. Eisendrath, III  
Page 2

If you have any questions, please contact Xavier K. McDonnell, the attorney assigned to this matter at (202) 376-5690. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble  
General Counsel

  
BY: Lois G. Lerner  
Associate General Counsel

Enclosures

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

91040813999



Lawrence M. Noble, Esq.  
March 16, 1990  
Page 2

In any event, the Counter-complaint is rendered moot by the fact that my allegations against Mr. Yates -- and my intention to file a complaint with the Commission -- were a matter of public record a week before the complaint in MUR 3023 was even filed. Under the headline "Eisendrath to file complaint against Yates fundraising letter," the Chicago Tribune published on January 12, 1990 an article detailing my allegations of violations of the election laws by Mr. Yates. (The article is attached as Exhibit One.) If Section 111.21(a) were to be applied in this situation, it would produce an absurd result. It would mean that on January 12th I could freely speak and publicly make allegations of election law violations by my opponent; but by filing a complaint the next week with the Commission, those allegations would have suddenly been transformed into privileged information, and my First Amendment rights muzzled even as to information already in the public realm.

Such an anomalous result could not have been the intent of legislation whose very purpose was to increase public disclosure about candidates' campaign practices. It is thus not surprising to find that the Commission's regulation in this respect significantly exceeds the scope of the underlying statute. Section 111.21 derives its authority from 2 U.S.C. 437g(a)(12). This subsection of the Federal Election Campaign Act, as amended (the "Act"), states:

Any notification or investigation made under this section shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.

No reference is made to withholding complaints from the public. (There is no allegation that any "notification" has been made public, and the Commission has not yet even voted to begin an "investigation," as that term is used in 2 U.S.C. 437g.) Since Section 111.21(a) thus exceeds the scope of legislative authority, the Commission's prohibition against public disclosure of complaints is of doubtful legal enforceability for this reason as well.

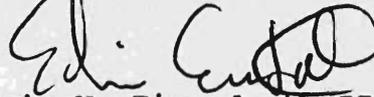
The Counter-complaint of the Yates for Congress Committee is nothing more than a transparent attempt to retaliate against me for calling the incumbent to account for his campaign law violations. It is ironic that Congressman Yates, who claims to be a great supporter of free speech, should trample on the First Amendment in his attempt to squelch public discussion of his illegal campaign practices and his shakedown of the not-for-profit special interests beholden to him.

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Lawrence M. Noble, Esq.  
March 16, 1990  
Page 3

As set forth above, there has been no violation by me or my Committee of the Act or the regulations over which the Commission has jurisdiction. I therefore respectfully request that the Commission dismiss the Counter-complaint in MUR 3037.

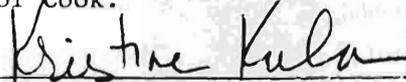
Sincerely yours,



Edwin W. Eisendrath III

Attachment

Subscribed and sworn before me this 16th day of March, 1990 in the City of Chicago, State of Illinois, County of Cook.



Kristine Kula, Notary Public

My commission expires July 18, 1992

21040814002

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 Insti-

tute 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, in-

cluding 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  
999 E Street, N.W.  
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

MUR # 3037  
DATE COMPLAINT RECEIVED  
BY OGC: February 16, 1990  
DATE OF NOTIFICATION TO  
RESPONDENTS: February 26, 1990  
STAFF MEMBER: X. McDonnell

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

RESPONDENTS: Edwin W. Eisendrath, III, and  
the Eisendrath for Congress Committee and  
Jerome M. Lehrman, as treasurer

RELEVANT STATUTES: 2 U.S.C. § 437g(a)(12)(A)  
11 C.F.R. § 111.21(a)

INTERNAL REPORTS CHECKED: None

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

The Yates for Congress Committee and Sherman Rosenfield, as treasurer ("Complainants"), have alleged that Edwin Eisendrath, III, a former democratic candidate for the 9th District in Illinois, violated 11 C.F.R. § 111.21(a) by releasing the contents of the complaint in MUR 3023 to the press.

II. FACTUAL AND LEGAL ANALYSIS

Under the Federal Election Campaign Act of 1971, as amended, (the "Act") it is unlawful for any person to publicize any notification or investigation made by the Federal Election Commission, without the written consent of the person receiving such notification or of the person with respect to whom such investigation is made. 2 U.S.C. § 437g(a)(12)(A). Pursuant to

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this statutory provision, the Commission has promulgated a regulation which provides that "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 consent of the respondent."

11 C.F.R. § 111.21(a).

Complainants in this matter allege that by publicizing that a complaint had been filed with the Commission and by disclosing the contents of the complaint, the Respondents violated 11 C.F.R. § 111.21(a). As evidence of the alleged violation, Mr. Rosenfield has submitted a copy of an article in the Chicago Sun Times in which Mr. Eisendrath allegedly indicated that he had filed a complaint against Congressman Yates for "encouraging illegal contributions from nonprofit corporations."

The evidence presented in this complaint does not establish that the Respondents disclosed any information regarding the Commission's notifications or any information regarding the Commission's investigation in MUR 3023. 2 U.S.C.

§ 437g(a)(12)(A). As the Commission has consistently held that the Act's confidentiality provisions do not prevent a complainant from releasing the fact that a complaint has been filed, or from releasing the substance of that complaint, Mr. Eisendrath's alleged statements to the press do not appear to be in violation of the Act. 2 U.S.C. § 437(g)(a)(12)(A). See, e.g., MUR 2142; MUR 2980. Accordingly, this Office recommends that the Commission find no reason to believe that

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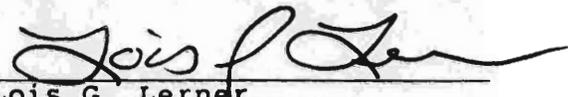
Edwin W. Eisendrath, III, the Eisendrath for Congress Committee and Jerome M. Lehrman, as treasurer, violated 2 U.S.C. § 437g(a)(12)(A) or 11 C.F.R. § 111.21(a), and close the file.

III. RECOMMENDATIONS

1. Find no reason to believe that Edwin W. Eisendrath, III, the Eisendrath for Congress Committee and Jerome M. Lehrman, as treasurer, violated 2 U.S.C. § 437g(a)(12)(A) or 11 C.F.R. § 111.21(a).
2. Approve the attached letters.
4. Close the file.

Lawrence M. Noble  
General Counsel

Date 4/10/90

BY:   
Lois G. Lerner  
Associate General Counsel

Attachments

1. Response to Complaint
2. Letters (2)

91040814006

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Edwin W. Eisendrath, III and ) MUR 3037  
the Eisendrath for Congress )  
Committee and Jerome M. Lehrman, )  
as treasurer )

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on April 13, 1990, the Commission decided by a vote of 6-0 to take the following actions in MUR 3037:

1. Find no reason to believe that Edwin W. Eisendrath, III, the Eisendrath for Congress Committee and Jerome M. Lehrman, as treasurer, violated 2 U.S.C. § 437g(a)(12)(A) or 11 C.F.R. § 111.21(a).
2. Approve the letter, as recommended in the General Counsel's report dated April 10, 1990.
3. Close the file.

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

Attest:

4-13-90

Date

*Marjorie W. Emmons*

Marjorie W. Emmons  
Secretary of the Commission

Received to the Secretariat: Wed., April 11, 1990 9:31 a.m.  
Circulated to the Commission: Wed., April 11, 1990 11:00 a.m.  
Deadline for vote: Fri., April 13, 1990 11:00 a.m.

91040314007



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

April 25, 1990

Edwin W. Eisendrath, III  
Eisendrath for Congress Committee, and  
Jerome M. Lehrman, as treasurer  
1708 N. Sedwick  
Chicago, IL 60614

**CLOSED**

RE: MUR 3037  
Edwin W. Eisendrath, III  
Eisendrath for Congress Committee  
and Jerome M. Lehrman, as treasurer

Dear Mr. Eisendrath:

On March 3, 1990, the Federal Election Commission notified you and the Eisendrath for Congress Committee (the "Committee") of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On April 13, 1990, the Commission found, on the basis of the information in the complaint, and information provided by you, that there is no reason to believe that you or the Eisendrath for Congress Committee and Jerome M. Lehrman, as treasurer, violated 2 U.S.C. § 437g(a)(12)(A) or 11 C.F.R. § 111.21(a). Accordingly, the Commission closed its file in this matter.

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.

Sincerely,

Lawrence M. Noble  
General Counsel

BY:   
Lois G. Lerner  
Associate General Counsel

Enclosure  
General Counsel's Report

91040314008



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

April 25, 1990

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

Sherman Rosenfield, Treasurer  
c/o Michael C. Dorf  
Schuyler, Roche & Zwirner  
One Prudential Plaza  
Suite 3800  
130 East Randolph Street  
Chicago, IL. 60601

RE: MUR 3037  
Edwin Eisendrath, III  
Eisendrath for Congress Committee,  
and Jerome M. Lehrman, as treasurer

Dear Mr. Rosenfield:

On April 13, 1990, the Federal Election Commission reviewed the allegations of your complaint dated February 12, 1990, and found that on the basis of the information provided in your complaint, and information provided by the respondents, there is no reason to believe Edwin W. Eisendrath, III and the Eisendrath for Congress Committee and Jerome M. Lehrman, as treasurer, violated 2 U.S.C. § 437g(a)(12)(A) or 11 C.F.R. § 111.21(a). Accordingly, on April 13, 1990, the Commission closed the file in this matter. The Federal Election Campaign Act of 1971, as amended ("the Act") allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Sincerely,

Lawrence M. Noble  
General Counsel

BY:   
Lois G. Lerner  
Associate General Counsel

Enclosure  
General Counsel's Report

91040814009



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3037

DATE FILMED 4/16/91 CAMERA NO. 2

CAMERAMAN AS

91040314010