FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 3061

DATE FILMED 10/12/90 CAMERA NO. 2

CAMERAMAN AS

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OGC 6251

RECEIVED
FEDERAL ELECTION COMMISSION

Nicolella for Congress

90 MAY 16 AM 2:24

1023 Jefferson Avenue
Washington, PA 15301
(412) 222-5863

MUR 3061

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 MAY 16 AM 11:44

May 9, 1990

Office of General Counsel
Federal Election Commission
Washington, D.C. 20463

Dear Sir:

After reviewing the F.E.C. Report of Receipts and Disbursements for the Congressman Murphy Campaign Committee (055018) - Pennsylvania 22nd District, I have found a number of irregularities which I believe you should investigate. I believe that payments have occurred over a period of time for purposes other than to defray qualified campaign expenses. I also believe that the report contains false and fictitious information in order to conceal facts regarding Mr. Murphy's personal life and residence.

Please note the false addresses of the following which I believe are listed to prevent a documentation of Mr. Murphy's living arrangements in Vienna, Virginia:

Expenditure of $235 at Nizam's Restaurant (Entertainment) dated January 30, 1990 is listed as 7400 Connecticut Ave. in Washington, D.C. The owner has indicated that he has been in Vienna, Virginia for 13 years and has no other locations. The phone book lists only one Nizam's as well.

Mastercard receipt of Feb. 8, 1990

•J.R.'s Steak House (Entertainment) is located in Fairfax, Virginia but is listed as Arlington, VA. (Prior reports, however, correctly list this restaurant's address.)

Mastercard receipt of Sept. 7, 1989

•Red Lobster (Entertainment) is located in Fairfax, Virginia but is listed as Washington, D.C. with a zip code (20014) that is in the inner city.

•China Inn (Entertainment) is also located in Fairfax, Virginia but is listed as Washington, D.C. with the same zip (20014) code that is in the inner city. (Prior reports have correctly listed this restaurant's address.)

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Also please note the reasons for expenditures which in some cases are impossible to attain:

Mastercard receipt of June 9, 1986

•W. Bell & Co. is a warehouse merchandise sales center but is listed as though it is a restaurant...$75 as "Dining Exp."

•July 29, 1988 receipt for Nordstroms department store is represented as "Entertainment" for $33.44 which hardly seems possible unless Mr. Murphy sponsored a shopping spree.

It is further my belief that several entertainment expenses in the Vienna, Fairfax, McLean and Tysons areas of Virginia were actually reimbursements for dinners and merchandise for members of Mr. Murphy's Vienna, Virginia household.

The Steak and Ale in Vienna was the site of "entertainment" slips totaling $318 that Murphy had his campaign reimburse to him on 8 separate occasions from 1987 to 1989.

July 2, 1987	41.93	
July 8, 1987	63.90	
Sept. 1, 1987	38.02	
July 29, 1988	52.08	
Oct. 14, 1988	52.51	
April 19, 1989	24.76	
May 16, 1989	21.07	
Aug. 2, 1989	23.31	
TOTAL		$317.58

•Pierre et Madelein Restaurant "entertainment" in Vienna for $105 in 1988 and 1989.

July 14, 1988	63.69	
May 16, 1989	41.60	
TOTAL		$105.29

•The Amphora Restaurant "entertainment" in Vienna on April 19, 1989:

TOTAL	$25.92

•The Nizam's Restaurant in Vienna (address listed properly) on February 21, 1989:

TOTAL	$63.62

In neighboring Fairfax, one favorite for four years from 1987 to 1990 is Mamma's Italian Restaurant for a total of $190.

Oct. 8, 1987	51.00	
Oct. 14, 1988	44.62	
Dec. 7, 1989	65.40	
March 10, 1990	29.00	
TOTAL		$190.02

•The China Inn of Fairfax has become a favorite in 1988 and 1989. The total reimbursement is $91.

Aug. 22, 1988	16.40	
April 19, 1989	25.85	
June 26, 1989	23.70	
Oct. 12, 1989	24.85	
TOTAL		$90.80

•JR's Steak House in Fairfax in 1989 and 1990 totalled $207.

Jan. 10, 1989	82.99	
Feb. 21, 1989	50.41	
Feb. 8, 1990	73.63	
TOTAL		$207.03

•The Red Lobster on September 7, 1989 was good for $30

Sept. 7, 1989	30.30	
TOTAL		$30.30

Grand TOTAL **$1030.56**

I have not even attempted to add up various amounts in Falls Church, McLean or Tyson's Corner, but they easily amount to a few hundred dollars more in 1988 alone. I request that you investigate these reported receipts as well.

In 1986 the Giant Gourmet of McLean was the reason to reimburse a grocery bill of $228.98 on June 17th. In 1989 alone, Mr. Murphy had Safeway grocery bills totalling $1026. I will concede that a few of those may have been to purchase items for a fundraiser or two. My question is how can you justify Safeway grocery expenses as "entertainment" for January, April and May of 1989 or "entertainment catering costs" for August, September, November and December of 1989? Surely the campaign committee has not been that active last year.

Jan. 20, 1989	97.37	
April 10, 1989	133.73	
May 19, 1989	88.18	
Aug. 1, 1989	127.67	
Sept. 20, 1989	131.93	
Nov. 19, 1989	336.36	
Dec. 13, 1989	110.69	
TOTAL		$1025.93

Please note the liquor purchases. In 1986 – $1043. That was an election year. I won't even question those expenditures.

In 1987 – $667. About half of that is spent at Gandel's Liquor which Murphy only lists as "Gandel's" and calls it "entertainment." That might be legitimate. But I highly question the $150 and $200 Congressional Liquors listings, especially after I was informed by one of their managers that they would cash checks for members of congress. You will also notice in March and May of 1989 two separate listings for $200 each. I hope someday I can buy just enough merchandise and figure in tax so that I can be as good as Murphy at having my bill an even $200 each time.

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For the record, Murphy's booze bill in 1988 was $1560. In 1989 the booze bill was $938.

The Congressman Murphy Campaign Committee paid $605 for Steelers season tickets on June 16, 1987. How many campaign contributors used those tickets? I always thought that it was the lobbyists who were supposed to take the Congressman to the games.

Murphy has claimed "entertainment" expenses at his boat's location in Herrington Harbour around Friendship, Rose Haven and Solomons, Maryland totalling $1485 since 1986.

I question his claims of "catering" or "entertainment" expenses for the Mon Valley Country Club which have totalled $2862 from 1986 to 1989. His current 1990 report lists January...$67.72, February...$74.10, and March...$81.35. That is a total for 1990 of $223.17. Added to previous year's expenses, the total from 1986 to date is $3085.

His latest big ticket item, his "committee truck" is registered in the name of Austin Murphy, 699 Maple Drive, Monongahela, (Pennsylvania plate YJ-81078) and cost $14, 816.71 in 1989.

I question the various continuous auto leases and repairs payable to Losko Auto, and ask for the model and license numbers of those vehicles as well as to whom the vehicles have been given. Please note that these leases are in addition to the official auto lease (also from Losko's Auto) paid for by the federal treasury. Note that after the "committee truck" was purchased in September of 1989, Losko's Auto was paid $210 on November 13, 1989. If Mr. Murphy cannot drive more than one car at a time, who drives them when he does not, and why are gasoline receipts coming from the Capitol Hill Exxon in 1988 and 1989? Note the "gasoline" expenditure of $322.51 from July 13 to December 6, 1989. Are the plate numbers on the Exxon receipts those of campaign vehicles or vehicles located in Vienna, Virginia where Murphy resides with others?

Please note the pattern of auto insurance payments (1987-1989) for a "parade vehicle" which over several given periods widely fluctuated. On May 26, 1989, $289 was spent. On October 20, 1989 a payment of $124 was issued, and on November 25, 1989, a payment of $431. Are other vehicles listed on this policy?

Please note several trips to York, Pennsylvania, Florida, Las Vegas and Arizona. I question whether these were not simply reimbursements for personal trips Mr. Murphy took to visit his properties and relatives.

In the 1990 report alone, Kerry's Restaurant of Hollywood, Florida is listed on January 16, 1990 as "Entertainment" in the amount of $40.36 and on March 10, 1990, Gepettos of Hollywood, Florida is listed as "Entertainment" in the amount of $40.92.

These irregularities are too numerous and have the appearance of having purposes other than to defray qualified campaign expenses. The false and fictitious information noted above is apparent enough to warrant an investigation. This pattern of Vienna area restaurant receipts has only developed since Mr. Murphy sold his Washington, D.C. interest in a house in 1987 and his partner purchased a house in her name at 1009 Rachel Lane, Vienna, Virginia.

Your immediate attention in this matter is appreciated.

Sincerely,

William A. Nicolella

William A. Nicolella
1023 Jefferson Ave.
Washington, PA 15301

Sworn to and subscribed before me
this 19 day of Apr 1992

Mary Beth Staub

NOTARIAL SEAL
MARY BETH STAUB, NOTARY PUBLIC
WASHINGTON, WASHINGTON COUNTY
MY COMMISSION EXPIRES FEB. 27, 1993
Member, Pennsylvania Association of Notaries

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 18, 1990

William A. Nicolella
1023 Jefferson Avenue
Washington, PA 15301

RE: MUR 3061

Dear Mr. Nicolella:

This letter acknowledges receipt on May 16, 1990, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by the Congressman Murphy Campaign Committee and Karen V. Mollenauer, as treasurer. 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 3061. 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

Lois Lerner (by IB)

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Procedures

90040802631

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 18, 1990

Karen V. Mollenauer, Treasurer
Congressman Murphy Campaign Committee
699 Maple Drive
Monongahela, PA 15063

RE: MUR 3061

Dear Ms. Mollenauer:

The Federal Election Commission received a complaint which alleges that the Congressman Murphy Campaign 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 3061. 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.

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If you have any questions, please contact Jeff Long, the staff member 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

Lois G. Lerner

BY: Lois G. Lerner
Associate General Counsel

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

cc: The Honorable Austin J. Murphy
699 Maple Drive
Monongahela, Pennsylvania 15063

90040802683

FEDERAL ELECTION COMMISSION
RECEIVED
MAIL ROOM
90 JUN -4 PM 1:03

CONGRESSMAN
AUSTIN J. MURPHY
CAMPAIGN COMMITTEE
699 MAPLE DRIVE - MONONGAHELA, PA 15063

OGC 6417

May 29, 1990

MUR 3061

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

re: 055018

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 JUN -4 PM 1:42

Dear Ms. Lerner:

In answer to your letter to me dated May 18, 1990 relative to my capacity as Treasurer of the Congressman Murphy Campaign Committee, my response is as follows.

It is difficult to tell where Mr. Nicolella's complaints begin and where his sour-grapes sarcasm ends. I shall, however, attempt to answer his allegations.

From a thorough examination of our records for four years, Mr. Nicolella was able to locate four addresses that were allegedly incorrect. We wish to advise that Nizam's Restaurant is on Route 123 in Vienna, Virginia, and that J.R.'s Steak House is in Fairfax, Virginia. There are Red Lobsters and China Inns at various locations one of them being at 631 H Street, N.W. Washington, D.C. These were apparently my errors in transcribing records for a period of four years sometimes with as many as 100 entries per return, it is conceivable to make an error on addresses. Incidentally, these addresses in other reports were correct. We are not trying to conceal the whereabouts of any establishments.

On page 2 Mr. Nicolella does again call a point in error, W. Bell and Company and Nordstroms were both for gifts. Mr. Murphy utilizes his political account for door prizes, wedding gifts and special occasion remembrances etc. These purchases were for gifts for political purposes.

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A COPY OF OUR REPORT IS FILED WITH THE FEDERAL ELECTION COMMISSION AND IS AVAILABLE FOR PURCHASE FROM THE FEDERAL ELECTION COMMISSION, WASHINGTON, D C 20463
THIS STATIONARY IS NOT PRINTED AT THE TAXPAYER'S EXPENSE

There were 24 restaurant comments made by Nicolella, again over a period four years. I am particularly careful that Mr. Murphy establishes to me, and he has done so, that every expenditure is for a political purpose. Mr. Murphy occasionally visits restaurants within a fifteen to twenty mile radius of Washington, D.C.; it has been his common practice not to accept "a free lunch" from persons interested in legislation. He also has on many occasions taken his staff away from the office to discuss matters of a political nature. It is our custom not to discuss or participate in politics during office hours.

All of the foregoing charges were for political purposes. Mr. Murphy incidentally campaigns about 350 days each and every year, whether it is an election year or not, which explains his overwhelming victory against Mr. Nicolella in the recent May 15, 1990 Pennsylvania Primary.

Mr. Murphy also hosts constituents and persons interested in legislation in his office in Washington, D.C. at his home and at his apartment, and does when the matter involves political purposes purchase items from grocery stores, deli's and package stores the necessary ingredients for that entertainment. Again, all of the expenditures were for political purposes.

The Steeler tickets purchased in 1987 were for constituent use. The only game Mr. Murphy attended that year was with Mr. and Mrs. Edward Danyo of Canonsburg one of Mr. Murphy's constituents. Although we do not have an accurate record of the balance of the six tickets, we do know that a Mr. Robert Davis used them on one or two occasions. He is a contributor to Mr. Murphy's campaigns. The other tickets were likewise given to constituents.

In response to the entertainment at Herrington Harbor, Mr. Murphy did have a boat there in 1986 and frequently entertained various members of his staff, constituents, and persons interested in legislation. Some of the names that I have available are Mr. and Mrs. Charles Baily, Mrs. Lynn Bleeker, Mr. Richard Quick, and Mr. Murphy's entire Washington, D.C. staff on two occasions. All of the expenditures which were only a portion of the total amount spent there, were for political purposes.

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Regarding Mr. Murphy's luncheon bills at the Monongahela Valley Country Club, Mr. Murphy plays little or no golf, and has not played at the Mon-Valley Country Club for several years. He does, however, entertain constituents and when visiting the club will offer hospitality to those persons present. The expenditures there were all for political purposes.

The campaign truck is a campaign vehicle. The dealer would not send the transfer through for an unincorporated committee and instead chose Mr. Murphy's own name. However, the vehicle belongs to the campaign committee; it is used exclusively for political purposes and during the recent primary volunteers as well as the Congressman put over 8,000 miles in a matter of three months on the vehicle all for political purposes.

Prior to purchasing the campaign vehicle, Mr. Murphy did lease autos from Losko Auto and one of the last payments made for those leases was within two weeks following the campaign committee's purchase of the aforementioned truck, to wit November 13, 1989. Since that time, it has not been necessary for Mr. Murphy to lease vehicles for political purposes, he instead uses the truck and you will note there are no further payments to Losko Auto in this regard.

Mr. Murphy's gasoline expenses in Washington, D.C. are for the attendance at receptions and functions mostly within the District of Columbia and he considers them all for a political purpose to meet with colleagues, potential contributors, and other persons interested in the congressional process.

Regarding the parade vehicle, the campaign committee for many years has used this vehicle for parade purposes, special occasions, or loaned it to local organizations for similar use. The campaign committee finds this to be a good investment and spends very little on its maintenance and insurance. It being pointed out that the cost was under $1,000 during the period from 1987 through 1989.

The ficitious notation concerning Mr. Murphy's trips were not sufficiently outlined except for two restaurant charges in Florida during the winter of 1990. On those occasions Mr. Murphy met with Mr. John Montgomery and his guests on one occasion, and Mr. John DeMarco, both of whom have contributed to Mr. Murphy's campaigns, and particularly the campaign during the spring of 1990. These were good investments.

As you know, the campaign committee has been compelled to file numerous reports during 1987, 1988, 1989 and 1990. We believe that every expenditure was for a legitimate political purpose and that they were properly listed with the exception of 3 wrong addresses. Incidentally, Mr. Nicolella has not seen fit to file a registration or report with the Federal Election Commission. I do hope that the Commission would ask themselves why a candidate, who will not comply with the law, wants to harrass those of us who do. We stand ready and willing for a consultation, or any further cooperation you deem necessary.

Very truly yours,

Karen V. Mollenauer

Karen V. Mollenauer
Co-Treasurer

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

FIRST GENERAL COUNSEL'S REPORT

MUR #3061
DATE COMPLAINT RECEIVED
BY OGC: 5/16/90
DATE OF NOTIFICATION TO
RESPONDENTS: 5/18/90
Staff Member: Lawrence D. Parrish

COMPLAINANT: William A. Nicolella

RESPONDENTS: Congressman Murphy Campaign Committee and Karen V. Mollenauer, as treasurer

RELEVANT STATUTE: 2 U.S.C. § 439a
2 U.S.C. § 434(b)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

On May 16, 1990, William A. Nicolella filed a complaint with the Federal Election Commission (the "Commission") alleging possible violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by the Congressman Murphy Campaign Committee (the "Committee") and Karen V. Mollenauer, as treasurer.[1] The Complainant alleges that campaign funds were used for purposes other than for legitimate campaign expenditures. The Complainant further alleges that the Committee filed false and fictitious information in 1987, 1988, 1989 and 1990 in order to conceal facts regarding Congressman Murphy's personal life and residence. See Attachment 1. On

1. The Complainant in this matter, William A. Nicolella, ran against Congressman Murphy for his seat in Congress, and was defeated in the May 15, 1990 Pennsylvania Primary election.

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May 29, 1990, the Committee filed a response to the complaint asserting that every expenditure made during the period in question was for a legitimate political purpose and that they were properly listed with the exception of three (3) wrong addresses. See Attachment 2.

II. FACTUAL AND LEGAL ANALYSIS

A. Statement of the Law

Pursuant to 2 U.S.C. § 439a, excess campaign funds may be used by a candidate to defray ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office; and/or donated to qualified charitable organizations; and/or transferred without limit to any national, state or local political party committee; or used for any other lawful purpose except that with respect to any individual who was not a Senator or Representative in Congress on January 8, 1980, no such amount may be converted by any person for any personal use.

Pursuant to 2 U.S.C. § 434(b), every committee must file reports which disclose the amounts of all disbursements in excess of $200 per calendar year, the dates of disbursements, the names of payees, addresses of payees, and the purpose of the disbursements.

B. Analysis

In defense of the Complainant's allegations, the Committee asserts that every expenditure for the period in question was for a legitimate political purpose and that they were properly listed with the exception of three (3) wrong addresses. The

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treasurer in her response argues that these three (3) wrong addresses were apparently her errors in transcribing records for a period of four years sometimes with as many as 100 entries per return, and that it is conceivable to make an error on addresses. In addition, she states that these addresses in other prior reports were correct, and that they were not trying to conceal the whereabouts of any establishments.[2]

The Complainant questions expenditures reported as a June 9, 1986 Mastercard receipt for $75 for dining expense at W. Bell & Co. and a July 29, 1988 receipt for $33.44 for entertainment at Nordstrom's department store. The Committee asserts that these entries were reported in error and that the expenditures for W. Bell & Co. and Nordstrom were both for political gifts such as door prizes, wedding gifts and special occasion remembrances.

The Complainant also questions twenty-four restaurant expenditures totaling $1030.56 reported between 1987 and 1990. See Attachment 1, pgs. 2 & 3. The Committee asserts that every expenditure is for a political purpose, and that Congressman Murphy on many occasions has taken his staff away from the office to discuss matters of a political nature.

The Complainant questions other numerous expenditures. See Attachment 1, pgs. 3, 4 & 5. As noted above, the gist of the committee's defense to these allegations of improper

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2. The Complainant also acknowledges in his complaint that the Committee's prior reports correctly listed the addresses of the establishments in question.

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expenditures are that all expenditures reported were for legitimate political purposes and were properly listed with the exception of three (3) wrong addresses.

The major question at issue in this matter is whether campaign expenditures, made on behalf of the Congressman Murphy Campaign Committee, were proper and legitimate political or office expenses or were conversions to personal use. Under 2 U.S.C. § 439a, a candidate may use excess campaign funds to defray ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office; and/or donated to qualified charitable organizations; and/or transferred without limit to any national, state or local political party committee; or used for any other lawful purpose except that with respect to any individual who was not a Senator or Representative in Congress on January 8, 1980, no such amount may be converted by any person for any personal use. Congressman Murphy was elected to office before January 8, 1980. Therefore, he is permitted to use campaign funds to defray all ordinary and necessary expenses incurred in connection with his duties as a Congressman, and also for any other lawful purpose.[3] Nevertheless, even if Congressman Murphy had used campaign funds to pay for expenses of his personal life and residence, as the Complainant suggests, it would not be prohibited under 2 U.S.C. § 439a. Therefore, it does not appear that the Committee has violated 2 U.S.C. § 439a. Instead, this question is one to be

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3. Congressman Murphy has resided in office since January 3, 1977.

addressed to the House Committee on Standards of Official Conduct. Therefore, this Office recommends that the allegations regarding the conversion of campaign funds for personal use be referred to the House Committee because these allegations fall within its jurisdiction.

As to the issue of the three wrong addresses reported and the two expenditures that were reported with the wrong purpose, 2 U.S.C. § 434(b) provides that every committee must file reports which disclose the amounts of all disbursements, the dates of disbursements, the names of payees, addresses of payees, and the purpose of the disbursements. It appears that these violations of 2 U.S.C. § 434(b) were minor. As noted above, the Committee asserts that in both incidents the incorrect information was reported in error. The Complainant and the Committee both gave reference to the Committee's prior reporting history which properly reported the addresses for the restaurants in question.

Based upon the foregoing, the Office of General Counsel recommends that the Commission find reason to believe on 2 U.S.C. § 434(b) but no action be taken on this finding and no reason to believe on 2 U.S.C. § 439a.

III. RECOMMENDATIONS

1. Find reason to believe the Congressman Murphy Campaign Committee and Karen V. Mollenauer, as treasurer, violated 2 U.S.C. § 434(b) and take no further action.

2. Find no reason to believe the Congressman Murphy Campaign Committee and Karen V. Mollenauer, as treasurer, violated 2 U.S.C. § 439a.

3. Close the file in this matter.

4. Refer the allegations regarding the conversion of campaign funds to personal use to the House Committee on Standards of Official Conduct.

5. Approve the attached referral letter and appropriate letters to the complainant and respondents.

Lawrence M. Noble
General Counsel

9/12/90
Date

BY: Lois G. Lerner
Associate General Counsel

Attachment
1. Complaint
2. Response
3. Referral Letter

Staff Assigned: Lawrence D. Parrish

90040802693

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

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

DATE: SEPTEMBER 14, 1990

SUBJECT: MUR 3061 - FIRST GENERAL COUNSEL'S REPORT DATED SEPTEMBER 12, 1990.

The above-captioned document was circulated to the Commission on Thursday, September 13, 1990 at 11:00 a.m.

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

Commissioner Aikens	XXX
Commissioner Elliott	
Commissioner Josefiak	XXX
Commissioner McDonald	
Commissioner McGarry	
Commissioner Thomas	

This matter will be placed on the meeting agenda for TUESDAY, SEPTEMBER 18, 1990.

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

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3061
Congressman Murphy Campaign Committee	)	
and Karen V. Mollenauer, as treasurer.	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on September 20, 1990, do hereby certify that the Commission decided by a vote of 4-0 to take the following actions in MUR 3061:

1. Find reason to believe the Congressman Murphy Campaign Committee and Karen V. Mollenauer, as treasurer, violated 2 U.S.C. § 434(b) and take no further action.

2. Find no reason to believe the Congressman Murphy Campaign Committee and Karen V. Mollenauer, as treasurer, violated 2 U.S.C. 439a.

3. Close the file in this matter.

(continued)

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4. Direct the Office of General Counsel to send appropriate letters to the complainant and to the respondents pursuant to the actions noted above and the discussion held in the meeting.

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

Attest:

9-21-90
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

October 5, 1990

CLOSED

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

William A. Nicolella
1023 Jefferson Avenue
Washington, PA 15301

RE: MUR 3061

Dear Mr. Nicolella:

This is in reference to the complaint you filed with the Federal Election Commission on May 16, 1990, concerning the Congressman Murphy Campaign Committee and Karen V. Mollenauer, as treasurer.

Based on that complaint, on September 20, 1990, the Commission found no reason to believe the Congressman Murphy Campaign Committee and Karen V. Mollenauer, as treasurer violated 2 U.S.C. § 439a. In addition, the Commission found that there was reason to believe Congressman Murphy Campaign Committee and Karen V. Mollenauer, as treasurer, violated 2 U.S.C. § 434(b), a provision of the Federal Election Campaign Act of 1971, as amended. However, after considering the circumstances of this matter, the Commission determined to take no further action and closed the file. 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).

Representative Murphy was a member of Congress on January 8, 1980, and thus is "grandfathered" for purposes of the personal use prohibition of 2 U.S.C. § 439a. You may wish to investigate the possibility of whether or not the use of campaign funds is a volation of the House Rules which might come under the jurisdiction of the Committee on Standards of Official Conduct. The Commission is not making any comment whether this matter is a violation of House Ethics Rules. These matters lie outside the Commission's jurisdiction.

If you have any questions, please contact Lawrence D. Parrish, 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

9 0 0 4 0 8 0 2 6 9 3

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

October 5, 1990

Karen V. Mollenauer, Treasurer
Congressman Murphy Campaign Committee
699 Maple Drive
Monongahela, PA 15063

RE: MUR 3061

Dear Ms. Mollenauer:

On September 20, 1990, the Federal Election Commission found no reason to believe the Congressman Murphy Campaign Committee and you, as treasurer, violated 2 U.S.C.§ 439a. In addition, the Commission found reason to believe that the Congressman Murphy Campaign Committee and you, as treasurer, violated 2 U.S.C. § 434(b), 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 listing incorrect addresses of payees, and the incorrect purposes of disbursements appear to be a violation of 2 U.S.C. § 434(b). 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. Such materials should be sent to the Office of the General Counsel.

The Complainant in this matter may wish to investigate the possibility of whether or not the use of campaign funds is a violation of the Rules of the U.S. House of Representatives, which might come under the jurisdiction of the Committee on Standards of Official Conduct. The Commission is not making any comment on whether this is a violation of the House Ethics Rules.

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If you have any questions, please direct them to Lawrence D. Parrish, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3061

DATE FILMED 10/17/90 CAMERA NO. 2

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