



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20461

THIS IS THE BEGINNING OF MUR # 3212

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CAMERAMAN E.E.S.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 9, 1991

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

THROUGH: JOHN C. SUBINA
STAFF DIRECTOR

FROM: ROBERT J. COSTA
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: DURENBERGER FOR U.S. SENATE VOLUNTEER
COMMITTEE - MATTERS REFERRED TO THE
OFFICE OF GENERAL COUNSEL

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Attached please find at Exhibits A and B, matters concerning the Durenberger for U.S. Senate Volunteer Committee which were approved by the Commission on January 8, 1991, for referral to your office.

Should you or your staff wish to review any audit workpapers or discuss these matters further, please contact Alex Boniewicz or Rick Halter at 376-5320.

Attachments:

- Exhibit A - Apparent Excessive Contributions (with an attachment)
- Exhibit B - Contributions Subject to 48 Hour Disclosure Notices

Apparent Excessive Contributions

Section 441a(a)(1)(A) of Title 2 of the United States Code states that no person shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$1,000. In addition, 2 U.S.C. §441a(a)(2) states that no multicandidate political committee shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office, which in the aggregate exceed \$5,000.

Section 103.3(b)(3) of Title 11 of the Code of Federal Regulations states, in part, that contributions which on their face exceed the contribution limitations and contributions which do not appear to be excessive on their face, but which exceed the contribution limits when aggregated with other contributions from the same contributor may either be deposited into a campaign depository or returned to the contributor. If any such contribution is deposited, the treasurer may request redesignation or reattribution of the contribution by the contributor in accordance with 11 C.F.R. §§110.1(b), 110.1(k) and 110.2(b), as appropriate. If a redesignation or reattribution is not obtained, the treasurer shall, with sixty days of the treasurer's receipt of the contribution, refund the contribution to the contributor.

Sections 110.1(b)(5) and 110.2(b)(5) of Title 11 of the Code of Federal Regulations state, in relevant part, that the treasurer may request a written redesignation of a contribution by the contributor for a different election if a contribution exceeds the limitation on contributions. A contribution shall be considered to be redesignated for another election if within sixty days from the treasurer's receipt of the contribution, the contributor provides the treasurer with a written redesignation of a contribution for another election, which is signed by the contributor.

Section 110.1(k)(3) of Title 11 of the Code of Federal Regulations states, in part, that if a contribution to a candidate or political committee, either on its face or when aggregated with other contributions from the same contributor, exceeds the limitation on contributions set forth in 11 C.F.R. §110.1(b), the treasurer of the recipient political committee may ask the contributor whether the contribution was intended to be a joint contribution by more than one person.

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A contribution shall be considered to be reattributed to another contributor if within sixty days from the date of the treasurer's receipt of the contribution, the contributors provide the treasurer with a written reattribution of the contribution, which is signed by each contributor, and which indicates the amount to be attributed to each contributor if equal attribution is not intended.

Finally, Section 110.1(k) of Title 11 of the Code of Federal Regulations states, in part, that if a political committee receives a written redesignation or reattribution of a contribution, the treasurer shall retain the written redesignation or reattribution signed by each contributor. If a political committee does not retain the written records concerning redesignation or reattribution required, the redesignation or reattribution shall not be effective and the original designation or attribution shall control.

The Audit staff's review of Committee reattribution and redesignation letters indicated that none of the letters were receipt dated by the Committee and that no other documentation with respect to when these responses were received had been maintained. In view of this, it appears that these letters did not timely resolve excessive contributions from 369 contributors, the excessive portions of which totaled \$290,630.03.*/

Additionally, the Audit staff reviewed contributions refunded by the Committee and identified six (6) refunds of excessive contributions, totaling \$3,850, which were not made in a timely manner.

Finally, the Audit staff identified excessive contributions from thirteen contributors, with excessive portions totaling \$5,730, for which no refund has been made nor any reattribution/redesignation obtained.

At the exit conference, Committee representatives were provided details with respect to these items.

*/ Some excessive contributions were received prior to April 8, 1987, the effective date of the above cited regulations. It is, however, the Audit staff's opinion that these items were not resolved in a timely fashion under either regulation in force.

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The Audit staff recommended in the Interim Audit Report that the Committee take the following actions:

- ° provide evidence that the contributions in question were not in excess of the limitation; or
- ° refund \$5,730 to the contributors and provide evidence of such refunds (copies of the front and back of the negotiated refund checks); and
- ° provide an explanation, including an account of any mitigating circumstances as to why the redesignations, reattributions, and refunds were not accomplished in a timely manner.

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The Committee's response, received April 5, 1990, included an affidavit from Kelley Fleming, the "receipts processor" for the Committee. The affidavit details the Committee's procedures regarding redesignation or reattribution of excessive contributions. According to the affidavit, "Before the 60 days expired, I would call the contributor if I had not received the letter back. I usually would have to explain the purpose of the letter again. Usually I would get a verbal okay and I would send another letter." The Committee's response states that there is no requirement in the Statute that requires the Committee to indicate the date the written response was received. Further, it is the Committee's opinion that most of these items were resolved in the prescribed 60 day time period.

The Committee's response does not address the six refunded excessive contributions, totaling \$3,850, that were not made in a timely manner. The response does address some of the thirteen contributors with excessive contributions totaling \$5,730 for which no refund had been made nor any reattribution/redesignation obtained. According to the Committee, \$4,325 was redesignated or refunded within 60 days. The Committee did not submit any additional information such as redesignation letters or copies of cancelled checks. Also, the Committee did not address the remaining \$1,405 of the \$5,730 in excessive contributions.

Based upon the Committee's response, the Audit staff reassessed the above noted excessives, making adjustments as necessary. The Audit staff determined that there remain excessive contributions from 389 contributors, the excessive portions of which total \$293,241.53, which do not appear to have been resolved timely and which include \$5,500 from twelve contributors that remain unresolved. Also, included as an item resolved untimely is

\$1,000 from one contributor where the outstanding refund check remains unvouched by the Audit staff. See Attachment 1 to Exhibit A.

Recommendation

The Audit staff recommends that, in view of the Committee's inadequate response, this matter be referred to the Office of General Counsel.

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DURENBERGER FOR U.S. SENATE VOLUNTEER COMMITTEE
APPARENT EXCESSIVE CONTRIBUTIONS

Member Number	Pfx	First Name	Mid Init	Last Name	Total Contrib	Excess Portion	RA/RD Code	RA/RD Amount	Reatt # day	Refund Amount	Refnd # day	Unresolved Amount
02708856H		ERIC		ANNENSON	1,100.00	100.00	1	100.00				
00110360X		DONALD		ALEXANDER	3,000.00	2,000.00	3	2,000.00				
05343063H		ROBERT		AMIS	2,200.00	1,200.00	3	1,200.00				
02734454H		ELMER		ANDERSEN	2,250.00	1,250.00	3	1,250.00				
02734815H		SARAH		ANDERSEN	1,150.00	150.00	1	150.00				
02734233H		ANTHONY		ANDERSEN	2,000.00	1,000.00	4			1,000.00	254	
02748675H		HAROLD		ANDERSON	2,000.00	1,000.00	1	1,000.00				
19862382H		LEE	R	ANDERSON	2,500.00	1,500.00	3	1,500.00				
03745615H		T	R	ANDERSON	1,400.00	400.00	1	400.00				
07171485H		LOWELL		ANDREAS	2,000.00	1,000.00	0					1,000.00
07171485S		NADINE		ANDREAS	2,000.00	1,000.00	0					1,000.00
02768986H		DEWALT (PET		ANKENY	3,000.00	2,000.00	3	2,000.00				
02769362H		GLENN		ANNEXSTAD	1,550.00	350.00	1	350.00				
02770681S		SALLY	A	ANSON	1,500.00	500.00	1	500.00				
02778882H		ROBT	D	ASHBACH	1,050.00	50.00	1	50.00				
08704183H		EDWARD		ASPLIN	1,125.00	125.00	1	125.00				
27579941H		ZIZO		ATTIA	2,000.00	1,000.00	1	1,000.00				
08710122H		JOHN		BACON	1,250.00	250.00	1	250.00				
27682126H		DOUGLAS	M	BAKER	2,025.00	1,025.00	1	1,025.00				
21062801H		EARL	E	BAKKEN	3,000.00	2,000.00	3	2,000.00				
06636232H		FRED	H	BAME	2,000.00	1,000.00	1	1,000.00				
07144432S		FREDE	E	BANK	1,250.00	250.00	1	250.00				
07144432H		MARVIN	F	BANK	2,250.00	1,250.00	3	1,250.00				
01481395H		MORTON		BANK	2,200.00	1,200.00	3	1,200.00				
12236501H		B	J	BARRY	1,100.00	100.00	1	100.00				
02812132H		HE		BASKERVILLE	1,050.00	50.00	1	50.00				
00212640X		RUSSELL	B	BALMGARDNER	3,000.00	2,000.00	3	2,000.00				
02818701H		D	H	BEAHR	1,100.00	100.00	1	100.00				
02819143H		ATHERTON		BEAN	3,000.00	2,000.00	3	2,000.00				
08673011S		MARILYN		BEDDOR	2,000.00	1,000.00	1	1,000.00				
08673011H		FRANK	J	BEDDOR	2,000.00	1,000.00	1	1,000.00				
01500074H		CHARLES		BELGARDE	1,400.00	400.00	1	400.00				
02830682H		CHARLES	H	BELL	2,750.00	1,750.00	3	1,750.00				
02831356H		MERTON	J	BELL	1,250.00	250.00	1	250.00				
24767024H		WM	E	BENNETT	1,200.00	200.00	1	200.00				
11080296H		LOUISE	B	BENZ	1,575.00	575.00	1	575.00				
02391012H		KJELL		BERGH	1,250.00	250.00	1	250.00				
04710716H		LYLE		BERMAN	1,750.00	750.00	1	750.00				
13309284H		ART		BETTERLEY	2,025.00	1,025.00	3	1,025.00				
14802104H		CHARLES		BIDWELL	1,400.00	400.00	1	400.00				
02862963H		ROBERT		BIGWOOD	1,100.00	100.00	1	100.00				
02864175H		JAMES	H	BINGER	1,125.00	125.00	1	125.00				
07563216H		ROBERT		BISANZ	3,000.00	2,000.00	3	2,000.00				
02868003H		ARLEY	R	BJELLA	1,100.00	100.00	1	100.00				
17729246H		COL		BLOOMFIELD	1,600.00	600.00	1	600.00				

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RA/RD Code: 0 = unresolved excessive portion
 1 = redesignated excessive portion
 2 = reattributed excessive portion
 3 = redesignated/reattributed excessive portion
 4 = refunded excessive portion

DURENBERGER FOR U.S. SENATE VOLUNTEER COMMITTEE
 APPARENT EXCESSIVE CONTRIBUTIONS

Member Number	Pfx	First Name	Mid Init	Last Name	Total Contrib	Excess Portion	RA/RD Code	RA/RD Amount	Reatt # day	Refund Amount	Refnd # day	Unresolved Amount
11188015S		KATHERINE		BOENTJE	1,500.00	500.00	1	500.00				
02892061H		HAROLD		BONNELL	1,250.00	250.00	1	250.00				
01540884H		MARVIN		BOOTE	2,225.00	1,225.00	3	1,225.00				
07028302H		RONALD		BOSROCK	1,400.00	400.00	1	400.00				
02926641H		CONLEY		BROOKS	1,750.00	750.00	1	750.00				
00151720X		CLAYTON		BROWN	1,500.00	500.00	1	500.00				
02944045H		STEPHEN		BUDD	1,250.00	250.00	1	250.00				
11083273H		RICHARD		BURNS	2,000.00	1,000.00	1	1,000.00				
23825502H		RODNEY		BURMELL	2,000.00	1,000.00	1	1,000.00				
00016774H		PATRICK		BUTLER	1,025.00	25.00	1	25.00				
07987243H		DONALD		BYERLY	1,250.00	250.00	1	250.00				
02970074H		GARY	T	CAPEN	1,750.00	750.00	1	750.00				
01508091H		THEODORE		CARLSEN	1,250.00	250.00	1	250.00				
04952511H		CURTIS		CARLSON	2,500.00	1,500.00	3	1,500.00				
28939282H		E	J	CARLSON	1,725.00	725.00	4			725.00	*/	
04961073S		GERALDINE		CARPENTER	1,100.00	100.00	1	100.00				
04961073H		LEONARD		CARPENTER	1,600.00	600.00	1	600.00				
02984936H		NORMAN		CARPENTER	2,000.00	1,000.00	1	1,000.00				
11296106H		DENNIS		CAVANAUGH	1,250.00	250.00	1	250.00				
12047486H		WILLIAM		CAVERS	1,100.00	100.00	1	100.00				
02993815H		BUS		CHAFOULIAS	1,200.00	200.00	1	200.00				
00281396H		BEVERLY		CHALFEN	2,000.00	1,000.00	1	1,000.00				
00168800X		CLARA		CHAMBERS	1,250.00	250.00	1	250.00				
02999172S		JOAN		CHERNE	2,000.00	1,000.00	1	1,000.00				
00019353H		JAMES		CLAYPOOL	1,015.00	15.00	1	15.00				
00237520X		KEVIN		COLLINS	1,500.00	500.00	1	500.00				
03025691H		THOS	G	COLWELL	2,100.00	1,100.00	3	1,100.00				
08454714H		CLEMENT		CONNERS	1,050.00	50.00	1	50.00				
03027065H		OGDEN	P	CONFER	2,775.00	1,775.00	3	1,775.00				
01798705H		ROBERT		CONGDON	2,200.00	1,200.00	1	1,200.00				
11999024H		STANLEY		COMLE	1,200.00	200.00	1	200.00				
03039735H		JOHN	J	COMLES	2,250.00	1,250.00	3	1,250.00				
05024843H		DAVID		CROONQUIST	1,200.00	200.00	1	200.00				
03046606H		TOM		CROSBY	1,500.00	500.00	1	500.00				
03055625H		KENNETH		DAHLBERG	1,500.00	500.00	1	500.00				
09030755H		JOHN		DANIELS	2,700.00	1,700.00	3	1,700.00				
03067783H		CARL		DAQUILA	2,250.00	1,250.00	3	1,250.00				
00179320X		C DUANE	D	DAUMER	2,100.00	1,100.00	3	1,100.00				
23736742H		EDWARD		DAYTON	1,250.00	250.00	1	250.00				
03074864H		GEORGE		DAYTON	1,250.00	250.00	1	250.00				
24649446H		LOUIS		DEMARS	2,200.00	1,200.00	3	1,200.00				
24649446S		NANCY		DEMARS	1,200.00	200.00	1	200.00				
01666814S		CAROL		DENNY	1,250.00	250.00	1	250.00				
01666814H		CHARLES		DENNY	2,250.00	1,250.00	3	1,250.00				
03089811H		MERLIN		DEWING	2,500.00	1,500.00	3	1,500.00				

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*/ The refund resolved excessive contributions in the amounts of \$125, \$500 and \$100 in 106, 173 and 232 days respectively.

DURENBERGER FOR U.S. SENATE VOLUNTEER COMMITTEE
 APPARENT EXCESSIVE CONTRIBUTIONS

Member Number	Pfx	First Name	Mid Init	Last Name	Total Contrib	Excess Portion	RA/RD Code	RA/RD Amount	Reatt # day	Refund Amount	Refnd # day	Unresolved Amount
01670056H		GARY	L	DIAMOND	2,375.00	1,375.00	3	1,375.00				
05074926H		CHARLTON		DIETZ	1,250.00	250.00	1	250.00				
07819442H		RAYMOND		DITTRICH	1,085.00	85.00	1	85.00				
01677653H		JOHN	F	DOLAN	1,280.00	280.00	1	280.00				
03109142S		MARY	W	DOTY	1,025.00	25.00	1	25.00				
03112911H		CARL	J	DRAKE	2,250.00	1,250.00	3	1,250.00				
03113003H		EVERETT		DRAKE	1,075.00	75.00	1	75.00				
03116444S		ELIZABETH		DRISCOLL	2,000.00	1,000.00	1	1,000.00				
00192320X		ZEEV		DRORI	2,000.00	1,000.00	1	1,000.00				
04735161H		JAYE	F	DYER	2,250.00	1,250.00	3	1,250.00				
00024732H		RAYMOND		DYKEMA	2,000.00	1,000.00	1	1,000.00				
22854344H		DAVID	J	EKBERG	2,500.00	1,500.00	3	1,500.00				
11340206H		WILLIAM		ELLIS	2,250.00	1,250.00	3	1,250.00				
11340114S		MRS		EMISON	2,000.00	1,000.00	1	1,000.00				
11340114H		JAMES	W	EMISON	3,000.00	2,000.00	3	2,000.00				
08049101S		BARBARA		ERICKSON	2,000.00	1,000.00	1	1,000.00				
03167695S		EUNICE		ERICKSON	1,736.50	736.50	1	736.50				
03167695H		CARL		ERICKSON	3,000.00	2,000.00	3	2,000.00				
08535052H		DOROTHY		ERICKSON	1,395.50	395.50	1	395.50				
32184795H		ROGER	E	ERICKSON	1,500.00	500.00	1	500.00				
05161063H		JOHN	F	FARRELL	1,070.00	70.00	1	70.00				
03195695H		SIDNEY		FEINBERG	1,100.00	100.00	1	100.00				
07453272H		DAVID		FESLER	2,500.00	1,500.00	3	1,500.00				
07234953H		LITTON	E	FIELD	1,500.00	500.00	1	500.00				
03203093H		WAYNE		FIELD	5,000.00	4,000.00	0	1,000.00		1,000.00	*/	2,000.00
05174945H		GARY	C	FINK	3,000.00	2,000.00	3	2,000.00				
01749661H		ROBERT	W	FLEMING	2,025.00	1,025.00	3	1,025.00				
00002440X		FREEMAN	A	FORD	2,000.00	1,000.00	1	1,000.00				
03229903H		ROGER		FOUSSARD	1,250.00	250.00	1	250.00				
03231863H		CLARENCE		FRAME	1,600.00	600.00	1	600.00				
03232051H		ALFRED		FRANCE	1,100.00	100.00	1	100.00				
05210111H		BERNARD		FRIEL	1,025.00	25.00	1	25.00				
06169461H		JERRY	E	FRUIN	2,100.00	1,100.00	3	1,100.00				
03249201H		LA	V	FRYBERGER	1,200.00	200.00	1	200.00				
03253751S		LOUISE		GABBERT	1,500.00	500.00	1	500.00				
03269534H		DAVID		GENTLING	1,250.00	250.00	1	250.00				
03281176H		E	P	GILLETTE	1,350.00	350.00	1	350.00				
21381662H		BRUCE		GOLDSTEIN	1,125.00	125.00	1	125.00				
11263324H		JOHN		GOLLE	2,000.00	1,000.00	1	1,000.00				
21382174H		J	B	GOODMAN	1,100.00	100.00	1	100.00				
21750853H		PIERSON		GRIEVE	1,500.00	500.00	1	500.00				
03318486H		ROBERT	E	GRISWOLD	1,100.00	100.00	0					100.00
00189640X DR		LAZARD		GUERRA	1,500.00	500.00	4			500.00	287	
23991111h		ESPERANZA		GUERRERO	1,025.00	25.00	0					25.00
03334881H		HOWARD		GUTHMANN	1,500.00	500.00	1	500.00				

*/ Refund check was outstanding at the close of fieldwork and remains unvouched.

DURENBERGER FOR U.S. SENATE VOLUNTEER COMMITTEE
 APPARENT EXCESSIVE CONTRIBUTIONS

Member Number	Pfx	First Name	Mid Init	Last Name	Total Contrib	Excess Portion	RA/RD Code	RA/RD Amount	Reatt # day	Refund Amount	Refnd # day	Unresolved Amount
00528113S		MARICE		HALPER	1,400.00	400.00	1	400.00				
00173440X		CONSTANTIN		HAMPERS	2,500.00	1,500.00	3	1,500.00				
03370113H		S	A	HANSER	1,500.00	500.00	1	500.00				
03382385H		GEORGE		HARDING	1,250.00	250.00	1	250.00				
03387646H		EDWIN		HARRIS	2,050.00	1,050.00	3	1,050.00				
03388033H		JAMES	C	HARRIS	1,025.00	25.00	1	25.00				
00547643H		RONALD		HARRIS	1,250.00	250.00	1	250.00				
11338224H		JOSEPH		HART	2,000.00	1,000.00	1	1,000.00				
03398091H		ROBERT		HAUGAN	2,050.00	1,050.00	3	1,050.00				
03403654H		HOWARD		HANKINS	1,100.00	100.00	1	100.00				
03407073H		DOUGLAS		HEAD	2,000.00	1,000.00	1	1,000.00				
03407073S		MARTHA		HEAD	2,000.00	1,000.00	1	1,000.00				
11078373H		JOHN		HEALY	1,300.00	300.00	1	300.00				
01873023H		VERNON	H	HEATH	2,250.00	1,250.00	3	1,250.00				
03420222H		DON		HELBESON	1,250.00	250.00	1	250.00				
03449762H		MARK		HINDERMANN	1,250.00	250.00	1	250.00				
03453063H		TIMOTHY		HITCHCOCK	1,150.00	150.00	1	150.00				
19800406H		RALPH		HOFSTAD	1,300.00	300.00	1	300.00				
03474984H		HARRY		HOLTZ	1,200.00	200.00	1	200.00				
01846165H		JACK		HODLEY	2,200.00	1,200.00	3	1,200.00				
28485752H		JAMES	J	HOWARD	1,250.00	250.00	1	250.00				
11338342H		RONALD		HUBBS	1,250.00	250.00	1	250.00				
03492086H		PAUL	J	HUBER	1,250.00	250.00	1	250.00				
23537264H		FRED	J	HUGHES	1,250.00	250.00	1	250.00				
07173412H		KEITH	F	HUGHES	1,250.00	250.00	1	250.00				
03498681H		ROBERT		HUNSTAD	1,050.00	50.00	1	50.00				
27672713H		WALLACE	H	HUSTAD	2,000.00	1,000.00	1	1,000.00				
03509354H		JOHN		IRVINE	1,250.00	250.00	1	250.00				
10698494H		D	W	JACOBSON	1,050.00	50.00	1	50.00				
02832001H		WAYNE		JIMMERSON	1,500.00	500.00	1	500.00				
03554806H		GEORGE		JOHNSON	1,150.00	150.00	1	150.00				
25767022H		LLOYD		JOHNSON	1,250.00	250.00	1	250.00				
19589301H		EZELL		JONES	1,055.00	55.00	1	55.00				
03595034H		ANDREW		JUSTUS	2,100.00	1,100.00	3	1,100.00				
03602093H		MORTON		KAPLAN	1,500.00	500.00	1	500.00				
17929914H		RICHARD		KASTNER	1,010.00	10.00	1	10.00				
00197840X		MICHAEL	L	KEISER	2,000.00	1,000.00	1	1,000.00				
07144384H		ERWIN	A	KELEN	2,500.00	1,500.00	3	1,500.00				
03611705H		STEPHEN		KELLER	2,100.00	1,100.00	3	1,100.00				
29380676H		R	T	KELLY	1,100.00	100.00	1	100.00				
00237880X		CAROLINE		KELM	3,000.00	2,000.00	3	2,000.00				
03618392H		ROBT	E	KEPPEL	1,250.00	250.00	1	250.00				
05717751H		NORMAN		KERR	2,250.00	1,250.00	3	1,250.00				
03629485H		THOMAS	R	KING	2,450.00	1,450.00	3	1,450.00				
06249176H		PRESTON		KING	1,050.00	50.00	1	50.00				

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DURENBERGER FOR U.S. SENATE VOLUNTEER COMMITTEE
 APPARENT EXCESSIVE CONTRIBUTIONS

Member Number	Pfx	First Name	Mid Init	Last Name	Total Contrib	Excess Portion	RA/RD Code	RA/RD Amount	Reatt # day	Refund Amount	Refnd # day	Unresolved Amount
02018074H		JOSEPH	C	KISER	2,250.00	1,250.00	3	1,250.00				
11998755H		CATHERINE		KNOBlauch	1,100.00	100.00	1	100.00				
21143695H		MARK	B	KNudson	2,000.00	1,000.00	2	1,000.00				
03653786H		DAVID	A	KOCH	1,750.00	750.00	1	750.00				
03662142H		SEVERIN		KOOP	1,250.00	250.00	1	250.00				
00189800X		WILLIAM	T	KRUGLAK	1,500.00	500.00	4			500.00	288	
03700432H		THOMAS		LAMPHIER	1,050.00	50.00	1	50.00				
08090482H		FRED	T	LANNERS	1,250.00	250.00	1	250.00				
02078425H		HAROLD		LARSON	2,250.00	1,250.00	3	1,250.00				
03721244H		ROBERT		LARSON	1,525.00	525.00	1	525.00				
11186685H		DAN		LASTAVICH	1,500.00	500.00	1	500.00				
03725665H		WILLIAM		LAUGHLIN	1,314.32	314.32	1	314.32				
11387025H		EDWARD		LAW	1,250.00	250.00	1	250.00				
00149640X		JAME		LEBENTHAL	2,000.00	1,000.00	1	1,000.00				
00200600X		BENNETT	S	LEBOW	2,000.00	1,000.00	1	1,000.00				
03741872H		HARRY		LEMIEUX	1,500.00	500.00	1	500.00				
00088480X		EDWARD	J	LEVY	2,000.00	1,000.00	1	1,000.00				
00173120X		H IRWIN	I	LEVY	1,250.00	250.00	1	250.00				
00797543H		DAVID		LIEBERMAN	2,000.00	1,000.00	1	1,000.00				
07964062H		STEPHEN		LIEBERMAN	2,000.00	1,000.00	1	1,000.00				
03759512H		JAMES		LINDELL	2,025.00	1,025.00	3	1,025.00				
03761273H		D	K	LINDGREN	1,250.00	250.00	1	250.00				
00173360X		EDMUND		LDMRIE	1,500.00	500.00	1	500.00				
10698133H		H	W	LURTON	1,100.00	100.00	1	100.00				
05736533H		HAROLD	C	LYMAN	1,250.00	250.00	1	250.00				
03867581H		ROBERT		MACDONALD	1,075.00	75.00	1	75.00				
03807926H		KENNETH		MACKE	2,250.00	1,250.00	3	1,250.00				
03808512H		WHITNEY		MACMILLAN	1,750.00	750.00	1	750.00				
00166040X		ANTHONY		MANFRE	2,000.00	1,000.00	4			1,000.00	178	
03829523H		ROBERT	S	MARS	1,015.00	15.00	1	15.00				
02150326H		CARDLINE		MARSHALL	1,675.00	675.00	1	675.00				
03828204H		ELIZABETH		MARSHALL	1,500.00	500.00	1	500.00				
03837282H		JAMES	B	MASSIE	1,250.00	250.00	1	250.00				
03846194H		WM	E	MAYBERRY	2,050.00	1,050.00	3	1,050.00				
03851735H		GEORGE		MCCLINTOCK	1,250.00	250.00	1	250.00				
03854605H		MALCOLM		MCDONALD	1,775.00	775.00	1	775.00				
08680442H		RICHARD		MCFARLAND	1,250.00	250.00	1	250.00				
11528996H		BURTON		MCGLYNN	1,050.00	50.00	1	50.00				
07145961H		LAWRENCE		MCGOUGH	1,175.00	175.00	1	175.00				
05808132S		ELEANDR		MCKASY	1,250.00	250.00	1	250.00				
03863834H		ALVIN		MCGUINN	1,500.00	500.00	1	500.00				
03880892H		GALE	R	MELLUM	1,180.00	180.00	1	180.00				
15211571H		DILLON		MOFFATT	1,200.00	200.00	1	200.00				
03923555H		ROBERT		MONSON	1,400.00	400.00	1	400.00				
10685135H		LOREN	A	MOREY	2,500.00	1,500.00	3	1,500.00				

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DURENBERGER FOR U.S. SENATE VOLUNTEER COMMITTEE
 APPARENT EXCESSIVE CONTRIBUTIONS

Member Number	Pfx	First Name	Mid Init	Last Name	Total Contrib	Excess Portion	RA/RD Code	RA/RD Amount	Reatt # day	Refund Amount	Refnd # day	Unresolved Amount
03930415H		SAMUEL		MORGAN	1,250.00	250.00	1	250.00				
03933042H		MARY		MORRISON	1,100.00	100.00	1	100.00				
03936074S		ALICE		MORTENSON	1,524.00	524.00	1	524.00				
00118560X		JOHN		MULLENHOLZ	1,250.00	250.00	1	250.00				
03948884H		RICHARD		MURPHY	1,025.00	25.00	1	25.00				
03948044H		ED	D	MURPHY	1,300.00	300.00	0					300.00
03952406H		VIRGINIA		MYERS	1,250.00	250.00	1	250.00				
11078421H		MILLER	F	MYERS	1,250.00	250.00	1	250.00				
11079261H		WILLIAM		NAEGELE	2,100.00	1,100.00	3	1,100.00				
03954436S		ELLIS		NAEGELE	1,150.00	150.00	1	150.00				
03954436H		ROBERT		NAEGELE	2,350.00	1,350.00	3	1,350.00				
03969195H		GLEN	D	NELSON	3,000.00	2,000.00	3	2,000.00				
04628422H		THEODORE		DARE	1,250.00	250.00	1	250.00				
12048304H		HAROLD		OKINDO	2,000.00	1,000.00	1	1,000.00				
04035931H		EARL	B	OLSON	1,225.00	225.00	1	225.00				
04052871H		JOHN	G	ORDWAY	2,500.00	1,500.00	1	1,500.00				
04053114H		DONALD		OREN	1,500.00	500.00	1	500.00				
07175066H		WARREN		ORTENBLAD	1,200.00	200.00	1	200.00				
11999175H		STEPHEN		OSBORN	1,250.00	250.00	1	250.00				
05951971H		MICHAEL		OSULLIVAN	1,900.00	900.00	1	900.00				
21065505S		SALLY		OSWALD	1,100.00	100.00	0					100.00
04063242H		PAUL		DVERGAARD	1,325.00	325.00	1	325.00				
07143721H		F	W	PACKARD	2,050.00	1,050.00	3	1,050.00				
11999013H		CLARENCE		PALMBY	1,250.00	250.00	1	250.00				
04074195H		PAUL	L	PARKER	2,100.00	1,100.00	3	1,100.00				
00166000X		NIC		PASTORESSA	2,000.00	1,000.00	1	1,000.00				
04079666H		KATHERINE		PATTISON	1,036.50	36.50	1	36.50				
06023765H		ROBERT		PAVLAK	1,060.00	60.00	1	60.00				
04086736H		JOHN	E	PEARSON	1,250.00	250.00	1	250.00				
03645821H		RICHARD		PEMBERTON	1,150.00	150.00	1	150.00				
07449665H		GEORGE		PENNOCK	1,250.00	250.00	1	250.00				
06139092H		JOHN		PERKINS	1,300.00	300.00	1	300.00				
04099115H		CYRIL	P	PESEK	1,700.00	700.00	1	700.00				
04132936H		GEORGE		PILLSBURY	2,500.00	1,500.00	3	1,500.00				
04132951H		JOHN		PILLSBURY	1,200.00	200.00	1	200.00				
04134001S		CYNTHIA		PIPER	1,500.00	500.00	1	500.00				
04134023H		HARRY	C	PIPER	2,500.00	1,500.00	3	1,500.00				
04134023S		VIRGINIA		PIPER	1,500.00	500.00	1	500.00				
00136880X		GALEN		POWERS	1,500.00	500.00	1	500.00				
04152304H		ROBERT	M	PRICE	2,000.00	1,000.00	2	1,000.00				
04168032H		JACK	I	RAJALA	2,500.00	1,500.00	3	1,500.00				
27832523H		RAYMOND		RASMUSSEN	1,035.00	35.00	1	35.00				
01083036H		HARVEY		RATNER	1,025.00	25.00	1	25.00				
07962452H		GERALD		RAUENHORST	3,000.00	2,000.00	3	2,000.00				
04178635H		RENEE		REAGAN	1,150.00	150.00	0					150.00

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DURENBERGER FOR U.S. SENATE VOLUNTEER COMMITTEE
 APPARENT EXCESSIVE CONTRIBUTIONS

Member Number	Pfx	First Name	Mid Init	Last Name	Total Contrib	Excess Portion	RA/RD Code	RA/RD Amount	Reatt # day	Refund Amount	Refnd # day	Unresolved Amount
02380685H		WILLIAM		REILING	1,100.00	100.00	1	100.00				
11998954S		VIC		REIM	1,500.00	500.00	1	500.00				
12577305H		CLAYTON	G	REIN	1,250.00	250.00	1	250.00				
22852546H		JAMES	D	RENIER	1,250.00	250.00	1	250.00				
04203953S		KATHY		RIDDER	2,035.00	1,035.00	3	1,035.00				
04203953H		ROBERT		RIDDER	2,000.00	1,000.00	1	1,000.00				
04204841H		MARIE		RIEDEL	1,100.00	100.00	1	100.00				
03746002H		DENNIS		RINGSMUTH	1,040.00	40.00	1	40.00				
04211734H		GORDON	H	RITZ	1,200.00	200.00	1	200.00				
04223575H		MARVIN		ROGERS	1,200.00	200.00	1	200.00				
24059475H		JOHN		ROLLWAGEN	1,500.00	500.00	1	500.00				
00199280X		MAXINE		ROSENFELD	2,000.00	1,000.00	1	1,000.00				
00193360X		ROBERT		RUSSELL	1,500.00	500.00	1	500.00				
04248904H		HENRY		RUTLEDGE	1,250.00	250.00	1	250.00				
07392593H		RICHARD		SCHANK	1,250.00	250.00	1	250.00				
04280964H		ROGER		SCHERER	1,125.00	125.00	1	125.00				
05520745H		DENNIS		SCHMIDT	2,990.50	1,990.50	3	1,990.50				
27824425H		J	S	SCHMIDT	1,500.00	500.00	1	500.00				
00027086H		CONRAD		SCHMITT	1,750.00	750.00	1	750.00				
00183920X		ROGER		SCHNAPP	3,000.00	2,000.00	3	2,000.00				
02454782H		FRANK		SCHUCHET	2,500.00	1,500.00	3	1,500.00				
02458691H		DENNIS		SCHROEDER	2,500.00	1,500.00	3	1,500.00				
02091342H		MARVIN		SCHWAN	2,000.00	1,000.00	1	1,000.00				
11548552H		IV		SCHWARTZMAN	1,750.00	750.00	1	750.00				
00160360X		RICHARD		SEABERG	2,000.00	1,000.00	1	1,000.00				
04348466H		OTTO	A	SILHA	1,200.00	200.00	1	200.00				
04722539H		DREW		SIMONSON	1,325.00	325.00	0					325.00
04354313H		EUGENE		SIT	1,200.00	200.00	1	200.00				
11186943H		C	T	SKANSE	1,150.00	150.00	1	150.00				
03646414S		MARY		SLATER	1,600.00	600.00	1	600.00				
04362142H		MARIE	D	SLAWIK	1,100.00	100.00	1	100.00				
02516286H		RONALD		SORENSEN	1,200.00	200.00	0					200.00
04393863H		STEPHEN		SPENCER	1,500.00	500.00	1	500.00				
04393351S		HARRIET		SPENCER	2,000.00	1,000.00	1	1,000.00				
22853865H		MARK	S	SPERRY	1,252.00	252.00	0	2.00				250.00
12317664H		RICHARD		SPIEGEL	1,600.00	600.00	1	600.00				
02689481H		GORDON		SPRENGER	2,361.50	1,361.50	3	1,361.50				
15242942H		OSMON		SPRINGSTED	2,000.00	1,000.00	1	1,000.00				
04403862H		LORING		STAPLES	1,125.00	125.00	4			125.00	142	
23867712H		JOHN		STEICHEN	1,250.00	250.00	1	250.00				
00174080X		MIKE		STEIN	2,000.00	1,000.00	1	1,000.00				
06943635S		IRENE		STEINER	2,200.00	1,200.00	3	1,200.00				
11310832H		RALPH		STRANGIS	1,050.00	50.00	1	50.00				
01871575S		LOUISE		SUNDET	2,000.00	1,000.00	1	1,000.00				
07911466H		WILLIAM		SWEASY	2,200.00	1,200.00	3	1,200.00				

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DURENBERGER FOR U.S. SENATE VOLUNTEER COMMITTEE
 APPARENT EXCESSIVE CONTRIBUTIONS

Member Number	Pfx	First Name	Mid Init	Last Name	Total Contrib	Excess Portion	RA/RD Code	RA/RD Amount	Reatt # day	Refund Amount	Refnd # day	Unresolved Amount
04468752H		HERMAN	L	TALLE	1,500.00	500.00	1	500.00				
04469791H		GARY		TANKENOFF	1,250.00	250.00	1	250.00				
06406411H		GLEN	A	TAYLOR	1,250.00	250.00	1	250.00				
24381195H		ROBERT		TAYLOR	1,250.00	250.00	1	250.00				
04489015H		CHARLES		THOMPSON	1,400.00	400.00	1	400.00				
01675015H		BRUCE		THOMSON	1,750.00	750.00	1	750.00				
23179133H		FREDERICK		THORSON	1,250.00	250.00	1	250.00				
00207680X		CHARLES	H	TOMER	1,285.71	285.71	1	285.71				
01315521H		FRANK		TRESTMAN	3,000.00	2,000.00	3	2,000.00				
08602016H		ARNULF		UELAND	1,660.00	660.00	1	660.00				
04540174S		JUDY		VANNEST	2,000.00	1,000.00	1	1,000.00				
04540174H		WILLIAM		VANNEST	2,050.00	1,050.00	0	1,000.00				50.00
82266586H		NEAL		VANSELDW	1,125.00	125.00	1	125.00				
04540933H		ROBERT		VANTASSEL	1,100.00	100.00	1	100.00				
04565783H		LYMAN		WAKEFIELD	1,250.00	250.00	1	250.00				
04565783S		WILMA		WAKEFIELD	1,450.00	450.00	1	450.00				
04570904H		ROBT	R	WALLER	1,100.00	100.00	1	100.00				
07142855H		WINSTON		WALLIN	2,500.00	1,500.00	3	1,500.00				
15244596H		SHELLEY		WALSH	1,250.00	250.00	1	250.00				
02639906H		EUGENE		WARLICH	1,250.00	250.00	1	250.00				
03746562H		DON	R	WATKINS	2,075.00	1,075.00	3	1,075.00				
04590176H		PAUL	D	WEBSTER	2,000.00	1,000.00	1	1,000.00				
16813392H		DONALD		WEGMILLER	1,250.00	250.00	1	250.00				
07172421h		JOE	C	WEIS	1,050.00	50.00	1	50.00				
21056534H		RICHARD		WELLER	1,030.00	30.00	1	30.00				
08454504H		F		MEYERHAEUSER	3,500.00	2,500.00	3	2,500.00				
08454504S		N		MEYERHAEUSER	1,500.00	500.00	1	500.00				
04616356H		CLIFF		WHITEHILL	1,075.00	75.00	1	75.00				
07170855H		ALBERT		WHITMAN	1,250.00	250.00	1	250.00				
04619926H		J	K	WHITNEY	1,500.00	500.00	1	500.00				
04619926S		HELEN		WHITNEY	1,500.00	500.00	1	500.00				
15211976H		WHEELOCK		WHITNEY	2,000.00	1,000.00	1	1,000.00				
06519612H		LEE		WHITSON	1,050.00	50.00	1	50.00				
19788134S		SHIRLEY		WIKNER	2,225.00	1,225.00	3	1,225.00				
19788134H		ROGER	J	WIKNER	2,000.00	1,000.00	1	1,000.00				
00193880X		ROLAND	D	WILSEY	1,050.00	50.00	1	50.00				
06617855H		JOHN	E	WREN	1,350.00	350.00	1	350.00				
07698935H		C	A	WURTELE	1,250.00	250.00	1	250.00				
00227160X		JIM		XHEMA	2,000.00	1,000.00	1	1,000.00				

TOTAL (Individuals) \$229,216.53 \$218,866.53 \$4,850.00 \$5,500.00

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DURENBERGER FOR U.S. SENATE VOLUNTEER COMMITTEE
 APPARENT EXCESSIVE CONTRIBUTIONS

Member Number	PAC Name	Total Contrib	Excess Portion	RA/RD Code	RA/RD Amount	Reatt # day	Refund Amount	Refnd # day	Unresolved Amount
0012472PX	AMER ASCO NURSE ANESTH PAC	6,000.00	1,000.00	1	1,000.00				
0001476PX	AMER CRYSTAL SUGAR PAC	7,000.00	2,000.00	1	2,000.00				
0001340PX	AMER INST OF CPA'S	10,000.00	5,000.00	1	5,000.00				
0003372PX	AMER PODIATRIC MEDICAL ASCO	5,500.00	500.00	1	500.00				
0001948PX	ASCO GEN CONTRACTORS OF AMER	10,000.00	5,000.00	1	5,000.00				
0008916PX	AUTO DEALERS & DRIVERS FOR F	7,000.00	2,000.00	1	2,000.00				
0002504PX	BROWN-FORMAN DISTILLERS PAC	5,100.00	100.00	1	100.00				
0002652PX	CAMPAIGN AMERICA	10,000.00	5,000.00	1	5,000.00				
0001804PX	CARBILL PAC	7,500.00	2,500.00	1	2,500.00				
0001844PX	COMMODITY FUTURES PAC	7,000.00	2,000.00	1	2,000.00				
0010792PX	DELAWARE VALLEY PAC	8,000.00	3,000.00	1	3,000.00				
0004276PX	DUN & BRADSTREET CORP PAC	5,250.00	250.00	1	250.00				
0004380PX	E F HUTTON GROUP PAC	5,500.00	500.00	1	500.00				
0001896PX	ELI LILLY AND CO PAC	10,000.00	5,000.00	1	5,000.00				
0004780PX	FIRST BANK SYSTEM PAC	7,300.00	2,300.00	1	2,300.00				
0005716PX	HEALTH INSURANCE PAC	5,500.00	500.00	1	500.00				
0002060PX	INDP BANKERS PAC	5,500.00	500.00	1	500.00				
0014952PX	LAND O LAKES INC	8,000.00	3,000.00	1	3,000.00				
0017460PX	MACC PAC	7,500.00	2,500.00	1	2,500.00				
0006656PX	MASS MUTUAL PAC	7,000.00	2,000.00	1	2,000.00				
0006676PX	MCDONALDS CORPORATION PAC	5,750.00	750.00	1	750.00				
0006748PX	METRO EMPLOYEE POLITICAL FUND	6,000.00	1,000.00	1	1,000.00				
0009716PX	NATL ASCO OF INDEP INSURERS	5,250.00	250.00	1	250.00				
0010116PX	NATL RESTAURANT ASSOC PAC	6,000.00	1,000.00	1	1,000.00				
0011140PX	NATL VENTURE CAPITAL ASCO PAC	8,000.00	3,000.00	1	3,000.00				
0016400PX	NORWEST CORP PAC	5,325.00	325.00	1	325.00				
0015020PX	PETROLEUM MARKETERS ASSN OF A	6,000.00	1,000.00	1	1,000.00				
0002892PX	PILLSBURY CO	5,600.00	600.00	1	600.00				
0003476PX	PROF INSURANCE AGENTS PAC	6,000.00	1,000.00	1	1,000.00				
0008388PX	PRUDENTIAL FEDERAL PAC	5,250.00	250.00	1	250.00				
0006020PX	MN MINING & MFG PAC	5,600.00	600.00	1	600.00				
0010028PX	TEXTRON PAC	7,000.00	2,000.00	1	2,000.00				
0016060PX	TORCHMARK PAC	7,000.00	2,000.00	1	2,000.00				
0007096PX	UNITED PARCEL SERVICE	5,600.00	600.00	1	600.00				
0007940PX	WASHINGTON PAC	10,000.00	5,000.00	1	5,000.00				
TOTAL PACS			64,025.00		64,025.00		-0-		-0-
TOTAL Individuals			229,216.53		218,866.53		4,850.00		5,500.00
GRAND TOTALS			\$293,241.53		\$282,891.53		\$4,850.00		\$5,500.00

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Contributions Subject to 48 Hour Disclosure Notices

Section 434(a)(6) of Title 2 of the United States Code requires that each treasurer of the principal campaign committee of a candidate shall notify the Clerk, the Secretary, or the Commission, and the Secretary of State, as appropriate, in writing, of any contribution of \$1,000 or more received by any authorized committee of such candidate after the 20th day, but more than 48 hours before, any election. This notification shall be made within 48 hours after the receipt of such contribution and shall include the name of the candidate and the office sought by the candidate, the identification of the contributor, and the date of receipt and amount of the contribution. The notification required under this paragraph shall be in addition to all other reporting requirements under this Act.

The Audit staff reviewed all Committee deposits made within two and twenty days of either the primary or general election date to identify and schedule all contributions greater than or equal to \$1,000. The auditors identified and reviewed 239 such contributions, totaling \$343,601.66. Of these, it appears that for 79 contributions, totaling \$108,000.66, which represents 31% of the dollar universe, the Committee did not file the required notice. Further, the auditors noted that most of the errors occurred with respect to deposits made on October 22, 1988, October 23, 1988, and November 5, 1988.

At the exit conference, Committee representatives were given copies of workpapers detailing these items. Committee representatives could provide no explanation for this and indicated the matter would be further researched.

The Audit staff recommended in the Interim Audit Report that the Committee provide an explanation, including an account of any mitigating circumstances, as to why these notices were not filed.

The Committee's response detailed problems associated with processing contributions received on November 5, 1988, which was a Saturday. The contributions received by mail on that day were not processed until Monday, November 7, 1988. Therefore, contributions greater than or equal to \$1,000 were not known by the Committee 48 hours before the election. The response also states the Committee overlooked the 48 hour notice reports for the other days preceding the election mentioned in the Interim Audit Report.

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The Audit staff does not find the Committee's explanation to be persuasive, nor consistent with the fact that the requisite notice was filed in at least two instances for contributions received November 5, 1988.

Recommendation

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

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SENSITIVE

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

FIRST GENERAL COUNSEL'S REPORT

MUR: 3212

STAFF MEMBER: MARY ANN BUMGARNER

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

RESPONDENTS: Durenberger '94 Volunteer Committee and
Delwyn Olson, as treasurer

RELEVANT STATUTES: 2 U.S.C. § 434(a)(6)
2 U.S.C. § 441a(a)(1)
2 U.S.C. § 441a(a)(2)
2 U.S.C. § 441a(f)

11 C.F.R. § 103.3(b)(3)
11 C.F.R. § 110.1(b)
11 C.F.R. § 110.1(k)
11 C.F.R. § 110.1(l)
11 C.F.R. § 110.2(b)

INTERNAL REPORTS

CHECKED: Disclosure Reports

FEDERAL AGENCIES

CHECKED: None

I. GENERATION OF MATTER

The Commission, upon the recommendation of the Audit Division, referred the Durenberger '94 Volunteer Committee (the "Committee") and Delwyn Olson, as treasurer, to the Office of the General Counsel on January 15, 1991.¹ The basis for the

1. The audit in this matter covered the period from January 1, 1987 through December 31, 1988; however, the Audit staff notes that it also reviewed contribution records prior to 1/1/87 in order to test the 2 U.S.C. § 441a(a) limitations for pre-1987 contributions includable in the 1988 election cycle.

During the time period covered by the audit, the Committee was known as the Durenberger for U.S. Senate Volunteer Committee and the Durenberger '88 Reelection Committee. The

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referral was the Committee's apparent acceptance of excessive contributions during the 1988 election cycle from 389 contributors, the excessive portions totaling \$293,241.53.² Attachment 1. Further, the referral also concerns the apparent failure by the Committee to file the required 48 hour disclosure notice for 79 contributions totaling \$108,000.66. Id.

II. FACTUAL AND LEGAL ANALYSIS

A. EXCESSIVE CONTRIBUTIONS

1. The Law

Pursuant to 2 U.S.C. § 441a(a)(1)(A), no person shall make contributions to any candidate and his authorized committee with respect to any election for Federal office which, in the aggregate, exceed \$1,000. Further, 2 U.S.C. § 441a(a)(2) states that no multicandidate political committee shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office, which in the aggregate exceed \$5,000. Pursuant to 2 U.S.C. § 441a(f), no candidate or political committee shall knowingly accept any contribution in violation of the provisions of

(Footnote 1 continued from previous page)
treasurers during the audit period were Sue Dean (12/18/86 to 4/10/87), Luci Fenner (4/11/87 to 1/31/88) and Leon Oistad (2/1/88 to 10/24/89). At the present time, the Committee is known as the Durenberger '94 Volunteer Committee and the current treasurer is Delwyn Olson.

2. Included in this amount is \$5,500 from twelve contributors that remained unresolved and \$1,000 from one contributor where the outstanding refund check remained unvouched by the Audit Staff.

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2 U.S.C. § 441a.

Commission regulations provide that contributions which on their face exceed the contribution limitations and contributions which do not appear to be excessive on their face, but which exceed the contribution limits when aggregated with other contributions from the same contributor, may either be deposited into a campaign depository or returned to the contributor. 11 C.F.R. § 103.3(b)(3). If deposited, the treasurer may request redesignation or reattribution of the contribution by the contributor. Id. If the reattribution or redesignation is not obtained, the treasurer shall, within sixty (60) days of the treasurer's receipt of the contribution, refund the contribution to the contributor. Id.

Commission regulations state that the treasurer may request a written redesignation of a contribution by the contributor for a different election if a contribution exceeds the limitation on contributions. 11 C.F.R. §§ 110.1(b)(5) and 110.2(b)(5). A contribution shall be considered to be redesignated for another election if within sixty days from the treasurer's receipt of the contribution, the contributor provides the treasurer with a written redesignation of a contribution for another election, which is signed by the contributor. Id.

Furthermore, when a contribution exceeds the limitations on contributions set forth in 11 C.F.R. § 110.1(b), the treasurer of the recipient political committee may ask the contributor whether the contribution was intended to be a joint

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contribution by more than one person. 11 C.F.R. § 110.1(k)(3). A contribution shall be considered to be reattributed to another contributor if within sixty days from the date of the treasurer's receipt of the contribution, the contributors provide the treasurer with a written reattribution of the contribution, which is signed by each contributor, and which indicates the amount to be attributed to each contributor if equal attribution is not intended. Id.

Finally, Commission regulations provide that if a political committee receives a written redesignation or reattribution of a contribution, the treasurer shall retain the written redesignation or reattribution signed by each contributor. 11 C.F.R. § 110.1(l). If a political committee does not retain the required written records, the redesignation or reattribution are not effective and the initial designation or attribution shall control. Id.

2. Background

As a result of a review by the Audit staff of reattribution and redesignation letters sent by the Durenberger Committee, the Audit staff determined that at least 369 of these letters were not receipt dated by the Committee and that no other documentation with respect to when these responses were received had been maintained. In view of this, it appears that these letters did not timely resolve excessive contributions from 369 contributors, the excessive portion of

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which totaled \$290,630.03.³ In addition, the Audit staff further identified six (6) refunds of excessive contributions, totaling \$3,850, which were not made in a timely manner. Finally, the Audit staff identified excessive contributions from thirteen (13) contributors, with excessive portions totaling \$5,730, for which no refund has been made nor any reattribution or redesignation obtained. At least 75 of these contributions were more than double the amount of the applicable statutory contribution limits.⁴ See Attachment 1 at 5-13.

In the Interim Audit Report, the Audit staff recommended that the Committee provide evidence that the contributions in question were not in excess of the limitation and provide an explanation, including an account of any mitigating circumstances as to why the redesignations, reattributions, and refunds were not accomplished in a timely manner.

In response to the Interim Audit Report, the Committee argued that there is nothing in the Act requiring the Committee to indicate the date a written response is received in connection with a redesignation or reattribution letter. In

3. At this time, this Office is making no recommendation as to possible violations by the contributors in this matter since these contributors did in fact attempt to redesignate or reattribute the subject contributions, and because it was the Committee's failure to date receipt the subject reattribution and redesignation letters which resulted in the present violations.

4. According to the Audit referral, at the exit conference, Committee representatives were provided details with respect to these items.

any case, the Committee contends that most of the items in question were resolved within the prescribed 60 day time period.

The Committee's response does not address the six refunded excessive contributions, totaling \$3,850, that were not made in a timely manner; however, the response does address some of the thirteen contributions, with excessive contributions totaling \$5,730, for which no refund had been made nor any reattribution/redesignation obtained. According to the Committee, \$4,325 was redesignated or refunded within 60 days; however, the Committee did not submit any additional information such as redesignation letters or copies of canceled checks. Further, the Committee did not address the remaining \$1,405 of the \$5,730.

Attached to the Committee's response is an affidavit of Kelly Fleming, the "receipts processor" for the Committee. According to the affidavit, after sending redesignation and reattribution letters, but before the 60 days time period would expire, Ms. Fleming would routinely call the contributor if she had not received a letter back regarding a possible redesignation or reattribution of the contribution. Ms. Fleming states she would usually have to explain the purpose of the letter to the contributor, but usually she would get a "verbal okay" and would send another letter.

Based on the Committee's response, the Audit Division re-evaluated the excessive portion of contributions and determined the excessive contributions, totaling \$293,241.53

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from 389 contributors, were not resolved in a timely manner. This amount includes \$5,500 from 12 contributors that remain unresolved and \$1,000 from one contributor in which the outstanding refund check could not be located by the Audit staff.

3. Analysis

While neither the Act or the Regulations require that the reattribution or redesignation letters have a date indicating when they were received by the Committee, as is contended by the Committee in their response, the Committee must have some other method of demonstrating when the letters were received. Without dating the letters or providing for some method to show a date, there would be no way of determining whether the Committee received reattribution or redesignation within the 60 day period.

The Committee did submit an affidavit of Kelly Fleming, the "receipts processor" for the Committee, detailing the Committee's procedures regarding redesignation and reattribution. According to Ms. Fleming, if the contributor did not respond to the original letter within 30 days, a second letter would be sent to the contributor. However, there are no facts to support the conclusion that the letters from the contributors authorizing the reattribution or redesignation of the excessive portion of contributions at issue here were received by the Committee within 60 days of the date of receipt of the contribution. Thus, the entire amount of the contribution would be attributed to the original contributor

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and the redesignation or reattribution would go to mitigation only. Therefore, based on the Committee's failure to resolve in a timely manner excessive contributions from 389 contributors, this Office recommends that the Commission find there is reason to believe that the Durenberger '94 Volunteer Committee and Delwyn Olson, as treasurer, violated 2 U.S.C. § 441a(f) by accepting excessive contributions totaling \$293,241.53.⁵

B. 48 HOUR NOTIFICATION OF CONTRIBUTIONS

1. The Law

Pursuant to 2 U.S.C. § 434(a)(6), each treasurer of the principal campaign committee of a candidate shall notify the Clerk, the Secretary, or the Commission, and the Secretary of State, as appropriate, in writing, of any contribution of \$1,000 or more received by any authorized committee of such candidate after the 20th day, but more than 48 hours before any election. This notification shall be made within 48 hours after the receipt of such contribution and shall include the name of the candidate and the office sought by the candidate, the identification of the contributor, and the date of receipt

5. The Audit staff notes that some of the apparent excessive contributions were received prior to April 8, 1987, the effective date of the governing regulations. Any excessive contributions made prior to the effective date of the new regulations are governed by the previous Commission regulations. See former 11 C.F.R. §§ 103.3(b) and 110.1 (1986). The prior Commission regulations required refunds to be made within a reasonable time. Compare former 11 C.F.R. § 103.3(b)(2)(1986) with 11 C.F.R. § 103.3(b)(3)(1989). The Audit staff, as well as this Office, believes that the contributions were not resolved in a timely manner under either regulation.

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and amount of the contribution. The notification required under this section shall be in addition to all other reporting requirements under the Act.

2. Background

The Audit Staff reviewed all Committee deposits made within twenty days but more than two days before both the 1988 primary and general election dates to identify and schedule all contributions greater than or equal to \$1,000. The auditors identified and reviewed 239 such contributions, totaling \$343,601.66. Of these, it appears that for 79 contributions, totaling \$108,000.66, the Committee did not file the required notice. Further, the Audit staff notes that most of the errors occurred with respect to deposits made on October 22, 1988, October 23, 1988, and November 5, 1988.

The Interim Audit Report recommended that the Committee explain why the notices were not filed within 48 hours of receipt of the contributions. In its response, the Committee asserts that it could not give timely notification of the contributions received on November 5, 1988, because this date was a Saturday and the contributions could not be processed until Monday, November 7, 1988. Therefore, the Committee asserts that it could not give 48 hours notification before the election. The Committee states that the contributions received on the other dates were overlooked.

3. Analysis

The explanation set forth by the Committee for the failure to file the required notices for 79 contributions is not

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persuasive in this matter, nor is it consistent with the fact that the Committee filed 48 hour notices for two other contributions received on November 5, 1988. Furthermore, as to the remaining contributions, the Committee merely states that the contributions received on those dates were "overlooked."

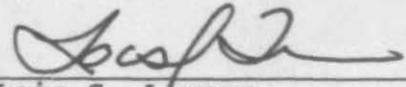
Based on the foregoing, this Office recommends that the Commission find reason to believe that the Durenberger '94 Volunteer Committee and Delwyn Olson, as treasurer, violated 2 U.S.C. § 434(a)(6).

III. RECOMMENDATIONS

1. Find reason to believe that the Durenberger '94 Volunteer Committee and Delwyn Olson, as treasurer, violated 2 U.S.C. §§ 434(a)(6) and 441a(f).
2. Approve the attached Factual and Legal Analysis and appropriate letter.

Lawrence M. Noble
General Counsel

6/10/91
Date

BY: 
Lois G. Lerner
Associate General Counsel

Attachments

1. Audit referral
2. Factual and Legal Analysis

93040950403

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 3212
Durenberger '94 Volunteer Committee)
and Delwyn Olson, as treasurer.)

CERTIFICATION

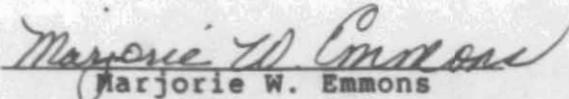
I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on June 12, 1991, the Commission decided by a vote of 5-0 to take the following actions in MUR 3212:

1. Find reason to believe that the Durenberger '94 Volunteer Committee and Delwyn Olson, as treasurer, violated 2 U.S.C. §§ 434(a)(6) and 441a(f).
2. Approve the Factual and Legal Analysis and appropriate letter, as recommended in the General Counsel's Report dated June 10, 1991.

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

Attest:

6-14-91
Date


Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Mon., June 10, 1991 1:28 p.m.
Circulated to the Commission: Mon., June 10, 1991 4:00 p.m.
Deadline for vote: Wed., June 12, 1991 4:00 p.m.

bjf

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 18, 1991

Delwyn Olson, Treasurer
Durenberger '94 Volunteer Committee
1103 Plymouth Building
12 South Sixth Street
Minneapolis, Minnesota 55402

RE: MUR 3212
Durenberger '94 Volunteer
Committee and Delwyn
Olson, as treasurer

Dear Mr. Olson:

On June 12, 1991, the Federal Election Commission found that there is reason to believe the Durenberger '94 Volunteer Committee and Delwyn Olson, as treasurer, violated 2 U.S.C. §§ 434(a)(6) and 441a(f), provisions of the Federal Election Campaign Act of 1971, as amended (the "Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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

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

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that 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.

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Mr. Olson
Page 2

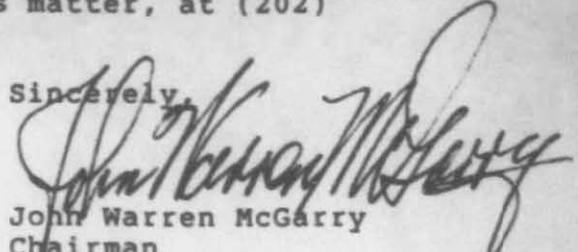
Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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

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

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

Sincerely,


John Warren McGarry
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Durenberger '94 Volunteer MUR: 3212
Committee and Delwyn Olson,
as treasurer

I. FACTUAL AND LEGAL ANALYSIS

A. EXCESSIVE CONTRIBUTIONS

1. Background

As a result of a review by the Audit staff of reattribution and redesignation letters sent by the Durenberger Committee in connection with the 1988 election cycle, the Audit staff determined that at least 369 of these letters were not receipt dated by the Committee and that no other documentation with respect to when these responses were received had been maintained. In view of this, it appears that these letters did not timely resolve excessive contributions from 369 contributors, the excessive portion of which totaled \$290,630.03.

In addition, the Audit staff further identified six (6) refunds of excessive contributions, totaling \$3,850, which were not made in a timely manner. Finally, the Audit staff identified excessive contributions from thirteen (13) contributors, with excessive portions totaling \$5,730, for which no refund has been made nor any reattribution or

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redesignation obtained.¹

In the Interim Audit Report, the Audit staff recommended that the Committee provide evidence that the contributions in question were not in excess of the limitation and provide an explanation, including an account of any mitigating circumstances as to why the redesignations, reattributions, and refunds were not accomplished in a timely manner.

In response to the Interim Audit Report, the Committee argued that there is nothing in the Act requiring the Committee to indicate the date a written response is received in connection with a redesignation or reattribution letter. In any case, the Committee contends that most of the items in question were resolved within the prescribed 60 day time period.

The Committee's response does not address the six refunded excessive contributions, totaling \$3,850, that were not made in a timely manner; however, the response does address some of the thirteen contributions, with excessive contributions totaling \$5,730, for which no refund had been made nor any reattribution/redesignation obtained. According to the Committee, \$4,325 was redesignated or refunded within 60 days; however, the Committee did not submit any additional information such as redesignation letters or copies of canceled checks. Further, the Committee did not address the remaining

1. According to the Audit referral, at the exit conference, Committee representatives were provided details with respect to these items.

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\$1,405 of the \$5,730.

Attached to the Committee's response is an affidavit of Kelly Fleming, the "receipts processor" for the Committee. According to the affidavit, after sending redesignation and reattribution letters, but before the 60 days time period would expire, Ms. Fleming would routinely call the contributor if she had not received a letter back regarding a possible redesignation or reattribution of the contribution. Ms. Fleming states she would usually have to explain the purpose of the letter to the contributor, but usually she would get a "verbal okay" and would send another letter.

Based on the Committee's response, the Audit Division re-evaluated the excessive portion of contributions and determined the excessive contributions, totaling \$293,241.53 from 389 contributors, were not resolved in a timely manner. See Attachment A. This amount includes \$5,500 from 12 contributors that remain unresolved and \$1,000 from one contributor in which the outstanding refund check could not be located by the Audit staff.

2. The Law

Pursuant to 2 U.S.C. § 441a(a)(1)(A), no person shall make contributions to any candidate and his authorized committee with respect to any election for Federal office which, in the aggregate, exceed \$1,000. Further, 2 U.S.C. § 441a(a)(2) states that no multicandidate political committee shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office,

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which in the aggregate exceed \$5,000. Pursuant to 2 U.S.C. § 441a(f), no candidate or political committee shall knowingly accept any contribution in violation of the provisions of 2 U.S.C. § 441a.

Commission regulations provide that contributions which on their face exceed the contribution limitations and contributions which do not appear to be excessive on their face, but which exceed the contribution limits when aggregated with other contributions from the same contributor, may either be deposited into a campaign depository or returned to the contributor. 11 C.F.R. § 103.3(b)(3). If deposited, the treasurer may request redesignation or reattribution of the contribution by the contributor. Id. If the reattribution or redesignation is not obtained, the treasurer shall, within sixty (60) days of the treasurer's receipt of the contribution, refund the contribution to the contributor. Id.

Commission regulations state that the treasurer may request a written redesignation of a contribution by the contributor for a different election if a contribution exceeds the limitation on contributions. 11 C.F.R. §§ 110.1(b)(5) and 110.2(b)(5). A contribution shall be considered to be redesignated for another election if within sixty days from the treasurer's receipt of the contribution, the contributor provides the treasurer with a written redesignation of a contribution for another election, which is signed by the contributor. Id.

Furthermore, when a contribution exceeds the limitations

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on contributions set forth in 11 C.F.R. § 110.1(b), the treasurer of the recipient political committee may ask the contributor whether the contribution was intended to be a joint contribution by more than one person. 11 C.F.R. § 110.1(k)(3). A contribution shall be considered to be reattributed to another contributor if within sixty days from the date of the treasurer's receipt of the contribution, the contributors provide the treasurer with a written reattribution of the contribution, which is signed by each contributor, and which indicates the amount to be attributed to each contributor if equal attribution is not intended. Id.

Finally, Commission regulations provide that if a political committee receives a written redesignation or reattribution of a contribution, the treasurer shall retain the written redesignation or reattribution signed by each contributor. 11 C.F.R. § 110.1(l). If a political committee does not retain the required written records, the redesignation or reattribution are not effective and the initial designation or attribution shall control. Id.

3. Analysis

While neither the Act or the Regulations require that the reattribution or redesignation letters have a date indicating when they were received by the Committee, as is contended by the Committee in their response, the Committee must have some other method of demonstrating when the letters were received. Without dating the letters or providing for some method to show a date, there would be no way of determining whether the

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Committee received reattribution or redesignation within the 60 day period.

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The Committee did submit an affidavit of Kelly Fleming, the "receipts processor" for the Committee, detailing the Committee's procedures regarding redesignation and reattribution. According to Ms. Fleming, if the contributor did not respond to the original letter within 30 days, a second letter would be sent to the contributor. However, there are no facts to support the conclusion that the letters from the contributors authorizing the reattribution or redesignation of the excessive portion of contributions at issue here were received by the Committee within 60 days of the date of receipt of the contribution. Thus, the entire amount of the contribution would be attributed to the original contributor and the redesignation or reattribution would go to mitigation only. Therefore, based on the Committee's failure to resolve in a timely manner excessive contributions from 389 contributors, there is reason to believe that the Durenberger '94 Volunteer Committee and Delwyn Olson, as treasurer, violated 2 U.S.C. § 441a(f) by accepting excessive contributions totaling \$293,241.53.²

2. The Audit staff notes that some of the apparent excessive contributions were received prior to April 8, 1987, the effective date of the governing regulations. Any excessive contributions made prior to the effective date of the new regulations are governed by the previous Commission regulations. See former 11 C.F.R. §§ 103.3(b) and 110.1 (1986). The prior Commission regulations required refunds to be made within a reasonable time. Compare former 11 C.F.R. § 103.3(b)(2)(1986) with 11 C.F.R. § 103.3(b)(3)(1989). The Audit staff, as well as this Office,

B. 48 HOUR NOTIFICATION OF CONTRIBUTIONS

1. Background

The Audit Staff reviewed all Committee deposits made within twenty days but more than two days before both the 1988 primary and general election dates to identify and schedule all contributions greater than or equal to \$1,000. The auditors identified and reviewed 239 such contributions, totaling \$343,601.66. Of these, it appears that for 79 contributions, totaling \$108,000.66, the Committee did not file the required notice. Further, the Audit staff notes that most of the errors occurred with respect to deposits made on October 22, 1988, October 23, 1988, and November 5, 1988.

The Interim Audit Report recommended that the Committee explain why the notices were not filed within 48 hours of receipt of the contributions. In its response, the Committee asserts that it could not give timely notification of the contributions received on November 5, 1988, because this date was a Saturday and the contributions could not be processed until Monday, November 7, 1988. Therefore, the Committee asserts that it could not give 48 hours notification before the election. The Committee states that the contributions received on the other dates were overlooked.

2. The Law

Pursuant to 2 U.S.C. § 434(a)(6), each treasurer of the

(Footnote 2 continued from previous page)
believes that the contributions were not resolved in a timely manner under either regulation.

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principal campaign committee of a candidate shall notify the Clerk, the Secretary, or the Commission, and the Secretary of State, as appropriate, in writing, of any contribution of \$1,000 or more received by any authorized committee of such candidate after the 20th day, but more than 48 hours before any election. This notification shall be made within 48 hours after the receipt of such contribution and shall include the name of the candidate and the office sought by the candidate, the identification of the contributor, and the date of receipt and amount of the contribution. The notification required under this section shall be in addition to all other reporting requirements under the Act.

3. Analysis

The explanation set forth by the Committee for the failure to file the required notices for 79 contributions is not persuasive in this matter, nor is it consistent with the fact that the Committee filed 48 hour notices for two other contributions received on November 5, 1988. Furthermore, as to the remaining contributions, the Committee merely states that the contributions received on those dates were "overlooked."

Based on the foregoing, there is reason to believe that the Durenberger '94 Volunteer Committee and Delwyn Olson, as treasurer, violated 2 U.S.C. § 434(a)(6).

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United States Senate
DAVE DURENBERGER

July 2, 1991

Mary Ann Bumgarner, Esq.
Federal Election Commission
Washington, D.C. 20463

Re: MUR 3212; Durenberger '94 Volunteer Committee and Delwyn
Olson, Treasurer

Dear Ms. Bumgarner:

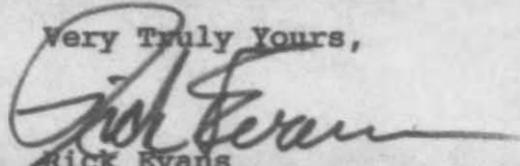
On behalf of the Durenberger Volunteer Committee I hereby
request an extension of 20 days from July 5, 1991 for the
Committee to answer or otherwise respond to the Commissions
letter of June 18, 1991. Pursuant to this request, I would
propose that the response be due by July 25, 1991.

Please be advised that this request was sent to our campaign
office in Minneapolis and forwarded to me by our staff there. I
will be up to me to try to respond to the letter. Because I was
not formally involved in the campaign in 1988, I will have to
rely on information from the individuals who were involved at the
time. These individuals have all moved on to other pursuits and
it has taken me some time to reach some of them. Some of them I
have not spoken with yet.

I believe that I will be able to respond by July 25, 1991.

Thank you for your consideration in this matter.

Very Truly Yours,



Rick Evans
Administrative Assistant
To Senator Durenberger

93040950415



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 5, 1991

Mr. Rick Evans
154 Russell Senate Office Building
Washington, D.C. 20510-2301

RE: MUR 3212
Durenberger '94 Volunteer
Committee and Delwyn Olson,
as treasurer

Dear Mr. Evans:

This is in response to your letter dated July 2, 1991, which we received on July 2, 1991, requesting an extension of 20 days to respond to the Commission's reason to believe findings. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on July 25, 1991.

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

Sincerely,

Lawrence M. Noble
General Counsel

A handwritten signature in cursive script, appearing to read "Robert W. Bonham, III".

BY: Robert W. Bonham, III
Assistant General Counsel

93040950416

July 25, 1991

John Warren McGarry
Chairman
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

Re: MUR 3212
Durenberger '94 Volunteer Committee and Delwyn Olson,
as Treasurer

Dear Mr. McGarry:

This letter is in response to your letter of June 18, 1991, informing the Durenberger Volunteer Committee that the Federal Elections Commission found reason to believe that a violation of the Federal Elections Campaign Act of 1991 had occurred. While the Durenberger Volunteer Committee does not agree with that conclusion, we would be interested in pursuing pre-probable cause conciliation.

In addition, we would offer the following comments on the allegations.

1. Excessive Contributions

The finding of reason to believe that excessive contributions were accepted and not redesignated, reattributed or refunded in a timely manner seems, from the Commission's memorandum and prior correspondence, to be based solely on the failure of the Durenberger Volunteer Committee to receipt date the reattribution and redesignation letters. The Commission's conclusion is unwarranted by the facts.

The Commission states that "without dating the letters or providing some other method to show a date, there would be no way of determining whether the Committee received reattribution or redesignation within the 60 day period." That statement is not accurate.

There are any number of ways that a Committee could show that the letters are timely. One would be, as the Commission suggests, to receipt date the letters. That method, however, is by no means conclusive or foolproof. The Committee could easily make an error or even intentionally deceive the Commission with

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OFFICE OF GENERAL COUNSEL

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John Warren McGarry
July 25, 1991
Page Two

receipt dates which are not under oath or witnessed. Furthermore, if this were the preferred or required method, one would expect the Commission to say so in its regulations.

Another way to demonstrate the timeliness of the letters would be to set up a system for handling the reattributions and redesignations which accomplished one or the other within the allowed time. Having such a system and providing a sworn statement that the system worked to assure that letters were received in a timely manner is evidence that the regulations were complied with. This was the method the Durenberger Committee chose to address the questions raised by the audit.

As indicated in the Affidavit of Kelly Fleming, the Durenberger Committee had a system whereby letters were sent and calls were made in an effort to accomplish the reattribution or redesignation in the period allowed. The affidavit, given under oath, states how the system worked, how the effort was made to keep within the time limits and goes on to state that most of the letters were handled in a timely manner. Certainly this method is not foolproof any more than receipt dates would be. This method does, however, have the virtue of being under oath and, therefore, more reliable.

It is clear, then, that the Commission's statement that "there are no facts to support the conclusion that the letters...were received by the Committee within 60 days..." is not accurate. Absent some justification, the Commission is not permitted to ignore the Fleming Affidavit altogether. The Affidavit is a fact which must be given weight.

What there is no factual support for is the allegation that the letters were not received in the time permitted. To my knowledge, the Commission has not produced one fact which would indicate that the letters were received after 60 days. From the Commission's memorandum it seems that the presumption is that the Committee is guilty of a violation and it is up to the Committee to prove otherwise.

The ordinary burden of proof is reversed in the Commission's memorandum. While the Committee will acknowledge that its system, like any system, is less than perfection, absent legal authority to the contrary, the Committee does not accept the legal conclusion, implied in the Commission's memorandum, that the Commission is required to prove its innocence. Standing the ordinary burden of proof on its head certainly requires some legal authority.

Finally, the Committee would note that in 1987 and 1988 the Committee processed over \$4.7 million in contributions. The

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John Warren McGarry
July 25, 1991
Page Three

overwhelming majority of these were handled in a manner which is demonstrably above reproach. The Commission, in its audit, has found contributions of less than \$6,000.00 which were arguably reallocated or refunded in a manner inconsistent with the rules. The remainder of the Commission's complaint with respect to reallocation and refunds is, as indicated above, based on a presumption of mishandling, without actual evidence of mishandling.

2. 48 hour notification of contributors

As indicated in the Committee's response to the audit, the Committee cannot prove that contributions received on October 22, October 23 and November 5 in 1988 were reported to the Secretary of the Senate within 48 hours. It is clear, however, that the Committee had established a procedure by which these reports would be made and that the reports were properly made in the vast majority of the cases. The Committee is unable to explain, in spite of diligent effort, what happened to the reports on those days in question.

The only exception to this is as to the contributions received on November 5. It appears that those contributions were not reported because it would not be possible to report those prior to the election. The Committee is unable to determine how two contributions with the date of November 5 were reported as alleged in the Commission's memorandum.

The Committee would like to point out a number of points in mitigation of the fact that some contributions appear to have gone unreported within 48 hours.

First, it has already been noted that the vast majority of the contributions were properly reported. The Committee had a system that it was at some pains to acquire and maintain which would allow the reports to be made. If in fact the reports were not made, it was clearly an oversight.

Second, there is no reason to believe that the failure to make this report was intentional or in bad faith. In fact all of the evidence is that every effort was made to make timely reports. The contributions in question, which were subsequently reported to the Commission, were not in any way controversial or questionable. Significantly, none of Senator Durenberger's political opponents have ever suggested that there was some reason to hide the contributions in question. This is significant not because the Committee feels that failure to report non-controversial contributions is permitted, but because it is evidence that there was no bad faith in any failure to report.

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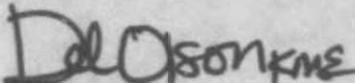
John Warren McGarry
July 25, 1991
Page Four

Finally, the fact that these contributions were subsequently reported should be a mitigating factor in consideration of any failure to report. Again, in light of the proper reporting of the overwhelming majority of the \$4.7 million in contributions processed by the campaign, the apparent failure to report contributions on three days appears as a minor aberration in an otherwise efficient process.

In conclusion, let me reiterate that the Committee is interested in pursuing pre-probable cause conciliation of these complaints. The points made above are provided in order to give the Committee's view of the charges contained in the Commission's Memorandum in advance of conciliation.

In order to facilitate the conciliation process, I would appreciate it if you would contact Senator Durenberger's Administrative Assistant, Rick Evans, at 224-9470 for scheduling or any questions you may have. Thank you for your cooperation.

Very Truly Yours,


Del Olson
Treasurer

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BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of)
)
Durenberger '94 Volunteer)
Committee and Delwyn Olson, as)
treasurer)

MUR 3212

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On June 12, 1991, the Federal Election Commission found reason to believe that the Durenberger '94 Volunteer Committee (the "Committee") and Delwyn Olson, as treasurer, violated 2 U.S.C. § 441a(f) by accepting excessive contributions totaling \$293,241.53. In addition, the Commission found there is reason to believe that the Committee violated 2 U.S.C. § 434(a)(6) by failing to file the required 48 Hour Notices for 79 contributions. On July 25, 1991, the Committee requested pre-probable cause conciliation. Attachment 1.

II. FACTUAL AND LEGAL ANALYSIS

A. EXCESSIVE CONTRIBUTIONS

1. The Law

Pursuant to 2 U.S.C. § 441a(a)(1)(A), no person shall make contributions to any candidate and his authorized committee with respect to any election for Federal office which, in the aggregate, exceed \$1,000. Further, 2 U.S.C. § 441a(a)(2)(A) states that no multicandidate political committee shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office,

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which in the aggregate exceed \$5,000. Pursuant to 2 U.S.C. § 441a(f), no candidate or political committee shall knowingly accept any contribution in violation of the provisions of 2 U.S.C. § 441a.

The Commission's regulations provide that contributions which on their face exceed the contribution limitations and contributions which do not appear to be excessive on their face, but which exceed the contribution limits when aggregated with other contributions from the same contributor, may either be deposited into a campaign depository or returned to the contributor. 11 C.F.R. § 103.3(b)(3). If deposited, the treasurer may request redesignation or reattribution of the contribution by the contributor. Id. If the reattribution or redesignation is not obtained, the treasurer shall, within sixty (60) days of the treasurer's receipt of the contribution, refund the contribution to the contributor. Id.

The Commission's regulations state that the treasurer may request a written redesignation of a contribution by the contributor for a different election if a contribution exceeds the limitation on contributions. 11 C.F.R. §§ 110.1(b)(5) and 110.2(b)(5). A contribution shall be considered to be redesignated for another election if within sixty days from the treasurer's receipt of the contribution, the contributor provides the treasurer with a written redesignation of a contribution for another election, which is signed by the contributor. Id.

Furthermore, when a contribution exceeds the limitations

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on contributions set forth in 11 C.F.R. § 110.1(b), the treasurer of the recipient political committee may ask the contributor whether the contribution was intended to be a joint contribution by more than one person. 11 C.F.R. § 110.1(k)(3). A contribution shall be considered to be reattributed to another contributor if within sixty days from the date of the treasurer's receipt of the contribution, the contributors provide the treasurer with a written reattribution of the contribution, which is signed by each contributor, and which indicates the amount to be attributed to each contributor if equal attribution is not intended. Id.

Finally, the Commission's regulations provide that if a political committee receives a written redesignation or reattribution of a contribution, the treasurer shall retain the written redesignation or reattribution signed by each contributor. 11 C.F.R. § 110.1(l). If a political committee does not retain the required written records, the redesignation or reattribution are not effective and the initial designation or attribution shall control. Id.

2. Background

As a result of a review by the Audit staff of reattribution and redesignation letters sent by the Durenberger Committee, the Audit staff determined that at least 389 of these letters were not receipt dated by the Committee and that no other documentation with respect to when these responses were received had been maintained. In view of this, it appears that these letters did not timely resolve excessive

contributions from 389 contributors, the excessive portion of which totaled \$293,241.53. This amount includes \$5,500 from 12 contributors that remain unresolved and \$1,000 from one contributor in which the outstanding refund check could not be located by the Audit staff. At least 75 of these contributions were more than double the amount of the applicable statutory contribution limits.¹

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In their response to the Commission's reason to believe finding, the Committee offered several comments on the Commission's finding, in addition to requesting pre-probable cause conciliation. First, the Committee contends that there are equally acceptable alternatives to affixing a "receipt date" on reattribution and redesignation letters in order to show that such letters were received within the 60 day time period, and asserts that they therefore should not be penalized for adopting one of these other methods. Indeed, according to the Committee, a receipt date is not conclusive or foolproof, since the Committee could easily make an error or even intentionally deceive the Commission with receipt dates which are not under oath or witnessed. Furthermore, the Committee states that if receipt dating is the preferred or required method, then the Commission should set that out in the Commission's regulations.

The Committee argues that another way to demonstrate

1. According to the Audit referral, at the exit conference, Committee representatives were provided details with respect to these items.

timeliness of the letters would be to set up a system for handling the reattributions and redesignations which accomplished one or the other within the allowed time. The Committee states that having such a system and providing a sworn statement that the system worked to accomplish the reattribution or redesignation within the 60 day period would be evidence that the Commission's regulations were complied with. According to the Committee's response, this was the method used by the Durenberger committee in this matter.

The Committee refers to an affidavit of Kelly Fleming, the "receipts processor" for the Committee, which was attached to the response by the Committee to the Interim Audit Report. Attachment 2. According to the affidavit, after sending redesignation and reattribution letters, but before the 60 days time period would expire, Ms. Fleming would routinely call the contributor if she had not received a letter back regarding a possible redesignation or reattribution of the contribution. Ms. Fleming states she would usually have to explain the purpose of the letter to the contributor, but often she would get a "verbal okay" and would send another letter. In addition, Ms. Fleming states that most of the letters were handled in a timely manner. In their response to the Commission's reason to believe finding, the Committee argues that while this method is not foolproof, the affidavit given by Ms. Fleming was under oath and, therefore, is more reliable than receipt dates would be. Therefore, the Committee states that the Commission is not permitted to ignore the

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Fleming affidavit and it must be given weight.

Secondly, the Committee argues that the burden of proof in this matter falls upon the Commission to show that the subject reattribution and redesignations did not take place within the requisite 60 day time period. According to the Committee, they do not accept the legal conclusion, implied in the Commission's memorandum, that the Committee is required to prove its innocence.

Lastly, the Committee notes in their response that in 1987 and 1988 the Durenberger campaign processed over \$4.7 million in contributions. The Committee asserts that the overwhelming majority of these were handled in a manner which is "demonstrably above reproach." In addition, the Committee states that in its audit, the Commission found contributions totaling less than \$6,000, which were arguably reallocated or refunded in a manner inconsistent with "the rules."

3. Analysis

While neither the Act or the Regulations require that the reattribution or redesignation letters have a date indicating when they were received by the Committee, the Committee must have some other method of demonstrating when the letters were received. Without dating the letters or providing for some method to show a receipt date, there would be no way of determining whether the Committee received reattribution or redesignation within the 60 day period.

The Committee did submit a sworn affidavit of Kelly Fleming, the "receipts processor" for the Committee,

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detailing the Committee's procedures regarding redesignation and reattribution; however, there are no facts to support the conclusion that the letters from the contributors authorizing the reattribution or redesignation of the excessive portion of contributions at issue here were received by the Committee within 60 days of the date of receipt of the contribution. In the affidavit, Ms. Fleming simply states that it is her belief that "most of the contributors in this category" were resolved within the 60 day time period. However, based on the procedures used by the Committee in this matter, this Office is unable to determine which contributions, if any, were in fact redesignated or reattributed within the requisite 60 days. Therefore, while Ms. Fleming's affidavit was under oath and it is possible that the system used by the Committee did allow certain redesignations and reattributions to occur within 60 days, without any additional facts these two factors alone are not sufficient to show that they prevented the violation in this matter. In fact, in their response to the Commission's finding, the Committee acknowledges that the system used by the Committee is not foolproof.

Further, pursuant to 11 C.F.R § 110.1(1), it is the responsibility of the treasurer of a political committee to retain a copy of all written records made in connection with redesignations and reattributions. In addition, the Commission's regulations require the treasurer of a political committee, in the performance of recordkeeping duties, to use his or her best efforts to obtain, maintain and submit the

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required information and to keep a complete record of such efforts. Based on the foregoing, it was the responsibility of the Committee to maintain complete and accurate records concerning the subject reattributions and redesignations. In fact, the reattribution and redesignation provisions in the Commission's regulations operate to the Committee's benefit by allowing them to avoid a violation of section 441a(f) if the reattributions and redesignations are accomplished within 60 days. Therefore, the Committee's attempt to place the burden of proof in this matter on the Commission must fail and the burden should fall on the Committee to prove that the reattributions and redesignations did in fact occur within the requisite time period. As set out above, it is the Committee which is required to keep copies of all written records made in connection with reattributions and redesignations and, therefore, it is the Committee that would best be able to demonstrate whether the reattributions and redesignations were accomplished in a timely manner.

In addition, the fact that the Committee processed over \$4.7 million in contributions during 1987 and 1988, most of which the Committee asserts were handled in a manner above reproach, does not alleviate the violation at hand. Based on the foregoing, the entire amount of the contribution would be attributed to the original contributor and the redesignation or reattribution would go to mitigation only. Therefore, based on their failure to resolve in a timely manner excessive contributions from 389 contributors, the Durenberger '94

Volunteer Committee and Delwyn Olson, as treasurer, violated 2 U.S.C. § 441a(f) by accepting excessive contributions totaling \$293,241.53.²

B. 48 HOUR NOTIFICATION OF CONTRIBUTIONS

1. The Law

Pursuant to 2 U.S.C. § 434(a)(6), each treasurer of the principal campaign committee of a candidate shall notify the Clerk of the House, the Secretary of the Senate, or the Commission, and the Secretary of State, as appropriate, in writing, of any contribution of \$1,000 or more received by any authorized committee of such candidate after the 20th day, but more than 48 hours before any election. This notification shall be made within 48 hours after the receipt of such contribution and shall include the name of the candidate and the office sought by the candidate, the identification of the contributor, and the date of receipt and amount of the contribution. The notification required under this section shall be in addition to all other reporting requirements under the Act.

2. The Audit staff notes that some of the apparent excessive contributions were received prior to April 8, 1987, the effective date of the governing regulations. Any excessive contributions made prior to the effective date of the new regulations are governed by the previous Commission regulations. See former 11 C.F.R. §§ 103.3(b) and 110.1 (1986). The prior Commission regulations required refunds to be made within a reasonable time. Compare former 11 C.F.R. § 103.3(b)(2)(1986) with 11 C.F.R. § 103.3(b)(3)(1989). The Audit staff, as well as this Office, believes that the contributions were not resolved in a timely manner under either regulation.

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2. Background

The Audit staff reviewed all Committee deposits made within twenty days but more than two days before both the 1988 primary and general election dates to identify and schedule all contributions greater than or equal to \$1,000. The auditors identified and reviewed 239 such contributions, totaling \$343,601.66. Of these, it appears that for 79 contributions, totaling \$108,000.66, the Committee did not file the required notice. Further, the Audit staff notes that most of the errors occurred with respect to deposits made on October 22, 1988, October 23, 1988, and November 5, 1988.

In their response to the Commission's reason to believe finding, the Committee makes three points in mitigation of the failure by the Committee to report 79 contributions within the requisite 48 hour time period. First, the Committee notes once again that the vast majority of the contributions received by the Durenberger in 1987 and 1988 were properly reported. The Committee further notes that if the required reports were not made, it was "clearly an oversight."

Second, the Committee states that the failure to timely file the 48 Hour Notices was not intentional or in bad faith. In fact, the Committee argues that every effort was made to make timely reports to the Commission. In addition, the Committee asserts that the contributions in question were not in any way controversial or questionable and none of Senator Durenberger's political opponents have ever suggested that there was some reason to hide the contributions in

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question. The Committee adds that they do not feel that the failure to report non-controversial contributions is permitted, but the Committee reemphasizes that this failure was not done in bad faith.

Lastly, the Committee argues that these contributions were subsequently reported to the Commission. In addition, the Committee argues that in light of the \$4.7 million in contributions processed by the campaign, the apparent failure to report these contributions appears as a "minor aberration in an otherwise efficient process."

3. Analysis

Based on their response, it does not appear that there is any question that the Durenberger committee failed to timely notify the Commission of the receipt of 79 contributions in violation of 2 U.S.C. § 434(a)(6). In fact, as discussed supra, the Committee offers the above points "in mitigation of the fact that some contributions appear to have gone unreported within 48 hours." Thus, it is apparent that the underlying rationale for requiring the 48 hour reporting, which is to place large last-minute contributions on the public record as soon as possible, and in any event prior to the election, was not satisfied by the Committee's actions.

As noted previously, the Committee has requested pre-probable cause conciliation. Since the Commission has adequate information regarding both violations in this matter, the Office of the General Counsel recommends that the Commission enter into pre-probable cause conciliation with the

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Durenberger '94 Volunteer Committee and Delwyn Olson, as treasurer.

III. DISCUSSION OF CONCILIATION PROVISIONS AND CIVIL PENALTY

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IV. RECOMMENDATIONS

1. Enter into conciliation with the Durenberger '94 Volunteer Committee and Delwyn Olson, as treasurer, prior to a finding of probable cause to believe.
2. Approve the attached proposed conciliation agreement and appropriate letter.

Lawrence M. Noble
General Counsel

9/30/91
Date

By: *Lois G. Lerner*
Lois G. Lerner
Associate General Counsel

Attachments

1. Response from the Durenberger Committee
2. Affidavit of Kelly Fleming
3. Conciliation Agreement

Staff Member: Mary Ann Bumgarner

93040950433

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Durenberger '94 Volunteer) MUR 3212
Committee and Delwyn Olson, as)
treasurer.)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on October 3, 1991, the Commission decided by a vote of 6-0 to take the following actions in MUR 3212:

1. Enter into conciliation with the Durenberger '94 Volunteer Committee and Delwyn Olson, as treasurer prior to a finding of probable cause to believe.
2. Approve the proposed conciliation agreement and appropriate letter, as recommended in the General Counsel's Report dated September 30, 1991.

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

Attest:

10-4-91
Date

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

Received in the Secretariat: Mon., Sept. 30, 1991 3:25 p.m.
Circulated to the Commission: Tues., Oct. 1, 1991 11:00 a.m.
Deadline for vote: Thurs., Oct. 3, 1991 11:00 a.m.
Objection received: Wed., Oct. 2, 1991 11:52 a.m.
Place on the agenda for: Tues., Oct. 8, 1991
Objection Withdrawn: Thurs., Oct. 3, 1991 4:48 p.m.

dr

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 10, 1991

Mr. Rick Evans
154 Russell Senate Office Building
Washington, D.C. 20510-2301

RE: MUR 3212
Durenberger '94 Volunteer
Committee and Delwyn Olson,
as treasurer

Dear Mr. Evans:

On June 12, 1991, the Federal Election Commission found reason to believe that the Durenberger '94 Volunteer Committee and Delwyn Olson, as treasurer, violated 2 U.S.C. §§ 434(a)(6) and 441a(f). At your request, on October 3, 1991, the Commission determined to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe.

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

If you have any questions or suggestions for changes in the agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact Mary Ann Bumgarner, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Conciliation Agreement

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 15, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Rick Evans
154 Russell Senate Office Building
Washington, D.C. 20510-2301

RE: MUR 3212
Durenberger '94 Volunteer
Committee and Delwyn Olson,
as treasurer

Dear Mr. Evans:

On October 10, 1991, you were notified that, at your request, the Federal Election Commission determined to enter into negotiations directed toward reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. On that same date you were sent a conciliation agreement offered by the Commission in settlement of this matter.

Please note that conciliation negotiations entered into prior to a finding of probable cause to believe are limited to a maximum of 30 days. To date, you have not responded to the proposed agreement. The 30 day period for negotiations has expired. Unless we receive a response from you within five days, this Office will consider these negotiations terminated and will proceed to the next stage of the enforcement process.

Should you have any questions, please contact Mary Ann Bumgarner, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

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Therefore, this Office recommends that the Commission accept the revised conciliation agreement signed by

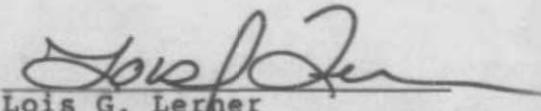
Respondents. In addition, this Office recommends that the Commission close the file in this matter.

II. RECOMMENDATIONS

1. Accept the attached conciliation agreement with the Durenberger '94 Volunteer Committee and Delwyn Olson, as treasurer.
2. Approve the appropriate letter.
3. Close the file.

Lawrence M. Noble
General Counsel

5-18-93
Date

BY: 
Lois G. Lerner
Associate General Counsel

Attachments

1. Revised conciliation agreement
2. Financial documentation from the Committee
3. Financial documentation from the treasurer, Delwyn Olson

Staff Member: Mary Ann Bungarner

93040950442

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Durenberger '94 Volunteer) MUR 3212
Committee and Delwyn Olson,)
as treasurer.)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on May 24, 1993, the Commission decided by a vote of 6-0 to take the following actions in MUR 3212:

1. Accept the conciliation agreement with the Durenberger '94 Volunteer Committee and Delwyn Olson, as treasurer, as recommended in the General Counsel's Report dated May 18, 1993.
2. Approve the appropriate letter, as recommended in the General Counsel's Report dated May 18, 1993.
3. Close the file.

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

Attest:

5-25-93
Date

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

Received in the Secretariat:
Circulated to the Commission
Deadline for vote:

Wed., May 19, 1993 9:55 a.m.
Wed., May 19, 1993 11:00 a.m.
Mon., May 24, 1993 4:00 p.m.

dr

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Durenberger '94 Volunteer) MUR 3212
Committee and Delwyn Olson,)
as treasurer)

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission") pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that the Durenberger '94 Volunteer Committee and Delwyn Olson, as treasurer ("Respondents"), violated 2 U.S.C. §§ 434(a)(6) and 441a(f).

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

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

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

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

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OFFICE OF GENERAL COUNSEL
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IV. The pertinent facts in this matter are as follows:

1. The Durenberger '94 Volunteer Committee is a political committee within the meaning of 2 U.S.C. § 431(4).

2. Delwyn Olson is the treasurer of the Durenberger '94 Volunteer Committee.

3. 2 U.S.C. § 441a(f) provides that no candidate or political committee shall knowingly accept any contribution in violation of the provisions of Section 441a.

4. 2 U.S.C. § 441a(a)(1)(A) limits to \$1,000 the amount that a person shall make in contributions to any candidate and his authorized political committee with respect to any election for Federal office. Further, 2 U.S.C. § 441a(a)(2)(A) states that no multicandidate political committee shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office, which in the aggregate exceed \$5,000.

5. Commission regulations provide that contributions which on their face exceed the contribution limitations and contributions which do not appear to be excessive on their face, but which exceed the contribution limits when aggregated with other contributions from the same contributor, may either be deposited into a campaign depository or returned to the contributor. 11 C.F.R. § 103.3(b)(3). If deposited, the treasurer may request redesignation or reattribution of the contribution by the contributor. Id. If the reattribution or redesignation is not obtained, the treasurer shall, within

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sixty (60) days of the treasurer's receipt of the contribution, refund the contribution to the contributor. Id.

6. Commission regulations state that the treasurer may request a written redesignation of a contribution by the contributor for a different election if a contribution exceeds the limitation on contributions. 11 C.F.R. §§ 110.1(b)(5) and 110.2(b)(5). A contribution shall be considered to be redesignated for another election if within sixty days from the treasurer's receipt of the contribution, the contributor provides the treasurer with a written redesignation of a contribution for another election, which is signed by the contributor. Id.

7. Pursuant to 11 C.F.R. § 110.1(k)(3), when a contribution exceeds the limitations on contributions set forth in 11 C.F.R. § 110.1(b), the treasurer of the recipient political committee may ask the contributor whether the contribution was intended to be a joint contribution by more than one person. A contribution shall be considered to be reattributed to another contributor if within sixty days from the date of the treasurer's receipt of the contribution, the contributors provide the treasurer with a written reattribution of the contribution, which is signed by each contributor, and which indicates the amount to be attributed to each contributor if equal attribution is not intended. 11 C.F.R. § 110.1(k)(3).

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8. Commission regulations provide that if a political committee receives a written redesignation or reattribution of a contribution, the treasurer shall retain the written redesignation or reattribution signed by each contributor. 11 C.F.R. § 110.1(l). If a political committee does not retain the required written records, the redesignation or reattribution are not effective and the initial designation or attribution shall control. Id.

9. During the 1987-88 election cycle, the Durenberger '94 Volunteer Committee accepted 389 excessive contributions with excessive portions in the amount of \$293,241.53. The Committee received reattribution and redesignation letters for these excessive contributions; however, the Committee did not receipt date the letters.

10. Based on the failure of the Committee to receipt date the letters, Respondents have not demonstrated that these reattributions and redesignations were accomplished within the requisite 60 day time period. Therefore, these contributions are deemed to be excessive.

11. 2 U.S.C. § 434(a)(6)(A) requires principal campaign committees of candidates for Federal office to notify either the Clerk of the House, the Secretary of the Senate, or the Commission, and the Secretary of State, as appropriate, in writing, of each contribution totaling \$1,000 or more received by any authorized committee of the candidate after the 20th day but more than 48 hours before any election. Further, 2 U.S.C. § 434(a)(6)(A) requires this notification to be made within

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48 hours after the receipt of the contribution and to include the name of the candidate and the office sought by the candidate, identification of the contributor, the date of receipt and the amount of the contribution.

12. Timely disclosure of these contributions, pursuant to 2 U.S.C. § 434(a)(6)(A), is in addition to all other reporting requirements. 2 U.S.C. § 434(a)(6)(B).

13. Pursuant to 2 U.S.C. § 431(8)(A), a "contribution" includes any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office. 2 U.S.C. § 431(8)(A)(i).

14. 2 U.S.C. § 431(11) defines a "person" to include an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons.

15. During the 1987-88 election cycle, Respondents deposited 239 contributions, greater than or equal to \$1,000, within two and twenty days of either the primary or general election date. Of these, for 79 contributions totaling \$108,000.66, Respondents did not file the required notice.

V. 1) Respondents accepted contributions in violation of 2 U.S.C. § 441a(f).

V. 2) Respondents failed to file 48 Hour Notices for 79 contributions in violation of 2 U.S.C. § 434(a)(6).

V. 3) Respondents contend that these violations were not knowing and willful.

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VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of Twelve Thousand (\$12,000) Dollars pursuant to 2 U.S.C. § 437g(a)(5)(A), such penalty to be paid as follows:

1. Initial payment of \$2,000 due thirty (30) days after the date on which the Conciliation Agreement is fully executed;

2. Thereafter, beginning thirty (30) days after the date of the initial payment, 5 consecutive installment payments of \$2,000 each;

3. Each installment shall be paid thirty (30) days after the previous payment;

4. In the event that any installment payment is not received by the Commission by the fifth day of the month in which it becomes due, the Commission may, at its discretion, accelerate the remaining payments and cause the entire amount to become due upon ten days written notice to the respondents. Failure by the Commission to accelerate the payments with regard to any overdue installment shall not be construed as a waiver of its right to do so with regard to future overdue installments.

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute

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a civil action for relief in the United States District Court for the District of Columbia.

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

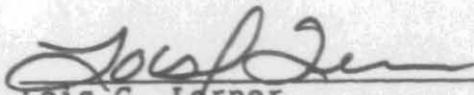
IX. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

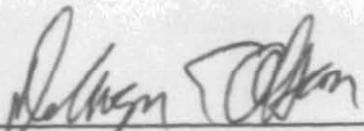
BY:


Lois G. Lerner
Associate General Counsel

Date

5-28-93

FOR THE RESPONDENTS:


Name
Position Treasurer

Date

6/16/92

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JUNE 1, 1993

Mr. Rick Evans
154 Russell Senate Office Building
Washington, D.C. 20510-2301

RE: MUR 3212
Durenberger '94 Volunteer
Committee and Delwyn Olson,
as treasurer

Dear Mr. Evans:

On May 24, 1993, the Federal Election Commission accepted the signed conciliation agreement submitted on behalf of the Durenberger '94 Volunteer Committee and Delwyn Olson, as treasurer, in settlement of violations of 2 U.S.C. §§ 434(a)(6) and 441a(f), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). Accordingly, the file has been closed in this matter.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

Please be advised that information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the initial payment of the civil penalty is due within 30 days of

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Page 2
Mr. Evans

the conciliation agreement's effective date. If you have any questions, please contact me at (202) 219-3690.

Sincerely,


Mary Ann Bumgarner

Enclosure
Conciliation Agreement

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3212

DATE FILMED 6/23/93 CAMERA NO. 4

CAMERAMAN E.E.S.

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FEDERAL ELECTION COMMISSION
WASHINGTON DC 20461

Microfilm
 Public Records
 Press

THE FOLLOWING DOCUMENTATION IS ADDED TO
THE PUBLIC RECORD IN CLOSED MUR 3212.

1/6/94

94030962757



FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20461

13001184 105 93.
OGC 9434

July 13 1993

TWO WAY MEMORANDUM

TO: OGC, Docket

FROM: Philomena Brooks
Accounting Technician

SUBJECT: Account Determination for Funds Received

We recently received a check from Durenberger
94' Volunteer Cmte, check number 3481, dated
7/10/93, and in the amount of \$1,000.00.
Attached is a copy of the check and any correspondence that
was forwarded. Please indicate below the account into which
it should be deposited, and the MUR number and name.

TO: Philomena Brooks
Accounting Technician

FROM: OGC, Docket

In reference to the above check in the amount of
\$1,000.00, the MUR number is 3212 and in the name of
Durenberger 94' Volunteer Cmte. The account into
which it should be deposited is indicated below:

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

Anita Alexander
Signature

7-13-93
Date

94030962758

9 4 0 3 0 9 6 2 7 5 9

DURENBERGER '94 VOLUNTEER COMMITTEE

1112 PLYMOUTH BUILDING
12 SOUTH 6TH STREET
MINNEAPOLIS, MN 55402



Norwest Bank Minnesota, N.A.
Bloomington Office
7800 Farnea Avenue South
Bloomington, MN 55431

3481

75-1660/910

PAY ONE THOUSAND DOLLARS AND NO/100*****7/9/93*****1000.00*****

TO
THE
ORDER
OF

FEDERAL ELECTION COMMISSION
999 e-street N.W.
WASHINGTON, D.C., 20463

DATE

AMOUNT

[Handwritten Signature]

⑈003481⑈⑈091016605⑈

9817797⑈

25 11 93



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 2, 1993

TWO WAY MEMORANDUM

TO: OGC, Docket

FROM: Philomena Brooks
Accounting Technician

SUBJECT: Account Determination for Funds Received

We recently received a check from Durenberger 94
Volunteer Committee, check number 3515, dated
July 28, 1993, and in the amount of \$1,000.00.
Attached is a copy of the check and any correspondence that
was forwarded. Please indicate below the account into which
it should be deposited, and the MUR number and name.

TO: Philomena Brooks
Accounting Technician

FROM: OGC, Docket By aa

In reference to the above check in the amount of
\$1,000.00, the MUR number is 3212 and in the name of
Durenberger 94 Volunteer Cmte.. The account into
which it should be deposited is indicated below:

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

Anita Alexander
Signature

8-3-93
Date

94030962760

3515

DURENBERGER '94 VOLUNTEER COMMITTEE

1043 GRAND AVE. #272
ST. PAUL, MN 55105

7/28

93

17-196
310

PAY TO THE ORDER OF

T. Ed

One thousand

\$ 1000

DOLLARS



Northwest Bank Minnesota, N.A.
Midland Office
401 Second Avenue South
Minneapolis, MN 55479

FOR #2 Installment

[Handwritten signature]

⑈003515⑈ ⑆091000019⑆ 3489817797⑈

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OGC 0117



FEDERAL ELECTION COMMISSION
WASHINGTON DC 20461

93 OCT 21 AM 4:01

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FEDERAL ELECTION COMMISSION

Oct 19, 1993

TWO WAY MEMORANDUM

TO: OGC, Docket

FROM: Philomena Brooks *RB*
Accounting Technician

SUBJECT: Account Determination for Funds Received

We recently received a check from Durenberger
94 Volunteer Cmte, check number 3616, dated
10/19/93, and in the amount of \$ 10,000.00.
Attached is a copy of the check and any correspondence that
was forwarded. Please indicate below the account into which
it should be deposited, and the MUR number and name.

TO: Philomena Brooks
Accounting Technician

FROM: OGC, Docket *By aa*

In reference to the above check in the amount of
\$ 10,000.00, the MUR number is 3212 and in the name of
Durenberger 94 Volunteer Cmte.. The account into
which it should be deposited is indicated below:

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

Anita Alefander
Signature

10-21-93
Date

94030962762

DURENBERGER '94 VOLUNTEER COMMITTEE

1043 (HIANI) AVE #272
ST. PAUL, MN 55105

3616

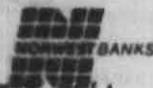
10/12 93 17-198
19 910

PAY TO THE ORDER OF

Federal Elections Comm.
Ten Thousand & 10/100

\$ 10,000.00

DOLLARS



Norwest Bank Minnesota, N.A.
Midland Office
401 Second Avenue South
Minneapolis, MN 55479

[Handwritten signature]

FOR

MUR 3212 Balance due on file

⑈003616⑈ ⑆091000019⑆ 3489817797⑈

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FEDERAL ELECTIONS COMMISSION
93 OCT 21 AM 6:01

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