



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 3283

DATE FILMED 11/2/71 CAMERA NO. 2

CAMERAMAN AS

91040874493



FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

4 February 1991

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

THROUGH: JOHN C. SURINA
STAFF DIRECTOR

FROM: JOHN D. GIBSON
ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION

SUBJECT: REFERRAL OF MONTHLY UNAUTHORIZED COMMITTEES
FOR FAILING TO FILE THE 1990 12 DAY PRE-GENERAL
REPORT BY ELECTION DAY

Attached is a listing of thirty-five (35) monthly unauthorized committees which failed to file the 1990 12 Day Pre-General Report by Election Day, November 6, 1990.

For your information, each committee was sent Prior Notice of the due date of the report on October 1, 1990 (Attachment 36). Twenty-nine (29) of the committees were sent Non-Filer Notices on November 15, 1990 (Attachment 37). Six (6) of the committees

were not sent Non-Filer Notices because their 12 Day Pre-General Reports were filed by November 15, 1990.

If you have any questions, please contact Lisa Stolaruk at 376-2480.

Attachment

91040374494

91040374495

C00174185

Consolidated Rail Corporation Good
Government Fund (Conrail Good Government
Fund)

91NF-25

91040374496

**CONSOLIDATED RAIL CORPORATION GOOD GOVERNMENT FUND
(CONRAIL GOOD GOVERNMENT FUND)**

(Attachment 9a - 9b)

FEDERAL ELECTION COMMISSION
1989-1990
COMMITTEE INDEX OF DISCLOSURE DOCUMENTS - (C)

DATE 1FEB91

PAGE 5

COMMITTEE	DOCUMENT	RECEIPTS	DISBURSEMENTS	COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
				TYPE OF FILER		
CONSOLIDATED RAIL CORPORATION GOOD GOVERNMENT FUND (CONRAIL GOOD GOVERNMENT FUND)				ID #C00174185 NON-PARTY QUALIFIED		
CONNECTED ORGANIZATION: CONSOLIDATED RAIL CORPORATION						
1989	FEBRUARY MONTHLY	2,505	3,000	1JAN89 -31JAN89	4	89FED/585/3338
	MARCH MONTHLY	2,300	1,000	1FEB89 -28FEB89	4	89FED/586/0921
	APRIL MONTHLY	2,370	300	1MAR89 -31MAR89	5	89FED/591/2108
	MAY MONTHLY	2,480	18,300	1APR89 -30APR89	6	89FED/595/1648
	JUNE MONTHLY	2,422	2,150	1MAY89 -31MAY89	5	89FED/597/0697
	JULY MONTHLY	2,518	5,900	1JUN89 -30JUN89	6	89FED/601/4424
	AUGUST MONTHLY	3,929	3,150	1JUL89 -31JUL89	7	89FED/607/2039
	SEPTEMBER MONTHLY	1,249	1,725	1AUG89 -30AUG89	7	89FED/610/1320
	OCTOBER MONTHLY	3,791	2,300	1SEP89 -30SEP89	7	89FED/611/2757
	NOVEMBER MONTHLY	2,501	1,500	1OCT89 -31OCT89	10	89FED/616/0575
	DECEMBER MONTHLY	2,442	-	1NOV89 -30NOV89	9	90FED/618/3387
	YEAR-END	3,417	-	1DEC89 -31DEC89	9	90FED/628/0211
1990	FEBRUARY MONTHLY	2,756	1,500	1JAN90 -31JAN90	5	90FED/638/0118
	MARCH MONTHLY	2,492	5,500	1FEB90 -28FEB90	6	90FED/632/2712
	APRIL MONTHLY	2,305	2,000	1MAR90 -31MAR90	5	90FED/633/0808
	MAY MONTHLY	2,169	2,500	1APR90 -30APR90	5	90FED/640/2694
	JUNE MONTHLY	4,985	4,100	1MAY90 -31MAY90	6	90FED/644/0012
	JULY MONTHLY	2,058	3,250	1JUN90 -30JUN90	7	90FED/650/1881
	JULY MONTHLY - AMENDMENT	2,058	3,250	1JUN90 -30JUN90	2	90FED/655/1921
	REQUEST FOR ADDITIONAL INFORMATION			1JUN90 -30JUN90	1	90FED/658/4852
	AUGUST MONTHLY	1,019	1,850	1JUL90 -31JUL90	7	90FED/652/4609
	AUGUST MONTHLY - AMENDMENT	1,019	1,850	1JUL90 -31JUL90	2	90FED/655/1915
	REQUEST FOR ADDITIONAL INFORMATION			1JUL90 -31JUL90	1	90FED/658/4918
	SEPTEMBER MONTHLY	3,052	3,650	1AUG90 -30AUG90	7	90FED/655/4115
	SEPTEMBER MONTHLY - AMENDMENT	3,052	3,650	1AUG90 -30AUG90	2	90FED/655/1915
	REQUEST FOR ADDITIONAL INFORMATION			1AUG90 -31AUG90	1	90FED/658/4918
	OCTOBER MONTHLY	2,026	0	1SEP90 -30SEP90	5	90FED/665/1919
	NOTICE OF FAILURE TO FILE			1OCT90 -17OCT90	1	90FED/670/5131
	NOVEMBER MONTHLY	2,016	1,600	1OCT90 -31OCT90	10	90FED/671/0472
	NOTICE OF FAILURE TO FILE			1NOV90 -26NOV90	1	90FED/679/2826
	DECEMBER MONTHLY	2,523	2,534	1NOV90 -30NOV90	10	90FED/679/2485
1991	MISCELLANEOUS NOTICE FROM FED			7JAN91	2	91FED/679/4955
TOTAL		60,327	0 67,809	0	165	TOTAL PAGES

ALL REPORTS HAVE BEEN REVIEWED EXCEPT FOR DECEMBER MONTHLY
ENDING CASH ON HAND AS OF 11/30/90: 8863.00
OUTSTANDING DEBTS OWED BY THE COMMITTEE AS OF 11/30/90: 0.00

91040374497

REPORT OF RECEIPTS AND DISBURSEMENTS

For Other Than An Authorized Committee
(Summary Page)

6.

USE PEC ENCLAVE LABEL OR TYPE OR PRINT

1. NAME OF COMMITTEE (in full)
Consolidated Rail Corporation Code Government Fund

ADDRESS (number and street) Check if different than previously reported
1334 - Six Penn Center

CITY, STATE and ZIP CODE
Phila., PA 19103

9010/19 8:12:51

2. PEC IDENTIFICATION NUMBER
C00174105

This committee qualified as a non-federally financed committee DURING THIS Reporting Period on (date)

4. TYPE OF REPORT

- April 15 Quarterly Report
 - July 15 Quarterly Report
 - October 15 Quarterly Report
 - January 31 Year End Report
 - July 31 Mid Year Report (Non-election Year Only)
 - Termination Report
- Monthly Report Due On:
- February 28
 - March 28
 - April 28
 - May 28
 - June 28
 - July 28
 - August 28
 - September 28
 - October 28
 - November 28
 - December 28
 - January 28
- Twelfth day report preceding _____ (Type of Election) election on _____ in the State of _____
- Twelfth day report following the General Election on _____ in the State of _____
- (B) Is this Report an Amendment? YES NO

SUMMARY

	COLUMN A This Period	COLUMN B Calendar Year-to-Date
6. Covering Period <u>10/01/90</u> through <u>10/31/90</u>		
6 (a) Cash on Hand January 1, 19 <u>90</u>		\$ 8,938.11
(b) Cash on Hand at Beginning of Reporting Period	\$ 8,455.96	
(c) Total Receipts (from Line 16)	\$ 2,018.46	\$ 25,886.31
(d) Subtotal (add Lines 6(b) and 6(c) for Column A and Lines 6(a) and 6(c) for Column B)	\$ 10,474.42	\$ 34,824.42
7 Total Disbursements (from Line 28)	\$ 1,600.00	\$ 25,950.00
8 Cash on Hand at Close of Reporting Period (subtract Line 7 from Line 6(d))	\$ 8,874.42	\$ 8,874.42
9 Debts and Obligations Owed TO the Committee (Itemize all on Schedule C and/or Schedule D)	\$	
10 Debts and Obligations Owed BY the Committee (Itemize all on Schedule C and/or Schedule D)	\$	

For further information contact:
 Federal Election Commission
 990 E Street, NW
 Washington, DC 20463
 Toll Free 800-424-9630
 Local 202-376-3120

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete

Type or Print Name of Treasurer **Asst. Treasurer**
G. R. Jones

Signature of Treasurer **Asst. Treasurer**

G.R. Jones

Date 11/1/90

NOTE: Submission of false, erroneous or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. § 6376

903671J472

GENERAL ELECTION REPORT NOTICE

ATTACHMENT 36
(Page 1 of 2)

FEDERAL ELECTION COMMISSION

PARTIES AND PACs

October 1, 1990

I. ALL MONTHLY FILERS

REPORT	REPORTING PERIOD	REG./CERT. MAILING DATE*	FILING DATE
Pre-General	10/01/90**-10/17/90	10/22/90	10/25/90
Post-General	10/18/90 - 11/26/90	12/06/90	12/06/90

II. QUARTERLY FILERS THAT MAKE GENERAL ELECTION CONTRIBUTIONS OR EXPENDITURES FROM OCTOBER 1 THROUGH OCTOBER 17***

REPORT	REPORTING PERIOD	REG./CERT. MAILING DATE*	FILING DATE
Pre-General	10/01/90**-10/17/90	10/22/90	10/25/90
Post-General	10/18/90 - 11/26/90	12/06/90	12/06/90

III. QUARTERLY FILERS WHICH DO NOT MAKE GENERAL ELECTION CONTRIBUTIONS OR EXPENDITURES FROM OCTOBER 1 THROUGH OCTOBER 17***

REPORT	REPORTING PERIOD	REG./CERT. MAILING DATE*	FILING DATE
Post-General	10/01/90**-11/26/90	12/06/90	12/06/90

WHO MUST FILE

Party committees and PACs (nonconnected committees and separate segregated funds) must follow the above charts in order to determine whether they must file the pre-general election report. All party committees and PACs, regardless of financial activity, must file the post-general election report.

WHAT MUST BE REPORTED

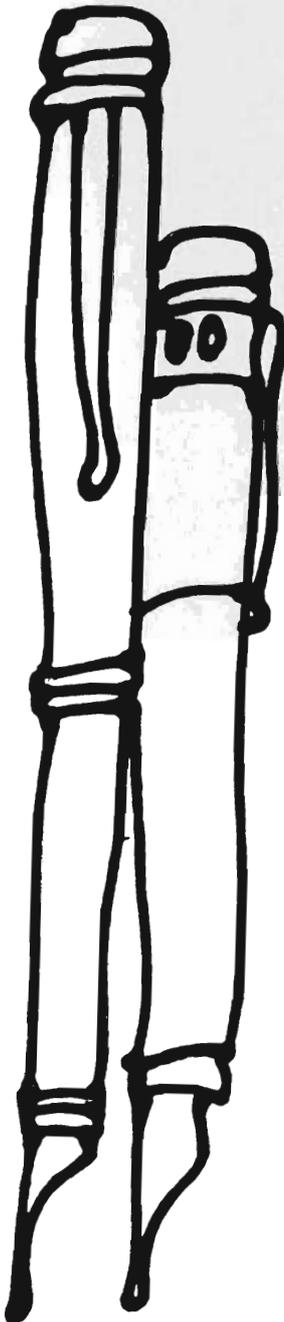
All financial activity (not previously reported) that occurred during the reporting period.

*Reports sent by registered or certified mail must be postmarked by the mailing date. Otherwise, they must be received by the filing date.

**The period begins with the close of the last report filed by the committee. If the committee has filed no previous reports, the period begins with the date of the committee's first activity.

***Committees that made general election contributions or expenditures prior to October 1 which have not been previously reported must also follow the Chart II reporting requirements.

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PARTIES AND PACs

GENERAL ELECTION

REPORTING FORMS

Party committees and PACs use Form 3X (enclosed).

WHERE TO FILE

Consult the instructions on the back of the Form 3X Summary Page. Note State filing requirements also.

LABEL

Committees should affix the peel-off label from the envelope to Line 1 of the report. Corrections should be made on the label.

LAST-MINUTE INDEPENDENT EXPENDITURES

Any PAC which makes any independent expenditures aggregating \$1,000 or more during the period beginning October 18 and ending November 4 must report them within 24 hours. Call the FEC for more information.

COMPLIANCE

TREASURERS OF POLITICAL COMMITTEES ARE RESPONSIBLE FOR FILING ALL REPORTS ON TIME. FAILURE TO DO SO IS SUBJECT TO ENFORCEMENT ACTION. COMMITTEES FILING ILLEGIBLE REPORTS OR USING NON-FEC FORMS WILL BE REQUIRED TO REFILE.

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FOR INFORMATION, Call: 202/376-3120 or 800/424-9530



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

RQ-7

November 15, 1990

**TREASURER
COMMITTEE
STREET
CITY, STATE ZIP**

Identification Number: ID NUMBER

Reference: 12 Day Pre-General Report (10/1/90-10/17/90)

Dear **TREASURER**:

It has come to the attention of the Federal Election Commission ("the Commission") that your committee may be in violation of 2 U.S.C. §434(a) for failing to file the above referenced Report of Receipts and Disbursements. You were previously notified of the due date for this report.

It is important that you file this report immediately with the Federal Election Commission, 999 E Street, NW, Washington, DC 20463 (or with the Clerk of the House or the Secretary of the Senate, as appropriate). A copy of the report or its relevant portions should also be filed with the Secretary of State or equivalent state officer (see 11 CFR §§108.2, 108.3, 108.4).

Although the Commission may initiate an audit or legal enforcement action concerning this matter, your prompt response and a letter of explanation will be taken into consideration.

If you have any questions, please contact **ANALYST** on our toll-free number (800) 424-9530. Our local number is (202) 376-2480.

Sincerely,

John D. Gibson
Assistant Staff Director
Reports Analysis Division

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RECEIVED
91NF-25

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

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

RAD Referral: 91NF 17 - 51
Staff Member: Noriega E. James

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

RESPONDENTS:

91040374502

Consolidated Rail Corporation Good Government
Fund (Conrail Good Government Fund) and David
M. Levan, as treasurer (91NF-25)

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RELEVANT STATUTES: 434(a)(4)(B)
INTERNAL REPORTS CHECKED: Referral Materials
FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

The Reports Analysis Division ("RAD") referred the above thirty-five (35) committees and their treasurers to the Office of the General Counsel on February 5, 1991. The basis of the attached RAD referral is the committees' failure to file the

1990 12 Day Pre-General Report in a timely manner, in violation of 2 U.S.C. § 434(a)(4)(B).

II. FACTUAL AND LEGAL ANALYSIS

The Federal Election Campaign Act of 1971, as amended ("the Act"), provides that all unauthorized political committees that file monthly reports, shall file a pre-general election report in lieu of filing the report otherwise due in November of any year in which a regularly scheduled general election is held. 2 U.S.C. § 434(a)(4)(B). According to Section 434(a)(2)(A)(i) the pre-election report must be filed no later than the 12th day before any election, and should be complete as of the 20th day before the election.

With regard to the 1990 general election, unauthorized committees were required to file a 12 Day Pre-General Election Report, covering the pre-election period of October 1 through October 17, by October 25, 1990. The committees referred by RAD failed to file the 1990 Pre-General Report or a report covering the pre-election period by the required deadline. However, seven of the committees filed 1990 November Monthly Reports with coverage dates of October 1 through 31, 1990.¹ These reports

1.

Consolidated Rail Corporation Good Government Fund
(Conrail Good Government Fund) and David M. Levan, as
treasurer

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were received after the due date for the 12 Day Pre-General Report.

On October 1, 1990, prior notification was sent to all unauthorized committees which specifically informed monthly filers of the requirement to file a 12 Day Pre-General Report by October 25, 1990 (Attachment 1, pages 177 - 178). Each committee which failed to submit either a 12 Day Pre-General Report or a November Monthly Report was sent a Non-Filer Notice on November 15, 1990 (Attachment 1, page 179).

Accordingly, the Office of the General Counsel recommends that the Commission open Matters Under Review and find reason to believe that 34 of the 35 previously referenced committees and their treasurers (See Recommendation I) violated 2 U.S.C. § 434(a)(4)(B) by failing to file timely the 1990 12 Day Pre-General Report.

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III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

This Office also recommends that the Commission offer to enter into conciliation with the respondents prior to a finding of probable cause to believe.

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PAGES 7 THROUGH 27 DO NOT PERTAIN TO THESE RESPONDENTS.

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IV. RECOMMENDATIONS

1. Open Matters Under Review, find reason to believe that the following committees and their treasurer violated 2 U.S.C. § 434(a)(4)(B) and enter into conciliation prior to a finding of probable cause to believe:

A.

B.

C.

D.

E.

F.

G.

H.

I. Consolidated Rail Corporation Good Government Fund
(Conrail Good Government Fund) and David M. Levan,
as treasurer (91NF-25)

J.

K.

L.

M.

N.

O.

P.

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Q.

R.

S.

T.

U.

V.

W.

X.

Y.

Z.

AA.

BB.

CC.

DD.

EE.

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FF.

GG.

HH.

2.

3. Approve the attached Factual and Legal Analyses and proposed conciliation agreements and the appropriate letters.

Lawrence M. Noble
General Counsel

Date

5/2/91

BY:


Lois G. Lerner
Associate General Counsel

Attachments:

1. RAD Referral
2. Factual and Legal Analysis (34)
3. Conciliation Agreement (34)

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Thirty-five (35) Committees and) RAD Referrals
their treasurers) #91NF 17-51)

CERTIFICATION

I, Marjorie W. Emmons, do hereby certify that the Commission took the following actions with respect to the above-captioned referrals:

1. Decided by a vote of 6-0 to
 - a) Open Matters Under Review, find reason to believe that the following committees and their treasurer violated 2 U.S.C. § 434(a)(4)(B) and enter into conciliation prior to a finding of probable cause to believe:
 - A.
 - B.
 - C.

(continued)

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Federal Election Commission
Certification: RAD 91NF 17-51
May 14, 1991

Page 2

D.

E.

F.

G.

H. Consolidated Rail Corporation
Good Government Fund (Conrail
Good Government Fund) and David
M. Levan, as treasurer (91NF-25)

I.

J.

K.

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(continued)

Federation Election Commission
Certification: RAD 91NF 17-51
May 14, 1991

Page 3

L.

M.

N.

Q.

P.

Q.

R.

S.

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(continued)

Federal Election Commission
Certification: RAD 91NF 17-51
May 14, 1991

Page 4

T.

U.

V.

W.

X.

Y.

Z.

AA.

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(continued)

BB.

CC.

DD.

EE.

FF.

GG.

b)

- c) Approve the Factual and Legal Analyses and proposed conciliation agreements and the appropriate letters as recommended in the General Counsel's Report dated May 2, 1991.

(continued)

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Federal Election Commission
Certification: RAD 91NF 17-51
May 14, 1991

Page 6

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

Attest:

5-17-91
Date

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

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

May 28, 1991

David M. Levan, Treasurer
Consolidated Rail Corporation Good Government
Fund (Conrail Good Government Fund)
Six Penn Center Plaza, Room 1334
Philadelphia, PA 19103

RE: MUR 3283
Consolidated Rail Corporation
Good Government Fund (Conrail
Good Government Fund) and
David M. Levan, as treasurer

Dear Mr. Levan:

On May 14, 1991, the Federal Election Commission found that there is reason to believe Consolidated Rail Corporation Good Government Fund (Conrail Good Government Fund) ("Committee") and you, as treasurer, violated 2 U.S.C. § 434(a)(4)(B), a provision 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.

In order to expedite the resolution of this matter, the Commission has also decided to offer 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.

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David M. Levan, Treasurer
Page 2

If you are interested in expediting the resolution of this matter by pursuing preprobable cause conciliation and if you agree with the provisions of the enclosed agreement, please sign and return the agreement, 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.

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 Jeffrey D. Long, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Joan D. Aikens

Joan D. Aikens
Vice Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form
Conciliation Agreement

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FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

MUR: 3283

RESPONDENTS: Consolidated Rail Corporation Good Government Fund
(Conrail Good Government Fund) and David M. Levan,
as treasurer

The Federal Election Campaign Act of 1971, as amended ("the Act"), provides that all unauthorized political committees that file monthly reports, shall file a pre-general election report in lieu of filing the report otherwise due in November of any year in which a regularly scheduled general election is held. 2 U.S.C. § 434(a)(4)(B). According to Section 434(a)(2)(A)(i) the pre-election report must be filed no later than the 12th day before any election, and should be complete as of the 20th day before the election.

With regard to the 1990 general election, unauthorized committees were required to file a 12 Day Pre-General Election Report, covering the pre-election period of October 1 through October 17, by October 25, 1990. The above referenced committee failed to file the 1990 Pre-General Report or a report covering the pre-election period by the required deadline. Therefore, there is reason to believe the Consolidated Rail Corporation Good Government Fund (Conrail Good Government Fund) and David M. Levan, as treasurer, violated 2 U.S.C. § 434(a)(4)(B) by failing to timely file the 1990 12 Day Pre-General Report.

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CONRAIL

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

Doc 1000

91 JUN 17 PM 3:33

91 JUN 18 PM 3:28

FEDERAL ELECTION COMMISSION
MAIL ROOM

June 14, 1991

OVERNITE

John W. McGary, Chairman
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

RE: MUR 3283
Consolidated Rail Corporation Good Government Fund
and David M. LeVan, as Treasurer

Dear Mr. McGary:

On May 14, 1991, the Federal Election Commission found that there is reason to believe Consolidated Rail Corporation Good Government fund (hereinafter "the PAC"), and David M. LeVan, as treasurer, violated 2 U.S.C. §434(a)(4)(B), a provision of the Federal Election Campaign Act of 1971, as amended. Specifically, the commission found reason to believe that the Consolidated Rail Corporation Good Government Fund failed to file the required 12 day Pre-General Election Report, covering the pre-election period of October 1 through October 17, by the scheduled October 25, 1990 due date. Although the Consolidated Rail Corporation Good Government fund did not file the Pre-Election Report by the 12th day preceding the election, it did file its regular monthly report (FEC form 3X) of receipts and disbursements on November 19, 1990 disclosing all receipts and disbursements during the pre-election period. By this letter, and pursuant to 11 C.F.R. §111.6, the PAC submits its reasons and enclosed material to show why no civil penalty should be imposed or further action taken by the Commission for the admitted violation.

As explained in the affidavit of Mr. Gary Jones attached hereto, Consolidated Rail Corporation Good Government Fund's failure to file the 12 day report was neither willful nor knowing but the result of oversight, inadvertence, and circumstances of inadequate knowledge and notice. The PAC Committee is now cognizant of these administrative deficiencies and is committed to instituting remedial procedures to insure that all Federal Election Law

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Page 2

and Commission regulations are fully and timely complied with in the future.

With this stated commitment and the knowledge that the violation evolved out of circumstances of inadvertence and not willful intent; that it represents the only offense in the PAC's seven year history; and, that the institution of new internal procedures will correct the admitted problem and make the offense unlikely to be repeated

Respectfully submitted,



William H. Johnson
Senior General Attorney

Consolidated Rail Corporation
1138 Six Penn Center Plaza
Philadelphia, PA 19103

WHJ/dmm

9 1 0 4 0 3 7 4 5 2 3

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of :
: MUR-3283
Consolidated Rail Corporation :
Good Government Fund (Conrail :
Good Government Fund) and David :
M. LeVan, as Treasurer :

AFFIDAVIT

Gary R. Jones, being of full age, being duly sworn according to law, upon oath deposes and says:

1. I am the Assistant Treasurer for Consolidated Rail Corporation ("Conrail") and the Consolidated Rail Corporation Good Government Fund.

2. I have personal knowledge of the facts herein stated and am authorized to make this affidavit on behalf of the Consolidated Rail Corporation Good Government Fund.

3. In 1983, Conrail established a Political Action Committee (PAC). At the origination of the Committee, David M. LeVan (then Conrail's Vice President and Treasurer) was selected as the PAC's Treasurer. At that time, because the only employees participating in the PAC were Conrail's senior management, the number of contributors was limited and the Treasurer's recordkeeping responsibilities were able to be managed by Mr. LeVan.

4. Subsequently, the Political Action Committee was expanded by giving Conrail's middle management employees the opportunity to contribute to the PAC through payroll

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9 1 0 4 0 3 7 4 5 2 5

deduction. At this time, the Committee's contributors grew to a much larger number. Due to the growing number of contributors, recordkeeping and reporting responsibilities, Mr. LeVan soon became unable to perform all the recordkeeping and reporting himself. As Assistant Treasurer of the PAC, I took on the responsibilities for recordkeeping and filing requirements with the FEC. Another Conrail employee, Marianne Baker, volunteered to perform the administrative functions of the PAC under my guidance and instruction.

5. This arrangement worked well when Mr. LeVan, Ms. Baker, and myself were each members of Conrail's Treasury Department and generally available to each other when PAC matters were being performed. However, on September 1, 1988, Mr. LeVan was promoted to new responsibilities and his office location at Conrail changed. Discussions were held to determine if a new Treasurer of the PAC should be selected, but no decision was made and Mr. LeVan continued to serve as the Treasurer of the PAC. Under this arrangement, while Mr. LeVan remained responsible for the Treasurer's responsibilities, I, as assistant treasurer, became the person directly responsible for reporting and recordkeeping.

6. On May 28, 1991, Mr. LeVan, as Treasurer of the PAC, was notified that a violation had occurred. A regular month end report had been filed in the month prior to a

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general election. By the May 28th notification we were told that a 12 day report should have been filed as opposed to the regular month end report.

7. During 1990, I believed the only filings necessary were the monthly filings and was unaware of the requirement in October to file a 12 day report. In the past, we would receive notices from the FEC providing us with a calendar indicating when each report was required including the required filing date. During 1990, I did not receive such notices and, unfortunately, I was not aware that a violation had occurred until I received the May, 1991 notification from the FEC.

8. I believe that this situation was simply an error caused by a lack of understanding of filing requirements during a general election year by myself. Although, this lack of understanding partly resulted because FEC notices were not being received by myself, the PAC certainly appreciates that this does not constitute an excuse for failing to meet the FEC requirement. However, I believe the circumstances as I now relate them to you reveals that the PAC's violation was neither willful nor knowing and should be deserving of your consideration for mitigation of the proposed penalty.

9. The PAC will institute new procedures effective immediately to ensure that the Assistant Treasurer of the fund receives all notifications regarding filing requirements. Because Mr. LeVan has assumed new

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responsibilities at Conrail and is not as able to perform the Treasurer's responsibilities, the PAC believes it will be better served if Mr. LeVan resigns as Treasurer and Conrail's current Vice President and Treasurer, John McKelvey, be appointed to serve as the PAC's Treasurer. The PAC also believes that since both Mr. McKelvey and Mr. Jones work in the Treasurer's area, both individuals will be better able to ensure that all reporting and recordkeeping responsibilities are met. In conjunction with the change of Treasurers, the PAC will also ensure that all correspondence from the FEC is directed to the Treasurer. He will direct this material to both Mr. Jones and William H. Johnson, Esquire of Conrail's Law Department who is currently designated to provide legal guidance for the PAC.


GARY R. JONES
Assistant Treasurer

Sworn to and Subscribed
before me this 4th day
of JUNE, 1991


Notary Public

NOTARIAL SEAL
LORETTA DANDRIDGE, Notary Public
City of Philadelphia, Phila. County
My Commission Expires Aug. 27, 1994

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3283

NAME OF COUNSEL: WILLIAM H. JOHNSON, ESQUIRE

ADDRESS: SENIOR GENERAL ATTORNEY
1138 SIX PENN CENTER PLAZA
PHILADELPHIA PA 19103

TELEPHONE: (215) 977-5018

The above-named individual is hereby designated as my
counsel and is authorized to receive any notifications and
other communications for the Commission and to act on my
behalf before the Commission.

JUNE 14, 1991
Date

GARY JONES - ASSISTANT TREASURER
Signature

RESPONDENT'S NAME: CONRAIL GOOD GOVERNMENT FUND

ADDRESS: DAVID M. LEVAN, TREASURER
SIX PENN CENTER PLAZA
ROOM 1334
PHILADELPHIA, PA 19103

HOME PHONE: _____

BUSINESS PHONE: (215) 977-5319

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RECEIVED
F.E.C.
SECRETARIAT

BEFORE THE FEDERAL ELECTION COMMISSION
OCT 15 PM 5:24

In the Matter of
Consolidated Rail Corporation)
Good Government Fund (Conrail Good)
Government Fund) and David M. Levan,)
as treasurer)

MUR 3283

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

Attached is a conciliation agreement which has been signed by Gary Jones, the assistant treasurer of the Consolidated Rail Corporation Good Government Fund (Conrail Good Government Fund).

The attached agreement contains no changes from the agreement approved by the Commission on July 29, 1991. A check for the civil penalty has been received.

II. RECOMMENDATIONS

1. Accept the attached conciliation agreement with Consolidated Rail Corporation Good Government Fund (Conrail Good Government Fund) and David M. Levan, as treasurer.
2. Close the file.
3. Approve the appropriate letter.

Lawrence M. Noble
General Counsel

Date 10-14/91

BY: 
Lois G. Lerner
Associate General Counsel

Attachments

1. Conciliation Agreement
2. Photocopy of civil penalty check

Staff Assigned: Jeffrey Long

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
 Consolidated Rail Corporation) MUR 3283
 Good Government Fund (Conrail Good)
 Government Fund) and David M. Levan,)
 as treasurer.)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on October 18, 1991, the Commission decided by a vote of 4-0 to take the following actions in MUR 3283:

1. Accept the conciliation agreement with Consolidated Rail Corporation Good Government Fund (Conrail Good Government Fund) and David M. Levan, as treasurer, as recommended in the General Counsel's Report dated October 14, 1991.
2. Close the file.
3. Approve the appropriate letter, as recommended in the General Counsel's Report dated October 14, 1991.

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

Attest:

10-18-91
 Date

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

Received in the Secretariat: Tues., Oct. 15, 1991 5:24 p.m.
 Circulated to the Commission: Wed., Oct. 16, 1991 11:00 a.m.
 Deadline for vote: Fri., Oct. 18, 1991 11:00 a.m.

bjf

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CLOSED

October 24, 1991

William H. Johnson, Esquire
Consolidated Rail Corporation
1138 Six Penn Center Plaza
Philadelphia, PA 19103

RE: MUR 3283
Consolidated Rail Corporation
Good Government Fund and
David M. LeVan, as treasurer

Dear Mr. Johnson:

On October 18, 1991, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on your client's behalf in settlement of a violation of 2 U.S.C. § 434(a)(4)(B), a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter.

This matter will become a part of the public record within 30 days. If you wish to submit any factual or legal materials to appear on the public record, please do so within ten days. Such materials should be sent to the Office of the General Counsel. Please be advised that information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact Jeffrey Long, the staff member 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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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Consolidated Rail Corporation Good) MUR 3283
Government Fund (Conrail Good)
Government Fund) and David M. Levan,)
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 Consolidated Rail Corporation Good Government Fund (Conrail Good Government Fund) and David M. Levan, as treasurer, ("Respondents") violated 2 U.S.C. § 434(a)(4)(B).

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

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

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

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

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

1. Consolidated Rail Corporation Good Government Fund (Conrail Good Government Fund) is a political committee within

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the meaning of 2 U.S.C. §431(4).

2. David M. Levan is the treasurer of Consolidated Rail Corporation Good Government Fund (Conrail Good Government Fund).

3. Section 434(a)(4)(B) of the Federal Election Campaign Act of 1971, as amended ("the Act"), provides that all unauthorized political committees, that file monthly reports, shall file a pre-general election report in lieu of filing the report otherwise due in November of any year in which a regularly scheduled general election is held. According to Section 434(a)(2)(A)(i) the pre-election report must be filed no later than the 12th day before any election, and should be complete as of the 20th day before the election.

4. Respondents were required to file the 12 Day Pre-General Election Report, covering the pre-election period of October 1 through October 17, by October 25, 1990. Respondents failed to file the 1990 12 Day Pre-General Report or a report covering the pre-election period until November 19, 1990, 25 days late, disclosing \$1,044 in receipts and \$1,600 in disbursements for the relevant reporting period.

V. Respondents failed to file the 1990 12 Day Pre-General Report in a timely fashion in violation of 2 U.S.C. §434(a)(4)(B). Respondents contend that the violation was not knowing and willful.

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of Two Hundred and Fifty Dollars (\$250.00), pursuant to 2 U.S.C. §437g(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. §437g(a)(1) concerning the matters at

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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 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 requirement 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 written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

BY: 
Lois G. Lerner
Associate General Counsel

10/24/91
Date

FOR THE RESPONDENTS:


(Name)
(Position)

Date

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3283

DATE FILMED 11/8/91 CAMERA NO. 2

CAMERAMAN AS

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