



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

THIS IS THE BEGINNING OF MUR # 3703

DATE FILMED 7/26/93 CAMERA NO. 4

CAMERAMAN E.E.S.

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RECEIVED
FEDERAL ELECTION
COMMISSION
MAIN COPY ROOM

Oct 29 10 10 AM '92

PALERMO FOR CONGRESS
REPUBLICAN CANDIDATE, 10TH DIST. NJ
1115 GEORGIAN DRIVE, LINDEN, NJ 07036
(908) 486-2626

October 27, 1992

Federal Election Commission
999 E Street NW
Washington, DC 20463

Gentlemen:

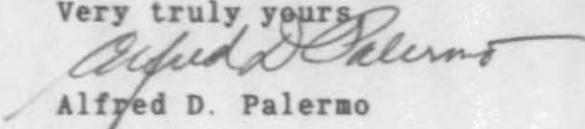
Will you please investigate as to why Congressional Candidate Donald Payne (NJ-10th CD) has not filed his required reports with the Secretary of State in Trenton, NJ. The following reports are not on file with the Secretary of State:

July 15th Quarterly Report
October 15th Quarterly Report
October 22nd Pre-General Election Report

Donna Barber of the Secretary of State-Election Division Office was contacted on Monday, October 26th and told me that these reports were not in file.

I would like to know why they are not there as this is a violation of the Federal Election Law, Paragraph 439.

Very truly yours


Alfred D. Palermo

ADP:jd

92 OCT 29 PM 3:47

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF THE SECRETARY

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 3, 1992

Alfred D. Palermo
Palermo for Congress
1115 Georgian Drive
Linden, NJ 07036

Dear Mr. Palermo:

This is to acknowledge receipt on October 29, 1992, of your letter dated October 27, 1992. The Federal Election Campaign Act of 1971, as amended ("the Act") and Commission Regulations require that the contents of a complaint meet certain specific requirements. One of these requirements is that a complaint be sworn to and signed in the presence of a notary public and notarized. Your letter did not contain a notarization on your signature and was not properly sworn to.

In order to file a legally sufficient complaint, you must swear before a notary that the contents of your complaint are true to the best of your knowledge and the notary must represent as part of the jurat that such swearing occurred. The preferred form is "Subscribed and sworn to before me on this _____ day of _____, 19__." A statement by the notary that the complaint was sworn to and subscribed before him/her also will be sufficient. We are sorry for the inconvenience that these requirements may cause you, but we are not statutorily empowered to proceed with the handling of a compliance action unless all the statutory requirements are fulfilled. See 2 U.S.C. § 437g.

Enclosed is a Commission brochure entitled "Filing a Complaint." I hope this material will be helpful to you should you wish to file a legally sufficient complaint with the Commission. The file regarding this correspondence will remain confidential for a 15 day time period during which you may file an amended complaint as specified above. If the defects are not cured and the allegations are not refiled, no additional notification will be provided and the file will be closed.

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If you have any questions concerning this matter, please contact me at (202) 219-3410.

Sincerely,

Retha Dixon

Retha Dixon
Docket Chief

Enclosure

cc: Don Payne for Congress

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Nov 12 1 08 PM '92

PALERMO FOR CONGRESS
REPUBLICAN CANDIDATE, 10TH DIST. NJ
1115 GEORGIAN DRIVE, LINDEN, NJ 07036
908 486-2626

November 10, 1992

Federal Election Commission
999 E. Street NW
Washington, DC 20463

MUR 3703

92 NOV 12 PM 3: 02

RECEIVED
FEDERAL ELECTION COMMISSION

Gentlemen:

Will you please investigate as to why Congressinal Candidate, Donald Payne (NJ-10th CD) has not filed his required reports with the Secretary of State in Trenton, NJ. The following reports are not on file with the Secretary of State:

- July 15th Quarterly Report
- October 15th Quarterly Report
- October 22nd Pre-General Election Report

Donna Barber of the Secretary of State-Election Division Office was contacted on Monday, October 26th and told me that these reports were not in file.

I would like to know why they are not there as this is a violation of the Federal Election Law, Paragraph 439.

Very truly yours,

Alfred D. Palermo
Alfred D. Palermo

ADP:gd

Subscribed and sworn to before me on this

10th day of Nov, 1992

Genevieve Dubroski
Genevieve Dubroski, Notary

NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 3-10-96

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 17, 1992

Alfred D. Palermo
1115 Georgian Drive
Linden, NJ 07036

RE: MUR 3703

Dear Mr. Palermo:

This letter acknowledges receipt on November 12, 1992, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by Don Payne for Congress and Craig A. Stanley, as treasurer. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 3703. Please refer to this number in all future correspondence. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Teresa A. Hennessy

Teresa A. Hennessy
Assistant General Counsel

Enclosure
Procedures

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 17, 1992

Craig A. Stanley, Treasurer
Don Payne for Congress
P.O. Box 2406
Newark, NJ 07114

RE: MUR 3703

Dear Mr. Stanley:

The Federal Election Commission received a complaint which indicates that Don Payne for Congress ("Committee") and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3703. Please refer to this number in all future correspondence.

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

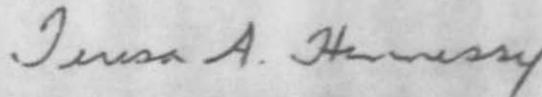
This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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Craig A. Stanley, Treasurer
Don Payne for Congress
Page 2

If you have any questions, please contact Tamara K. Kapper,
the staff member assigned to this matter, at (202) 219-3690.
For your information, we have enclosed a brief description of
the Commission's procedures for handling complaints.

Sincerely,



Teresa A. Hennessy
Assistant General Counsel

Enclosures

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

cc: Donald M. Payne

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PAYNE FOR CONGRESS
P.O. BOX 2406
NEWARK, N.J. 07112

December 1, 1992

Ms. Tamara K. Kapper
Federal Election Commission
Washington, D.C. 20463

Re: MUR 3703

Dear Ms. Kapper:

This letter is in response to correspondence sent to Payne for Congress, dated November 17, 1992 and signed by Ms. Teresa A. Hennessy, Assistant General Counsel.

According to the information that I have, the Payne for Congress campaign has complied with filing requirements established by the Federal Election Campaign Act of 1971, as amended.

I have unsuccessfully attempted to contact you by telephone in order to clearly understand these allegations so that I may respond appropriately. I await this contact so that I may respond in more detail in writing.

Please contact me at (201) 643-4422, at your earliest convenience.

Thank you.

Sincerely,

Craig A. Stanley
Craig A. Stanley
Treasurer

92 DEC -7 PM 4:23

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FEDERAL ELECTION COMMISSION
OFFICE OF THE CHIEF COUNSEL

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5604036

DEC 14 11 07 AM '92

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3703

NAME OF COUNSEL: James T. Davis, II

ADDRESS: Brach, Eichler

101 Eisenhower Parkway

Roseland, New Jersey 07068

TELEPHONE: (201) 228-5700

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OFFICE OF THE CLERK
92 DEC 14 PM 1:32

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

12-1-92
Date

Craig A. Stanley
Signature

RESPONDENT'S NAME: Payne for Congress; Craig Stanley, Treasurer

ADDRESS: P.O. Box 2406, Newark, N.J. 07114

TELEPHONE: HOME(_____) _____

BUSINESS(201) 643-4422

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RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

MAY 3 12 04 PM '93

TO: →



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

November 17, 1992

From: Alfred D. Palermo
1115 Georgian Drive
Linden, NJ 07036

RE: MUR 3703

Dear Mr. Palermo:

This letter acknowledges receipt on November 12, 1992, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by Don Payne for Congress and Craig A. Stanley, as treasurer. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 3703. Please refer to this number in all future correspondence. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Teresa A. Hennessy

Teresa A. Hennessy
Assistant General Counsel

Enclosure
Procedures

4/29/93 - In reference to the above named matter (MUR 3703), what has been decided? Is the matter still open?
Thank you for a prompt reply.

Alfred D. Palermo

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF THE GENERAL COUNSEL
93 MAY -4 AM 3:19

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RECEIVED
F.E.C.
SECRETARIAT

93 JUL -6 AM 9:43

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

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

MUR #3703
DATE COMPLAINT RECEIVED
BY OGC: November 12, 1992
DATE OF NOTIFICATION TO
RESPONDENTS: November 17, 1992
STAFF MEMBER: Tamara Kapper

COMPLAINANT: Alfred D. Palermo

RESPONDENTS: Don Payne for Congress and Craig A. Stanley, as
treasurer

RELEVANT STATUTES: 2 U.S.C. § 434(a)(2)(A)
2 U.S.C. § 439(a)(1)
11 C.F.R. § 108.5

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

On November 12, 1992, the Federal Election Commission, (the "Commission"), received a complaint from Alfred D. Palermo alleging that Congressman Donald Payne had not filed copies of disclosure reports for his principal campaign committee, Don Payne for Congress and Craig A. Stanley, as treasurer (the "Payne Committee"), with the New Jersey Secretary of State.

Attachment 1. The reports allegedly not filed were the 1992 July Quarterly, October Quarterly and 12 Day Pre-General Reports.

Congressman Payne won the November 3, 1992 General Election in the tenth Congressional District in the state of New Jersey with seventy-nine percent (79%) of the vote. Mr. Palermo, the

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Republican challenger, lost the General Election with twenty-one percent (21%) of the vote.

II. FACTUAL AND LEGAL ANALYSIS

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The Federal Election Campaign Act of 1971, as amended ("the Act"), requires principal campaign committees of candidates for federal office to file regular reports of receipts and disbursements in a timely manner. 2 U.S.C. § 434(a)(2)(A). Principal campaign committees are political committees designated and authorized by candidates for federal offices. 2 U.S.C. § 431(5). Reports required to be filed under the Act by a candidate or the principal campaign committee of a candidate for the office of Representative in the Congress, shall be filed with the Clerk of the House of Representatives, who shall receive such reports as custodian for the Commission. 2 U.S.C. § 432(g)(1). Further, a copy of each report required to be filed by any person under the Act shall be filed by such person with the Secretary of State of the appropriate State. 2 U.S.C. § 439(a)(1). The term "person" includes an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons. 2 U.S.C. § 431(11). The term "appropriate State" means the filing of reports in the State in which the candidate seeks election. 2 U.S.C. § 439(a)(2)(B).

The Act further requires that principal campaign committees file their disclosure reports in a timely manner. 2 U.S.C. § 434(a)(2). A copy of any report required to be filed with a State officer shall be filed at the same time as the original report is filed. 11 C.F.R. § 108.5. In years where a regularly

scheduled election is held, a pre-election report shall be filed no later than the 12th day before any election. 2 U.S.C.

§ 434(a)(2)(A)(i). In addition, principal campaign committees shall also file quarterly reports no later than the 15th day after the last day of each calendar quarter. 2 U.S.C.

§ 434(a)(2)(A)(iii).

According to its Statement of Organization filed with the Commission, Don Payne for Congress is the principal campaign committee of Donald M. Payne. Craig A. Stanley is the treasurer of Don Payne for Congress.

The complainant alleges that the Payne Committee failed to file three (3) of its disclosure reports with the New Jersey Secretary of State. The complainant alleges that he was informed by the New Jersey Secretary of State that the three reports at issue were not filed as of October 26, 1992.

On November 25, 1992, staff from this Office contacted the Elections Division of the New Jersey Department of State by telephone to inquire whether the Payne Committee had filed its 1992 July Quarterly, October Quarterly and 12 Day Pre-General Reports. Staffperson, Ms. Doris Hill, stated that the reports had been filed but not in a timely manner. Ms. Hill stated that she knew the reports were filed late because she received inquiries regarding the reports prior to the November 3, 1992, general election and was unable to give responses to those inquiries because the reports had not been filed. When asked the exact date her office received the reports, Ms. Hill responded that her office had no record of the dates of receipt. Ms. Hill added that

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the reports were received during a hectic filing period and mistakenly were not date stamped. When asked the date the envelope was postmarked in order to determine when the Payne Committee mailed the reports, Ms. Hill stated that the envelope had been discarded.

In its December 1, 1992, response to the complaint, the Payne Committee generally asserts that it complied with the filing requirements of the Act. Attachment 2. Also on that same date, in response to a request from staff of this Office, the Commission received copies of the first pages of each of the three reports at issue in this matter from the New Jersey Elections Division Department of State.¹ Attachment 3. The documents contain no indication of the date of receipt by the New Jersey Secretary of State.

Although the reports were not date stamped to determine the exact date of receipt, staff from the New Jersey Secretary of State maintain that the reports were filed late. Further, in response to the complaint, the Payne Committee failed to demonstrate that the reports were filed timely. Thus, it appears that the Payne Committee failed to file timely copies of three (3) of its disclosure reports with the New Jersey Election Division Department of State in violation of 2 U.S.C. § 439(a)(1). However, since the exact date of receipt by the New Jersey Secretary of State is unclear, this Office recommends that the

1. The copies of the reports were inadvertently put on the Commission's public record and coded by the data entry personnel. The error has been corrected.

93-040951482

Commission find reason to believe that Respondents violated 2 U.S.C. § 439(a)(1) but take no further action.

Similarly, it appears the Payne Committee also violated 2 U.S.C. § 434(a)(2)(A)(iii). According to Commission indices, the Payne Committee filed its 1992 July Quarterly Report on July 27, 1992, and its 1992 October Quarterly and 12 Day Pre-General Reports on October 22, 1992. Pursuant to 2 U.S.C. § 434(a)(2)(A)(iii) the due dates for the 1992 July Quarterly and October Quarterly Reports were July 15, and October 15, 1992, respectively. Pursuant to 2 U.S.C. § 434(a)(2)(A)(i) the due date for the 1992 12 Day Pre-General Report was October 22, 1992. Accordingly, it appears that the Payne Committee filed its 1992 July Quarterly Report twelve (12) days late and its 1992 October Quarterly Report seven (7) days late in violation of 2 U.S.C. § 434(a)(2)(A)(iii).

However, in light of the facts that the number of days the reports were filed late is relatively small and the reports were filed prior to the November 3, 1992 general election, this Office recommends that the Commission find reason to believe that the Don Payne for Congress and Stanley A. Craig, as treasurer, violated 2 U.S.C. § 434(a)(2)(A)(iii), but take no further action and send a letter of admonishment.

III. RECOMMENDATIONS

1. Find reason to believe that Don Payne for Congress and Craig A. Stanley, as treasurer, violated 2 U.S.C. § 434(a)(2)(A)(iii) but take no further action regarding this violation.

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2. Find reason to believe that Don Payne for Congress and Craig A. Stanley, as treasurer, violated 2 U.S.C. § 439(a)(1) but take no further action regarding this violation.

3. Approve the appropriate letter.

4. Close the file.

Lawrence M. Noble
General Counsel

Date

7/2/93

BY:

Lois G. Lerner
Lois G. Lerner
Associate General Counsel

Attachments

1. Complaint dated 10/27/92
2. Response dated 12/1/92
3. First Page of Three (3) Payne Committee Reports received 12/1/92

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Don Payne for Congress and Craig A.) MUR 3703
Stanley, as treasurer.)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on July 9, 1993, the Commission decided by a vote of 6-0 to take the following actions in MUR 3703:

1. Find reason to believe that Don Payne for Congress and Craig A. Stanley, as treasurer, violated 2 U.S.C. § 434(a)(2)(A)(iii) but take no further action regarding this violation.
2. Find reason to believe that Don Payne for Congress and Craig A. Stanley, as treasurer, violated 2 U.S.C. § 439(a)(1) but take no further action regarding this violation.

(continued)

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3. Approve the appropriate letter, as recommended in the General Counsel's Report dated July 2, 1993.
4. Close the file.

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

Attest:

7-9-93
Date


Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Tues., July 6, 1993 9:43 a.m.
Circulated to the Commission: Tues., July 6, 1993 11:00 a.m.
Deadline for vote: Fri., July 9, 1993 4:00 p.m.

bjr

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

JULY 14, 1993

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Alfred D. Palermo
Palermo for Congress
1115 Georgian Drive
Linden, N.J. 07036

RE: MUR 3703
Don Payne for Congress and
Craig A. Stanley, as treasurer

Dear Mr. Palermo:

This is in reference to the complaint you filed with the Federal Election Commission on November 12, 1992, concerning the failure of congressional candidate, Donald Payne, to file copies of his principal campaign committee's disclosure reports with the New Jersey Secretary of State.

Based on that complaint, on July 9, 1993, the Commission found that there was reason to believe that Don Payne for Congress and Craig A. Stanley, as treasurer ("the Committee"), violated 2 U.S.C. §§ 439(a)(1) and 434(a)(2)(A)(iii), provisions of the Federal Election Campaign Act of 1971, as amended, and instituted an investigation of this matter. However, after considering the circumstances of this matter, the Commission determined to take no further action against the Committee, and closed the file in this matter on that same date. This matter will become part of the public record within 30 days. The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Tamara K. Kapper
Paralegal

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JULY 14, 1993

James T. Davis, II, Esquire
Brach & Eichler
101 Eisenhower Parkway
Roseland, N.J. 07068

RE: MUR 3703

Dear Mr. Davis:

On July 9, 1993, the Federal Election Commission found reason to believe that your clients, Don Payne for Congress and Craig A. Stanley, as treasurer, violated 2 U.S.C. §§ 439(a)(1) and 434(a)(2)(A)(iii), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act.") However, after considering the circumstances of this matter, the Commission also determined to take no further action and closed its file. A copy of the General Counsel's Report, which formed a basis for the Commission's finding, is attached for your information.

The Commission reminds you that the failure to file timely copies of the Committee's disclosure reports with the New Jersey Secretary of State is a violation of 2 U.S.C. § 439(a)(1). Further, the failure to file timely disclosure reports with the Commission is a violation of 2 U.S.C. § 434(a)(2)(A)(iii). Your clients should take steps to insure that this activity does not occur in the future.

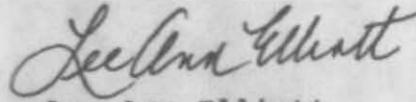
The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any 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.

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Mr. Davis, Esq.
Page 2

If you have any questions, please contact Tamara K. Kapper,
the staff member assigned to this matter, at (202) 219-3690.

Sincerely,



Lee Ann Elliott
Commissioner

Enclosure
Copy of the General Counsel's Report

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THIS IS THE END OF MUR # 3703

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3703

DATE FILMED 7/26/93 CAMERA NO. 4

CAMERAMAN E.E.S.

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