FEDERAL ELECTION COMMISSION
WASHINGTON D C 20463

THIS IS THE BEGINNING OF MUR # 3796

DATE FILMED 9-17-97 CAMERA NO. 4

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DEMOCRATIC
CONGRESSIONAL
CAMPAIGN COMMITTEE

JUL 19 8 02 AM '93

July 15, 1993

Vic Fazio, CA
Chairman

MUR 3796

93 JUL 19 AM 10:20

Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Dear Commissioners:

The Democratic Congressional Campaign Committee ("DCCC") files this complaint challenging violations of the Federal Election Campaign Act of 1971, as amended ("FECA" or "the Act"), 2 U.S.C. §§ 431 et seq., and related regulations of the Federal Election Commission ("FEC"), 2 U.S.C. §§ 100.1 et seq., by Congressman Jay Kim, his principal campaign committee, Jay Kim for Congress ("the Committee"), and one of his business corporations, JayKim Engineers, Inc. ("the Corporation") (referred to collectively hereafter as "Respondents").

Respondents violated the Act by making and accepting corporate contributions in connection with federal elections in violation of 2 U.S.C. § 441b. Respondents may have violated the provisions of the law prohibiting contributions by government contractors. 2 U.S.C. § 441c. Respondents also violated the reporting provisions of the Act, 2 U.S.C. § 434, requiring the disclosure of contributions and/or debts owed by the Committee.

The FEC should take all necessary steps to determine the extent of the violations that have occurred, to correct those violations, and to ensure that no future violations take place.

Evidence of Violations

The enclosed articles from the Los Angeles Times and the Washington Post reveal numerous violations of the Act:

1. Corporate Funds Used to Reimburse Employees for Political Contributions.

In March 1993, the Corporation reimbursed the company's marketing director for a political contribution she made to a federal candidate. Carmen Suarez made a $500

430 SOUTH CAPITOL STREET • WASHINGTON, D.C. 20003 • (202) 863-1500

CONTRIBUTIONS TO THE DCCC ARE NOT TAX DEDUCTIBLE

[04051-0001/DA931060.001] Paid for and authorized by the Democratic Congressional Campaign Committee

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contribution to Phil Gramm's campaign on March 19. On the same day, she requested reimbursement from the Corporation for the contribution, indicating that the request had been approved by Kim. The Corporation reimbursed her for the contribution with a corporate check dated March 19.

Under the FECA, a corporation is barred from making direct or indirect contributions in connection with federal election. 2 U.S.C. § 441b. Further, the law prohibits a person from making a contribution "in the name of another." 2 U.S.C. § 441f. The FEC has repeatedly held that contributions by individuals that are subsequently reimbursed by a corporation are contributions made in the name of another. See e.g., Matters Under Review 2575, 2797, 2893, 2932.

2. Corporate Funds Used to Reimburse Kim for Political Contributions and to Pay His Salary While Campaigning.

The Corporation also reimbursed Kim himself for a political contribution to a federal candidate. In 1989, the Corporation reimbursed Kim for a personal contribution of $2,000 to David Dreier, a member of the U.S. House of Representatives.

As discussed above, such reimbursements are prohibited under the FECA. Kim is quoted in the L.A. Times as stating that "he knew that 'it's wrong' to use corporate funds to reimburse employees for making political contributions." Yet the Corporation reimbursed him and he signed the check making the reimbursement. This would appear to be a knowing and willful violation of the law.

The Corporation also paid Kim's full salary and expenses while he was campaigning for federal office. The FEC, in several Advisory Opinions has acknowledged that a corporate executive may continue to receive a salary for services rendered to the company even while campaigning. The compensation, however, must be commensurate with the services rendered.

Kim claims that he worked 40 hours a week to earn his full salary. Yet the Corporation's Chief Financial Officer is quoted in the L.A. Times as stating they could not determine how much time Kim spent on business during the campaign. And the individual who purchased the business from Kim is reported

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to have stated in a sworn statement that Kim's campaign activities "'kept him away from the day-to-day management of the company,' causing severe financial problems."

3. Corporate Funds Used to Provide Unreimbursed Goods and Services to The Committee.

Both the L.A. Times and the Washington Post report that the Corporation paid significant amounts of expenses on behalf of the Kim campaign and provided free goods and services to the Committee. The L.A. Times estimated the value of these payments at $400,000. Expenditures made by the Corporation for the campaign included rent-free space, supplies, staff time, airline tickets, travel expenses, telephone equipment and bills, printing, entertainment, among other expenses. The amount in question is all the more remarkable when taken in the context of Kim's total congressional campaign spending: the Committee's reports show disbursements of approximately $700,000. The Corporation, thus, provided more than half again as much financial benefit for the campaign.

Under the FECA, a campaign is allowed to make use of a corporation's facilities without a contribution being made, but only if the campaign reimburses the corporation at the fair market value for the goods or services within a commercially reasonable time. 11 C.F.R. § 114.9. While the term "commercially reasonable" is not defined in the FEC's regulations, it is reasonable to assume that the time frame would not be more than 12 months after the services were rendered, but rather more in the range of 30-60 days. That period has long since past for the goods and services provided to the Committee by the Corporation.

The Committee has apparently never disclosed the contributions of goods and services from the Corporation, nor has it ever disclosed the value of these goods and services as a debt owed by the Committee. When an obligation of more than $500 is incurred, it must be reported by a campaign on the next report filed with the FEC. The debt must be continuously reported until it is retired. 11 C.F.R. § 104.11.

Further, while individuals may volunteer their services for a campaign, if they are compensated by anyone other than the campaign, their compensation constitutes a contribution to the campaign. 11 C.F.R. § 100.7(a)(3).

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Finally, it appears that the corporation is a government contractor. Under the FECA, government contractors are prohibited from making contributions directly or indirectly in connection with a federal election. 2 U.S.C. § 441c. If the Corporation is, in fact, a government contractor, and has made contributions to the Committee, it is in further violation of the federal campaign laws.

Conclusion

On the basis of the foregoing, DCCC requests that the FEC:

1. Conduct a prompt investigation of the evidence of violations provided;

2. Enter into conciliation with Respondents to remedy the violations alleged in this complaint and any other violations that may have occurred;

3. Impose any and all penalties grounded in the violations alleged in this complaint.

Very truly yours,

Genie M Norris

Genie M. Norris, Treasurer

Subscribed and sworn to before me this day, the 16th day of July, 1993.

S Abele-Ebanks

Notary Public

SUZANNE ABELE-EBANKS
NOTARY PUBLIC, DISTRICT OF COLUMBIA
My Commission Expires October 31, 1994

My Commission Expires: _____

9/04553527735

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JULY 27, 1993

Genie M. Norris, Treasurer
Democratic Congressional Campaign Committee
430 South Capitol Street
Washington, D.C. 20003

RE: MUR 3796

Dear Ms. Norris:

This letter acknowledges receipt on July 19, 1993, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by Jay Kim for Congress and Jane Y. Chong, as treasurer, Representative Jay C. Kim, Carmen Suarez, Fred Schultz, JayKim Engineers, Inc., Gramm '96 Committee and Donald R. White, as treasurer, and the Dreier for Congress Committee and Jack H. Couch 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 3796. Please refer to this number in all future communications. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lisa E. Klein
Assistant General Counsel

Enclosure
Procedures

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JULY 27, 1993

Jane Y. Chong, Treasurer
Jay Kim for Congress
1300 South Valley Vista Drive
Diamond Bar, California 91765

RE: MUR 3796

Dear Ms. Chong:

The Federal Election Commission received a complaint which indicates that Jay Kim 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 3796. 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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If you have any questions, please call (202) 219-3400 and ask to speak with a member of the Central Enforcement Docket (CED). For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lisa E. Klein
Assistant General Counsel

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JULY 27, 1993

The Honorable Jay C. Kim
House of Representatives
Washington, D.C. 20515

RE: MUR 3796

Dear Mr. Kim:

The Federal Election Commission received a complaint which indicates that you 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 3796. Please refer to this number in all future correspondence.

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

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If you have any questions, please call (202) 219-3400 and ask to speak with a member of the Central Enforcement Docket (CED). For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lisa E. Klein
Assistant General Counsel

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JULY 27, 1993

Carmen E. Suarez
14174 Deckbrook Lane
Chino Hills, California 91709

RE: MUR 3796

Dear Ms. Suarez:

The Federal Election Commission received a complaint which indicates that you 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 3796. Please refer to this number in all future correspondence.

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

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If you have any questions, please call (202) 219-3400 and ask to speak with a member of the Central Enforcement Docket (CED). For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lisa E. Klein
Assistant General Counsel

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JULY 27, 1993

Fred Schultz
c/o JayKim Engineers, Inc.
1300 South Valley Vista Drive
Pomona, California 91765-3910

RE: MUR 3796

Dear Mr. Schultz:

The Federal Election Commission received a complaint which indicates that you 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 3796. Please refer to this number in all future correspondence.

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

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If you have any questions, please call (202) 219-3400 and ask to speak with a member of the Central Enforcement Docket (CED). For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lisa E. Klein
Assistant General Counsel

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JULY 27, 1993

JayKim Engineers, Inc.
1300 South Valley Vista Drive
Pomona, California 91765-3910

RE: MUR 3796

Dear Sir or Madam:

The Federal Election Commission received a complaint which indicates that JayKim Engineers, Inc. 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 3796. 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 JayKim Engineers, Inc. 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.

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If you have any questions, please call (202) 219-3400 and ask to speak with a member of the Central Enforcement Docket (CED). For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lisa E. Klein
Assistant General Counsel

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JULY 27, 1993

Donald R. White, Treasurer
Gramm '96 Committee
P.O. Box 565087
Dallas, Texas 75356

RE: MUR 3796

Dear Mr. White:

The Federal Election Commission received a complaint which indicates that the Gramm '96 Committee ("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 3796. 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.

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If you have any questions, please call (202) 219-3400 and ask to speak with a member of the Central Enforcement Docket (CED). For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lisa E. Klein
Assistant General Counsel

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

cc: Senator Phil Gramm

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JULY 27, 1993

Jack H. Couch, Treasurer
Dreier for Congress Committee
P.O. Box 1110
Covina, California 91722

RE: MUR 3796

Dear Mr. Couch:

The Federal Election Commission received a complaint which indicates that the Dreier for Congress Committee ("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 3796. 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.

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Sincerely,

Lisa E. Klein
Assistant General Counsel

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

cc: Representative David Dreier

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FEDERAL ELECTION COMMISSION
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MUR 3796

Firm Repaid Rep. Kim for Donations

■ Contributions: JayKim reimbursed the congressman and employees for money given to other candidates, records show. He denies intentional wrongdoing.

By CLAIRE SPIEGEL
TIMES STAFF WRITER

A month after taking office in January, freshman Rep. Jay C. Kim (R-Diamond Bar) stepped up to the microphone in the House of Representatives, denounced the "arrogant attitude" of his congressional colleagues and called for stricter limits on campaign financing.

A few weeks later, records show, Kim's engineering corporation issued a $500 check reimbursing a company official for a personal campaign contribution she made to U.S. Sen. Phil Gramm (R-Texas).

"It's a violation" if a corporation repays an employee for a federal campaign contribution, said Fred Eiland, press officer for the Federal Election Commission. He declined to comment on this case.

Federal election laws prohibit corporations from donating directly or indirectly to candidates for federal offices. In some cases, local ordinances also prohibit such contributions.

During the last four years, records show, JayKim Engineers Inc. reimbursed Kim on two occasions for personal contributions he made to other politicians—one a U.S. congressman, the other a City Council member in San Diego, where corporate contributions are prohibited.

In addition, state tax auditors recently alleged that the firm had improperly taken tax deductions on legitimate contributions the company had made to state and local politicians in 1989 and 1990. About $7,000 in political contributions to unnamed recipients was challenged by the auditors.

Kim blamed his staff for deducting the campaign contributions and said he would pay any back taxes he owes as a result.

He said he knows that "it's wrong" to use corporation funds to reimburse employees for making political contributions and said he never intended to do so.

Records show that he has used corporate money to reimburse himself—and signed the checks.

The corporation repaid Kim in 1989 for his $2,000 donation to Rep. David Dreier (R-San Dimas). The Times obtained copies of Kim's personal check to Dreier as well as a corporate check to Kim.

Kim said his contribution paid for a half-table of tickets to a Dreier breakfast fund-raiser.

He said he thought that the company check he signed was a year-end bonus for himself, even though attached to the check was a typed notation: "Support of Congressman David Dreier."

A spokesman for Dreier said the congressman had no knowledge of the reimbursement.

On June 24, 1991, Kim wrote a $250 personal check to Wes Pratt, who was running for reelection to the San Diego City Council.

The campaign had sent Kim a letter informing him that only personal checks could be accepted. San Diego had banned political donations by corporations.

On this letter, obtained by The Times, Kim jotted and initialed a note to his staff: "Please write me a

Please see LAWMAKER, A12

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check for reimbursement." A corporate check was issued to Kim the next day.

Kim said getting reimbursed for the contribution was "a mistake on my part."

This March, two months after Kim was sworn in as a congressman, JayKim Engineers issued a check reimbursing the firm's marketing director, Carmen Suarez, for a political contribution. Suarez also serves as Kim's campaign finance committee chairwoman.

On March 19, Suarez wrote a $500 check to Gramm, who had recommended her for a job in the Clinton Administration. That same day, Suarez wrote a request for reimbursement "per Jay's request and OK." The company's former chief financial officer, Fred Schultz, promptly wrote Suarez a check.

Suarez said she did not recall asking the company for reimbursement. She said she made the contribution because "I wanted to do it out of my own heart and goodwill for Phil Gramm."

Gramm's spokesman said he had no knowledge that Suarez's contribution was reimbursed by JayKim Engineers.

Kim recalled talking to Suarez before she made a donation. "I said go ahead and donate it," he said.

But the congressman said he did not authorize repayment by the company. He blamed the reimbursement on a miscommunication.

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Questionable Political Donation

JAYKIM ENGINEERS, INC.
[illegible] GOLDEN SPRINGS DR., STE. 110
OCCIDENTAL BUILDING
DIAMOND BAR, CA [illegible]

9819

March 19 [illegible]

PAY THE SUM 500 DOLS 00 CT. DOLLARS $500.00

TO THE ORDER OF Carmen Suarez

Shortly after Kim took office, the marketing director of his engineering corporation, Carmen Suarez, wrote a $500 personal check, right, to Sen. Phil Gramm (R-Tex.). That day she sought reimbursement from the company. The company immediately issued a check, above, describing it as a "political contribution." Kim said the payment resulted from miscommunication. Federal law prohibits direct or indirect political contributions by corporations.

CARMEN E. SUAREZ
[illegible]

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Gramm "96 Committee $500.00

five hundred dollars and no/100

COAST FEDERAL BANK

Los Angeles Times

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Firm's Funds Misused in Campaign by Rep. Kim

■ **Government:** Candidate received free office space and supplies, records show. He denies intentional wrongdoing.

By CLAIRE SPIEGEL
TIMES STAFF WRITER

Rep. Jay C. Kim (R-Diamond Bar), an outspoken advocate of campaign finance reform, improperly used hundreds of thousands of dollars from his engineering corporation to pay campaign expenses last year, according to records and interviews.

JayKim Engineers Inc. provided the freshman legislator with free space for his campaign headquarters in Diamond Bar, plus staff and office supplies, company documents show. The firm also paid Kim's salary and expenses during the 1992 election, as well as campaign bills ranging from airline tickets to telephone service.

Federal law prohibits corporations from providing funds or free services to federal election campaigns. And candidates are required to report all contributions.

Kim—who represents portions of Los Angeles, Orange and San Bernardino counties—did not disclose any contributions from his corporation.

But hundreds of pages of company records obtained by The Times during a two-month investigation show that JayKim Engineers paid more than $400,000 in campaign-related expenses. Most of this was Kim's salary and other costs of carrying Kim on the payroll during the campaign.

■ FIRST OF TWO PARTS

Kim initially denied in an interview that he used corporate money

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for his 1992 election campaign. "No, that's not true," he said. "Absolutely nonsense."

After a short pause, Kim reversed himself and acknowledged that he had asked his staff to set up a special JayKim Engineers account to track the corporation's spending on the campaign. He estimated that the expenses amounted to no more than $1,000. His staff was supposed to send the campaign a bill, he said, but never did.

"Whatever I owe, I'm going to pay right away with interest," Kim said.

A spokesman for the Federal Election Commission, which enforces campaign laws, declined comment on Kim's expenditures. But he said that it is a fundamental doctrine of election law that corporations cannot contribute money or services to federal campaigns and that violations are punishable by civil or criminal penalties.

"If you're using corporate money to pay bills owed . . . by the campaign . . . that's a no-no," said Fred Eiland, press officer for the FEC.

Since 1907, federal election law has barred corporations, national banks and labor unions from making contributions. Congress strengthened the law in 1971 to prohibit corporations from spending any money to influence elections. They can participate in federal elections only by forming political action committees to collect donations from employees.

Corporate ledgers, checks, invoices, memoranda and other internal documents from JayKim Engineers show:

- The firm paid about $30,000 for mailing, printing, telephone, photocopying, entertainment and travel costs of Kim's campaign. Typically, bills carried a handwritten notation designating them as "campaign" expenses and checks were signed by Kim.
- The campaign received free office space in the company's headquarters in Diamond Bar. Company officials estimated that use of the space was worth about $17,000.
- The three employees in the marketing division of JayKim Engineers spent about half their time on Kim's campaign, costing the corporation an estimated $78,000 in salaries, expenses and overhead through 1992.
- The company spent about $300,000 to pay Kim his full-time salary and his other expenses during the campaign and since his election.

Kim, the first Korean-American to serve in Congress, said he had the right to set his own salary. He said he was entitled to full-time compensation because he estimated he worked 40 hours a week at the company. "I came in every morning and worked on the company," he said. "I spent a lot of time on the campaign, but I thought I gave equal time to the business, including Saturdays and Sundays."

Kim, 54, said he recently sold his business to Sung Woo Min, a real estate entrepreneur. Min said in a sworn statement that Kim's absences during campaign activities "kept him away from the day-to-day management of the company," causing severe financial problems.

Kim's former chief financial officer, Fred Schultz, said the cost of carrying Kim on the payroll was designated on the company's books as a campaign expense because it could not be determined how much time Kim spent on the business. "It was obvious he was running for office," said Schultz. "[Auditors would ask] why is his salary part of [company] overhead?"

FEC spokesman Eiland said a candidate who works part time for a corporation but is paid his full-time salary while campaigning may have, in effect, received an illegal political contribution.

As a rule, even an officer of a corporation is barred from campaigning on corporate time, Eiland said. When asked if the regulations apply to the owner of a corporation, he said that only the six members of the FEC can apply the law to the facts of a case and determine whether a violation has occurred.

Kim said his marketing employees did work on the campaign but only on their own time. He blamed any improper campaign expenditures on his financial chief, Schultz, who also served briefly as Kim's campaign treasurer.

"If I've done anything wrong, I believe it's his fault," Kim said. "It's his job to make sure I don't make a mistake."

Kim said he knew that accepting a political contribution from the corporation would be illegal but saw nothing wrong with having the corporation pay political expenses as long as he repaid the firm.

"What's prohibited is campaign contributions by the corporation," he said. "Just borrowing and paying it back is not a permanent contribution."

FEC officials said candidates can buy services from their corporations at fair market value, but any bill of more than $500 must be paid within 30 days. Otherwise, it must be disclosed as a debt.

Early in his campaign, Kim said, he discovered that the corporation had paid some of his political expenses, such as copying and mailing costs. He said he told Schultz:

"'I want to set up a special account number for this. . . . Any expenses that our campaign office uses . . . keep track of it and then bill it to us [promptly] so we can pay.'

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"Well, he hasn't done it," Kim said, adding that he had asked company officials for a bill within the past two weeks.

Schultz could not be reached for comment on Kim's statement. He earlier said that he left JayKim Engineers last spring when the company laid off staff and closed offices to stem severe financial problems that have intensified over the last year.

Born in Korea, Kim came to the United States on a student visa about 30 years ago. He earned advanced degrees in engineering and public administration. In 1978, he incorporated the firm of JayKim Engineering Inc., wholly owned by him and his wife. He built it into one of the top 500 engineering firms in the country, employing as many as 170 employees in five offices between Sacramento and Phoenix.

The firm specializes in providing consulting services to government agencies, including the Navy, the federal Resolution Trust Corp. and various local municipalities. The company participated in a partnership that recently was paid $13.4 million to manage post-riot clean-up work in Los Angeles.

Kim's political career was launched in 1990, when he won election to the Diamond Bar City Council and was appointed mayor by his council colleagues.

In February, 1992, he jumped into a wide-open race for the 41st Congressional District seat, created in the reapportionment that followed the 1990 census. After heavily outspending four opponents in the June primary, he narrowly won the Republican nomination, then glided to a 58% victory in November's general election over the Democratic nominee, aerospace employee Bob Baker.

Running on a pro-business platform, Kim criticized inefficient government bureaucracy and called for higher ethical standards in politics. A newsletter he recently sent to constituents is headlined: "Kim leads charge to reform Congress." It reports that he has pushed for, among other things, campaign finance reform.

Kim's publicly filed campaign disclosure reports show that he raised $621,000 from contributors and personally loaned his campaign $169,000. The 1,000 pages of filings do not report any contributions or loans from JayKim Engineers.

Nor do they show any payment by the campaign to JayKim Engineers for services, such as use of the company's offices and marketing staff.

Kim said the campaign occupied surplus space in his building and it did not occur to him that the campaign should pay rent. "If that's a legitimate [cost], I'm willing to pay right now," he said.

But Kim denied that his marketing department employees spent half their time working on his campaign. "Nobody ever worked on my campaign [on company time]," he said. "I swear to God." Kim said some employees were active in his campaign but only after hours.

Company ledgers show that accountants allocated "half of marketing expenses to [the] campaign project," a cost of $78,000 during 1992. Kim said he never authorized this.

Sharon Dahlen, a secretary who was laid off last week, said marketing director Carmen Suarez frequently asked her to do typing and office work related to the campaign. "I refused to do it," Dahlen said.

But Suarez, who now also serves as Kim's campaign finance committee chairwoman, said she never asked Dahlen to do campaign work. She said that her own fund-raising for the campaign was conducted on weekends and that the accounting department should not have designated half her salary and overhead as campaign costs.

The expenses for staff and rent are among hundreds of entries on a six-page computer printout listing campaign expenses paid by the corporation, including payments to telephone companies, office supply companies, janitorial services, credit card companies, Federal Express and $2,500 in cash withdrawals by Kim.

All are listed in a special company account numbered 1030.01 and called "1992 Election Campaign," naming Jay C. Kim as the client. Records show that $481,000 in campaign and post-election expenses were charged to the account. Among them was a $5,000 bill that included charges for a trip to Washington for Kim and his family so they could attend his swearing-in ceremony. Schultz said Kim repaid the company the $5,000.

Kim expressed shock when The Times showed him a printout detailing the expenses and he questioned its accuracy. "This is ridiculous, absolutely ridiculous," he said.

The account was set up by Schultz, who screened invoices and flagged expenses that should be allocated to it.

Schultz said he urged Kim to establish the account because he feared campaign expenses might be commingled with corporate expenses and charged off as overhead to government contracts the company has. Under federal regulations, it is illegal to bill political expenditures to government contracts.

Please see KIM, A12

9/0.4.0.0.3.2.7.5.6

Schultz said he used the election account for expenditures that he thought government auditors might challenge, even though they were not necessarily campaign expenses. In fact, he said, perhaps only "one or two" items in the account were campaign-related.

Throughout the invoices spot-checked by The Times, there are notations indicating that the charges were campaign expenses.

Several campaign staff members and employees at JayKim Engineers said they were advised to use the special account number when charging campaign expenses to the corporation.

Jane Chong, the campaign office manager, said when she used the engineering firm's copying machine, she punched in the special account number.

The idea was "to reimburse the corporation for ink and pages," said Dennis Bustamante, in the corporate marketing department. But he said he never asked if the campaign reimbursed the corporation.

Records show that 43,250 copies were charged to the corporation's 1030.01 campaign account, at a cost of $2,595.

During a state audit of the company's books after the election, the auditor observed Chong photocopying campaign literature at the engineering firm and expressed concerns.

"I was questioned as to what account was charged for campaign documents," Schultz wrote in a memo to Kim this April. "Reluctantly, I informed the auditor that we charged a specific account to track campaign expenditures."

Kim said that when he got the memo, he "raised hell" and asked Schultz to tally the campaign expenses so he could pay the bill.

The bill, records show, includes $1,500 that the company paid GTE in February, 1992, to set up a phone system for the "Jay Kim Campaign Committee." Kim said GTE would not accept a check from the campaign committee, so the corporation paid it. He said he would reimburse the company if he had not already.

The company also paid for about $800 in Federal Express charges that included letters and packages that Kim's campaign staff sent to the Republican National Committee, Voter Contract Services—and the Federal Election Commission, which receives campaign disclosure reports.

About $12,000 in company credit card charges for meals, airline tickets and gasoline were charged to the election account, records show.

A $240 dinner charged to a corporate credit card by Suarez, the company marketing director, was flagged as a campaign expense. Suarez's dinner companion was one of Kim's campaign contributors, banker Gerald Morita, who was recently appointed to serve on Kim's congressional finance committee.

But Suarez said the dinner had "nothing to do with politics." She said they had talked about unspecified business. Morita did not return telephone calls.

About $1,000 in restaurant charges on Kim's company credit card were paid as election expenses one month last summer. During another month, the company paid $2,392, including those related to an East Coast trip last September.

Presented with the invoice documenting these expenses, Kim initially denied they were campaign related. After he was reminded that he had attended a fund-raiser in Washington on Sept. 10 and 11, he said he did not deliberately use company funds to pay for the travel expenses.

"I know better than that," he said.

When he signed checks, Kim explained, he did not know whether or not the expenses had been identified by his staff as campaign related. He said he was presented with checks to sign but was not given supporting documentation.

"When you sign a hundred checks, you don't nit-pick," he said. "[If] it looks good, I sign."

Times staff writer Tracy Wood contributed to this story.

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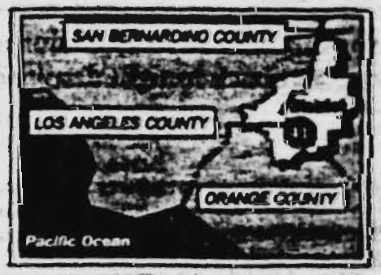
KAT 5-14-93 Hots

55

Funding Kim's Campaign

STEVE DYKES / Los Angeles Times

Rep. Jay C. Kim (R-Diamond Bar) used corporate funds from his engineering firm, JayKim Engineers Inc., to pay hundreds of thousands of dollars in campaign expenses, records show. Federal election laws prohibit corporations from contributing any money or services to candidates for federal office. Kim, who represents the 41st District, says that he intended to promptly repay the corporation for campaign expenses but was not billed.



A special corporate account, "1030.01: 1992 Election Campaign," below was set up at JayKim Engineers to track expenditures made by the corporation for Kim's campaign.

JAYKIM ENGINEERS, INC.
1300 SO. VALLEY VISTA DR.

DIAMOND BAR, CA 91765

Billing Review Report — Page: 1

Report Date: 6/ 7/93

Client: 030 Jay C. Kim

Among the expenses was $1,500 that JayKim Engineers paid on Feb. 24, 1992, to a telephone company to set up service in the Kim campaign office.

Reimbursable		Transaction	Date	Units	Cost	Markup	Charge	Charge	Bl Adjust
0002	Alco Printing	21540	1 AP 7/ 6/92	1.00	324.75 $	0.00	0.00	324.75 *	
0006A	GTE-Centralized Acct.	19593	1 AP 2/24/92	1.00	1500.00 $	0.00	0.00	1500.00 *	

The former chief financial officer, Fred Schultz, signed a form a authorizing the corporation to pay the bill for the Jay Kim Campaign Committee.

Make Check Payable to: GTE - Centralized Accounts Section
Name: P.O. BOX 6023
Address: CERRITOS CA 90702-6023
City / State / Zip: 1-800-483-6012
Phone / Contact: Tim Smith or Michael
Put on back of check: 909 396-8773 JAY KIM CAMPAIGN COMMITTEE
Approved by: (Project Manager or CFO's Signature)

A corporate check for $1,500 was signed by Kim. The front of the check is marked with the campaign headquarters phone number and the back says "Jay Kim Campaign Committee."

JAYKIM ENGINEERS, INC. — 119520 — 0693
February 24, 92
PAY THE SUM 1500 DOLLARS 500 CTS — DOLLARS $ 1,500.00
TO THE ORDER OF: GTE-Centralized Accounts Section, P.O. Box 6023, Cerritos, CA 90702-6023
⑈001500⑈

Jay Kim Campaign Committee
FOR DEPOSIT ONLY

HELENE WEBB / Los Angeles Times

56

VAT 7-14-93 5075

WASH POST 7/15/93

THE WASHING

Laymaker's Campaign Funding Questioned

By Kenneth J. Cooper
Washington Post Staff Writer

Freshman Rep. Jay Kim (R-Calif.) subsidized his congressional campaign last year through his engineering firm in possible violation of a ban on corporate campaign contributions, according to news accounts.

Kim yesterday acknowledged that the Southern California business he founded and owned until its recent sale did pay some of his campaign expenses, but the conservative Republican blamed a "disgruntled" former employee for not following through and seeking reimbursement from Kim's campaign committee.

"I don't have any incentive to use company money for the campaign," Kim said in an interview. "I wholly owned the company."

The Los Angeles Times, in a two-part series that began yesterday, tallied more than $400,000 in campaign-related expenses paid by Jay Kim Engineers Inc. in Diamond Bar, Calif. The newspaper cited "corporate ledgers, checks, invoices, memoranda and other internal documents." The documents were said to show JayKim Engineers provided the campaign with such in-kind resources as rent-free offices, supplies and part-time services of a marketing staff. The company paid about $30,000 for airline tickets, telephone bills and other campaign costs. Kim's full-time salary and expenses, which the Times said totaled about $300,000, accounted for the rest.

None of the contributions was listed in Kim's report of $703,000 in campaign expenditures. Kim reported his 1992 income as $186,300 as president of JayKim Engineers; $13,850 as president of Wyatt-Jay-Kim Engineers of Lewiston, Idaho, and $15,500 in fees as proprietor of J & J Property in Diamond Bar.

Federal election laws have prohibited corporate campaign contributions since 1907. A 1971 revision extended the ban to corporate spending. Asked if a congressional candidate could rely on reimbursement from a corporation, Federal Election Commission spokesman Fred Eiland replied, "Our law prohibits corporate contributions or spending in connection with a federal election. On the face of it, that's a flat violation."

Eiland said corporate officers who run for Congress can continue to receive their pay as long as they do not campaign on company time. Kim said he worked 40 hours a week.

Eiland would not comment on the particulars of Kim's situation.

Kim said that yesterday morning he asked an accountant to tally the company's campaign expenses so Kim could repay them immediately.

Kim, denying any wrongdoing, said he wanted the FEC to conduct an audit, too. So do the Democrats. A spokesman said the Democratic Congressional Campaign Committee was "considering, obviously, filing an FEC complaint against" Kim.

He was the first Korean American elected to Congress, a surprise winner in a new district in heavily Republican suburbs of Los Angeles. He won the primary by 900 votes.

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AUG 5 9 14 PM '93

GRAMM
'96 COMMITTEE

July 28, 1993

Federal Election Commission
Office of the General Counsel
999 E Street, N. W.
Washington, D. C. 20463

RE: MUR 3796

Dear Sir:

In response to your letter dated July 27, 1993, informing the Gramm '96 Committee of the complaint filed in MUR 3796: The Gramm '96 Committee received a personal check in the amount of $500 from Carmen Suarez and deposited that check on March 31, 1993. The Gramm '96 Committee has no first-hand knowledge of any reimbursement made to Ms. Suarez for this contribution. Accordingly, the Gramm '96 Committee believes that no FEC action is warranted against the Committee in this matter.

Sincerely,

D. R. White
Treasurer

93 AUG -5 AM 11:11

P.O. Box 565087 · Dallas, Texas 75356

Paid for by Friends of Phil Gramm

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#9653

AUG 9 2 10 PM '93

Congressman
David Dreier
RESPECTED, DEDICATED...A PROVEN LEADER

93 AUG -9 PM 3:47

August 4, 1993

Ms. Lisa E. Klein
Assistant General Counsel
Office of the General Counsel
Federal Election Commission
999 "E" Street, NW
Washington, D.C. 20463

Dear Ms. Klein:

I am in receipt of your letter dated July 27, 1993, concerning case number: MUR 3796.

The Dreier for Congress Committee received a personal check from Mr. Jay Kim of Diamond Bar, California for $2,000.00 dated October 19, 1989.

Our Committee talked to Mr. Kim on October 20, 1989 to ensure that the check was from his personal account and not corporate. Further, committee records indicate that $1,000.00 was to be attributed to June Kim and $1,000.00 attributed to Jay Kim.

The Dreier for Congress Committee has no knowledge of any alleged reimbursement from corporate funds to Mr. Kim for political contributions.

I set up an escrow account of $2,000.00 on July 16, 1993 at California State Bank in Covina, California after reading the article in the LA Times about Mr. Kim's 1992 campaign. The funds will remain in this account until the FEC has reviewed Mr. Kim's case in its entirety.

I'm hopeful that this information will be helpful to you. Do not hesitate to contact me if you have any further questions.

Sincerely,

Jack H. Couch

Jack H. Couch, Treasurer
Dreier for Congress Committee

Post Office Box 1110, Covina, California 91722

Paid for by Dreier for Congress Committee, ID No. 075337.
Contributions to Dreier for Congress Committee are not deductible as charitable contributions for Federal Income Tax purposes

OGC 9690

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COMMISSION
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KECK, MAHIN & CATE

2029 CENTURY PARK EAST
SUITE 2500
LOS ANGELES, CALIFORNIA 90067-2907
(310) 284-8771
FAX (310) 284-8359

FILE NUMBER 16553-001
jlb\16553l-1\16553l-1.004

DIRECT DIAL

August 12, 1993

93 AUG 13 PM 4:39

VIA FEDERAL EXPRESS

Lisa E. Klein, Esq.
Assistant General Counsel
Federal Election Commission
999 E Street
Washington, D.C. 20463

Re: MUR 3796

Dear Ms. Klein:

This law office has represented Jaykim Engineers, Inc. on a number of matters since April of this year. In this regard, on August 5, 1993, the company telecopied to us your letter dated July 27, 1993 advising of the complaint received by the Federal Election Commission. It is our understanding that the letter was received by our client on or about the date your letter was faxed to our offices, August 5, 1993. Pursuant to the terms of your letter, you requested that a response be submitted within 15 days of receipt of the letter, or, August 20, 1993. Julie Birkel of this office attempted to telephone you and left a message for you on August 10, 1993 regarding this matter. On August 11, 1993, I received a message from an Eric Morrison, apparently of your offices, and I returned his call that day but have not heard back from him. Since we have not yet been successful reaching you, the purpose of this letter is to advise you that we are requesting an extension of time on behalf of Jaykim Engineers, Inc. to respond to the complaint. In this regard, we would request an extension of 30 days, to and including September 20, 1993. If we do not hear from you, we shall assume that this extension of time is acceptable to you. If you have any questions, or if there is any problem with that date, we would appreciate your immediately contacting our offices.

9104503276 2

KECK, MAHIN & CATE

Thank you for your courtesy and cooperation in this matter.

Very truly yours,

KECK, MAHIN & CATE

Jack Goldman

JG:kaw

cc: Mr. David Kim
Mr. Rodney Allen
Robert Silverman, Esq.
Mr. Eric Morrison

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AUGUST 17, 1993

Jack Goldman, Esq.
Keck, Mahin & Cate
2029 Century Park East
Suite 2500
Los Angeles, CA 90067-2907

RE: MUR 3796
Jaykim Engineers, Inc.

Dear Mr. Goldman:

This is in response to your letter dated August 12, 1993, which we received on August 13, 1993, requesting an extension until September 20, 1993 to respond to the Commission's Notification of Complaint. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on September 20, 1993.

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

Sincerely,

Erik Morrison

Erik Morrison
Paralegal

9104383227764

HOUSE OF REPRESENTATIVE

AUG 13 9 47 AM '93

JAY KIM

FORTY-FIRST DISTRICT
CALIFORNIA

August 17, 1993

93 AUG 18 AM 10: 18

Noriega James, Esq.
Federal Elections Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MURS 3798 and 3796

Dear Mr. James,

I am in receipt of your letters of July 26 and July 27, 1993, regarding the complaints filed by James Lacy and the Democratic Congressional Campaign Committee. On behalf of Congressman Jay Kim and the Jay Kim for Congress Committee, I request extra time to respond.

The Committee and Congressman Kim are in the process of finalizing the retention of legal counsel and attempting to obtain information in order to respond. This will require an additional thirty days up to September 17. We request an extension up to that date.

Sincerely,

Janey Y. Chong

Jane Y. Chong
Treasurer

Paid for by Jay Kim Campaign Committee FEC# C00260138
P.O. Box 4353 • Diamond Bar, CA 91765

OGC 9733

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93 AUG 18 PM 3: 14

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3796

NAME OF COUNSEL: Jan Witold Baran

ADDRESS: 1776 K Street, N.W.
Washington, D.C. 20006

TELEPHONE: (202) 429-7330

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.

Aug. 3, 1993
Date

Jane Y. Chong
Signature

RESPONDENT'S NAME: Jane Y. Chong

ADDRESS: 1300 S. Valley Vista Dr.
Diamond Bar, CA 91765

TELEPHONE: HOME

BUSINESS (909) 396-6173

9104532766

OGC 7808

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JEROLD V. GOLDSTEIN
A LAW CORPORATION
SUITE 585
CITY NATIONAL BANK BUILDING
16133 VENTURA BOULEVARD
ENCINO, CALIFORNIA 91436-2430
TELEPHONE (818) 990-1614
FACSIMILE (818) 788-3670

JEROLD V. GOLDSTEIN

REFER TO

4355

93 AUG 30 AM 10: 13

August 26, 1993

Lisa E. Klein, Esq.
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 3796

Dear Ms. Klein:

Please be advised that I will be acting as Mr. Schultz' counsel in the above-referenced matter, in addition to the matter designated as MUR 3798. You have already received a Statement of Designation of Counsel and a copy of the complaint which outlines Mr. Schultz' response, both of which were enclosed with my letter to you of August 23, 1993.

If I can be of further assistance, please do not hesitate to contact me.

Yours truly,

Jerold V. Goldstein

JEROLD V. GOLDSTEIN

JVG:pk

cc: F. Schultz

9104003767

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93 SEP 20 AM 9:16

WILEY, REIN & FIELDING

1776 K STREET, N.W.
WASHINGTON, D.C. 20006
(202) 429-7000

JAN WITOLD BARAN
(202) 429-7330

FACSIMILE
(202) 429-7049
TELEX 248349 WYRN UR

September 17, 1993

Lawrence M. Noble, General Counsel
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Attn: Noriega James

Re: MURs 3796 and 3798 (Jay Kim and Jay Kim for Congress and Jane Y. Chong, as Treasurer)

Dear Mr. Noble:

This response is submitted on behalf of Jay Kim and Jay Kim for Congress, and Jane Y. Chong, as Treasurer ("Respondents"), in reply to complaints filed by the Democratic Congressional Campaign Committee and James V. Lacy and designated Matters Under Review ("MUR") 3796 and 3798 respectively. Executed Statements of Designation of Counsel forms are attached or have been transmitted to you by Ms. Chong. For the reasons set forth herein, the Federal Election Commission ("FEC" or "Commission") should find no reason to believe that Respondents have violated any provision of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. §§ 431-455 ("Act").

COMPLAINT

The complaints in these matter are both based on a newspaper article published by the Los Angeles Times. The article claims that Jay Kim for Congress received approximately $400,000 in corporate contributions from JayKim Engineers for a variety of goods and services. The complaints also allege a $1,000 contribution from Korean Airlines to the Jay Kim for Congress Committee, as well as corporate reimbursement of contributions in the amounts of $500 and $2,000 made by Carmen Suarez and Jay Kim respectfully.

DISCUSSION

Respondents take seriously the allegations of these complaints. Respondents' concern about the seriousness of these allegations has prompted them to undertake an independent audit of the Jay Kim for Congress campaign account in order to ensure compliance with the Act. Respondents have taken action with regard to several matters as a result of this audit. For instance, Respondents discovered that the Committee had received approximately $12,000 in contributions from churches in California. While receipt of contributions from churches is not illegal for Federal election purposes, Respondents believed that it would

9/04333276 9

be best to refund these contributions so that the churches would not jeopardize their tax exempt status. In addition, Respondents identified several questionable contributions. Respondents have therefore, on their own initiative, refunded contributions about which there were questions as to their source. These refunds of contributions have been reported on the Jay Kim for Congress Committee's 1993 Mid-Year Report. Since filing of the Mid-Year report, Respondents have also refunded a $1000 contribution from Korean Airlines specifically referenced in the Lacy complaint. This reimbursement will be reflected on the Year-End Report to be filed by the Committee. Further, the Jay Kim for Congress Committee is preparing amendments to each of its previously filed reports to the extent necessary so that all of the campaign's financial activities will be completely and accurately reported.

As for the allegation that JayKim Engineers made corporate contributions in the amount of $400,000, Respondents have obtained a copy of a computer generated printout from JayKim Engineers of all "expenses" which were attributed to a "special campaign account." However, JayKim Engineers has no backup documentation to support any of the itemized entries. Moreover, Fred Schultz, the former Chief

Financial Officer of the JayKim Engineers, who was responsible for creating the one printout that does exist, has informed Respondents that he has no backup documentation supporting these claimed corporate contributions. Thus, Respondents are unable to substantiate any of the alleged corporate contributions to Jay Kim for Congress. We note for the record, that Congressman Kim continued to run his business while he was a candidate in 1992. Accordingly, his salary, which constituted the vast majority of this undocumented $400,000 alleged "corporate contribution" was appropriate and entirely lawful.

Moreover, as reported, the United States Attorney's Office in Los Angeles has started an investigation into these allegations. It is our understanding that JayKim Engineers has turned over relevant documentation to the U.S. Attorney. Further, the Jay Kim for Congress Committee is cooperating fully with the U.S. Attorney and has also turned over subpoenaed documentation to the U.S. Attorney to the extent any existed.

Finally, the Jay Kim for Congress Committee has no information with respect to the alleged corporate reimbursements from JayKim Engineers to Carmen Suarez and Jay Kim. Further, as can be seen from the L.A. Times article

which formed the basis for these complaints, the alleged reimbursement from JayKim Engineers to Carmen Suarez was made after Mr. Kim had already become a Congressman. As for the alleged reimbursement to Mr. Kim, he was quoted in that very same article as recalling that the $2,000 company check at issue was in fact a year end bonus to himself, not a reimbursement for any contribution. Thus, Respondents deny any wrongdoing with respect to these allegations.

CONCLUSION

Jay Kim and Jay Kim for Congress have voluntarily conducted an audit of the Jay Kim for Congress campaign accounts and taken remedial action with regard to any potential problems. Further, Respondents are cooperating with the U.S. Attorney's office with respect to alleged violations of the law by JayKim Engineers. We are confident that there is no basis for any prosecution against any of our clients. Given these circumstances, it would be appropriate for the Commission to take no further action with regard to these MURs.

Sincerely,

Jan Witold Baran
Counsel for Jay Kim and Jay Kim for Congress and Jane Y. Chong, as Treasurer

9104503772

STATEMENT OF DESIGNATION OF COUNSEL

93 SEP 20 AM 9:18

MUR 3796 & 3798

NAME OF COUNSEL: Jan Witold Baran

ADDRESS: Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

TELEPHONE: (202) 429-7330

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.

July 28, 1993
Date

Signature Jay Kim

RESPONDENT'S NAME: Jay Kim and Jay Kim for Congress

ADDRESS:

TELEPHONE: HOME( )

BUSINESS( )

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JAN 27 8 19 AM '94

WILEY, REIN & FIELDING

1776 K STREET, N.W.
WASHINGTON, D.C. 20006
(202) 429-7000

JAN WITOLD BARAN
(202) 429-7330

FACSIMILE
(202) 429-7049
TELEX 248349 WYRN UR

January 25, 1994

94 JAN 27 PM 2:24
RECEIVED
FEDERAL ELECTION COMMISSION

Lawrence M. Noble, Esq.
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

ATTN: Noriega James, Esq.

Re: MUR 3796 and 3798 (Jay Kim and Jay Kim for Congress and Jane Y. Chong, as Treasurer)

Dear Mr. Noble:

This is to note for the record our objections to your continued proceedings in the above-captioned matter due to the United States Court of Appeals' decision in FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993). As you have noted in recent FEC filings, the Commission lacked authority to determine for itself the constitutional issues decided in NRA, so raising these matters with the Commission prior to that ruling would have been futile. Also, some of the "remedial" actions, such as purported "ratification," just occurred. However, now that the decision has been handed down and the Commission's initial response to it has been outlined, we wish to be clear that we object to any Commission action inconsistent with the NRA rationale.

Accordingly, please be advised that we object to all past and future activity in this matter attributable to the actions of the unconstitutional agency. Our objections include, but are not limited to, enforcement of rules not adopted by a constitutional agency, purported "ratification" of rules and actions, without findings or compliance with procedural steps mandated by the Administrative Procedures Act or the Federal Election Campaign Act, as well as "ratification" of actions tainted by deliberations influenced by the presence of non-executive branch personnel. Additionally, we believe that the Commission improperly reconstituted itself in response to the NRA decision and therefore its current proceedings are likewise constitutionally suspect. We expressly do not waive any objections to the present form of the Commission and suggest that continued proceedings in this matter under these circumstances are not substantially justified.

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We are confirming these objections to provide formal notice that the Commission's present make-up and/or its actions based on precedents of the judicially declared unconstitutional Commission may be invalid. While I know that you already are familiar with the issues raised in this letter -- indeed, your staff has focused on little else these past few months -- I am prepared to discuss these matters with you in more detail at your convenience. Also, I would welcome any procedural guidance you may offer on how these issues might most efficiently be pursued.

Sincerely,

Jan Witold Baran

9/04/03 27/5

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COMMISSION
OFFICE OF GENERAL
COUNSEL

APR 27 11 40 AM '95

Bob Baker
401 N. Deerfield St.
Anaheim, CA 92807

April 18, 1995

Federal Election Commission
Office of General Counsel
999 East Street, N.W.
Washington, D.C. 20463

MUR 3796/3798

To Whom it may concern,

It has been nearly two years since the allegations against Representative Jay Kim (R-CA) were exposed concerning his 1992 campaign violations, *et al*, and one wonders why this case has yet to be resolved?

Another election cycle has come and gone, yet there is no action from the Federal Election Commission or any of the other government agencies. There are only so many reasons that come to mind that could possibly explain why it has taken so long to resolve these matters: incompetence; laziness; political correctness; some sort of new affirmative action program and/or just plain politics.

As much as I understand that the FEC is not a proactive agency, can you explain why a seemingly open and shut case is taking so long to reach its inevitable conclusion?

9 7 0 4 3 0 3 2 7 7 6

Is Representative Kim's case to be adjudicated soon or can we expect another election cycle to pass with this matter unresolved?

Sincerely,

Bob Baker

cf: Representative Jay Kim

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AGENDA DOCUMENT NO. X97-55

BEFORE THE FEDERAL ELECTION COMMISSION

FEDERAL ELECTION COMMISSION SECRETARIAT

AUG 14 4 25 PM '97

In the Matter of) ENFORCEMENT PRIORITY

SENSITIVE

AUG 19 1997

EXECUTIVE SESSION SUBMITTED LATE

GENERAL COUNSEL'S REPORT

I. INTRODUCTION.

The cases listed below have been identified as either stale or of low priority based upon evaluation under the Enforcement Priority System (EPS). This report is submitted to recommend that the Commission no longer pursue these cases.

II. CASES RECOMMENDED FOR CLOSURE.

A. Cases Not Warranting Further Action Relative to Other Cases Pending Before the Commission

EPS was created to identify pending cases which, due to the length of their pendency in inactive status or the lower priority of the issues raised in the matters relative to others presently pending before the Commission, do not warrant further expenditure of resources. Central Enforcement Docket (CED) evaluates each incoming matter using Commission-approved criteria which results in a numerical rating of each case.

Closing such cases permits the Commission to focus its limited resources on more important cases presently pending before it. Based upon this review, we have identified 34 cases which do not warrant further action relative to other pending matters.[1]

[1] These cases are: MUR 4470 (*Ward for Congress*); MUR 4478 (*Citizens for Tom Reynolds*); MUR 4492 (*Friends of Ken Poston*); MUR 4498 (*Darryl Roberts for Congress*); MUR 4506 (*The Hon. Ted Little*); MUR 4512 (*Friends of Lane Evans*); MUR 4517 (*Unknown Respondent*); MUR 4518 (*Kansans for Rathbun*); MUR 4520 (*Larry Lerner for*

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Attachment 1 to this report contains summaries of each case, the EPS rating, and the factors leading to assignment of a low priority and recommendation not to further pursue the matter.

B. Stale Cases

Effective enforcement relies upon the timely pursuit of complaints and referrals to ensure compliance with the law. Investigations concerning activity more distant in time usually require a greater commitment of resources, primarily due to the fact that the evidence of such activity becomes more remote and consequently more difficult to develop. Focusing investigative efforts on more recent and more significant activity also has a more positive effect on the electoral process and the regulated community. In recognition of these facts, EPS also provides us with the means to identify those cases which, though earning a higher rating when received, remained unassigned due to a lack of resources for effective investigation. The utility of commencing an investigation declines as these cases age, until they reach a point when activation of a case would not be an efficient use of the Commission's resources.

Congress); MUR 4522 (*Republican Party of Bexar County*); MUR 4523 (*Cong. Andrea Seastrand*); MUR 4524 (*Danny Covington Campaign Fund Committee*); MUR 4526 (*Hoeffell for Congress*); MUR 4528 (*Pete King for Congress*); MUR 4529 (*Pete King for Congress*); MUR 4532 (*Citizen's Committee for Gilman for Congress*); MUR 4535 (*Visclosky for Congress*); MUR 4537 (*Di Nicola for Congress*); MUR 4541 (*Ross Perot*); MUR 4548 (*Blagojevich for Congress*); MUR 4550 (*Friends of Wamp for Congress*); MUR 4551 (*John N. Hostettler*); MUR 4557 (*De La Rosa for Congress*); MUR 4559 (*Bill Baker for Congress*); MUR 4560 (*George Stuart Jr. for Congress*); MUR 4562 (*Wayne E. Schile*); MUR 4566 (*Al Gore*); MUR 4574 (*Danny Covington Campaign Fund Committee*); MUR 4576 (*Volunteers for Shimkus*); MUR 4579 (*New Zion Baptist Church*); MUR 4580 (*Friends of Millie Forbes*); MUR 4584 (*Bill Baker for Congress*); MUR 4588 (*Navarro for Congress*); and MUR 4613 (*Guy Kelley for Congress*).

2 The U.S. District Court for the District of Columbia, however, held in *Democratic Senatorial Campaign Committee v. FEC*, Civil Action No. 95-0349 (D.D.C. April 17, 1996) that 24 months was too long a time in which to hold a case in an inactive status.

Twenty one cases have remained on the Central Enforcement Docket for a sufficient period of time to render them stale, all of which are recommended for closure in this Report.[4] This group includes four MURs that became stale several months ago, but were held pending criminal prosecution by the Department of Justice.[5] DOJ obtained convictions in the two criminal cases related to these four MURs (*U.S. v. Jay Kim* and *U.S. v. Dynamic Energy Resources*) based upon guilty pleas by the key defendants, who are also the principal respondents in our pending matters. Pursuit of civil enforcement action in view of the satisfactory results obtained in the criminal cases would not be the most effective use of the Commission's scarce resources at this time.

We recommend that the Commission exercise its prosecutorial discretion and direct closure of the cases listed below, effective August 29, 1997. Closing these cases as

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[4] These cases are: MUR 4274 (*GOPAC*); MUR 4358 (*Miller for Senate*); MUR 4361 (*ABC-TV*); MUR 4368 (*Citizens Business Bank*); MUR 4380 (*AFGE Local 2391 PAC*); MUR 4385 (*Dial for Congress*); MUR 4386 (*Zimmer for Senate*); MUR 4396 (*ABC*); MUR 4404 (*Friends of Steve Stockman*); MUR 4410 (39th *Legislative District*); MUR 4417 (*Our Choice II*); MUR 4422 (*Desana for Congress Committee*); and Pre-MUR 336 (*Park National Bank & Trust*).

[5] These cases are: MUR 3796 (*Jay Kim for Congress*); MUR 3798 (*Jay Kim*); MUR 4275 (*Jay Kim*); and MUR 4356 (*Dynamic Energy Resources*). In dismissing the Jay Kim cases, we also recommend closing Pre-MUR 352, which is the transmittal of the guilty plea agreement and related documentation in the criminal case against Congressman Kim forwarded by United States Attorney's office.

of this date will permit CED and the Legal Review Team the necessary time to prepare closing letters and case files for the public record.

III. RECOMMENDATIONS.

A. Decline to open a MUR, close the file effective August 29, 1997, and approve the appropriate letters in the following matters:

Pre-MUR 336 Pre-MUR 352

B. Take no action, close the file effective August 29, 1997, and approve the appropriate letters in the following matters:

MUR 3796	MUR 4396	MUR 4522	MUR 4559
MUR 3798	MUR 4404	MUR 4523	MUR 4560
MUR 4274	MUR 4410	MUR 4524	MUR 4562
MUR 4275	MUR 4417	MUR 4526	MUR 4566
	MUR 4422	MUR 4528	MUR 4574
MUR 4356	MUR 4470	MUR 4529	MUR 4576
MUR 4358	MUR 4478	MUR 4532	MUR 4579
MUR 4361	MUR 4492	MUR 4535	MUR 4580
MUR 4368	MUR 4498	MUR 4537	MUR 4584
	MUR 4506	MUR 4541	MUR 4588
MUR 4380	MUR 4512	MUR 4548	MUR 4613
MUR 4385	MUR 4517	MUR 4550	
MUR 4386	MUR 4518	MUR 4551	
	MUR 4520	MUR 4557	

8/14/97
Date

LM Noble (GH2)
Lawrence M. Noble
General Counsel

Attachment:
Case Summaries

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	Agenda Document No. X97-55
Enforcement Priority	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on August 19, 1997, do hereby certify that the Commission decided by a vote of 4-1 to take the following actions with respect to Agenda Document No. X97-55:

A. Decline to open a MUR, close the file effective August 29, 1997, and approve the appropriate letters in the following matters:

1. Pre-MUR 336. 2. Pre-MUR 352.

B. Take no action, close the file effective August 29, 1997, and approve the appropriate letters in the following matters:

1. MUR 3796.	2. MUR 3798.	3. MUR 4274.
4. MUR 4275.	5. MUR 4356.	6. MUR 4358.
7. MUR 4361.	8. MUR 4368.	9. MUR 4380.
10. MUR 4385.	11. MUR 4386.	12. MUR 4396.
13. MUR 4404.	14. MUR 4410.	15. MUR 4417.
16. MUR 4422.	17. MUR 4470.	18. MUR 4478.

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19. MUR 4492.	20. MUR 4498.	21. MUR 4506.
22. MUR 4512.	23. MUR 4517.	24. MUR 4518.
25. MUR 4520.	26. MUR 4522.	27. MUR 4523.
28. MUR 4524.	29. MUR 4526.	30. MUR 4528
31. MUR 4529.	32. MUR 4532.	33. MUR 4535.
34. MUR 4537.	35. MUR 4541.	36. MUR 4548
37. MUR 4550.	38. MUR 4551.	39. MUR 4557.
40. MUR 4559.	41. MUR 4560.	42. MUR 4562.
43. MUR 4566.	44. MUR 4574.	45. MUR 4576.
46. MUR 4579.	47. MUR 4580.	48. MUR 4584.
49. MUR 4588.	50. MUR 4613.	

Commissioners Aikens, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Elliott dissented.

Attest:

8-21-97
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 29, 1997

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mathew H. Angle, Treasurer
Democratic Congressional Campaign Committee
430 South Capitol Street
Washington, D.C. 20003

RE: MUR 3796

Dear Mr. Angle:

On July 19, 1993, the Federal Election Commission received the complaint filed by Genie M. Norris, former treasurer, alleging certain violations of the Federal Election Campaign Act of 1971, as amended ("the Act").

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action in the matter. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on August 29, 1997. This matter will become part of the public record within 30 days.

The Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437(g)(a)(8).

Sincerely,

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 29, 1997

Jack H. Couch, Treasurer
Dreier for Congress Committee
PO Box 1110
Covina, CA 91722

RE: MUR 3796

Dear Mr. Couch:

On July 27, 1993, the Federal Election Commission notified you of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action against the Dreier for Congress Committee and you, as treasurer. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in the matter on August 29, 1997.

The confidentiality provisions of 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 prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

If you have any questions, please contact Alva E. Smith on our toll-free telephone number, (800) 424-9530. Our local telephone number is (202) 219-3400.

Sincerely,

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 29, 1997

Donald R. White, Treasurer
Gramm '96 Committee
PO Box 565087
Ballas, TX 75356

RE: MUR 3796

Dear Mr. White:

On July 27, 1993, the Federal Election Commission notified you of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action against Gramm '96 Committee and you, as treasurer. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in the matter on August 29, 1997.

The confidentiality provisions of 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 prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

If you have any questions, please contact Alva E. Smith on our toll-free telephone number, (800) 424-9530. Our local telephone number is (202) 219-3400.

Sincerely,

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 29, 1997

Jaycee Kim, President
Avacon Corporation
1300 South Valley Vista Drive
Diamond Bar, CA 91765-3922

RE: MURs 3796 and 3798
Avacon Corporation (formerly JayKim Engineers, Inc.)

Dear Mr. Kim :

On July 26, 1993, the Federal Election Commission notified JayKim Engineers, Inc., which we understand is the predecessor to your company, of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action against Avacon Corporation (formerly JayKim Engineers, Inc.). This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in the matter on August 29, 1997.

The confidentiality provisions of 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 prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

If you have any questions, please contact Alva E. Smith on our toll-free telephone number, (800) 424-9530. Our local telephone number is (202) 219-3400.

Sincerely,

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 29, 1997

Carmen Suarez
14174 Deckbrook Lane
Chino Hills, CA 91709

RE: MURs 3796 and 3798

Dear Ms. Suarez:

On July 26, 1993, the Federal Election Commission notified you of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action against you. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in the matter on August 29, 1997.

The confidentiality provisions of 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 prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

If you have any questions, please contact Alva E. Smith on our toll-free telephone number, (800) 424-9530. Our local telephone number is (202) 219-3400.

Sincerely,

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 29, 1997

Jerold V. Goldstein, Esquire
16133 Ventura Boulevard, Suite 585
Van Nuys, CA 91436-2407

RE: MURs 3796 and 3798
Frederick C. Schultz

Dear Mr. Goldstein:

On July 26, 1993, the Federal Election Commission notified your client, Frederick C. Schultz, of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action against your client. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in the matter on August 29, 1997.

The confidentiality provisions of 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 prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

If you have any questions, please contact Alva E. Smith on our toll-free telephone number, (800) 424-9530. Our local telephone number is (202) 219-3400.

Sincerely,

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3796

DATE FILMED 9-17-97 CAMERA NO. 4

CAMERAMAN JMIJ

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