FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 3803

DATE FILMED 8-26-94 CAMERA NO. 8

CAMERAMAN JMH

9404356122

OGC 6183

PERKINS COIE

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
607 FOURTEENTH STREET, N.W. • WASHINGTON, D.C. 20005-2011 • (202) 628-6600

Pre-MUR 268

August 21, 1992

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 AUG 21 PM 5:24

Lawrence M. Noble, Esq.
Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: Ferraro for U.S. Senate

Dear Mr. Noble:

Ferraro for U.S. Senate (the "Committee") requests that the Commission initiate a pre-Matter Under Review to address the matter of certain contributions received by the Committee which were not redesignated or reattributed within the sixty day period prescribed under 11 C.F.R. §§ 103.3 and 110.1. The facts and circumstances surrounding this request are set out below.

By letters dated June 26, 1992 and June 30, 1992, the Reports Analysis Division notified the Committee that certain contributions reported on its Year-End and April Quarterly reports may not have been redesignated or reattributed as required under the FEC regulations. The Committee responded to RAD in a letter, attached as Exhibit A. A more extensive subsequent review of its records on these contributions, however, revealed that, despite the Committee's substantial efforts to secure the necessary redesignations and reattributions, some may not have been received within the sixty-day period.

The Committee has in place a comprehensive system for retrieving this information. In each case where a contribution is received that requires redesignation or reattribution, the Committee promptly notifies the contributor. A standard letter and return form are sent to each contributor. See Exhibit B. The letter is modified in each case to reflect the contributor's intent. If a contributor does not respond, Committee staff make repeated efforts to contact contributors to obtain the relevant reattribution or redesignation The Committee discloses redesignations and reattributions received on its next report.

[15366-0001/DA922320.006]

24043561212

Enclosed you will find the redesignation and reattribution forms that the Committee has secured related to the contributions cited by the Reports Analysis Division. Exhibit C. While the Committee received all of these forms prior to the request for additional information, not all were received within the sixty-day period. The Committee is now on notice that it must step up its efforts to monitor the timeliness of responses from contributors. It has also instituted a new system and assigned additional staff to retrieve this information from contributors. The Committee believes that this new system will avoid any delay in obtaining the information in the future.

On behalf of the Committee, I am now seeking Commission guidance on what additional steps, if any, should be taken to correct the record and to satisfy any and all legal requirements in these circumstances.

Very truly yours,

B. Holly Schadler
Counsel to Ferraro for
U.S. Senate

Enclosure

BHS:mah

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EXHIBIT A

July 31, 1992

92 AUG 21 PM 5:24

Secretary of the Senate
232 Hart Senate Office Building
Washington, DC 20510

Re: Year-End and April Quarterly Reports

To Whom It May Concern:

This letter constitutes the response of Ferraro for U.S. Senate (the "Committee") to the Commission's requests for additional information dated June 26, 1992 and June 30, 1992.

1. The notification states that Women in Psychology PAC did not meet the requirement for qualified multicandidate status until November 6, 1991. Attached you will find a copy of the Report indicating that this political committee met the requirements for multicandidate status on August 1, 1990. Therefore, the political committee was permitted to contribute up to $5000 per election to the Committee.

2. Several of the contributions marked in the request were mistakenly entered on the report twice:

Robert Morvillo (page 20, line 11a)
Amount: $500
Date: 6/27/91

Anne Ronco Clark (page 39, line 11a)
Amount: $210
Date: 10/28/91

The Committee has amended these pages, attached, to reflect necessary changes. The double entries did not affect the total receipts on the Summary Page or Detailed Summary Page.

In response to the questions regarding redesignations and reattributions, the Committee has a comprehensive system for

Ferraro for U.S. Senate
156 Fifth Avenue, Suite 619, New York, NY 10010 (212) 463-9259 Fax (212) 463-9260 · 84-47 63rd Avenue, Kew Gardens, NY 11374 (718) 899-7520 Fax (718) 899-3410
300 East Buffalo Street, Ithaca, New York 14850 (607) 277-8683 Fax (607) 277-7100 · 675 Delaware Avenue, Buffalo, NY 14209 (716) 886-7433 Fax (716) 886-7102

2 4 0 4 3 5 6 1 2 7 4

retrieving this information. In each case where a contribution is received that requires redesignation or reattribution, the Committee proceeds to promptly notify the contributor. If a contributor does not respond, Committee staff make repeated efforts to contact contributors to get the reattributions and redesignations. A standard letter and form is sent to each contributor. See Exhibit A. The letter is modified in each case to reflect precisely the contributor's stated intent. The Committee then discloses these redesignations and reattributions on its next report.

Sincerely

Charles N. Atkins
Treasurer

9404355612205

EXHIBIT B

RECEIVED
FEDERAL ELECTION COMMISSION
92 AUG 21 PM 5:24

FERRARO FOR U.S. SENATE
CONTRIBUTION REDESIGNATION FORM

RESNICK

This confirms that I hereby redesignate $ 1000.00 of my primary election contribution the general election.

Signed: Maria Resnick

Please Print Name: Maria Resnick

Date: 3/23/92

AMB/BS
1/26/92

24043561296

EXHIBIT C

GERALDINE FERRARO
U.S. SENATE

July 13, 1992

Ms. Merry A. Demarest
3621 N.W. Sylvan Drive
Corvalis, NY 97330

Dear Ms. Demarest:

Thank you for your generosity to the Ferraro for U.S. Senate campaign. Your contributions have helped us to set the pace and emerge as the clear frontrunner.

It recently came to our attention that we inadvertently reported $200.00 of your primary election contribution as a general election contribution. In order to make the necessary changes in the records, we are asking you to complete the enclosed form and return it in the envelope provided.

Should you have questions, please contact me at (212) 463-9250. Again, many thanks for your support.

Sincerely,

Beth Scully

Beth Scully
Controller

BS:mt

Ferraro for U.S. Senate
150 Fifth Avenue, Suite 619, New York, NY 10010 • (212) 463-9250 • Fax (212) 463-9260
200 East Buffalo Street, Ithaca, New York 14850 • (607) 277-8683 • Fax (607) 277-7100

Authorized and paid for by Ferraro for U.S. Senate Committee. Printed on Recycled Paper.

FERRARO FOR U.S. SENATE
CONTRIBUTION REDESIGNATION FORM

Walker

This confirms that I hereby redesignate $ 1000.00 of my primary election contribution the general election.

Signed: Elva D Walker

Please Print Name: ELVA D WALKER

Date: 2/17/92

AMB/BS
1/26/92

9404356128

2404356129

FERRARO FOR U.S. SENATE
CONTRIBUTION REDESIGNATION FORM

This confirms that I hereby redesignate $ 50.00 of my primary election contribution the general election.

Signed: Mildred Resnick

Please Print Name: Mildred Resnick

Date: 8/6/92

FERRARO FOR U.S. SENATE
CONTRIBUTION REDESIGNATION FORM

This confirms that I hereby redesignate $ 50.00 of my primary election contribution the general election.

Signed: Louis Resnick

Please Print Name: Mr. Louis Resnick

Date: 2/6/82

AMB/BS
1/26/82

24043561300

FERRARO FOR U.S. SENATE
CONTRIBUTION REDESIGNATION FORM

RESNICK

This confirms that I hereby redesignate $ 1000.00 of my primary election contribution the general election.

Signed: Maria Resnick

Please Print Name: Maria Resnick

Date: 3/23/92

AMB/BS
1/26/92

9404356139 1

FERRARO FOR U.S. SENATE
CONTRIBUTION REDESIGNATION FORM

This confirms that I hereby redesignate $ 1,000.00 of my primary election contribution the general election.

Signed: Carolyn Downey

Please Print Name: CAROLYN DOWNEY

Date: 2/26/82

AMB/BS
1/26/92

94043561302

CONTRIBUTOR REATTRIBUTION FORM

Mr. Richard Hedreen
P.O. Box C 9006
Seattle, WA 98109

My contribution of $2000 should be reattributed in part to the following contributor(s) as indicated below:

Name: Elizabeth A. Hedreen
Address: 836 36th Ave E, Seattle, WA 98112

Occupation:
Employer: none

Percent of total contribution: 50%

Signature: Elizabeth A. Hedreen

Name:
Address:

Occupation:
Employer:

Percent of total contribution:

Signature:

Signed: Richard C Hedreen
original contributor

Dated: 7/30/91

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FERRARO FOR U.S. SENATE
CONTRIBUTION REDESIGNATION FORM

This confirms that I hereby redesignate $ 250.00 of my primary election contribution the general election.

Signed: _____

Please Print Name: George S. Kaufman

Date: January 30, 1992

AMB/BS
1/26/92

9404356130 4

Amend Computer files to reflect

Mr. & Mrs. G. Michael Love
4405 Forest Haven Drive South
Jacksonville, FL 32257

February 10, 1992

Ms. Beth Scully
Geraldine Ferraro for U.S. Senate
156 Fifth Avenue
New York, NY 10010

Dear Ms. Scully:

My wife, Kathleen C. Love, recently wrote a check for $2,000.00 to the Ferraro campaign, $1,000.00 of which was designated as a contribution from her. The other $1,000.00 is intended to be my contribution to the campaign. We thought this was clear as the check was drawn on our joint account and we indicated same in the attached memo. However, your letter of January 26th, 1992 indicated this is not the case. Please consider this letter notice of our intent to each contribute $1,000.00 to the campaign.

I understand that you need my employer, my signature and occupation in order to so designate the check. My employer is AT&T. My occupation is Account Executive. In the event you need the information, my wife is a full-time student at the University of Florida College of Law.

I believe this letter now includes all of the information that you have requested.

Sincerely,

G. Michael Love

G. Michael Love
AT&T Account Executive
2 World Trade Ct., NYC

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AMB/BS
1/26/92

FERRARO FOR U.S. SENATE
CONTRIBUTION REDESIGNATION FORM

This confirms that I hereby redesignate $ 100.00 of my primary election contribution the general election.

Signed: [illegible]

Please Print Name: HILDRED OTTEN

Date: January 31, 1992

AMB/BS
1/26/92

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FERRARO FOR U.S. SENATE
CONTRIBUTION REDESIGNATION FORM

This confirms that I hereby redesignate $ 500.00 of my primary election contribution the general election.

Signed: Laura Pomerantz

Please Print Name: LAURA POMERANTZ

Date: January 31, 1992

AMB/BS
1/26/92

9404356150 7

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

August 26, 1992

B. Holly Schadler, Esquire
Perkins Coie
607 Fourteenth Street, NW
Washington, DC 20005-2011

RE: Pre-MUR 268

Dear Ms. Schadler:

This is to acknowledge receipt of your letter dated August 21, 1992, pertaining to Ferraro for US Senate and Charles N. Atkins, as treasurer. You will be notified as soon as the Federal Election Commission takes action on your submission.

If you have any questions, please call me at (202) 219-3690. For your information, we have attached a brief description of the Commission's procedures for handling matters such as this.

Sincerely,

Jeffrey D. Long

Jeffrey Long
Paralegal

Enclosure
Procedures

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RECEIVED
F.E.C.
SECRETARIAT

93 AUG -2 PM 4:57

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

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

PRE MUR #268
STAFF MEMBERS: A. Weissenborn; S. Strange

SOURCE: INTERNALLY GENERATED

RESPONDENT: Ferraro for U.S. Senate
Charles N. Atkins, as treasurer

RELEVANT STATUTES: 2 U.S.C. § 441a(f)
11 C.F.R. § 103.3
11 C.F.R. § 104.8(d)(2)(i)
11 C.F.R. § 110.1
11 C.F.R. § 110.1(b)(5)(ii)(A)

INTERNAL REPORTS CHECKED: RAD Report Files
1991 Year End Report
1992 April Quarterly Report

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

By letter dated August 21, 1992, counsel for Ferraro for U.S. Senate ("Committee") requested that the Commission "initiate a pre-Matter Under Review to address the matter of certain contributions received by the Committee which were not redesignated or reattributed within the sixty day period prescribed under 11 C.F.R. §§ 103.3 and 110.1." (Attachment 1) This request was apparently generated by Requests for Additional Information ("RFAIs") the Committee received from the Reports Analysis Division ("RAD"). The Committee treasurer responded to the RFAIs on July 31, 1992. The sua sponte submission to the Commission is based entirely on transactions questioned by RAD in the RFAIs.

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II. FACTUAL AND LEGAL ANALYSIS

The Federal Election Campaign Act of 1971, as amended ("the Act"), prohibits any person, including an individual or a non-multicandidate political committee, from contributing more than $1,000.00 per election, per candidate (2 U.S.C. § 441a) and prohibits a candidate or political committee from knowingly accepting any contribution from an individual or committee in excess of the $1,000.00 limitation (2 U.S.C. § 441a(f)). Multicandidate committees can contribute up to $5,000.00 per election, per candidate. The Commission's regulations at 11 C.F.R. § 103.3(b)(3) require that the treasurer of a committee refund excessive contributions within 60 days of receipt unless a written redesignation or reattribution from the contributor is received. See also 11 C.F.R. § 110.1.

The Commission's regulation at 11 C.F.R. § 104.8(d)(2)(i) requires a treasurer to report the redesignation or reattribution of an excessive contribution in a memo entry on Schedule A of the report covering the reporting period in which the redesignation or reattribution is received.

The Commission's regulation at 11 C.F.R. § 110.1(b)(5)(ii)(A) requires that a treasurer of an authorized committee who requests the redesignation of a contribution also inform the contributor that he or she may request a refund as an alternative.

During the normal course of carrying out its supervisory responsibilities, RAD noted contributions that appeared to exceed the Act's limitations on the 1991 Year End Report and the 1992

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April Quarterly Report filed by the Ferraro for U.S. Senate Committee. RAD requested additional information from the Committee on June 26 and June 30, 1992 concerning these apparently excessive individual and/or political action committee (PAC) contributions. Because of Ferraro's defeat in the primary election, RAD has not yet considered the treasurer's responses to its RFAIs[1].

The chart attached (Attachment 2) contains a breakdown of the contributions, pursuant to committee reports (Attachment 3), for which RAD requested additional information. On July 31, 1992 the treasurer responded to the RFAIs with information regarding the two reports questioned by RAD. These responses were also included as part of the Counsel's sua sponte submission. The following discussion addresses those instances in which the Committee's submissions either explain a transaction in such a way as to satisfy this Office that no excessive contribution resulted, or differ from the original reports in some other material fashion.

In two of the instances which RAD identified as possible excessives, those involving Anne Clark Ronce and Robert Morvillo, the treasurer's response noted that contributions had been mistakenly entered on the Year End Report twice. The Committee submitted an amended report correcting these apparent errors. (See designations on chart, Attachment 2.)

The Committee's original and amended reports reflected

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1. According to reports filed by the Committee, all of these redesignated and/or reattributed contributions have been refunded as required by 11 C.F.R. § 102.9(e)(2).

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receipt of a $1,500 contribution from Women in Psychology PAC on August 26, 1991. RAD stated in its RFAI dated June 30, 1992 that this contribution appeared to be excessive because the Women in Psychology PAC did not meet the requirements for qualified multicandidate status until November 6, 1991. The Committee treasurer's response stated that a report was attached that indicated this PAC had met the requirements for multicandidate status on August 1, 1990. In staff discussions with RAD, RAD has confirmed that this PAC attained multicandidate status on August 1, 1990; therefore, there is no violation with regard to this PAC contribution.

RAD also noted in its letter dated June 30, 1992 that the Committee had taken action to obtain redesignations of several of the excessive amounts. The treasurer responded that the Committee's procedure was to report the contributions when received and to try to obtain redesignations and report them on the next report due. The Committee reported contributions made by Merry Demarest, Carolyn Downey, Richard Hedreen, George Kaufman, Kathleen Love, Mildred Otten, Laura Pomerantz, Mildred Resnick, Louis Resnick, Elva Walker, and Catherine Werner as redesignated as of December 31, 1991. December 31, 1991 was the closing date for the next report due after receipt of the contributions. Dora Johnson's redesignation of the January 1992 contribution was reported as having been made on March 31, 1992. March 31, 1992 was the closing date for the next report due after receipt of her contribution.

Review of the submission by counsel has revealed that,

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although counsel states that the Committee's letters to the contributors, discussed above, offered a choice of either reattribution or redesignation, the executed copies attached to counsel's letter to the Commission do not reflect that choice. Neither do these letters offer the alternative of a refund of the contribution as required by 11 C.F.R. § 110.2(b)(5)(ii)(A).

Attached to the August 21, 1992 letter from Ferraro's counsel, as Exhibit C, were several executed Contribution Redesignation Forms for primary election contributions, two reattribution letters, and a letter to Demarest requesting redesignation of a primary election contribution. The redesignation forms signed by Downey, Kaufman, Otten, Pomerantz, Mildred Resnick, Louis Resnick, Marcia Resnick, and Walker and the reattribution form signed by Love all were dated in 1992, not 1991. Indeed, the letter to Demarest from the campaign requesting redesignation was not even dated until July 13, 1992. Only the Hedreen reattribution letter was dated in 1991.

From these exhibits it appears that in most instances the Committee reports reflect the date the Committee sought redesignations, not the date they were received by the Committee. In the case of Demarest, the report actually reflects the redesignation prior to the time the campaign even requested it. Thus, the time between receipt of the contributions at issue and the actual redesignations was apparently much longer than is reflected in the reports, as evidenced by the sua sponte submission. Given the fact that all redesignations were apparently received after December, 1991, none were received

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within 60 days of the receipts of the excessive contributions. As a result, all of the transactions identified by RAD constituting excessive violations remained excessive except those involving Clark Ronce, Morvillo, and the Women in Psychology PAC. In addition, the $1,000 contribution from Demarest made in June 1991 should be treated as excessive because the campaign did not even seek redesignation until July 1992, long after the 60 day period had ended.

This brings the total amount of excessive contributions to $5,662.28. Therefore, this Office recommends that the Commission find reason to believe that the Ferraro for U.S. Senate Committee and Charles N. Atkins, as treasurer, have violated 2 U.S.C. § 441a(f) by accepting $5,662.28 in excessive contributions from individuals.

None of the actual redesignations were reported on the Schedule A of the report covering the reporting period in which they were received. Rather, they were misreported as received on the date solicited. Therefore, this Office recommends that the Commission find reason to believe that the Ferraro for U.S. Senate Committee and Charles N. Atkins, as treasurer, have violated 11 C.F.R. § 104.8(d)(2)(i).

It appears that the letters to contributors requesting redesignations did not inform them that the contributor could request refunds of the contribution as an alternative to providing written redesignations. Therefore, this Office recommends that the Commission find reason to believe that the Ferraro for U.S. Senate Committee and Charles N. Atkins, as treasurer, have

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violated 11 C.F.R. § 110.1(b)(5)(ii)(A).

In addition, this Office recommends that the Commission offer to enter into conciliation with the respondents prior to a finding of probable cause to believe.

III. RECOMMENDATIONS

1. Open a MUR.

2. Find reason to believe that Ferraro for U.S. Senate and Charles N. Atkins, as treasurer, violated 2 U.S.C. § 441a(f).

3. Find reason to believe that Ferraro for U.S. Senate and Charles N. Atkins, as treasurer, violated 11 C.F.R. § 104.8(d)(2)(i) and § 110.1(b)(5)(ii)(A).

4. Enter into conciliation prior to a finding of probable cause to believe.

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5. Approve the attached Factual and Legal Analysis, proposed conciliation agreement and the appropriate letter.

Lawrence M. Noble
General Counsel

Date August 2, 1993 BY: Lois G. Lerner (jar)
Lois G. Lerner
Associate General Counsel

Attachments
1. Letter from Counsel for Ferraro (w/exhibits)
2. Transactions Questioned by RAD
3. RFAIs/Committee Reports
4. Factual and Legal Analysis
5. Proposed Conciliation Agreement

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO:

FROM: MARJORIE W. EMMONS/BONNIE J. ROSS
COMMISSION SECRETARY

DATE: AUGUST 5, 1993

SUBJECT: PRE-MUR 268 - FIRST GENERAL COUNSEL'S RERPORT DATED AUGUST 2, 1993.

The above-captioned document was circulated to the Commission on Tuesday, August 3, 1993 at 11:00 a.m.

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

Commissioner Aikens	
Commissioner Elliott	XXX
Commissioner McDonald	
Commissioner McGarry	
Commissioner Potter	
Commissioner Thomas	XXX

This matter will be placed on the meeting agenda for Tuesday, August 10, 1993.

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

2404356131

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	PRE-MUR 268
Ferraro for U.S. Senate;	)	
Charles N. Atkins, as treasurer	)	MUR 3803

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on August 10, 1993, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions with respect to PRE-MUR 268:

1. Open a MUR.

2. Find reason to believe that Ferraro for U.S. Senate and Charles N. Atkins, as treasurer, violated 2 U.S.C. § 441a(f).

3. Find reason to believe that Ferraro for U.S. Senate and Charles N. Atkins, as treasurer, violated 11 C.F.R. § 104.8 (d)(2)(i).

4. Enter into conciliation prior to a finding of probable cause to believe.

(continued)

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5. Approve the Factual and Legal Analysis, proposed conciliation agreement and the appropriate letter as recommended in the General Counsel's report dated August 2, 1993

Commissioners Aikens, Elliott, McDonald, McGarry, and Potter voted affirmatively for the decision; Commissioner Thomas was not present.

Attest:

8-13-93
Date

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

2404356131 9

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

AUGUST 18, 1993

B. Holly Schadler, Esquire
Perkins Coie
607 Fourteenth Street, N.W.,
Washington, D.C. 20005-2011

RE: MUR 3803
Ferraro for U.S. Senate and
Charles N. Atkins,
as treasurer

Dear Ms. Schadler:

On August 10, 1993, the Federal Election Commission found that there is reason to believe that Ferraro for U.S. Senate ("Committee") and Charles N. Atkins, as treasurer, violated 2 U.S.C. § 441a(f) and 11 C.F.R. § 104.8(d)(2)(i), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act") and of the Commission's regulations. These violations resulted from the Committee's acceptance of excessive contributions for which timely redesignations were not received and regarding which the Committee did not offer the alternative of refunds. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

In order to expedite the resolution of this matter, the Commission has also decided to offer to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Enclosed is a conciliation agreement that the Commission has approved.

If you are interested in expediting the resolution of this matter by pursuing preprobable cause conciliation and if you agree with the provisions of the enclosed agreement, please sign and return the agreement, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a

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maximum of 30 days, you should respond to this notification as soon as possible.

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

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Anne Weissenborn, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Scott E. Thomas
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Conciliation Agreement

cc: Geraldine Ferraro

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Ferraro for U.S. Senate and Charles N. Atkins as treasurer MUR 3803

During the normal course of carrying out its supervisory responsibilities, the Reports Analysis Division ("RAD") requested additional information from the Ferraro for U.S. Senate Committee ("Committee") concerning excessive contributions from individuals and a political action committee. The Committee treasurer responded to the RAD requests on July 31, 1992. On August 21, 1992 counsel for the Committee requested that the Commission "initiate a pre-Matter Under Review to address the matter of certain contributions received by the Committee which were not redesignated or reattributed within the sixty day period prescribed under 11 C.F.R. §§ 103.3 and 110.1."

The Federal Election Campaign Act of 1971, as amended ("the Act"), prohibits any person, including an individual or a non-multicandidate political committee, from contributing more than $1,000.00 per election, per candidate (2 U.S.C. § 441a), and prohibits a candidate or political committee from knowingly accepting any contribution from an individual in excess of the $1,000.00 limitation (2 U.S.C. § 441a(f)). Multicandidate committees can contribute up to $5,000.00 per election, per candidate. The Commission's regulations at 11 C.F.R. § 103.3(b)(3) require that the treasurer of a committee refund excessive contributions within 60 days of receipt unless a written

2 4 0 4 3 5 6 1 3 2 2

redesignation or reattribution from the contributor is received. See also 11 C.F.R. § 110.1.

The Commission's regulation at 11 C.F.R. § 104.8(d)(2)(i) requires a treasurer to report the redesignation or reattribution of an excessive contribution in a memo entry on Schedule A of the report covering the reporting period in which the redesignation or reattribution is received.

The Commission's regulation at 11 C.F.R. § 110.1(b)(5)(ii)(A) requires that a treasurer of an authorized committee who requests the redesignation of a contribution also inform the contributor that he or she may request a refund as an alternative.

RAD noted contributions that appeared to exceed the Act's limitations on the 1991 Year End Report and the 1992 April Quarterly Report filed by the Ferraro for U.S. Senate Committee. RAD requested additional information from the Committee on June 26 and June 30, 1992 concerning these apparently excessive individual and/or political action committee (PAC) contributions.

The chart attached (Attachment 1) contains a breakdown of the contributions, pursuant to committee reports, for which RAD requested additional information. On July 31, 1992 the treasurer responded to the requests for information. These responses were also included as part of the Counsel's sua sponte submission. The following discussion addresses those instances in which the Committee's submissions either explain a transaction in such a way as to satisfy the Office of the General Counsel that no excessive contribution resulted, or differ from the original reports in some

2 4 0 4 3 5 5 6 1 3 2 3

other material fashion.

In two of the instances which RAD identified as possible excessives, those involving Anne Clark Ronce and Robert Morvillo, the treasurer's response noted that contributions had been mistakenly entered on the Year End Report twice. The Committee submitted an amended report correcting these apparent errors. (See designations on chart, Attachment 1.)

The Committee's original and amended reports reflected receipt of a $1,500 contribution from Women in Psychology PAC on August 26, 1991. RAD stated in its RFAI dated June 30, 1992 that this contribution appeared to be excessive because the Women in Psychology PAC did not meet the requirements for qualified multicandidate status until November 6, 1991. The Committee treasurer's response stated that a report was attached that indicated this PAC had met the requirements for multicandidate status on August 1, 1990. In staff discussions with RAD, RAD has confirmed that this PAC attained multicandidate status on August 1, 1990; therefore, there is no violation with regard to this PAC contribution.

RAD noted in its letter dated June 30, 1992 that the Committee had taken action to obtain redesignations of several of the excessive amounts. The treasurer responded that the Committee's procedure was to report the contributions when received and to try to obtain redesignations and report them on the next report due. The Committee reported contributions made by Merry Demarest, Carolyn Downey, Richard Hedreen, George Kaufman, Kathleen Love, Mildred Otten, Laura Pomerantz, Mildred Resnick,

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Louis Resnick, Elva Walker, and Catherine Werner as redesignated as of December 31, 1991. December 31, 1991 was the closing date for the next report due after receipt of the contributions. Dora Johnson's redesignation of the January 1992 contribution was reported as having been made on March 31, 1992. March 1, 1992 was the closing date for the next report due after receipt of her contribution.

Review of the submission by counsel has revealed that, although counsel states that the Committee's letters to the contributors, discussed above, offered a choice of either reattribution or redesignation, the executed copies attached to counsel's letter to the Commission do not reflect that choice. Neither do these letters offer the alternative of a refund of the contribution as required by 11 C.F.R. § 110.1(b)(5)(ii)(A).

Attached to the August 21, 1992 letter from the Committee's counsel, as Exhibit C, were several executed Contribution Redesignation Forms for primary election contributions, two reattribution letters, and a letter to Demarest requesting redesignation of a primary election contribution. The redesignation forms signed by Downey, Kaufman, Otten, Pomerantz, Mildred Resnick, Louis Resnick, Marcia Resnick, and Walker and the reattribution form signed by Love all were dated in 1992, not 1991. Indeed, the letter to Demarest from the campaign requesting redesignation was not even dated until July 13, 1992. Only the Hedreen reattribution letter was dated in 1991.

From these exhibits it appears that in most instances the Committee reports reflect the date the Committee sought

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redesignations, not the date they were received by the Committee. In the case of Demarest, the report actually reflects the redesignation prior to the time the campaign even requested it. Thus, the time between receipt of the contributions at issue and the actual redesignations was apparently much longer than is reflected in the reports, as evidenced by the sua sponte submission.

Given the fact that all redesignations were apparently received after December, 1991, none were received within 60 days of the receipts of the excessive contributions. The $1,000 contribution from Demarest made in June 1991 should be treated as excessive because the campaign did not even seek redesignation until July 1992, long after the 60 day period had ended. In addition, the Committee did not offer the contributors the alternative of seeking a refund. Therefore, all of the transactions identified by RAD as constituting excessive violations remained excessive except those involving Clark Ronce, Morvillo, and the Women in Psychology PAC.

The total amount of excessive contributions is $5,662.28. Therefore, there is reason to believe the Ferraro for U.S. Senate Committee and Charles N. Atkins, as treasurer, have violated 2 U.S.C. § 441a(f) by accepting $5,662.28 in excessive contributions from individuals.

None of the actual redesignations were reported on the Schedule A of the report covering the reporting period in which they were received. Rather, they were misreported as received on the date solicited. Therefore, there is reason to believe that

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the Ferraro for U.S. Senate Committee and Charles N. Atkins, as treasurer, have violated 11 C.F.R. § 104.8(d)(2)(i).

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TRANSACTIONS QUESTIONED BY RAD

YEAR END REPORT (7/1/91 - 12/31/91)

CONTRIBUTOR	REPORTED DATES OF CONTRIBUTION AND/OR REDESIGNATION[1]	AMOUNT	REDESIGNATED TO ELECTION	REDESIGNATED AMOUNT	APPARENT EXCESSIVES
Clark Ronce, Anne	8/20/91 (P)[2]	$ 500.00			
	10/28/91 (P)	210.00*[3]			
	10/28/91 (P)	210.00*			
	10/30/91 (P)	250.00			$ 0
Demarest, Merry	4/30/91 (P)	$ 800.00			
	5/23/91 (P)	100.00			
	6/12/91 (P)	100.00			
	6/14/91 (P)	1000.00			
	6/28/91 (P)		GEN	$1000.00	$ 0
	12/30/91 (P)		GEN	200.00	$ 200.00[4]
Downey, Carolyn	6/14/91 (P)	$ 250.00			
	6/19/91 (P)	750.00			
	9/04/91 (P)	1000.00			
	12/31/91 (P)		GEN	$1000.00	$1000.00
Hedreen, Richard	4/20/91 (P)	$1000.00			
	10/21/91 (P)	400.00			
	12/31/91 (P)		GEN	$ 400.00	$ 400.00
Kaufman, Geo.	8/29/91 (P)	$1000.00			
	10/31/91 (P)	250.00			
	12/31/91 (P)		GEN	$ 250.00	$ 0
Love, Kathleen	10/21/91 (P)	$2000.00			
	12/31/91 (P)		GEN	$1000.00	$1000.00
Morvillo, Robert	6/27/91 (P)	$ 500.00*			
	6/27/91 (P)	500.00*			
	11/07/91 (P)	50.00[5]	GEN	$ 50.00	$ 0
	12/04/91 (P)	500.00			
	2/27/92 (G)	250.00			

1. Appears to be date redesignation sought.

2. Election for which contribution was received.

3. *duplicate entries

4. This apparently unnecessary redesignation resulted in an excessive contribution.

5. Receipt and redesignation of contribution occurred on the same day

ATTACHMENT 1
Page 1 of 2

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CONTRIBUTOR	REPORTED DATES OF CONTRIBUTION AND/OR REDESIGNATION[6]	AMOUNT	REDESIGNATED TO ELECTION	REDESIGNATED AMOUNT	APPARENT EXCESSIVES
Otten, Mildred	10/30/91 (P)	$1000.00			
	12/31/91 (P)	100.00	GEN	$ 100.00	$ 100.00
Pomerantz, Laura	2/27/91 (P)	$1000.00			
	8/30/91 (P)	500.00			
	12/31/91 (P)		GEN	$ 500.00	$ 500.00
Resnick, Mildred	2/20/91 (P)	$1000.00			
	7/08/91 (P)	50.00			
	12/31/91 (P)		GEN	$ 50.00	$ 50.00
Resnick, Louis	2/20/91 (P)	$1000.00			
	7/08/91 (P)	50.00			
	12/31/91 (P)		GEN	$ 50.00	$ 50.00
Walker, Elva	9/13/91 (P)	$1500.00			
	12/31/91 (P)		GEN	$ 500.00	$ 500.00
Werner, Catherine	8/15/91 (P)	$ 631.14			
	8/16/91 (P)	631.14			
	12/31/91 (P)		GEN	$ 631.14	$ 262.28
			SUBTOTAL		$4062.28
INELIGIBLE PAC CONTRIBUTION					
Women In Psy/PAC	8/26/91	$1500.00			$1500.00
			SUBTOTAL		$1500.00
APRIL QUARTERLY REPORT (1/1/92-3/31/92)					
Fink, Stephen	8/10/91 (P)	$ 500.00			
	11/05/91 (P)	1000.00		$ 0	$ 500.00
Johnson, Dora	4/28/91 (P)	$ 100.00			
	6/27/91 (P)	500.00			
	1/07/92 (P)	500.00			
	3/31/92 (P)	100.00	GEN	$ 100.00	$ 100.00
			SUBTOTAL		$ 600.00
			GRAND TOTAL OF EXCESSIVES PER REPORTS		$6162.28

6. Appears to be date redesignation sought.

ATTACHMENT 1
Page 2 of 2

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PERKINS COIE

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
607 FOURTEENTH STREET, N.W. • WASHINGTON, D.C. 20005-2011
(202) 628-6600 • FACSIMILE (202) 434-1690

93 SEP -9 AM 3:

September 7, 1993

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

Re: MUR 3803 - Ferraro for U.S. Senate and Charles N. Atkins, as Treasurer

Dear Chairman Thomas:

Enclosed you will find the response in MUR 3803 for the Ferraro for U.S. Senate Committee and Charles N. Atkins, as Treasurer. This constitutes Respondent's substantive response to the Commission's notification dated August 18, 1993. The response raises several issues related to the list of "Transactions Questioned by RAD".

Sincerely,

B. Holly Schadler
Counsel

Enclosure

BHS:mah

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[15366-0001/DA932500.032]

93 SEP -9 PM 3:59

September 2, 1993

Mr. Scott E. Thomas
Chairman
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: MUR 3803
Ferraro for U.S. Senate
and Charles N. Atkins
as treasurer

Dear Mr. Thomas:

This letter is in response to your letter dated August 18, 1993 in which the FEC raises questions about 13 contributions to the Ferraro for U.S. Senate campaign. More than 120,000 contributions were received over the course of the campaign. The campaign was extremely diligent in its efforts to ensure compliance with the FEC regulations.

The Ferraro for Senate campaign ended on September 15, 1992. As is indicated on the public record, the FEC report for the period ending 6/30/93 showed a debt of nearly $475,000.00 and cash on hand was under $700. Each one of individuals cited in the MUR has received a refund for the amount contributed to the general election. Therefore the campaign has not kept any general election dollars.

The campaign never knowingly accepted contributions exceeding the amounts outlined by the FEC and followed up with contributors in writing and in some instances by telephone to obtain oral confirmation of reattributions and redesignations. Contrary to your assertion, contributors were given the option of refunds. We agree with your finding that contributions for Robert Morvillo, Anne Clark Ronce resulted from being mistakenly enter twice on the Year End report. The contribution from Catherine Werner in the amount of $631.14 was also entered twice. And the Women in Psychology PAC was a multi-candidate PAC from which we could accept up to $5000.

In subsequent reports the campaign moved to reduce the possibility of human error in the data entry and reporting process by:

1. Using only one data entry person

2. Instituting a batch balance report that would correspond to the bank deposit, so that no contribution could be entered twice

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3. Installing an added level of computerized warning that would "flag" excessive contributions as they were entered

4. Installed and ran de-duping program monthly rather than at the close of reporting periods to catch any variations on the way donor names might have been entered

The chart (your Attachment 1) that is intended to summarize the preliminary finding of the MUR contains some discrepancies from the text of the Factual and Legal Analysis you provided. Our analysis is given on the enclosed document, Exhibit B.

The campaign took every measure to comply with both the spirit and the letter of the law.

Sincerely,

Beth Scully

Beth Scully
Controller

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EXHIBIT B

CONTRIBUTOR	
Anne Clark Ronce	Duplicate entry
Merry Demarest	Unnecessary redesignation sought - $200 contribution made to the primary should be applied as such based upon original intent of donor * no excessive contribution * we were not asked to provide information on $1000 contribution * General Election refund made.
Carolyn Downey	Redesignation sought - General Election refund made.
Richard Hedreen	Reattribution made in 1991 - computer defaulted to report date.
George Kaufman	Redesignation sought - General Election refund made.
Kathleen Love	Unnecessary reattribution sought - contribution made from joint account AND contributor attached memo with original contribution that both people had made the contribution. (see letter)
Robert Morvillo	Duplicate entry
Mildred Otten	Redesignation sought - General Election refund made.
Laura Pomerantz	Redesignation sought - General Election refund made.
Mildred Resnick	Redesignation sought - General Election refund made.
Louis Resnick	Redesignation sought - General Election refund made.
Elva Walker	Redesignation sought - General Election refund made.
Catherine Werner	Duplicate entry
Women in Psychology PAC	Confirmed to be a multi-candidate PAC
Stephen Fink	Redesignation sought - General Election refund made.

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EXHIBIT B (cont.)

Dora Johnson **Redesignation sought - General Election refund made.**

Marcia Resnick is referred to in the Factual and Legal analysis but is not on Attachment 1.

The FEC contends that only the contributions by Clark Ronce, Morvillo, and Women in Psychology PAC are not excessive and concludes that the campaign accepted $5,662.28 in excessive contributions. The column of "apparent excessive contributions" from Attachment 1, excluding the contributions from Clark Ronce, Morvillo and Women in Psychology PAC adds up to $4,662.28.

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TRANSACTIONS QUESTIONED BY RAD

YEAR END REPORT (7/1/91 - 12/31/91)

CONTRIBUTOR	REPORTED DATES OF CONTRIBUTION AND/OR REDESIGNATION[1]	AMOUNT	REDESIGNATED TO ELECTION	REDESIGNATED AMOUNT	APPARENT EXCESSIVES
Clark Ronce, Anne	8/20/91 (P)[2]	$ 500.00			
	10/28/91 (P)	210.00*[3]			
	10/28/91 (P)	210.00*			
	10/30/91 (P)	250.00			$ 0
Demarest, Merry	4/30/91 (P)	$ 800.00			
	5/23/91 (P)	100.00			
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	6/14/91 (P)	1000.00			
	6/28/91 (P)		GEN	$1000.00	$ 0
	12/30/91 (P)		GEN	200.00	$ 200.00[4]
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	6/19/91 (P)	750.00			
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Hedreen, Richard	4/20/91 (P)	$1000.00			
	10/21/91 (P)	400.00			
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	10/31/91 (P)	250.00			
	12/31/91 (P)		GEN	$ 250.00	$ 0
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	12/31/91 (P)		GEN	$1000.00	$1000.00
Morvillo, Robert	6/27/91 (P)	$ 500.00*			
	6/27/91 (P)	500.00*			
	11/07/91 (P)	50.00[5]	GEN	$ 50.00	$ 0
	12/04/91 (P)	500.00			
	2/27/92 (G)	250.00			

1. Appears to be date redesignation sought.

2. Election for which contribution was received.

3. *duplicate entries

4. This apparently unnecessary redesignation resulted in an excessive contribution.

5. Receipt and redesignation of contribution occurred on the same day

ATTACHMENT 1
Page 1 of 2

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Pomerantz, Laura	2/27/91 (P)	$1000.00			
	8/30/91 (P)	500.00			
	12/31/91 (P)		GEN	$ 500.00	$ 500.00
Resnick, Mildred	2/20/91 (P)	$1000.00			
	7/08/91 (P)	50.00			
	12/31/91 (P)		GEN	$ 50.00	$ 50.00
Resnick, Louis	2/20/91 (P)	$1000.00			
	7/08/91 (P)	50.00			
	12/31/91 (P)		GEN	$ 50.00	$ 50.00
Walker, Elva	9/13/91 (P)	$1500.00			
	12/31/91 (P)		GEN	$ 500.00	$ 500.00
Werner, Catherine	8/15/91 (P)	$ 631.14			
	8/16/91 (P)	631.14			
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Johnson, Dora	4/28/91 (P)	$ 100.00			
	6/27/91 (P)	500.00			
	1/07/92 (P)	500.00			
	3/31/92 (P)	100.00	GEN	$ 100.00	$ 100.00
			SUBTOTAL		$ 600.00
			GRAND TOTAL OF EXCESSIVES PER REPORTS		$6162.28

6. Appears to be date redesignation sought.

ATTACHMENT 1
Page 2 of 2

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BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In The Matter of	)	
	)	MUR 3803
Ferraro for U.S. Senate	)	(Formerly Pre MUR 268)
Charles N. Atkins, as treasurer	)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On August 10, 1993, the Commission found reason to believe that Ferraro for U.S. Senate ("the Committee") and Charles N. Atkins, as treasurer, violated 2 U.S.C. § 441a(f) and 11 C.F.R. § 104.8(d)(2)(i). (Attachment 1). On the same date the Commission also approved a proposed conciliation agreement to be sent to the respondents. (Attachment 2).

Earlier on September 7, 1994, counsel submitted a letter from the Committee's comptroller. (Attachment 4).

This report contains recommendations to assure that this matter conforms to the court's opinion in FEC v. NRA Political Victory Fund, et. al., No. 91-5360 (D.C. Cir. Oct. 22, 1993).

II. RECOMMENDED ACTIONS IN LIGHT OF FEC v. NRA

Consistent with the Commission's November 9, 1993 decisions concerning compliance with the NRA opinion, this Office recommends that the Commission re-vote its findings of reason to believe that the Committee and Charles N. Atkins, as treasurer, violated 2 U.S.C. § 441a(f) and 11 C.F.R. § 104.8(d)(2)(i) and approve the conciliation agreement attached to this report. (Attachment 5).

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III. DISCUSSION

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IV. RECOMMENDATIONS

1. Open a Matter Under Review.

2. Find reason to believe that Ferraro for U.S. Senate and Charles N. Atkins, as treasurer, violated 2 U.S.C. § 441a(f) and 11 C.F.R. § 104.8(d)(2)(i) and enter into conciliation prior to a finding of probable cause to believe.

3. Approve the Factual and Legal Analysis attached to the General Counsel's Report dated August 2, 1993 and the conciliation agreement at Attachment 5.

4. Approve the appropriate letter.

Lawrence M. Noble
General Counsel

2/23/94
Date

BY: _____
Lois S. Lerner
Associate General Counsel

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Ferraro for U.S. Senate and Charles N. Atkins, as treasurer.	)	MUR 3803 (Formerly Pre MUR 268)
	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on February 28, 1994, the Commission decided by a vote of 5-0 to take the following actions in MUR 3803:

1. Open a Matter Under Review.

2. Find reason to believe that Ferraro for U.S. Senate and Charles N. Atkins, as treasurer, violated 2 U.S.C. § 441a(f) and 11 C.F.R. § 104.8(d)(2)(i) and enter into conciliation prior to a finding of probable cause to believe.

(continued)

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3. Approve the Factual and Legal Analysis attached to the General Counsel's Report dated August 2, 1993 and the conciliation agreement, as recommended in the General Counsel's Report dated February 23, 1994.

4. Approve the appropriate letter, as recommended in the General Counsel's Report dated February 23, 1994.

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

Attest:

2-28-94
Date

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

Received in the Secretariat:	Wed., Feb. 23, 1994	3:10 p.m.
Circulated to the Commission:	Wed., Feb. 23, 1994	4:00 p.m.
Deadline for vote:	Mon., Feb. 28, 1994	4:00 p.m.

bjr

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MARCH 3, 1994

B. Holly Schadler, Esquire
Perkins Coie
607 Fourteenth Street, NW
Washington, DC 20005-2011

RE: MUR 3803
Ferraro for U.S. Senate and
Charles N. Atkins, as
treasurer

Dear Ms. Schadler:

On August 10, 1993, the Federal Election Commission found reason to believe that Ferraro for U.S. Senate and Charles N. Atkins, as treasurer, violated 2 U.S.C. § 441a(f) and 11 C.F.R. § 104.8(d)(2)(i), and entered into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. A proposed conciliation agreement was mailed to you.

As you may be aware, on October 22, 1993, the D.C. Circuit declared the Commission unconstitutional on separation of powers grounds due to the presence of the Clerk of the House of Representatives and the Secretary of the Senate or their designees as members of the Commission. FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993), petition for cert. filed, (U.S. No. 93-1151, Jan. 18, 1994). Since the decision was handed down, the Commission has taken several actions to comply with the court's decision. While the Commission petitions the Supreme Court for a writ of certiorari, the Commission, consistent with that opinion, has remedied any possible constitutional defect identified by the Court of Appeals by reconstituting itself as a six member body without the Clerk of the House and the Secretary of the Senate or their designees. In addition, the Commission has adopted specific procedures for revoting or ratifying decisions pertaining to open enforcement matters.

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In this matter, on February 28, 1994, the Commission revoted to find reason to believe that Ferraro for U.S. Senate, and Charles N. Atkins, as treasurer, violated 2 U.S.C § 441a(f) and 11 C.F.R. § 104.8(d)(2)(i), and to approve the Factual and Legal Analysis previously mailed. You should refer to that document for the basis of the Commission's decision. If you need an additional copy, one will be provided upon request.

In addition, the Commission also revoted to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe

If your clients agree with the provisions of the enclosed agreement, please sign and return it to the Commission within ten days. Please make the check for the civil penalty payable to the Federal Election Commission.

Given the unique circumstances engendered by the NRA decision, conciliation negotiations, prior to a finding of probable cause to believe, will be limited to a maximum of 30 days.

If you have any questions, please contact Anne A. Weissenborn, the senior attorney assigned to this matter, at (202) 219-3400.

For the Commission,

Trevor Potter
Chairman

Enclosure
Conciliation Agreement

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file

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 5, 1994

B. Holly Schadler, Esquire
Perkins Coie
607 Fourteenth Street, NW
Washington, DC 22005-2011

RE: MUR 3803
Ferraro for U.S. Senate
Charles N. Atkins, as
treasurer

Dear Ms. Schadler:

On March 3, 1994, you were notified that the Federal Election Commission had revoted to find reason to believe that Ferraro for U.S. Senate and Charles N. Atkins, as treasurer, had violated 2 U.S.C. § 441a(f) and 11 C.F.R. § 104.8(d)(2)(i). Enclosed with that notification was a proposed conciliation agreement.

As was stated in the notification letter, conciliation negotiations, prior to a finding of probable cause, were to be limited to a period of 30 days. As I noted during our telephone conversation last week, the conciliation period in this matter will end on Thursday, April 7, 1994.

If this Office has not heard from you with regard to the proposed agreement by close of business on April 7, we will consider pre-probable cause conciliation to have come to an end and will proceed to the next stage of the enforcement process.

Sincerely,

Anne A. Weissenborn

Anne A. Weissenborn
Senior Attorney

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COMMISSION
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COUNSEL

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PERKINS COIE

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
607 FOURTEENTH STREET, N.W. • WASHINGTON, D.C. 20005-2011
(202) 628-6600 • FACSIMILE (202) 434-1690

May 9, 1994

Anne A. Weissenborn
Federal Election Commission
Office of General Counsel
999 E Street, NW
6th Floor
Washington, DC 20463

Re: MUR 3803

Dear Ms. Weissenborn:

Enclosed please find the affidavit of Beth Scully for filing in the above-referenced Matter Under Review.

If you have any questions, please do not hesitate to contact the undersigned.

Sincerely,

B. Holly Schadler
Counsel to Ferraro for
U.S. Senate Committee

/dma

Enclosure

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COMMISSION
OFFICE OF GENERAL
COUNSEL

MAY 9 4 23 PM '94

BEFORE THE FEDERAL ELECTION COMMISSION

MUR 3803

AFFIDAVIT OF BETH SCULLY

I, Beth Scully, hereby state as follows:

1. I have personal knowledge of the facts set forth herein and if called to testify in this matter, I would testify as set forth herein.

2. I served as Comptroller of the Ferraro for U.S. Senate Committee during the period January 1992 - September 1992.

3. During that period the Committee sent out letters to contributors requesting redesignations and reattributions.

4. These letters, or the accompanying forms requesting the necessary information, informed the contributor that he or she could request a refund as an alternative to providing a redesignation or reattribution.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 5 day of May, 1994.

Beth Scully

Beth Scully

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COMMISSION
SECRETARIAT

AUG 1 12 25 PM '94

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of	)	
	)	
Ferraro for U.S. Senate	)	MUR 3803
Charles N. Atkins, as treasurer	)	

GENERAL COUNSEL'S REPORT

I. **BACKGROUND**

Attached is a conciliation agreement which has been signed by B. Holly Schadler, counsel to Respondents.

The attached agreement contains no changes from the agreement approved by the Commission on July 21, 1994. A check for the civil penalty has not been received.

II. **RECOMMENDATIONS**

1. Accept the attached conciliation agreement with Ferraro for U.S. Senate and Charles N. Atkins, as treasurer.

2. Close the file.

3. Approve the appropriate letter.

Lawrence M. Noble
General Counsel

7/28/94
Date

BY: [signature]
Lois G. Lerner
Associate General Counsel

Attachment
Conciliation Agreement

Staff Assigned: Anne Weissenborn/Clinett Short

9404356134 7

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Ferraro for U.S. Senate and Charles N. Atkins, as treasurer.	)	MUR 3803
	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on August 4, 1994, the Commission decided by a vote of 6-0 to take the following actions in MUR 3803:

1. Accept the conciliation agreement with Ferraro for U.S. Senate and Charles N. Atkins, as treasurer, as recommended in the General Counsel's Report dated July 29, 1994.

2. Close the file.

3. Approve the appropriate letter, as recommended in the General Counsel's Report dated July 29, 1994.

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

Attest:

8-5-94
Date

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

Received in the Secretariat: Mon., Aug. 1, 1994 12:25 p.m.
Circulated to the Commission: Mon., Aug. 1, 1994 4:00 p.m.
Deadline for vote: Thurs., Aug. 4, 1994 4:00 p.m.

mck

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

B. Holly Schadler, Esquire
Perkins Coie
607 Fourteenth Street, NW
Washington, DC 20005-2011

AUGUST 9, 1994

RE: MUR 3803
Ferraro for U.S. Senate
Charles N. Atkins, as treasurer

Dear Ms. Schadler:

On August 4, 1994, the Federal Election Commission accepted the signed conciliation agreement submitted on your client's behalf in settlement of violations of 2 U.S.C. § 441a(f) and 11 C.F.R. § 104.8(d)(2)(i), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"), and of the Commission's regulations. Accordingly, the file has been closed in this matter.

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

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

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Anne A. Weissenborn

Anne A. Weissenborn
Senior Attorney

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3803
Ferraro for U. S. Senate and	)	
Charles N. Atkins as Treasurer	)	

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that the Ferraro for U.S. Senate Committee and Charles N. Atkins, as treasurer, ("Respondents") violated 2 U.S.C. § 441a(f) and 11 C.F.R. § 104.8(d)(2)(i).

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

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

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

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

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

1. Ferraro for U.S. Senate is the principal campaign committee of Geraldine Ferraro within the meaning of 2 U.S.C. § 431(5).

2. Charles N. Atkins is the treasurer of Ferraro for U.S. Senate.

3. Geraldine Ferraro was a candidate for election to the United States Senate in the 1992 Primary Election in the State of New York.

4. The Primary Election was held in September 1992.

5. Pursuant to 2 U.S.C. § 441a(a)(1)(A), an individual or political committee, other than multicandidate committees, may contribute no more than $1,000 to any candidate and his or her authorized political committee.

6. Pursuant to 2 U.S.C. § 441a(f), no committee may knowingly accept contributions which exceed the limitations at 2 U.S.C. § 441a(a).

7. Pursuant to 11 C.F.R. § 103.3(b)(3), committees are required to refund excessive contributions within 60 days of receipt unless a written redesignation or reattribution from the contributor is received.

8. Pursuant to 11 C.F.R. § 104.8(d)(2)(i), committees are required to report the redesignation or reattribution of an excessive contribution in a memo entry on Schedule A of the report covering the reporting period in which the redesignation or reattribution is received.

9. Respondents accepted 11 excessive contributions from

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individuals totaling $4,400.

10. Respondents failed to obtain written redesignations or reattributions of the excessive portions of the contributions cited at IV.7. within 60 days of receipt.

11. Respondents failed to report receipt of the written redesignations or reattributions on the report covering the reporting period in which they were received.

V. Respondents accepted excessive contributions totaling $4,400.00, and failed to report redesignations or reattributions on the report covering the reporting period in which the redesignation or reattribution was received, in violation of 2 U.S.C. § 441a(f) and 11 C.F.R. § 104.8(d)(2)(i) respectively.

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of Nine Hundred Dollars ($900.00), pursuant to 2 U.S.C. § 437g(a)(5)(A).

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

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

IX. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the

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requirements contained in this agreement and to so notify the Commission.

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

FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

BY: L G Lerner (AK)
Lois G. Lerner
Associate General Counsel

August 9, 1994
Date

FOR THE RESPONDENTS:

(Name) B. Holly Schadler
(Position) Counsel to Respondents

July 27, 1994
Date

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3805

DATE FILMED 8-26-94 CAMERA NO. 2

CAMERAMAN JMN

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

✓ Microfilm

_____ Public Pods

_____ Press

THE FOLLOWING DOCUMENTATION IS ADDED TO

THE PUBLIC RECORD IN CLOSED MUR 3803.

8/29/94

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PERKINS COIE

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
607 FOURTEENTH STREET, N.W. • WASHINGTON, D.C. 20005-2011
(202) 628-6600 • FACSIMILE (202) 434-1690

RECEIVED
FEDERAL ELECTION
COMMISSION
ACCOUNTING OFFICE
AUG 15 4 17 PM '94

August 15, 1994

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
AUG 15 3 24 PM '94

Anne A. Weissenborn
Federal Election Commission
Office of General Counsel
999 E Street, NW, 6th Floor
Washington, DC 20463

Re: MUR 3803
Ferraro for U.S. Senate
Charles N. Atkins, as treasurer

Dear Ms. Weissenborn:

Enclosed is a check in the amount of $900 from Ferraro for U.S. Senate as payment in full in the matter of MUR 3803.

If you have any questions, please contact the undersigned.

Sincerely,

B. Holly Schadler
Counsel to Ferraro for U.S. Senate

BHS:dma

Enclosure

[15366-0001/LETTER.01]

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FERRARO FOR US SENATE
156 - 5TH AVE., SUITE 619
NEW YORK, NY 10010

1-12/210

August 11 19 94

PAY TO THE ORDER OF Federal Election Commission $ 900.00

nine hundred and 00/100 DOLLARS

CHEMICAL BANK
770 LEXINGTON AVENUE, NEW YORK, NY 10021

FOR MUR 3803

Beth Scully

⑈002341⑈ ⑆021000128⑆ 036-014893⑈

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

8/15/94

TWO WAY MEMORANDUM

TO: OGC, Docket

FROM: Rosa Swinton
Accounting Technician

SUBJECt: Account Determination for Funds Received

We recently received a check from Ferraro for US Senate, check number 2341, dated 8/11/94, and in the amount of $ 500.00. Attached is a copy of the check and any correspondence that was forwarded. Please indicate below the account into which it should be deposited, and the MUR number and name.

RECEIVED FEDERAL ELECTION COMMISSION OFFICE OF GENERAL COUNSEL
AUG 15 4 46 PM '94

TO: Rosa Swinton
Accounting Technician

FROM: OGC, Docket Byaa

In reference to the above check in the amount of $900.00, the MUR number is 3803 and in the name of Ferraro for U.S. Senate. The account into which it should be deposited is indicated below:

__ Budget Clearing Account (OGC), 95F3875.16

✓ Civil Penalties Account, 95-1099.160

__ Other: _____

Anita Alexander
Signature

8-15-94
Date

94043561371