



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Date: 11/8/94

- Microfilm
- Public Records
- Press

94043591661

THE ATTACHED MATERIAL IS BEING ADDED TO CLOSED NUR 3935



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 4, 1994

Michael Dillon
2464 N. Lincoln, Apt. 3S
Chicago, Illinois 60614

RE: MUR 3935
Giglio for Congress Committee
and Tina J. Paterek, as
treasurer

Dear Mr. Dillon:

By letter dated October 4, 1994, the Office of the General Counsel informed you of determinations made with respect to the complaint filed by you against Giglio for Congress Committee and Tina J. Paterek, as treasurer.

Enclosed please find a Statement of Reasons adopted by the Commission explaining its decision to find that there was reason to believe the Giglio for Congress Committee and Tina J. Paterek, as treasurer, violated 2 U.S.C. § 441d(a); and determining to take no further action, issue an admonishment letter, and closing the file in this matter. This document will be placed on the public record as part of the file of MUR 3935.

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

Sincerely,

Phillip L. Wise
Phillip L. Wise
Attorney

Enclosure
Statement of Reasons

94043591662



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 4, 1994

Michael J. Kasper, Esquire
30 N. LaSalle
Suite 3906
Chicago, Illinois 60602

RE: MUR 3935
Giglio for Congress Committee
and Tina J. Paterok, as
treasurer

Dear Mr. Kasper:

Enclosed please find a Statement of Reasons adopted by the Commission explaining its decision to find reason to believe that your clients, the Giglio for Congress Committee and Tina J. Paterok, as treasurer, violated 2 U.S.C. § 441d(a). The Commission also determined to take no further action, issued an admonishment letter, and closed its file. This document will be placed on the public record as part of the file of MUR 3935.

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

Sincerely,

A handwritten signature in cursive script that reads "Phillip L. Wise".

Phillip L. Wise
Attorney

Enclosure
Statement of Reasons

94043591663



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 3935

DATE FILMED 11-8-54 CAMERA NO. 4

CAMERAMAN JMK

94043591792

OGC 259

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

February 20, 1994

FEB 25 11 25 AM '94

94 FEB 25 PM 2:30

RECEIVED
FEDERAL ELECTION COMMISSION

Office of the General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: 11th Congressional District of Illinois
Frank Giglio

MUR 3935

Dear Madam or Sir,

I would like to make a formal complaint against Frank Giglio a candidate for Congress in Illinois' 11th congressional district.

Enclosed is a copy of a piece of literature from Frank Giglio. As you can see, the literature does not have an authorization notice stating who authorized or paid for the campaign literature. This literature could have been illegally printed in violation of federal law.

I would appreciate you investigating this matter.

Thank you,

Michael Dillon

Michael Dillon
2464 N. Lincoln
Apartment 3S
Chicago, IL 60614

Subscribed and Sworn to before me by Michael Dillon this 22nd day of February, 1994.

Anita D. Smith

Notary Public



94043591793

ELECT

'94

FRANK GIGLIO

U.S. Congress



VOTE FOR GIGLIO
DEMOCRAT • PUNCH 23

94043591794

A Lifetime of Experience!



- 1935 • Married Eileen Hoffman
 - Father of five
 - Grandfather of five
- 1955 - 1957 • U. S. Army Veteran
- 1980 • Licensed Plumber
 - Union Local #130
- 1963 • Elected Alderman of Calumet City
- 1967 • Founded Calumet City Plumbing & Heating Co., Inc.
 - Union Shop - 18 employees
- 1972 - 1978 • Elected to Illinois General Assembly
- 1980 - Present • Chairmanships:
 - Motor Vehicle Laws
 - Cities & Villages
 - Transportation
 - Counties & Townships
- 1973 - Present • Thornton Township Democratic Committeeman

9 4 0 4 3 5 9 1 7 9 5



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20541

March 4, 1994

Michael Dillon
2464 N. Lincoln, Apt. 3S
Chicago, IL 60614

RE: MUR 3935

Dear Mr. Dillon:

This letter acknowledges receipt on February 25, 1994, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). The respondent(s) 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 3935. 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,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosure
Procedures

94043591796



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20543

March 4, 1994

Frank Giglio
Giglio for Congress Committee
523 Burnham Avenue
Calumet City, IL 60409

RE: MUR 3935

Dear Mr. Giglio:

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 3935. 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.

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 all notifications and other communications from the Commission.

94043591797

Frank Giglio
Page 2

If you have any questions, please contact Joan McEnery at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Mary L. Taksar
Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

94043591798



FEDERAL ELECTION COMMISSION

WASHINGTON, DC 20543

March 4, 1994

Tina J. Paterek, Treasurer
Giglio for Congress Committee
523 Burnham Avenue
Calumet City, IL 60409

RE: MUR 3935

Dear Ms. Paterek:

The Federal Election Commission received a complaint which indicates that the Giglio 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 3935. 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 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.

94043591799

Tina J. Paterek, Treasurer
Giglio for Congress Committee
Page 2

If you have any questions, please contact Joan McEnery at
(202) 219-3400. For your information, we have enclosed a brief
description of the Commission's procedures for handling
complaints.

Sincerely,

Mary L. Taksar
Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

94043591800

06C 805
RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

APR 6 8 49 AM '94

Michael J. Kasper
30 N. LaSalle
Suite 3906
Chicago, IL 60602

March 24, 1994

Mary L. Taksar, Attorney
Central Enforcement Docket
Federal Election Commission
Washington, DC 20463

RE: MUR 3935

Dear Ms. Taksar:

I have enclosed a Designation of Counsel Statement, executed by my client, Frank Giglio, a congressional candidate from the 11th Congressional District of the State of Illinois. The complaint in this matter is predicated upon Representative Giglio's alleged failure to state in a written communication that the communication was paid for by his campaign committee, as required by 11 CFR 110.11 (i).

Based upon our investigation into this matter, it appears that a limited number of these communications were distributed without an indication of the source. This distribution was preceded, however, by a telephone conversation with a Ms. Scott, an Information Specialist with the Federal Election Commission. During that conversation, Ms. Scott indicated to Tina Paterek, Representative Giglio's campaign Treasurer, that a disclaimer was not required so long as the communication was not soliciting campaign contributions. This conversation occurred sometime in mid-February and prior to the distribution of any of these communications. Once it was discovered that the communication required a disclaimer, the card was reprinted appropriately. A copy of the corrected communication is attached.

Additionally, Representative Giglio has been a member of the Illinois General Assembly for 19 years. At one time, Illinois had a disclaimer requirement similar to that contained in 11 CFR 110.11 (i). As you know, such disclaimer requirements have undergone enormous constitutional attack, and the Illinois provision was declared unconstitutional in 1987. People v. White, 116 ILL. 2d 2d 171, 506 NE 2d 1284 (1987). As a result, the Illinois disclaimer requirement applies only to solicitations for

94043591801

RECEIVED
FEDERAL ELECTION COMMISSION
94 APR -6 PM 12:00

Mary L. Taksar, Attorney
Page 2
March 29, 1994

campaign contributions. 10 ILCS 5/9.9. Thus, Ms. Scott of your office represented to Representative Giglio's campaign staff that federal law was consistent with the current status of Illinois law. Accordingly, they did not feel the need to research the question further.

Because my client relied upon representations made by Federal Election Commission staff, we respectfully request that a finding that no further action be should be taken regarding this matter. If you have any questions or comments or require any additional information, please do not hesitate to contact me at the above listed number.

Sincerely,



Michael J. Kasper

MJK:rib

9 4 0 4 3 5 9 1 8 0 2

STATEMENT OF DESIGNATION OF COUNSEL

HUR 3935

NAME OF COUNSEL: Michael J. Kasper

ADDRESS: 30 N. LaSalle
Suite 3906
Chicago, IL 60602

TELEPHONE: (312) 346-4321

RECEIVED
COMMISSION

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.

3/22/94
Date

Frank Giglio
Signature

RESPONDENT'S NAME: Frank Giglio

ADDRESS: Giglio for Congress Committee
523 Burnham Avenue
Calumet City, IL 60402

TELEPHONE: HOME

BUSINESS(708) 730-1994

94043591803

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

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

SEP 19 12 17 PM '94

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

MURs #3935 and #3936
DATE COMPLAINTS RECEIVED
BY OGC February 25, 1994
DATE OF NOTIFICATION TO
RESPONDENTS: March 4, 1994

COMPLAINANT: Michael Dillon

RESPONDENTS: Giglio for Congress Committee and Tina J.
Paterek, as treasurer.

Neal for Congress and Thomas M. Sealy,
as treasurer.

RELEVANT STATUTES: 2 U.S.C. § 441d(a)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: NONE

I. GENERATION OF MATTER

These matters were initiated by signed sworn complaints filed with the Federal Election Commission ("The Commission") on February 25, 1994, by Michael Dillon from Chicago, Illinois. (Attachments 1 and 2). In the complaint with regard to MUR 3935, Mr. Dillon alleges that campaign literature he received from Frank Giglio, a candidate for Congress in the 11th congressional district of Illinois, failed to contain a statement identifying who authorized and paid for the campaign literature. In the complaint with regard to MUR 3936, Mr. Dillon alleges that campaign literature he received from David Neal, a candidate for Congress in the 11th congressional

94043591804

district of Illinois, failed to contain a statement identifying who authorized and paid for the campaign literature.^{1/}

On March 4, 1994, notification of the filing of these complaints, along with a copy of the appropriate complaint were mailed to the Giglio for Congress Committee ("Giglio Committee") and Tina J. Paterek, as treasurer, and Neal for Congress ("Neal Committee") and Thomas M. Sealy, as treasurer. (Attachment 3 and 4). On April 6, 1994, the Giglio Committee responded to the complaint. (Attachment 5). On June 16, 1994, the Neal Committee responded to the complaint. (Attachment 6).

II. FACTUAL AND LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441d(a), whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, such communication, if paid for and authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication has been paid for by such authorized political committee. If such communication is paid for by other persons but authorized by a candidate, an authorized political committee of a candidate, or its agents, the communication shall clearly

^{1/} Frank Giglio and David W. Neal, both democrats, were opponents in the 1994 Primary in the 11th congressional district of Illinois. Frank Giglio won the Primary with 21% of the vote. David W. Neal obtained 19% of the vote.

94043591805

state that it is paid for by such other persons and authorized by such authorized political committee. If such communication is not authorized by a candidate, an authorized political committee of a candidate, or its agents, the communication shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee.

1. NUR 3935--The Giglio Committee

As stated above, Mr. Dillon alleges that campaign literature he received from Frank Giglio, a candidate for Congress in the 11th congressional district of Illinois, failed to contain a statement identifying who authorized and paid for the campaign literature. In support of his allegations Mr. Dillon submitted copies of the campaign material he allegedly received from the Giglio Committee. The campaign material submitted by Mr. Dillon clearly advocates the election of Frank Giglio. In addition, the material does not identify who paid for or authorized the communication.

In responding to the complaint the Giglio Committee asserts that a limited number of the communications were distributed that did not identify who authorized and paid for the campaign material. The Giglio Committee claims that prior to distributing the campaign material at issue, they received information from an Information Specialist at the Commission indicating that no disclaimer was necessary. In addition, the Giglio Committee asserts that once it was discovered that the communication required the disclaimer, the campaign material was

94043591806

reprinted with the appropriate disclaimer.

The Giglio Committee argues that in 1987, with regard to state elections, the Illinois General Assembly declared such disclaimer requirements unconstitutional unless solicitations for contributions were involved. The Giglio Committee contends that the Commission's Information Specialist represented that federal law was consistent with the current status of Illinois law. Accordingly, the Giglio Committee argues that since it relied on the representations made by the Commission staff, the Commission should take no further action in this matter.

In addressing the Giglio Committee's allegation a staff member from this Office contacted the Information Specialist named in the response. The Information Specialist states that he did not make the representation attributed to him by the Giglio Committee.

Despite the argument presented by the Giglio Committee, the campaign literature expressly advocated the election of a clearly identified candidate; however it did not include the disclaimer identifying whether it was authorized by the candidate and who paid for the production of the campaign material, as required by 2 U.S.C. § 441d(a). The Giglio Committee's failure to include the disclaimer, on campaign literature which clearly advocates the election of Frank Giglio to the congressional seat from the 11th congressional district of Illinois, appears to be a violation of 2 U.S.C. § 441d(a).

94043591807

2. MUR 3936--The Neal Committee

As stated above, Mr. Dillon alleges that campaign literature he received from David Neal, a candidate for Congress in the 11th congressional district of Illinois, failed to contain a statement identifying who authorized and paid for the campaign literature. In support of his allegations Mr. Dillon submitted copies of the campaign material he allegedly received from the Neal Committee. The campaign material submitted by Mr. Dillon clearly advocates the election of David Neal. In addition, the material does not identify who paid for or authorized the communication.

In responding to the complaint the Neal Committee asserts that the documents complained about consisted of a biographical data sheet and a Xerox copy of various newspaper articles about the candidate. According to the Neal Committee these documents were created by the candidate and his campaign manager using in-house equipment, at the request of the Will County Democratic Party. The Neal Committee states that the Will County Democratic Party wanted this information from all seven Democratic candidates to help with its decision on which candidate to support in this race. The Neal Committee then asserts that the Will County Democratic Party passed out this material to the party precinct committeemen at their various local meetings. The Neal Committee also avers that this material was not disseminated to the general public, and accordingly states that they do not know how Mr. Dillon obtained a copy.

94043591808

The campaign literature expressly advocated the election of a clearly identified candidate, however did not include the disclaimer identifying whether it was authorized by the candidate and who paid for the production of the campaign material, as required by 2 U.S.C. § 441d(a). The Neal Committee's failure to include the disclaimer, on campaign literature which clearly advocates the election of David Neal to the congressional seat from the 11th congressional district of Illinois, appears to be a violation of 2 U.S.C. § 441d(a).

3. Conclusions

It is apparent that the campaign materials, which are the subject of the complaints in the above-referenced matters failed to contain the disclaimer required by 2 U.S.C. § 441d(a). This Office feels it would be important and instrumental in completing this matter to obtain information with regard to how widely this material was disseminated, the cost associated with production and dissemination, and the period of time the material was used by the appropriate committee.^{2/} To obtain the

^{2/} The Illinois Primary election was held on March 15, 1994. Therefore, we reviewed the April Quarterly and Pre-Primary Reports, (covering 1/1/94 to 3/31/94) to find disbursements possibly related to the advertisements at issue in this matter. However, with the limited known information about the mailings (e.g. no dates, indication of size of production) it is not possible to positively identify which expenditures were for the advertisements.

With regard to Neal, no entries were found that can be attributed to the complained about documents. With regard to Giglio, the subject mailing appears to be a palm card. In the Giglio committee's two reports checked, only one palm card project was identified. The expenditure was reported as being made by the candidate to be reimbursed by the Committee. The cost associated with the entry is \$1,140.00. Note that this

94043591809

foregoing information in the most efficient manner this Office recommends that the Commission authorize subpoenas for documents and answers to questions from both the Giglio Committee and the Neal Committee.

IV. RECOMMENDATIONS

1. Find reason to believe that the Giglio for Congress Committee and Tina J. Paterek, as treasurer, violated 2 U.S.C. § 441d(a).
2. Find reason to believe that Neal for Congress and Thomas M. Sealy, as treasurer, violated 2 U.S.C. § 441d(a).
3. Approve the attached Factual and Legal Analyses.
4. Approve the attached subpoena to Giglio for Congress Committee and Tina J. Paterek, as treasurer.
5. Approve the attached subpoena to Neal for Congress and Thomas M. Sealy, as treasurer.
6. Approve the appropriate letters.

Lawrence M. Noble
General Counsel

Date

9/19/94

BY:


Lois G. Lerner
Associate General Counsel

Attachments

1. Complaint in MUR 3935
2. Complaint in MUR 3936
3. Notification letter in MUR 3935
4. Notification letter in MUR 3936
5. Giglio response
6. Neal response
7. Factual and Legal Analysis Giglio
8. Factual and Legal Analysis Neal
9. Subpoenas

(Footnote 2 continued from previous page)
amount may or may not be the total cost of the mailing and may include the corrected reprinting, postage, distribution, etc.

94043591810



FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

MEMORANDUM

TO: LAWRENCE H. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. ENMONS/E. SHARON HUGHES
COMMISSION SECRETARY ESH

DATE: SEPTEMBER 22, 1994

SUBJECT: MUR 3935 & 3936 - FIRST GENERAL COUNSEL'S REPORT
DATED SEPTEMBER 19, 1994

The above-captioned document was circulated to the Commission on MONDAY, SEPTEMBER 19, 1994 4:00.

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

Commissioner Aikens	<u>XXX</u>
Commissioner Elliott	<u>XXX</u>
Commissioner McDonald	<u> </u>
Commissioner McGarry	<u> </u>
Commissioner Potter	<u> </u>
Commissioner Thomas	<u>XXX</u>

This matter will be placed on the meeting agenda for TUESDAY, SEPTEMBER 27, 1994.

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

94043591811

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Giglio for Congress Committee and) MURS 3935
Tina J. Paterek, as treasurer;) AND 3936
Neal for Congress and Thomas M.)
Sealy, as treasurer)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on September 27, 1994, do hereby certify that the Commission decided by a vote of 6-0 to reject the recommendations in the General Counsel's September 19, 1994 report and instead take the following actions with respect to MUR 3935 and MUR 3936:

1. Find reason to believe that the Giglio for Congress Committee and Tina J. Paterek, as treasurer, violated 2 U.S.C. § 441d(a), send the respondents an admonishment letter and an appropriate factual and legal analysis, but take no further action with respect to this violation.
2. Find no reason to believe that Neal for Congress and Thomas M. Sealy, as treasurer, violated 2 U.S.C. § 441d(a), but send them an appropriate letter pursuant to the Commission discussion, and take no further action.

(continued)

9 4 0 4 3 5 9 1 8 1 2

Federal Election Commission
Certification for NURS 3935
and 3936
September 27, 1994

Page 2

3. Close the files in these matters.

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

Attest:

9-29-94
Date

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

94043591813



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 4, 1994

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Michael Dillon
2464 N. Lincoln, Apt. 3S
Chicago, Illinois 60614

RE: MUR 3935
Giglio for Congress Committee
and Tina J. Paterek, as
treasurer

Dear Mr. Dillon:

This is in reference to the complaint you filed with the Federal Election Commission on February 25, 1994, concerning possible violation of the federal election laws by the Giglio for Congress Committee and Tina J. Paterek, as treasurer ("the Giglio Committee").

Based on that complaint, on September 27, 1994, the Commission found that there was reason to believe the Giglio Committee and its treasurer violated 2 U.S.C. § 441d(a), a provision of the Federal Election Campaign Act of 1971, as amended, and instituted an investigation of this matter. However, after considering the circumstances of this matter, the Commission determined to take no further action against the Giglio for Congress Committee and Tina J. Paterek, as treasurer, and closed the file in this matter on September 27, 1994. This matter will become part of the public record within 30 days. The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

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

Sincerely,

Phillip L. Wise
Phillip L. Wise
Attorney

Enclosure

94043591814



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 4, 1994

Michael J. Kasper, Esquire
30 N. LaSalle
Suite 3906
Chicago, Illinois 60602

RE: MUR 3935
Giglio for Congress Committee
and Tina J. Paterek, as
treasurer

Dear Mr. Kasper:

On September 27, 1994, the Federal Election Commission found reason to believe that your clients, the Giglio for Congress Committee and Tina J. Paterek, as treasurer, violated 2 U.S.C. § 441d(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act."). However, after considering the circumstances of this matter, the Commission also determined to take no further action and closed its file. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

The Commission reminds your clients that the use of campaign literature expressly advocating the election of a clearly identified candidate must include a disclaimer identifying whether it was authorized by the candidate and who paid for the production of the campaign material. The material used by your clients did not contain such a disclaimer, and therefore appears to be a violation of 2 U.S.C. § 441d(a). Your clients should take steps to ensure that this activity does not occur in the future.

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

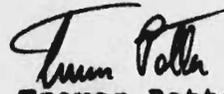
94043591815

Michael J. Kasper, Esquire
Page 2

on the public record before receiving your additional materials,
any permissible submissions will be added to the public record
upon receipt.

If you have any questions, please contact Phillip L. Wise,
the attorney assigned to this matter, at (202) 219-3690.

For the Commission,


Trevor Potter
Chairman

Enclosure
Factual and Legal Analysis

9 4 0 4 3 5 9 1 8 1 6

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

MUR: 3935

RESPONDENTS: Giglio for Congress Committee and Tina J. Paterok, as treasurer.

I. GENERATION OF MATTER

This matter was initiated by signed sworn complaint filed with the Federal Election Commission ("The Commission") on February 25, 1994, by Michael Dillon from Chicago, Illinois. In the complaint Mr. Dillon alleges that campaign literature he received from Frank Giglio, a candidate for Congress in the 11th congressional district of Illinois, failed to contain a statement identifying who authorized and paid for the campaign literature.

II. FACTUAL AND LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441d(a), whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, such communication, if paid for and authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication has been paid for by such authorized political committee. If such communication is paid for by other persons but authorized by a candidate, an authorized political committee

94043591817

of a candidate, or its agents, the communication shall clearly state that it is paid for by such other persons and authorized by such authorized political committee. If such communication is not authorized by a candidate, an authorized political committee of a candidate, or its agents, the communication shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee.

As stated above, Mr. Dillon alleges that campaign literature he received from Frank Giglio, a candidate for Congress in the 11th congressional district of Illinois, failed to contain a statement identifying who authorized and paid for the campaign literature. In support of his allegations Mr. Dillon submitted copies of the campaign material he allegedly received from the Giglio Committee. The campaign material submitted by Mr. Dillon clearly advocates the election of Frank Giglio. In addition, the material does not identify who paid for or authorized the communication.

In responding to the complaint the Giglio Committee asserts that a limited number of the communications were distributed that did not identify who authorized and paid for the campaign material. The Giglio Committee claims that prior to distributing the campaign material at issue, they received information from an Information Specialist at the Commission indicating that no disclaimer was necessary. In addition, the Giglio Committee asserts that once it was discovered that the communication required the disclaimer, the campaign material was

94043591818

reprinted with the appropriate disclaimer.

The Giglio Committee argues that in 1987, with regard to state elections, the Illinois General Assembly declared such disclaimer requirements unconstitutional unless solicitations for contributions were involved. The Giglio Committee contends that the Commission's Information Specialist represented that federal law was consistent with the current status of Illinois law. Accordingly, the Giglio Committee argues that since it relied on the representations made by the Commission staff, the Commission should take no further action in this matter.

In addressing the Giglio Committee's allegation a staff member from this Office contacted the Information Specialist named in the response. The Information Specialist states that he did not make the representation attributed to him by the Giglio Committee.

Despite the argument presented by the Giglio Committee, the campaign literature expressly advocated the election of a clearly identified candidate; however it did not include the disclaimer identifying whether it was authorized by the candidate and who paid for the production of the campaign material, as required by 2 U.S.C. § 441d(a).

Therefore, there is reason to believe that the Giglio for Congress Committee and Tina J. Paterek, as treasurer, violated 2 U.S.C. § 441d(a).

94043591819



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: COMMISSIONERS
GENERAL COUNSEL NOBLE
STAFF DIRECTOR SURINA
PRESS OFFICER HARRIS

FROM: *MMS* MARJORIE W. EMMONS/DONNIE J. ROSS *[Signature]*
SECRETARY OF THE COMMISSION

DATE: OCTOBER 27, 1994

SUBJECT: STATEMENT OF REASONS FOR NURS 3935 AND 3936

Attached is a copy of the Statement of Reasons in NURS 3935 and 3936 signed by all Commissioners. This was received in the Commission Secretary's Office on Thursday, October 27, 1994 at 12:00 p.m.

Attachment

94043591820

STATEMENT OF REASONS

In the Matter of)
)
Giglio for Congress Committee and) MUR 3935
Tina J. Paterek, as treasurer)
)
Neal for Congress and Thomas M.) MUR 3936
Sealy, as treasurer)

On September 27, 1994, with regard to MUR 3935, the Federal Election Commission ("the Commission") declined to adopt, by a six-to-zero vote, the recommendation of the Office of the General Counsel to issue a subpoena for documents and answers to interrogatories to the Giglio for Congress Committee and Tina J. Paterek, as treasurer ("Giglio Committee"). The Commission found reason to believe the Giglio for Congress Committee and Tina J. Paterek, as treasurer violated 2 U.S.C. § 441d(a), a provision of the Federal Election Campaign Act ("FECA") with respect to the 1994 primary campaign in the 11th congressional district of Illinois. However, using its prosecutorial discretion the Commission decided to take no further action, issue an admonishment letter and close the file in MUR 3935.

On September 27, 1994, with regard to MUR 3936, the Federal Election Commission declined to adopt, by a six-to-zero vote, the recommendation of the Office of the General Counsel to find reason to believe Neal for Congress and Thomas M. Sealy, as treasurer ("Neal Committee"), violated the Federal Election Campaign Act ("FECA") with respect to the 1994 primary campaign in the 11th congressional district of Illinois. Rather, the Commission found no reason to believe that respondents violated 2 U.S.C. § 441d(a) and closed the file in MUR 3936.

These matters were initiated by signed sworn complaints filed with the Federal Election Commission on February 25, 1994, by Michael Dillon from Chicago, Illinois. In these complaints Mr. Dillon alleged that campaign literature he received from Frank Giglio and David Neal, candidates for Congress in the 11th congressional district of Illinois, failed to contain a statement identifying who authorized and paid for the campaign literature.

9 4 0 4 3 5 9 1 8 2 1

Statement Of Reasons

Page 2

In responding to the complaint in MUR 3935, the Giglio Committee explained that a limited number of the communications were distributed that did not identify who authorized and paid for the campaign material.

In responding to the complaint in MUR 3936 the Neal Committee explained that the documents complained about consisted of a biographical data sheet and a xerox copy of various newspaper articles about the candidate. According to the Neal Committee these documents were created by the candidate and his campaign manager using in-house equipment, at the request of the Will County Democratic Party. The Neal Committee stated that the Will County Democratic Party wanted this information from all seven Democratic candidates to help with its decision on which candidate to support in this race. The Neal Committee stated further that the Will County Democratic Party passed out this material to the party precinct committeemen at their various local meetings. The Neal Committee specifically contended that this material was not disseminated by it to the general public.

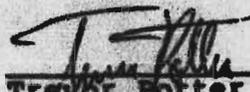
After reviewing the allegations made in the complaints and the respondents' responses thereto, in MUR 3935 the Commission found reason to believe the Giglio for Congress Committee and Tina J. Paterek, as treasurer violated 2 U.S.C. § 441d(a). In view of the apparently small number of communications which were distributed, the Commission exercised its prosecutorial discretion and took no further action, issued an admonishment letter and closed the file in MUR 3935.

With regard to MUR 3936, the Commission determined that there was no evidence the respondents had violated FECA as alleged in the complaint filed in this matter. First, there was no indication in the factual record that the material was disseminated to the general public. Second, even if the material was publicly disseminated, there is no evidence in the record to suggest that it was done by the Neal Committee. Accordingly, the Commission found no reason to believe that Neal for Congress and Thomas M. Sealy, as treasurer, violated 2 U.S.C. § 441d(a) and closed the file in MUR 3936.

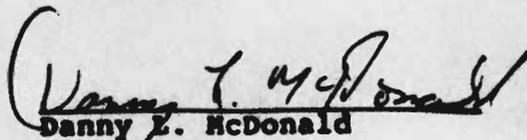
9 4 0 4 3 5 9 1 8 2 2

Statement Of Reasons
Page 3

10/27/94
Date


Trevor Potter
Chairman

10/27/94
Date


Danny E. McDonald
Vice-Chairman

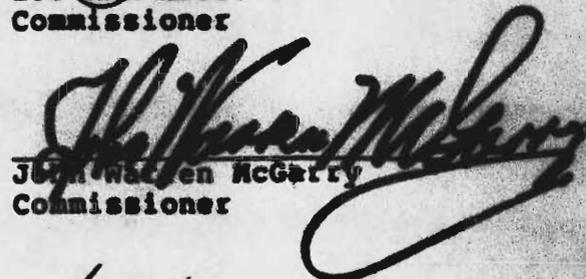
10/27/94
Date


Joan D. Alkens
Commissioner

10/27/94
Date


Lee Ann Elliott
Commissioner

10/27/94
Date


John William McGarry
Commissioner

10/27/94
Date


Scott E. Thomas
Commissioner

9
4
0
4
3
5
9
1
8
2
3



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3935

DATE FILMED 11-8-94 CAMERA NO. 4

CAMERAMAN JMH

94043591824