



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

THIS IS THE BEGINNING OF MJR # 3940

DATE FILMED 5-11-94 CAMERA NO. 2

CAMERAMAN JM16

94030974046

REPORTS ANALYSIS REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: April 5, 1993

ANALYST: Richard Montalbano

I. COMMITTEE:

FairPAC
 (C00253906)
 Sharon A. McCloe, Treasurer
 (10/14/92 to Present)
 Sylvia M. Chip, Treasurer
 (8/27/91-10/13/92)
 5534 Nevada Avenue, NW ^{1/}
 Washington, DC 20015

II. RELEVANT STATUTE:

2 U.S.C. §441a(a)(1)(A)
 11 CFR §110.1

III. BACKGROUND:

Contributions to Federal Candidates in Excess of the Limitations

FairPAC ("the Committee") made five (5) excessive contributions, totalling \$7,000, to three (3) Federal Candidates for the 1992 Primary Election. (See chart)

On February 2, 1992 the Committee filed its 1991 Year-End Report. This report disclosed a \$2,000 contribution on December 20, 1991 to the Buchanan for President Committee that was designated for the 1992 Primary Election (Attachment 2). As the Committee had not yet attained multicandidate status, it appeared that the contribution was excessive in the amount of \$1,000 for the 1992 Primary Election.

On April 12, 1992 the Committee filed its 1992 April Quarterly Report. This report disclosed a \$2,000 contribution on February 14, 1992 to the Luis Acle for Congress Committee

^{1/} All correspondence was sent to the former address of record.

94030974047

that was designated for the 1992 Primary Election (Attachment 3). As the Committee had already made a contribution of \$1,000 to Luis Acle for Congress for the Primary Election, the Committee appeared to have made an excessive contribution of \$2,000 to this candidate for the 1992 Primary Election (Attachment 2). This report also disclosed a \$1,000 contribution on March 5, 1992 to the Buchanan for President Committee that was designated for the 1992 Primary Election (Attachment 3). As the Committee had already made a contribution of \$2,000 to Buchanan for President, the Committee appeared to have made excessive contributions totalling \$3,000 to this candidate for the 1992 Primary Election (Attachment 2).

On July 15, 1992 the Committee filed its 1992 July Quarterly Report. This report disclosed a \$2,000 contribution on May 6, 1992 to Luis Acle for Congress that was designated for the 1992 Primary Election (Attachment 4). As the Committee had already made contributions totalling \$3,000 to Luis Acle for Congress, the Committee appeared to have made excessive contributions totalling \$4,000 to this candidate for the 1992 Primary Election. This report also disclosed a \$2,000 contribution on June 22, 1992 to the Committee to Re-elect Congressman Dana Rohrabacher for the 1992 Primary Election (Attachment 4). The Committee appeared to have made an excessive contribution of \$1,000 to this candidate for the 1992 Primary Election.

On October 15, 1992 the Committee filed its 1992 October Quarterly Report. This report disclosed a \$1,000 contribution on July 15, 1992, as well as a \$2,588 in-kind contribution on September 15, 1992 to the Gallegly for Congress Committee that were designated for the 1992 General Election (Attachment 5). The Committee appeared to have made an excessive contribution of \$2,588 to this candidate for the 1992 General Election.

On December 2, 1992 Requests for Additional Information ("RFAI's") addressing the above mentioned contributions were sent to the Committee (Attachment 6). The RFAIs explained that if the contributions were incompletely or incorrectly disclosed, the Committee should amend its reports. If any contributions were made in excess of the \$1,000 per election limits the Committee was instructed to redesignate the contributions, or request a refund from the recipients.

On December 4, 1992, Ms. Sharon McCloe, the treasurer of the Committee, telephoned the Reports Analysis Division ("RAD") analyst (Attachment 7). Ms. McCloe explained that the Committee believed that it had qualified as a multicandidate committee and therefore could contribute up to \$5,000 to a candidate. The RAD analyst informed her that the Committee had not yet attained multicandidate status and to

94030974048

request refunds from the recipients for the amount of each excessive contribution.

On December 17, 1992 Ms. McCloe telephoned the RAD analyst (Attachment 8). Ms. McCloe explained that she had sent a response, via messenger, to the RFAIs. She informed the RAD analyst that the response, which included a list of 52 contributors, would show that the Committee had indeed qualified as a multicandidate committee.

The Commission received a letter of response on December 17, 1992 (Attachment 9). The letter stated:

Fair PAC's President, William Chip, who is a practicing attorney, had reviewed the applicable provisions in the statute and regulations and had interpreted these requirements as allowing contributions of up to \$5,000 per election provided that the committee qualified as a "multicandidate political committee" at any time during the two year election cycle.

Acting on this interpretation of the Act the Committee believed that it could contribute up to \$5,000 per candidate per election. Furthermore, the letter went on to say, that it was not until receiving the RFAIs that they realized the legal interpretation of the law and that they should not have made contributions in excess of \$1,000 per candidate per election. Hence, the Committee enclosed copies of the written requests for refunds of the excessive amounts. With regard to the contributions to the Gallegly for Congress Committee, the letter indicated that the Committee had attained multicandidate status by July 1, 1992. Included was a list of fifty-two (52) contributors and thus the explanation that the contributions to this candidate were not excessive.

The Committee did not provide copies of the refund checks and on December 23, 1992, Second Notices were sent (Attachment 10). The Second Notices explained that the excessive contributions should be disclosed as debts owed to the Committee until refunds were received and that the contributions to the Gallegly for Congress Committee were permissible.

On January 12, 1993 the Committee provided the Commission with copies of a \$4,000 refund check from the Acle for Congress Committee and a \$2,000 refund check from the Buchanan for President Committee (Attachment 11).

On January 19, 1993 the Committee provided the Commission with a copy of the \$1,000 refund check from the Committee to Re-Elect Congressman Dana Rohrabacher (Attachment 12).

94030974049

Chart
Excessive Contributions Made By FAIRPAC

Candidate	Date of Contribution	Report	Amount and Designation	Date of Refund Check	Amount of Refund
Luis Acle for Congress	12/20/91	1991 Year-End	P \$1,000	12/29/92	\$4,000
	2/14/92	1992 April Quarterly	P \$2,000		
	5/6/92	1992 July Quarterly	P \$2,000		
Buchanan for President	12/20/91	1991 Year-End	P \$2,000	12/23/92	\$2,000
	3/5/92	1992 April Quarterly	P \$1,000		
Committee to Re-elect Congressman Dana Rohrabacher	6/22/92	1992 July Quarterly	P \$2,000	1/8/93	\$1,000

94030974050

FEDERAL ELECTION COMMISSION
1991-1992
COMMITTEE INDEX OF DISCLOSURE DOCUMENTS - (C)

DATE 2APR93

PAGE 1

COMMITTEE	DOCUMENT	RECEIPTS	DISBURSEMENTS	COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
				TYPE OF FILER		
FAIR PAC				ID #C00253906		NON-PARTY QUALIFIED
CONNECTED ORGANIZATION:	NONE					
1991	STATEMENT OF ORGANIZATION			29AUG91	2	91FEC/710/4150
	YEAR-END	21,300	9,663	19JUL91 -31DEC91	6	92FEC/732/5346
	YEAR-END - AMENDMENT	-	-	19JUL91 -31DEC91	1	92FEC/816/4191
	REQUEST FOR ADDITIONAL INFORMATION			19JUL91 -31DEC91	4	92FEC/806/5567
	REQUEST FOR ADDITIONAL INFORMATION 2ND			19JUL91 -31DEC91	2	92FEC/818/0796
1992	STATEMENT OF ORGANIZATION - AMENDMENT			16OCT92	2	92FEC/786/4359
	APRIL QUARTERLY	6,255	7,415	1JAN92 -31MAR92	6	92FEC/748/2700
	APRIL QUARTERLY - AMENDMENT	-	-	1JAN92 -31MAR92	1	92FEC/816/4192
	REQUEST FOR ADDITIONAL INFORMATION 2ND			1JAN92 - 1MAR92	2	92FEC/818/0794
	REQUEST FOR ADDITIONAL INFORMATION			1JAN92 -31MAR92	5	92FEC/806/5574
	JULY QUARTERLY	760	5,066	1APR92 -30JUN92	5	92FEC/766/3861
	JULY QUARTERLY - AMENDMENT	-	-	1APR92 -30JUN92	1	92FEC/816/4193
	JULY QUARTERLY - AMENDMENT	-	-	1APR92 -30JUN92	3	93FEC/820/3119
	REQUEST FOR ADDITIONAL INFORMATION			1APR92 -30JUN92	5	92FEC/806/5561
	REQUEST FOR ADDITIONAL INFORMATION 2ND			1APR92 -30JUN92	2	92FEC/818/0792
	OCTOBER QUARTERLY	6,279	6,401	1JUL92 -30SEP92	7	92FEC/787/3105
	OCTOBER QUARTERLY - AMENDMENT	-	-	1JUL92 -30SEP92	12	92FEC/816/2298
	OCTOBER QUARTERLY - AMENDMENT	6,279	6,401	1JUL92 -30SEP92	9	93FEC/819/1993
	OCTOBER QUARTERLY - AMENDMENT	6,279	6,401	1JUL92 -30SEP92	6	93FEC/830/4746
	REQUEST FOR ADDITIONAL INFORMATION			1JUL92 -30SEP92	4	92FEC/806/5556
	REQUEST FOR ADDITIONAL INFORMATION 2ND			1JUL92 -30SEP92	2	92FEC/818/0790
	REQUEST FOR ADDITIONAL INFORMATION			1JUL92 -30SEP92	1	93FEC/828/4539
	POST-GENERAL	7,115	6,375	1OCT92 -23NOV92	7	93FEC/819/4026
	POST-GENERAL - AMENDMENT	7,115	6,375	1OCT92 -23NOV92	3	93FEC/830/4756
	NOTICE OF FAILURE TO FILE			1OCT92 -23NOV92	1	93FEC/818/3159
	REQUEST FOR ADDITIONAL INFORMATION			1OCT92 -23NOV92	1	93FEC/828/3848
	YEAR-END	3,040	163	24NOV92 -31DEC92	5	93FEC/822/3913
	YEAR-END - AMENDMENT	3,040	163	24NOV92 -31DEC92	4	93FEC/830/4752
	REQUEST FOR ADDITIONAL INFORMATION			24NOV92 -31DEC92	1	93FEC/828/3847
	TOTAL	44,749	0 35,083		0	110 TOTAL PAGES

All reports listed above have been reviewed.

Ending Cash-on-Hand as of 12/31/92: \$9,665.00

Debts and obligations owed to the committee as of 12/31/92: \$7,000.00

Debts and obligations owed by the committee as of 12/31/92: \$0.00

SCHEDULE B

ITEMIZED DISBURSEMENTS

Use separate schedules for each category of the Disbursed Summary Page	PAGE 1 of 1
	SUB LINE NUMBER 23

Any information copied from such Reports and Disbursements may not be sold or used by any person for the purpose of soliciting contributions or for similar purposes other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (in Full)

A. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
Shelby for U.S. Senate P.O. Box 1091 Tuscaloosa, AL 35403	Richard Shelby, U.S. Senate Alabama Disbursement for <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	10/21/91	\$1,000.00
B. Full Name, Mailing Address and ZIP Code Friends of Butler Derrick 3621 Ordway Street Washington, DC 20016	Butler Derrick, 3d Cong. District, South Carolina Disbursement for <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	11/12/91	\$500.00
C. Full Name, Mailing Address and ZIP Code Luis Ache for Congress P.O. Box 620146 San Diego, CA 92162	Luis Ache, 50th Cong. District, California Disbursement for <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	12/20/91	\$1,000.00
D. Full Name, Mailing Address and ZIP Code Buchanan for President 8130 Boone Boulevard Vienna, VA 22182	Patrick Buchanan, U.S. President Disbursement for <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	12/20/91	\$2,000.00
E. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period 2M
F. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
G. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
H. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
I. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period

SUBTOTAL of Disbursements This Page (optional)	\$4,500.00
TOTAL This Period (last page this line number only)	\$4,500.00

112574052
 74309742

SCHEDULE B

ITEMIZED DISBURSEMENTS

List number for each disbursement
 Disbursement Period

1
1
2

The information reported from such Reports and Statements may not be sold or used by any person for the purpose of... (small print)

NAME OF COMMITTEE (in Full)
FAIR PAC

Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
Luis Ache for Congress P.O. Box 620146 San Diego, Ca. 92162	Luis Ache for Cong. District, CA Disbursement for <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	2/14/92	\$2,000.00
Eugene McCarthy '92 P.O. Box 28 Woodville, Va. 22749	Eugene McCarthy US President Disbursement for <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	3/5/92	\$1,000.00
John Bryant 8035 E. Thorton Dallas, TX 75228	John Bryant Cong. Seat 5th District Texas Disbursement for <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	3/5/92	\$500.00
Exchange for President 8130 Boone Blvd. Vienna, Va 22184	Patrick Buchanan US President Disbursement for <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	3/5/92	\$1,000.00
Steve Freund for US Senate 1st West Center AVE Herndon, VA 19083	US Senate Seat (VA) Disbursement for <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	3/5/92	\$1,000.00
F. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
G. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
H. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
I. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
SUBTOTAL of Disbursements This Page (optional)			\$5,000.00
TOTAL This Period (last page this line number only)			\$5,500.00

9 2 2 3 0 7 7 8 4 2 0 7 5 0 3 2

SCHEDULE B ITEMIZED DISBURSEMENTS

Use separate schedules for each category of the Detailed Summary Page

PAGE 111
OF 111
FOR LINE NUMBER 23

Any information copied from such Reports and Statements may not be used by any person for the purpose of soliciting contributions or for commercial purposes other than using the name and address of any political committee to solicit contributions from such committee

NAME OF COMMITTEE (in Full)

FAIR PAC

9 A D 3 10 59 734606384

A. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
Luis Acke Air Congress P.O. Box 62076 San Diego, Ca. 92162	Luis Acke, 50th Cong. District, Ca. Disbursement for: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	5/6/92	\$2,000.00 RM
B. Full Name, Mailing Address and ZIP Code Bush-Quayle Primary 1030 15th St, NW Washington, DC 20005	purpose: presidential race Disbursement for: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	6/22/92	\$1,000.00
C. Full Name, Mailing Address and ZIP Code Dana Rohrabacher Protection Campaign 4911 Warner Ave #203 Marina del Rey, Ca 92649	Purpose of Disbursement Dana Rohrabacher - Cong California Disbursement for: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	6/22/92	\$2,000.00 RM
D. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
E. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
F. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
G. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
H. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
I. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period

SUBTOTAL of Disbursements This Page (optional)

TOTAL This Period (last page give line number only)

5,000.00

SCHEDULE B

ITEMIZED DISBURSEMENTS

Use separate or duplicate for each category of the Detailed Summary Page

PAGE 1 OF 23
FOR LINE NUMBER 23

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for similar purposes other than using the name and address of any political committee to solicit contributions from such committee

NAME OF COMMITTEE (in Full)

FAIR PAC

A. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
Texas for Lamar Smith 4010 Franconia Rd Alex, Va 22310	political contribution Disbursement for <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	7/15/92	500
Texas for Lamar Smith 4010 Franconia Rd Alex, Va 22310	political contribution Disbursement for <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	7/15/92	500
Friends of Clay Shaw P.O. Box 2189 Ft Lauderdale Fl 33323	political contribution Disbursement for <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	7/15/92	1,000
Gallegos for Congress P.O. Box 3789 Simi Valley, Ca 93093	political contribution Disbursement for <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify)	7/15/92	1,000
Gallegos for Congress P.O. Box 3789 Simi Valley, Ca 93093	political contribution M-Kind Disbursement for <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify) mailing	9/15/92	2,588.25
Moorehead for Congress 430 N. Brand Blvd. Glendale, Ca 91203	political contribution Disbursement for <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify)	8/5/92	500

SUBTOTAL of Disbursements This Page (optional)

6,088

TOTAL This Period (see page two line number only)

94039873410555



FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20541

80-2

Sharon A. McClos, Treasurer
Fair PAC
1275 Pennsylvania Ave., NW
Washington, DC 20004

DEC 2 1992

Identification Number: C00253906

References: Year End Report (7/19/91-11/31/91)

Dear Ms. McClos:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Schedule B of your report (pertinent portion(s) attached) discloses a contribution(s) which appears to exceed the limits set forth in the Act. The Act precludes a political committee, other than a multicandidate committee, from making a contribution to a candidate for federal office in excess of \$1,000 per election. (2 U.S.C. §441a(a))

If the contribution(s) in question was incompletely or incorrectly disclosed, you should amend your original report with the clarifying information. If you have made an excessive contribution, you should either notify the recipient and request a refund of the amount in excess of \$1,000 and/or notify the recipient, in writing, of your redesignation of the contribution. All refunds and redesignations must be made within sixty days of the treasurer's receipt of the contribution. Refunds are reported on Line 16 of the Detailed Summary Page and on Schedule A of the report covering the period during which they are received. Redesignations are reported as memo entries on Schedule B of the report covering the period during which the redesignation is made. (11 CFR §110.1(b))

Although the Commission may take further legal steps regarding the excessive contribution(s), your prompt action in obtaining a refund and/or redesignating the contribution(s) will be taken into consideration.

-Your report discloses limited payments for administrative expenses. Administrative expenses are

92403985987

ZM

payments made for the purpose of operating a political committee including, but not limited to, rent, utilities, salaries, telephone service, office equipment and supplies. Any such payments to a person aggregating in excess of \$200 in a calendar year must be disclosed on Schedule B, supporting Line 21 of the Detailed Summary Page. (2 U.S.C. §434(b)(5)) In addition, if expenses have been incurred but not paid in a reporting period, the activity should be disclosed as a debt on Schedule D, if the obligation is \$500 or more, or outstanding for sixty (60) days or more. 11 CFR §104.11

If these expenses are being paid by a connected organization, your Statement of Organization must be amended to reflect this relationship. 2 U.S.C. §433(b)(2)

PLEASE NOTE: Should your committee have a non-federal account(s), these administrative expenses MUST be disclosed on Lines 18, 21(a)(i) and 21(a)(ii) of the Detailed Summary Page and Schedules H2, H3 and H4 (and possibly Schedule H1 if it has not previously been filed). (See 11 CFR §106.6(b)(2)(i).

Any goods or services provided to your committee by a person, except volunteer activity (i.e., a person's time), would be considered an in-kind contribution from that person, and would be subject to the disclosure requirements of 2 U.S.C. §434(b)(3) and 11 CFR §104.13, and the limitations and prohibitions of 2 U.S.C. §§441a and 441b.

Please provide clarification regarding administrative expenses incurred by your committee and/or amend your report to disclose such expenses according to the referenced provisions of the Act and Commission Regulations. Clarification regarding administrative expenses should be disclosed during each two year election cycle beginning with the first report filed in the non-election year.

-Please provide the Column A totals for the Detailed Summary Page.

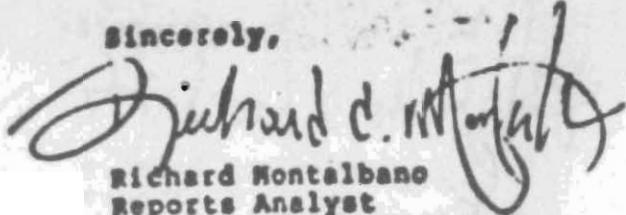
A written response or an amendment to your original report(s) correcting the above problem(s) should be filed with the Federal Election Commission within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on

3493039575460857

FATE PAC
PAGE 3

our toll-free number, (800) 424-9530. My local number is (202)
219-3580.

Sincerely,



Richard Montalbano
Reports Analyst
Reports Analysis Division

192403:08755088



FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20541

FE-3

Sharon A. McCloe, Treasurer
Fair PAC
1275 Pennsylvania Ave., NW
Washington, DC 20004

DEC 2 1992

Identification Number: C00253906

Reference: April Quarterly Report (1/1/92-3/1/92)

Dear Ms. McCloe:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Schedule B of your report (pertinent portion(s) attached) discloses a contribution(s) which appears to exceed the limits set forth in the Act. The Act precludes a political committee, other than a multicandidate committee, from making a contribution to a candidate for federal office in excess of \$1,000 per election. (2 U.S.C. §441a(a))

If the contribution(s) in question was incompletely or incorrectly disclosed, you should amend your original report with the clarifying information. If you have made an excessive contribution, you should either notify the recipient and request a refund of the amount in excess of \$1,000 and/or notify the recipient, in writing, of your redesignation of the contribution. All refunds and redesignations must be made within sixty days of the treasurer's receipt of the contribution. Refunds are reported on Line 16 of the Detailed Summary Page and on Schedule A of the report covering the period during which they are received. Redesignations are reported as memo entries on Schedule B of the report covering the period during which the redesignation is made. (11 CFR §110.1(b))

RM

Although the Commission may take further legal steps regarding the excessive contribution(s), your prompt action in obtaining a refund and/or redesignating the contribution(s) will be taken into consideration.

-Your report discloses limited payments for administrative expenses. Administrative expenses are payments made for the purpose of operating a political

924030954059

FAIR PAC
PAGE 3

committee including, but not limited to, rent, utilities, salaries, telephone service, office equipment and supplies. Any such payments to a person aggregating in excess of \$200 in a calendar year must be disclosed on Schedule B, supporting Line 21 of the Detailed Summary Page. (2 U.S.C. §434(b)(5)) In addition, if expenses have been incurred but not paid in a reporting period, the activity should be disclosed as a debt on Schedule D, if the obligation is \$500 or more, or outstanding for sixty (60) days or more. 11 CFR §104.11

If these expenses are being paid by a connected organization, your Statement of Organization must be amended to reflect this relationship. 2 U.S.C. §433(b)(2)

PLEASE NOTE: Should your committee have a non-federal account(s), these administrative expenses MUST be disclosed on Lines 18, 21(a)(i) and 21(a)(ii) of the Detailed Summary Page and Schedules H2, H3 and H4 (and possibly Schedule H1 if it has not previously been filed). (See 11 CFR §106.6(b)(2)(i).

Any goods or services provided to your committee by a person, except volunteer activity (i.e., a person's time), would be considered an in-kind contribution from that person, and would be subject to the disclosure requirements of 2 U.S.C. §434(b)(3) and 11 CFR §104.13, and the limitations and prohibitions of 2 U.S.C. §§441a and 441b.

Please provide clarification regarding administrative expenses incurred by your committee and/or amend your report to disclose such expenses according to the referenced provisions of the Act and Commission Regulations. Clarification regarding administrative expenses should be disclosed during each two year election cycle beginning with the first report filed in the non-election year.

-Please provide the Column B totals for the Detailed Summary Page.

-Your Schedule B discloses a disbursement to F.A.I.R. Please clarify your relationship to this organization.

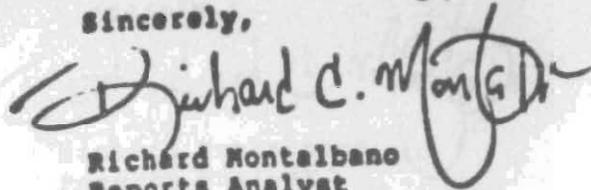
A written response or an amendment to your original report(s) correcting the above problem(s) should be filed with the Federal Election Commission within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on

2403985470560

FAIR PAC
PAGE 3

our toll-free number, (800) 424-9530. My local number is (202) 219-3580.

Sincerely,



Richard Montalbano
Reports Analyst
Reports Analysis Division

24039875470681



FEDERAL ELECTION COMMISSION

WASHINGTON, DC 20541

BQ-2

DEC 2 1992

Sharon A. McCloe, Treasurer
Fair PAC
1275 Pennsylvania Ave., NW
Washington, DC 20004

Identification Number: C00253906

References: July Quarterly Report (4/1/92-6/30/92)

Dear Ms. McCloe:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Schedule B of your report (pertinent portion(s) attached) discloses a contribution(s) which appears to exceed the limits set forth in the Act. The Act precludes a political committee, other than a multicandidate committee, from making a contribution to a candidate for federal office in excess of \$1,000 per election. (2 U.S.C. §441a(a))

If the contribution(s) in question was incompletely or incorrectly disclosed, you should amend your original report with the clarifying information. If you have made an excessive contribution, you should either notify the recipient and request a refund of the amount in excess of \$1,000 and/or notify the recipient, in writing, of your redesignation of the contribution. All refunds and redesignations must be made within sixty days of the treasurer's receipt of the contribution. Refunds are reported on Line 16 of the Detailed Summary Page and on Schedule A of the report covering the period during which they are received. Redesignations are reported as memo entries on Schedule B of the report covering the period during which the redesignation is made. (11 CFR §110.1(b))

Rm

Although the Commission may take further legal steps regarding the excessive contribution(s), your prompt action in obtaining a refund and/or redesignating the contribution(s) will be taken into consideration.

-Your report discloses no payments for administrative expenses. Administrative expenses are payments made for the purpose of operating a political committee including, but not limited to, rent, utilities, salaries, telephone service, office equipment and

294939895450162

supplies. Any such payments to a person aggregating in excess of \$200 in a calendar year must be disclosed on Schedule B, supporting Line 31 of the Detailed Summary Page. (2 U.S.C. §434(b)(5)) In addition, if expenses have been incurred but not paid in a reporting period, the activity should be disclosed as a debt on Schedule D, if the obligation is \$500 or more, or outstanding for sixty (60) days or more. 11 CFR §104.11

If these expenses are being paid by a connected organization, your Statement of Organization must be amended to reflect this relationship. 2 U.S.C. §433(b)(2)

PLEASE NOTE: Should your committee have a non-federal account(s), these administrative expenses MUST be disclosed on Lines 18, 21(a)(i) and 21(a)(ii) of the Detailed Summary Page and Schedules H2, H3 and H4 (and possibly Schedule H1 if it has not previously been filed). (See 11 CFR §106.6(b)(2)(i).

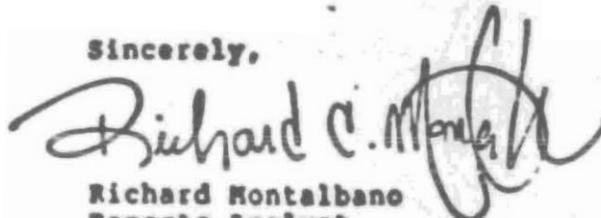
Any goods or services provided to your committee by a person, except volunteer activity (i.e., a person's time), would be considered an in-kind contribution from that person, and would be subject to the disclosure requirements of 2 U.S.C. §434(b)(3) and 11 CFR §104.13, and the limitations and prohibitions of 2 U.S.C. §§441a and 441b.

Please provide clarification regarding administrative expenses incurred by your committee and/or amend your report to disclose such expenses according to the referenced provisions of the Act and Commission Regulations. Clarification regarding administrative expenses should be disclosed during each two year election cycle beginning with the first report filed in the non-election year.

-Please provide the total for Lines 11(a)(i) and 11(a)(ii), Column B of the Detailed Summary Page.

A written response or an amendment to your original report(s) correcting the above problem(s) should be filed with the Federal Election Commission within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 219-3580.

Sincerely,



Richard Montalbano
Reports Analyst
Reports Analysis Division

224939855460283



FEDERAL ELECTION COMMISSION

WASHINGTON, DC 20541

RG-2

Sharon A. McClos, Treasurer
Fair PAC
1275 Pennsylvania Ave., NW
Washington, DC 20004

DEC 1 1992

Identification Number: C00253906

Reference: October Quarterly Report (7/1/92-9/30/92)

Dear Ms. McClos:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Schedule B of your report (pertinent portion(s) attached) discloses a contribution(s) which appears to exceed the limits set forth in the Act. The Act precludes a political committee, other than a multicandidate committee, from making a contribution to a candidate for federal office in excess of \$1,000 per election. (2 U.S.C. §441a(a))

RM

If the contribution(s) in question was incompletely or incorrectly disclosed, you should amend your original report with the clarifying information. If you have made an excessive contribution, you should either notify the recipient and request a refund of the amount in excess of \$1,000 and/or notify the recipient, in writing, of your redesignation of the contribution. All refunds and redesignations must be made within sixty days of the treasurer's receipt of the contribution. Refunds are reported on Line 16 of the Detailed Summary Page and on Schedule A of the report covering the period during which they are received. Redesignations are reported as memo entries on Schedule B of the report covering the period during which the redesignation is made. (11 CFR §110.1(b))

Although the Commission may take further legal steps regarding the excessive contribution(s), your prompt action in obtaining a refund and/or redesignating the contribution(s) will be taken into consideration.

-Your report discloses no payments for administrative expenses. Administrative expenses are payments made for the purpose of operating a political committee including, but not limited to, rent, utilities, salaries, telephone service, office equipment and

7 29 4 3 0 3 0 6 5 5 2 6 6 4

FATE PAC
PAGE 3

supplies. Any such payments to a person aggregating in excess of \$200 in a calendar year must be disclosed on Schedule B, supporting Line 21 of the Detailed Summary Page. (2 U.S.C. §434(b)(5)) In addition, if expenses have been incurred but not paid in a reporting period, the activity should be disclosed as a debt on Schedule D, if the obligation is \$500 or more, or outstanding for sixty (60) days or more. 11 CFR §104.11

If these expenses are being paid by a connected organization, your Statement of Organization must be amended to reflect this relationship. 2 U.S.C. §433(b)(2)

PLEASE NOTE: Should your committee have a non-federal account(s), these administrative expenses MUST be disclosed on Lines 18, 21(a)(i) and 21(a)(ii) of the Detailed Summary Page and Schedules H2, H3 and H4 (and possibly Schedule H1 if it has not previously been filed). (See 11 CFR §106.6(b)(2)(i)).

Any goods or services provided to your committee by a person, except volunteer activity (i.e., a person's time), would be considered an in-kind contribution from that person, and would be subject to the disclosure requirements of 2 U.S.C. §434(b)(3) and 11 CFR §104.13, and the limitations and prohibitions of 2 U.S.C. §§441a and 441b.

Please provide clarification regarding administrative expenses incurred by your committee and/or amend your report to disclose such expenses according to the referenced provisions of the Act and Commission Regulations. Clarification regarding administrative expenses should be disclosed during each two year election cycle beginning with the first report filed in the non-election year.

-Please provide the total for Lines 11(a)(i) and 11(a)(ii), Column B of the Detailed Summary Page.

-Please identify the name(s) and address(es) of the payee(s) for the in-kind contribution(s) disclosed on Schedule B for Line 23.

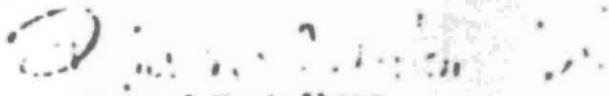
A written response or an amendment to your original report(s) correcting the above problem(s) should be filed with the Federal Election Commission within fifteen (15) days of the date of this

2 A 0 3 0 6 9 5 / 5 4 5 0 6 5

FAIR PAC
PAGE 3

letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9510. My local number is (202) 219-3500.

Sincerely,



Richard Montalbano
Reports Analyst
Reports Analysis Division

3 2 4 0 3 0 6 9 5 7 5 7 0 6 6

ATTACHMENT #8
PAGE 1 OF 1

MEMORANDUM TO FILES: DATE: December 17, 1992
Telecon

NAME OF THE COMMITTEE: FAIR PAC

SUBJECT: Requests For Additional Information Referencing the 1991
Year-End Report, 1992 April Quarterly Report, 1992 July
Quarterly Report and the 1992 October Quarterly Report

FEC REP: Richard C. Montalbano

COMMITTEE REP: Sharon A. McCloe

Ms. McCloe called to inform the analyst that the Committee had sent a response to the RFAI's. The response was being hand delivered by messenger. She stated that the letter would prove that the Committee had qualified as a multicandidate Committee by including a list of 52 contributors.

Ms. McCloe said that the Committee had requested refunds from the candidates and that copies of the letters were enclosed in the response.

94030974068

FAIR PAC
5534 Nevada Avenue, N.W.
Washington, D.C. 20015

December 16, 1992

VIA MESSENGER

Mr. Richard Montalbano
Reports Analyst
Reports Analysis Division
Federal Election Commission
Washington, D.C. 20463

Dear Mr. Montalbano:

This letter provides FAIR PAC's response concerning the issues that you raised in your December 2, 1992 letters based on your preliminary review of our first four FEC disclosure reports, which covered the period July 19, 1991 through September 30, 1992. In essence, you inquired as to whether FAIR PAC had: (A) fully disclosed payments made for its administrative expenses; and (B) made contributions to certain candidates in excess of applicable dollar contribution limits.

(A) Administrative Expenses - With regard to our PAC's administrative expenses, you noted that our reports disclosed only limited payments for such expenses, and you pointed out that any such payments to a person aggregating in excess of \$200 in a calendar year must be disclosed, as must expenses incurred but not paid in a reporting period if the obligation is \$500 or more, or has been outstanding for 60 days or more. You also pointed out that if such expenses were being paid by a connected organization, amendments would have to be filed to reflect this relationship.

You were correct in noting that we reported only limited administrative expenses. The explanation of this is quite simple. FAIR PAC is a new, small, volunteer run committee. We in fact have had only limited administrative expenses, and we have reported them as required.

- As you know, FAIR PAC was established only last year. The committee's activities have been quite modest, and its administrative work, which is done largely by

94030974069

volunteers, does not involve a substantial amount of time or costs. Our first Treasurer, Mrs. Sylvia Chip, administered the committee as a volunteer from her home. After assuming the Treasurer's office in January of this year, I have also done all my work for the committee as a volunteer, and have administered its affairs from my home. The three other individuals who serve with me on FAIR PAC's board also provide their services on their personal time as volunteers. Thus, the primary on-going labor for the committee has been provided through volunteers, and we have no office to cause us to incur rental and other significant office costs.

All of our actual operating expenses during the reporting periods in question have been paid by FAIR PAC and have been properly reflected in the reports. We do not have a connected or sponsoring organization paying for our administrative costs. Our greatest expenses have related to the legal fees we paid to outside counsel for helping to set up FAIR PAC and to advise us on how to comply with applicable federal law and the FEC's regulations and on fund raising. These legal expenses have been included in our reported expense totals and itemized on Schedule B in the first two reports in question. Our only general solicitation during this time was conducted by an outside fund raising consultant to whom we paid \$1,500.00 for the postage and other mailing costs. Our disbursement for this sum is also reported and itemized on Schedule B of the first report. Our volunteers' incidental on-going costs for postage, long distance calls, etc. are paid from FAIR PAC funds and also are included in our reports.

You might wonder why the last two of these four reports listed significantly lower expenses than did our first two reports. (Our report for the period 7/19/91 through 12/31/91 listed expenses of \$5,163.79, and our report for the period 1/31/92 through 3/31/92 listed expenses of \$1,915.40. By contrast, our report for the period 4/1/92 through 6/30/92 listed expenses of only \$66.25, and our last report, which covered the period 7/1/92 through 9/30/92, listed \$313.23 in expenses.) The reason for these differences is also quite simple. The first two reports reflected the costs for our initial organizational activities, fund raising solicitation and legal compliance, as highlighted in the preceding paragraph. During the last two reporting periods, FAIR PAC did not have such start-up expenses, nor did we conduct a major mailing solicitation as we had done initially. Our expenses during these last two periods have been quite modest, consisting primarily of reimbursements for volunteers' long distance phone calls and incidental postage costs, and have been reflected in our reports. (I might also note that we recently conducted our second general solicitation, and its costs, which run several thousand dollars, will be reflected as required in our next report.)

Finally, I would note that we did not have outstanding obligations that had to be reported during this time period.

I hope that the foregoing explanation is adequate with regard to your concerns about our committee's administrative expenses. However, if you have questions or need additional information on this issue, please let me know.

(B) Contribution Limitations - Your letters also stated that a political committee, other than a "multicandidate political committee", is precluded from making contributions to federal candidates in excess of \$1,000 per election, and you marked several contributions on copies of the Schedule B from these reports that you thought might suggest that we exceeded applicable limits. Specifically, the contributions in question appear to be as follows:

<u>Contribution Date</u>	<u>Candidate's Committee</u>	<u>Amount</u>
12/20/91	Buchanan for President	\$2,000.00
12/20/91	Luis Acle for Congress	\$1,000.00
2/14/92	Luis Acle for Congress	\$2,000.00
3/5/92	Buchanan for President	\$1,000.00
5/11/92	Luis Acle for Congress	\$2,000.00
6/22/92	Dana Rohrabacher Re-election Committee	\$2,000.00
7/15/92	Galleghy for Congress	\$1,000.00
9/15/92	Galleghy for Congress	\$2,500.00

When I received your letters, I was very surprised that you felt FAIR PAC did not qualify as a "multicandidate political committee" which can make contributions of up to \$5,000 per election to federal candidates. Quite frankly, we thought that FAIR PAC qualified as a "multicandidate political committee", and that this higher contribution limitation applied.

FAIR PAC's President, William Chip, who is a practicing attorney, had reviewed the applicable provisions in the statute and regulations and had interpreted these requirements as allowing contributions of up to \$5,000 per election, provided that the committee qualified as a "multicandidate political committee" at any time during the two year election cycle. He based his conclusion on the reasoning that, because the \$1,000 and \$5,000 limitations were based on aggregate contributions over the course of an election, the determination of whether FAIR PAC's contributions during any election would be regarded as made by a multicandidate political committee (and therefore subject to the \$5,000 limit) would also be based upon the aggregate number of contributors and contributions during the same election cycle. (This relation-back approach applies in other areas of the law, such as qualifying to claim a personal tax exemption. If your child is born on 12/30/92, you are still entitled to the exemption for the entire year, and not simply a pro-rated amount for 2 of the 365 days.)

Our committee had intended from the outset to become a "multicandidate political committee", and we therefore proceeded relying on our President's honest belief that we could make contributions within the higher limit as long as we met all the qualification requirements during the cycle. To ensure such compliance, we actively solicited contributions from a number of people to ensure that FAIR PAC had more than 50 contributors during the 1991-92 election cycle (see, e.g., the attached example of such a solicitation from FAIR PAC's President). The committee concluded that it had met the requisite qualification requirements (i.e., it had been registered for at least 6 months, had contributed to more than 5 candidates, and had received contributions from over 50 contributors by 7/1/92), and we thought that all of our contributions during the 1991-92 cycle could be made under the \$5,000.00 per candidate per election rule.

As I suggested above, we acted in good faith and had no idea that there might be any problem until you raised this issue. Even though we had fully disclosed all such contributions to the FEC in our reports, prior to receiving your letters, the FEC had not brought the question to our attention so that we could address it. For example, our very first report listed the Buchanan for President contribution of \$2,000.00, which was made last December. We had no idea that this and several subsequent contributions might be a problem until we received your letters a year later.

After receiving your communication, we sought to promptly address this contribution limitation concern. I consulted further with FAIR PAC's President, on whose legal interpretation we had been relying, and then obtained additional advice on this point from another lawyer who specializes in federal campaign finance law matters. We now realize that the legal interpretation of how the "multicandidate political committee" limitation applies which we had been relying on differs from that taken by the FEC. It is now our understanding that the FEC interprets the law as requiring a committee to qualify as a "multicandidate political committee" prior to making any contributions that would exceed \$1,000 per candidate per election.

FAIR PAC will, of course, follow the FEC's view here. Therefore, we already have taken these actions:

- (1) With respect to the above-noted contributions, as indicated by the attached letters, FAIR PAC has written to the three candidates' committees to whom we had made contributions that appear to exceed \$1,000 per election, advising them of the misunderstanding that has occurred and requesting refunds of the excess amounts as indicated: Buchanan for President (\$2,000.00); Luis Acle for Congress (\$4,000.00); and Rohrabacher for Congress (\$1,000.00). When we receive these refunds, we will disclose them on our FEC reports as required.

94030974072

ZM

(2) With respect to the two contributions in question to the Gallegly for Congress Committee, we have reviewed our records to confirm that FAIR PAC had met the "multicandidate political committee" qualification requirements before making these contributions. This review confirmed that FAIR PAC had made contributions to more than 5 candidates, had been registered for more than 6 months and had received contributions from over 50 contributors (see attached listing of qualification factors and of contributors), and therefore had qualified as a "multicandidate political committee" by July 1, 1992, as we reported on our July 15, 1992 report. In view of this fact, we do not believe there is a problem with respect to the 2 contributions in question to the Gallegly for Congress Committee. These contributions total \$3,588.00, which is within the \$5,000.00 per election limitation. (Please immediately advise me if you disagree with our position on these Gallegly Committee contributions.)

AM

•••••

This experience has taught us much and has greatly increased our awareness and sensitivity for ensuring compliance on election law matters. As I explained above, we see no problem with regard to reporting of our administrative expenses, and I hope that you and the Commission will recognize that, while FAIR PAC may have erred on the contribution limitations, we were a newly organized committee, and we acted in good faith based on a legal interpretation. We made no contributions that in the aggregate exceeded \$5,000.00, which we thought was the applicable limit, and FAIR PAC made full and timely disclosure of all contributions. Moreover, only three candidates' committees were involved, and we have acted promptly to correct the perceived problems. I also want you to know that we are adopting new procedures to help ensure problems do not arise in the future. Among other things, our reports and practices henceforth will be reviewed by a new outside counsel who is familiar with the FEC's interpretations. Therefore, we trust that the Commission will not take further legal steps against us in this instance.

Thank you for bringing these concerns to our attention. Please contact me if you have further questions, or would like any additional information.

Sincerely,

Sharon A. McCloe, Treasurer
FAIR PAC

Enclosures

94030974073

April 23, 1992

MEMORANDUM

TO: Wright Andrews
FROM: Bill Chip
RE: FAIR PAC

I am the President of FAIR PAC, which contributes to the campaigns of political candidates who support better enforcement of the immigration laws. In order to qualify as a "multi-candidate," PAC, which can contribute more than \$1,000 to individual campaigns, we must have at least 50 contributors. The amount of the contribution does not matter.

To help us qualify as a "multi-candidate" PAC, I would be grateful if you and your partner and each of your spouses would make a token contribution (~~\$1 or \$5~~) to FAIR PAC. If you are able to do that, please have the checks made out to "FAIR PAC" and delivered to me. Contributions to a PAC are not deductible.

Thank you for your attention to this. I hope that you will be able to support FAIR PAC.

FAIR PAC
5534 Nevada Avenue, N.W.
Washington, D.C. 20015

December 15, 1992

Buchanan for President Committee
8130 Boone Blvd.
Vienna, VA 22182

RM

Gentlemen:

FAIR PAC has recently been advised by the Federal Election Commission (FEC) that we had made contributions to your campaign committee in connection with the 1992 campaign in excess of applicable contribution limitations.

It had been our understanding that FAIR PAC could make contributions of up to \$5,000.00 per candidate per election, provided we qualified as a "multicandidate committee." Unfortunately, we learned from the FEC that FAIR PAC was not eligible to use the higher \$5,000 multicandidate committee contribution limit as we believed when we contributed to your campaign. Instead, according to the FEC's interpretation FAIR PAC was only entitled at that time to contribute—and your committee was only entitled to accept—a maximum of \$1,000.00 per election.

In view of the FEC's position, we must request that your committee refund our contributions to the extent they exceed this \$1,000.00 limit. According to our records, we contributed \$3,000.00 to your committee; thus, you should send FAIR PAC a refund check in the amount of \$2,000.00.

We regret this inadvertent misunderstanding, and appreciate your cooperation and prompt attention to this matter.

Please do not hesitate to contact me if you have any further questions.

Sincerely,

Sharon A. McCloe, Treasurer
FAIR PAC

94030974075

FAIR PAC
5534 Nevada Avenue, N.W.
Washington, D.C. 20015

December 15, 1992

Luis Aclé for Congress Committee
P.O. Box 620146
San Diego, CA 92162

Gentlemen:

FAIR PAC has recently been advised by the Federal Election Commission (FEC) that we had made contributions to your campaign committee in connection with the 1992 campaign in excess of applicable contribution limitations.

It had been our understanding that FAIR PAC could make contributions of up to \$5,000.00 per candidate per election, provided we qualified as a "multicandidate committee." Unfortunately, we learned from the FEC that FAIR PAC was not eligible to use the higher \$5,000 multicandidate committee contribution limit as we believed when we contributed to your campaign. Instead, according to the FEC's interpretation FAIR PAC was only entitled at that time to contribute---and your committee was only entitled to accept---a maximum of \$1,000.00 per election.

RM

In view of the FEC's position, we must request that your committee refund our contributions to the extent they exceed this \$1,000.00 limit. According to our records, we contributed \$5,000.00 to your committee; thus, you should send FAIR PAC a refund check in the amount of \$4,000.00.

We regret this inadvertent misunderstanding, and appreciate your cooperation and prompt attention to this matter.

Please do not hesitate to contact me if you have any further questions.

Sincerely,

Sharon A. McCloe, Treasurer
FAIR PAC

94030974076

FAIR PAC
5534 Nevada Avenue, N.W.
Washington, D.C. 20015

December 15, 1992

Dana Rohrabacher Reelection Committee
4911 Warner Ave. - # 203
Huntington Beach, CA 92642

Gentlemen:

FAIR PAC has recently been advised by the Federal Election Commission (FEC) that we had made contributions to your campaign committee in connection with the 1992 campaign in excess of applicable contribution limitations.

It had been our understanding that FAIR PAC could make contributions of up to \$5,000.00 per candidate per election, provided we qualified as a "multicandidate committee." Unfortunately, we learned from the FEC that FAIR PAC was not eligible to use the higher \$5,000 multicandidate committee contribution limit as we believed when we contributed to your campaign. Instead, according to the FEC's interpretation, FAIR PAC was only entitled at that time to contribute—and your committee was only entitled to accept—a maximum of \$1,000.00 per election. FM

In view of the FEC's position, we must request that your committee refund our contributions to the extent they exceed this \$1,000.00 limit. According to our records, we contributed \$2,000.00 to your committee; thus, you should send FAIR PAC a refund check in the amount of \$1,000.00.

We regret this inadvertent misunderstanding, and appreciate your cooperation and prompt attention to this matter.

Please do not hesitate to contact me if you have any further questions.

Sincerely,

Sharon A. McCloe, Treasurer
FAIR PAC

94030974077

FAIR PAC was registered as of July 19, 1991.
As of March 5, 1992, FAIR PAC had contributed to five candidates.

94030974078

September 1991

1.	Edward Harte	\$5,000
2.	Janet Harte	\$5,000
3.	Cordelia May	\$5,000

November 1991

4.	Thad Rowland	\$5,000
5.	Dorothy Blair	\$1,000

December 1991

6.	William Chip	\$100
----	--------------	-------

January 1992

7.	William S. Corey	\$100
8.	Lloyd Leva Plaine	\$100
9.	Hamilton P. Fox	\$100
10.	John Tanton	\$500
11.	Richard N. Frank	\$250

March 1992

12.	George Abramowitz	\$100
-----	-------------------	-------

April 1992

13.	Gerald S. Klein	\$250
-----	-----------------	-------

May 1992

14.	Jean Chip	\$5
15.	Robert Park	\$5
16.	James Mogle	\$5
17.	Lois Park	\$5
18.	Nancy Jo Mogle	\$5
19.	John Chip	\$2
20.	James Butera	\$25
21.	M. Lee Butera	\$5
22.	Lisa Andrews	\$5
23.	Aurora Ferrero	\$5
24.	Wright Andrews, Jr.	\$25
25.	Henry Ferrero, Jr.	\$5
26.	Sylvia Chip	\$5
27.	Hal Laub	\$100
28.	Lily E. Loper	\$1
29.	Michael Cooper	\$5
30.	Timothy Cooney	\$5
31.	P.L. Foster	\$5
32.	J. Francis Hunt	\$5
33.	Stephen Cunningham	\$5
34.	Alice Cunningham	\$5
35.	Melvin Barnes	\$25
36.	Florence Barnes	\$25
37.	Charles Skillman	\$1
38.	George Chip	\$1

24030974079

June 1992

39.	Dan Stein	\$5
40.	Sharon M. Stein	\$5
41.	Galyn Boone	\$1
42.	James Dorcy	\$1
43.	Cameron Whitman	\$1
44.	Dora Nyffenegger	\$20
45.	JoAnn Nelson	\$20
46.	Alan Nelson	\$20
47.	Kathryn Nelson	\$20
48.	Ira Mehlman	\$1
49.	Marlies Najaka	\$10
50.	Richard Najaka	\$10
51.	Sharon Barnes	\$100
52.	James Barnes	\$100

94030974080



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20543

EO-3

December 23, 1992

Sharon A. McCloe, Treasurer
Fair PAC
1275 Pennsylvania Ave., NW
Washington, DC 20004

Identification Numbers: C00253906

References: Year End (7/19/91-12/31/91), April Quarterly (1/1/92-
3/31/92), July Quarterly (4/1/92-6/30/92) and October
Quarterly (7/1/92-9/30/92) Reports

Dear Ms. McCloe:

On December 2, 1992 you were notified that a review of the above-referenced report(s) raised questions as to specific contributions and/or expenditures, and the reporting of certain information required by the Federal Election Campaign Act.

Your response dated December 16, 1992 is incomplete because you have not provided all the requested information. For this response to be considered adequate, the following information is still required.

-You provided copies of letters dated December 15, 1992 sent to the principal campaign committees of Patrick Buchanan, Luis Acle and Dana Rohrabacher requesting refunds of the excessive contributions made to them by your committee before qualifying as a multicandidate committee. Until the requested refunds are received, you should report the amount of the excessive contributions on Schedule D supporting Line 9 as debts owed to your committee. Based on the information submitted, it appears that the contributions made to Gallegly for Congress are permissible.

-With respect to the 1992 October Quarterly Report, the following information is still to be submitted in order for your response to be considered adequate.

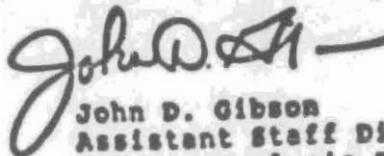
- Please provide the total for Lines 11(a)(i) and (ii), Column B of the Detailed Summary Page.
- Please identify the name(s) and address(es) of the payee(s) for the in-kind contribution(s) disclosed on Schedule B for Line 23.

If this information is not received by the Commission within fifteen (15) days from the date of this notice, the Commission may choose to initiate audit or legal enforcement action.

2 4 3 9 10 390774906 8 1

If you should have any questions related to this matter, please contact Richard Montalbano on our toll-free number (800) 424-9530 or our local number (202) 219-3580.

Sincerely,



John D. Gibson
Assistant Staff Director
Reports Analysis Division

7 2 3 3 5 10 99077490 8 2

93 JAN 12 PM 3:05

FAIR PAC

5534 Nevada Avenue, N.W.
Washington, D.C. 20015

January 12, 1993

Dear Mr. Montalano,

As we discussed I am forwarding to you FAIR PAC's 30th day report following the November 1992 general election.

I had been under the impression that our PAC was not required to file this report. Upon receiving notification from your office that it was due I promptly completed and delivered this form to you. I hope this is satisfactory.

Thank you for your attention

Sincerely,
Sharon McCloe

P.S.

I am continuing my efforts to recover the amount owed to FAIR PAC by Congressman Rahuback.

Board of Directors:

John Tanton, Chairman James Barnes William Chip Sharon McCloe, Treasurer

94030974083

Attachment 11 (Page 2 of 2)

AGLE FOR CONGRESS CAMPAIGN 186
 P. O. BOX 820148
 SAN DIEGO, CA 92188 12/29 092

FAIR PAC \$ 4,000-
 PAID THROUGH 1186

PAYEE THROUGH PAYEE CENTER SA, DC, CASH, 001001
 FEDERAL RESERVE
 FEDERAL CREDIT UNION
 FEDERAL RESERVE

4098905828149707090470250 1186

1182

EUCHANAN FOR PRESIDENT
 CONTRIBUTION ACCOUNT
 8130 BOONE BLVD. SUITE 118
 WENONA, VA 22182

December 23 19 92 1182 01

PAY TO THE ORDER OF Fair PAC \$ 2,000.00

TWO THOUSAND DOLLARS DOLLARS

SOVRAN BANK
 Sovran Bank, DC National Washington, DC 20009

FOR contribution refund 24068

40011620 40540012040 24068

FEDERAL ELECTION
COMMISSION
MAIL STOP 6001

JAN 19 4 44 PM '93

FAIR PAC

5534 Nevada Avenue, N.W.

Washington, D.C. 20015

January 15, 1993

Dear Mr. Montalvano,

Thank you for sending
me the "Statement of Organization" form.
I've attached a copy of the
last reimbursement owed to
FAIR PAC. I hope FAIR PAC has
now satisfied all of the FEC's
concerns regarding these overpayments.
I would like some notice from
the FEC that this is the case,
as soon as possible.

Thank you for your attention
to this matter.

Sincerely,
John McCloe

Board of Directors:

John Tanton, Chairman

James Barnes

William Chip

Sharon McCloe, Treasurer

94030974085

RECEIVED
F.E.C.
SECRETARIAT

94 FEB 25 PM 4:48

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

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

RAD Referral: #93L-18
STAFF MEMBER: Joi L. Roberson

SOURCE: INTERNALLY GENERATED

RESPONDENTS: FAIR PAC
James Barnes, Treasurer

RELEVANT STATUTES: 2 U.S.C. § 441a(a)(1)(A)
2 U.S.C. § 441a(a)(2)(A)
11 C.F.R. § 103.3(b)3

INTERNAL REPORTS CHECKED: Referral Material
Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

This matter was referred to the Office of the General Counsel by the Reports Analysis Division ("RAD"). Attachment 1. The basis of the referral is the making of excessive contributions by FAIR PAC and its treasurer ("the Committee").¹ According to the referral, the Committee made five excessive contributions totaling \$7,000 to three federal candidates for the 1992 Primary Election.

II. FACTUAL AND LEGAL ANALYSIS

Pursuant to section 441a(a)(2)(A) of the Federal Election Campaign Act of 1971, as amended (the "Act"), it is unlawful

1. Sylvia M. Chip was treasurer from August 27, 1991 to October 13, 1992, during the time of the alleged violations. On October 14, 1992, she was succeeded by Sharon A. McCloe, who was treasurer until April 26, 1993. On April 26, 1993, Ms. McCloe was succeeded by James Barnes, who continues to hold the position.

94030974087

94030974088

for any "multicandidate political committee" to contribute more than \$5,000, in the aggregate, to any candidate and his or her authorized political committees with respect to any federal election. A multicandidate political committee is defined as a political committee which has been registered with the Commission for at least six months, has received contributions from more than 50 persons, and has made contributions to five or more federal candidates. 2 U.S.C. § 441a(a)(4). If an organization does not qualify as a multicandidate political committee, it falls under the more general provision of section 441a(a)(1)(A), which limits contributions from any "person" to \$1,000 per election. The term "person" includes an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons. 2 U.S.C. § 431(11).

Contributions that do not appear to be excessive on their face, but which exceed the contribution limitations when aggregated with other contributions from the same contributor, may be either deposited by the campaign committee or returned to the contributor. 11 C.F.R. § 103.3(b)(3). Should the recipient committee decide to deposit the contribution, the treasurer may request reattribution or redesignation of the contribution. If reattribution or redesignation of the contribution is not obtained within sixty (60) days after the treasurer's receipt of the contribution, the excessive portion must be refunded. Id.

According to the referral, the Committee made apparent excessive contributions totaling \$7,000 to three (3) authorized political committees of federal candidates in connection with the 1992 primary election. The Committee had not achieved multicandidate political committee status at the time the apparent excessive contributions were made. Attached to this report is a chart prepared by RAD which lists the dates and amounts of the relevant contributions, the reports on which they were disclosed, and the amount of the refunds. Attachment 1, at 5.

On December 2, 1992, RAD sent a request for additional information ("RFAI") to the Committee instructing it to redesignate any contributions which exceeded the \$1,000 limits, or to request a refund of those contributions. Attachment 1, at 3. In its response, received December 17, 1992, the Committee expressed its belief that multicandidate political committee status, with the corresponding \$5,000 contribution limits, was retroactive. The letter stated:

FAIR PAC's President, William Chip, who is a practicing attorney, had reviewed the applicable provisions in the statute and regulations and had interpreted these requirements as allowing contributions of up to \$5,000 per election, provided that the committee qualified as a "multicandidate political committee" at any time during the two year election cycle.

Attachment 1, at 26. In the Committee's view, since it met the requirements for a multicandidate political committee by July 1, 1992, the \$5,000 limit applied to all the contributions it

94030974089

made during the entire 1992 primary election cycle.² Applying this line of reasoning, the Committee believed that none of the contributions it made prior to July 1, 1992 was excessive because they did not aggregate to over \$5,000 per candidate.

When informed that this legal interpretation was inaccurate and that the \$1,000 limit was applicable until the date the Committee qualified as a multicandidate political committee, the Committee took steps to obtain refunds of the excessive contributions made before July 1, 1992. By January 8, 1993, all excessive contributions had been refunded.

Based upon the foregoing, it appears that the Committee made excessive contributions totaling \$7,000. Accordingly, this Office recommends that the Commission find reason to believe that FAIR PAC and James Barnes, as treasurer, violated 2 U.S.C. § 441a(a)(1)(A).

III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

2. In the original RFAI, RAD questioned certain contributions totaling \$3,588 to the Gallegly for Congress Committee. However, these contributions were made after July 1, 1992, when the Committee achieved multicandidate political committee status, so they were within the applicable \$5,000 limit.

94030974090

IV. RECOMMENDATIONS

1. Open a MUR.
2. Find reason to believe that FAIR PAC and James Barnes, as treasurer, violated 2 U.S.C. § 441a(a)(1)(A) and enter into conciliation prior to a finding of probable cause to believe.
3. Approve the attached Factual and Legal Analysis and proposed conciliation agreement.
4. Approve the appropriate letter.

Lawrence M. Noble
General Counsel

Date

2/25/94

BY:


Lois G. Lerner
Associate General Counsel

Attachments:

1. Referral Materials
2. Factual and Legal Analysis
3. Proposed Conciliation Agreement

94030974091

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of
FAIR PAC and James Barnes,
Treasurer.

)
)
) RAD Referral
) #93L-18

MUR 3940

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on March 3, 1994, the Commission decided by a vote of 5-0 to take the following actions in RAD Referral #93L-18:

1. Open a MUR.
2. Find reason to believe that FAIR PAC and James Barnes, as treasurer, violated 2 U.S.C. § 441a(a)(1)(A) and enter into conciliation prior to a finding of probable cause to believe.

(continued)

94030974092

3. Approve the Factual and Legal Analysis and proposed conciliation agreement, as recommended in the General Counsel's Report dated February 25, 1994.

4. Approve the appropriate letter, as recommended in the General Counsel's Report dated February 25, 1994.

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

Attest:

3-3-94
Date

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

Received in the Secretariat: Fri., Feb. 25, 1994 4:48 p.m.
Circulated to the Commission: Mon., Feb. 28, 1994 11:00 a.m.
Deadline for vote: Thurs., Mar. 03, 1994 4:00 p.m.

bjr

94030974093



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20543

MARCH 8, 1994

James Barnes, Treasurer
FAIR PAC
1450 Broadway 17th Floor
New York, NY 10018

RE: MUR 3940
FAIR PAC and James
Barnes, as treasurer

Dear Mr. Barnes:

On March 3, 1994, the Federal Election Commission found that there is reason to believe FAIR PAC and you, as treasurer, violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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 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.

94030974094

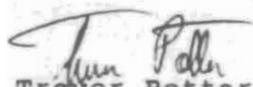
Mr. Barnes
Page 2

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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

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

For the Commission,


Trevor Potter
Chairman

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

94030974095

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: FAIR PAC
James Barnes, Treasurer

MUR: 3940

This matter was generated based on information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2).

Pursuant to section 441a(a)(2)(A) of the Federal Election Campaign Act of 1971, as amended (the "Act"), it is unlawful for any "multicandidate political committee" to contribute more than \$5,000, in the aggregate, to any candidate and his or her authorized political committees with respect to any federal election. A multicandidate political committee is defined as a political committee which has been registered with the Commission for at least six months, has received contributions from more than 50 persons, and has made contributions to five or more federal candidates. 2 U.S.C. § 441a(a)(4). If an organization does not qualify as a multicandidate political committee, it falls under the more general provision of section 441a(a)(1)(A), which limits contributions from any "person" to \$1,000 per election. The term "person" includes an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons. 2 U.S.C. § 431(11).

94030974096

Contributions that do not appear to be excessive on their face, but which exceed the contribution limitations when aggregated with other contributions from the same contributor, may be either deposited by the campaign committee or returned to the contributor. 11 C.F.R. § 103.3(b)(3). Should the recipient committee decide to deposit the contribution, the treasurer may request reattribution or redesignation of the contribution. If reattribution or redesignation of the contribution is not obtained within sixty (60) days after the treasurer's receipt of the contribution, the excessive portion must be refunded. Id.

FAIR PAC and its treasurer ("the Committee") made excessive contributions totaling \$7,000 to three (3) authorized political committees of federal candidates in connection with the 1992 primary election. The Committee had not achieved multicandidate political committee status at the time the apparent excessive contributions were made.

On December 2, 1992, the Reports Analysis Division ("RAD") sent a request for additional information ("RFAI") to the Committee instructing it to redesignate any contributions which exceeded the \$1,000 limits, or to request a refund of those contributions. In its response, received December 17, 1992, the

94030974097

Committee expressed its belief that multicandidate political committee status, with the corresponding \$5,000 limits, was retroactive. The letter stated:

FAIR PAC's President, William Chip who is a practicing attorney, had reviewed the applicable provisions in the statute and regulations and had interpreted these requirements as allowing contributions of up to \$5,000 per election, provided that the committee qualified as a "multicandidate political committee" at any time during the two year election cycle.

In the Committee's view, since it met the requirements for a multicandidate political committee by July 1, 1992, the \$5,000 limit applied to all the contributions it made during the entire 1992 primary election cycle. Applying this line of reasoning, the Committee believed that none of the contributions it made prior to July 1, 1992 was excessive because they did not aggregate to over \$5,000 per candidate.

When informed that this legal interpretation was inaccurate and that the \$1,000 limit was applicable until the date the Committee qualified as a multicandidate political committee, the Committee took steps to obtain refunds of the excessive contributions made before July 1, 1992. By January 8, 1993, all excessive contributions had been refunded. Based upon the foregoing, there is reason to believe that FAIR PAC and James Barnes, as treasurer, violated 2 U.S.C. § 441a(a)(1)(A) by making excessive contributions totaling \$7,000.

94030974098

FEDERAL ELECTION COMMISSION
RECEIVED
MAR 25 1994
OGC 669



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 25, 1994

TWO WAY MEMORANDUM

TO: OGC, Docket

FROM: Philomena Brooks *PB*
Accounting Technician

SUBJECT: Account Determination for Funds Received

We recently received a check from Fair Pac, check number 1077, dated March 18, 1994, and in the amount of \$1750.00. 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.

TO: Philomena Brooks
Accounting Technician

FROM: OGC, Docket *By aa*

In reference to the above check in the amount of \$1750.00, the MUR number is 3940 and in the name of FAIR PAC. The account into which it should be deposited is indicated below:

- Budget Clearing Account (OGC), 95F3875.16
- Civil Penalties Account, 95-1099.160
- Other: _____

Amata Alexander
Signature

3-28-94
Date

94030974099

1077

FAIR PAC 11-91
1275 PENNSYLVANIA AVE., N.W.
WASHINGTON, D.C. 20004
TEL 202-383-0645

MARCH 18 1994
15-20
540

PAY TO THE ORDER OF Federal Election Commission \$ 1750.00

ONE Thousand Seven hundred Fifty dollars DOLLARS

FIRST AMERICAN BANK
FIRST AMERICAN BANK, N.A.
WASHINGTON, DC 20005

FOR FEC compliance \$1750

⑆001077⑆ ⑆054000043⑆ ⑆ 3798991⑆

JMB

94030974100

RECEIVED
F.E.C.
SECRETARIAT

94 MAR 30 PM 12:33

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
FAIR PAC and James Barnes,) MUR 3940
as treasurer)

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

Attached is a conciliation agreement signed by James Barnes, treasurer of FAIR PAC. Attachment 1.

The attached agreement contains no changes from the agreement approved by the Commission on March 3, 1994. A check for the civil penalty has been received. Attachment 2. This Office recommends that the Commission accept the attached conciliation agreement and close the file.

II. RECOMMENDATIONS

1. Accept the attached conciliation agreement with FAIR PAC and James Barnes, as treasurer.
2. Approve the appropriate letter.
3. Close the file.

Lawrence M. Noble
General Counsel

3/29/94
Date

BY: 
Lois G. Lerner
Associate General Counsel

- Attachments
1. Conciliation Agreement
 2. Copy of check

Staff Assigned: Mary Ann Bumgarner

94030974101

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
FAIR PAC and James Barnes,) MUR 3940
as treasurer.)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on April 4, 1994, the Commission decided by a vote of 6-0 to take the following actions in MUR 3940:

1. Accept the conciliation agreement with FAIR PAC and James Barnes, as treasurer, as recommended in the General Counsel's Report dated March 29, 1994.
2. Approve the appropriate letter, as recommended in the General Counsel's Report dated March 29, 1994.
3. Close the file.

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

Attest:

4-4-94
Date

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

Received in the Secretariat:	Wed., Mar. 30, 1994	12:33 p.m.
Circulated to the Commission:	Wed., Mar. 30, 1994	4:00 p.m.
Deadline for vote:	Mon., Apr. 04, 1994	4:00 p.m.

bjr

94030974102



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

APRIL 11, 1994

James Barnes, Treasurer
FAIR PAC
1450 Broadway, 17th Floor
New York, NY 10018

RE: MUR 3940
FAIR PAC and James Barnes,
as treasurer

Dear Mr. Barnes:

On April 4, 1994, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted by FAIR PAC and you, as treasurer, in settlement of a violation of 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). 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 respondents and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Mary Ann Bumgarner
Attorney

Enclosure
Conciliation Agreement

94030974103

MAR 25 10 47 AM '94

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of
FAIR PAC and James Barnes,
as treasurer

)
)
) MUR 3940
)

94 MAR 28 AM 11:02

RECEIVED
FEDERAL ELECTION COMMISSION

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 FAIR PAC and James Barnes, as treasurer, ("the Respondents") violated 2 U.S.C. § 441a(a)(1)(A).

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.

94030974104

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

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

1. FAIR PAC is a political committee within the meaning of 2 U.S.C. § 431(4).

2. James Barnes is the current treasurer of FAIR PAC and has served in that capacity since April 26, 1993.

Sylvia M. Chip was treasurer during the period in which the violations occurred.

3. Respondents achieved multicandidate political committee status within the meaning of 2 U.S.C. § 441a(a)(4) on July 1, 1992.

4. A multicandidate political committee is defined as a political committee which has been registered with the Commission for at least six months, has received contributions from more than 50 persons, and has made contributions to five or more federal candidates. 2 U.S.C. § 441a(a)(4).

5. If an organization does not qualify as a multicandidate political committee, it falls under the more general provision of section 441a(a)(1)(A).

6. Pursuant to 2 U.S.C. § 441a(a)(1)(A), it is unlawful for any person to make contributions to any candidate and his or her authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$1,000.

94030974105

7. The term "person" includes an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons. 2 U.S.C. § 431(11).

8. Pursuant to 11 C.F.R. § 103.3(b)(3), contributions made by any person which exceed the \$1,000 aggregate limit for an election may be deposited by the campaign or returned to the contributor. Should the recipient committee decide to deposit the contribution, the treasurer may request reattribution or redesignation of the contribution. If reattribution or redesignation of the contribution is not obtained within sixty (60) days after the treasurer's receipt of the contribution, the excessive portion must be refunded.

9. Between December 20, 1991 and June 22, 1992, FAIR PAC made excessive contributions totaling \$7,000 to three (3) authorized political committees of federal candidates in connection with the 1992 primary election. During that period, FAIR PAC was not a multicandidate political committee and was subject to the limitations of 2 U.S.C. § 441a(a)(1)(A).

10. The Committee took steps to obtain refunds of the excessive contributions made before July 1, 1992, and all \$7,000 of excessive contributions have since been refunded.

94030974106

V. Respondents violated 2 U.S.C. § 441a(a)(1)(A) by making excessive contributions totaling \$7,000.

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of one thousand, seven hundred fifty dollars (\$1,750), 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 requirements contained in this agreement and to so notify the Commission.

94030974107

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

FOR THE COMMISSION:

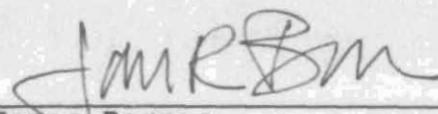
Lawrence M. Noble
General Counsel

BY:


Lois G. Lerner
Associate General Counsel

4/8/94
Date

FOR THE RESPONDENTS:


James Barnes
Treasurer

MARCH 18 1994
Date

94030974108



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3940

DATE FILMED 5-11-94 CAMERA NO. 2

CAMERAMAN JM4

94030974109