FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 3994

DATE FILMED 10-13-94 CAMERA NO. 8

CAMERAMAN JMH

9404359041 1

committed:

> "Hoakley campaign manager Fred Clark said a check was sent to Federal Express shortly after the flight."

I request that you initiate immediate action against the respondents for this clear violation of campaign finance laws.

Complainant's Address

P.O. Box 442
Sandwich, MA 02563

Notarized: Dorothy E. Scott

Signed and sworn to before me.

Date: June 17, 1994

Jet flies Express-ly for Moakley

By JOE SATTERFIELD

WASHINGTON — When U.S. Rep. J. Joseph Moakley absolutely, positively had to be at his Boston campaign fund-raiser last week, he called Federal Express.

The company, famous for its on-time delivery guarantee, came through for the powerful Rules Committee chairman.

Moakley essentially Fed-Exed himself and his top committee aide to Boston in the company president's sleek corporate jet.

Federal Express, which has a major interest in pending aviation legislation, took the opportunity to send along two of its lobbyists, who had exclusive access to the congressman for the hour-long flight.

"It was a last minute thing," Moakley said. "The only reason I did it was because I had (Vice President Al) Gore up there (at the fund-raiser.) I couldn't disappoint him."

Turn to Page 18

Congressman flew corporate jet to attend recent Hub fund-raiser

From Page 1

The South Boston Democrat said he will reimburse Federal Express around $1,000, the equivalent of two first class seats for himself and aide George Crawford on a commercial flight. Such reimbursement is required under Federal Election Commission rules.

Even with the reimbursement, however, Moakley's trip was a bargain. The cost of renting a private Lear jet for a Washington-Boston trip is more than $5,000.

Moakley, whose committee controls the flow of legislation in the House, has received $10,500 in campaign contributions from Federal Express' political action committee since 1989, according to FEC records.

The congressman got the private escort even though commercial planes were leaving hourly to Boston from Washington's National Airport at the time.

Moakley's arrangement with Federal Express is allowed under election laws but illustrates the special access and privileges which members of Congress often receive from lobbyists and major corporations.

> 'It was a last minute thing.'
>
> — J. Joseph Moakley

However, the FEC requires lawmakers to reimburse a company for the air fare "in advance" of the flight, which Moakley did not do.

"It would be considered a contribution by the corporation (if the flight is not paid in advance)," an FEC spokeswoman said.

Moakley campaign manager Fred Clark said a check was sent to Federal Express shortly after the flight.

"It's basically in the mail," Clark said. "It was paid in a timely basis."

Federal Express President Frederick W. Smith has met with Moakley "on a couple of occasions" when aviation legislation was pending in the House, according to Crawford.

Moakley said at the suggestion of a colleague he called "a fella" at Federal Express — he wouldn't say who — to find if a plane was available.

He said several unexpectedly late House votes forced him to miss the hourly US Air flights last Thursday and he was worried that he would not get to his $1,000 a person fund-raiser at the World Trade Center in time.

Federal Express apparently was eager to please Moakley. Smith's plane was already on the tarmac in Washington because he was in town to lobby the Senate on an aviation bill, according to Crawford.

The company quickly rousted its pilots out of the Smithsonian Museum in Washington to make the special Moakley flight. The lobbyists were also quickly dispatched.

"They (the lobbyists) wanted to spend time with the chairman, obviously," Crawford said, adding that "they didn't mention business at all. (Moakley) told jokes for an hour." Federal Express officials did not return repeated phone calls.

Moakley's campaign will have little trouble paying for the first class air fare — he raised about $200,000 in the fund-raiser last week.

94043590414

Moakley tells FEC of possible violation

By Bob Hohler
GLOBE STAFF

WASHINGTON – Rep. J. Joseph Moakley notified the Federal Election Commission yesterday that he may have violated campaign law in connection with a special ride he received last week on a Federal Express corporate jet.

Aides to the South Boston Democrat, the chairman of the House Rules committee, said Moakley unwittingly failed to comply with an FEC rule that requires candidates to prepay air fares for private, unscheduled flights that could be considered contributions.

Moakley's staff said he solicited the flight from Washington to Boston from Federal Express executives last Thursday when he realized he would be unable to cast key votes in the House and return to Boston on a commercial flight in time to meet Vice President Al Gore at a $1,000-a-plate Moakley fund-raiser at the World Trade Center.

"We were between a rock and hard place, between making important votes on Bosnia, Haiti and UN peacekeeping and not stiffing the vice president," said George Crawford, staff director of the Rules committee, who shared the flight with Moakley and Federal Express lobbyists.

Crawford said House ethics officials told him that Moakley could accept the flight as long as he reimbursed Federal Express for the full value of the trip.

But Crawford and Fred Clark, Moakley's campaign manager, said they neglected to check with the FEC, which requires advance reimbursement. A Boston Herald article yesterday cited the possible FEC violation.

Moakley's staffers said they delivered a check Monday to Federal Express for the value of two, first-class airfares.

They said Moakley sent a letter yesterday notifying the FEC of the circumstances of the flight.

"It may be a technical violation," Clark said. "But the congressman has no past history of this and we've ensured that it will never happen again, so we're hopeful that will be enough for the FEC to take no action."

9404359041 5

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JUNE 22, 1994

Joseph Maruca
Massachusetts Republican Victory Fund
P.O. Box 442
Sandwich, MA 02563

RE: MUR 3994

Dear Mr. Maruca:

This letter acknowledges receipt on June 20, 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 3994. 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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JUNE 22, 1994

William H. Shaevel, Treasurer
Re-Elect Congressman Joe Moakley Committee
99 Summer Street, Suite 1250
Boston, MA 02110

RE: MUR 3994

Dear Mr. Shaevel:

The Federal Election Commission received a complaint which indicates that the Re-Elect Congressman Joe Moakley 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 3994. Please refer to this number in all future correspondence.

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

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

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If you have any questions, please 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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JUNE 22, 1994

Frederick Smith
Chief Executive Officer
Federal Express Corporation
P.O. Box 727
Memphis, TN 38194

RE: MUR 3994

Dear Mr. Smith:

The Federal Election Commission received a complaint which indicates that the Federal Express Corporation and you, as Chief Executive Officer, 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 3994. 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 Federal Express Corporation and you, as Chief Executive Officer, in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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

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If you have any questions, please 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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JUNE 22, 1994

Representative John Joseph Moakley
1812 Columbia Road
South Boston, MA 02127

RE: MUR 3994

Dear Mr. Moakley:

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 3994. 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 any notifications and other communications from the Commission.

To ensure timely notification, a copy of this letter has been sent to you at your Washington, D.C. office.

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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

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(202) 628-6600 • FACSIMILE (202) 434-1690

FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
JUL 5 5 02 PM '94

July 5, 1994

Mary L. Taksar
Federal Election Commission
Office of General Counsel
999 E Street, NW
6th Floor
Washington, DC 20463

Re: MUR 3994

Dear Ms. Taksar:

This office represents the Re-elect Congressman Joe Moakley Committee and Mr. William H. Shaevel, as treasurer, in the above-referenced matter. A statement of designation of counsel confirming this representation is enclosed.

This Committee received the Commission's notification on June 27, 1994, and made prompt arrangements for representation. We, in turn, would request an additional 15 days for the preparation of the response which will be required. The extension we request would bring the due date to July 12, 1994.

Respectfully submitted,

Robert F. Bauer
Counsel to Re-Elect Congressman
Joe Moakley Committee and
William H. Shaevel, as treasurer

RFB:dma

cc: William H. Shaevel

[21235-0001/LETTER.01]

9404359042 3

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3994

NAME OF COUNSEL: PERKINS + COIE ROBERT BAUER

ADDRESS: 607 14th Street, NW, Suite 800
Washington, DC 20005

TELEPHONE: (202) 628-6600

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.

6/29/94
Date

William H. Shaewel
Signature

RESPONDENT'S NAME: Re-Elect Cong. Joe Moakley Cte.

ADDRESS: c/o William H. Shaewel, Treasurer
99 Summer St.
Boston, Mass 02110

TELEPHONE: HOME( )

BUSINESS(617) 951-0244

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JUN 30 '94 08:28PM 617 951-0284 P.8/16

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 6, 1994

Robert F. Bauer, Esq.
Perkins Coie
607 Fourteenth Street, N.W.
Washington, DC 20005-2011

RE: MUR 3994
Re-Elect Congressman Joe
Moakley Committee and
William H. Shaevel, as Treasurer

Dear Mr. Bauer:

This is in response to your letter dated July 5, 1994, requesting an extension of 15 days to respond to the complaint filed in the above-noted matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on July 27, 1994.

If you have any questions, please contact Joan McEnery at (202) 219-3400.

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

9404359042 5

OLDAKER, RYAN & LEONARD
ATTORNEYS AT LAW
818 CONNECTICUT AVENUE, N.W.
SUITE 1100
WASHINGTON, D.C. 20006

(202) 728-1010
FACSIMILE (202) 728-4044

July 7, 1994

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

Re: MUR 3994
(Frederick Smith, Federal Express Corporation)

Dear Mr. Noble:

I am writing to request an extension of time to respond to MUR 3994 (Frederick Smith, Federal Express Corporation). My client, Federal Express Corporation, received your letter on June 27, 1994, making a response due on July 12, 1994. However, this matter was not brought to my attention until today. Due to this delay in notification, in addition to travel plans this week and deadlines on other matters during July, I am requesting a 20-day extension, making a response due on August 1. I would appreciate your assistance in this matter.

Sincerely,

Lyn Utrecht

Lyn Utrecht

9404359042 6

VIA FACSIMILE FEDERAL ELECTION COMMISSION

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3994

NAME OF COUNSEL: Bill Oldaker, Lyn Utrecht

ADDRESS: Oldaker, Ryan & Leonard
818 Connecticut Avenue, NW Suite 1100
Washington, DC 20006

TELEPHONE: (202) 728-1010

RECEIVED FEDERAL ELECTION COMMISSION OFFICE OF GENERAL COUNSEL
JUL 11 11 10 AM '94

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.

Federal Express Corporation

7/7/94
Date

By: [signature]
Signature
Kenneth E. Masterson

RESPONDENT'S NAME: Federal Express Corporation

ADDRESS: Federal Express Corporation
P.O. Box 727
Memphis, TN 38194

TELEPHONE: HOME( )

BUSINESS(901) 395-5168

*This is a designation of additional counsel.

9404359042 7

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 14, 1994

Lyn Utrecht, Esq.
Oldaker, Ryan & Leonard
818 Connecticut Avenue, N.W.
Washington, D.C. 20006

RE: MUR 3994
Federal Express Corporation
and Frederick Smith

Dear Ms. Utrecht:

This is in response to your letter dated July 7, 1994, requesting an extension until August 1, 1994 to respond to the complaint filed in the above-noted matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on August 1, 1994.

If you have any questions, please contact Joan McEnery at (202) 219-3400.

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

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RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
94 JUL 27 5 10 PM '94

July 27, 1994

Ms. Joan McEnery
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Re: MUR 3994

Dear Ms. McEnery:

This is the response of Congressman Joe Moakley and his principal campaign committee, Re-Elect Congressman Joe Moakley Committee ("the Committee")("Respondents") to the FEC's notice dated June 22, 1994 that a complaint had been filed against Mr. Moakley and the Committee.[1]

The complaint, filed by the Massachusetts Congressional Victory Fund, alleges that Respondents accepted a prohibited corporate contribution from the Federal Express Corporation in connection with the use of the corporation's plane to travel to a campaign fundraising event. Based on the minor nature of this matter and the fact that it was corrected before any action by the Commission, under the Commission's prioritization procedures, Respondents ask that this complaint be dismissed without taking further action.

The Facts

The facts of the case are simple. The Committee had planned a fundraising reception in Boston for Thursday, June 9 beginning at 6:30 PM and scheduled to last approximately one hour. Vice President Al Gore was scheduled to attend the event briefly.

Protocol Warm

[1] A designation of counsel for the Committee was submitted to the Commission earlier. Attached to this letter is a copy of the designation of counsel by Congressman Moakley.

[21235-0001/DA942070.068]

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Reservations on a commercial flight to Boston had been made for 2:00 PM, 3:00 PM and 4:00 PM. Due to a series of votes on the House floor, however, it became clear that the Congressman would be unable to make any of these flights. If the Congressman had taken the 5:00 PM commercial flight to Boston, he would not have arrived at the fundraiser in time.

One of the Congressman's aide's explored various options for the Committee to get Mr. Moakley to Boston in a timely fashion (satellite hook-up, chartered aircraft), but because of the extremely short lead time to make arrangements, these options were not feasible. In a conversation with Mr. George Tagg, Managing Director of Government Affairs for Federal Express, it was determined by the aide that the Federal Express plane would be available for transportation for campaign purposes.

The staffer, who was not familiar with the rules governing the use of corporate planes, called the House Committee on Standards of Official Conduct for information. He was told that the use of a corporate plane for campaign purposes was not prohibited, provided the campaign reimbursed the corporation at the rate of first class airfare for each passenger traveling on behalf of the candidate. The individual to whom he spoke at the Ethics Committee did not mention the requirement that the payment be made in advance.

Mr. Tagg told the aide that the Committee should get a check to him that day to reimburse the corporation for the use of the plane. The aide explained that there were no campaign checks available in Washington, D.C. to make the expenditure, but he agreed to contact the Committee to instruct them to cut a check in Boston and to forward it to Federal Express as soon as possible. The aide did not, however, understand from his conversation with Mr. Tagg (or from the information from the House Ethics Committee) that the Federal campaign laws required <u>advance</u> payment for the use of a corporate plane. As a result, a check was forwarded by the Committee to Federal Express on Monday, June 13.

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Several newspaper articles appeared after the fundraising event reporting on Congressman Moakley's use of the corporate plane and on the requirement for advance payment. When a possible violation of the campaign laws was called to his attention, Mr. Moakley sent a letter, dated June 14, 1994, to the FEC disclosing this matter to the Commission and reporting on the steps taken to correct the matter. The complaint was filed with the Commission after that date (on or about June 17).

Discussion

As the facts show, this matter involves simply a misunderstanding of the campaign laws. The aide, in making arrangements to use a corporate plane for campaign purposes, was aware of the need to reimburse the corporation for the use of the plane, but was not aware that the reimbursement was required to be made in advance of the use of the plane. Because of the hurried, last minute nature of the arrangements, his misunderstanding was not clarified until after the plane was used. As a result, the reimbursement to Federal Express was not sent until after the use of the plane.

The Committee nonetheless promptly reimbursed the corporation for the use of its plane at the full first class airfare. Further, the violation was first called to the Commission's attention not by the complaint, but by the Respondents themselves. At that time, a mere four days (including a two-day weekend) after the use of the plane, the matter had already been corrected. And, as stated in Mr. Moakley's June 14 letter, steps had been taken to ensure that the same situation would not happen again.

This matter involves a small amount of money ($822.56). While a misunderstanding of the requirements of the campaign laws occurred, it was immediately and voluntarily corrected, without prompting from the FEC. There have been no past violations and the Committee has taken steps to ensure that no similar violation will occur in the future. The Commission has adopted a system of prioritizing compliance matters under which it pursues only the most significant matters involving the federal campaign laws. This case clearly does not rise to

9404359043 1

that level. For these reasons, the Commission should dismiss this matter without taking any further action.

Very truly yours,

Robert F. Bauer
Judith L. Corley
Counsel for Respondents

9404359043 2

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3994

Robert F. Bauer
Judith L. Corley

NAME OF COUNSEL: PERKINS COIE

ADDRESS: 607 - 14th Street, N.W.
Suite 800
Washington, DC 20005-2011

TELEPHONE: (202) 628-6600

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.

26 June, 1994
Date

Signature

RESPONDENT'S NAME: John Joseph Moakley

ADDRESS: H 312, The Capitol
Washington, D.C. 20515

TELEPHONE: HOME( )
BUSINESS(202) 225-9486

9404359043 3

OLDAKER, RYAN & LEONARD
ATTORNEYS AT LAW
818 CONNECTICUT AVENUE, N.W.
SUITE 1100
WASHINGTON, D.C. 20006

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FACSIMILE (202) 728-4044

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
AUG 1 4 54 PM '94

August 1, 1994

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

Re: MUR 3994

Dear Mr. Noble:

This letter is in response to the Federal Election Commission ("FEC") letter dated June 22, 1994, notifying the Federal Express Corporation and Frederick Smith as Chief Executive Officer, (hereinafter jointly "Federal Express" or the "Respondents") that a complaint had been filed against them by the Massachusetts Congressional Victory Fund. The Respondents hereby submit this response and urge the Commission to find no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended ("FECA" or the "Act") or 11 CFR §114.9(e) occurred or take no further action in this matter.

The Complaint filed by the Massachusetts Congressional Victory Fund alleges that Federal Express Corporation and Congressman John Joseph Moakley violated the FECA through an "illegal corporate contribution made to Congressman Moakley's re-election campaign". As set forth below, Federal Express Corporation exercised great care to ensure that the provisions of all applicable campaign laws would be met by specifically advising the Congressman's staffer of the advance payment requirement. The Federal Express employee contacted believed that this requirement had been met. In fact, although the check was apparently cut on the date of the flight, it apparently was not delivered to Federal Express until two business days later. The air fare in question totaled only $822.56. Given the good faith effort by Federal Express to ensure that the provisions of the Act were complied with, the small amount of air fare in question, the fact that reimbursement was made within two business days of the flight, and the Commission's prioritization procedures, we ask that the Commission find no reason to believe that a violation occurred or that this complaint be dismissed without further action.

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Factual Background

As the affidavit of George C. Tagg, (Att A) Managing Director, Government Affairs for Federal Express Corporation details, Mr. Tagg was contacted on June 9, 1994 by Mr. George Crawford, on behalf of Congressman Moakley. Mr. Crawford explained that because House voting had run later than expected, the Congressman was unable to use his commercial flight reservations to travel to Boston and it was urgent that the Congressman attend a fund-raiser being held there in his honor. Mr. Tagg inquired within the Federal Express system whether there were any uncommitted Federal Express aircraft in the area. He determined that there was such an aircraft and informed Mr. Crawford that it could be made available for the Congressman's travel. As set forth in his affidavit, Mr. Tagg then informed Mr. Crawford that payment for the flight was required in advance. Mr. Crawford responded that he was not in possession of any "Re-elect Joe Moakley Committee" (the "Committee") checks and that because this travel was in support of a campaign event, the funds should be drawn from that account. Mr. Tagg and Mr. Crawford agreed that a check for the appropriate first class air fare would be drawn immediately by the Committee in Boston and forwarded to Federal Express in Boston. It was Mr. Tagg's belief that this did in fact occur. See also Committee check, # 9742 for $822.56 (Att B) verifying that the funds were dedicated to Federal Express on June 9, 1994, as agreed.

Discussion

Under FECA and the Federal Election Commission (the "Commission") regulations implementing the Act, 11 CFR §114.9(e), "A candidate, candidate's agent, or person traveling on behalf of a candidate who uses an airplane which is owned or leased by a corporation or labor organization ...must in advance, reimburse the corporation or labor organization..." As set forth above, Mr. Tagg made this advance payment requirement clear to the Congressman's staffer. After realizing that a check in hand in Washington, D.C. was not physically possible, because Mr. Crawford was not in possession of any Committee checks, Mr. Tagg arranged for immediate payment by the Committee in Boston. The above referenced check dated June 9, 1994 verifies that the funds were so dedicated to Federal Express on that date. Due to an apparent misunderstanding by Congressman Moakley's staff, however, the check did not physically arrive at a Federal Express office until Monday, June 13, 1994. At no time did Federal Express intend Congressman Moakley's travel to be construed as a prohibited corporate contribution. It is the Respondents' position that throughout the transaction in question, they were in compliance with the letter and spirit of the Federal Election Campaign Act, as amended and more specifically with 11 CFR §114.9(e). If any violation occurred, it is at most an inadvertent, technical one.

Additionally, this action involves a relatively small sum, $822.56. Taking into consideration the Respondents' good faith efforts to comply with the Act, the small amount of money involved, the fact that payment was received by Federal Express two

9404359043 5

business days after the flight, and the Commission's prioritization procedures, we ask that the Commission dismiss this complaint without further action.

Should the Commission decline to act favorably upon the Respondent's request to dismiss, we ask that the Commission consider pre-probable cause conciliation.

Sincerely,

Lyn Utrecht

Lyn Utrecht

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AFFIDAVIT OF GEORGE C. TAGG

I, George C. Tagg, do hereby declare the following:

1. I am the Managing Director, Government Affairs, for the Federal Express Corporation. On June 9, 1994, I was contacted by Mr. George Crawford, on behalf of Congressman John Joseph Moakley. Mr. Crawford explained that voting in the House was running late and as a result, the Congressman's previously scheduled commercial flight would not allow him to arrive in Boston in time for a fund-raiser being held in his honor. I informed Mr. Crawford that I would inquire whether we had any uncommitted aircraft in the area.

2. After receiving the request from Congressman Moakley's office, I was informed that there was a Federal Express jet available at National Airport. I notified Mr. Crawford that the plane could be made available for the Congressman's flight to Boston. I then instructed Mr. Crawford that the Congressman would be required to pay, in advance, the equivalent first class air fare for each passenger. Mr. Crawford agreed that providing such payment would not be a problem, however, he informed me that he was not in possession of any "Re-Elect Joe Moakley Committee" (the "Committee") checks and that because this was a Committee event, the funds should be drawn from that account. Mr. Crawford then informed me that he would contact the Committee Treasurer, and that the check would be cut in Boston, immediately. I have attached a copy of the Committee check, dated June 9, 1994, verifying that the Committee funds were dedicated to Federal Express as agreed. In the belief that the payment provisions had been met, I then finalized the travel arrangements with the Federal Express flight staff, and Congressman Moakley was flown to Boston.

3. Federal Express Corporation, and its representatives, are fully aware of the requirement for advance payment of the equivalent first class air fare for all political candidates and associated personnel, traveling aboard our aircraft in support of campaign events. For this reason, we informed the Congressman's staff of the payment requirement, they agreed, and it is our belief that a check was drawn immediately for the air fare. It is our belief and firm conviction that we have complied with both the letter and the spirit of the Federal Election Campaign Act of 1971, as amended, and specifically with the provisions of 11 CFR §114.9(e). At no time did Federal Express, or I as its representative, intend Congressman Moakley's travel to be construed as a prohibited corporate contribution, or a violation of FEC regulations.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 27th day of July 1994

George C. Tagg

George C. Tagg

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RE-ELECT CONGRESSMAN
JOE MOAKLEY COMMITTEE
99 SUMMER STREET - SUITE 1390
BOSTON, MA 02110

BANK OF BOSTON
THE FIRST NATIONAL BANK OF BOSTON
5-39/110 40

9742

PAYEE:

Eight hundred Twenty Two dollars and 56 cents

DATE
06/09/94

AMOUNT
$822.56

Federal Express
P.O. Box 1140 Dept. "A"
Memphis, TN 38101-1140

PURPOSE:

Travel

CANDIDATE ACCOUNT

Betty G. Sitts

⑈009742⑈ ⑆011000390⑆ 521 36836⑈

OLDAKER, RYAN & LEONARD
ATTORNEYS AT LAW
818 CONNECTICUT AVENUE, N.W.
SUITE 1100
WASHINGTON, D.C. 20006

(202) 728-1010
FACSIMILE (202) 728-4044

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
AUG 10 11 46 AM '94

August 8, 1994

Mary L. Taksar, Esq.
Central Enforcement Docket
Federal Election Commission
999 E. Street
Washington, D.C. 20463

RE: MUR 3994
(Federal Express Corporation;
Frederick Smith, as Chief Executive Officer)

Dear Ms. Taksar:

Please accept this letter as an amendment to the Designation of Counsel form submitted by counsel, July 11, 1994, adding Frederick Smith to the "Respondent's Name" section. The designation form presently on file with the Commission inadvertently fails to list this respondent as represented by counsel. Thank you for your assistance in this matter.

Sincerely,

Lyn Utrecht

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FEDERAL ELECTION
COMMISSION
SECRETARIAT
SEP 22 9 43 AM '94

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) Enforcement Priority
)
)

GENERAL COUNSEL'S MONTHLY REPORT

I. INTRODUCTION

This report is the first Enforcement Priority System Monthly Report.[1] The purpose of this August Monthly Report is to recommend that the Commission no longer pursue the identified lower priority and stale cases.

II. CASES RECOMMENDED FOR CLOSING

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

A critical component of the Priority System is identifying those pending cases that do not warrant the further expenditure of resources. Each incoming matter is evaluated using Commission approved criteria

By closing such cases the Commission is

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1. Prior to this report, Enforcement Priority System reports were done on a quarterly basis. However, on July 19, 1994, the Commission decided to change the reporting frequency from quarterly to monthly. Because this Office needed sufficient time to implement the change in reporting frequency, the August Monthly Report includes cases for July and August. In the future, the Monthly Report will reflect one month's activity.

Additionally, this Office previously indicated to the Commission that at the end of each quarter, we will provide a statistical recap for the activity that occurred during the quarter. Sometime in early October, this Office will provide a report for third quarter activity.

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able to use its limited resources to focus on more important cases.

Having evaluated incoming matters, this Office has identified 16 cases which do not warrant further pursuit relative to the other pending cases.[2] A short description of each case and the factors leading to assignment of a relatively low priority and consequent recommendation not to pursue each case is attached to this report. See Attachments 1-16. For the Commission's convenience, the narratives for externally-generated matters are immediately followed by the complaint and response(s) and the narratives for internally-generated matters are immediately followed by the referral or sua sponte submission.

B. Stale Cases

Investigations are severely impeded and require relatively more resources when the activity and evidence are old. Consequently, the Office of General Counsel recommends that the Commission focus its efforts on cases involving more recent activity. Such efforts will also generate more impact on the current electoral process and are a more efficient allocation of our limited resources. To this end, this Office has identified 5 cases that do not

2. These matters are: MUR 3963; MUR 3981; MUR 3982; MUR 3983; MUR 3989; MUR 3992; MUR 3993; MUR 3994; MUR 4006; MUR 4011; MUR 4015; MUR 4017; MUR 4020; MUR 4021; and PM 300.

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warrant further investment of significant Commission resources.[3] Since the recommendation not to pursue the identified cases is based on staleness, this Office has not prepared separate narratives for these cases. However, for the externally-generated matters, the complaint and response(s) are attached to the report and for internally-generated matters, the referral is attached. See Attachments 17-21.

9-21-94

Date

3. These matters are: MUR 3784; MUR 3788; RAD 93L-52, RAD 93NF-23, and PM 287.

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IV. RECOMMENDATIONS

A. Decline to open a MUR, close the file, and approve the appropriate letter in the following matters:

1) RAD 93L-52
2) RAD 93NF-23

4) PM 287
5) PM 300

B. Take no action, close the file, and approve the appropriate letter in the following matters:

1) MUR 3784
2) MUR 3788
3) MUR 3963
4) MUR 3981
5) MUR 3982
6) MUR 3983
7) MUR 3989
8) MUR 3992
9) MUR 3993
10) MUR 3994
11) MUR 4006
12) MUR 4011
13) MUR 4015
14) MUR 4017
15) MUR 4020
16) MUR 4021

9-21-94
Date

L M Noble (SG2)
Lawrence M. Noble
General Counsel

9 4 0 4 3 5 9 0 4 4 3

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	Agenda Document
Enforcement Priority	)	#X94-94

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 take the following actions in the above-captioned matter:

A. Decline to open a MUR, close the file, and approve the appropriate letter in the following matters:

1) RAD 93L-52;
2) RAD 93NF-23;
3) PM 287;
4) PM 300.

B. Take no action, close the file, and approve the appropriate letter in the following matters:

1) MUR 3784;
2) MUR 3788;
3) MUR 3963;
4) MUR 3981;
5) MUR 3982;
6) MUR 3983;
7) MUR 3989;

(continued)

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8) MUR 3992;
9) MUR 3993;
10) MUR 3994;
11) MUR 4006;
12) MUR 4011;
13) MUR 4015;
14) MUR 4017;
15) MUR 4020;
16) MUR 4021.

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SEP 29 1994

Joseph Maruca
Massachusetts Republican Victory
Fund
P.O. Box 442
Sandwich, MA 02563

RE: MUR 3994

Dear Mr. Maruca:

On June 20, 1994, the Federal Election Commission received your complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended ("the Act").

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against the Re-Elect Congressman Joe Moakley Committee and William H. Shaevel, as treasurer, Representative John Joseph Moakley and the Federal Express Corporation and Frederick Smith as Chief Executive Officer. See attached narrative. Accordingly, the Commission closed its file in this matter. This matter will become part of the public record within 30 days.

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

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

Attachment
Narrative

Date the Commission voted to close the file: SEP 27 1994

9404359046

MUR 3994
RE-ELECT CONGRESSMAN JOE MOAKLEY COMMITTEE

The Massachusetts Republican Victory Fund filed a complaint alleging that Congressman Joe Moakley and an aide used a Federal Express corporate jet to travel to Boston for a June 9, 1994, fundraiser and that the Committee did not pay Federal Express in advance as required by FECA.

In response to the complaint, the Moakley Committee states that Congressman Moakley was unable to use the commercial flight already reserved to transport him to a fundraiser in Boston because he was unavoidably detained in Washington, D.C. The respondents state that Congressman Moakley's aide, who is not familiar with the rules governing the use of corporate planes, made an inquiry to the House Committee on Standards of Official Conduct and was told that the use of a corporate plane for campaign purposes was not prohibited, provided the campaign reimbursed the corporation at the first class airfare rate. According to the respondents, the aide was not told that the payment to the corporation had to be made in advance. Respondents state that when Federal Express was contacted, the corporation indicated that a plane was available and the Committee should get a check to Federal Express that day. According to respondents, the aide told the Federal Express representative that he did not have any Committee checks available to him in Washington, D.C. and then agreed to contact the Committee in Boston and instruct the Committee to cut a check and forward it to Federal Express.

In response to the complaint, Federal Express states that when it received the inquiry, the corporation indicated that a plane was available but that the airfare would have to be paid in advance. Federal Express states that Congressman Moakley's aide indicated during the conversation that the aide was not in possession of Committee checks but that he would contact the Committee in Boston and a check would be immediately cut. The corporation states that it therefore believed that a check was immediately drawn. Federal Express states that due to an apparent misunderstanding by Congressman Moakley's staff, the check was not physically delivered to a Federal Express office until June 13, 1994. Attached to Federal Express' response is a copy of check, dated June 9, 1994 and in the amount of $822.56, made payable to Federal Express and drawn on the Moakley Committee's account.

Prior to the filing of the complaint, Congressman Moakley submitted a letter to the Commission which indicated that he and his Committee inadvertently violated a provision of FECA in regard to travel on a Federal Express plane. There appears to be no serious intent to violate FECA and this matter involves a limited amount of money. This matter involves less significant issues relative to the other issues pending before the Commission.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SEP 29 1994

Lyn Utrecht, Esquire
Oldaker, Ryan & Leonard
818 Connecticut Avenue, N.W.
Washington, DC 20006

RE: MUR 3994
Federal Express
Corporation and
Frederick Smith, as
Chief Executive Officer

Dear Ms. Utrecht:

On June 22, 1994, the Federal Election Commission notified your clients of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against the Federal Express Corporation and Frederick Smith, as Chief Executive Officer. See attached narrative. Accordingly, the Commission closed its file in this matter.

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

If you have any questions, please contact Alva E. Smith at (202) 219-3400.

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

Attachment
Narrative

Date the Commission voted to close the file: SEP 27 1994

9404359048

MUR 3994
RE-ELECT CONGRESSMAN JOE MOAKLEY COMMITTEE

The Massachusetts Republican Victory Fund filed a complaint alleging that Congressman Joe Moakley and an aide used a Federal Express corporate jet to travel to Boston for a June 9, 1994, fundraiser and that the Committee did not pay Federal Express in advance as required by FECA.

In response to the complaint, the Moakley Committee states that Congressman Moakley was unable to use the commercial flight already reserved to transport him to a fundraiser in Boston because he was unavoidably detained in Washington, D.C. The respondents state that Congressman Moakley's aide, who is not familiar with the rules governing the use of corporate planes, made an inquiry to the House Committee on Standards of Official Conduct and was told that the use of a corporate plane for campaign purposes was not prohibited, provided the campaign reimbursed the corporation at the first class airfare rate. According to the respondents, the aide was not told that the payment to the corporation had to be made in advance. Respondents state that when Federal Express was contacted, the corporation indicated that a plane was available and the Committee should get a check to Federal Express that day. According to respondents, the aide told the Federal Express representative that he did not have any Committee checks available to him in Washington, D.C. and then agreed to contact the Committee in Boston and instruct the Committee to cut a check and forward it to Federal Express.

In response to the complaint, Federal Express states that when it received the inquiry, the corporation indicated that a plane was available but that the airfare would have to be paid in advance. Federal Express states that Congressman Moakley's aide indicated during the conversation that the aide was not in possession of Committee checks but that he would contact the Committee in Boston and a check would be immediately cut. The corporation states that it therefore believed that a check was immediately drawn. Federal Express states that due to an apparent misunderstanding by Congressman Moakley's staff, the check was not physically delivered to a Federal Express office until June 13, 1994. Attached to Federal Express' response is a copy of check, dated June 9, 1994 and in the amount of $822.56, made payable to Federal Express and drawn on the Moakley Committee's account.

Prior to the filing of the complaint, Congressman Moakley submitted a letter to the Commission which indicated that he and his Committee inadvertently violated a provision of FECA in regard to travel on a Federal Express plane. There appears to be no serious intent to violate FECA and this matter involves a limited amount of money. This matter involves less significant issues relative to the other issues pending before the Commission.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SEP 29 1994

Judith L. Corley, Esquire
Perkins Coie
607 14th Street, N.W.
Suite 800
Washington, DC 20005-2011

RE: MUR 3994
Re-Elect Congressman Joe Moakley Committee and William H. Shaevel, as treasurer
Representative John Joseph Moakley

Dear Ms. Corley:

On June 22, 1994, the Federal Election Commission notified your clients of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against the Re-Elect Congressman Joe Moakley Committee and William H. Shaevel, as treasurer and Representative John Joseph Moakley. See attached narrative. Accordingly, the Commission closed its file in this matter.

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

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If you have any questions, please contact Alva E. Smith at (202) 219-3400.

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

Attachment
Narrative

Date the Commission voted to close the file: SEP 27 1994

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MUR 3994
RE-ELECT CONGRESSMAN JOE MOAKLEY COMMITTEE

The Massachusetts Republican Victory Fund filed a complaint alleging that Congressman Joe Moakley and an aide used a Federal Express corporate jet to travel to Boston for a June 9, 1994, fundraiser and that the Committee did not pay Federal Express in advance as required by FECA.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3994

DATE FILMED 10-13-94 CAMERA NO. 2

CAMERAMAN JMH

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