FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

THIS IS THE BEGINNING OF MUR # 4103

DATE FILMED 7/31/85 CAMERA NO. 1

CAMERAMAN EES

9504366474

ROBINSON, BRADSHAW & HINSON, P.A.
ATTORNEYS AT LAW

BENJAMIN A. JOHNSON
ADMITTED IN S.C. AND N.C.
803/325-2903

THE GUARDIAN BUILDING
ONE LAW PLACE - SUITE 600
POST OFFICE DRAWER 12070
ROCK HILL, SOUTH CAROLINA 29731
TELEPHONE (803) 325-2900
FAX (803) 325-2929

CHARLOTTE OFFICE
1900 INDEPENDENCE CENTER
101 NORTH TRYON STREET
CHARLOTTE, N.C. 28246
TELEPHONE (704) 377-2536
FAX (704) 378-4000

MUR 4103

October 24, 1994

OCT 25 12 33 PM '94
RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

9 5 0 4 3 6 6 4 4 7 5

VIA TELECOPIER AND
PRIORITY OVERNIGHT U.S. MAIL

Office of General Counsel
Federal Elections Commission
999 E. Street, NW
Washington, DC 20463

Re: Larry Bigham, Larry Bigham for Congress Committee (FEC Number C00292177), and his or its Ticket Sales Agent, Mid-Atlantic Select-A-Seat

Dear Sir or Madam:

Enclosed for filing are the original and three (3) copies of a complaint, together with supporting affidavits, against the above-named respondents, initiated today by complainants John A. Presto and Jeanie W. Presto. Given the potential for serious violations between now and the October 28 Lee Greenwood concert, the complainants ask that the Commission give this matter its most urgent attention. In addition to providing the supporting affidavits, we have included citations to relevant authority. Finally, the complainants have listed a number questions of concern to them, which we trust that the Commission will investigate promptly and fully.

Following up our conversation with your office of this morning, in the interest of time, and by copy hereof, we are serving copies of the complaint upon the respondents today.

Thank you very much.

RH-24925

Sincerely yours,

Benjamin A. Johnson

BAJ:wmm
Enclosures

cc: Mr. Larry Bigham (w/encl.)
1708 Ebenezer Road
Rock Hill, SC 29732

The Larry Bigham for Congress
Committee (w/encl.)
FEC No. C00292177
1708 Ebenezer Road
Rock Hill, SC 29732

Mid-Atlantic Select-A-Seat (w/encl.)
Attention: Mr. Al Zalewski
General Manager
7 Woodlawn Green
Suite 210
Charlotte, NC 28217

9 5 0 4 3 6 6 4 4 7 6

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
OCT 25 12 33 PM '94

BEFORE THE FEDERAL ELECTION COMMISSION

In re:

Larry Bigham, Larry Bigham for Congress Committee (FEC Number C00292177), and his or its Ticket Sales Agent, Mid-Atlantic Select-A-Seat,

Respondents.

MUR 4103

COMPLAINT

The undersigned counsel for complainants John A. Presto and Jeanie W. Presto files this complaint charging violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), 2 U.S.C. §§ 431, et seq., and related regulations of the Federal Election Commission ("FEC"), 11 CFR §§ 100.1, et seq., by Larry Bigham, who is running for Congress in the Fifth Congressional District in South Carolina, the Larry Bigham for Congress Committee (FEC Number C00292177), and his or its promoter or agent, Mid-Atlantic Select-A-Seat (hereinafter referred to collectively hereafter as "respondents").

Allegations of Complaint

As supported by the attached affidavits from the complainants, based upon telephone calls placed to an advertised "800" telephone number and through other communications with respondents' promoters or agents, there is probable cause to believe that respondents have violated and are about to violate the cash accounting and other legal requirements of the Act in connection with an upcoming concert by music performer Lee Greenwood planned for October 28, 1994, in Rock Hill, South Carolina, as follows:

9 5 0 4 3 6 6 4 4 7 7

(1) respondents' agents have stated a willingness to accept United States currency (cash) in excess of $100;

(2) respondents' agents have failed properly to advise the public that the concert is a campaign fundraising event for the benefit of respondents and that the sums paid are a campaign contribution governed by federal law;

(3) respondents' agents have stated a willingness to accept corporate contributions;

(4) respondents' agents have stated a willingness to accept contributions in excess of the $1,000 maximum;

(5) respondents' agents have indicated that, for contributions in excess of $50, names and addresses of contributors are not required; and

(6) respondents' agents have indicated that, for contributions in excess of $200, the name, address, employer and occupation of contributors are not required.

Discussion

The FEC has declared in Advisory Opinion 1980-42 that,

> "Appropriate precautions must be taken whenever and wherever concert tickets are sold to assure that any person who purchases a ticket is not within the category of persons prohibited by the Act from making a contribution. *Controls must also be established and followed to assure that ticket purchasers are within their applicable contribution limits under 2 U.S.C. § 441a and to assure that the required information as to a contributor's identity is obtained whenever any person's ticket purchases at the same selling location exceed $50.*" (emphasis added).

9 5 0 4 3 6 6 4 4 7 8

The FEC has declared in Advisory Opinion 1977-22 that "Ticket purchases are treated as contributions in the full amount of the purchase price."

(1) Prohibited Cash Contributions, Cash Accounting

There are no mechanisms in place to ensure that no single person is paying more than $100 in cash. This is perhaps the most significant allegation in this complaint because cash contributions provide an important and inviting opportunity for violations of law. Under 11 CFR § 110.4, "no person shall make contributions to a candidate or political committee of currency of the United States . . . which in the aggregate exceed $100." It is thus illegal to accept more than $100 in cash from a single contributor. 2 U.S.C. § 441g; 11 CFR § 110.4 (c). In fact, federal law requires a committee receiving more than $100 in cash to "promptly return" the funds. 11 CFR § 110.5 (C)(1).

A limit on cash contributions was adopted to prohibit infusion of cash into campaigns through disqualified entities or persons, such as corporations or individuals who have contributed the maximum under the Act. Furthermore, the provisions of the Act apply with even more force and effect to special events, such as the subject concert, which could be used as vehicles to infuse otherwise unlawful contributions into the campaign.

(2) Lack of Required Notice for Advertisements

Agents for respondents have failed to provide proper notice in advertisements, in all places where tickets are sold, and through its agents' 800 number, that proceeds are for the benefit of

9 5 0 4 3 6 6 4 4 7 9

respondents' campaign. According to the FEC's Advisory Opinion 1980-42, the respondents must "publicize the political fundraising purpose of the concert in a manner that would afford notice to potential and actual ticket purchasers that the proceeds of their ticket purchases will benefit the (campaign). *The notice should be conveyed both through any publicity that is done in advance of the concert as well as at any location where tickets are sold.*" (emphasis added) FEC AO 1980-42 explains that "where expenditures are made to finance communications that solicit contributions through various media, the communication is required to include a statement of sponsorship." Thus, if a potential buyer/contributor orders a ticket by telephone or at a box office, the seller, as agent for the respondent, must inform the proposed buyer that the concert is a campaign fundraiser.

(3) Corporate Contributions Prohibited

Respondents' agents have expressed a willingness to accept corporate contributions. No contributions may be made by corporations, even as in-kind contributions. 2 U.S.C. § 441b (a). This means that corporations may not purchase tickets since ticket purchases are considered campaign contributions. See, e.g., FEC Advisory Opinion 1977-22. This also means that food service companies and other corporate businesses may not make in-kind contributions for the concert. This also means that the expenses of the performers, his assistants and anyone working at or for the event cannot be paid by corporations since their payments would be corporate in-kind contributions.

9 5 0 4 3 6 6 4 4 8 0

(4) Limit on Individual Contributions

Agents for respondents have indicated a willingness to allow a single individual to purchase up to 75 tickets, for a base price of $1,125, without any regard for the Act's limit of $1,000 of individual contributions, in violation of 2 U.S.C. § 441a (1)(a).

(5) and (6) Required Recordkeeping

For a single contribution by any individual exceeding $50, the campaign must keep a record of the donor's name and address (but not file with the FEC); and for any donor who, in the aggregate over the campaign period, gives more than $200, the campaign must file with the FEC the donor's name, address and occupation. 2 U.S.C. § 432 (c); 11 CFR § 104.8. As delineated in the complainants' affidavits, respondents' agents indicated there was no need to obtain this legally-mandated information.

Moreover, federal law also provides that, "If an itemized contribution is made by more than one person in a single written instrument, the (campaign) treasurer shall report the amount to be attributed to each contributor." 11 CFR § 104.8 (d)(1). Thus, if someone walks into respondents' campaign with a check for $410 and claims he is buying tickets for himself and others, he must provide a written list with the names, addresses, occupations, and employers of all other purchasers.

9504366448 1

Questions for FEC to Address with Respondents

Based upon the foregoing, the FEC should take all necessary steps to ensure that the activities of the respondents have been conducted in complete compliance with the Act and FEC regulations and to ensure that the public record accurately reflects the activities of the respondents. In addition to the allegations herein, the complainants ask that the Commission inquire as to the following:

1. Are respondents covering the cost of the event? Which costs? If there are any costs which campaign is not covering, who is paying them and what is their value? Is any corporation contributing? Is any person making more than a $1,000 in-kind contribution? Are all contributions worth more than $200, including in-kind contributions, being reported?

2. Are respondents keeping required records so that they have the name and address of anyone buying more than $50 in tickets and the name, address and occupation of anyone buying more than $200 in tickets?

3. What procedures are respondents taking to ensure that: (a) ticket buyers are not within category of prohibited buyers? (b) not exceeding $1,000 limit per donor limit?

4. What are the performers contributing? Personal Services: Performers may provide their personal services for free and there is no limit on the value. However, if the performers or anyone in their group are compensated by anyone (other than the respondents) for their services, they are no longer volunteering. Then the

9 5 0 4 3 6 6 4 4 8 2

payments to them become in-kind contributions which must be reported to the FEC and are subject to contribution restrictions. For example, in-kind contributions cannot come from corporations and cannot exceed $1,000 per donor. Moreover, all costs related to the concert, like advertising and renting the arena, are subject to in-kind contribution limitations. The cost of these in-kind contributions must be the fair market value. That means that no one can give them away free or at a deep discount, unless they would charge the same price to any other member of the public. Personal Contributions: Anyone, including the performer, may make personal contributions not to exceed $1,000 to respondents. Travel Costs: If the performer covers any more than $1,000 in transportation costs, the excess is considered an "in-kind contribution." If Greenwood covers the transportation costs of someone other than himself, this is considered an in-kind campaign contribution.

5. Are respondents complying with the election law requirements for use of a promoter? If respondents are using a promoter, they must set up a special bank account for the concert. The Commission has declared that, "Contribution checks that are payable to . . . a ticket sales outlet, must be handled through special accounts established in committee designated campaign depositories." This means that Mid-Atlantic Select-A-Seat must sequester all proceeds from ticket sales and deposit them in a special account. Proceeds from ticket sales must be deposited into the account and concert expenses must be paid out of the account.

95043664483

The FEC has also described the reporting requirements for concert expenses. The FEC has explained that, "The Act and Commission regulations require that committee disbursements (other than petty cash not in excess of $100 to any person in connection with a single purchase transaction, 2 U.S.C. § 432 (h)(2)), be made by check or similar draft drawn on an account of the committee which is established at a designated committee depository. . . . (A)ll recordkeeping and reporting requirements of the Act are applicable." FEC Advisory Opinion 1980-42.

Request for Relief

On the basis of the foregoing, the complainants request that the FEC:

(1) conduct a prompt and immediate investigation, including an audit, of the facts stated in this complaint;

(2) take immediate steps to remedy the violations alleged in this complaint;

(3) to ensure that no further violations occur -- because there is probable cause to believe that violations of federal election law have already occurred and future violations are "about to occur," 2 U.S.C. § 437g (a)(6)(A), complainants ask the Commission to use its authority under 2 U.S.C. § 437g (a)(6)(A) to seek a restraining order enjoining the respondents from future violations of federal campaign law; and

(4) because there is "probable cause" to believe that violations of federal election law have already occurred and future violations are "about to occur," complainants ask the Commission to

9 5 0 4 3 6 6 4 4 8 4

refer this matter to the Attorney General for investigation as provided under 2 U.S.C. § 437g (a)(5)(C), and complainants ask the Attorney General to investigate whether civil or criminal penalties[1] should be imposed for the violations of law which have occurred.

Respectfully submitted this 24th day of October, 1994.

Benjamin A. Johnson
One Law Place
Guardian Building - Suite 600
P. O. Box 12070
Rock Hill, South Carolina 29731-2070
(803) 325-2900

ATTORNEY FOR COMPLAINANTS

[SIGNATURES CONTINUE]

9504366448 5

---

[1] Criminal Penalties: Pursuant to 2 USC 437g (d)(1)(A), when any person knowingly and willfully commits a violation of federal election law which involves, "the making receiving, or reporting of any contribution or expenditures aggregating $2,000 or more", they may be imprisoned up to one year or fined up to $25,000 or 300 percent of any contribution, or both.

Civil Penalties: Pursuant to 2 USC 437g (a)(6)(C), a court may also impose a civil penalty equal to the greater of $10,000 or 200 percent of any contribution or expenditure involved in such violation.

I have reviewed the Complaint to be filed on my behalf and declare under oath that the factual allegations are true, based upon the responses to my inquiries detailed in my attached affidavit.

John A. Presto
639 College Avenue
Rock Hill, South Carolina 29730

Sworn to me and subscribed
before me this 24th day
of October, 1994

Wanda Myers
Notary Public of South Carolina
My commission expires: July 28, 2002

I have reviewed the Complaint to be filed on my behalf and declare under oath that the factual allegations are true, based upon the responses to my inquiries detailed in my attached affidavit.

Jeanie W. Presto
639 College Avenue
Rock Hill, South Carolina 29730

Sworn to me and subscribed
before me this 24th day
of October, 1994

Wanda Myers
Notary Public for South Carolina
My commission expires: July 28, 2002

BEFORE THE FEDERAL ELECTION COMMISSION

In re:

Larry Bigham, Larry Bigham for Congress Committee (FEC Number C00292177), and his or its Ticket Sales Agent, Mid-Atlantic Select-A-Seat,

Respondents.

AFFIDAVIT OF JOHN A. PRESTO

John A. Presto states upon his oath as follows:

1. I am older than eighteen years of age and I suffer no legal disability. I have personal knowledge of the matters contained herein.

2. I am a citizen and resident of York County, South Carolina. I am a registered elector and am eligible to vote in the November 8, 1994, Congressional election for the Fifth Congressional District for South Carolina.

3. On October 24, 1994, I placed a telephone call to respondents' promoter or agent for the sale of tickets, whom I believe to be Mid-Atlantic Select-A-Seat, concerning an upcoming concert by music performer Lee Greenwood planned for October 28, 1994, in Rock Hill, South Carolina. I spoke with Stephanie (respondents' agent), at approximately 9:10 a.m.

4. I asked whether it would be okay to order 75 concert tickets, which at $15 each will cost $1,125.00, and respondent's agent answered, "Yes." She further stated that the applicable service charges and seat tax would make the total sum due $1,332.25.

95043664487

5. I asked hypothetically whether it would be okay to purchase the tickets with a corporate credit card, and respondent's agent responded, "Yes."

6. I asked whether, if I purchased 75 tickets, I would need to give respondent's agent any other information, and respondents' agent answered, "No."

7. At no time during my conversation with respondents' agent did she advise me that the concert is a campaign fund-raising event for the benefit of respondents and that the sums paid would be a campaign contribution governed by federal law. However, I am informed and believe from other sources that the concert is a campaign fund-raising event for the benefit of respondents and that the sums paid would be a campaign contribution governed by federal law and treated just the same as any other campaign contribution.

8. I believe, based upon information furnished to me, that the foregoing constitutes a violation of federal election law in that respondents' agent failed properly to advise me that the Greenwood concert is a campaign fundraising event for the benefit of respondents; respondents are willing to accept corporate contributions; respondents are willing to accept contributions in excess of the $1,000 maximum; and, based upon the statement that no other information was needed from me, that the conduct violates the federal law requiring, for a single contribution exceeding $50, that the campaign must keep a record of the donor's name and address, and for any contribution more than $200, that the campaign

9 5 0 4 3 6 6 4 4 8 8

must obtain and file with the FEC the donor's name, address, employer, and occupation.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, except those matters stated to be true on information and belief, which I believe to be true.

Executed this 24th day of October, 1994

John A. Presto
639 College Avenue
Rock Hill, South Carolina 29730

Sworn to me and subscribed
before me this 24th day
of October, 1994

Notary Public for South Carolina
My commission expires: July 28, 2002

9504366448 9

BEFORE THE FEDERAL ELECTION COMMISSION	)	
In re:	)	
Larry Bigham, Larry Bigham for Congress Committee (FEC Number C00292177), and his or its Ticket Sales Agent, Mid-Atlantic Select-A-Seat,	)	AFFIDAVIT OF JEANIE W. PRESTO
Respondents.	)	

Jeanie W. Presto states upon her oath as follows:

1. I am older than eighteen years of age and I suffer no legal disability. I have personal knowledge of the matters contained herein.

2. I am a citizen and resident of York County, South Carolina. I am a registered elector and am eligible to vote in the November 8, 1994, Congressional election for the Fifth Congressional District for South Carolina.

3. On October 24, 1994, at approximately 9:05 a.m., I inquired at a ticket sales office at Winthrop University about the purchase of tickets for an upcoming concert by music performer Lee Greenwood on October 28, 1994, in Rock Hill, South Carolina.

4. I spoke with Mike Bush, whom I believe to be an employee of Winthrop University, but who apparently is also acting as an agent for ticket sales for respondents.

5. I asked Mr. Bush whether I could purchase and pay cash for 11 tickets, which at $15 each will cost a total of $165.00, and he responded, "Yes."

95043664490

6. Mr. Bush also indicated that a corporate credit card could be used to purchase tickets, so long as the credit card was a Visa or MasterCard.

7. At no time during my conversation with Mr. Bush did he advise me that the concert is a campaign fundraising event for the benefit of respondents and that the sums paid would be a campaign contribution governed by federal law. However, I am informed and believe from other sources that the Greenwood concert is a campaign fundraising event for the benefit of respondents and that the sums paid would be a campaign contribution governed by federal law and treated just the same as any other campaign contribution.

8. Based upon information provided to me, I believe this to be a violation of federal election law, which treats ticket purchases as contributions in the full amount of the purchase price and which also limit cash contributions to $100 and prohibit corporate contributions in any amount. In addition, respondents' agent failed properly to advise me that the concert is a campaign fundraising event for the benefit of respondents.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, except those matters stated to be true on information and belief, which I believe to be true.

Executed this 24th day of October, 1994

95043664491

Jeanie W. Presto

Jeanie W. Presto
639 College Avenue
Rock Hill, South Carolina 29730

Sworn to me and subscribed
before me this 24th day
of October, 1994

Wanda Myers
Notary Public for South Carolina
My commission expires: July 28, 2002

9 5 0 4 3 6 6 4 4 9 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 1, 1994

Benjamin A. Johnson, Esq,
Robinson, Bradshaw & Hinson, P.A.
One Law Place - Suite 600
Post Office Drawer 12070
Rock Hill, SC 29731

RE: MUR 4103

Dear Mr. Johnson:

This letter acknowledges receipt on October 25, 1994, of the complaint filed on behalf of your clients, John A. Presto and Jeanie W. Presto, 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.

Your letter seeks injunctive relief to prevent the respondents from continuing to engage in the allegedly improper activity. 2 U.S.C. § 437g(a)(6) provides that the Commission may seek such relief at the end of the administrative enforcement process. Accordingly, the Commission will not grant your request for injunctive relief at this time.

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 4103. 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

9504366449 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 1, 1994

Larry L. Bigham
1528 Blanchard Bend
Rock Hill, SC 29732

RE: MUR 4103

Dear Mr. Bigham:

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 4103. 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.

The complainant seeks injunctive relief to prevent you from continuing to engage in the allegedly improper activity. 2 U.S.C. § 437g(a)(6) provides that the Commission may seek such relief at the end of the administrative enforcement process. Accordingly, the Commission will not grant the complainant's request for injunctive relief at this time. The Commission will proceed with the processing of the remainder of the complaint pursuant to 2 U.S.C. § 437g(a).

9504366449 4

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.

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

95043664495

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 1, 1994

Christopher L. Cramer, Treasurer
Larry Bigham for Congress
1708 Ebenezer Road
Rock Hill, SC 29732

RE: MUR 4103

Dear Mr. Cramer:

The Federal Election Commission received a complaint which indicates that Larry Bigham for Congress ("Committee") and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4103. 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.

The complainant seeks injunctive relief to prevent the Committee and you, as treasurer, from continuing to engage in the allegedly improper activity. 2 U.S.C. § 437g(a)(6) provides that the Commission may seek such relief at the end of the administrative enforcement process. Accordingly, the Commission will not grant the complainant's request for injunctive relief at this time. The Commission will proceed with the processing of the remainder of the complaint pursuant to 2 U.S.C. § 437g(a).

9504366449 6

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.

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. Takar

Mary L. Takar, Attorney
Central Enforcement Docket

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

95043664497

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 1, 1994

Al Zalewski, General Manager
Mid-Atlantic Select-A-Seat
7 Woodlawn Green
Suite 210
Charlotte, NC 28217

RE: MUR 4103

Dear Mr. Zalewski:

The Federal Election Commission received a complaint which indicates that Mid-Atlantic Select-A-Seat 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 4103. 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 Mid-Atlantic Select-A-Seat 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.

The complainant seeks injunctive relief to prevent Mid-Atlantic Select-A-Seat from continuing to engage in the allegedly improper activity. 2 U.S.C. § 437g(a)(6) provides that the Commission may seek such relief at the end of the administrative enforcement process. Accordingly, the Commission will not grant the complainant's request for injunctive relief at this time. The Commission will proceed with the processing of the remainder of the complaint pursuant to 2 U.S.C. § 437g(a).

9504364498

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.

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. Takear

Mary L. Takear, Attorney
Central Enforcement Docket

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

95043664499

Mid-Atlantic

7 Woodlawn Green Suite 210
Charlotte, NC 28217
704/525-9340 Fax: 704/522-1999

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
Nov 17 12 49 PM '94

9 5 0 4 3 6 6 4 5 0 0

November 11, 1994

Office of General Counsel
Federal Elections Commission
999 E. Street, NW
Washington, DC 20463

RE: MUR 4103

Dear Sir or Madam:

We believe that Mid-Atlantic Select-A-Seat did not violate the Federal Election Campaign Act of 1971 and that no action should be taken against us.

Mid Atlantic Select-A-Seat was contracted by the Winthrop Coliseum to provide their box office with tickets for the October 28th, 1994 Lee Greenwood concert. We were not employed to sell these tickets and did not. Please refer to the enclosed event audit which clearly shows that no tickets were sold by our SAS Reservation department or by our SAS Outlets.

When Mr Presto called our office for details about the sale of tickets, our agent, not knowing that the event was unavailable through our system, gave him basic information that is applicable to all of our events. Had our agent tried to purchase tickets for Mr. Presto, she would have received a message that said "Event not on sale" and would not have been able to proceed further.

Please let us know if this letter is sufficient or if we need to furnish you with additional material.

Sincerely,

Mid-Atlantic Select-A-Seat

Albert Zalewski

Albert Zalewski
General Manager

Page: 1 E V E N T A U D I T Mid-Atlantic Select-a-Se
at
B2PEVAUD 2 5 B 88.92 Run 12:51:44 on 11/14/94 by DEBDEE

WULEEG *** ON SALE *** LEE GREENWOOD GROSS FIGURES
SALUTE TO AMERICA
PRESENTED BY
LARRY BIGHAM FOR CONGRESS
WINTHROP COLISEUM
OCTOBER 28, 1994 8:00 PM

WULEEG Lee Greenwood on 10/31/94 at 8:00 PM map WINTH

** Prices for WULEEG **

	Code	Descr.	Ty.	Srv	Cat. 1
1.	F	FULL	A	1	15.00
10.	P	P COMP	C	0	.00
11.	H	H COMP	C	0	.00
30.	R	RESERV	H	0	.00

** Capacity Open **

Cat. 1	Total
4579	4579

** Wintrop Sales **

Code		Cat. 1	Total	Amount
FULL	F	521	521	7815.00
		521	521	7815.00

** SAS Reservations **

Code	Cat. 1	Total	Amount

No Sales in this Audit Group

** SAS Outlets **

Code	Cat. 1	Total	Amount

No Sales in this Audit Group

** Box Office/Promoter **

Code	Cat. 1	Total	Amount

No Sales in this Audit Group

9 5 0 4 3 6 6 4 5 0 L

LARRY
BIGHAM
U.S. CONGRESS

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
NOV 25 10 32 AM '94

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM
Nov 25 9 16 AM '94

Mary L. Taksar
General Counsel's Office
Federal Election Commission
Washington, D.C. 20463

November 11, 1994

Dear Ms. Taksar:

I write in response to your letter of November 1, 1994, which the Larry Bigham For Congress campaign received on November 4, notifying us of complaint filed for John A. Presto and Jeanie W. Presto by their attorney Benjamin A. Johnson (MUR 4103).

This complaint is groundless. It is a contrived attempt by two active volunteers in the campaign organization of U. S. Representative John Spratt, John A. Presto and Benjamin A. Johnson, and a paid Spratt campaign staffer, Jeanie W. Presto, to embarrass the Larry Bigham For Congress campaign. The language of the complaint is ludicrous.

The two complainants, John A. Presto and Jeanie W. Presto, never even allege actual violations. The only direct allegations are the unfounded assumptions of the complainants' attorney, Benjamin A. Johnson. No money exceeding FEC established limits was ever received, no corporate money was ever received, no corporate checks were ever accepted, no corporate credits cards were ever accepted, all pertinent information was obtained for money accepted that exceeded FEC established limits of $50 and $200, the ticket sales agent is misnamed in the complaint (the ticket sales agent for the Larry Bigham For Congress campaign was Winthrop University), and the Winthrop University employee named in the complaint never spoke with Jeanie W. Presto.

This is a frivolous complaint. It is a waste of the FEC's time and taxpayers' money. The complainants, John W. Presto and Jeanie W. Presto, and their attorney, Benjamin A. Johnson, should be reprimanded by the FEC for filing a frivolous complaint.

Sincerely,

Tony Nolan

Tony Nolan
Manager
Bigham For Congress
Campaign

TN:db
enclosures

9 5 0 4 3 6 6 4 5 0 2

1708 EBENEZER RD. • ROCK HILL, SC 29732 • 803/366-8135 or 800/671-9242 Fax: 803/366-7198

LARRY BIGHAM
U.S. CONGRESS

Affidavit of Deborah B. Burgess November 11, 1994
Volunteer Staffer for the Larry Bigham For Congress Campaign

On October 24th, I telephoned the Winthrop University ticket sales office and inquired about purchasing tickets to the Lee Greenwood concert scheduled for October 28th.

I asked if I could purchase 20 tickets and was told by the person in the ticket sales office that I could, but because the concert was a political fund raiser and my purchase would total more than $200, I would have to give my name, address, employer and occupation.

I asked if I could pay with a corporate check and was told "No". I asked if I could use a corporate credit card and was told "No". I asked if I paid in cash could I purchase 100 tickets and was told "No".

The personnel of Winthrop University had been informed by the Larry Bigham For Congress Campaign of all reporting stipulations for the concert and that no corporate money could be accepted. As far as I can ascertain, fulfilled their responsibilities as the ticket sales agent for the Larry Bigham For Congress Campaign in accordance with FEC regulations.

Deborah B. Burgess
Deborah B. Burgess
240 Hillcrest Drive
Rock Hill, SC 29732

Mary Alice P. Branham
Notary Public for South Carolina
Commission Expires My Commission Expires 3/23/99

9504366450 3

1708 EBENEZER RD. • ROCK HILL, SC 29732 • 803/366-8135 or 800/671-9242 Fax: 803/366-7198

BEFORE THE FEDERAL ELECTION COMMITTEE)
)
)
)
)

MICHAEL B. BUSH STATES UPON HIS OATH AS FOLLOWS:

1. I AM OLDER THAN 18 YEARS OLD AND I SUFFER NO LEGAL DISABILITY. I HAVE PERSONAL KNOWLEDGE OF THE MATTERS CONTAINED HEREIN.

2. IN REFERENCE TO MS. PRESTO'S STATEMENT, I DO NOT RECALL SPEAKING TO HER ABOUT PURCHASING 11 TICKETS FOR THE LEE GREENWOOD CONCERT.

3. ON OCT. 24, 1994, MS. PRESTO ALLEGES THAT SHE SPOKE WITH ME ABOUT THE USE OF CORPORATE CREDIT CARDS FOR THE PURCHASE OF TICKETS. I DID NOT TELL ANYONE THAT THIS WAS PERMISSIBLE.

4. AS TO THE TIME OF ALLEGED CONVERSATION, THE WINTHROP ATHLETIC DEPARTMENT HAD A CALLED STAFF MEETING AT 9:00 AM.

5. TO THE BEST OF MY KNOWLEDGE, I BELIEVE THAT I HAVE NOT VIOLATED ANY FEDERAL ELECTION LAWS.

EXECUTED THIS 11TH DAY OF NOVEMBER, 1994.

Michael Bush

Mary B. Ayers
Notary Public

My Commission Expires
August 13, 2000

95043664504

P.O. Box 1677
20 N. Magnolia Street
Sumter, S.C. 29151

Published daily by
Osteen Publishing Co., Inc.

November 3, 1994

To Whom It May Concern:

Correction:

The disclaimer was omitted from the Larry Bigham insert that some readers received in *The Item* on October 11th. The ad was paid for by the Larry Bigham for Congress Committee.

Sincerely,

Bonnie Cole

Bonnie Cole

Phone (803) 775-6331
Fax (803) 775-1024

9 5 0 4 3 6 6 4 5 0 5

FEDERAL ELECTION COMMISSION
Jun 13 3 40 PM '95

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) Enforcement Priority
)
)

SENSITIVE

GENERAL COUNSEL'S MONTHLY REPORT

I. INTRODUCTION

This report is the General Counsel's Report to recommend that the Commission no longer pursue the identified lower priority and stale cases under the Enforcement Priority System.

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 and cases that, based on their rating, do not warrant pursuit relative to other pending cases are placed in this category. By closing such cases, the Commission is able to use its limited resources to focus on more important cases.

Having evaluated incoming matters, this Office has identified 10 cases which do not warrant further pursuit relative to the other pending cases.[1] A short description of each case and the factors leading to assignment of a relatively low priority and consequent recommendation not to pursue each

1. These matters are: MUR 4087; MUR 4092; MUR 4093; MUR 4096; MUR 4097; MUR 4098; MUR 4100; MUR 4103; MUR 4106; and MUR 4114.

95043664506

case is attached to this report. See Attachments 1-11. As the Commission requested, this Office has attached the responses to the complaints for the externally-generated matters and the referral for the internally-generated matter following the narrative. See Attachments 1-11.

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 34 cases that

do not warrant further investment of significant Commission resources.[2] Since the recommendation not to pursue the identified cases is based on staleness, this Office has not prepared separate narratives for these cases. As the Commission requested, in matters in which the Commission has made no

---

2. These matters are: MUR 2582; MUR 3109; MUR 3241; MUR 3426; MUR 3857; MUR 3858; MUR 3862; MUR 3866; MUR 3876; MUR 3879; MUR 3890; MUR 3893; MUR 3895; MUR 3896; MUR 3898; MUR 3902; MUR 3903; MUR 3904; MUR 3905; MUR 3907; MUR 3908; MUR 3912; MUR 3933; MUR 3958; MUR 3962; MUR 3978; MUR 3984; RAD 93L-19; RAD 94L-05; RAD 94L-11; RAD 94L-15; RAD 94L-21; RAD 94L-23; and RAD 94L-26.

95043664507

findings, the responses to the complaints for the externally-generated matters and the referrals for the internally-generated matters are attached to the report. See Attachments 16-45. For cases in which the Commission has already made findings and for which each Commissioner's office has an existing file, this Office has attached the most recent General Counsel's Report. See Attachments 12-15.

This Office recommends that the Commission exercise its prosecutorial discretion and no longer pursue the cases listed below effective June 26, 1995. By closing the cases effective June 26, 1995, CED and the Legal Review Team will respectively have the additional time necessary for preparing the closing letters and the case files for the public record for these cases.

III. RECOMMENDATIONS

A. Decline to open a MUR and close the file effective June 26, 1995 in the following matters:

1) RAD 93L-19
2) RAD 94L-05
3) RAD 94L-11
4) RAD 94L-15
5) RAD 94L-21
6) RAD 94L-23
7) RAD 94L-26

B. Take no action, close the file effective June 26, 1995, and approve the appropriate letter in the following matters:

1) MUR 3857
2) MUR 3858
3) MUR 3862

95043664508

4) MUR 3866
5) MUR 3876
6) MUR 3879
7) MUR 3890
8) MUR 3893
9) MUR 3895
10) MUR 3896
11) MUR 3898
12) MUR 3902
13) MUR 3903
14) MUR 3904
15) MUR 3905
16) MUR 3907
17) MUR 3908
18) MUR 3912
19) MUR 3933
20) MUR 3958
21) MUR 3962
22) MUR 3978
23) MUR 3984
24) MUR 4087
25) MUR 4092
26) MUR 4093
27) MUR 4096
28) MUR 4097
29) MUR 4098
30) MUR 4100
31) MUR 4103
32) MUR 4106
33) MUR 4114

C. Take no further action, close the file effective June 26, 1995, and approve the appropriate letter in the following matters:

1) MUR 2582
2) MUR 3109
3) MUR 3241
4) MUR 3426

Jan 17, 1995
Date

Lawrence M. Noble
General Counsel

9504366450 9

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	Agenda Document
Enforcement Priority	)	#X95-52

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on June 27, 1995, do hereby certify that the Commission decided by a vote of 6-0 on each of the matters listed below to take the actions hereinafter described:

A. Decline to open a MUR and close the file effective July 5, 1995 in the following matters:

1) RAD 93L-19
2) RAD 94L-05
3) RAD 94L-11
4) RAD 94L-15
5) RAD 94L-21
6) RAD 94L-23
7) RAD 94L-26

B. Take no action, close the file effective July 5, 1995, and approve the appropriate letter in the following matters:

1) MUR 3857
2) MUR 3858
3) MUR 3862

(continued)

9504366451 0

4) MUR 3866
5) MUR 3876
6) MUR 3879
7) MUR 3890
8) MUR 3893
9) MUR 3895
10) MUR 3896
11) MUR 3898
12) MUR 3902
13) MUR 3903
14) MUR 3904
15) MUR 3905
16) MUR 3907
17) MUR 3908
18) MUR 3912
19) MUR 3933
20) MUR 3958
21) MUR 3962
22) MUR 3978
23) MUR 3984
24) MUR 4087
25) MUR 4092
26) MUR 4093
27) MUR 4096
28) MUR 4097
29) MUR 4098
30) MUR 4100
31) MUR 4103
32) MUR 4106
33) MUR 4114

(continued)

9504366451 1

C. Take no further action, close the file effective July 5, 1995, and approve the appropriate letter in the following matters:

1) MUR 2582
2) MUR 3109
3) MUR 3241
4) MUR 3426

Commissioners Aikens, Elliott, McDonald, McGarry, Potter, and Thomas voted affirmatively for the decision with respect to each of these actions.

Attest:

6-30-95
Date

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

9504366451 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 6, 1995

Benjamin A. Johnson
Robinson, Bradshaw & Hinson, P.A.
One Law Place, Suite 600
P.O. Box 12070
Rock Hill, SC 29731-2070

RE: MUR 4103

Dear Mr. Johnson:

On October 25, 1994, the Federal Election Commission received your complaint filed on behalf of your clients, John A. Presto and Jeanie W. Presto, 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 respondents. See attached narrative. Accordingly, the Commission closed its file in this matter on July 5, 1995. 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

Attachment
Narrative

95043664513

MUR 4103
LARRY BIGHAM FOR CONGRESS COMMITTEE

Benjamin A. Johnson, Esq. filed a complaint on behalf of his clients, John and Jeanie Presto, alleging violations regarding ticket sales for an October 28, 1994, Lee Greenwood concert to benefit the Bigham Committee. The complaint alleges that the ticket agents for the concert indicated a willingness to accept cash in excess of $100, accept corporate contributions in the form of tickets purchases with corporate credit cards, and accept contributions in excess of the $1,000 individual limit. The complaint also alleges that agents failed to request names and addresses for contributions in excess of $50 as well as name, address, employer and occupation for contributions in excess of $200 and did not provide proper notice that the concert would benefit the committee. The complainants include affidavits regarding telephone conversations with ticket sales agents.

In response to the complaint, the Bigham Committee states that Winthrop University not Mid-Atlantic Select-a-Seat was the ticket sales agent, no money accepted exceeded FECA limits, and no corporate money, credit cards or checks were accepted. The Committee states that all pertinent information was obtained for money accepted. The Committee submitted an affidavit from Mike Bush, a Winthrop University employee, which states that he does not recall speaking to Ms. Presto regarding the purchase of 11 tickets to the Lee Greenwood concert and that he did not tell anyone that it was permissible to use corporate credit cards to purchase tickets. The Committee also submitted an affidavit from Deborah Burgess, a Committee volunteer, which states that when she telephoned the Winthrop University ticket sales office on October 24, 1994, she was told that she could not pay for tickets with a corporate check or credit card and could not pay cash for 100 tickets. Ms. Burgess also states that when she asked if she could purchase 20 tickets, she was told that she could but that because her purchase would total more than $200, she would have to provide her name, address, employer, and occupation.

Mid-Atlantic Select-A-Seat responds that it provided tickets for the Lee Greenwood concert to Winthrop Coliseum ticket office and that it was not employed to sell tickets for the Lee Greenwood concert and did not. Mid-Atlantic indicates that when Mr. Presto called for tickets, the sales agent provided Mr. Presto with basic information that is applicable to all events without realizing that the event in question was unavailable through Mid-Atlantic.

This matter is less significant relative to other matters pending before the Commission.

9504366451 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 6, 1995

Mr. Larry L. Bigham
1528 Blanchard Bend
Rock Hill, SC 29732

RE: MUR 4103

Dear Mr. Bigham:

On November 1, 1994, the Federal Election Commission notified you of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against you. See attached narrative. Accordingly, the Commission closed its file in this matter on July 5, 1995.

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

Attachment
Narrative

9504366451 5

MUR 4103
LARRY BIGHAM FOR CONGRESS COMMITTEE

Benjamin A. Johnson, Esq. filed a complaint on behalf of his clients, John and Jeanie Presto, alleging violations regarding ticket sales for an October 28, 1994, Lee Greenwood concert to benefit the Bigham Committee. The complaint alleges that the ticket agents for the concert indicated a willingness to accept cash in excess of $100, accept corporate contributions in the form of tickets purchases with corporate credit cards, and accept contributions in excess of the $1,000 individual limit. The complaint also alleges that agents failed to request names and addresses for contributions in excess of $50 as well as name, address, employer and occupation for contributions in excess of $200 and did not provide proper notice that the concert would benefit the committee. The complainants include affidavits regarding telephone conversations with ticket sales agents.

In response to the complaint, the Bigham Committee states that Winthrop University not Mid-Atlantic Select-a-Seat was the ticket sales agent, no money accepted exceeded FECA limits, and no corporate money, credit cards or checks were accepted. The Committee states that all pertinent information was obtained for money accepted. The Committee submitted an affidavit from Mike Bush, a Winthrop University employee, which states that he does not recall speaking to Ms. Presto regarding the purchase of 11 tickets to the Lee Greenwood concert and that he did not tell anyone that it was permissible to use corporate credit cards to purchase tickets. The Committee also submitted an affidavit from Deborah Burgess, a Committee volunteer, which states that when she telephoned the Winthrop University ticket sales office on October 24, 1994, she was told that she could not pay for tickets with a corporate check or credit card and could not pay cash for 100 tickets. Ms. Burgess also states that when she asked if she could purchase 20 tickets, she was told that she could but that because her purchase would total more than $200, she would have to provide her name, address, employer, and occupation.

Mid-Atlantic Select-A-Seat responds that it provided tickets for the Lee Greenwood concert to Winthrop Coliseum ticket office and that it was not employed to sell tickets for the Lee Greenwood concert and did not. Mid-Atlantic indicates that when Mr. Presto called for tickets, the sales agent provided Mr. Presto with basic information that is applicable to all events without realizing that the event in question was unavailable through Mid-Atlantic.

This matter is less significant relative to other matters pending before the Commission.

9504366451 6

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 6, 1995

Christopher L. Cramer, Treasurer
Larry Bigham For Congress
1708 Ebenezer Rd.
Rock Hill, SC 29732

RE: MUR 4103

Dear Mr. Cramer:

On November 1, 1994, the Federal Election Commission notified you of a complaint alleging that Larry Bigham for Congress ("Committee") and you, as treasurer, may have violated 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 Committee and you, as treasurer. See attached narrative. Accordingly, the Commission closed its file in this matter on July 5, 1995.

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

Attachment
Narrative

9504366451 7

MUR 4103
LARRY BIGHAM FOR CONGRESS COMMITTEE

Benjamin A. Johnson, Esq. filed a complaint on behalf of his clients, John and Jeanie Presto, alleging violations regarding ticket sales for an October 28, 1994, Lee Greenwood concert to benefit the Bigham Committee. The complaint alleges that the ticket agents for the concert indicated a willingness to accept cash in excess of $100, accept corporate contributions in the form of tickets purchases with corporate credit cards, and accept contributions in excess of the $1,000 individual limit. The complaint also alleges that agents failed to request names and addresses for contributions in excess of $50 as well as name, address, employer and occupation for contributions in excess of $200 and did not provide proper notice that the concert would benefit the committee. The complainants include affidavits regarding telephone conversations with ticket sales agents.

In response to the complaint, the Bigham Committee states that Winthrop University not Mid-Atlantic Select-a-Seat was the ticket sales agent, no money accepted exceeded FECA limits, and no corporate money, credit cards or checks were accepted. The Committee states that all pertinent information was obtained for money accepted. The Committee submitted an affidavit from Mike Bush, a Winthrop University employee, which states that he does not recall speaking to Ms. Presto regarding the purchase of 11 tickets to the Lee Greenwood concert and that he did not tell anyone that it was permissible to use corporate credit cards to purchase tickets. The Committee also submitted an affidavit from Deborah Burgess, a Committee volunteer, which states that when she telephoned the Winthrop University ticket sales office on October 24, 1994, she was told that she could not pay for tickets with a corporate check or credit card and could not pay cash for 100 tickets. Ms. Burgess also states that when she asked if she could purchase 20 tickets, she was told that she could but that because her purchase would total more than $200, she would have to provide her name, address, employer, and occupation.

Mid-Atlantic Select-A-Seat responds that it provided tickets for the Lee Greenwood concert to Winthrop Coliseum ticket office and that it was not employed to sell tickets for the Lee Greenwood concert and did not. Mid-Atlantic indicates that when Mr. Presto called for tickets, the sales agent provided Mr. Presto with basic information that is applicable to all events without realizing that the event in question was unavailable through Mid-Atlantic.

This matter is less significant relative to other matters pending before the Commission.

9504366451 8

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 6, 1995

Al Zalewski, General Manager
Mid-Atlantic Select-A-Seat
7 Woodlawn Green
Suite 210
Charlotte, NC 28217

RE: MUR 4103

Dear Mr. Zalewski:

On November 1, 1994, the Federal Election Commission notified you of a complaint alleging that Mid-Atlantic Select-A-Seat may have violated 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 Mid-Atlantic Select-A-Seat. See attached narrative. Accordingly, the Commission closed its file in this matter on July 5, 1995.

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

Attachment
Narrative

9504366451 9

MUR 4103
LARRY BIGHAM FOR CONGRESS COMMITTEE

Benjamin A. Johnson, Esq. filed a complaint on behalf of his clients, John and Jeanie Presto, alleging violations regarding ticket sales for an October 28, 1994, Lee Greenwood concert to benefit the Bigham Committee. The complaint alleges that the ticket agents for the concert indicated a willingness to accept cash in excess of $100, accept corporate contributions in the form of tickets purchases with corporate credit cards, and accept contributions in excess of the $1,000 individual limit. The complaint also alleges that agents failed to request names and addresses for contributions in excess of $50 as well as name, address, employer and occupation for contributions in excess of $200 and did not provide proper notice that the concert would benefit the committee. The complainants include affidavits regarding telephone conversations with ticket sales agents.

In response to the complaint, the Bigham Committee states that Winthrop University not Mid-Atlantic Select-a-Seat was the ticket sales agent, no money accepted exceeded FECA limits, and no corporate money, credit cards or checks were accepted. The Committee states that all pertinent information was obtained for money accepted. The Committee submitted an affidavit from Mike Bush, a Winthrop University employee, which states that he does not recall speaking to Ms. Presto regarding the purchase of 11 tickets to the Lee Greenwood concert and that he did not tell anyone that it was permissible to use corporate credit cards to purchase tickets. The Committee also submitted an affidavit from Deborah Burgess, a Committee volunteer, which states that when she telephoned the Winthrop University ticket sales office on October 24, 1994, she was told that she could not pay for tickets with a corporate check or credit card and could not pay cash for 100 tickets. Ms. Burgess also states that when she asked if she could purchase 20 tickets, she was told that she could but that because her purchase would total more than $200, she would have to provide her name, address, employer, and occupation.

Mid-Atlantic Select-A-Seat responds that it provided tickets for the Lee Greenwood concert to Winthrop Coliseum ticket office and that it was not employed to sell tickets for the Lee Greenwood concert and did not. Mid-Atlantic indicates that when Mr. Presto called for tickets, the sales agent provided Mr. Presto with basic information that is applicable to all events without realizing that the event in question was unavailable through Mid-Atlantic.

This matter is less significant relative to other matters pending before the Commission.

9504366452 0

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4103

DATE FILMED 7/31/85 CAMERA NO. 1

CAMERAMAN EES

9504366645521