



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Date: 8/19/96

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            Press

THE ATTACHED MATERIAL IS BEING ADDED TO CLOSED MUR 4131

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FEDERAL ELECTION COMMISSION

WASHINGTON, D. C. 20541

**MEMORANDUM**

TO: Commissioners  
Staff Director Surina  
General Counsel Noble  
✓Assistant General Counsel Convery  
Press Officer Harris

FROM: Marjorie W. Emmons/Bonnie J. Ross *BJR*  
Secretary of the Commission

DATE: August 6, 1996

SUBJECT: Statement of Reasons for MUR 4131

Attached is a copy of the Statement of Reasons in MUR 4131 signed by Commissioners Aikens, Elliott, McDonald, and McGarry. This was received in the Commission Secretary's Office on Tuesday, August 6, 1996 at 8:36 a.m.

Attachment

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unreported activity that may have been paid for from prohibited funds against the risk of committing substantial resources to an investigation that, at the end of the day, may discover only small and relatively technical violations of the Act. The Commission concluded that on this factual record, the latter possibility was more likely than the former. It reached this conclusion because, *inter alia*, the amount known to be at issue was not more than about \$9,000 (and may have been substantially less) and because the recipient committees' knowledge of the transactions at issue appeared to the Commission to be tenuous. Therefore, consistent with the proper ordering of its priorities and limited resources, the Commission exercised its prosecutorial discretion by taking no further action and closing the file. See Heckler v. Chaney, 470 U.S. 821 (1985).

The Commission cautions respondents in this matter, and any others who might wish to make or receive in-kind contributions of goods or services purchased by a separate segregated fund from its connected organization, that the requirements for such transactions set forth in Advisory Opinions 1984-24 and 1984-37 must be met. In particular, all goods and services must be paid for by the separate segregated fund in advance; if services purchased involve the performance of work by the connected organization's employees, the advance payment must be not less than the usual and normal charge for such services by similarly situated independent vendors; and all activities on behalf of more than one candidate must be properly allocated in

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accordance with 11 C.F.R. § 106.1. The Commission will take such action as it deems appropriate to ensure compliance with these long-standing requirements.

8-5-96  
Date

8-2-96  
Date

8-2-96  
Date

8-2-96  
Date

Lee Ann Elliott  
Lee Ann Elliott  
Chairman

John Warren McGarry  
John Warren McGarry  
Vice-Chairman

Joan D. Aikens  
Joan D. Aikens  
Commissioner

Danny L. McDonald  
Danny L. McDonald  
Commissioner

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4131

DATE FILMED 8/23/96 CAMERA NO. 2

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# National Republican Senatorial Committee

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

NOV 7 9 58 AM '94

SENATOR PHIL GRAMM  
CHAIRMAN

WILLIAM D. HARRIS  
EXECUTIVE DIRECTOR

November 4, 1994

MUR 4131

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

Dear Mr. Noble:

The National Republican Senatorial Committee charges that the Respondents, Jack Mudd for U.S. Senate and the Montana National Abortion and Reproductive Rights Action League, violated the Federal Election Campaign Act of 1971, as amended, ("FECA") 2 USC 431 *et seq.* by making and receiving prohibited corporate contributions in violation of 2 USC 441b(a), 11 CFR 114.2(c). The violation is the result of "independent expenditures" made by MT NARAL on behalf of the Mudd Committee that cannot be treated as independent since MT NARAL PAC Committee Chair, Dave Hunter, is currently the Mudd Committee campaign manager. MT NARAL has initiated an aggressive and expensive phone bank and direct mail drive to encourage voters to vote for Jack Mudd. These federal election expenditures were paid with "corporate" dollars by the NARAL, Inc. organization which is a 501(c)(4)

These expenditures that should have been paid for with federal PAC dollars exceed the multicandidate PAC limit of \$5,000 per election. The respondents have violated the FECA by knowingly making and accepting contributions in excess of the limits set forth in 2 USC 441a(a)(2), 11 CFR 110.2(b) in violation of 2 USC 441a(f), 11 CFR 110.9(a).

In addition, the Mudd Committee failed to notify the Secretary of the Senate, the Secretary of State for the State of Montana, and the Federal Election Commission ("FEC") of contributions of \$1,000 or more received after the 20th day of October but more than 48 hours before the November 8, 1994 election, thus violating 2 USC 434(a)(6), 11 CFR 104.5(f). This complaint also charges that respondent MT NARAL violated the FECA by failing to report independent expenditures on behalf of the Mudd Committee. There is a 24 hour reporting requirement for independent expenditures that exceed \$1,000. (2 USC 434(b)(6)(B)(iii) and (c)(1), (c)(2) and 2 USC 434(c)(2), 11 CFR 104.4(b))

The National Republican Senatorial Committee respectfully urges the Commission to conduct a prompt and thorough investigation into the allegations in this Complaint, and to declare that the Jack Mudd Committee and MT NARAL have violated the FECA and Commission regulations.

Sincerely,  
  
Edwina Rogers  
General Counsel

RONALD REAGAN REPUBLICAN CENTER  
425 SECOND STREET N.E. • WASHINGTON, D.C. 20002 • (202) 675-6000

PAID FOR AND AUTHORIZED BY THE NATIONAL REPUBLICAN SENATORIAL COMMITTEE

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Nov 7 9 30 AM '94

**BEFORE THE  
FEDERAL ELECTION COMMISSION  
Washington, D.C. 20463**

**NATIONAL REPUBLICAN SENATORIAL COMMITTEE**  
Ronald Reagan Republican Center  
425 Second Street, N.E.  
Washington, D.C. 20002  
(202) 675-6000

v. Complainant,

Jack Mudd for U.S. Senate  
P.O. Box 9060  
Helena, Montana 59604

AND

MT National Abortion and Reproductive Rights Action League  
P.O. Box 279  
Helena, MT 59624

Respondents.

**COMPLAINT**

**COMPLAINT OF THE  
NATIONAL REPUBLICAN SENATORIAL COMMITTEE**

1. Making And Receiving Prohibited Corporate Contributions - Independent Expenditures Not "Independent" - This complaint charges that respondents Jack Mudd for U.S. Senate ("Mudd Committee") and the Montana National Abortion and Reproductive Rights Action League ("MT NARAL") violated the Federal Election Campaign Act of 1971, as amended, ("FECA") 2 USC 431 *et seq.*, by making and receiving prohibited corporate contributions in violation of 2 USC 441b(a), 11 CFR 114.2(c). The violation is the result of "independent expenditures" made by MT NARAL on behalf of the Mudd Committee that cannot be treated as independent since MT NARAL PAC Committee Chair, Dave Hunter, is currently the Mudd Committee campaign manager. MT NARAL has initiated an aggressive and expensive phone bank and direct mail drive to encourage voters to vote for Jack Mudd. These federal election expenditures

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are being paid with "corporate" dollars by the NARAL, Inc. organization which is a 501(c)(4).

2. Making And Receiving Contributions In Excess Of The Legal Limits - These expenditures that should have been paid for with federal PAC dollars exceed the multicandidate PAC limit of \$5,000 per election. The respondents have violated the FECA by knowingly making and accepting contributions in excess of the limits set forth in 2 USC 441a(a)(2); 11 CFR 110.2(b) in violation of 2 USC 441a(f); 11 CFR 110.9(a).

3. Respondents Violated Reporting Requirements - In addition, the Mudd Committee failed to notify the Secretary of the Senate, the Secretary of State for the State of Montana, and the Federal Election Commission ("FEC") of contributions of \$1,000 or more received after the 20th day of October but more than 48 hours before the November 8, 1994 election, thus violating 2 USC 434(a)(6), 11 CFR 104.5(f). This complaint also charges that respondent MT NARAL violated the FECA by failing to report independent expenditures on behalf of the Mudd Committee. There is a 24 hour reporting requirement for independent expenditures that exceed \$1,000. (2 USC 434(b)(6)(B)(iii) and (c)(1), (c)(2) and 2 USC 434(c)(2); 11 CFR 104.4(b)).

#### PARTIES

4. The complainant, the National Republican Senatorial Committee ("NRSC"), is a "political committee" registered with the Federal Election Commission in accordance with the law and established by Republican Members of the United States Senate to support incumbent and non-incumbent Republican Senate candidates.

5. The respondent Jack Mudd for U.S. Senate is a principal campaign committee registered at the Federal Election Commission. The respondent National Abortion and Reproductive Rights Action League is a 501(c)(4) corporation headquartered in the District of Columbia with a federal political action committee registered with the FEC.

#### APPLICABLE STATUTES AND REGULATIONS

6. Corporate Contributions Prohibited The FECA prohibits principal campaign committees from receiving and corporations from making *contributions or expenditures* as defined in 114.1(a) in connection with any Federal election. 2 USC 441b, 11 CFR 114.2(b)(c). In defining the term *contribution*, the FECA uses the term *anything of value* to include all in-kind contributions. In addition, it considers the provision of any goods or services without charge or at a charge which is less than the usual and normal charge for such goods or services to be a contribution. In-kind contributions must be reported just as monetary contributions are reported to the FEC. 2 USC 431(8), 11 CFR 100.7(a)(1)(iii). In-kind contributions are considered to be made on the date that the goods or services are provided by the contributor. 11 CFR 110.1(b)(6).

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7. **Independent Expenditure Must Be Independent.** The FECA defines the term "independent expenditure" as an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is *made without cooperation or consultation with any candidate*, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate. 2 USC 431(17); 11 CFR 100.16; 11 CFR 109.

8. **Contribution Limits.** The FECA provides that no multicandidate political committee may make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$5,000. 2 USC 441a(a)(2)(A); 11 CFR 110.2(b). The FECA further provides that no candidate or political committee shall knowingly accept any contribution in violation of these provisions. 2 USC 441a(f); 11 CFR 110.9(a).

9. **48 Hour Notice Required.** The FECA requires the principal campaign committee of a Senate candidate to notify the Secretary of the Senate, the Secretary of State, as appropriate, and the FEC in writing, of any contribution of \$1,000 or more received by any authorized committee of the candidate after the 20th day, but more than 48 hours before, any election. This notification must be made within 48 hours after the receipt of the contribution and must include the name of the candidate and the office sought by the candidate, the identification of the contributor, and the date of receipt and amount of the contribution. This notification is in addition to all other reporting requirements under the FECA. 2 USC 434(a)(6); 11 CFR 104.5(f).

10. **24 Hour Notice Required.** The FECA requires that any independent expenditures aggregating \$1,000 or more made by any person after the 20th day, but more than 24 hours before 12:01 a.m. of the day of the election, must be reported within 24 hours after such independent expenditure is made. The report must indicate whether the independent expenditure is in support of, or in opposition to, the candidate involved. For expenditures in support of, or in opposition to, a candidate for the Senate, the report must be filed with the Secretary of the Senate and the Secretary of State for the State in which the candidate is seeking election. 2 USC 434(c)(2); 11 CFR 104.4(b)(c).

## GROUNDS FOR COMPLAINT

### I. PROHIBITED CORPORATE CONTRIBUTIONS

11. On October 20, 1994, MT NARAL (It is our understanding that Montana NARAL is a state chapter of the national NARAL) mailed its "Election 1994" issue of "Choice News" to an unknown number of potential voters in Montana. (Exhibit 1 - Choice News). On page 5 of Choice News, there appears the statement: "Persuasion and Get Out the Vote calls to turn out pro-choice voters for Jack Mudd, Pat Williams and

local Missoula races will commence shortly before the election." On November 1, 1994, MT NARAL began a phone bank drive for Jack Mudd and Pat Williams across Montana. Also on November 1, 1994 MT NARAL mailed a Voters' Guide publication endorsing Mudd and Williams as well as local legislative candidates. As noted on page 3 of the above-referenced "Choice News", the guide was to mail 35,000 voters. (See Exhibit 1 - Choice News at p. 3). On November 1-4, MT NARAL completed literature "drops" for Mudd, Williams and other local candidates. Obviously these activities cost well in excess of the \$5,000 PAC limit and are federal election activities.

12. There are no reports on file with either the Secretary of the Senate or with the Secretary of State of Montana to indicate that the costs of all or any of the above federal election activities were paid for by NARAL PAC. In fact these costs had of been paid for by the corporate entity of MT NARAL (most likely with funds from the national 501(c)(4) organization). This constitutes an illegal corporate contribution. The result is a violation of the FECA by respondent Mudd for receiving prohibited corporate contributions. 2 USC 441b(a), 11 CFR 114.2(c). Respondent NARAL has thus also violated the FECA by making those prohibited corporate contributions in violation of 2 USC 441b(a), 11 CFR 114.2(b).

13. Federal political committees are forbidden from accepting corporate contributions. 11 CFR 114.2(c). A *contribution* includes any direct or indirect payment, services, or *anything of value* to the federal political committee in connection with the election. 11 CFR 114.1(a)(1). The term *anything of value* includes all in-kind contributions. The provision of any goods or services without charge or at a charge which is less than the usual and normal charge for such goods or services is a contribution. 11 CFR 100.7(a)(1)(iii)(A). "If goods or services are provided at less than the usual and normal charge, the amount of the in-kind contribution is the difference between the usual and normal charge for goods or services at the time of the contribution and the amount charged the political committee." *Id* MT NARAL's activities should clearly be treated as in-kind contributions.

## II. MT NARAL ACTIVITIES ARE NOT INDEPENDENT EXPENDITURES

14. On page 3 of "Choice News", Dave Hunter is listed as Chair of the PAC Committee of the Montana NARAL Choice Political Action Committee. (See Exhibit 1). This PAC is affiliated with the national NARAL PAC. Dave Hunter is a senior advisor to Respondent Mudd (Exhibit 4 - Newspaper Article "Mudd campaign in midst of shakeup" dated 10/3.) MT NARAL is obviously working with and is connected at the highest levels of the Mudd campaign.

15. In order to qualify as an independent expenditure under the FECA, the expenditure must be made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and must not be made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate. 2 USC 431(17), 11 CFR 100.16, 11 CFR 109. FEC regulations have further

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interpreted this language to presume such cooperation if the expenditure is made by or through any person who is or has been receiving any form of compensation or reimbursement from the candidate, the candidates' committee or agent. 11 CFR 109.(b)(4)(i)(B). In previous Commission MURs single telephone calls have caused independent expenditures to be disallowed. Even if federal PAC funds were used for these expenditures, given the position of Dave Hunter with both respondents, the independent expenditure criteria cannot be satisfied. There are most likely many other "connection" between the respondents.

### III. CONTRIBUTION LIMITS EXCEEDED BY NARAL PAC

16. On September, 23, 1994, the national NARAL PAC made a \$1,000 in-kind contribution for "organizing for Jack Mudd." (Exhibit 2 - NARAL PAC FEC report due Oct. 20, 1994, page 3 of 7 under Disbursements). On October 19, the NARAL PAC made a \$2,000 contribution to Respondent Mudd. (Exhibit 3 FEC report of NARAL PAC dated November 1, 1994, page 2 of 3 under Disbursements). The FECA provides a limit of \$5,000 per candidate per election for multicandidate political committees. 2 USC 441a(a)(2)(A); 11 CFR 110.2(b). The in-kind contributions described in this complaint amount to costs well in excess of the remaining permissible \$2,000 that Respondent NARAL PAC could contribute to Respondent Mudd. Thus if Respondent NARAL did use its PAC funds for those costs, then it has violated the FECA by exceeding the contribution limits. Similarly, Respondent Mudd would be in violation of the FECA for knowingly accepting contributions in excess of those limits. 2 USC 441a(f); 11 CFR 110.9a.

### IV. VIOLATION OF 48 HOUR NOTICE REQUIREMENT

17. All of the above activities are in-kind contributions of \$1,000 or more received by Respondent Mudd after the 20th day but more than 48 hours before the November 8, 1994 election. Respondent Mudd did not notify the Secretary of the Senate of these contributions. Respondent Mudd also did not notify the Secretary of State of Montana. These failures to notify constitute a violation of the 48 hour notice requirement of 2 USC 434(a)(6); 11 CFR 104.5(f).

### V. VIOLATION OF 24 HOUR NOTICE REQUIREMENT FOR INDEPENDENT EXPENDITURES

18. All of the in-kind contributions noted above were made after the 20th day, but more than 24 hours before 12:01 a.m. of the day of the election and were \$1,000 or more. These expenditures by Respondent NARAL are in violation of the requirement to report to the Secretary of the Senate and the Secretary of State of Montana within 24 hours after they were made. 2 USC 434(e)(2); 11 CFR 104.4(b)(c).

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**VI. MT NARAL IS EXPRESSLY ADVOCATING THE ELECTION OF JACK MUDD**

19. The illicit MT NARAL campaign falls squarely within the definition of federal election activity. Section 431(18) of the FECA defines "clearly identified" as including the name of, or any other unambiguous reference to the candidate. Conrad Burns and Jack Mudd are both clearly identified in MT NARAL's literature. There can be little doubt that the NARAL campaign is aimed at defeating Conrad Burns and electing Jack Mudd for Federal office. Not only is the expenditure timed to coincide with the general election campaign, NARAL's president has stated it is focused on states where abortion rights champions are in close races. (See Exhibit 5 for news article). Although the NARAL campaign is careful not to use the terms "defeat" or "elect," furthermore, such artful drafting of campaign propaganda does not overcome the self-evident intent behind the expenditure. The "Choice News" does clearly state that "Persuasion and Get Out the Vote calls to turn out pro-choice voters for Jack Mudd, Pat Williams and local Missoula races will commence shortly before the election." (See Exhibit 1). Who knows what MT NARAL is saying during its phone bank drive? This is a question the Commission should address.

**RELIEF**

20. The National Republican Senatorial Committee respectfully urges the Commission to conduct a prompt and thorough investigation into the allegations in this Complaint, and to declare that the Respondents have violated the FECA and Commission regulations.

Respectfully submitted,

*Edwina Rogers*

Edwina Rogers  
General Counsel  
National Republican Senatorial Committee  
425 Second Street, N E  
Washington, D.C 20002  
(202) 675-6073

Date: November 4, 1994

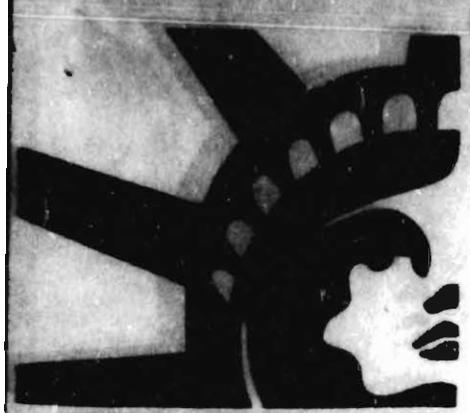
Subscribed and sworn before me this 4th day of November, 1994

Notary Seal

*My commission expires  
February 14, 1995*

*Kathleen M. Rowan*  
Signature of Notary

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# Choice News

Election 1994

A Publication of MT National Abortion and Reproductive Rights Action League

## Three Arsons in Three Years ... And Burns calls this Freedom of Speech

Conrad Burns has earned a 0% voting record from NARAL in 4 of 5 years. His insensitivity to women's issues is all too evident in his latest campaign radio ads now airing in Kalispell. Burns equates support for the Freedom of Access to Clinics Entrances (FACE) to banning the freedom of speech.

These ads have followed the arson in Kalispell, incredible timing! It is just this sort of violence and intimidation tactics that FACE addresses by creating civil and criminal penalties for violence and threats at women's clinics. The bill specifically protects the rights of lawful free speech.

The Burns radio spot is in response to NARAL radio that Jack Mudd is the only candidate for U. S. Senate who trusts women and unlike his opponent would have voted for FACE.

The real freedom in jeopardy, which Burns ignores, is the ability of women, their doctors and medical personnel to pursue a legal procedure without harassment and even death.

Ironically, Burns touts his record sponsoring legislation to protect hunters from harassment. Apparently hunters armed with guns need protection, but women seeking health care deserve none.

### WHAT IS FACE?

The Freedom of Access to Clinic Entrances Act (FACE) authorizes federal criminal penalties and civil remedies to address violence against abortion facilities, health care workers and patients. The law also contains provisions to prevent interference with religious worship and destruction of places of religious worship. It specifically does not restrict lawful and non-violent demonstrations.

With broad bipartisan support, FACE was introduced in 1992 because violence at reproductive health centers, and the brutal harassment of providers and patients, is clearly escalating. FACE was overwhelmingly passed in both the House and the Senate. FACE took effect May 26, 1994.

### Challenges and victories

Immediately, anti-abortion extremists filed five lawsuits against FACE, there are eight challenges last count. Every decision so far has rejected these challenges. In the first, Judge Brinkema of Virginia wrote "nothing in the language of FACE prohibits pure speech; rather the Act criminalizes the use of force, threat of force, and physical obstruction. These acts have long been outside the scope of the First Amendment's protection."



FACT: There have been <sup>9</sup>~~8~~ arson caused fires at abortion providing clinics over the past seven years.

# VIOLENCE AND THE FREEDOM OF CHOICE

By Sara Holmes

What has the anti-choice violence done to our movement?

The intensely intimidating and violent atmosphere created by anti-choice forces is deterring physicians from entering the field, and it is causing other physicians to stop providing abortion services. Anti-choice groups, like Life Dynamics, have distributed 14-page 'joke' books to medical students containing 'comics' suggesting physicians who perform abortions should be shot, attacked by dogs, and buried in concrete. Every comic describes OB-GYNs who perform abortions as people who should be killed. This is just one of the tactics pro-lifers are using to discourage new medical residents from even learning the procedure.

It's becoming less common for obstetric and gynecology programs to include abortion instruction in their core curricula. Many programs include the training as an elective or not at all. Statistics currently show only 12 percent of programs include first trimester abortion training as a normal part of studies, and only 7 percent include second trimester training.

In 34 states, including Montana, the number of abortion-performing physicians declined from 1988 to 1992. We will witness an escalating health care crisis as more and more women become at risk of losing access to safe and legal abortion due to the shortage in the number of physicians who are trained, qualified, and willing to provide abortion services.

Our fight is to protect our right to a complete range of reproductive health care, including family planning, contraception, sexuality education, and abortion. We are pro-choice, not pro-abortion. Electing pro-choice candidates who favor maintaining women's freedom of access to complete reproductive health care services is our best chance to protect this right. Vocalize your outrage toward the violent rhetoric demonstrated by the radical right by writing letters to the editor and educating people about our issue. Most importantly, get yourself and your pro-choice friends to the polls on November 8th.

## ELECTION OF NEW BOARD

Four new board members were elected onto the MT NARAL and MFC boards. Stan Frazier of Helena, Larry Anderson of Great Falls, Maureen Cleary-Schwinden of Wolf Point/Helena, and Gail Gutache of Missoula will join the board. People continuing on the board are Mary Conrad - Livingston, Devon Hartman - Helena, Lee Hipscher - Great Falls, Dave Hunter - Helena, Leslie Ann Jensen - Missoula, Colleen Lippke - Helena, Susan Long - Kalispell, Joy McGrath - Helena, and Fran Miner - Billings.

## Claiborne - Ortenberg fund intern Welcome Sara Holmes!

In September Sara Holmes joined MT NARAL for a nine month internship. Sara will be helping with electoral work, lobbying and membership. Sara graduated from the School of Natural Resources at the University of Michigan this spring with a B.S in Environmental Policy. Sara was active in many extra curricular activities, including some grass roots organizing for GREEN. We are delighted to have Sara with us.

This internship would not have been possible without the generous and timely support of Liz Claiborne and Art Ortenberg. We are indeed grateful for their dedication to keeping Montana a wonderful place to live.



FACT Dr. Warren Herr, director of a Colorado abortion clinic remarked, "Death threats are so common they are not remarkable."

## IMPORTANT DATES:

### Kalispell

November 16 Vivian Brooke - Cairo first hand  
November 21 Teen Workshop

### Helena

October 28 Reproductive Rights Coalition meeting  
November 15 Teen Workshop  
December 6 Vivian Brooke - Cairo first hand

# PAC PAGE

Activities of the MT NARAL Choice Political Action Committee

## VOTERS' GUIDE COMING SOON!

The largest project of this season is the Voters' Guide. Every House and Senate candidate is sent a questionnaire concerning their position on choice. The PAC committee then does a significant amount of follow-up interviews, particularly with non-incumbents. The result is a comprehensive Guide.

The last week in October we will mail 35,000 Voters' Guides to ID'd pro-choice households. If you have not received yours by Halloween, call and we will mail one to you right away. If you receive a duplicate, please pass one along to a friend.

A major focus of this year's Guide is the sharply contrasting record of U. S. Senate incumbent, Conrad Burns and his challenger, Jack Mudd. Burns has repeatedly voted against women and choice, earning a 0% voting record every year from NARAL except 1993. In 1993, Burns cast a cynical vote for the popular Family and Medical Leave Act only after he voted for amendments that would gut it.

## NOVEMBER... ITS JUST AROUND THE CORNER

VOTE!  
VOTE!  
VOTE!

## PAC COMMITTEE

\* → Chair, Dave Hunter ← \*  
Treasurer, Eliza Frazer

- |             |                  |
|-------------|------------------|
| Billings    | Joan McCracken   |
| Butte       | Judy Jacobson    |
| Great Falls | Larry Anderson   |
|             | Lee Hipsber      |
| Helena      | Stan Frasier     |
|             | Joy McGrath      |
|             | Joan Miles       |
|             | Melanie Reynolds |
| Kalispell   | Julie Greiner    |
|             | Susan Long       |
| Missoula    | Janet Stevens    |



**WE NEED YOUR HELP!** Its not to late to support this year's election work.

### PHONE BANKING

NOW THROUGH THE ELECTION in every major city you can help with Voter Identification, persuasion and Get out the Vote calls. They are easy and fun. You never have to ask for money, just opinions. Call a PAC committee member in your town and help.

### MAILING

In Helena: October 22, and 23 Help us get out 35,000 Voters' Guides! Music, pizza and good fun guaranteed.

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# Montanans for Choice

Montanans For Choice is the educational arm of MT NARAL

## TEEN ACCESS PROJECT

By Sue Bartlett

Montanans for Choice, in cooperation with the Montana Reproductive Rights Coalition, continues its project to initiate community workshops on teen access to reproductive health services. Funded through a grant from the MS Foundation, the goals of the workshop are:

- to stimulate a community discussion about teens and reproductive health care,
- to provide information about Montana's laws on teens and reproductive health care,
- to examine various public policy options that may be considered in Montana, and
- to activate people concerned about these issues.

Pilot workshops were held this summer in Helena, Billings and Kalispell. Based on these workshops, we developed a package to enable people in other communities to easily produce the workshop. Training sessions have been held in Great Falls and Butte with people attending from six communities; they are now working to present the workshop in their own towns.

Comments from participants at the pilot workshops demonstrate the value of this project:

- "The entire program was eye opening."
- "Listening to the teens' perspective was great!" "We need more meetings getting down to the 'nitty gritty' in certain areas - don't stop now."
- "Good to get accurate facts."
- "The workshop helped me as a professional as well as a parent of a teen. Informative!"

Training packets are available from MFC and contain complete information on preparing for and holding a workshop in your town. Let us know if you want to hold a workshop in your town!

## MCS "GET AWAY" RAFFLE SENDS THEM PACKING

The Montana Community Shares annual "Get Away" raffle drawing was held on September 11 and a Montanans for Choice ticket buyer won one of the 17 prizes! Lora Mehrer of Missoula won a luxurious Grouse Mountain Lodge overnight for two.

The grand prize, a week-long stay at a Resorts Condominium International time share condo anywhere in the world, was won by Wilbur Rehman of Helena. Sue Bryan of Helena sold him the winning ticket on behalf of the Montana Wilderness Association. Both Wilbur and Sue are MFC supporters.

The MFC prize, an evening vacation for two at the beautiful Old Oak Inn bed and breakfast in Great Falls, donated by State Senator Chris Christiaens, was won by former Public Service Commissioner Clyde Jarvis.

Congratulations to Lora, Wilbur, Clyde, and all the winners. And thanks to all of you who responded to our last newsletter by buying tickets - you all supported 16 very worthy organizations!

MOUSE! ↘

~~X~~ **FACT: Equal Rights Activists take note!**  
Conrad Burns pays women on his staff \$12,609 less than men on staff!



110 Central Avenue  
Whitefish, Montana 59917  
406-302-4980

## 1994 MCS GIVING CAMPAIGN UNDERWAY!

The annual work place giving campaign for Montana Community Shares is underway statewide. Earlier this year, Montanans for Choice became a member of MCS, a federation of 16 progressive non-profit agencies. Each fall, the MCS campaign enables people working for a participating employer to contribute through payroll deductions. Contributions are shared by the 16 member agencies or the contributor may designate one or more specific agencies (like Montanans for Choice!) to receive the donation.



The Community Shares charitable giving approach offers the promise of a stable source of funds for the work of Montanans for Choice. Of course, the more employers who participate and the more people who sign up for payroll deduction to MCS, the larger the distribution of funds to MFC and the other 15 member agencies who work for social and economic justice and a healthy environment.

If you work for an employer who participates in the MCS campaign, please give generously. If your employer does not participate, please consider introducing MCS to your employer and encouraging the inclusion of MCS in this or the next charitable giving campaign conducted at your work place.

For further information on Montana Community Shares and how to introduce it at your work place, call 1-800-823-2625 or, in Helena, 442-2265.



**FACT:** 3% of the US population considers the murder of abortion-providing doctors justifiable

## FLATHEAD NEWS

by Susan Long

Members of the Flathead Pro-choice Coalition had a booth at the Northwest Montana Fair in late August. There were hundreds of visitors to the booth and lots of support for our bing there. Also in August, we sponsored a Teen Access workshop with Montanans for Choice. Participants found it a valuable experience and a second workshop is now scheduled for November 21.

Now, we are all working on the election of pro-choice candidates. FPC members are working on campaign, phone polling, and fundraising. We plan a Get Out The Vote campaign just prior to the election.

We are pleased that Vivian Brooke has made time in her busy schedule to speak at the Flathead Valley Community College on her experience at the Cairo conference on world population. The program is being sponsored by the FPC and the local Planned Parenthood Board.

Our community is shaken by the recent arson attack on the office of Dr. James Armstrong (who includes abortion services as a part of his family practice). There has been considerable support for Dr. Armstrong, who is now looking to relocate his practice for the few weeks it will take to repair the damage done by the fire. This experience has vividly reminded all of us that anyone could find themselves a victim of this kind of a vicious, cowardly attack.

## MISSOULA NEWS

Missoula Pro-Choice joined Blue Mountain Clinic and Planned Parenthood running a fair booth during the county fair. Volunteers dressed a manikin in surgical scrubs with a gun pointed at his head and a poster asked, "Is this any way to practice medicine?"

Missoula pro-choice leads the state in phone banking for choice candidates. Phoning has been going five nights a week since September 7th. Persuasion and Get Out the Vote calls to turn out pro-choice voters for Jack Mudd, Pat Williams and local Missoula races will commence shortly before the election.

## CAIRO POPULATION CONFERENCE

On the final day of the International Conference on Population and Development in Cairo, Egypt, more than 180 countries signed the *Programme of Action*. This accord will serve as a blueprint for world policy on population and development until 2015. The Conference addressed a range of issues affecting women's health and education, global population, sustainable development, and international migration.

The *Programme of Action* lists a broad range of services that should be part of Health Care worldwide. These services include "family planning counselling, information, education, communication and services; education and services for prenatal care, safe delivery, and post-natal care, especially breast feeding, infant and women's health care; prevention and appropriate treatment of infertility" and "treatment of reproductive tract infections; sexually transmitted diseases and other reproductive health conditions; and information, education and counselling, as appropriate on human sexuality, reproductive health and responsible parenthood." This historic recognition of reproductive rights rest on the rights of all "couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the means to do so."

Not surprisingly, the parts of the draft dealing with reproductive health were the most hotly debated. Despite the Vatican's campaign to denounce abortion and exclude it from sections on reproductive health, the document recognizes the global problem of unsafe abortion, and the need for safe abortion.

### VIVIAN BROOKE CAIRO 1ST HAND

Vivian Brooke from Missoula, attended the conference in Cairo. Vivian was the only person from Montana to travel to Cairo, as far as we know. Vivian went with a delegation representing Catholics for Choice.

You can hear first hand about the conference from Vivian.

Kalispell  
Wednesday November 16th  
Flathead Community College

Helena  
Tuesday December 6th  
Neighborhood Center



Cartoon reprinted courtesy of Signee Wilkenson. Wilkenson has published a collection of Cartoons titled, Abortion Cartoons on Demand which is available for \$6.00 plus postage by calling (215) 854-2571.

2604374283

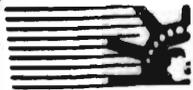
# MEDICAID FUNDING NOW BATTLES IN COURTS

Despite clear federal guidelines that requires victims of rape and incest be eligible for medicaid when seeking an abortion, several states including Montana refused to change their rules to incorporate the changes.

In virtually every state, that has balked, judges that state's must comply with the federal rules.

In Montana, in 2 separate cases, judges ruled the state cannot bar funding for victims of rape and incest. On June 2, state District Judge Jeffrey Sherlock of Helena ruled their was clear federal intent to require state Medicaid programs fund abortions caused by rape or incest. In July, U. S. District Judge Paul Hatfield of Great Falls ruled against the state again.

So far state rules are being drafted. In some states rules have been used to create obstacles for women. For example, in Pennsylvania a federal judge struck down rules that required must report the rape to the authorities and identify the assailant.



**FACT:** Nearly \$1 million in damages have resulted from noxious chemical vandalism incidents at abortion clinics between 1992 and 1994

# OH, HOW WE WISH WE HAD...

- ♥ A MODEM
- ♥ DOS 6.1 UPGRADE FROM OUR CURRENT 5.1
- ♥ AN OFFICE CHAIR
- ♥ A STURDY FILE CABINET
- ♥ OFFICE SHELVES (OR SUPPLIES TO MAKE THEM ☺)

## Working Assets

Do you want to support a socially responsible long distance telephone company? Use Working Assets Long Distance company (WALD). WALD makes donations to nonprofit groups selected by its members using funds generated by members' charges and voluntary contributions. They are generous supporters of the ProChoice Resource Center. And, MT NARAL has switched to WALD.

Remember when AT&T terminated its corporate donation to Planned Parenthood based on the rational that Planned Parenthood support was too controversial. Get a backbone AT&T!

For information about Working Assets, call 1-800-788-8588.

9 6 0 4 3 7 4 2 8 3 2

## NOW MORE THAN EVER! DEFEND FREEDOM OF CHOICE

- \$500 President's Circle       \$ 25 Member MT NARAL  
 \$150 Sustaining Member      \$ \_\_\_ Additional Contribution  
 \$ 50 donor Member

Please make checks payable to MT NARAL, PO Box 279, Helena, MT 59624  
Contributions to MT NARAL are not tax deductible

Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ ST \_\_\_\_\_ Zip \_\_\_\_\_

Phone \_\_\_\_\_

## I WANT TO HELP REACH 35,000 PRO-CHOICE VOTERS

Please send 5 voters guides for each dollar I am sending. Enclosed is

\$ \_\_\_\_\_

Donations are not tax deductible.

Make checks out to:  
 MT NARAL Choice PAC

Please note your occupation and employer. This information is required by Montana Law.

# RADICAL RIGHT WATCH

- In national polling reported by the Lee newspapers, 17% of Montanans support the Christian Coalition. This is the highest percentage of any state that was surveyed
- The Christian Coalition continues to bash state Auditor Mark O'Keefe in fundraising calls. If any of you receive one of these calls, please notify us or Mark O'Keefe's office. A note of support to O'Keefe would be welcome.
- Arson, Arson everywhere. Not reported in Montana newspapers, were two fires in California the Saturday and Sunday preceding the Monday arson at Dr. Armstrong's in Kalispell. The Feminist Women's Health Clinic in Redding suffered \$2,000 in damage from a fire started at 4:30 am. Authorities are investigation any links to a suspicious fire an hour earlier at Planned Parenthood of Chico, California. The Feminist Health clinic has been the focus of numerous stink bomb and arson attacks.



## *Is my membership current?*

Big Challenges, Big Plans. An election year means a big opportunity to improve our head count - where it counts - in the legislature.

Over the years, we have managed to stop anti-abortion bills and amendments in Montana, but sometimes by margins that are extremely thin.

Having a pro-choice President is a welcome change. But we are still vulnerable in Montana both to violence and anti-choice legislation. Perhaps even more vulnerable than ever since Montana has more supporters of the Christian Coalition than any other state.

**WE NEED YOUR HELP!** Please keep your dues current. Your expiration date is on your label.

MT NARAL  
PO Box 279  
Helena, MT 59624  
(406) 443-0276

Non-Profit Org  
U.S. Postage  
PAID  
Permit No. 219

ADDRESS CORRECTION REQUESTED

9 6 0 4 3 7 4 2 8 3 3

# REPORT OF RECEIPTS AND DISBURSEMENTS

For filing with the Federal Election Commission  
(Summary Page)

*Exhibit 2*

TYPE OF STATE

**1. NAME OF COMMITTEE (Print)**  
**NATIONAL ABORTION AND REPRODUCTIVE RIGHTS ACTION FUND**

**ADDRESS (Number and street)**  (Check if different than previously reported)  
 1156 15th St, NW 7th Floor

**CITY, STATE and ZIP CODE**  
 Washington, DC 20005

**2. FEC IDENTIFICATION NUMBER**  
 6007957

**3.  This committee has qualified as a non-federally controlled committee. (see FEC FORM 100)**

DEC 20 11 22 AM '94

## 4. TYPE OF REPORT

- April 15 Quarterly Report
- July 15 Quarterly Report
- October 15 Quarterly Report
- January 31 Year End Report
- July 31 Mid Year Report (Re-election Year Only)
- Termination Report

- Monthly Report Due On:**
- February 20
  - March 20
  - April 20
  - May 20
  - June 20
  - July 20
  - August 20
  - September 20
  - October 20
  - November 20
  - December 20
  - January 21
- Twelfth day report preceding \_\_\_\_\_ (Type of Election)  
 election on \_\_\_\_\_ in the State of \_\_\_\_\_
- Thirtieth day report following the General Election on \_\_\_\_\_ in the State of \_\_\_\_\_

**5. Is this Report an Amendment?**  YES  NO

SUMMARY		COLUMN A This Period	COLUMN B Calendar Year-to-Date
5	Covering Period <u>9-1-94</u> through <u>9-30-94</u>		
6	(a) Cash on Hand January 1, 1994 _____		\$ 91,616.95
6	(b) Cash on Hand at Beginning of Reporting Period _____	\$ 266,426.02	
6	(c) Total Receipts (from Line 10) _____	\$ 52,468.67	\$ 450,575.57
6	(d) Subtotal (add Lines 6(b) and 6(c) for Column A and Lines 6(b) and 6(c) for Column B) _____	\$ 318,894.69	\$ 542,192.02
7	Total Disbursements (from Line 20) _____	\$ 92,453.15	\$ 815,750.48
6	Cash on Hand at Close of Reporting Period (subtract Line 7 from Line 6(d)) _____	\$ 226,441.54	\$ 226,441.54
9	Debits and Obligations Owed TO the Committee (Reported on Schedule C and/or Schedule D) _____	\$	
10	Debits and Obligations Owed BY the Committee (Reported on Schedule C and/or Schedule D) _____	\$	

For further information contact:  
 Federal Election Commission  
 800 E Street, NW  
 Washington, DC 20463  
 Toll Free 800-424-6528  
 Lines 202-219-3488

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer  
*Evel J. Goldman*

Signature of Treasurer  
*Evel J. Goldman*

Date  
 10-94

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g.

# DETAILED SUMMARY PAGE OF RECEIPTS AND DISBURSEMENTS

PAGE 2, OF PAGE 22

FISCAL YEAR

NAME OF COMMITTEE  
**NATIONAL AMERICAN AND ACADEMIC ASSOCIATION INC**

REPORT COVERED PERIOD  
FROM **9-1-94** TO **9-30-94**

	REPORT COVERED PERIOD	
	COLUMN A Total This Period	COLUMN B Calendar Year
<b>I. Receipts</b>		
1. Contributions (other than loans) From:		
a. Individuals/Persons Other Than Political Committees		
1. Estimated (see Schedule A)	1,250.00	10,104.00
2. Unestimated	50,106.19	380,331.29
3. Total (add 1 and 2) >	51,356.19	449,435.29
b. Political Party Committees	—	—
c. Other Political Committees (such as PACs)	—	—
d. Total Contributions (add a, b and c) >	51,356.19	449,435.29
12. Transfers From Affiliated/Other Party Committees	—	—
13. All Loans Received	—	—
14. Loan Repayments Received	—	—
15. Offsets To Operating Expenditures (Refunds, Retires, etc.)	—	—
16. Refunds of Contributions Made to Federal Candidates and Other Political Committees	—	—
17. Other Federal Receipts (Dividends, Interest, etc.)	612.48	2,109.76
18. Transfers from Nonfederal Account for Joint Activity	—	—
19. Total Receipts (add 11d, 12, 13, 14, 15, 16, 17, and 18) >	52,468.67	451,545.05
20. Total Federal Receipts (subtract line 18 from line 19) >	52,468.67	451,545.05

<b>II. Disbursements</b>		
21. Operating Expenditures:		
a. Shared Federal/Non-Federal Activity from Schedule H4		
Federal Share	—	—
Non-Federal Share	—	—
b. Other Federal Operating Expenditures	16,253.15	20,261.30
c. Total Operating Expenditures (add a, b, and c) >	16,253.15	20,261.30
22. Transfers to Affiliated/Other Party Committees	—	34,545.61
23. Contributions to Federal Candidates/Committees and Other Political Committees	74,200.00	732,891.18
24. Independent Expenditures (see Schedule E)	—	—
25. Coordinated Expenditures Made by Party Committees (2 U.S.C. 441a(d)) (see Schedule F)	—	—
26. Loan Repayments Made	—	—
27. Loans Made	—	—
28. Refunds of Contributions To:		
a. Individuals/Persons Other Than Political Committees	—	—
b. Political Party Committees	—	—
c. Other Political Committees (such as PACs)	—	—
d. Total Contribution Refunds (add a, b and c) >	—	—
29. Other Disbursements	2,600.00	—
30. Total Disbursements (add 21c, 22, 23, 24, 25, 26, 27, 28d, and 29) >	93,053.15	767,698.09
31. Total Federal Disbursements (subtract line 21d from line 30) >	93,053.15	767,698.09

<b>III. Net Contributions/Operating Expenditures</b>		
1. Total Contributions (other than loans) from line 11d	51,356.19	449,435.29
2. Total Contribution Refunds from line 28d	—	—
3. Net Contributions (other than loans) (subtract line 2 from line 1)	51,356.19	449,435.29
4. Total Federal Operating Expenditures from line 21c	16,253.15	20,261.30
5. Total Federal Operating Expenditures (other than line 21c)	77,800.00	747,636.79
6. Total Federal Operating Expenditures (add 4 and 5)	94,053.15	767,898.09

921 SW MORRISON  
SUITE 427  
PORTLAND, OR 97205-

IN-KIND ORGANIZING FOR ELIZABETH FURSE, OR/01

OREGON NARAL  
921 SW MORRISON  
SUITE 427  
PORTLAND, OR 97205-

G 09/23/94 1000.00

IN-KIND ORGANIZING FOR SUE KUPILLAS, OR/02

OREGON NARAL  
921 SW MORRISON  
SUITE 427  
PORTLAND, OR 97205-

G 09/23/94 1000.00

IN-KIND ORGAN. FOR CATHERINE WEBBER, OR/05

NEW JERSEY NARAL-PAC  
29 VALLEY RD.  
MONTCLAIR, NJ 07042-

G 09/23/94 1000.00

IN-KIND ORGANIZING FOR F. LAUTENBERG, NJ/SEN

NORTH CAROLINA NARAL  
P.O. BOX 908  
DURHAM, NC 27702-

G 09/23/94 1000.00

IN-KIND ORGANIZING FOR RICHARD ROORE, NC-02

NARAL-OH  
760 E. BROAD ST.  
COLUMBUS, OH 43205-

G 09/23/94 1500.00

IN-KIND ORGANIZING FOR JOEL HYATT, OH/SEN

NAGLE, DAVE CAMPAIGN  
P.O. BOX 792  
WATERLOO, IA 50704-

G 09/23/94 1000.00

CONT. TO DAVE NAGLE, US HOUSE IA/02

MUNSEY, SUE FOR CONGRESS  
P.O. BOX 540575  
MERITT ISLAND, FL 32954-

G 09/23/94 1000.00

CONT. TO SUE MUNSEY, US HOUSE FL/15

MONTANA NARAL  
P.O. BOX 279  
HELENA, MT 59624-

G 09/23/94 1000.00

IN-KIND ORGANIZING FOR JACK MUDD, MT/SEN

MONTANA NARAL  
P.O. BOX 279  
HELENA, MT 59624-

G 09/23/94 1000.00

IN-KIND ORGANIZING FOR PAT WILLIAMS, MT AL

TAKANO, MARK FOR CONGRESS  
1842B TYLER ST.  
RIVERSIDE, CA 92505-

G 09/23/94 500.00

CONT. TO MARK TAKANO, US HOUSE CA/41

Exhibit 3

# REPORT OF RECEIPTS AND DISBURSEMENTS

For Other Than An Authorized Committee  
(Summary Page)

FEDERAL ELECTION  
COMMISSION  
MAIL ROOM

Nov 1 | 52 PM '94

USE FEC MAILING LABEL  
OR PRINT

1. NAME OF COMMITTEE (in full)  
**NATIONAL ABORTION AND REPRODUCTIVE RIGHTS ACTION FUND INC**

ADDRESS (number and street)  Check if different than previously reported  
**1156 15TH ST, NW T8 FLOR**

CITY, STATE and ZIP CODE  
**WASHINGTON, DC 20005**

2. FEC IDENTIFICATION NUMBER  
**600079591**

3.  This committee has qualified as a multi-jurisdictional committee. (see FEC FORM 114)

### 4. TYPE OF REPORT

- (a) April 15 Quarterly Report
- July 15 Quarterly Report
- October 15 Quarterly Report
- January 31 Year End Report
- July 31 Mid Year Report (Non-election Year Only)
- Termination Report

#### Monthly Report Due On:

- February 20
- March 20
- April 20
- May 20
- June 20
- July 20
- August 20
- September 20
- October 20
- November 20
- December 20
- January 31

- Twelfth day report preceding GENERAL  
(Type of Election)  
election on \_\_\_\_\_ in the State of \_\_\_\_\_
- Thirtieth day report following the General Election on \_\_\_\_\_  
in the State of \_\_\_\_\_

(b) Is this Report an Amendment?  YES  NO

SUMMARY		COLUMN A This Period	COLUMN B Calendar Year-to-Date
5. Covering Period	<u>10-1-94</u> through <u>10-19-94</u>		
6. (a) Cash on Hand January 1, 19 <u>94</u>			\$ 91,616.95
(b) Cash on Hand at Beginning of Reporting Period		\$ 226,441.54	
(c) Total Receipts (from Line 18)		\$ 23,538.00	\$ 474,113.07
(d) Subtotal (add Lines 6(b) and 6(c) for Column A and Lines 6(a) and 6(c) for Column B)		\$ 249,979.54	\$ 565,730.02
7. Total Disbursements (from Line 30)		\$ 40,100.00	\$ 355,850.48
8. Cash on Hand at Close of Reporting Period (subtract Line 7 from Line 6(d))		\$ 209,879.54	\$ 209,879.54
9. Debts and Obligations Owed TO the Committee (itemize all on Schedule C and/or Schedule D)		\$	
10. Debts and Obligations Owed BY the Committee (itemize all on Schedule C and/or Schedule D)		\$	

For further information contact:  
 Federal Election Commission  
 900 E Street, NW  
 Washington, DC 20463  
 Toll Free 800-424-9530  
 Local 202-219-3420

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer

**EVAN T GOODMAN**

Signature of Treasurer

Date

**10-31-94**

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g.

96043742837

# DETAILED SUMMARY PAGE OF RECEIPTS AND DISBURSEMENTS PAGE 2, FEC FORM 28

(REVISED 1/1/81)

NAME OF COMMITTEE <b>NATIONAL ABORTION AND REPRODUCTIVE RIGHTS ACTION FUND</b>	REPORT COVERING PERIOD FROM <b>10-1-94</b> TO <b>10-19-94</b>	
	COLUMN A Total This Period	COLUMN B Calendar Year
<b>I. Receipts</b>		
11. Contributions (other than loans) From:		
a. Individual/Persons Other Than Political Committees		
I. Itemized (see Schedule A)		68,184.08
II. Unitemized	23,538.00	403,869.29
B. Total (add I and II) >	23,538.00	472,053.37
b. Political Party Committees		
c. Other Political Committees (such as PACs)		
d. Total Contributions (add a II, b and c) >	23,538.00	472,053.37
12. Transfers From Affiliated/Other Party Committees		
13. All Loans Received		
14. Loan Repayments Received		
15. Offsets To Operating Expenditures (Refunds, Rebates, etc.)		
16. Refunds of Contributions Made to Federal Candidates and Other Political Committees		
17. Other Federal Receipts (Dividends, Interest, etc.)		2,109.70
18. Transfers from Nonfederal Account for Joint Activity		
19. Total Receipts (add 11d, 12, 13, 14, 15, 16, 17, and 18) >	23,538.00	474,163.07
20. Total Federal Receipts (subtract line 18 from line 19) >	23,538.00	474,163.07
<b>II. Disbursements</b>		
21. Operating Expenditures:		
a. Shared Federal/Non-Federal Activity (from Schedule H4)		
I. Federal Share		
II. Non-Federal Share		
b. Other Federal Operating Expenditures		20,284.30
c. Total Operating Expenditures (add a I, a II, and b) >		20,284.30
22. Transfers to Affiliated/Other Party Committees		54,555.00
23. Contributions to Federal Candidates/Committees and Other Political Committees	40,100.00	272,991.19
24. Independent Expenditures (see Schedule E)		
25. Coordinated Expenditures Made by Party Committees (2 U.S.C. 441a(d)) (see Schedule F)		
26. Loan Repayments Made		
27. Loans Made		
28. Refunds of Contributions To:		
a. Individual/Persons Other Than Political Committees		20.00
b. Political Party Committees		
c. Other Political Committees (such as PACs)		
d. Total Contribution Refunds (add a, b and c) >		20.00
29. Other Disbursements		8,300.00
30. Total Disbursements (add 21c, 22, 23, 24, 25, 26, 27, 28d, and 29) >	40,100.00	355,850.48
31. Total Federal Disbursements (subtract line 21 a II from line 30) >	40,100.00	355,850.48
<b>III. Net Contributions/Operating Expenditures</b>		
32. Total Contributions (other than loans) (from line 11d)		
33. Total Contribution Refunds (from line 28d)		
34. Net Contributions (other than loans) (subtract line 33 from line 32)		
35. Total Federal Operating Expenditures (add 21 a I and 21 b) >		
36. Offsets to Operating Expenditures (from line 15)		
37. Net Operating Expenditures (subtract line 36 from line 35) >		

250437428

NEW JERSEY NARAL G 10/13/94 1000.00  
 29 VALLEY RD.  
 MONTCLAIR, NJ 07042-

IN-KIND ORGANIZING FOR F. LAUTENBERG, NJ/SEN

LOFGREN, ZOE FOR CONGRESS G 10/13/94 350.00  
 219 PENNSYLVANIA AVE., NW  
 WASHINGTON, DC 20001-

CONT. TO ZOE LOFGREN, US HOUSE CA/16

VA NARAL G 10/13/94 1750.00  
 P.O. BOX 489  
 FALLS CHURCH, VA 22046-

IN-KIND ORGANIZING FOR CHUCK ROBB, VA/SEN

VA NARAL G 10/13/94 1750.00  
 P.O. BOX 489  
 FALLS CHURCH, VA 22046-

IN-KIND ORGANIZING FOR LESLIE BYRNE, VA/11

TARAL G 10/13/94 2000.00  
 905 W. OLTORF, SUITE D  
 AUSTIN, TX 78704-

IN-KIND ORGANIZING FOR ROLANDO RIOS, TX/23

TARAL G 10/13/94 1000.00  
 905 W. OLTORF, SUITE D  
 AUSTIN, TX 78704-

IN-KIND ORGANIZING FOR RICHARD FISHER, TX/SEN

TARAL G 10/13/94 1000.00  
 905 W. OLTORF, SUITE D  
 AUSTIN, TX 78704-

IN-KIND ORGANIZING FOR KEN BENTSEN, TX/25

OR-NARAL G 10/13/94 2000.00  
 921 SW MORRISON #427  
 PORTLAND, OR 97205-

IN-KIND ORGANIZING FOR C. WEBBER, OR/05

BROWN, CORRINE FOR CONGRES G 10/13/94 500.00  
 33 S. HOGAN ST. #250  
 JACKSONVILLE, FL 32202-

CONT. TO CORRINE BROWN, US HOUSE FL/03

MUDD, JACK FOR SENATE G 10/19/94 2000.00  
 P.O. BOX 9060  
 HELENA, MT 59604-

CONT. TO JACK MUDD, US SENATE/MT

OBERLY, CHARLES FOR SENATE G 10/19/94 5000.00  
 3409 LANCASTER PIKE  
 WILMINGTON, DC 19805-

CONT. TO CHARLES OBERLY, US SENATE/DE

SLAUGHTER, LOUISE COMMITTEE G 10/19/94 500.00

Exhibit 4

# Mudd campaign 344 in midst of shakeup.

By GAIL SCHONTZLER 15 9/13  
Chronicle Staff Writer

Trailing even in his own polls, Democratic Senate candidate Jack Mudd said today he's replacing his campaign manager from South Dakota with a team of three Montanans experienced in winning elections.

Mudd, a Missoula attorney who's challenging Republican Sen. Conrad Burns, said his new campaign manager, Holly Kaleczyc, will be assisted by senior advisors Bob Fitzgerald and Dave Hunter.

Mudd denied the shakeup was prompted by his poor showing in recent polls. He said outgoing campaign manager Monica Mills had told him more than a week ago that a personal, family reason might keep her from finishing the campaign. Mills said she was leaving because of a family emergency.

Kaleczyc is Mudd's third campaign manager this year. After the June primary, Mills was hired to replace Paul Tuss, who became state field director.

Mudd spoke in a phone interview from Billings, where he was holding a press conference this morning to raise further

(More on Mudd, page 12)

96043742840

# dd campaign idst of shakeup.

CHONTZLER 15 90/13  
Staff Writer

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He was leaving because of a family emergency. Mudd's third campaign manager this year. After the primary, Mills was hired to replace Paul Tuss, who was the field director.

Mudd made a phone interview from Billings, where he held a press conference this morning to raise further

(Mudd, page 12)

## Mudd/ from page 1

questions about Burns' 63 lobbyist-paid trips over six years. Burns has said the criticism is a "smear" tactic by Mudd.

Mudd said the trips amount to free "vacations," basically gifts from lobbyists who expect to influence the senator.

"Montanans tell me, 'My gosh, what's he doing spending 147 days on this? We didn't send him back there to be on the speaking circuit, we sent him there to fix the health system, pass mining reform, and pass the wilderness bill he promised,'" Mudd said.

Burns has defended the trips saying the travel helped him garner pro-agriculture votes needed to protect Montana farmers and ranchers.

Kaleczyc was chief of staff and communications officer for Nancy Keenan, state superintendent of public instruction, until a few months ago when her parents' illnesses prompted her to leave.

Kaleczyc managed campaigns for Sen. Max Baucus in 1984 and for Keenan's unopposed 1992 race. She also worked for former Sen. Mike Mansfield from 1972 to 1975 and for Baucus, in the House and Senate, from 1975 to 1985. Her husband, Stan, is a Helena attorney and lobbyist for Burlington Resources and other clients.

Hunter, deputy state auditor under Mark O'Keefe, is known as one of the most seasoned political professionals in the Democratic Party. He managed former Gov. Ted Schwinden's successful 1980 and 1984 campaigns, Baucus' 1990 re-election campaign, and Mike McGrath's unsuccessful 1992 campaign for governor. Hunter coordinated campaigns for the state Democratic Party in 1992 and has headed the state Labor Department and budget office. He will either be taking a leave of absence from the auditor's office or taking vacation time, spokesman Bill Lombardi said.

Fitzgerald, a sculptor's agent, worked for Mudd at the end of the primary and "brought wonderful energy" to the campaign, Mudd said. They first met working on Baucus' 1978 Senate campaign.

Mudd insisted he's not discour-

Mudd insisted he's not discouraged by the polls. In Bozeman on Friday, he said his own tracking polls show him 6 to 13 points behind Burns. The figures bounce around and he wasn't sure why, he said. A Lee Newspaper poll published Sunday showed him trailing by 15 percent, which the pollster suggested was insurmountable.

aged by the polls. In Bozeman on Friday, he said his own tracking polls show him 6 to 13 points behind Burns. The figures bounce around and he wasn't sure why, he said.

A Lee Newspaper poll published Sunday showed him trailing by 15 percent, which the pollster suggested was insurmountable.

Kaleczyc disagreed, saying Mudd is about where Burns was six years ago, when he came from behind to beat former Sen. John Melcher in an upset. "This is very do-able," she said.

"I'm very satisfied with the way we are at this point," Mudd said. He said he started out with only 4 percent name recognition and yet was able in the primary to beat Melcher, who had decades of experience in Congress.

But Will Brooke, a Bozeman attorney who is campaign co-chairman for Burns, said Friday the Republican's campaign is going very well. Republican voters are solidly behind him. And Mudd's television ads have succeeded only in saying Mudd's a nice guy and Conrad travels too much. The problem for Mudd, Brooke said, is "Conrad's also a nice guy" and trips are at best a small issue. "But you don't win campaigns on 'He's a nice guy' and travel," he said.

96047

MILES CITY  
STAR  
MILES CITY  
MONTANA 59501  
3605-734 4300  
OCT 04 1994  
SUPERIOR  
CLIPPING SERVICE  
JALCON 3MT  
406-486-5493

# Mudd replaces campaign manager

## Denied polls showing him lagging were behind the staff change

HELENA (AP) — Democratic U.S. Senate candidate Jack Mudd replaced his campaign manager Monday but said the change has nothing to do with recent polls showing him trailing Republican Sen. Conrad Burns.

Monica Mills decided to leave the campaign because of a family emergency and will be succeeded by Holly Kaleczyk of Helena, Mudd said. Also joining the campaign are Dave Hunter and Bob Fitzgerald, both of Helena.

Kaleczyk is the third campaign manager for Mudd. Mills replaced Paul Tuss after Mudd's primary election win. Mudd said the changes were not made out of con-

cern about the race, even though three recent polls indicate Mudd has not closed the gap between himself and Burns.

A Lee Newspapers poll last week showed Burns with a 52 percent to 37 percent lead, while a Great Falls Tribune poll last month had said the race a tossup. A Burns poll in late August gave the incumbent a 13-point margin.

Mudd doesn't dispute the polls' findings and said his own daily tracking polls show Burns with a lead of about 10 points. But he said he is not concerned with five weeks left before the election.

"I did not expect to be making up ground at this point," said

Mudd, who is running in his first statewide campaign. "This race is going to be coming down to the wire. That's the way I told the family about it a year ago.

"This is not the end of the race. This is right about the time people start paying close attention to the race," he added. "I have every degree of confidence that we can and that we will win."

Kaleczyk and Hunter are well-known in political circles.

Kaleczyk was chief of staff and communications director for Democratic state Superintendent of Public Instruction Nancy Keenan until she took a leave of absence in June because of ailing parents. Her employment with the agency officially ended last Friday.

Kaleczyk managed Keenan's uncontested re-election campaign in 1992 and ran the 1984 re-election

campaign of Sen. Max Baucus, D-Mont. She was Democratic national committee woman from 1989-92, worked for Sen. Mike Mansfield, D-Mont., from 1972-75 and for Burns from 1975-85.

She was state director for Democrat presidential candidate Mike Dukakis in 1988.

Hunter, one of the most experienced Democratic political strategists in the state, is state Auditor Mark O'Keefe's deputy. Hunter managed both successful campaigns of Gov. Ted Schwenden in 1980 and 1984.

He worked as budget director and Labor Department director for Schwenden. Hunter directed Burns' last re-election campaign in 1990 and was manager for the unsuccessful gubernatorial campaign of Lewis and Clark County Attorney Mike McGrath in 1992.

2 4 8 2 4 7 3 4 0 9 6

### Six Republicans Dubbed 'Pretenders' On Abortion Issue

They're smooth, they're hip, they're the hottest group around. They are "The Great Pretenders," appearing courtesy of the National Abortion and Reproductive Rights Action League on the "Back Alley Records" label.

The Great Pretenders? That's what NARAL is calling six Republicans—Sens. Paul Coverdell (Ga.) and Kay Bailey Hutchison (Tex.), New York gubernatorial candidate George Pataki, and Senate candidates J. Marshall Coleman (running as an independent) in Virginia, Rep. Michael Huffington in California and Mitt Romney in Massachusetts—for "pretending they're pro-choice, when they're really no choice."

Announcing a campaign yesterday to educate voters about candidates who try "to hoodwink this nation about their position," NARAL president Kate Michelman said the group will focus on states where abortion rights "champions" are in close races. The campaign will issue mailings and dispatch "truth squads" to question opponents' records at campaign events.

In a poster for its campaign, NARAL pictures the six in tight, 1970s-style suits, swinging their arms and dancing as though they were a Las Vegas lounge act.

Michelman said the six were lat-



SEN. PAUL COVERDELL

... record assailed by NARAL

geted for using abortion rights rhetoric but refusing to support abortion rights legislation, such as the new law making it a federal crime to obstruct access to abortion clinics and a pending bill that would ban most state abortion restrictions.

Eric Peterson, spokesman for Coleman—who NARAL said gives "new meaning to the word waffle"—called his personal opposition consistent. "What has changed is he has come to realize that trying to put governments in the middle of this issue only creates paralysis, and people will never come together" with this wedge being driven into it.

96043742843



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

November 18, 1994

Edwina Rogers, General Counsel  
National Republican Senatorial Committee  
425 Second Street NE  
Washington, DC 20002

RE: MUR 4131

Dear Ms. Rogers:

This letter acknowledges receipt on November 7, 1994, of the complaint which you filed on behalf of the National Republican Senatorial Committee 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 4131. 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

96043742844



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

November 18, 1994

Chet Blaylock, Treasurer  
Jack Mudd for U.S. Senate  
P.O. Box 9060  
Helena, MT 59604

RE: MUR 4131

Dear Mr. Blaylock:

The Federal Election Commission received a complaint which indicates that the Jack Mudd for U.S. Senate ("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 4131. 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.

96043742845

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

cc: Jack Mudd

96043742846



**FEDERAL ELECTION COMMISSION**

WASHINGTON, D.C. 20463

**November 18, 1994**

**Executive Director  
Montana National Abortion and Reproductive  
Rights Action League  
P.O. Box 279  
Helena, MT 59624**

**RE: MUR 4131**

**Dear Sir or Madam:**

The Federal Election Commission received a complaint which indicates that the Montana National Abortion and Reproductive Rights Action League (Montana NARAL) 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 4131. 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 Montana NARAL 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.

96043742847

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

96043742848



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

November 18, 1994

Si Seifert, Treasurer  
A Lot of Folks for Pat Williams  
P.O. Box 1994  
Helena, MT 59624

RE: MUR 4131

Dear Mr. Seifert:

The Federal Election Commission received a complaint which indicates that A Lot of Folks for Pat Williams ("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 4131. 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.

96043742849

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

cc: Pat Williams

26043742850



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

November 18, 1994

Evan J. Goldman, Treasurer  
NARAL PAC  
1156 15th Street, NW  
7th Floor  
Washington, DC 20005

RE: MUR 4131

Dear Mr. Goldman:

The Federal Election Commission received a complaint which indicates that NARAL PAC 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 4131. 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 NARAL PAC 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.

96043742851

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

96043742852

NEW YORK, NEW YORK

DENVER, COLORADO

SUSAN B. CHERTKOF  
DIRECT LINE: (303) 733-2100

**ARNOLD & PORTER**

1800 NEW HAMPSHIRE AVENUE, N.W.  
WASHINGTON, D.C. 20006-6666

TELE: (202) 575-4700  
FAX: (202) 575-4700  
TELEX: 204723

LOS ANGELES, CALIFORNIA

TOKYO, JAPAN

November 29, 1994

VIA FAX

NOV 29 11 36 AM '94  
RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

Mary L. Taksar, Esq.  
Joan McNery, Esq.  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Re: MUR 4131

Dear Ms. Taksar and Ms. McNery:

As the Designation of Counsel forms you should have received earlier today by fax indicate, we are representing NARAL PAC and Montana NARAL in connection with the above-captioned matter.

We are writing to request an extension of time to file a response to the complaint initiated by the National Republican Senatorial Committee. The response is presently due December 6. We request a twenty (20) day extension of time to respond, which, given the timing of the legal holiday for Christmas, would make the response due on December 27. The additional time is needed in order to investigate the facts that gave rise to the complaint and to gather and prepare documentation in response, particularly in light of the fact that the complaint was received just before the Thanksgiving weekend and at a time of year when the holiday season makes coordinating schedules particularly difficult.

Please feel free to contact either of us if you have any questions or need any further information. Thank you for your consideration.

Sincerely,

*Susan Chertkof*  
Geoffrey F. Aronow  
Susan B. Chertkof

96043742853

STATEMENT OF DESIGNATION OF COUNSEL

NUM 4181

NAME OF COUNSEL: GEOFFREY ARONOW, ESQ;

ADDRESS: SUSAN CHERKOFF, ESQ

ARNOLD & PORTER

1200 N HAMPSHIRE AVE. N.W.

TELEPHONE: WASHINGTON DC 20036

(202) 872-6700

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.

NOV 29 1 27 PM '94

29 Nov 1994  
Date

[Signature]  
Signature

RESPONDENT'S NAME: MONTEANA NATIONAL ASSOCIATION OF REPRODUCTIVE RI ATTORNEYS

ADDRESS: P O BOX 279

HELENA, MT 59621

HOME PHONE:

BUSINESS PHONE: (406) 443-0276

96043742854

STATEMENT OF DESIGNATION OF COUNSEL

**NR** 4131

**NAME OF COUNSEL:** Geoffrey Aronow, Esq. ; Susan Chertkof, Esq.

**ADDRESS:** Arnold & Porter

1200 New Hampshire Avenue, NW

Washington, DC 20036

**TELEPHONE:** (202) 872-6700

NOV 29 9 31 AM '94  
FEDERAL BUREAU OF INVESTIGATION  
OFFICE OF THE ATTORNEY GENERAL

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.

November 29, 1994  
Date

*Evans J. Feldman*  
Signature

**RESPONDENT'S NAME:** NARAL-PAC

**ADDRESS:** 1156 15th Street, NW

Washington, DC 20005

**HOME PHONE:**

**BUSINESS PHONE:** (202) 973-3000

26043742855



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

November 30, 1994

Susan B. Chertkof, Esq.  
Arnold & Porter  
1200 New Hampshire Avenue, N.W.  
Washington, D.C. 20036-6885

RE: MUR 4131  
National Abortion and Reproductive  
Rights Action League PAC and Montana  
National Abortion and Reproductive  
Rights Action League

Dear Ms. Chertkof:

This is in response to your letter dated November 29, 1994, requesting an extension until December 27, 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 December 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

96043742856

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

DEC 2 9 46 AM '94

Jack Mudd  
20 Willowbrook  
Missoula, MT 59802  
(406) 529-2570

December 1, 1994

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

Attention: Joan McEnery  
Telefaxed (202) 219-3923

RE: MUR 4131

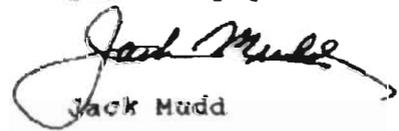
Dear Ms. Taksar:

On behalf of Jack Mudd for U.S. Senate ("our Committee"), I am requesting an additional 30 days within which to file our Committee's response to the complaint filed in this matter.

The allegations in the complaint involve the Montana National Abortion and Reproductive Rights Action League (MT NARAL) and the National Abortion and Reproductive Rights Action League (NARAL). The additional time is needed to insure the factual basis of our Committee's response is accurate and to cross-check the records of the organizations that the complaint alleges made improper contributions to our Committee.

We are confident that with the additional time, this matter can be promptly resolved. Thank you for your assistance.

Sincerely yours,

  
Jack Mudd

96043742857



FEDERAL ELECTION COMMISSION  
WASHINGTON, DC 20463

December 6, 1994

Jack Mudd  
20 Willowbrook  
Missoula, MT 59802

RE: MUR 4131  
Jack Mudd for U.S. Senate

Dear Mr. Mudd:

This is in response to your letter dated December 1, 1994, requesting a 30-day extension 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 January 5, 1995.

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

Sincerely,

*Mary L. Taksar*

Mary L. Taksar, Attorney  
Central Enforcement Docket

96043742858

# PAT

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

DEC 13 11 56 AM '94

December 12, 1994

Ms. Mary L. Taksar, Attorney  
Central Enforcement Docket  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

RE: MUR 4131

Dear Ms. Taksar:

On December 7, 1994 we received notice from "National Abortion and Reproductive Rights Action League-PAC" of in-kind work they performed on behalf of "A Lot of Folks for Pat Williams." Enclosed is a copy of the letter of notification sent to us by Evan Goldman, NARAL-PAC Treasurer.

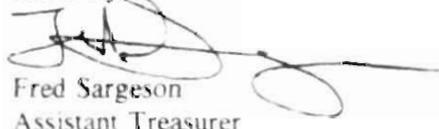
In order to be in full compliance with all reporting requirements, our committee is submitting the enclosed amendments to our Report of Receipts and Disbursements, Detailed Summary Page, for our October 15 Quarterly Report (July 1, 1994 - September 30, 1994), 12-Day Pre-Election Report (October 1, 1994 - October 19, 1994), and 30-Day Post-Election Report (October 20, 1994 - November 28, 1994) to the Clerk of the U.S. House of Representatives. The amounts have been amended to reflect the NARAL-PAC contributions which fell within the first two reporting periods. And, in our last report, our subtraction in column B, line 7(c) has been corrected.

Enclosed are also the pertinent itemizations for line 11(c), Contributions from "Other Political Committees," and line 17, "Operating Expenditures" for those reporting periods. The NARAL-PAC contributions which applied to this past reporting period were correctly included in the 30-day Post-Election Report we filed December 8, 1994. The NARAL-PAC contribution aggregate has, however, changed.

While changing the aggregate totals on the Detailed Summary Page of our 30-Day Post-Election report, we noticed a \$.02 copying error; our operating expenditures for this period were \$131,752.84, not \$131,752.82. This amount has been corrected as have all other numbers affected by this change.

If you have any questions regarding these amendments, I can be reached at (406)443-7488.

Sincerely,



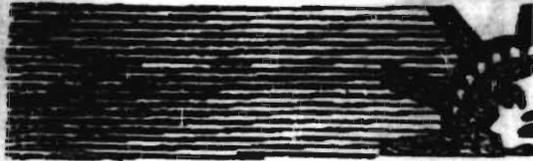
Fred Sargeson  
Assistant Treasurer

enclosure



RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

**NARAL Promoting Reproductive Choices** Dec 13 11 56 AM '94



**NARAL-PAC**

December 7, 1994

Honorable Pat Williams  
A Lot of Folks for Pat Williams  
P.O. Box 1994  
Helena, MT 59624

Dear Representative Williams:

NARAL-PAC is in the process of reviewing its' expenditures for the 1994 general election. To help ensure that your records are consistent with ours, we have prepared the following summary of NARAL-PAC in-kind work performed on your behalf.

9/23/94	\$1,000	in-kind organizing
10/19/94	\$500	in-kind organizing
10/27/94	\$2,000	in-kind organizing
11/10/94	\$502.41	in-kind organizing

While the last check was cut after the general election, it's paid for work done before the general election.

Feel free to call me if you have any questions.

Sincerely,

Evan Goldman  
PAC Treasurer

96043742800

National Abortion  
and Reproductive Rights  
Action League

Political Action Committee

1166 18th Street, NW  
Suite 700  
Washington, DC 20036

Phone (202) 573-3000  
Fax (202) 573-3098

Fund for by NARAL-PAC  
and not authorized by  
any politician

21110  
75005

# REPORT OF RECEIPTS AND DISBURSEMENTS

For An Authorized Committee  
(Summary Page)

USE FEC MAILING LABEL OR TYPE OR PRINT

1. NAME OF COMMITTEE (in full) <b>A LOT OF FOLKS FOR PAT WILLIAMS</b>		2. FEC IDENTIFICATION NUMBER <b>C00253344</b>
ADDRESS (number and street) <input type="checkbox"/> Check if different than previously reported. <b>P.O. Box 1994</b>		
CITY, STATE and ZIP CODE: <b>HELENA, MT 59624</b>	STATE/DISTRICT <b>MT AT LARGE</b>	
3. IS THIS REPORT AN AMENDMENT? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		

## 4. TYPE OF REPORT

- |  |  |
|--|--|
| <input type="checkbox"/> April 15 Quarterly Report<br><input type="checkbox"/> July 15 Quarterly Report<br><input checked="" type="checkbox"/> October 15 Quarterly Report<br><input type="checkbox"/> January 31 Year End Report<br><input type="checkbox"/> July 31 Mid-Year Report (Non-election Year Only) | <input type="checkbox"/> Twelfth day report preceding _____ (Type of Election) election on _____ in the State of _____<br><input type="checkbox"/> Thirtieth day report following the General Election on _____ in the State of _____<br><input type="checkbox"/> Termination Report |
|--|--|

This report contains activity for:  Primary Election  General Election  Special Election  Runoff Election

## SUMMARY

	COLUMN A This Period	COLUMN B Calendar Year-to-Date
5. Covering Period <u>07-01-94</u> through <u>09-30-94</u>		
6. Net Contributions (other than loans)		
(a) Total Contributions (other than loans) (from Line 11(e))	242,218.64	433,850.09
(b) Total Contribution Refunds (from Line 20(d))	0-	0-
(c) Net Contributions (other than loans) (subtract Line 6(b) from 6(a))	242,218.64	433,850.09
7. Net Operating Expenditures		
(a) Total Operating Expenditures (from Line 17)	181,271.18	273,537.73
(b) Total Offsets to Operating Expenditures (from Line 14)	82.50	492.02
(c) Net Operating Expenditures (subtract Line 7(b) from 7(a))	181,188.68	273,045.71
8. Cash on Hand at Close of Reporting Period (from Line 27)	228,627.00	For further information contact: Federal Election Commission 999 E Street, NW Washington, DC 20463 Toll Free 800-424-9530 Local 202-219-3420
9. Debts and Obligations Owed TO the Committee (Itemize all on Schedule C and/or Schedule D)	0-	
10. Debts and Obligations Owed BY the Committee (Itemize all on Schedule C and/or Schedule D)	0-	

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer <b>J. FRED SARGESON, ASSISTANT TREASURER</b>	
Signature of Treasurer 	Date <b>12-12-94</b>

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g

26043742861

# DETAILED SUMMARY PAGE

of Receipts and Disbursements

(Page 2, FEC FORM 3)

Name of Committee (in full) **A LOT OF FOLKS FOR TAT WILLIAMS** Report Covering the Period:  
 From: **07-01-94** To: **09-30-94**

## I. RECEIPTS

	COLUMN A Total This Period	COLUMN B Calendar Year-To-Date
<b>11. CONTRIBUTIONS (other than loans) FROM:</b>		
(a) Individuals/Persons Other Than Political Committees		
(i) Itemized (use Schedule A)	56,547.69	
(ii) Unitemized	60,245.95	
(iii) Total of contributions from individuals	116,793.64	165,125.09
(b) Political Party Committees	15,295.00	15,425.00
(c) Other Political Committees (such as PACs)	110,150.00	253,300.00
(d) The Candidate	0-	0-
(e) TOTAL CONTRIBUTIONS (other than loans) (add 11(a)(iii), (b), (c) and (d))	242,218.64	433,850.09

12. TRANSFERS FROM OTHER AUTHORIZED COMMITTEES	15,239.79	15,239.79
--	-----------	-----------

<b>13. LOANS:</b>		
(a) Made or Guaranteed by the Candidate	0-	0-
(b) All Other Loans	0-	0-
(c) TOTAL LOANS (add 13(a) and (b))	0-	0-

14. OFFSETS TO OPERATING EXPENDITURES (Refunds, Rebates, etc.)	82.50	492.02
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15. OTHER RECEIPTS (Dividends, Interest, etc.)	11.88	26.52
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16. TOTAL RECEIPTS (add 11(e), 12, 13(c), 14 and 15)	257,552.81	449,608.42
--	------------	------------

## II. DISBURSEMENTS

17. OPERATING EXPENDITURES	181,271.18	273,537.73
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18. TRANSFERS TO OTHER AUTHORIZED COMMITTEES	7,376.04	7,376.04
--	----------	----------

<b>19. LOAN REPAYMENTS:</b>		
(a) Of Loans Made or Guaranteed by the Candidate	0-	0-
(b) Of All Other Loans	0-	0-
(c) TOTAL LOAN REPAYMENTS (add 19(a) and (b))	0-	0-

<b>20. REFUNDS OF CONTRIBUTIONS TO</b>		
(a) Individuals/Persons Other Than Political Committees	0-	0-
(b) Political Party Committees	0-	0-
(c) Other Political Committees (such as PACs)	0-	0-
(d) TOTAL CONTRIBUTION REFUNDS (add 20(a), (b) and (c))	0-	0-

21. OTHER DISBURSEMENTS	0-	0-
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22. TOTAL DISBURSEMENTS (add 17, 18, 19(c), 20(d) and 21)	188,647.22	280,913.77
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## III. CASH SUMMARY

23. CASH ON HAND AT BEGINNING OF REPORTING PERIOD	\$	159,721.41	
24. TOTAL RECEIPTS THIS PERIOD (from Line 16)	\$	257,552.81	
25. SUBTOTAL (add Line 23 and Line 24)	\$	417,274.22	
26. TOTAL DISBURSEMENTS THIS PERIOD (from Line 22)	\$	88,647.22	
27. CASH ON HAND AT CLOSE OF THE REPORTING PERIOD (subtract Line 26 from 25)	\$	228,627.00	

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

FOR COMMITTEE: A LOT OF FOLKS FOR PAT WILLIAMS

FULL NAME, MAILING ADDRESS	EMPLOYER/OCCUPATION	DATE	AMOUNT OF RECEIPT
NARAL-PAC 1156 15TH STREET, NW WASHINGTON, DC 20005	in kind	09/23/94	1000.00

Receipt for: ( ) Primary (X) General AGGREGATE YTD: \$ 3000.00

96043742863

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FOR COMMITTEE: A LOT OF FOLKS FOR PAT WILLIAMS

FULL NAME, MAILING ADDRESS	PURPOSE OF DISBURSEMENT	DATE	AMOUNT OF DISBURSEMENT
NARAL-PAC 1156 15TH STREET, NW WASHINGTON, DC 20005	ORGANIZING  in kind	09/23/94	1000.00
Disbursement for: ( ) Primary (X) General			

96043742864

Subtotal of Receipts This Page .....\$ 1000.00  
 Total This Period.....\$ 1000.00

# REPORT OF RECEIPTS AND DISBURSEMENTS

For An Authorized Committee  
(Summary Page)

USE FEC MAILING LABEL OR TYPE OR PRINT

1. NAME OF COMMITTEE (in full)  
**A LOT OF FOLKS FOR PAT WILLIAMS**

ADDRESS (number and street)  Check if different than previously reported.  
**P.O. Box 1994**

CITY, STATE and ZIP CODE: **HELENA, MT 59624** STATED/DISTRICT: **MT AT LARGE**

2. FEC IDENTIFICATION NUMBER  
**C00253344**

3. IS THIS REPORT AN AMENDMENT?  
 YES  NO

## 4. TYPE OF REPORT

April 15 Quarterly Report

Twelfth day report preceding **GENERAL**  
(Type of Election)  
election on **11-08-94** in the State of **MONTANA**

July 15 Quarterly Report

October 15 Quarterly Report

Thirtieth day report following the General Election on \_\_\_\_\_ in the State of \_\_\_\_\_

January 31 Year End Report

July 31 Mid-Year Report (Non-election Year Only)  Termination Report

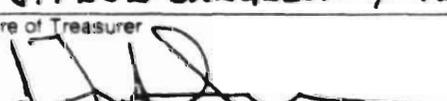
This report contains activity for  Primary Election  General Election  Special Election  Runoff Election

## SUMMARY

5. Covering Period	COLUMN A This Period	COLUMN B Calendar Year-to-Date
<u>10-01-94</u> through <u>10-19-94</u>		
6. Net Contributions (other than loans)		
(a) Total Contributions (other than loans) (from Line 11(e))	<b>73,914.85</b>	<b>507,764.94</b>
(b) Total Contribution Refunds (from Line 20(d))	<b>0-</b>	<b>0-</b>
(c) Net Contributions (other than loans) (subtract Line 6(b) from 6(a))	<b>73,914.85</b>	<b>507,764.94</b>
7. Net Operating Expenditures		
(a) Total Operating Expenditures (from Line 17)	<b>180,146.82</b>	<b>453,684.55</b>
(b) Total Offsets to Operating Expenditures (from Line 14)	<b>6.91</b>	<b>498.93</b>
(c) Net Operating Expenditures (subtract Line 7(b) from 7(a))	<b>180,139.91</b>	<b>453,185.62</b>
8. Cash on Hand at Close of Reporting Period (from Line 27)	<b>122,401.94</b>	For further information contact: Federal Election Commission 999 E Street, NW Washington, DC 20463 Toll Free 800-424-9630 Local 202-219-3420
9. Debts and Obligations Owed TO the Committee (Itemize all on Schedule C and/or Schedule D)	<b>0-</b>	
10. Debts and Obligations Owed BY the Committee (Itemize all on Schedule C and/or Schedule D)	<b>1 0-</b>	

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer  
**J. FRED SARGSON, Assistant Treasurer**

Signature of Treasurer  Date  
**12-12-94**

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g.

26043742865

# DETAILED SUMMARY PAGE

of Receipts and Disbursements

(Page 2, FEC FORM 3)

Name of Committee (in full)	Report Covering the Period:	
<b>A LOT OF FOLKS FOR PAT WILLIAMS</b>	From: <b>10-01-94</b>	To: <b>10-19-94</b>
I. RECEIPTS	COLUMN A Total This Period	COLUMN B Calendar Year-To-Date
<b>11 CONTRIBUTIONS (other than loans) FROM:</b>		
(a) Individuals/Persons Other Than Political Committees		
(i) Itemized (use Schedule A)	14,438.85	
(ii) Unitemized	23,826.00	
(iii) Total of contributions from individuals	38,264.85	203,889.94
(b) Political Party Committees	1,960.00	17,876.00
(c) Other Political Committees (such as PACs)	33,700.00	207,000.00
(d) The Candidate	0-	0-
(e) <b>TOTAL CONTRIBUTIONS (other than loans) (add 11(a)(iii), (b), (c) and (d))</b>	<b>73,914.85</b>	<b>507,764.94</b>
<b>12 TRANSFERS FROM OTHER AUTHORIZED COMMITTEES</b>	0-	15,239.79
<b>13 LOANS:</b>		
(a) Made or Guaranteed by the Candidate	0-	0-
(b) All Other Loans	0-	0-
(c) <b>TOTAL LOANS (add 13(a) and (b))</b>	0-	0-
<b>14 OFFSETS TO OPERATING EXPENDITURES (Refunds, Rebates, etc.)</b>	6.91	492.93
<b>15 OTHER RECEIPTS (Dividends, Interest, etc.)</b>	0-	0-
<b>16 TOTAL RECEIPTS (add 11(e), 12, 13(c), 14 and 15)</b>	<b>73,921.76</b>	<b>523,530.18</b>
II. DISBURSEMENTS		
<b>17 OPERATING EXPENDITURES</b>	180,146.82	463,684.55
<b>18 TRANSFERS TO OTHER AUTHORIZED COMMITTEES</b>	0-	7,376.04
<b>19 LOAN REPAYMENTS</b>		
(a) Of Loans Made or Guaranteed by the Candidate	0-	0-
(b) Of All Other Loans	0-	0-
(c) <b>TOTAL LOAN REPAYMENTS (add 19(a) and (b))</b>	0-	0-
<b>20 REFUNDS OF CONTRIBUTIONS TO</b>		
(a) Individuals/Persons Other Than Political Committees	0-	0-
(b) Political Party Committees	0-	0-
(c) Other Political Committees (such as PACs)	0-	0-
(d) <b>TOTAL CONTRIBUTION REFUNDS (add 20(a), (b) and (c))</b>	0-	0-
<b>21 OTHER DISBURSEMENTS</b>	0-	0-
<b>22 TOTAL DISBURSEMENTS (add 17, 18, 19(c), 20(d) and 21)</b>	<b>180,146.82</b>	<b>461,060.59</b>
III. CASH SUMMARY		
<b>23 CASH ON HAND AT BEGINNING OF REPORTING PERIOD</b>	\$	228,627.00
<b>24 TOTAL RECEIPTS THIS PERIOD (from Line 16)</b>	\$	73,921.76
<b>25 SUBTOTAL (add Line 23 and Line 24)</b>	\$	302,548.76
<b>26 TOTAL DISBURSEMENTS THIS PERIOD (from Line 22)</b>	\$	180,146.82
<b>27 CASH ON HAND AT CLOSE OF THE REPORTING PERIOD (subtract Line 26 from 25)</b>	\$	122,401.94

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FOR COMMITTEE: A LOT OF FOLKS FOR PAT WILLIAMS

FULL NAME, MAILING ADDRESS	EMPLOYER/OCCUPATION	DATE	AMOUNT OF RECEIPT
NARAL-PAC 1156 15TH STREET, NW WASHINGTON, DC 20005	in kind	10/19/94	500.00
Receipt for: ( ) Primary (X) General		AGGREGATE YTD: \$ 3500.00	

9 6 0 4 3 7 4 2 8 6 7

Subtotal of Receipts This Page .....\$ 500.00  
Total This Period.....\$ 500.00

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

FOR COMMITTEE: A LOT OF FOLKS FOR PAT WILLIAMS

FULL NAME, MAILING ADDRESS	PURPOSE OF DISBURSEMENT	DATE	AMOUNT OF DISBURSEMENT
NARAL-PAC 1156 15TH STREET, NW WASHINGTON, DC 20005	ORGANIZING  in kind	10/19/94	500.00
Disbursement for: ( ) Primary (X) General			

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Subtotal of Receipts This Page .....\$ 500.00  
Total This Period.....\$ 500.00

# REPORT OF RECEIPTS AND DISBURSEMENTS

For An Independent Committee  
(Summary Page)

USE FEC MAILING LABEL OR TYPE OR PRINT

1. NAME OF COMMITTEE (in full) <b>A Lot of Folks for Pat Williams</b>		2. FEC IDENTIFICATION NUMBER <b>C00253344</b>
ADDRESS (number and street) <input type="checkbox"/> Check if different than previously reported. <b>P.O. Box 1944</b>		3. IS THIS REPORT AN AMENDMENT? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
CITY, STATE and ZIP CODE: <b>HELENA, MT 59624</b>	STATE/DISTRICT <b>MT AT LARGE</b>	

## 4. TYPE OF REPORT

<input type="checkbox"/> April 15 Quarterly Report	<input type="checkbox"/> Twelfth day report preceding _____ (Type of Election)
<input type="checkbox"/> July 15 Quarterly Report	election on _____ in the State of _____
<input type="checkbox"/> October 15 Quarterly Report	<input checked="" type="checkbox"/> Thirtieth day report following the General Election on <b>11-08-94</b> in the State of <b>MONTANA</b>
<input type="checkbox"/> January 31 Year End Report	<input type="checkbox"/> Termination Report
<input type="checkbox"/> July 31 Mid-Year Report (Non-election Year Only)	

This report contains activity for:  Primary Election  General Election  Special Election  Runoff Election

## SUMMARY

5. Covering Period <b>10-20-94</b> through <b>11-28-94</b>	COLUMN A This Period	COLUMN B Calendar Year-to-Date
6. Net Contributions (other than loans)		
(a) Total Contributions (other than loans) (from Line 11(a))	122,747.91	630,512.85
(b) Total Contribution Refunds (from Line 20(d))	-0-	-0-
(c) Net Contributions (other than loans) (subtract Line 6(b) from 6(a))	122,747.91	630,512.85
7. Net Operating Expenditures		
(a) Total Operating Expenditures (from Line 17)	131,752.84	585,437.39
(b) Total Offsets to Operating Expenditures (from Line 14)	1,000.00	1,498.93
(c) Net Operating Expenditures (subtract Line 7(b) from 7(a))	130,752.84	583,938.46
8. Cash on Hand at Close of Reporting Period (from Line 27)	111,525.87	For further information contact: Federal Election Commission 999 E Street, NW Washington, DC 20463 Toll Free 800-424-9530 Local 202-219-3420
9. Debts and Obligations Owed TO the Committee (Itemize all on Schedule C and/or Schedule D)	-0-	
10. Debts and Obligations Owed BY the Committee (Itemize all on Schedule C and/or Schedule D)	-0-	

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer <b>J. FRED SARGESON, ASSISTANT TREASURER</b>	Date <b>12-12-94</b>
Signature of Treasurer 	

NOTE: Submission of false, erroneous or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g

96043742869

# DETAILED SUMMARY PAGE

of Receipts and Disbursements

(Page 2, FEC FORM 3)

Name of Committee (in full) **A LOT OF FOLKS FOR PAT WILLIAMS** Report Covering the Period: From: **10-20-94** To: **11-28-94**

	COLUMN A Total This Period	COLUMN B Calendar Year-To-Date
<b>I. RECEIPTS</b>		
<b>11. CONTRIBUTIONS (other than loans) FROM:</b>		
(a) Individuals/Persons Other Than Political Committees		
(i) Itemized (use Schedule A) .....	28,044.00	
(ii) Unitemized .....	44,576.50	
(iii) Total of contributions from individuals .....	72,620.50	736,010.44
(b) Political Party Committees .....	10,285.00	77,600.00
(c) Other Political Committees (such as PACs) .....	89,902.41	326,902.41
(d) The Candidate .....	-0-	0-
(e) TOTAL CONTRIBUTIONS (other than loans) (add 11(a)(iii), (b), (c) and (d)) .....	122,747.91	630,512.85
<b>12. TRANSFERS FROM OTHER AUTHORIZED COMMITTEES</b> .....	-0-	15,239.79
<b>13. LOANS</b>		
(a) Made or Guaranteed by the Candidate .....	-0-	-0-
(b) All Other Loans .....	-0-	-0-
(c) TOTAL LOANS (add 13(a) and (b)) .....	-0-	-0-
<b>14. OFFSETS TO OPERATING EXPENDITURES (Refunds, Rebates, etc.)</b> .....	1,000.00	1,498.93
<b>15. OTHER RECEIPTS (Dividends, Interest, etc.)</b> .....	5.69	32.21
<b>16. TOTAL RECEIPTS (add 11(e), 12, 13(c), 14 and 15)</b> .....	123,753.60	647,283.78
<b>II. DISBURSEMENTS</b>		
<b>17. OPERATING EXPENDITURES</b> .....	131,752.84	585,437.59
<b>18. TRANSFERS TO OTHER AUTHORIZED COMMITTEES</b> .....	2,876.83	10,252.87
<b>19. LOAN REPAYMENTS</b>		
(a) Of Loans Made or Guaranteed by the Candidate .....	-0-	-0-
(b) Of All Other Loans .....	-0-	-0-
(c) TOTAL LOAN REPAYMENTS (add 19(a) and (b)) .....	-0-	-0-
<b>20. REFUNDS OF CONTRIBUTIONS TO:</b>		
(a) Individuals/Persons Other Than Political Committees .....	-0-	-0-
(b) Political Party Committees .....	-0-	-0-
(c) Other Political Committees (such as PACs) .....	-0-	-0-
(d) TOTAL CONTRIBUTION REFUNDS (add 20(a), (b) and (c)) .....	-0-	-0-
<b>21. OTHER DISBURSEMENTS</b> .....	-0-	-0-
<b>22. TOTAL DISBURSEMENTS (add 17, 18, 19(c), 20(d) and 21)</b> .....	134,629.67	595,690.29

### III. CASH SUMMARY

23 CASH ON HAND AT BEGINNING OF REPORTING PERIOD	S	122,401.94	
24 TOTAL RECEIPTS THIS PERIOD (from Line 16)	S	123,753.60	
25 SUBTOTAL (add Line 23 and Line 24)	S	246,155.54	
26 TOTAL DISBURSEMENTS THIS PERIOD (from Line 22)	S	134,629.67	
27 CASH ON HAND AT CLOSE OF THE REPORTING PERIOD (subtract Line 26 from 25)	S	111,525.87	

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FOR COMMITTEE: A LOT OF FOLKS FOR PAT WILLIAMS

FULL NAME, MAILING ADDRESS	EMPLOYER/OCCUPATION	DATE	AMOUNT OF RECEIPT
NARAL-PAC 1156 15th St. NW, 7TH FLR WASHINGTON, DC 20005	in kind	10/27/94	2000.00*
	in kind	11/10/94	502.41*
Receipt for: ( ) Primary (X) General		AGGREGATE YTD: \$ 9502.41	

26043742871

**ARNOLD & PORTER**

1200 NEW HAMPSHIRE AVENUE, N. W.

WASHINGTON, D. C. 20036

(202) 872-6700

CABLE: "ARFOPO"

TELECOPIER: (202) 872-6720

TELEX: 99-2733

PARK AVENUE TOWER  
65 EAST 55TH STREET  
NEW YORK, NEW YORK 10022-3219  
(212) 750-5050

GEOFFREY F. ARONOW  
DIRECT LINE: (202) 872-6957

1700 COLON STREET  
DENVER, COLORADO 80203  
(303) 663-1000

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
2 42 PM '94

December 27, 1994

Mary Taksar, Esq.  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Re: MUR 4131

Dear Ms. Taksar:

On November 21, 1994, Evan J. Goldman, Treasurer of the National Abortion and Reproductive Rights Action League-PAC ("NARAL-PAC"), received from the Federal Election Commission (the "FEC" or "Commission") a Complaint filed by the National Republican Senatorial Committee (the "NRSC") alleging that NARAL-PAC and Mr. Goldman, as treasurer, had violated the Federal Election Campaign Act of 1971, as amended (the "FECA" or "Act"). On November 21, 1994, Eliza Frazer, Executive Director of Montana NARAL ("MT NARAL") received a copy of the same complaint.

The Complaint filed by the NRSC alleges that:

- (1) MT NARAL made "independent expenditures" on behalf of Jack Mudd for U.S. Senate that were not, in fact, independent;
  - (2) NARAL, Inc. and/or MT NARAL expended money on behalf of Jack Mudd for U.S. Senate in violation of the Act's prohibition on corporate campaign expenditures;
  - (3) NARAL-PAC spent more than the federal multicandidate PAC contribution limit -- \$5,000 per election -- on behalf of Jack Mudd for U.S. Senate; and
  - (4) MT NARAL failed to report independent expenditures over \$1,000, made on behalf of Jack Mudd for U.S. Senate, within 24 hours, as required by law.
- This response, submitted on behalf of NARAL-PAC and MT NARAL, explains why the allegations made in the NRSC's complaint are misguided and incorrect and why the Commission should conclude that there is no basis for proceeding further against either NARAL-PAC or MT NARAL.

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DEC 27 1 01 PM '94

Mary Taksar, Esq.  
December 27, 1994  
Page 2

I. BACKGROUND

NARAL-PAC is a federal multicandidate PAC registered with the FEC. See Statement of Organization on file with the FEC, attached as Exhibit A-1 to Affidavit of Evan J. Goldman, attached to this letter as Exhibit A ("Goldman Aff."); 11 C.F.R. § 100.5(e)(3). As such, it is permitted to make contributions totalling \$5000 per federal candidate per election. 11 C.F.R. § 110.2(b). Under the Act, NARAL-PAC is permitted to contribute cash directly to a candidate's committee; it may also make in-kind contributions, i.e., gifts of goods or services paid for by the PAC on behalf of a candidate's committee. See 11 C.F.R. § 100.7(a)(1)(iii).

MT NARAL is a membership organization, organized and operated as a non-profit corporation under Montana law. See ¶ 1, Affidavit of Eliza Frazer, attached to this letter as Exhibit B ("Frazer Aff.").

During the 1994 election cycle, NARAL-PAC made contributions totalling to date \$4445 (not to exceed \$5000) to Jack Mudd's general election campaign for U.S. Senate. Of this \$4445, NARAL-PAC contributed \$2000 directly to Mr. Mudd's committee on October 19, 1994. See NARAL-PAC's FEC Report filed October 31, 1994, attached as Exhibit A-2 to Goldman Aff. The remaining \$2445 to date (which will not exceed \$3000) represents in-kind contributions, in the form of political organizing services, that NARAL-PAC paid for with NARAL-PAC funds. See ¶ 7, Goldman Aff.<sup>1</sup>

Neither MT NARAL nor NARAL, Inc. made any contributions or independent expenditures to or on behalf of the Jack Mudd for U.S. Senate campaign.

<sup>1</sup> NARAL-PAC advanced and has reported to the FEC a total of \$3000 to cover the costs of the in-kind contributions. ¶ 8, Goldman Aff. To date, the costs of those services total \$2445. ¶ 6, Frazer Aff. There remain outstanding some small expenses relating to these services. Those costs will not exceed the \$555 of the original \$3000 that remains. ¶ 20, Frazer Aff. Once NARAL-PAC is confident that all costs have been identified and paid, it intends to amend its FEC reports to reflect that final amount. ¶ 10, Goldman Aff.

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Mary Taksar, Esq.  
December 27, 1994  
Page 3

¶ 5, Frazer Aff; ¶ 3, Affidavit of Joanne S. Blum, attached to this letter as Exhibit C ("Blum Aff."); ¶ 4, Affidavit of Tracy Johnson, attached to this letter as Exhibit D ("Johnson Aff.").

II. ANALYSIS

A. The NARAL Entities Made No Independent Expenditures on Behalf of Jack Mudd for U.S. Senate and Did Not Violate The Act's Reporting Requirements

NRSC's Complaint presumes that the services provided by NARAL-PAC on behalf of Jack Mudd for U.S. Senate were independent expenditures, not in-kind contributions. It then alleges that such expenditures did not qualify as "independent expenditures" because Dave Hunter was both the Chair of the PAC Committee of the Montana NARAL Choice Political Action Committee ("MT NARAL CHOICE PAC") and a senior advisor to Jack Mudd. The Complaint also gratuitously suggests that there are "most likely many other 'connection' [sic] between the respondents."

The premise of this allegation is wholly mistaken. During the 1994 general election cycle, neither MT NARAL nor NARAL, Inc. made any contributions or independent expenditures to or on behalf of Jack Mudd for U.S. Senate. See ¶ 5, Frazer Aff.; ¶ 3, Blum Aff.; ¶ 4, Johnson Aff. NARAL-PAC also made no independent expenditures on behalf of Mr. Mudd's campaign. See ¶ 4, Goldman Aff.

NARAL-PAC is the only NARAL entity that made contributions to the Mudd campaign. Under the FECA, there is no requirement that contributions (cash or in-kind) to a candidate's campaign committee be "independent" of input from or coordination with the candidate's committee.<sup>2</sup> Thus, the cash and in-kind

<sup>2</sup> According to the regulations, a contribution includes a "gift, subscription, loan . . . , advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office." 11 C.F.R. § 100.7(a)(1). The phrase "anything of value" is defined to include "all in-kind contributions." 11 C.F.R. § 100.7(a)(1)(iii).

96043742874

Mary Taksar, Esq.  
December 27, 1994  
Page 4

contributions NARAL-PAC made on behalf of Jack Mudd for U.S. Senate were permissible, even assuming that Dave Hunter was involved with both MT NARAL and Jack Mudd for U.S. Senate, as alleged by the NRSC.

The Complaint further alleges that MT NARAL and NARAL-PAC violated the law by failing to report independent expenditures allegedly made on behalf of Jack Mudd for U.S. Senate. Since neither MT NARAL nor NARAL-PAC made any such expenditures, they did not violate this requirement.

B. The NARAL Entities Made No Prohibited Corporate Contributions to Jack Mudd for U.S. Senate

The Complaint erroneously alleges that the in-kind contributions from NARAL-PAC to Jack Mudd for U.S. Senate were paid for with corporate funds. During the 1994 general election cycle, MT NARAL did not expend or advance any corporate resources in support of Jack Mudd for U.S. Senate. See ¶ 5, Frazer Aff. Likewise, NARAL, Inc. did not expend or advance any corporate resources in support of Jack Mudd for U.S. Senate during the 1994 general election cycle. See ¶ 3, Blum Aff.; ¶ 4, Johnson Aff.

As noted above, NARAL-PAC made both direct and in-kind contributions to Jack Mudd for U.S. Senate. NARAL-PAC provided the in-kind contributions by paying for the costs of certain organizing services provided on behalf of NARAL-PAC. With respect to the in-kind contributions, funds were disbursed from NARAL-PAC to MT NARAL before MT NARAL provided goods or services to the Jack Mudd campaign on behalf of NARAL-PAC. ¶ 7, Frazer Aff.

The Complaint also implies, incorrectly, that MT NARAL violated the Act by using corporate resources to mail the Election 1994 issue of "Choice News" to "an unknown number of potential voters in Montana." "Choice News" is a newsletter, published and distributed periodically by MT NARAL to its members. See ¶ 21, Frazer Aff. With the exception of 36 NARAL-affiliated entities that received the newsletter, the Election 1994 issue of Choice News was mailed solely to the 673 then-current members of MT NARAL. See ¶ 23, Frazer Aff.

96043742875

Mary Taksar, Esq.  
December 27, 1994  
Page 5

Under the Act, a membership organization is permitted to engage in express advocacy in communications with its members. See 11 C.F.R. § 100.8(b)(4). Thus, any references to Jack Mudd (or Pat Williams) that appeared in the Election 1994 issue of "Choice News" were made in the context of permissible communications by MT NARAL to its members.

C. NARAL-PAC Did Not Exceed the Act's  
\$5000 Per Candidate Per Election  
Contribution Limit

According to the Complaint, NARAL-PAC made a \$1000 in-kind contribution for "organizing for Jack Mudd" on September 23, 1994 and a \$2000 direct contribution to Jack Mudd on October 19, 1994. The NRSC Complaint then simply asserts that "the in-kind contributions described in this complaint amount to costs well in excess of the remaining permissible \$2000 that Respondent NARAL-PAC could contribute to Respondent Mudd." This assertion, based on nothing, is wrong.

First, the NRSC's Complaint miscalculates how much money NARAL-PAC was permitted to spend on the political organizing services on behalf of Jack Mudd for U.S. Senate. As the NRSC correctly points out, NARAL-PAC contributed \$2000 directly to Jack Mudd for U.S. Senate on October 19, 1994. See ¶ 6, Goldman Aff. This left NARAL-PAC with \$3000 to spend on the in-kind services it contributed to Jack Mudd for U.S. Senate.

The \$1000 disbursement made on September 23 represented an initial advance payment from NARAL-PAC for organizing services MT NARAL agreed to provide Jack Mudd's campaign on behalf of NARAL-PAC. See ¶ 8, Goldman Aff. NARAL-PAC later disbursed additional funds totalling \$2000 for in-kind services provided to Jack Mudd for U.S. Senate. This brought total disbursements from NARAL-PAC, made on behalf of the general election campaign of Jack Mudd for U.S. Senate, to the permissible sum of \$3000. See ¶ 8, Goldman Aff.; ¶ 6, Frazer Aff.

Second, the unsupported assertion in the NRSC's Complaint that the Voters' Guides produced and the phone bank services provided by MT NARAL "must have" cost in excess of NARAL-PAC's remaining permissible contribution limit is simply wrong.

96043742876

ARNOLD & PORTER

Mary Taksar, Esq.  
December 27, 1994  
Page 6

Neither the Voters' Guides nor the phone banks described in the Complaint dealt exclusively with Jack Mudd's candidacy. For this reason, the costs were allocated among the candidates affected. See 11 C.F.R. § 106.1(a); cf. 11 C.F.R. §§ 106.5, 106.6. As the spreadsheet attached to Eliza Frazer's affidavit indicates, see Exhibit B-1, Frazer Aff., 23.6% of the costs associated with the Voters' Guide (e.g., printing, postage) and 33.3% of the costs associated with the phone banks were allocated to the Mudd campaign. These allocations were based on MT NARAL's good faith estimate of the portion of the Voters' Guide and the portion of the phone bank script actually devoted to Jack Mudd's campaign. See ¶¶ 12-14, 15-17, Frazer Aff. Taken together, the amounts properly allocated to Jack Mudd for U.S. Senate for the Voters' Guides (i.e., \$1688) and the phone bank (i.e., \$500) along with other miscellaneous expenses (i.e., \$257), total to date \$2445, see ¶ 6, Frazer Aff., and will not exceed \$3000. See supra p.2 n.1.

NARAL-PAC did not make any other expenditures or contributions relating to the Jack Mudd for U.S. Senate campaign. ¶ 5, Goldman Aff.

\* \* \*

In sum, the facts surrounding the allegations of the Complaint do not provide a basis for the FEC to find a reason to believe that either MT NARAL or NARAL-PAC may have violated the FECA. The allegations contained in the NRSC's complaint are supported by nothing more than speculation and groundless supposition that should not be rewarded. We respectfully urge the Commission not to require MT NARAL and NARAL-PAC to incur the great burden of having to respond further to these baseless allegations.

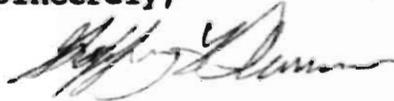
96043742877

ARNOLD & PORTER

Mary Taksar, Esq.  
December 27, 1994  
Page 7

If you have any further questions or need any additional information, please do not hesitate to contact me.

Sincerely,



Geoffrey F. Aronow  
Leslie A. Nickel

Attachments

960437428/8

IN THE CITY OF WASHINGTON )  
 ) ss:  
DISTRICT OF COLUMBIA )

**AFFIDAVIT OF EVAN J. GOLDMAN**

I, Evan J. Goldman, being duly sworn, depose and state as follows:

**Duties**

1. I am the Treasurer of the National Abortion and Reproductive Rights Action League-Political Action Committee ("NARAL-PAC"). I have served in this capacity since March 10, 1994.

2. NARAL-PAC is a federal multicandidate PAC registered with the Federal Election Commission ("FEC"). See Statement of Organization on file with the FEC, attached hereto as Exhibit A-1.

3. As Treasurer of NARAL-PAC, I am responsible for disbursing all NARAL-PAC funds by submitting to the NARAL Department of Finance and Administration a request that the appropriate amount of money be drawn on a check from the NARAL-PAC account. I am also responsible for tracking the amount of contributions from NARAL-PAC to candidates for federal office and for preparing and submitting all NARAL-PAC FEC Reports.

**NARAL PAC Made No Independent Expenditures  
On Behalf of Jack Mudd for U.S. Senate**

4. During the 1994 general election cycle, NARAL-PAC did not make any independent expenditures on behalf of Jack Mudd for U.S. Senate.

96043742879

### Cash and In-Kind Contributions

5. During the 1994 general election cycle, NARAL-PAC made cash and in-kind contributions totalling approximately \$4445 to date, not to exceed \$5000, ~~see~~ ¶¶ 8-9 below, to the Montana campaign of Jack Mudd for U.S. Senate.

6. On October 19, 1994, NARAL-PAC contributed \$2000 directly to the Jack Mudd for U.S. Senate committee. This contribution was reported on NARAL-PAC FEC report dated October 31, 1994, the relevant pages of which are attached hereto as Exhibit A-2.

7. NARAL-PAC spent the remaining \$2445 on in-kind political organizing services for Jack Mudd for U.S. Senate, which were arranged and provided on its behalf by Montana NARAL ("MT NARAL").

8. NARAL-PAC disbursed checks totalling \$3000 to pay for in-kind services for Jack Mudd for U.S. Senate. These funds were disbursed and reported to the FEC in four installments:

- On September 23, 1994, NARAL-PAC disbursed \$1000 to pay for the in-kind services to be provided to Jack Mudd for U.S. Senate. This disbursement was reported in the NARAL-PAC FEC Report dated October 19, 1994, the relevant pages of which are attached hereto as Exhibit A-3.
- On October 27, 1994, NARAL-PAC disbursed \$500 to pay for the in-kind services to be provided to Jack Mudd for U.S. Senate. This disbursement was reported in the NARAL-PAC FEC report dated December 8, 1994, the relevant pages of which are attached hereto as Exhibit A-4.
- On November 10, 1994, NARAL-PAC disbursed \$277.64 to pay for the in-kind services to be provided to Jack Mudd for U.S. Senate. This disbursement

96043742880

was reported in the NARAL-PAC FEC report dated December 8, 1994. See Exhibit A-4.

- On November 10, 1994, NARAL-PAC disbursed \$1222.36 to pay for the in-kind services to be provided to Jack Mudd for U.S. Senate. This disbursement was reported on the NARAL-PAC FEC report dated December 8, 1994. See Exhibit A-4.

9. At present, MT NARAL is holding \$555 in surplus funds disbursed by NARAL-PAC to cover the remaining anticipated costs of the in-kind services provided to Jack Mudd for U.S. Senate by MT NARAL on behalf of NARAL-PAC, but not actually paid out to date for that purpose. I understand that there remain outstanding a few small expenses relating to these activities. It is my understanding that these expenses will not exceed \$555.

10. As soon as MT NARAL informs me that all bills related to NARAL-PAC's in-kind contributions to Jack Mudd for U.S. Senate have been received and paid, I will file an amended Report with the FEC, which reflects the final amount of the in-kind contributions made by NARAL-PAC to Jack Mudd for U.S. Senate.

Evan J. Goldman

Evan J. Goldman

Sworn to before me this  
21<sup>st</sup> day of December, 1994  
Karen M. Piche  
Notary Public

My Commission Expires:

96043742881

# STATEMENT OF ORGANIZATION

(See reverse side for instructions)

1. (a) NAME OF COMMITTEE IN FULL <input checked="" type="checkbox"/> (Check if name is changed) <b>NATIONAL ABORTION AND REPRODUCTIVE RIGHTS ACTION LEAGUE PAC</b>	2. DATE <b>3-10-94</b>
(b) Number and Street Address <input type="checkbox"/> (Check if address is changed) <b>1156 15<sup>TH</sup> ST., NW #700</b>	3. FEC IDENTIFICATION NUMBER <b>C00079541</b>
(c) City, State and ZIP Code <b>WASHINGTON, DC 20005</b>	4. IS THIS STATEMENT AN AMENDMENT? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

5. TYPE OF COMMITTEE (Check one)

- (a) This committee is a principal campaign committee. (Complete the candidate information below.)
  - (b) This committee is an authorized committee, and is NOT a principal campaign committee. (Complete the candidate information below.)
- | Name of Candidate | Candidate Party Affiliation | Office Sought | State/District |
|-------------------|-----------------------------|---------------|----------------|
|                   |                             |               |                |
- (c) This committee supports/opposes only one candidate \_\_\_\_\_ and is NOT an authorized committee.  
(name of candidate)
  - (d) This committee is a \_\_\_\_\_ committee of the \_\_\_\_\_ Party.  
(National, State or subordinate) (Democratic, Republican, etc.)
  - (e) This committee is a separate segregated fund.
  - (f) This committee supports/opposes more than one Federal candidate and is NOT a separate segregated fund or a party committee.

Name of Any Connected Organization or Affiliated Committee	Mailing Address and ZIP Code	Relationship
<b>NATIONAL ABORTION AND REPRODUCTIVE RIGHTS ACTION LEAGUE</b>	<b>1156 15<sup>TH</sup> ST., NW #700 WASHINGTON, DC 20005</b>	<b>CONNECTED ORGANIZATION</b>

Type of Connected Organization  
 Corporation  Corporation w/o Capital Stock  Labor Organization  Membership Organization  Trade Association  Cooperative

7. Custodian of Records: Identify by name, address (phone number - optional) and position of the person in possession of committee books and records.

Full Name	Mailing Address	Title or Position
<b>EVAN J. GOLDMAN</b>	<b>1156 15<sup>TH</sup> ST., NW #700 WASHINGTON, DC 20005</b>	<b>TREASURER</b>

8. Treasurer: List the name and address (phone number - optional) of the treasurer of the committee; and the name and address of any designated agent (e.g., assistant treasurer).

Full Name	Mailing Address	Title or Position
<b>EVAN J. GOLDMAN</b>	<b>1156 15<sup>TH</sup> ST., NW #700 WASHINGTON, DC 20005</b>	<b>TREASURER</b>

9. Banks or Other Depositories: List all banks or other depositories in which the committee deposits funds, holds accounts, rents safety deposit boxes or maintains funds.

Name of Bank, Depository, etc.	Mailing Address and ZIP Code
<b>FIRST UNION</b>	<b>740 15<sup>TH</sup> ST., NW WASHINGTON, DC 20005</b>

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete

TYPE OR PRINT NAME OF TREASURER	SIGNATURE OF TREASURER	DATE
<b>EVAN J. GOLDMAN</b>	<i>Evan J. Goldman</i>	<b>3/10/94</b>

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g. ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS.

For further information contact:  
 Federal Election Commission  
 Toll-free 800-424-9530  
 Local 202-376-3120

**FEC FORM 1**

96043742882

# REPORT OF RECEIPTS AND DISBURSEMENTS

Exhibit A.2.

For Other Than An Authorized Committee  
(Summary Page)

USE FEC MAILING LABEL OR TYPE OR PRINT

<b>1. NAME OF COMMITTEE (in full)</b> NATIONAL ABORTION AND REPRODUCTIVE RIGHTS ACTION LEAGUE PAC		<b>2. FEC IDENTIFICATION NUMBER</b> C00079591	
ADDRESS (number and street) <input type="checkbox"/> Check if different than previously reported 1156 15 <sup>TH</sup> ST., NW T <sup>H</sup> PLAZA		<b>3.</b> <input type="checkbox"/> This committee has qualified as a multicandidate committee. (see FEC FORM 1M)	
CITY, STATE and ZIP CODE WASHINGTON, DC 20005			

## 4. TYPE OF REPORT

- (a)  April 15 Quarterly Report
- July 15 Quarterly Report
- October 15 Quarterly Report
- January 31 Year End Report
- July 31 Mid Year Report (Non-election Year Only)
- Termination Report
- Monthly Report Due On:
- February 20     June 20     October 20
- March 20     July 20     November 20
- April 20     August 20     December 20
- May 20     September 20     January 31
- Twelfth day report preceding GENERAL (Type of Election)
- election on \_\_\_\_\_ in the State of \_\_\_\_\_
- Thirtieth day report following the General Election on \_\_\_\_\_ in the State of \_\_\_\_\_

(b) Is this Report an Amendment?     YES     NO

SUMMARY	COLUMN A This Period	COLUMN B Calendar Year-to-Date
5. Covering Period <u>10-1-94</u> through <u>10-19-94</u>		
6. (a) Cash on Hand January 1, 19 <u>94</u>		\$ 91,616.95
(b) Cash on Hand at Beginning of Reporting Period	\$ 226,441.54	
(c) Total Receipts (from Line 19)	\$ 23,538.00	\$ 474,113.07
(d) Subtotal (add Lines 6(b) and 6(c) for Column A and Lines 6(a) and 6(c) for Column B)	\$ 249,979.54	\$ 565,730.02
7. Total Disbursements: (from Line 30)	\$ 40,100.00	\$ 355,850.48
8. Cash on Hand at Close of Reporting Period (subtract Line 7 from Line 6(d))	\$ 209,879.54	\$ 209,879.54
9. Debts and Obligations Owed TO the Committee (Itemize all on Schedule C and/or Schedule D)	\$	For further information contact: Federal Election Commission 999 E Street, NW Washington, DC 20463 Toll Free 800-424-9530 Local 202-219-3420
10. Debts and Obligations Owed BY the Committee (Itemize all on Schedule C and/or Schedule D)	\$	

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer EVANT GOLDMAN	Date 10-31-94
Signature of Treasurer 	

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g

FEC FORM 3X

(revised 9/93)

96043742883

NEW JERSEY NARAL G 10/13/94 1000.00  
 29 VALLEY RD.  
 MONTCLAIR, NJ 07042-

IN-KIND ORGANIZING FOR F. LAUTENBERG, NJ/SEN

LOFGREN, ZOE FOR CONGRESS G 10/13/94 350.00  
 219 PENNSYLVANIA AVE., NW  
 WASHINGTON, DC 20001-

CONT. TO ZOE LOFGREN, US HOUSE CA/16

VA NARAL G 10/13/94 1750.00  
 P.O. BOX 489  
 FALLS CHURCH, VA 22046-

IN-KIND ORGANIZING FOR CHUCK ROBB, VA/SEN

VA NARAL G 10/13/94 1750.00  
 P.O. BOX 489  
 FALLS CHURCH, VA 22046-

IN-KIND ORGANIZING FOR LESLIE BYRNE, VA/11

TARAL G 10/13/94 2000.00  
 905 W. OLTORF, SUITE D  
 AUSTIN, TX 78704-

IN-KIND ORGANIZING FOR ROLANDO RIOS, TX/23

TARAL G 10/13/94 1000.00  
 905 W. OLTORF, SUITE D  
 AUSTIN, TX 78704-

IN-KIND ORGANIZING FOR RICHARD FISHER, TX/SEN

TARAL G 10/13/94 1000.00  
 905 W. OLTORF, SUITE D  
 AUSTIN, TX 78704-

IN-KIND ORGANIZING FOR KEN BENTSEN, TX/25

OR-NARAL G 10/13/94 2000.00  
 921 SW MORRISON #427  
 PORTLAND, OR 97205-

IN-KIND ORGANIZING FOR C. WEBBER, OR/05

BROWN, CORRINE FOR CONGRES G 10/13/94 500.00  
 33 S. HOGAN ST. #250  
 JACKSONVILLE, FL 32202-

CONT. TO CORRINE BROWN, US HOUSE FL/03

MUDD, JACK FOR SENATE G 10/19/94 2000.00  
 P.O. BOX 9060  
 HELENA, MT 59604-

CONT. TO JACK MUDD, US SENATE/MT

OBERLY, CHARLES FOR SENATE G 10/19/94 5000.00  
 3409 LANCASTER PIKE  
 WILMINGTON, DC 19805-

CONT. TO CHARLES OBERLY, US SENATE/DE

SLAUGHTER, LOUISE COMMITTEE G 10/19/94 500.00

.O. BOX 117  
T. VERNON, VA 22121-

CONT. TO L. SLAUGHTER, US HOUSE NY/28

LAUGHTER, LOUISE COMMITTEE  
.O. BOX 117  
T. VERNON, VA 22121-

G 10/19/94 250.00

CONT. TO LOUISE SLAUGHTER, US HOUSE NY/28

ONTANA NARAL  
.O. BOX 279  
ELENA, MT 59624-

G 10/19/94 500.00

IN-KIND ORGANIZING FOR PAT WILLIAMS, MT/AL

Grand Total: 40100.00

96043742885

# REPORT OF RECEIPTS AND DISBURSEMENTS

For Other Than An Authorized Committee  
(Summary Page)

USE FEC MAILING LABEL OR TYPE OR PRINT

<b>1. NAME OF COMMITTEE (in full)</b> NATIONAL ABORTION AND REPRODUCTIVE RIGHTS ACTION LEAGUE INC	<b>2. FEC IDENTIFICATION NUMBER</b> C00079541
<b>ADDRESS (number and street)</b> <input type="checkbox"/> Check if different than previously reported 1156 15 <sup>th</sup> ST., NW THE FLOOR	<b>3.</b> <input checked="" type="checkbox"/> This committee has qualified as a multicandidate committee. (see FEC FORM 1M)
<b>CITY, STATE and ZIP CODE</b> WASHINGTON, DC 20005	

## 4. TYPE OF REPORT

- (a)  April 15 Quarterly Report
- July 15 Quarterly Report
- October 15 Quarterly Report
- January 31 Year End Report
- July 31 Mid Year Report (Non-election Year Only)
- Termination Report
- Monthly Report Due On:
- February 20     June 20     October 20
- March 20     July 20     November 20
- April 20     August 20     December 20
- May 20     September 20     January 31
- Twelfth day report preceding \_\_\_\_\_ (Type of Election) election on \_\_\_\_\_ in the State of \_\_\_\_\_
- Thirtieth day report following the General Election on \_\_\_\_\_ in the State of \_\_\_\_\_
- (b) Is this Report an Amendment?     YES     NO

SUMMARY	COLUMN A This Period	COLUMN B Calendar Year-to-Date
5. Covering Period <u>9-1-94</u> through <u>9-30-94</u>		
6. (a) Cash on Hand January 1, 19 <u>94</u>		\$ 91,616.95
(b) Cash on Hand at Beginning of Reporting Period	\$ 266,426.02	
(c) Total Receipts (from Line 19)	\$ 52,468.67	\$ 450,575.07
(d) Subtotal (add Lines 6(b) and 6(c) for Column A and Lines 6(a) and 6(c) for Column B)	\$ 318,894.69	\$ 542,192.02
7. Total Disbursements (from Line 30)	\$ 92,453.15	\$ 315,750.48
8. Cash on Hand at Close of Reporting Period (subtract Line 7 from Line 6(d))	\$ 226,441.54	\$ 226,441.54
9. Debts and Obligations Owed TO the Committee (Itemize all on Schedule C and/or Schedule D)	\$	For further information contact: Federal Election Commission 999 E Street, NW Washington, DC 20463 Toll Free 800-424-9530 Local 202-219-3420
10. Debts and Obligations Owed BY the Committee (Itemize all on Schedule C and/or Schedule D)	\$	

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer <i>Eric J. Goldman</i>	Date <i>10-19-94</i>
Signature of Treasurer <i>Eric J. Goldman</i>	

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g

96043742836

921 SW MORRISON  
SUITE 427  
PORTLAND, OR 97205-

IN-KIND ORGANIZING FOR ELIZABETH FURSE, OR/01

OREGON NARAL G 09/23/94 1000.00  
921 SW MORRISON  
SUITE 427  
PORTLAND, OR 97205-

IN-KIND ORGANIZING FOR SUE KUPILLAS, OR/02

OREGON NARAL G 09/23/94 1000.00  
921 SW MORRISON  
SUITE 427  
PORTLAND, OR 97205-

IN-KIND ORGAN. FOR CATHERINE WEBBER, OR/05

NEW JERSEY NARAL-PAC G 09/23/94 1000.00  
29 VALLEY RD.  
MONTCLAIR, NJ 07042-

IN-KIND ORGANIZING FOR F. LAUTENBERG, NJ/SEN

NORTH CAROLINA NARAL G 09/23/94 1000.00  
P.O. BOX 908  
DURHAM, NC 27702-

IN-KIND ORGANIZING FOR RICHARD MOORE, NC-02

NARAL-OH G 09/23/94 1500.00  
760 E. BROAD ST.  
COLUMBUS, OH 43205-

IN-KIND ORGANIZING FOR JOEL HYATT, OH/SEN

NAGLE, DAVE CAMPAIGN G 09/23/94 1000.00  
P.O. BOX 792  
WATERLOO, IA 50704-

CONT. TO DAVE NAGLE, US HOUSE IA/02

MUNSEY, SUE FOR CONGRESS G 09/23/94 1000.00  
P.O. BOX 540575  
MERITT ISLAND, FL 32954-

CONT. TO SUE MUNSEY, US HOUSE FL/15

MONTANA NARAL G 09/23/94 1000.00  
P.O. BOX 279  
HELENA, MT 59624-

IN-KIND ORGANIZING FOR JACK MUDD, MT/SEN

MONTANA NARAL G 09/23/94 1000.00  
P.O. BOX 279  
HELENA, MT 59624-

IN-KIND ORGANIZING FOR PAT WILLIAMS, MT/AL

TAKANO, MARK FOR CONGRESS G 09/23/94 350.00  
3842B TYLER ST.  
RIVERSIDE, CA 92503-

CONT. TO MARK TAKANO, US HOUSE CA/43

260437428

# REPORT OF RECEIPTS AND DISBURSEMENTS

Exhibit A.4.

For Other Than An Authorized Committee  
(Summary Page)

USE FEC MAILING LABEL OR TYPE OR PRINT

<b>1. NAME OF COMMITTEE (in full)</b> NATIONAL ABORTION AND REPRODUCTIVE RIGHTS ACTION LEAGUE INC.	<b>2. FEC IDENTIFICATION NUMBER</b> C00079541
ADDRESS (number and street) <input type="checkbox"/> Check if different than previously reported 1156 15th St, NW 7th Floor	<b>3. <input checked="" type="checkbox"/> This committee has qualified as a multicandidate committee. (see FEC FORM 1M)</b>
CITY, STATE and ZIP CODE WASHINGTON, DC 20005	

## 4. TYPE OF REPORT

- (a)  April 15 Quarterly Report
- July 15 Quarterly Report
- October 15 Quarterly Report
- January 31 Year End Report
- July 31 Mid Year Report (Non-election Year Only)
- Termination Report
- Monthly Report Due On:
- |                                      |                                       |                                      |
|--------------------------------------|---------------------------------------|--------------------------------------|
| <input type="checkbox"/> February 20 | <input type="checkbox"/> June 20      | <input type="checkbox"/> October 20  |
| <input type="checkbox"/> March 20    | <input type="checkbox"/> July 20      | <input type="checkbox"/> November 20 |
| <input type="checkbox"/> April 20    | <input type="checkbox"/> August 20    | <input type="checkbox"/> December 20 |
| <input type="checkbox"/> May 20      | <input type="checkbox"/> September 20 | <input type="checkbox"/> January 31  |
- Twelfth day report preceding \_\_\_\_\_ (Type of Election)  
election on \_\_\_\_\_ in the State of \_\_\_\_\_
- Thirtieth day report following the General Election on \_\_\_\_\_ in the State of \_\_\_\_\_

(n) Is this Report an Amendment?  YES  NO

SUMMARY	COLUMN A This Period	COLUMN B Calendar Year-to-Date
5. Covering Period <u>10-20-94</u> through <u>11-28-94</u>		
6. (a) Cash on Hand January 1, 19 <u>94</u>		\$ 91,616.95
(b) Cash on Hand at Beginning of Reporting Period	\$ 209,379.54	
(c) Total Receipts (from Line 19)	\$ 81,063.84	\$ 555,176.91
(d) Subtotal (add Lines 6(b) and 6(c) for Column A and Lines 6(a) and 6(c) for Column B)	\$ 290,443.38	\$ 646,793.86
7. Total Disbursements (from Line 30)	\$ 111,227.74	\$ 467,579.22
8. Cash on Hand at Close of Reporting Period (subtract Line 7 from Line 6(d))	\$ 179,215.64	\$ 179,215.64
9. Debts and Obligations Owed TO the Committee (Itemize all on Schedule C and/or Schedule D)	\$	For further information contact: Federal Election Commission 999 E Street, NW Washington, DC 20463 Toll Free 800-424-9530 Local 202-219-3420
10. Debts and Obligations Owed BY the Committee (Itemize all on Schedule C and/or Schedule D)	\$	

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer  
EVAN J GOLDMAN

Signature of Treasurer  
*Evan J Goldman*

Date  
12-9-94

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g

FEC FORM 3X

(revised 9/93)

96043742838

NEW JERSEY NARAL  
29 VALLEY RD.  
MONTCLAIR, NJ 07042-

G 10/27/94 1000.00

IN-KIND ORGANIZING FOR F. LAUTENBERG, NJ/SEN

NARAL-OH  
760 E. BROAD ST.  
COLUMBUS, OH 43205-

G 10/27/94 1500.00

IN-KIND ORGANIZING FOR JOEL HYATT, OH/SEN

NAGLE, DAVE CAMPAIGN  
P.O. BOX 792  
WATERLOO, IA 50704-

G 10/27/94 1000.00

CONT. TO DAVE NAGLE, US HOUSE IA/02

MUNSEY, SUE FOR CONGRESS  
P.O. BOX 540575  
MERITT ISLAND, FL 32954-

G 10/27/94 1000.00

CONT. TO SUE MUNSEY, US HOUSE FL/15

TAKANO, MARK FOR CONGRESS  
3842B TYLER ST.  
RIVERSIDE, CA 92503-

G 10/27/94 1650.00

CONT. TO MARK TAKANO, US HOUSE CA/43

MISSOURI NARAL  
393 N. ECULID #310  
ST. LOUIS, MO 63108-

G 10/27/94 1000.00

IN-KIND ORGANIZING FOR ALAN WHEAT, MO/SEN

MONTANA NARAL  
P.O. BOX 279  
HELENA, MT 59624-

G 10/27/94 500.00

IN-KIND ORGANIZING FOR JACK MUDD, MT/SEN

MONTANA NARAL  
P.O. BOX 279  
HELENA, MT 59624-

G 10/27/94 2000.00

IN-KIND ORGANIZING FOR PAT WILLIAMS, MT/AL

MD-NARAL  
817 SILVER SPRING AVE.  
SILVER SPRING, MD 20910-

G 10/27/94 500.00

IN-KIND ORGANIZING FOR STENY HOYER, MD/05

MCCARTY, JOHN FOR CONGRESS  
P.O. BOX 11728  
PITTSBURGH, PA 15228-

G 10/27/94 2000.00

CONT. TO JOHN MCCARTY, US HOUSE PA/18

LOWEY, NITA FOR CONGRESS  
3467 MILDRED DR.  
FALLS CHURCH, VA 22042-

G 10/27/94 3000.00

CONT. TO NITA LOWEY, US HOUSE NY/18

LAROCCO, LARRY FOR CONGRESS

G 10/27/94 4500.00

## CONT. TO KEN BENTSEN, US HOUSE TX/25

TAKANO, MARK FOR CONGRESS 3842B TYLER ST. RIVERSIDE, CA 92503-	G	11/07/94	500.00
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## CONT. TO MARK TAKANO, US HOUSE CA/43

RIVERS, LYNN FOR CONGRESS 1945 DAULINE BLVD. ANN ARBOR, MI 48103-	G	11/07/94	500.00
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## CONT. TO LYNN RIVERS, US HOUSE MI/13

SCHUSTER, BOB FOR CONGRESS P.O. BOX 447 CHEYENNE, WY 82003-	G	11/07/94	500.00
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## CONT. TO BOB SCHUSTER, US HOUSE WY/AL

CLUTE, STEVE FOR CONGRESS P.O. BOX 8078 MORENO VALLEY, CA 92552-	G	11/07/94	1500.00
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## CONT. TO STEVE CLUTE, US HOUSE CA/44

TARAL 905 W. OLTORF, SUITE D AUSTIN, TX 78704-	G	11/07/94	1000.00
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## IN-KIND ORGANIZING FOR RICHARD FISHER, TX/SEN

MT ALLIANCE FOR PROG. POLICY P.O. BOX 961 HELENA, MT 59624-	P	11/10/94	80.70
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## IN-KIND PHONING FOR JACK MUDD, US SENATE/MT

MONTANA NARAL P.O. BOX 279 HELENA, MT 59624-	G	11/10/94	277.64
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## IN-KIND ORGANIZING FOR JACK MUDD, MT/SEN

MT-NARAL PAC P.O. BOX 279 HELENA, MT 59624-	G	11/10/94	1222.36
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## IN-KIND ORGANIZING FOR JACK MUDD, MT/SEN

MT-NARAL PAC P.O. BOX 279 HELENA, MT 59624-	G	11/10/94	502.41
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## IN-KIND ORGANIZING FOR PAT WILLIAMS, MT/AL

MINNESOTA NARAL 3255 HENNEPIN AVE. #227 MINNEAPOLIS, MN 55408-	G	11/10/94	1300.00
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## IN-KIND ORGANIZING FOR JOHN HOTTINGER, MN/01

WA NARAL 811 1ST ST. SEATTLE, WA 98107-	G	11/10/94	1000.00
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## IN-KIND ORGANIZING FOR MIKE KREIDLER, WA/09

In the City of Helena )  
 ) ss:  
State of Montana )

**AFFIDAVIT OF ELIZA FRAZER**

I, Eliza Frazer, being duly sworn, depose and state as follows:

**Duties**

1. I am the Executive Director of Montana National Abortion and Reproductive Rights Action League ("MT NARAL"). I have served in this capacity since July 1992. MT NARAL is a membership organization, organized and operated as a non-profit corporation under Montana law.

2. As Executive Director of MT NARAL, I am responsible for disbursement of all funds and management of all bookkeeping functions.

3. I am also the Treasurer of the Montana National Abortion and Reproductive Rights Action League Choice PAC ("MT NARAL CHOICE PAC"). I have served in this capacity since April 14, 1994. MT NARAL CHOICE PAC is a Montana state PAC, organized and operated under Montana law.

4. As treasurer of MT NARAL CHOICE PAC, I am responsible for disbursement of all funds, management of all bookkeeping functions, and preparation and submission of all Montana campaign finance reports filed for MT NARAL CHOICE PAC.

**MT NARAL Did Not Make Contributions or Independent Expenditures  
On Behalf of Jack Mudd**

5. During the 1994 general election cycle, MT NARAL made no contributions or

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independent expenditures on behalf of Jack Mudd for U.S. Senate.

**MT NARAL's Role in In-Kind Contributions Made By NARAL-PAC  
to Jack Mudd for U.S. Senate**

6. NARAL-PAC decided to make both direct and in-kind contributions to the Jack Mudd for U.S. Senate campaign. On behalf of NARAL-PAC, MT NARAL arranged and provided certain political organizing services for the Jack Mudd for U.S. Senate campaign. Between September 23, 1994 and November 10, 1994, NARAL-PAC disbursed \$3,000 to pay for in-kind work for Jack Mudd for U.S. Senate. Of this amount, \$555 remains unspent.

7. Attached to this affidavit as Exhibit B-1 is a spreadsheet I prepared, summarizing, through December 16 the cost of all services MT NARAL provided to the Mudd campaign on behalf of NARAL-PAC. In each instance, funds were disbursed from NARAL-PAC to MT NARAL before MT NARAL provided any goods or services to the Jack Mudd campaign on behalf of NARAL-PAC.

8. On September 23, 1994, NARAL-PAC disbursed \$1000 for the provision of in-kind services to Jack Mudd for U.S. Senate. This disbursement was reported on NARAL-PAC's FEC report filed October 19, 1994. See Exhibit A-3, attached to Affidavit of Evan Goldman ("Goldman Aff.")

9. On October 27, 1994, NARAL-PAC disbursed \$500 for the provision of in-kind services to Jack Mudd for U.S. Senate. This disbursement was reported in NARAL-PAC's FEC report dated December 8, 1994. See Exhibit A-4, attached to Goldman Aff.

10. On November 10, 1994, NARAL-PAC disbursed \$277.64 for the provision of

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in-kind services to Jack Mudd for U.S. Senate. This disbursement was reported in NARAL-PAC's FEC report dated December 8, 1994. See Exhibit A-4, attached to Goldman Aff.

11. On November 10, 1994, NARAL-PAC disbursed \$1222.36 for the provision of in-kind services to Jack Mudd for U.S. Senate to cover the federal share of postage for Voters' Guides addressing state, local and federal election contests. (See ¶ 13-14, below, which explains how the allocation of the costs of the voter guide was made.) This disbursement was reported in NARAL-PAC's FEC report dated December 8, 1994. See Exhibit A-4, attached to Goldman Aff.

#### Voters' Guides

12. A total of \$7215 was spent to produce and mail Voters' Guides. These Voters' Guides, one copy of which is attached hereto as Exhibit B-2, covered candidates for local, state and federal races in Montana. Of the \$7215, \$5180 was spent on postage and \$1975 was spent to produce the guides. See Exhibit B-1.<sup>1</sup>

13. The Voters' Guide is comprised of 8 panels, of which 7.5 advocate for candidates -- state or federal. Of the 7.5 panels, 5 panels, or 66.7% of the Guide, is dedicated to state candidates. Of the remaining 2.5 panels, 1 3/4 panels, or approximately 23.6% of the Guide, is dedicated to Jack Mudd for U.S. Senate and 3/4 panels, or approximately 9.7% of the Guide, is dedicated to Pat Williams. See Exhibit B-2.

14. After determining that 23.6% of the cost of the Voters' Guide (including postage) should be allocated as an in-kind contribution from NARAL-PAC to Jack Mudd for

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<sup>1</sup> The additional \$60 for volunteer expenses shown on the spreadsheet in the column labelled "Actual Gross" was spent on pizza for volunteers who worked on the mailing. This cost was allocated entirely to the state PAC.

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U.S. Senate, I allocated 23.6% of the \$5180 spent on postage, i.e. \$1222.36, and 23.6% of the \$1975 spent to produce the guides, i.e. \$466, to Jack Mudd for U.S. Senate. See Exhibit B-1.

#### Phone Banks

15. During the 1994 general election cycle, MT NARAL, on behalf of NARAL-PAC, organized volunteer phone banks in various locations on behalf of Jack Mudd, Pat Williams and the local candidates for the Montana state legislature, if the candidate(s) were pro-choice. With the exception noted below, these phone banks did not cost MT NARAL anything. MT NARAL was not required to pay for the telephone lines or facilities used to conduct these phone banks. It also did not pay people to place the calls -- all callers volunteered their time free of charge.

16. In Missoula, MT NARAL paid an independent contractor \$1500 to organize and run the local phone bank. With the exception of the paid organizer, all people placing calls in Missoula were volunteers who donated their time free of charge. The telephone lines and facilities did not cost MT NARAL anything.

17. Like the Voters' Guide, the Phone Bank script (the "Script"), a copy of which is attached hereto as Exhibit B-3, addressed local and state Montana races as well as federal races in Montana. In Missoula, because there was no contest for the state Senate, the Script covered Jack Mudd, Pat Williams and one local candidate for the Montana House. Since the Script as used in Missoula covered three candidates per call, I allocated one-third of the organizer's fee, or \$500 as an in-kind contribution from NARAL-PAC to Jack Mudd for U.S. Senate. See Exhibit B-1.

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Miscellaneous Expenses

18. As part of its in-kind contribution to Jack Mudd for U.S. Senate, NARAL-PAC paid \$90 to cover its share of a MT NARAL intern's stipend. This figure was determined by prorating the intern's salary based on my knowledge of her work and a contemporaneous daily diary kept by the intern, indicating how she spent her time.

19. NARAL-PAC's in-kind contribution to Jack Mudd for U.S. Senate also included \$167 for miscellaneous services including telephone, postage/Federal Express, photocopying and telecopying. This figure was determined based on my knowledge of the costs incurred by MT NARAL for Jack Mudd for U.S. Senate on behalf of NARAL-PAC.

20. There remain outstanding some small expenses relating to NARAL-PAC's activities on behalf of Jack Mudd for U.S. Senate. The bills, which have not yet been submitted, will be for a small amount of copying and perhaps some miscellaneous expenses relating to volunteers (such as reimbursement for transportation). Based on my knowledge of the nature of the outstanding costs, the portions properly allocated to NARAL-PAC's in-kind contribution to Jack Mudd for U.S. Senate will be substantially less than \$555.

Choice News

21. Choice News is a newsletter published and distributed periodically by MT NARAL to its members and to approximately 36 NARAL-affiliated entities.

22. The references to Jack Mudd (and Pat Williams) in the 1994 Election issue of Choice News were made as a part of the regular publication of that newsletter, which was distributed in the same manner and to the same people as is normally done with the newsletter.

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23. On October 21, 1994, I mailed 669 copies of the 1994 Election issue of Choice News. See U.S. Postal Service Third Class Permit Imprint and Post Office Receipt for Money attached hereto as Exhibits B-4 and B-5. The newsletter was subsequently mailed to 40 new members of MT NARAL, bringing to 709 the total number of copies mailed. Of the 709 copies mailed, 673 were mailed to members and 36 were mailed to NARAL-affiliated entities.

Eliza Frazer  
Eliza Frazer

Sworn to before me this  
21<sup>st</sup> day of December, 1994

Karen J. Bowers  
Notary Public

My Commission Expires: January 9, 1998

Residing at Helena, Montana

nicol\suits\eliza.aff

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	ACTUAL GROSS	STATE PAC	MUDD IN-KIND	WILLIAMS IN-KIND	TOTAL FED
VOTERS' GUIDE		66.7%	23.6%	9.7%	33.3%
POSTAGE	5,180	3,455	1,222	502	1,725
PRINTING	1,611	1,075	380	156	537
DESIGN	350	233	83	34	117
LABELS	14	9	3	1	5
VOL EXP	60	60	0	0	0
SUB TOTAL	7,214	4,832	1,688	694	2,382
PHONE BANK	1,500	500	500	500	1,000
MISCELLANEOUS					
INTERN	226	95	90	90	180
TELEPHONE	173	87	77	77	154
POSTAGE/FED EX	186	186	16	16	32
COPY	232	230	1	1	2
FAX	99	3	73	23	96
BANK FEES	20	20	0	0	0
OTHER	23	23	0	0	0
SUB TOTAL	959	644	257	207	463
RADIO WILLIAMS	2,351	0	0	2,351	2,351
TOTAL	12,024	5,976	2,445	3,752	6,196

2604342

# CONRAD BURNS SAYS NO! TO WOMEN AND FAMILIES

- BURNS earned a 0% voting Record from NARAL and other women's groups in 1989, 1990, 1991, and 1992
- BURNS voted to gut the Family and Medical Leave Act.
- BURNS opposed the Freedom of Access to Clinic Entrance Act established to end violence at Women's Clinics such as the orson at the Kalispell office of Dr. Armstrong, October 11, 1994.

## the CHOICE is Clear **Jack Mudd & Pat Williams**

U.S. Senate

U.S. House



*"The government simply has no right to interfere with decisions that must be made by women. I trust the women of Montana to make their own choices."*

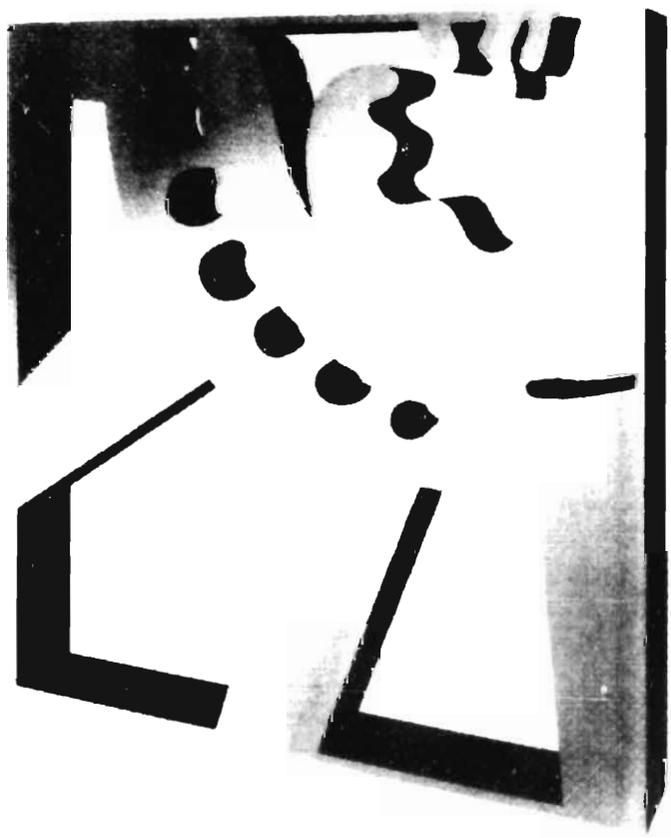
- Jack Mudd

Pat Williams co-sponsored the Freedom of Choice Act, the Freedom of Access Act and fought for the inclusion of abortions and contraceptive services in health care reform.

*"It's simple. The right to choose belongs to the individual woman. The government should stay out of it."*

- Pat Williams





*There's only one  
candidate for  
U. S. Senate who  
will stand up for your  
rights...  
...JACK MUDD*



P.O. Box 279 • Helena, MT 59624

**DISTRICT BY DISTRICT  
ENDORSEMENT OF  
STATE LEGISLATIVE  
CANDIDATES**

Bulk Rate  
U S Postage  
**PAID**  
Permit No 219  
Helena MT

**Pro-Choice Voter's Guide**

Voter: \_\_\_\_\_ Reg. #: \_\_\_\_\_ Age: \_\_\_\_\_ Gender: M/F

Script for Phone Banks:

Senate District  
House District 51

Hello. May I speak with \_\_\_\_\_ This is \_\_\_\_\_ (your first name), with Northwest Research. We're conducting a short voter survey tonight.

- 1) If the election were held today for the U.S. Senate, would you vote for Jack Mudd the Democrat or Conrad Burns the Republican? (Rotate the names each time you ask the question.)
  - a) Mudd
  - b) Burns
  - c) Undecided (volunteered)
- 2) For the U.S. House, would you vote for Pat Williams the Democrat, Cy Jamison the Republican, or Steve Kelly the Independent? (Rotate the names each time you ask the question.)
  - a) Williams
  - b) Jamison
  - c) Kelly
  - d) Undecided (volunteered)
- 3) For State House District 51, would you vote for Garth Jacobson the Democrat or Chris Ahner the Republican? (Rotate the names each time you ask the question.)
  - a) Jacobson
  - b) Ahner
  - c) Undecided (Volunteered)
- 4) Which of the following four positions most closely matches your position on abortion.
  - 1) Abortion should be decided by a woman and her doctor with no government limitations. (020)
  - 2) There should be some restrictions, but most abortions should be legal. (021)
  - 3) Abortions should be legal in some cases, but most abortions should be illegal. (022)
  - 4) Abortion should be legal only in the case of rape, incest and to protect the life of the mother. (023)
  - 5) Undecided (Volunteered) (024)
- 5) Do you normally think of yourself as a Democrat, a Republican or an Independent. Would you say you're a strong (Democrat /Republican) or just leaning?
  - a) Strong Democrat
  - b) Leaning Democrat
  - c) Independent
  - d) Leaning Republican
  - e) Strong Republican

6) Is \_\_\_\_\_ your correct mailing address? (Write the correct address next to the old address.)

[ 7. In what year were you born? (Ask only if the date of birth is blank. Fill in the year at the top left of the survey form.) ]

(Gender: Mark male or female if gender is not indicated. Do not ask.)

Thank you for time tonight. Goodbye.

76043742900

NEWSLETTER BULK MAIL

CK # 1536

POST OFFICE RECEIPT FOR MONEY

	Post Office <i>HELENA MT</i>	Station <i>Registry</i>
Amount (Write Out) <i>Seventy-Two &amp; 2/100</i>	Amount <i>\$ 72 <sup>25</sup>/<sub>100</sub></i>	AIC <i>05-2</i>
For <i>Permit Mail</i>	Received From: (Show address only when receipt is mailed.) <i>MT NARAL INC PO Box 279 Helena MT 59624</i>	
Postmaster (By)	<i>[Signature]</i>	



Thank You

26043742901

19941021-1

U. S. POSTAL SERVICE  
PS3602-N THIRD CLASS PERMIT IMPRINT - NONPROFIT

HELENA POST OFFICE  
HELENA, MT 59601-9998  
Finance No.: 293978  
Permit No.: 219

Current Fees Expire  
1CL: / /  
3CL: 11/10/94  
4SP: / /  
4PP: / /

Mailing Date: 10/21/94

Current Balance: 22.59

MT HARAL  
PO BOX 279  
HELENA, MT 59624-0279

Comments:

Processing Category: Letters

Single Piece Weight: 0.0472 Lbs. (0.7552 Ozs.)  
Total Pieces: 669 Total Weight: 31.5000 Lbs.

Totals:

Part A	\$	0.0000
Part B	\$	72.2640
Part C	\$	0.0000
Part D	\$	0.0000
Additional	\$	0.00
Special Service	\$	0.00
Total	\$	72.26

MAILING CONTAINERS

SACKS	TRAYS	PALLETS	OTHER
*****0	*****1	*****0	*****0

I CERTIFY that this mailing has been inspected to verify that: (1) it qualifies for the rate of postage being paid, and (2) that it is properly prepared (and presorted where required), and (3) that the statement of mailing has been verified and, (4) the necessary annual fee has been paid.

Signature of Weigher *juh* Date: 10/21/94 Time: 12:58:18

Date: 10/21/94

Ready for Dispatch

IN THE CITY OF WASHINGTON  
DISTRICT OF COLUMBIA

AFFIDAVIT OF JOANNE S. BLUM

I, Joanne S. Blum, being first duly sworn, depose and say:

- 1) I have been employed by the National Abortion and Reproductive Rights Action League, Inc. ("NARAL, Inc.") as the Political Director since November 21, 1993.
- 2) As the Political Director, I supervise, coordinate and authorize expenditures for any NARAL, Inc. political activity.
- 3) During the 1994 general election cycle, I did not authorize the expenditure of any NARAL, Inc. funds or corporate resources on behalf of the Jack Mudd for U.S. Senate campaign.

*Joanne S. Blum*  
Joanne S. Blum

Sworn to before me this 19<sup>th</sup> day of December, 1994.

*Karen M. Petrice*  
Notary Public

My Commission Expires: \_\_\_\_\_

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IN THE CITY OF WASHINGTON  
DISTRICT OF COLUMBIA

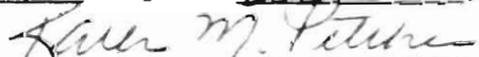
AFFIDAVIT OF TRACY JOHNSON

I, Tracy Johnson, being first duly sworn, depose and say:

- 1) I have been employed by the National Abortion and Reproductive Rights Action League, Inc. ("NARAL, Inc.") as the Director of Finance and Administration since August 1, 1993.
- 2) All of the financial records of NARAL, Inc. and the National Abortion and Reproductive Rights Action League-PAC ("NARAL-PAC") are maintained by the Department of Finance and Administration.
- 3) All expenditures by NARAL, Inc. and NARAL-PAC are disbursed through the Department of Finance and Administration.
- 4) During 1994, no unauthorized NARAL, Inc. expenditures have been disbursed by the Department of Finance and Administration.
- 5) During 1994, no unauthorized NARAL-PAC expenditures have been disbursed by the Department of Finance and Administration.

  
Tracy Johnson

Sworn to before me this  
19<sup>th</sup> day of December, 1994.

  
Notary Public

My Commission Expires: \_\_\_\_\_  
tuff gp

26043742904

**Jack Mudd for U.S. Senate**  
20 Willowbrook  
Missoula, MT 59802

---

December 27, 1994

JAN 5 12 28 PM '95  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

Mary Taksar, Esq.  
Central Enforcement Docket  
Federal Election Commission  
Washington, D.C. 20463

Re: MUR 4131

Dear Ms. Taksar:

The Jack Mudd for U.S. Senate ("the Committee"), provides the following response to the complaint filed in this matter by the National Republican Senatorial Committee ("NRSC").

**I. Contributions Made by NARAL-PAC**

NARAL-PAC made the following cash contribution to the Committee during the general election:

10/21/94	2,000.00
----------	----------

In addition, NARAL-PAC has notified the Committee that it made the following in-kind contributions for organizing efforts on behalf of the Committee:

9/23/94	1,000.00
10/27/94	500.00
11/10/94	277.64
11/10/94	<u>1,222.36</u>
Total	3,000.00

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The total of the cash and in-kind contributions made by NARAL-PAC to the Committee was \$5,000.00, as permitted by the Federal Election Campaign Act of 1971.

The contribution made on October 27, 1994 and the two made on November 10, 1994 were reported to the Committee by NARAL-PAC on December 8, 1994 (see Goldman letter attached as Exhibit A) and were reported by the Committee on its regular FEC report that was due and filed the same day. The in-kind contribution made by NARAL-PAC on September 23, 1994 will be reported in an amendment to the Committee's report for the period July 1, 1994 - September 30, 1994, which is in the process of being completed.

## II. Independent Expenditures

NARAL-PAC has advised the Committee it made no independent expenditures on behalf of candidate Jack Mudd or the Committee, nor is the Committee aware of any.

The NRSC bases allegations regarding independent expenditures upon inaccurate assumptions concerning Dave Hunter's position with the Committee. As noted, NARAL-PAC made no independent expenditures to the Committee, so Mr. Hunter's role is not relevant. Moreover, Mr. Hunter served as a volunteer advisor to the Committee. The NRSC's statement in its complaint that

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Mary Taksar, Esq.  
RE: MUR 4131  
December 27, 1994  
Page 3

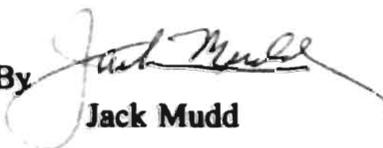
"Dave Hunter, is currently the Mudd Committee campaign manager" is not, and never was, accurate.

The Committee respectfully asks that the FEC not require the Committee to incur additional expense to respond further to the NRSC's unsupported allegations.

If you have any further questions, please contact me directly at (406) 523-2570 or the Committee's counsel, James P. Molloy at (406) 442-2440.

Jack Mudd for U.S. Senate

By

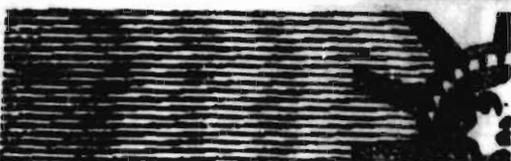


Jack Mudd

JOM:gvs  
Enclosure  
c: James P. Molloy

26043742907

**NARAL Promoting Reproductive Choices**



**NARAL-PAC**

December 7, 1994

Mr. Jack Mudd  
Mudd for Senate  
P.O. Box 9060  
Helena, MT 59604

Dear Mr. Mudd:

NARAL-PAC is in the process of reviewing its' expenditures for the 1994 general election. To help ensure that your records are consistent with ours, we have prepared the following summary of NARAL-PAC in-kind work performed on your behalf.

9/23/94	\$1,000	in-kind organizing
10/27/94	\$500	in-kind organizing
11/10/94	\$277.64	in-kind organizing
11/10/94	\$1,222.36	in-kind organizing

While the last check was cut after the general election, it paid for work done before the general election.

Feel free to call me if you have any questions.

Sincerely,

Evan Goldman  
PAC Treasurer

06043742908

National Abortion  
and Reproductive Rights  
Action League

Political Action Committee

1155 15th Street, NW  
Suite 700  
Washington, DC 20005

Phone (202) 873-3300  
Fax (202) 873-0285

Paid for by NARAL-PAC  
and its contributors

# PAT

February 15, 1995

Ms. Mary L. Taskar  
Central Enforcement Docket  
Federal Elections Commission  
999 E. Street, NW  
Washington, DC 20463

RE: MUR 4131

Dear Ms. Taskar:

On February 7, 1995, we received the enclosed notice from the "National Abortion and Reproductive Rights Action League-PAC" (NARAL-PAC), indicating a \$771.11 in-kind organizing contribution on September 23, 1994.

Accordingly, we have amended our October 15 quarterly report to reflect the contribution and expenditure. We have amended the Year-to-Date columns of each subsequent report as well.

If you have any questions, please give me a call at (406) 443-7488.

Sincerely,



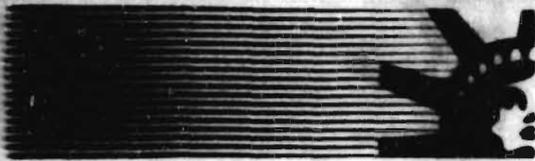
Fred Sargeson  
Asst. Treasurer

Enclosures

FEB 24 1 31 PM '95  
FEDERAL ELECTIONS  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

6043742909

**NARAL Promoting Reproductive Choices**



**NARAL-PAC**

January 25, 1995

Honorable Pat Williams  
A Lot of Folks for Pat Williams  
P.O. Box 1994  
Helena, MT 59624

Dear Representative Williams:

Our final accounting totals indicate that NARAL-PAC spent \$3,773.52 on behalf of your 1994 general election effort. Accordingly, we will be amending our September, 1994 FEC report to reflect the following disbursement.

9/23/94 \$771.11 in-kind organizing

Feel free to call me if you have any questions.

Sincerely,

Evan Goldman  
PAC Treasurer

cc: Jo Blum  
Political Director

26043742910

National Abortion  
and Reproductive Rights  
Action League  
  
Political Action Committee  
  
1156 15th Street, NW  
Suite 100  
Washington, DC 20005  
  
Phone (202) 977-8333  
Fax (202) 977-8348  
  
E-mail: info@narl.org

# REPORT OF RECEIPTS AND DISBURSEMENTS

For An Authorized Committee  
(Summary Page)

TYPE OF REPORT

1. NAME OF COMMITTEE (in full)  
**2 lot of folks for Pat Williams**

ADDRESS (number and street)  Check if different than previously reported.  
**P.O. Box 1994**

CITY, STATE and ZIP CODE: **Helena, MT 59624** STATE/DISTRICT: **MT-AL**

2. FEC IDENTIFICATION NUMBER  
**C00253344**

3. IS THIS REPORT AN AMENDMENT?  
 YES  NO

### 4. TYPE OF REPORT

April 15 Quarterly Report  Twelfth day report preceding \_\_\_\_\_ (Type of Election) election on \_\_\_\_\_ in the State of \_\_\_\_\_

July 15 Quarterly Report  Thirtieth day report following the General Election on \_\_\_\_\_ in the State of \_\_\_\_\_

October 15 Quarterly Report  Termination Report

January 31 Year End Report

July 31 Mid-Year Report (Non-election Year Only)

This report contains activity for:  Primary Election  General Election  Special Election  Runoff Election

### SUMMARY

	COLUMN A This Period	COLUMN B Calendar Year-to-Date
9 25 Covering Period <u>07-01-94</u> through <u>09-30-94</u>		
6 Net Contributions (other than loans)		
(a) Total Contributions (other than loans) (from Line 11(a))	242,989.75	434,621.20
(b) Total Contribution Refunds (from Line 20(d))	- 0 -	- 0 -
(c) Net Contributions (other than loans) (subtract Line 6(b) from 6(a))	242,989.75	434,621.20
7 Net Operating Expenditures		
(a) Total Operating Expenditures (from Line 17)	192,042.29	274,309.84
(b) Total Offsets to Operating Expenditures (from Line 14)	82.50	492.02
(c) Net Operating Expenditures (subtract Line 7(b) from 7(a))	191,959.79	273,816.82
8. Cash on Hand at Close of Reporting Period (from Line 27)	228,627.00	
9. Debts and Obligations Owed TO the Committee (Itemize all on Schedule C and/or Schedule D)	- 0 -	
10. Debts and Obligations Owed BY the Committee (Itemize all on Schedule C and/or Schedule D)	- 0 -	

For further information contact:  
Federal Election Commission  
980 E Street, NW  
Washington, DC 20463  
Toll Free 800-424-9630  
Local 202-219-3480

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer: **J. Fred Sargeson, Asst. Treas.**

Signature of Treasurer: 

Date: **10/2/94**

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g.

# DETAILED SUMMARY PAGE

of Receipts and Disbursements

(Page 2, FEC FORM 3)

Name of Committee (in full)	Report Covering the Period:	
A lot of folks for Pat Williams	From: 07-01-94	To: 09-30-94
I. RECEIPTS	COLUMN A Total This Period	COLUMN B Calendar Year-To-Date
<b>11. CONTRIBUTIONS (other than loans) FROM:</b>		
(a) Individuals/Persons Other Than Political Committees		
(i) Itemized (use Schedule A) .....	56,547.69	
(ii) Unitemized .....	60,245.95	
(iii) Total of contributions from individuals .....	116,793.64	165,125.09
(b) Political Party Committees .....	15,275.00	15,425.00
(c) Other Political Committees (such as PACs) .....	110,921.11	254,071.11
(d) The Candidate .....	- 0 -	- 0 -
(e) TOTAL CONTRIBUTIONS (other than loans) (add 11(a)(iii), (b), (c) and (d)) .....	242,989.75	434,621.20
<b>12. TRANSFERS FROM OTHER AUTHORIZED COMMITTEES</b> .....	15,239.79	15,239.79
<b>13. LOANS:</b>		
(a) Made or Guaranteed by the Candidate .....	- 0 -	- 0 -
(b) All Other Loans .....	- 0 -	- 0 -
(c) TOTAL LOANS (add 13(a) and (b)) .....	- 0 -	- 0 -
<b>14. OFFSETS TO OPERATING EXPENDITURES (Refunds, Rebates, etc.)</b> .....	82.50	492.02
<b>15. OTHER RECEIPTS (Dividends, Interest, etc.)</b> .....	11.58	26.52
<b>16. TOTAL RECEIPTS (add 11(e), 12, 13(c), 14 and 15)</b> .....	258,323.92	450,379.53
<b>II. DISBURSEMENTS</b>		
<b>17. OPERATING EXPENDITURES</b> .....	192,042.29	274,309.84
<b>18. TRANSFERS TO OTHER AUTHORIZED COMMITTEES</b> .....	7,376.04	7,376.00
<b>19. LOAN REPAYMENTS:</b>		
(a) Of Loans Made or Guaranteed by the Candidate .....	- 0 -	- 0 -
(b) Of All Other Loans .....	- 0 -	- 0 -
(c) TOTAL LOAN REPAYMENTS (add 19(a) and (b)) .....	- 0 -	- 0 -
<b>20. REFUNDS OF CONTRIBUTIONS TO:</b>		
(a) Individuals/Persons Other Than Political Committees .....	- 0 -	- 0 -
(b) Political Party Committees .....	- 0 -	- 0 -
(c) Other Political Committees (such as PACs) .....	- 0 -	- 0 -
(d) TOTAL CONTRIBUTION REFUNDS (add 20(a), (b) and (c)) .....	- 0 -	- 0 -
<b>21. OTHER DISBURSEMENTS</b> .....	- 0 -	- 0 -
<b>22. TOTAL DISBURSEMENTS (add 17, 18, 19(c), 20(d) and 21)</b> .....	199,418.33	281,684.88

### III. CASH SUMMARY

23 CASH ON HAND AT BEGINNING OF REPORTING PERIOD .....	\$	159,721.41	23
24 TOTAL RECEIPTS THIS PERIOD (from Line 16) .....	\$	258,323.92	24
25 SUBTOTAL (add Line 23 and Line 24) .....	\$	417,274.22	25
26 TOTAL DISBURSEMENTS THIS PERIOD (from Line 22) .....	\$	199,418.33	26
27 CASH ON HAND AT CLOSE OF THE REPORTING PERIOD (subtract Line 26 from 25) .....	\$	228,627.00	27

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

FOR COMMITTEE: A LOT OF FOLKS FOR PAT WILLIAMS

FULL NAME, MAILING ADDRESS	EMPLOYER/OCCUPATION	DATE	AMOUNT OF RECEIPT
NARAL-PAC 1156 15TH STREET, NW WASHINGTON, DC 20005	in kind	09/23/94	771.11
Receipt for: ( ) Primary (X) General		AGGREGATE YTD: \$ 3773.52	

26043742913

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

FOR COMMITTEE: A LOT OF FOLKS FOR PAT WILLIAMS

FULL NAME, MAILING ADDRESS	PURPOSE OF DISBURSEMENT	DATE	AMOUNT OF DISBURSEMENT
SERAL-PAC 1156 15TH STREET, NW WASHINGTON, DC 20005	ORGANIZING  in kind	09/23/94	\$771.11
Disbursement for: ( )Primary (X)General			

26043742914

# REPORT OF RECEIPTS AND DISBURSEMENTS

For An Authorized Committee  
(Summary Page)

TYPE OR PRINT

1. NAME OF COMMITTEE (in full)  
**a lot of folks for Pat Williams**

ADDRESS (number and street)  Check if different than previously reported.  
**P.O. Box 1994**

CITY, STATE and ZIP CODE: **Helena, MT 59624** STATE/DISTRICT: **MT-AL**

2. FEC IDENTIFICATION NUMBER  
**C00253344**

3. IS THIS REPORT AN AMENDMENT?  
 YES  NO

### 4. TYPE OF REPORT

April 15 Quarterly Report

Twelfth day report preceding General (Type of Election)  
election on 11-08-94 in the State of MT

July 15 Quarterly Report

October 15 Quarterly Report

January 31 Year End Report

July 31 Mid-Year Report (Non-election Year Only)

Termination Report

This report contains activity for  Primary Election  General Election  Special Election  Runoff Election

### SUMMARY

5.9	Covering Period <u>10-01-94</u> through <u>10-1994</u>	COLUMN A This Period	COLUMN B Calendar Year-to-Date
6	Net Contributions (other than loans)		
7	(a) Total Contributions (other than loans) (from Line 11(b))	73,914.85	508,536.05
3	(b) Total Contribution Refunds (from Line 20(d))	-0-	-0-
4	(c) Net Contributions (other than loans) (subtract Line 6(b) from 6(a))	73,914.85	508,536.05
7	Net Operating Expenditures		
6	(a) Total Operating Expenditures (from Line 17)	190,146.82	454,455.66
0	(b) Total Offsets to Operating Expenditures (from Line 14)	6.91	498.93
2	(c) Net Operating Expenditures (subtract Line 7(b) from 7(a))	180,139.91	453,956.73
8	Cash on Hand at Close of Reporting Period (from Line 27)	122,401.94	
9	Debts and Obligations Owed TO the Committee (Report all on Schedule C and/or Schedule D)	-0-	
10	Debts and Obligations Owed BY the Committee (Report all on Schedule C and/or Schedule D)	-0-	

For further information contact:  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463  
Toll Free (800) 424-9535  
Local 202-219-3420

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer

Signature of Treasurer

Date

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g

# DETAILED SUMMARY PAGE

## of Receipts and Disbursements (Page 2, FEC FORM 3)

Name of Committee (in full)	Report Covering the Period	
a lot of folks for Pat Williams	From: 10-01-94	To: 10-19-94
I. RECEIPTS	COLUMN A Total This Period	COLUMN B Calendar Year-To-Date
<b>11. CONTRIBUTIONS (other than loans) FROM:</b>		
(a) Individuals/Persons Other Than Political Committees		
(i) Itemized (use Schedule A)	14,439.95	
(ii) Unitemized	23,926.00	
(iii) Total of contributions from individuals	38,264.85	203,389.94
(b) Political Party Committees	1,950.00	17,375.00
(c) Other Political Committees (such as PACs)	33,700.00	287,771.11
(d) The Candidate	- 0 -	- 0 -
(e) TOTAL CONTRIBUTIONS (other than loans) (add 11(a)(iii), (b), (c) and (d))	73,914.95	509,536.05
<b>12. TRANSFERS FROM OTHER AUTHORIZED COMMITTEES</b>	- 0 -	15,239.79
<b>13. LOANS:</b>		
(a) Made or Guaranteed by the Candidate	- 0 -	- 0 -
(b) All Other Loans	- 0 -	- 0 -
(c) TOTAL LOANS (add 13(a) and (b))	- 0 -	- 0 -
<b>14. OFFSETS TO OPERATING EXPENDITURES (Refunds, Rebates, etc.)</b>	6.91	498.93
<b>15. OTHER RECEIPTS (Dividends, Interest, etc.)</b>	- 0 -	- 0 -
<b>16. TOTAL RECEIPTS (add 11(e), 12, 13(c), 14 and 15)</b>	73,921.76	524,301.29
<b>II. DISBURSEMENTS</b>		
<b>17. OPERATING EXPENDITURES</b>	190,146.82	454,455.66
<b>18. TRANSFERS TO OTHER AUTHORIZED COMMITTEES</b>	- 0 -	7,376.04
<b>19. LOAN REPAYMENTS:</b>		
(a) Of Loans Made or Guaranteed by the Candidate	- 0 -	- 0 -
(b) Of All Other Loans	- 0 -	- 0 -
(c) TOTAL LOAN REPAYMENTS (add 19(a) and (b))	- 0 -	- 0 -
<b>20. REFUNDS OF CONTRIBUTIONS TO:</b>		
(a) Individuals/Persons Other Than Political Committees	- 0 -	- 0 -
(b) Political Party Committees	- 0 -	- 0 -
(c) Other Political Committees (such as PACs)	- 0 -	- 0 -
(d) TOTAL CONTRIBUTION REFUNDS (add 20(a), (b) and (c))	- 0 -	- 0 -
<b>21. OTHER DISBURSEMENTS</b>	- 0 -	- 0 -
<b>22. TOTAL DISBURSEMENTS (add 17, 18, 19(c), 20(d) and 21)</b>	190,146.82	461,831.70
<b>III. CASH SUMMARY</b>		
<b>23. CASH ON HAND AT BEGINNING OF REPORTING PERIOD</b>	\$ 228,627.00	
<b>24. TOTAL RECEIPTS THIS PERIOD (from Line 16)</b>	\$ 73,921.76	
<b>25. SUBTOTAL (add Line 23 and Line 24)</b>	\$ 302,548.76	
<b>26. TOTAL DISBURSEMENTS THIS PERIOD (from Line 22)</b>	\$ 190,146.82	
<b>27. CASH ON HAND AT CLOSE OF THE REPORTING PERIOD (subtract Line 26 from 25)</b>	\$ 122,401.94	

# REPORT OF RECEIPTS AND DISBURSEMENTS

For An Authorized Committee  
(Summary Page)

1. NAME OF COMMITTEE (in full)  
a lot of folks for Pat Williams

ADDRESS (number and street)  Check if different than previously reported.  
P.O. Box 1994

CITY, STATE and ZIP CODE: Helena, MT 59624

STATE/DISTRICT: MT-AL

2. FEC IDENTIFICATION NUMBER  
600253344

3. IS THIS REPORT AN AMENDMENT?  
 YES  NO

## 4. TYPE OF REPORT

April 15 Quarterly Report

July 15 Quarterly Report

October 15 Quarterly Report

January 31 Year End Report

July 31 Mid-Year Report (Non-election Year Only)

Twelfth day report preceding \_\_\_\_\_ (Type of Election) election on \_\_\_\_\_ in the State of \_\_\_\_\_

Thirtieth day report following the General Election on 11-08-94 in the State of MT

Termination Report

This report contains activity for  Primary Election  General Election  Special Election  Runoff Election

## SUMMARY

	COLUMN A This Period	COLUMN B Calendar Year-to-Date
6. Covering Period <u>10-20-94</u> through <u>11-28-94</u>		
7. Net Contributions (other than loans)		
(a) Total Contributions (other than loans) (from Line 11(a))	122,747.91	631,283.96
(b) Total Contribution Refunds (from Line 20(d))	-0-	-0-
(c) Net Contributions (other than loans) (subtract Line 6(b) from 6(a))	122,747.91	631,283.96
8. Net Operating Expenditures		
(a) Total Operating Expenditures (from Line 17)	131,752.84	586,208.50
(b) Total Offsets to Operating Expenditures (from Line 14)	1,000.00	1,498.93
(c) Net Operating Expenditures (subtract Line 7(b) from 7(a))	130,752.84	584,709.57
9. Cash on Hand at Close of Reporting Period (from Line 27)	111,525.87	
10. Debts and Obligations Owed TO the Committee (Itemize all on Schedule C and/or Schedule D)	-0-	
11. Debts and Obligations Owed BY the Committee (Itemize all on Schedule C and/or Schedule D)	-0-	

For further information contact:  
 Federal Election Commission  
 999 E Street, NW  
 Washington, DC 20463  
 Toll Free 800-424-9530  
 Local 202-219-3400

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer: J. Fred Sargeson Asst. Treas.

Signature of Treasurer: 

Date: \_\_\_\_\_

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g

# DETAILED SUMMARY PAGE

of Receipts and Disbursements  
(Page 2, FEC FORM 3)

Name of Committee (in full)	Report Covering the Period:	
a lot of folks for Pat Williams	From: 10-20-94	To: 11-29-94
I. RECEIPTS	COLUMN A Total This Period	COLUMN B Calendar Year-To-Date
<b>11. CONTRIBUTIONS (other than loans) FROM:</b>		
(a) Individuals/Persons Other Than Political Committees		
(i) Itemized (use Schedule A)	28,044.00	
(ii) Unitemized	44,576.50	
(iii) Total of contributions from individuals	72,620.50	276,010.44
(b) Political Party Committees	10,225.00	27,600.00
(c) Other Political Committees (such as PACs)	39,902.41	327,673.52
(d) The Candidate	.00	.00
(e) TOTAL CONTRIBUTIONS (other than loans) (add 11(a)(iii), (b), (c) and (d))	122,747.91	631,283.96
<b>12. TRANSFERS FROM OTHER AUTHORIZED COMMITTEES</b>	.00	15,239.79
<b>13. LOANS</b>		
(a) Made or Guaranteed by the Candidate	.00	.00
(b) All Other Loans	.00	.00
(c) TOTAL LOANS (add 13(a) and (b))	.00	.00
<b>14. OFFSETS TO OPERATING EXPENDITURES (Refunds, Rebates, etc.)</b>	1,000	1,498.93
<b>15. OTHER RECEIPTS (Dividends, Interest, etc.)</b>	5.69	32.21
<b>16. TOTAL RECEIPTS (add 11(e), 12, 13(c), 14 and 15)</b>	122,753.60	648,054.89
<b>II. DISBURSEMENTS</b>		
<b>17. OPERATING EXPENDITURES</b>	131,752.84	586,208.50
<b>18. TRANSFERS TO OTHER AUTHORIZED COMMITTEES</b>	2,876.83	10,252.87
<b>19. LOAN REPAYMENTS</b>		
(a) Of Loans Made or Guaranteed by the Candidate	.00	.00
(b) Of All Other Loans	.00	.00
(c) TOTAL LOAN REPAYMENTS (add 19(a) and (b))	.00	.00
<b>20. REFUNDS OF CONTRIBUTIONS TO</b>		
(a) Individuals/Persons Other Than Political Committees	.00	.00
(b) Political Party Committees	.00	.00
(c) Other Political Committees (such as PACs)	.00	.00
(d) TOTAL CONTRIBUTION REFUNDS (add 20(a), (b) and (c))	.00	.00
<b>21. OTHER DISBURSEMENTS</b>	.00	.00
<b>22. TOTAL DISBURSEMENTS (add 17, 18, 19(c), 20(d) and 21)</b>	134,629.67	596,461.37
<b>III. CASH SUMMARY</b>		
<b>23. CASH ON HAND AT BEGINNING OF REPORTING PERIOD</b>	\$	122,401.94
<b>24. TOTAL RECEIPTS THIS PERIOD (from Line 16)</b>	\$	123,753.60
<b>25. SUBTOTAL (add Line 23 and Line 24)</b>	\$	246,155.54
<b>26. TOTAL DISBURSEMENTS THIS PERIOD (from Line 22)</b>	\$	134,629.67
<b>27. CASH ON HAND AT CLOSE OF THE REPORTING PERIOD (subtract Line 26 from 25)</b>	\$	111,525.87

# REPORT OF RECEIPTS AND DISBURSEMENTS

For An Authorized Committee  
(Summary Page)

1. NAME OF COMMITTEE (in full)  
**2 lot of folks for Pat Williams**

ADDRESS (number and street)  Check if different than previously reported.  
**P.O. Box 1994**

CITY, STATE and ZIP CODE: **Helena, MT 59624**

STATE/DISTRICT: **MT-AL**

2. FEC IDENTIFICATION NUMBER  
**C00253344**

3. IS THIS REPORT AN AMENDMENT?  
 YES  NO

## 4. TYPE OF REPORT

- April 15 Quarterly Report
- July 15 Quarterly Report
- October 15 Quarterly Report
- January 31 Year End Report
- July 31 Mid-Year Report (Non-election Year Only)
- Twelfth day report preceding \_\_\_\_\_ (Type of Election) election on \_\_\_\_\_ in the State of \_\_\_\_\_
- Thirtieth day report following the General Election on \_\_\_\_\_ in the State of \_\_\_\_\_
- Termination Report

This report contains activity for  Primary Election  General Election  Special Election  Runoff Election

## SUMMARY

5. Covering Period	COLUMN A This Period	COLUMN B Calendar Year-to-Date
<u>11-29-94</u> through <u>12-31-94</u>		
6. Net Contributions (other than loans)		
(a) Total Contributions (other than loans) (from Line 11(a))	310.00	630,093.96
(b) Total Contribution Refunds (from Line 28(a))	-0-	-0-
(c) Net Contributions (other than loans) (subtract Line 6(b) from 6(a))	310.00	630,093.96
7. Net Operating Expenditures		
(a) Total Operating Expenditures (from Line 17)	24,409.14	609,117.64
(b) Total Offsets to Operating Expenditures (from Line 14)	6,021.71	7,520.64
(c) Net Operating Expenditures (subtract Line 7(b) from 7(a))	18,387.43	601,597.00
8. Cash on Hand at Close of Reporting Period (from Line 27)	93,454.33	
9. Debts and Obligations Owed TO the Committee (Name as all on Schedule C and/or Schedule D)	-0-	
10. Debts and Obligations Owed BY the Committee (Name as all on Schedule C and/or Schedule D)	-0-	

For further information contact:  
 Federal Election Commission  
 900 E Street, NW  
 Washington, DC 20543  
 Toll Free 800-424-9630  
 Local 202-519-3400

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer  
**J. Fred Sargeason Asst. Treas.**

Signature of Treasurer 

Date  
**2-15-95**

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g

# DETAILED SUMMARY PAGE

of Receipts and Disbursements

(Page 2, FEC FORM 3)

Name of Committee (in full)	Report Covering the Period:		
2 lot of folks for Pat Williams	From: 11-29-94	To: 12-31-94	
I. RECEIPTS	COLUMN A Total This Period	COLUMN B Calendar Year-To-Date	
<b>11. CONTRIBUTIONS (other than loans) FROM:</b>			
(a) Individuals/Persons Other Than Political Committees			
(i) Itemized (use Schedule A) .....	100.00		11(a)
(ii) Unitemized .....	210.00		11(a)
(iii) Total of contributions from individuals .....	310.00	276,320.44	11(a)
(b) Political Party Committees .....	-0-	27,600.00	11(b)
(c) Other Political Committees (such as PACs) .....	-0-	326,173.52	11(c)
(d) The Candidate .....	-0-	-0-	11(c)
(e) TOTAL CONTRIBUTIONS (other than loans) (add 11(a)(iii), (b), (c) and (d)) .....	310.00	630,093.96	11(e)
<b>12. TRANSFERS FROM OTHER AUTHORIZED COMMITTEES</b> .....	0	15,239.79	12
<b>13. LOANS:</b>			
(a) Made or Guaranteed by the Candidate .....	-0-	-0-	13(a)
(b) All Other Loans .....	-0-	-0-	13(b)
(c) TOTAL LOANS (add 13(a) and (b)) .....	-0-	-0-	13(c)
<b>14. OFFSETS TO OPERATING EXPENDITURES (Refunds, Rebates, etc.)</b> .....	6,021.71	7,520.64	14
<b>15. OTHER RECEIPTS (Dividends, Interest, etc.)</b> .....	5.89	38.10	15
<b>16. TOTAL RECEIPTS (add 11(e), 12, 13(c), 14 and 15)</b> .....	6,337.60	652,892.49	16
<b>II. DISBURSEMENTS</b>			
<b>17. OPERATING EXPENDITURES</b> .....	24,409.14	609,117.64	17
<b>18. TRANSFERS TO OTHER AUTHORIZED COMMITTEES</b> .....	-0-	10,252.87	18
<b>19. LOAN REPAYMENTS:</b>			
(a) Of Loans Made or Guaranteed by the Candidate .....	-0-	-0-	19(a)
(b) Of All Other Loans .....	-0-	-0-	19(b)
(c) TOTAL LOAN REPAYMENTS (add 19(a) and (b)) .....	-0-	-0-	19(c)
<b>20. REFUNDS OF CONTRIBUTIONS TO:</b>			
(a) Individuals/Persons Other Than Political Committees .....	-0-	-0-	20(a)
(b) Political Party Committees .....	-0-	-0-	20(b)
(c) Other Political Committees (such as PACs) .....	-0-	-0-	20(c)
(d) TOTAL CONTRIBUTION REFUNDS (add 20(a), (b) and (c)) .....	-0-	-0-	20(d)
<b>21. OTHER DISBURSEMENTS</b> .....		-0-	21
<b>22. TOTAL DISBURSEMENTS (add 17, 18, 19(c), 20(d) and 21)</b> .....	24,409.14	619,370.51	22
<b>III. CASH SUMMARY</b>			
<b>23. CASH ON HAND AT BEGINNING OF REPORTING PERIOD</b>	\$	111,525.87	23
<b>24. TOTAL RECEIPTS THIS PERIOD (from Line 16)</b>	\$	6,337.60	24
<b>25. SUBTOTAL (add Line 23 and Line 24)</b>	\$	117,863.47	25
<b>26. TOTAL DISBURSEMENTS THIS PERIOD (from Line 22)</b>	\$	24,409.14	26
<b>27. CASH ON HAND AT CLOSE OF THE REPORTING PERIOD (subtract Line 26 from 25)</b>	\$	93,454.33	27

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

**FIRST GENERAL COUNSEL'S REPORT**

**SENSITIVE**

MUR 4131  
DATE COMPLAINT FILED: November 7, 1994  
DATE OF NOTIFICATION: November 18, 1994  
DATE ACTIVATED: August 29, 1995  
DATE TRANSFERRED: March 6, 1996  
STAFF MEMBER: Lawrence L. Calvert Jr.

COMPLAINANT Edwina Rogers, as general counsel, National Republican Senatorial Committee

RESPONDENTS National Abortion and Reproductive Rights Action League PAC  
and Evan J. Goldman, as treasurer  
Montana National Abortion and Reproductive Rights Action League  
Jack Mudd for U.S. Senate and Margaret Mudd, as treasurer  
A Lot Of Folks For Pat Williams and Si Seifert, as treasurer

RELEVANT STATUTES 2 U.S.C. § 431(8)(A)(i)  
2 U.S.C. § 431(9)(B)(iii)  
2 U.S.C. § 431(17)  
2 U.S.C. § 434(a)(6)  
2 U.S.C. § 434(b)  
2 U.S.C. § 434(b)(3)(A)  
2 U.S.C. § 434(c)  
2 U.S.C. § 441(a)(2)(A)  
2 U.S.C. § 441(a)(4)  
2 U.S.C. § 441(a)(7)(B)(i)  
2 U.S.C. § 441(f)  
2 U.S.C. § 441(b)(1)  
2 U.S.C. § 441(b)(2)(C)  
26 U.S.C. § 501(c)(4)  
Pub. L. 104-79  
11 C.F.R. § 100.7(a)(1)(iii)(A)  
11 C.F.R. § 100.7(a)(3)  
11 C.F.R. § 100.22  
11 C.F.R. § 106.1(a)(1)  
11 C.F.R. § 109.1(b)(2)(1994)  
11 C.F.R. § 114.1(c)(2)  
11 C.F.R. § 114.3(a)(1994)

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11 C.F.R. § 114.4

11 C.F.R. § 114.10

INTERNAL REPORTS CHECKED: Disclosure reports  
MUR 3109

FEDERAL AGENCIES CHECKED: None

### **I. GENERATION OF MATTER**

This matter was generated by a complaint filed by Edwina Rogers as general counsel of the National Republican Senatorial Committee. The complaint alleges that supposedly independent expenditures made by the Montana National Abortion and Reproductive Rights Action League ("Montana NARAL") on behalf of Jack Mudd, a candidate in the 1994 general election for United States Senator from Montana, were in fact coordinated with Mudd's campaign and therefore amounted to prohibited corporate contributions in violation of 2 U.S.C. § 441b.<sup>1</sup> Alternatively, the complaint alleges, if the expenditures were made from a multicandidate Federal committee, they exceeded the \$5,000 per election limit of 2 U.S.C. § 441a(a)(2)(A). The complaint further alleges that Jack Mudd for U.S. Senate and Margaret Mudd, as treasurer ("the Mudd committee"), violated 2 U.S.C. § 434(a)(6)(A) by failing to file 48-hour notifications of receipt of the contributions.<sup>2</sup> Also alternatively, the complaint alleges that if the expenditures were truly independent, Montana NARAL violated 2 U.S.C. § 434(c) by failing to file 24-hour notifications of the expenditures

<sup>1</sup> Mudd was defeated in the general election, receiving 38 percent of the vote to incumbent Conrad Burns's 62 percent

<sup>2</sup> Chet Blaslock was treasurer of the Mudd committee at the time of the events at issue in this matter. By letter dated May 15, 1996, the Mudd committee informed the Commission that Margaret Mudd was its new treasurer

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Although A Lot of Folks For Pat Williams and Si Seifert, as treasurer ("Williams committee"), were not named in the caption placed on the complaint, information in the complaint indicated that similar facts might pertain to Montana NARAL's support of Williams's candidacy for United States Representative from Montana in the same election. Consequently, the Williams committee was notified of the complaint.<sup>3</sup>

A joint response has been received on behalf of Montana NARAL and the National Abortion and Reproductive Rights Action League PAC ("National NARAL PAC") and Evan J. Goldman, as treasurer. Attachment 1. Responses have also been received from the Mudd committee and the Williams committee, including a supplemental response from the Williams committee. Attachments 2-4.

## II. FACTUAL AND LEGAL ANALYSIS

### A. Applicable Law

The Federal Election Campaign Act of 1971, as amended ("the Act") defines an "independent expenditure" as

an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate or agent of such candidate.

2 U.S.C. § 431(17). Conversely, any expenditure "made by any person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution," rather than an independent expenditure. 2 U.S.C. § 441(a)(7)(B)(i).

<sup>3</sup> Williams was re-elected to the House of Representatives, receiving 49 percent of the vote in a three-candidate race.

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The Act limits the amount of contributions individuals and groups may make. Specifically, the Act provides that no multicandidate political committee shall make contributions "to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$5,000[.]" 2 U.S.C. § 441a(a)(2)(A). The Act also makes it illegal for any candidate or committee to knowingly accept such a contribution. 2 U.S.C. § 441a(f). The term "contribution" includes "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office." 2 U.S.C. § 431(8)(A)(i). In turn, the term "anything of value" includes the in-kind provision of any goods or services. 11 C.F.R. § 100.7(a)(1)(iii)(A).

It is unlawful for any corporation to make a contribution in connection with a Federal election, or for any candidate or committee to knowingly accept such a contribution. 2 U.S.C. § 441b(a). It is also unlawful for any corporation, other than those described by the Supreme Court in FEC v. Massachusetts Citizens for Life, Inc., 479 U.S. 238 (1986) ("MCFL"), to make any expenditure in connection with a Federal election. See 2 U.S.C. § 441b(a).<sup>4</sup> A corporation's payment of compensation to an individual who renders services to a campaign committee or a candidate would constitute a gift of services as well as an indirect payment or a gift of something of value to the committee or candidate. 11 C.F.R. § 100.7(a)(3), Advisory Opinions 1984-37, 1984-24, 1978-6 and 1976-70. The Act excludes from the definition of "contribution" or

<sup>4</sup> New 11 C.F.R. § 114.10, effective October 5, 1995, delineates precisely which corporations are such "qualified nonprofit corporations." But see Minnesota Citizens Concerned for Life, Inc. v. FEC, Civil No. 3-95-1147 (D. Minn. Apr. 19, 1996) (invalidating 11 C.F.R. § 114.10 as "too restrictive" and "contrary to a constitutional right," and therefore void under the Administrative Procedure Act). This regulation was not in effect at the time of the activity at issue here. Moreover, the corporate respondent, Montana NARAL, has not, at this stage, claimed the protection of MCFL. Accordingly, the analysis herein presumes that Montana NARAL is not an "MCFL corporation."

"expenditure," however, the "establishment, administration and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock."

2 U.S.C. § 441b(b)(2)(C). Except for specified exceptions involving certain communications, infra, the Act generally requires that corporations, including incorporated membership organizations, direct and finance their political activities solely through the use of the voluntary contributions in their separate segregated funds and not through the use of general treasury funds. 117 Cong. Rec. 43381 (remarks of Representative Hansen).

Expenditures made on behalf of more than one clearly identified Federal candidate shall be attributed to each such candidate according to the benefit reasonably expected to be derived. 11 C.F.R. § 106.1(a)(1). In the case of a publication, the attribution shall be determined by the proportion of space devoted to each candidate as compared to the total space devoted to all candidates. Id. These methods shall also be used to allocate payments involving both expenditures on behalf of one or more clearly identified Federal candidates and disbursements on behalf of one or more clearly identified non-Federal candidates. Id.

Under regulations in effect at all times relevant to this matter, incorporated membership organizations were permitted to make communications, including partisan communications, to their members and executive and administrative personnel, and their families, notwithstanding the general prohibition on the use of corporate treasury funds in connection with elections to Federal office. 11 C.F.R. § 114.3(a)(2) (1994); cf. 2 U.S.C. § 431(9)(B)(iii) (exempting disbursements for such communications from definition of "expenditure"). No corporation was

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permitted to make contributions or expenditures for partisan communications to the general public. 11 C.F.R. § 114.3(a)(1) (1994).<sup>5</sup>

According to Commission regulations, a member of a membership organization is any person who currently satisfies the requirements for membership in a membership association, affirmatively accepts the association's invitation to become a member, and either (i) has some significant financial attachment to the membership association other than the mere payment of dues, (ii) is required to pay on a regular basis a specific amount of dues and is entitled to vote directly either for at least one member who has full participatory and voting rights on the highest governing body of the membership association, or for those who select at least one member thereof, or (iii) is entitled to vote directly for all of those on the highest governing body of the membership association. 11 C.F.R. § 114.1(e)(2). In Chamber of Commerce of United States v. FEC, 69 F.3d 600 (D.C. Cir. 1995), reh'g. denied, No. 94-5339, WL 86152 (D.C. Cir. March 1, 1996), this interpretation of "member" was rejected as going too far beyond the Supreme Court's observation in FEC v. National Right to Work Comm. ("NRWC"), 459 U.S. 197, 204 (1982), that the term "member" in the Act required "some relatively enduring and independently significant financial or organizational attachment" to the organization. Following NRWC but

<sup>5</sup> New regulations that became effective March 13, 1996 deleted the prohibition on "corporate and labor organization expenditures for 'partisan' communications to the general public because revised section 114.4 establishes that such communications are only prohibited if they contain express advocacy or are impermissibly coordinated with candidates or political committees." Explanation and Justification for Regulations on Corporate and Labor Organization Activity, Express Advocacy and Coordination with Candidates, 60 Fed. Reg. 64260, 64265 (December 14, 1995). In turn, these changes were made in light of judicial interpretations that applied 2 U.S.C. § 441b's prohibition on corporate expenditures (as opposed to its prohibition on corporate contributions) only to expenditures encompassing express advocacy of the election or defeat of a clearly identified Federal candidate. See Explanation and Justification for Regulations on Express Advocacy, Independent Expenditures, Corporate and Labor Organization Expenditures, 60 Fed. Reg. 35292-93 (July 6, 1995) (discussing McCFL, 479 U.S. at 249; Faucher v. FEC, 928 F.2d 468 (1st Cir.), cert. denied, sub nom. FEC v. Keefer, 502 U.S. 820 (1991), and FEC v. National Organization of Women, 713 F.Supp. 428 (D.D.C. 1989)). Accordingly, this report applies an express advocacy standard, rather than a "partisan/nonpartisan" standard, to the question of whether Montana NARAL distributed its newsletter beyond its restricted class. *Infra* at 31.

prior to the 1993 adoption of the regulation in question, the Commission determined whether persons were "members" by examining whether they had a right to participate in the governance of the organization and an obligation to help sustain the organization through regular financial contributions of a predetermined minimum amount. Advisory Opinions 1992-41, 1988-39, 1987-13, 1987-5, 1985-11, 1984-33. Where participatory rights in the organization were lacking, the Commission consistently found the requisite attachment lacking. AOs 1987-13, 1985-11, 1984-22.

Under regulations in effect during the time at issue here, "expressly advocating" meant any communication containing a message advocating election or defeat, including but not limited to the name of the candidate, or expressions such as *vote for*, *elect*, *support*, *cast your ballot for*, and *Smith for Congress*, or *vote against*, *defeat* or *reject*. 11 C.F.R. § 109.1(b)(2) (1994).<sup>6</sup>

Political committees registered with the Commission are required to file periodic reports of their receipts and disbursements. 2 U.S.C. § 434. In particular, 2 U.S.C. § 434(b)(3)(A) requires treasurers of committees to identify each person (other than a political committee) who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions have an aggregate amount or value in excess of \$200 within the calendar year, together with the date and amount of any such contribution. In addition, principal campaign committees of candidates for Federal office in the 1994 general election were required to notify

<sup>6</sup> New regulations in effect October 5, 1995, significantly expanded and explained this definition. 11 C.F.R. § 100.22. But see Maine Right to Life Comm., Inc. v. FEC, 914 F.Supp. 8 (D. Me. 1996), *reh'g denied*, 95-261-B-H (Mar. 8, 1996) (invalidating new 11 C.F.R. § 100.22(b)). The Commission has voted to appeal the district court's decision in Maine Right to Life.

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in writing either the Secretary of the Senate or the Clerk of the House of Representatives, as appropriate, and the Secretary of State of the state in which they were a candidate, of each contribution totaling \$1,000 or more, received by any authorized committee of the candidate after the 20th day but more than 48 hours before any election.<sup>7</sup> 2 U.S.C. § 434(a)(6)(A). The Act further requires notification to be made within 48 hours after the receipt of the contribution and to include the name of the candidate and office sought, the date of receipt, the amount of the contribution, and the identification of the contributor. *Id.* The requirement for notification of these contributions is in addition to all other reporting requirements. 2 U.S.C. § 434(a)(6)(B). Similar, although not identical, filing requirements apply to any person who makes independent expenditures aggregating \$1,000 or more after the 20th day, but more than 24 hours, before any election; the report must be made within 24 hours of making the expenditure. 2 U.S.C. § 434(c).

**B. The Complaint**

The complaint notes that the "Election 1994" edition of a Montana NARAL publication entitled "Choice News" stated that "Persuasion and Get Out the Vote calls to turn out pro-choice voters for Jack Mudd, Pat Williams, and local Missoula races will commence shortly before the election." and that Montana NARAL would distribute a Voter's Guide to 35,000 Montana voters. Complaint at 3-4. "Choice News" itself, according to the complaint, was distributed "to an unknown number of potential Montana voters." *Id.* at 3. The complaint alleges that the Voter's Guide was mailed, the phone calls were made, and that Montana

<sup>7</sup> Candidates for U.S. House of Representatives in the 1994 election cycle were required to file the reports described in 2 U.S.C. § 434 with the Clerk of the House of Representatives. Public Law 104-79, enacted December 28, 1995, made the Commission the point of entry for the disclosure reports of House candidates' authorized committees.

NARAL also made "literature 'drops'" on behalf of the Mudd and Williams candidacies. Id. at 4.

The complaint alleges that expenditures for these activities could not have been independent because Dave Hunter, who was named in "Choice News" as "chair of the PAC Committee of the Montana NARAL Choice Political Action Committee," was also "a senior advisor to . . . Mudd." Id. Accordingly, the complaint alleges, Montana NARAL violated 2 U.S.C. § 441b by making, and the Mudd campaign violated 2 U.S.C. § 441b by receiving, prohibited corporate contributions. Id. at 3-4. Alternatively, the complaint alleges, even if the expenditures were made by National NARAL PAC and not Montana NARAL, the activities in question "[o]bviously . . . cost well in excess of" \$5,000; therefore, the complaint alleges, National NARAL PAC violated 2 U.S.C. § 441a(a)(2)(A) by making, and the Mudd campaign (and by extension, the Williams campaign) violated 2 U.S.C. § 441a(f) by receiving, excessive contributions. Id. at 4, 5. Finally, and as noted, the complaint alleges that the Mudd campaign violated 2 U.S.C. § 434(a)(6)(A) by failing to file 48-hour notices for the alleged contributions, or, in the alternative, that Montana NARAL violated 2 U.S.C. § 434(c) by failing to file 24-hour notices if the expenditures were in fact independent. Id. at 5.

C. **The Responses, and Other Relevant Facts**

1. **NARAL Structure**

At the outset, it may be helpful to outline the relationships between the various NARAL entities at issue in this matter. The National Abortion and Reproductive Rights Action League, Inc. ("National NARAL"), f/k/a the National Abortion Rights Action League, Inc., is not currently a respondent in this matter. However, it was a respondent in MUR 3109. Documents

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in the record of that matter indicate that National NARAL is a non-profit corporation, incorporated under the laws of the District of Columbia, and recognized by the Internal Revenue Service as a nonprofit organization described in 26 U.S.C. § 501(c)(4). According to documents on file with the Commission, National NARAL PAC, which is a respondent in this matter, is the separate segregated fund of National NARAL. National NARAL PAC is also qualified as a multicandidate committee as defined at 2 U.S.C. § 441a(a)(4).

Montana NARAL is described in the NARAL response as "a membership organization, organized and operated as a non-profit corporation under Montana law." Attachment 1 at 2. The NARAL response provides no details on the formal relationship between National NARAL and Montana NARAL. However, National NARAL's corporate by-laws, which are included in the record of MUR 3109, indicate that National NARAL encourages the formation of state affiliates, which are recognized as such under procedures set forth by National NARAL's board of directors. Given this provision of National NARAL's by-laws and the joint nature of the National NARAL PAC and Montana NARAL response, it appears that Montana NARAL may be a state affiliate of National NARAL. Finally, the Montana National Abortion and Reproductive Rights Action League Choice PAC ("Montana NARAL PAC") is described in the response as "a Montana state PAC, organized and operated under Montana law." Attachment 1 at 20 (Frazer Affidavit, ¶ 3.) No committee by that name is registered with the Commission. Although the nature of any formal relationship between Montana NARAL and Montana NARAL PAC under Montana election law is not described in the response, Eliza Frazer, the executive director of Montana NARAL, averred that she is also the treasurer of Montana NARAL PAC. Id.

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**2. Services Purportedly Purchased By National NARAL PAC from Montana NARAL**

The NARAL response concedes that none of the expenditures at issue in this matter were independent. Attachment 1 at 3. Instead, the response asserts, the expenditures were purchases of grassroots political organizing services from Montana NARAL by National NARAL PAC that amounted to in-kind contributions from National NARAL PAC to the Mudd campaign. See id. at 5.

This section of this report will first recount the history of the transactions between National NARAL PAC and Montana NARAL on behalf of the Mudd and Williams campaigns. It will then examine the services, provided by Montana NARAL, that were purportedly paid for by the National NARAL PAC payments.

**a. Payment History between National NARAL PAC and Montana NARAL**

Based on the affidavit of National NARAL PAC treasurer Evan J. Goldman, Attachment 1 at 5-10, on the Williams committee's response and supplemental response, Attachments 3 and 4, and on information in disclosure reports, it is possible to construct a chronology of National NARAL PAC's purported contributions to Williams and Mudd in the general election. This chronology is set forth in the following table.

<u>Payment Date</u>	<u>Payee</u>	<u>Amount</u>	<u>Purpose</u>
9/23/94	Montana NARAL	\$1,000	In-kind, Mudd
9/23/94	Montana NARAL	\$1,000	In-kind, Williams
10/19/94	Mudd committee	\$2,000	Direct contribution
10/19/94	Montana NARAL	\$500	In-kind, Williams
10/27/94	Montana NARAL	\$500	In-kind, Mudd

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10/27/94	Montana NARAL	\$2,000	In-kind, Williams
11/10/94	Montana NARAL	\$1,222.36	In-kind, Mudd
11/10/94	Montana NARAL	\$277.64	In-kind, Mudd
11/10/94	MT Alliance for Progressive Policy	\$80.70	In-kind, Mudd
11/10/94	Montana NARAL	\$502.41	In-kind, Williams

The total amount of National NARAL PAC's reported general election contributions to the Williams campaign as reflected in National NARAL PAC's original post-General report equaled \$4,002.41; the total amount of National NARAL PAC's reported general election contributions to the Mudd campaign equaled \$5,080.70.

In January, 1995, after filing their response to the complaint in this matter, National NARAL PAC and Montana NARAL apparently determined that Montana NARAL had not expended on the Williams and Mudd campaigns all of the money that National NARAL PAC had transferred to it for that purpose. Accordingly, on January 31, 1995, National NARAL PAC filed an amended 1994 October Monthly Report, in which its \$1,000 in-kind contribution to the Williams committee dated September 23, 1994 was reduced to \$771.11 and its \$1,000 contribution of the same date to the Mudd committee was reduced to \$467.28. The difference was apparently retained by Montana NARAL, and was reported on National NARAL PAC's amended report as transfers by National NARAL PAC to an affiliated organization. After the amendment, the total amount of reported general election contributions from National NARAL PAC to the Mudd campaign equaled \$4,547.87; the corresponding amount of reported

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contributions to the Williams campaign totaled \$3,773.52. See also Attachment 4 (Williams supplemental response).

**b. Services Provided by Montana NARAL**

In her affidavit, Frazer, Montana NARAL's executive director, described the activities Montana NARAL undertook on behalf of the Mudd and Williams campaigns. Frazer acknowledged that Montana NARAL produced and mailed a "Voter's Guide."<sup>8</sup> Attachment 1 at 22, ¶ 12. Frazer did not state to whom the Voter's Guide was mailed, or how many voter guides were mailed. The guide expressly advocated the election of Mudd as U.S. Senator and Williams as U.S. Representative; it also contained Montana NARAL PAC's endorsements in races for the Montana state legislature, and solicited contributions to Montana NARAL PAC. Attachment 1 at 27-30 (reproduction of Voter's Guide). Frazer averred that, based on the proportional amount of space devoted to each candidate, she allocated 23.6 percent of the Voter's Guide's cost as an in-kind contribution from National NARAL PAC to the Mudd campaign, and 9.7 percent of its cost as an in-kind contribution from National NARAL PAC to the Williams campaign. *Id.* at 22-23, ¶¶ 13-14. The one exception to the allocation, she averred, was a \$60 expense for pizza to

<sup>8</sup> As used in this report, the terms "voter guide" or "Voter's Guide" do not have the same meaning as the term "voter guide" used as a term of art in the Commission's regulations. There, the term "voter guide" refers to a publication paid for by the general treasury of a corporation or labor organization and directed to the general public that contains statements of the positions on campaign issues of two or more candidates for election to a Federal office and that, depending on the degree of coordination between the publisher of the guide and the candidates or their committees or agents, may not contain express advocacy or an electioneering message. By meeting these requirements, a voter guide, as described by the regulations, may be paid for by the corporation or union's general treasury without being deemed a contribution or expenditure. 11 C.F.R. § 114.4(c)(5), but see *Clifton v. FEC*, Civ. No. 96-66-P-HL slip op. at 16 (D. Me. May 20, 1996) (invalidating 11 C.F.R. § 114.4(c)(5) as *ultra vires*). As noted, National NARAL PAC and Montana NARAL make no claim that disbursements for the "Voter's Guide" in this matter were anything other than contributions. The publication at issue was more akin to a slate card. Nevertheless, in the interest of being consistent with terminology used in both the complaint and the response, this report will refer to the publication as the "Voter's Guide."

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feed volunteers who worked on the Voter's Guide; this expense was evidently allocated entirely to state candidates. Id. at 22, ¶ 12 n.1.

Frazer also acknowledged that Montana NARAL, "on behalf of [National] NARAL-PAC," conducted phone banks in support of the Mudd and Williams campaigns. Id. at 23, ¶ 15. However, she averred, with one exception "these phone banks did not cost [Montana] NARAL anything. [Montana] NARAL was not required to pay for the telephone lines or facilities used to conduct these phone banks. It also did not pay people to place the calls -- all callers volunteered their time free of charge." Id. The one exception was a phone bank that made calls to potential voters in Missoula, Montana; for that bank, Montana NARAL "paid an independent contractor \$1500[.]" Id., ¶ 16. Frazer asserted that based on the proportion of the caller script devoted to questions concerning Mudd and Williams, she allocated one-third of the cost of the Missoula phone bank, or \$500, as an in-kind contribution from National NARAL PAC to the Mudd campaign; an allocation chart prepared by Frazer and attached to her affidavit indicates she did the same with respect to the Williams campaign. Id. at 23 ¶ 17 (affidavit); 26 (allocation chart).

In addition, Frazer averred that Montana NARAL incurred certain miscellaneous expenses on behalf of the Mudd and Williams campaigns that were paid for by National NARAL PAC. Id. at 24, ¶¶ 18-20. These apparently included a portion of the compensation of an intern who worked on projects related to the Mudd and Williams campaigns, as well as telephone, postage, shipping, copying and facsimile charges. Id. at 24. ¶¶ 18 (intern), 19 (other expenses); and at 26 (allocation chart). These expenses were also allocated between the Mudd campaign, the Williams campaign, and Montana NARAL PAC's support of candidates for state office. Id. at 26. Addressing in her affidavit only the expenses allocated to the Mudd campaign, Frazer

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averred that she allocated these expenses "based on my knowledge of the costs incurred by [Montana] NARAL for Jack Mudd for U.S. Senate on behalf of [National] NARAL-PAC." Id. at 24, ¶ 19. No information was provided in the NARAL response regarding the relationship, if any, between the "miscellaneous expenses" and either the Voter's Guide or the telephone banks. Frazer also averred that Montana NARAL had incurred further miscellaneous expenses in support of the Mudd campaign that had not yet been billed and thus were not included on the allocation sheet, but that the aggregate value of these expenses was less than the \$555 balance remaining at the time from NARAL PAC's prior payments to Montana NARAL. Id. at 24, ¶ 20.

### 3. Radio Advertising

Although not addressed in the response, Frazer's allocation sheet also indicates that \$2,351 was allocated as in-kind contributions from National NARAL PAC to the Williams campaign under the heading "Radio Williams." Id. at 26. Moreover, in the "Election 1994" edition of "Choice News," which was appended to the complaint as an exhibit, an article criticizing Republican Senate nominee Conrad Burns's position on the Freedom of Access to Clinic Entrances Act ("FACE") states that

[Burns's] insensitivity to women's issues is all to [sic] evident in his latest campaign radio ads now airing in Kalispell ... The Burns radio spot is in response to NARAL radio that Jack Mudd is the only candidate for U.S. Senate who trusts women and unlike his opponent would have voted for FACE.

Complaint, Exhibit 1, at 1. There is no record in Commission disclosure databases of any National NARAL PAC contributions to Mudd's general election campaign other than the \$2,000 monetary contribution and the purportedly in-kind payments already discussed, nor are there any records in the databases of any independent expenditures on Mudd's behalf by National NARAL or National NARAL PAC. Moreover, in the response, National NARAL PAC and Montana

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NARAL affirmatively represented that “[n]either [Montana] NARAL nor [National] NARAL, Inc. made any contributions or independent expenditures to or on behalf of the Jack Mudd for U.S. Senate campaign,” Attachment 1 at 2, and National NARAL PAC treasurer Goldman averred in his sworn affidavit that “[d]uring the 1994 election cycle, [National] NARAL-PAC did not make any independent expenditures on behalf of Jack Mudd for U.S. Senate.” Thus, it is unclear who paid for the “NARAL radio” referred to in “Choice News.”

#### 4. “Choice News”

As the NARAL response notes, “[t]he Complaint also implies . . . that [Montana] NARAL violated the Act by using corporate resources to mail the Election 1994 issue of ‘Choice News’ to ‘an unknown number of potential voters in Montana.’” Attachment 1 at 4. Frazer averred that 709 copies of “Choice News” were mailed, 673 of which were mailed to members of Montana NARAL and 36 of which were mailed to “NARAL-affiliated entities.” Id. at 25 ¶ 23. Frazer’s affidavit did not state how many copies of “Choice News” were printed or whether, and to whom, any copies were distributed by means other than mailing.

The “Election 1994” edition of “Choice News,” which, as noted, was attached to the complaint, is an eight-page newsletter. Most of the articles in the newsletter appear to have little or no relation to the 1994 election; for instance, there are articles concerning the organization’s new board, the activities of an intern, a raffle, and news from various Montana NARAL chapters. But other articles contain references to the 1994 elections and candidates in them, especially Senate candidates Mudd and Burns. The front-page article, “Three Arsons in Three Years . . . And Burns calls this Freedom of Speech,” notes that “Conrad Burns has earned a 0% voting record from NARAL in 4 of 5 years,” criticizes Burns’s opposition to the Freedom of Access to

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Clinic Entrances Act, and contains the statement discussed supra that "Jack Mudd is the only candidate for U. S. Senate who trusts women." On the second page, an article entitled "Violence and the Freedom of Choice" states:

Our fight is to protect our right to a complete range of reproductive health care, including family planning, contraception, sexuality education, and abortion . . . Electing pro-choice candidates who favor maintaining freedom of access to complete reproductive health care services is our best chance to protect this right . . . Most importantly, get yourself and your pro-choice friends to the polls on November 8.

On the third page, which contains the overall headline "PAC PAGE[/]Activities of the MT NARAL Choice Political Action Committee," an article entitled "Voters' Guide Coming Soon!" states:

A major focus of this year's Guide is the sharply contrasting record of U.S. Senate incumbent, Conrad Burns, and his challenger, Jack Mudd. Burns has repeatedly voted against women and choice, earning a 0% voting record every year from NARAL except 1993.

Finally, the newsletter contains, on the third and fifth pages, the references to "persuasion and get out the vote calls" referred to in the discussion of the complaint. No information was provided in the NARAL response regarding what financial or organizational attachments existed between Montana NARAL and its "members."

#### D. Analysis

##### 1. Summary

In two 1984 advisory opinions, the Commission set forth the requirements for transactions in which a separate segregated fund purports to make in-kind contributions to candidates by purchasing goods and services from the fund's connected organization. Three requirements from those opinions are relevant here. First, the fund must pay the connected

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organization in advance. Second, the payment must include an amount to cover the connected organization's personnel costs associated with the in-kind contributions, and this amount must not be less than the usual and normal charge of independent consultants of similar experience and ability for similar services. Third, if the purported in-kind contributions are on behalf of more than one clearly identified candidate, they must be allocated between the candidates pursuant to 11 C.F.R. § 106.1(a). Some of the purported in-kind contributions from National NARAL PAC to the Mudd and Williams committees through Montana NARAL did not meet these requirements, and the NARAL response does not provide sufficient information to determine whether others met them or not. Accordingly, Montana NARAL may have made prohibited corporate contributions to NARAL PAC and to the Mudd and Williams committees.

In addition, the radio advertising on Mudd's behalf that was referred to in "Choice News" may have been an unreported excessive or prohibited in-kind contribution to the Mudd campaign. Finally, the "Election 1994" edition of "Choice News" expressly advocated Burns's defeat and may have been coordinated with a representative of the Mudd campaign. Because it may also have been distributed outside Montana NARAL's restricted class, it may have been a prohibited corporate contribution or expenditure by Montana NARAL to or on behalf of the Mudd campaign.

**2. In-Kind Purchases of Goods and Services from a Connected Organization:  
AOs 1984-24 and 1984-37**

In Advisory Opinions 1984-24 and 1984-37, the Commission considered proposals for two series of transactions similar to those at issue here. In both instances, the separate segregated funds of incorporated membership organizations proposed to make in-kind contributions to candidates by purchasing from the connected organizations on the candidates'

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behalf the services of corporate employees. In AO 1984-24, the separate segregated fund proposed to pay for these services, and for the use of corporate facilities and goods incidental thereto, either by reimbursing the connected organization for its actual costs plus a surcharge or by making advance payments of estimated costs to an escrow account, from which the corporation would withdraw reimbursement after it determined its actual costs. Under either scenario, the initial disbursement of funds for employee compensation or for other overhead costs was to be made by the connected organization. The request in AO 1984-37 differed in that the separate segregated fund proposed to pay directly to its connected organization in advance the usual and normal charge for the services to be rendered, based on the charges of independent political consultants of similar experience and ability.

The Commission disapproved the proposal in AO 1984-24 but approved the one in AO 1984-37. Because both payment methods proposed by the requestor in AO 1984-24 "involve[d] the initial disbursement of corporate treasury funds" to compensate employees or pay costs of overhead or supplies and materials, the Commission viewed these disbursements as "loan[s], advance[s], or [things] of value to both the candidate and the . . . separate segregated fund," and concluded that they would be prohibited by 2 U.S.C. § 441b. By contrast, in AO 1984-37, all of the separate segregated fund's payments to the connected organization were to be made in advance; consequently, the Commission determined that there would be "no initial disbursement of corporate treasury funds that constitutes either a loan, advance, or anything of value to either the candidate or [the separate segregated fund]." Moreover, because the separate segregated fund proposed to pay for the consulting services of corporate employees based on the usual and normal charge for such services by independent political consultants of similar

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experience and ability, the Commission concluded that the separate segregated fund "would not receive anything of value from its dealings with [the connected organization]." However, the Commission noted that because the proposed transactions would result in in-kind contributions from the separate segregated fund to the recipient candidates' committees, the transactions were subject to all applicable limitations and reporting requirements -- including the allocation requirement of 11 C.F.R. § 106.1(a).

Three principles from these opinions help decide the matter at hand. First, a separate segregated fund may make in-kind contributions to a candidate by purchasing goods and services from its connected organization on the candidate's behalf, so long as everything is paid for in advance. Second, if the services involve the performance of work by the connected organization's employees, the separate segregated fund's advance payment for such services must be based on the usual and normal charge for such services by similarly situated independent vendors.<sup>9</sup> Third, if the services benefit more than one Federal candidate, or benefit Federal and non-Federal candidates, the in-kind contributions must be allocated between the candidates in accordance with 11 C.F.R. § 106.1(a)(1). We now turn to the application of these principles to the services purchased by National NARAL PAC from Montana NARAL.<sup>10</sup>

<sup>9</sup> Cf. Explanation and Justification for Regulations on Corporate and Labor Organization Activity: Express Advocacy and Coordination with Candidates, 60 Fed. Reg. 64260, 64264 (Dec. 14, 1995). There, in approving new regulations allowing similar advance payment procedures in different circumstances, the Commission required payment in advance of "fair market value," which it defined as

the price that would normally be paid in the marketplace where the corporation or labor organization would normally obtain these goods or services, if reasonably ascertainable. However, in no case is the fair market value less than the corporation or labor organization's actual cost, which includes total compensation earned by all employees [engaged in the activity], plus benefits and overhead.

<sup>10</sup> However, we first note two differences between the facts of this matter and those of AO 1984-37. First, Montana NARAL is not National NARAL PAC's connected organization, rather, it appears to be a state affiliate of National NARAL PAC's connected organization. Second, National NARAL PAC's purported purchase of goods (Footnote continued on next page)

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**3. Purchases from Montana NARAL by National NARAL PAC**

**a. Voter's Guide**

**i. Allocation Between Candidates**

At the threshold, it is necessary to ensure that the Voter's Guide's expenses were correctly allocated between Williams, Mudd, and state candidates. As Frazer stated in her affidavit, the Voter's Guide has eight panels. Attachment 1 at 22 (affidavit), 27-30 (Voter's Guide). However, only six panels, rather than the 7.5 described in Frazer's affidavit, advocate the election of named candidates. Of these six panels, 2.25 appear to advocate the election of Mudd or the defeat of Burns, rather than the 1.75 noted in Frazer's affidavit; an aggregate of 0.75 panels appear to advocate the election of Williams, consistent with Frazer's affidavit; and three panels advocate the election of non-Federal candidates. Of the other two panels, one names no candidates but solicits contributions to Montana NARAL PAC, and one is the "mailer."<sup>11</sup>

As noted, 11 C.F.R. § 106.1(a) provides that in the case of a publication made on behalf of more than one Federal candidate and/or both Federal and non-Federal candidates, the amount attributable to each candidate shall be determined by the proportion of space devoted to the particular candidate in relation to the space devoted to all candidates, rather than the total

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and services apparently included the use of supplies and materials, as well as corporate personnel. However, neither of these distinctions change the applicability of AO 1984-37 to the situation at hand.

<sup>11</sup> Of the two panels reproduced at Attachment 1, page 27, the left-hand panel appears to be equally divided between advocacy of Mudd's election and of Williams's, while roughly three quarters of the right-hand panel advocate either Burns's defeat or Mudd's election and one quarter of the right-hand panel advocates Williams's election. Both panels reproduced at page 28 of Attachment 1 advocate the election of state candidates. Of the two panels reproduced at page 29 of Attachment 1, the left-hand panel advocates the election of state candidates; the right-hand panel names no candidates, but instead solicits contributions to Montana NARAL PAC. Of the two panels reproduced at page 30 of Attachment 1, the left-hand panel is the "mailer," while the right-hand panel advocates Mudd's election.

amount of space in the publication. However, neither the language of the regulation itself nor the Commission's explanation and justification of the specific rule for publications describe how to allocate space in publications parts of which advocate the election of Federal or non-Federal candidates and parts of which do not refer to specific candidates or elections. See Explanation and Justification of Regulations on Methods of Allocation Between Federal and Nonfederal Accounts; Payments; Reporting, 55 Fed. Reg. 26058, 26061 (June 26, 1990). In this case, the calculation must account for costs attributable both to the solicitation panel and the "mailer" panel, as well as those attributable to the panels endorsing Federal or non-Federal candidates.

The "mailer" panel is the easier of the two non-candidate panels to deal with; because it is necessary for the distribution by mail of all the messages contained in the publication, it can be considered attributable to all of those messages in proportion to their space in the remainder of the Voter's Guide. Thus, it need not be considered further. This leaves seven panels, one of which, the solicitation panel, does not have to do with candidates.

In this Office's opinion, the most equitable way to deal with the solicitation panel is to subtract its proportional cost from the total cost of the Voter's Guide prior to making the particular-candidate-to-all-candidates calculation mandated by Section 106.1(a)(1). This subtraction is made in the following manner:

Total cost of Voter's Guide =	\$7,214.00
Proportion attributable to solicitation panel = 1/7 =	14.3%
Total cost attributable to solicitation panel = \$7,214.00 x 0.143 =	\$1,031.60
Total cost attributable to all candidates = \$7,214.00 - \$1,031.60 =	\$6,182.40

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With that calculation made, it is now possible to apply the formula of 11 C.F.R. § 106.1(a)(1) to determine how much of the total cost attributable to all candidates is attributable to Mudd and Williams.

**Mudd**

Total panels attributable to candidates =	6
Total panels attributable to Mudd =	2.25
Proportion attributable to Mudd = $2.25/6 =$	37.5%
Total cost attributable to candidates =	\$6,182.40
Total cost attributable to Mudd = $\$6,182.40 \times 0.375 =$	\$2,318.40
Total cost allocated to Mudd by Montana NARAL =	\$1,688.00
Underallocation = $\$2,318.40 - \$1,688.00 =$	\$ 630.40

**Williams**

Total panels attributable to candidates =	6
Total panels attributable to Williams =	0.75
Proportion attributable to Williams = $0.75/6 =$	12.5%
Total cost attributable to candidates =	\$6,182.40
Total cost attributable to Williams = $\$6,182.40 \times 0.125 =$	\$ 772.80
Total cost allocated to Williams by Montana NARAL =	\$ 694.00
Underallocation = $\$772.80 - \$694.00 =$	\$ 78.80

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By relying on Montana NARAL's misallocation of the Voter's Guide costs to determine the amount of its in-kind contributions to the Mudd and Williams campaigns, National NARAL PAC and Goldman, as treasurer, appear to have violated 11 C.F.R. § 106.1(a)(1). In addition, because the underallocations of \$630.40 with respect to the Mudd campaign and \$78.80 with respect to the Williams campaign appear never to have been paid by National NARAL PAC to Montana NARAL, much less paid in advance, these amounts appear to represent illegal corporate contributions from Montana NARAL to both National NARAL PAC and the Mudd and Williams campaigns.

ii. **Advance Payment and Personnel Costs**

With respect to those portions of the Voter's Guide costs that were allocated, National NARAL PAC's transactions with Montana NARAL met neither of the other conditions for approval of such transactions set forth in AO 1984-37. First, Frazer averred that "in each instance [i.e., with respect to both the Voter's Guide and other disbursements], funds were disbursed from [National] NARAL-PAC to [Montana] NARAL before [Montana] NARAL provided any goods or services to the Jack Mudd campaign on behalf of [National] NARAL-PAC." Attachment 1 at 21, ¶ 7. However, the supporting documentation for her affidavit appears to contradict this assertion in one instance and provides insufficient evidence to sustain it in others. As noted, National NARAL PAC reported making in-kind contributions of \$1,222.36 to the Mudd committee and \$502.41 to the Williams committee on November 10, 1994. November 10 was two days after the election. As is apparent from the allocation sheet prepared by Frazer, these amounts equaled the amounts allocated by Montana NARAL to pay for Mudd's and Williams's share of the postage for the Voter's Guide. Attachment 1 at 26.

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Assuming the voter guide was mailed before the election, Montana NARAL apparently either paid for the postage and was reimbursed by National NARAL PAC, or received an extension of credit from the U.S. Postal Service for which National NARAL PAC transferred money to Montana NARAL to pay a portion of the outstanding bill. Montana NARAL thus made an initial expenditure of either its money or its credit to mail the Voter's Guide, and, pursuant to AO 1984-37, this initial expenditure appears to constitute an in-kind contribution by Montana NARAL both to National NARAL PAC and to the Mudd and Williams committees in violation of 2 U.S.C. § 441b(a). As for the other Voter's Guide expenses listed on the allocation sheet, it cannot be determined whether National NARAL PAC paid Mudd's share or Williams's share in advance because it is not known precisely when the guide was produced or mailed, or the disbursements in question made.

Second, Montana NARAL does not appear to have allocated any personnel costs, much less personnel costs computed at the usual and normal charge for similar services from nonconnected vendors of similar expertise, to the Voter's Guide. While the disclaimer indicates that much of the Voter's Guide was assembled through "volunteer efforts," and the NARAL response also indicates that an intern whose compensation was listed as a "miscellaneous expense" on the allocation sheet worked on the Voter's Guide, it would strain credulity to assume that neither Frazer nor any other full-time employee of Montana NARAL had any editorial input or oversight role with respect to the Voter's Guide. The as-yet-unknown personnel costs attributable to such full-time employees' work on the Voter's Guide would also constitute an in-kind contribution from Montana NARAL to both National NARAL PAC and the Williams and Mudd committees, in violation of 2 U.S.C. § 441b(a).

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Accordingly, with respect to the facts surrounding the Voter's Guide, this Office recommends that the Commission find reason to believe that National NARAL PAC and Goldman, as treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 106.1(a)(1); and that Montana NARAL; the Williams committee, and Seifert, as treasurer; and the Mudd committee, and Margaret Mudd, as treasurer, violated 2 U.S.C. § 441b(a).

**b. Phone Banks**

As noted supra at 13-14, Frazer acknowledged that Montana NARAL conducted phone banks on behalf of the Mudd and Williams campaigns, but asserted that, with one exception, Montana NARAL incurred no costs associated with the phone banks because all of the calling was done by volunteers and all of the telephones and facilities were donated. In the case of the one exception, Frazer averred, Montana NARAL paid a professional consultant \$1,500, which was allocated one-third to Mudd, one-third to Williams, and one-third to a state candidate, based on the calling script.

The script, reproduced at page 31 of Attachment 1, contains seven questions, three of which mention the names of candidates. One of the three mentions Mudd and Burns; one mentions Williams and his opponents; and one mentions candidates for a state legislative race. Based on this evidence, the allocation of the \$1,500 appears to have been made in accordance with 11 C.F.R. § 106.1(a)(1). Accord, 55 Fed. Reg. at 26061 (discussion of phone bank allocation). However, because there is no evidence indicating on what dates the phone calls were made or the \$1,500 disbursed, it cannot be determined from the current record whether National NARAL PAC paid Montana NARAL for these services in advance. In addition, as with the Voter's Guide disbursements, there is no apparent amount that was paid to cover personnel

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costs associated with Montana NARAL employees' involvement with the phone banks. Moreover, while Montana NARAL asserts that the phones and facilities for all but one phone bank were donated, there is currently no evidence in the record as to the identity of the individuals or entities that donated them. Depending on the circumstances, the donations could have resulted in excessive or prohibited contributions from the donors to National NARAL PAC and/or the Mudd and Williams campaigns.

Accordingly, this Office recommends that the Commission find reason to believe that Montana NARAL; National NARAL PAC and Goldman, as treasurer, the Mudd committee and Margaret Mudd, as treasurer, and the Williams committee and Seifert, as treasurer, all violated 2 U.S.C. § 441b(a) with respect to the phone bank activity.

**c. Miscellaneous Expenses**

As noted, the allocation sheet at page 26 of Attachment I records that Montana NARAL made certain miscellaneous disbursements on behalf of the Mudd and Williams campaigns and state candidates. These included a portion of an intern's stipend, plus telephone, postage, shipping, copying and facsimile expenses. Frazer averred that the costs of the intern's stipend were allocated based on a time log kept by the intern, and that the other expenses were allocated based on Frazer's personal knowledge of the activities at issue. However, the intern's time log was not included in the NARAL response, and Frazer provides no further details as to how she allocated the other disbursements.

The total amount of such expenses in the column marked "Actual Gross" on the allocation sheet equals \$959, but the total amount of the "State Pac," "Mudd In-Kind," and "Williams In-Kind" columns in the aggregate equals \$1,107. Because of this discrepancy, and

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given the lack of supporting documentation, this Office is not willing to assume at this time that the allocation of the miscellaneous expenses was correctly computed. Further, because there is no evidence disclosing when these disbursements were made, it is impossible to discern at this point whether National NARAL PAC paid for them in advance. Finally, there is no indication that the costs associated with the intern stipend, or any unallocated compensation costs for other paid Montana NARAL personnel who may have incurred the miscellaneous expenses, were computed based on the usual and normal charge of independent vendors of similar experience and ability.

Accordingly, with respect to the miscellaneous expenses, this Office recommends the Commission find reason to believe that National NARAL PAC and Goldman, as treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 106.1(a)(1), and that Montana NARAL, the Mudd committee and Margaret Mudd, as treasurer, and the Williams committee and Seifert, as treasurer, violated 2 U.S.C. § 441b(a).

#### **4. Radio Advertising**

##### **a. On Behalf of Williams**

As noted, the allocation sheet indicates that Montana NARAL spent \$2,351 on radio advertising in support of Williams's candidacy, and that these disbursements were treated as in-kind contributions from National NARAL PAC to the Williams committee. Again, however, because no evidence has been provided regarding the dates on which the disbursements were made, it is not possible to determine at this stage whether National NARAL PAC paid Montana NARAL in advance. Moreover, there is no information currently in the record concerning the extent to which Montana NARAL personnel were involved in the creation of, or decision-

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making regarding, the radio advertisements. Without this information, it is impossible to determine the amount National NARAL PAC should have included in its payment to Montana NARAL to cover personnel costs. Accordingly, this Office recommends that the Commission find that Montana NARAL, National NARAL PAC and Goldman, as treasurer, and the Williams committee and Seifert, as treasurer, violated 2 U.S.C. § 441b(a) with respect to the radio advertisements on Williams's behalf.

**b. On Behalf of Mudd**

As discussed supra at 15, an article in the "Election 1994 Edition" of "Choice News" contained a reference to "NARAL radio that Jack Mudd is the only candidate for U.S. Senate who trusts women and unlike his opponent would have voted for [the Freedom of Access to Clinic Entrances Act]." Also as discussed, when information in the Commission's disclosure databases is correlated with information in the response, there appears to be no reported disbursement that could account for such radio advertising. Depending on the content and context of the advertisement, the advertisement could have constituted an additional, unreported contribution to the Mudd campaign from National NARAL PAC or Montana NARAL. Depending on the amount and source, this contribution could have been either excessive or prohibited.<sup>12</sup> Accordingly, this Office recommends that the Commission find reason to believe that National NARAL PAC and Goldman, as treasurer, violated 2 U.S.C. §§ 434(b) and 441a(a)(2)(A), or, alternatively, that Montana NARAL violated 2 U.S.C. § 441b(a), and that the Mudd campaign and Margaret Mudd, as treasurer, violated 2 U.S.C. § 434(b) and either 2 U.S.C.

<sup>12</sup> Given the acknowledgement by National NARAL PAC and Montana NARAL that the reported expenditures in this matter were not independent, it would appear that the radio advertisements at issue, if they constituted expenditures at all, would not be independent expenditures.

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§ 441a(f) or 2 U.S.C. § 441b(a), with respect to radio advertising on behalf of the Mudd campaign.<sup>13</sup>

##### 5. "Choice News"

In MCFL, the Supreme Court examined a "Special Edition" of a pro-life organization's newsletter that was prepared and distributed prior to a primary election. "[R]eaders were admonished that '[n]o pro-life candidate can win in November without your vote in September,'" and, in various manners, those candidates who had what the publishers perceived to be pro-life voting records or who had made perceived pro-life statements were identified as such. 479 U.S. at 243-44. The Court held that the newsletter expressly advocated the election or defeat of clearly identified candidates. "The publication not only urges voters to vote for 'pro-life' candidates, but also identifies . . . specific candidates fitting that description. The Edition . . . provides in effect an explicit directive: vote for these (named) candidates. The fact that this message is marginally less direct than 'Vote for Smith' does not change its essential nature." 479 U.S. at 249. See also MUR 3669 (Christian Coalition) ("scorecards" rating candidates' positions as agreeing with, or opposed to, views of publishing organization contained express advocacy where other parts of same communication urged voters to use scorecards in connection with election).

"Choice News" similarly contains express advocacy. At two locations in the newsletter, Mudd's opponent Burns is identified as "earning a 0% voting record from NARAL" in all but

<sup>13</sup> In the interest of expeditious resolution of this matter, this Office does not at this time recommend any findings on this issue with respect to National NARAL or Montana NARAL PAC, neither of which have been notified of the complaint in this matter. Should discovery with respect to National NARAL PAC and Montana NARAL indicate that either National NARAL or Montana NARAL PAC violated the Act, this Office will recommend appropriate reasons to believe findings at that time.

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one year of his tenure in the Senate; he is also characterized as "having repeatedly voted against women and choice," while Mudd is described as "the only candidate for U.S. Senate who trusts women." At another point in the newsletter, "[e]lecting pro-choice candidates who favor maintaining freedom of access to complete reproductive health services" is described as "our best chance" of achieving Montana NARAL's goals, and readers are urged to "get [themselves] and [their] pro-choice friends to the polls on November 8." Burns is clearly identified as the candidate who is "against . . . choice," and the readers are urged to elect "pro-choice candidates." Thus, "Choice News" contains express advocacy in almost precisely the same manner as the "Special Edition" in MCFI.

Nonetheless, the law permitted Montana NARAL to include express advocacy in "Choice News" if distribution of "Choice News" was limited to Montana NARAL's members and its executive and administrative personnel and their families. 2 U.S.C. §§ 431(9)(B)(iii); supra at 5-6 and n.5. Montana NARAL asserts that "Choice News" was mailed only to its members and to NARAL-related entities. However, it remains unknown whether "Choice News" was distributed by any other means to any other recipients, or whether the recipients qualified as "members" of Montana NARAL within the meaning of 11 C.F.R. § 114.1(e)(2).<sup>14</sup> Furthermore, Dave Hunter is identified on the "PAC Page" of "Choice News" as the chair of Montana NARAL PAC; news articles appended to the complaint indicate that during roughly the same period of time, Hunter took a position as a "senior advisor" to Mudd's campaign. Complaint, Exhibits I ("Choice

<sup>14</sup> Inasmuch as the "Election 1994" edition of "Choice News" was included as an exhibit to the complaint, it appears possible that at least one copy may have been distributed to someone not a member of Montana NARAL. While distribution of a de minimis number of copies of "Choice News" outside the restricted class would not violate the Act, Advisory Opinion 1978-97, at this stage of this enforcement matter possession of a copy of "Choice News" by the complainant raises questions regarding the extent of the distribution.

News") and 4 (news accounts). Thus, it would appear that "Choice News" may have been coordinated in some fashion with a representative of Mudd's campaign, thereby making its distribution outside Montana NARAL's restricted class not merely a prohibited expenditure, but a prohibited contribution.<sup>15</sup> Accordingly, this Office recommends that the Commission find reason to believe that Montana NARAL and the Mudd committee and Margaret Mudd, as treasurer, violated 2 U.S.C. § 441b(a) with respect to "Choice News."

### 6. Reporting

Given the conclusions above that some or all of the transactions in this matter may have amounted to prohibited corporate in-kind contributions or advances from Montana NARAL to both National NARAL PAC and the Mudd and Williams committees, it follows that some or all of the purported in-kind contributions from National NARAL PAC to the Mudd and Williams committees may have been reported incorrectly. Additionally, some of the transactions occurred within the 48-hour notice period but were not reflected on 48-hour notices; the extent of such transactions and the identity of the contributors involved (i.e., whether the contributor was National NARAL PAC or Montana NARAL) cannot be determined absent further discovery. Accordingly, this Office recommends the Commission find reason to believe that National NARAL PAC and Goldman, as treasurer, violated 2 U.S.C. § 434(b), and that the Williams committee and Seifert, as treasurer, and the Mudd committee and Margaret Mudd, as treasurer, violated 2 U.S.C. §§ 434(a)(6)(A) and (b).

<sup>15</sup> In *Clifton v. FEC*, the district court rejected as overbroad a standard for coordination under Section 441b in which mere contact with a candidate's agents was enough to trigger Section 441b's prohibition on corporate contributions. In the first place, the Commission has determined to appeal the *Clifton* decision, and we do not recommend that its reasoning be applied to this case. In the second place, it is entirely possible, based on the limited record at this point, that coordination between Montana NARAL and the Mudd campaign went beyond mere contact

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### III. DISCOVERY

Based on the evidence currently available, it is not possible to determine the exact amount at issue in this matter. The known amount does not exceed (and may be substantially less than) \$8,950. However, this figure does not include any of Montana NARAL's personnel costs (except for a portion of the intern's stipend); the value of the donated use of telephones for the Montana NARAL phone banks; the value of the radio advertisements stating that "Jack Mudd is the only candidate for U.S. Senate who trusts women;" or the amounts expended on the "Election 1994" edition of "Choice News." Moreover, we do not yet know the identities of the donors of the telephones used for the phone banks or of the persons or entities who paid for the radio advertisements on behalf of Mudd. Finally, because we do not know the dates or amounts of each of Montana NARAL's disbursements in connection with the activities at issue, we cannot determine which disbursements were paid for in advance by National NARAL PAC, and therefore cannot determine the extent of the potential violations of 2 U.S.C. § 441b(a).

However, while the information needed to resolve this matter is extensive, it is also relatively straightforward, and it would appear that most of it could be obtained from Montana NARAL. Accordingly, this Office is hopeful that it can obtain the information through written discovery, and that it could soon thereafter make recommendations to the Commission concerning whether and how to further proceed in this matter. This Office therefore recommends that the Commission approve the attached Subpoenas to Produce Documents and Orders to Provide Written Answers directed to Montana NARAL and the Mudd committee.

### IV. RECOMMENDATIONS

1. With respect to radio advertisements referencing Jack Mudd.

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a. Find reason to believe that the National Abortion and Reproductive Rights Action League PAC and Evan J. Goldman, as treasurer, violated 2 U.S.C. §§ 434(b) and 441a(a)(2)(A).

b. Find reason to believe that Montana National Abortion and Reproductive Rights Action League violated 2 U.S.C. § 441b(a).

c. Find reason to believe that Jack Mudd for U.S. Senate and Margaret Mudd, as treasurer, violated 2 U.S.C. § 434(b) and either 2 U.S.C. § 441a(f) or 2 U.S.C. § 441b(a).

2. With respect to other activity at issue in this matter:

a. Find reason to believe that the National Abortion and Reproductive Rights Action League PAC and Evan J. Goldman, as treasurer, violated 2 U.S.C. §§ 434(b) and 441b(a), and 11 C.F.R. § 106.1(a)(1).

b. Find reason to believe that Montana National Abortion and Reproductive Rights Action League violated 2 U.S.C. § 441b(a).

c. Find reason to believe that Jack Mudd for U.S. Senate and Margaret Mudd, as treasurer, violated 2 U.S.C. §§ 434(a)(6)(A), 434(b), and 441b(a).

d. Find reason to believe that A Lot Of Folks For Pat Williams and Si Seifert, as treasurer, violated 2 U.S.C. §§ 434(a)(6)(A), 434(b), and 441b(a).

3. Approve the attached Factual and Legal Analyses.

4. Approve the attached Subpoenas to Produce Documents and Orders to Provide Written Answers.

5. Approve the appropriate letters.

Lawrence M. Noble  
General Counsel

July 3, 1996  
Date

BY: Lois G. Lerner by AAS  
Lois G. Lerner  
Associate General Counsel

Attachments

- 1. NARAL Response
- 2. Mudd Response

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- 3. Williams Response
- 4. Williams Supplemental Response
- 5. Factual and Legal Analyses
- 6. Subpoenas and Orders

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**MEMORANDUM**

**TO:** LAWRENCE M. NOBLE  
GENERAL COUNSEL

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

**DATE:** JULY 11, 1996

**SUBJECT:** MUR 4131 - FIRST GENERAL COUNSEL'S REPORT  
DATED JULY 3, 1996.

The above-captioned document was circulated to the Commission  
on: Monday, July 8, 1996 at 11:00 a.m.

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

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

This matter will be placed on the meeting agenda for:  
Tuesday, July 16, 1996

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

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) MUR 4131  
National Abortion and Reproductive )  
Rights Action League PAC and )  
Evan J. Goldman, as treasurer; )  
Montana National Abortion and )  
Reproductive Rights Action )  
League; )  
Jack Mudd for U.S. Senate and )  
Margaret Mudd, as treasurer; )  
A Lot of Folks for Pat Williams )  
and Si Seifert, as treasurer )

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on July 16, 1996, do hereby certify that the Commission decided by a vote of 4-0 to take the following actions in MUR 4131:

1. With respect to radio advertisements referencing Jack Mudd:
  - a. Find reason to believe that the National Abortion and Reproductive Rights Action League PAC and Evan J. Goldman, as treasurer, violated 2 U.S.C. §§ 434(b) and 441a(a)(2)(A).
  - b. Find reason to believe that the Montana National Abortion and Reproductive Rights Action League violated 2 U.S.C. § 441b(a).

(continued)

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Federal Election Commission  
Certification for MUR 4131  
July 16, 1996

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- 26043742958
- c. Find reason to believe that Jack Mudd for U.S. Senate and Margaret Mudd, as treasurer, violated 2 U.S.C. § 434(b) and either 2 U.S.C. § 441a(f) or 2 U.S.C. § 441b(a).
2. With respect to other activity at issue in this matter:
    - a. Find reason to believe that the National Abortion and Reproductive Rights Action League PAC and Evan J. Goldman, as treasurer, violated 2 U.S.C. §§ 434(b) and 441b(a), and 11 C.F.R. § 106.1(a)(1).
    - b. Find reason to believe that Montana National Abortion and Reproductive Rights Action League violated 2 U.S.C. § 441b(a).
    - c. Find reason to believe that Jack Mudd for U.S. Senate and Margaret Mudd, as treasurer, violated 2 U.S.C. §§ 434(a)(6)(A), 434(b), and 441b(a).
    - d. Find reason to believe that A Lot of Folks For Pat Williams and Si Seifert, as treasurer, violated 2 U.S.C. §§ 434(a)(6)(A), 434(b), and 441b(a).
  3. Approve the Factual and Legal Analyses attached to the General Counsel's July 3, 1996 report.

(continued)

4. Take no further action in this matter and close the file.
5. Approve appropriate letters pursuant to the actions noted above.

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

Attest:

7-17-96  
Date

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

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

July 23, 1996

Ms. Margaret Mudd, Treasurer  
Jack Mudd for U.S. Senate  
20 Willowbrook  
Missoula, Montana 59802

RE: MUR 4131  
Jack Mudd for U.S. Senate  
and Margaret Mudd, as treasurer

Dear Ms. Mudd:

On July 16, 1996, the Federal Election Commission found reason to believe that Jack Mudd for U.S. Senate and you, as treasurer, violated 2 U.S.C. § 434(b) and either 2 U.S.C. § 441a(f) or 2 U.S.C. § 441b(a), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"), with respect to radio advertisements referencing Jack Mudd, and 2 U.S.C. §§ 434(a)(6)(A), 434(b), and 441b(a), provisions of the Act, with respect to other activity at issue in this matter. However, after considering the circumstances of this matter, the Commission also determined to take no further action and closed its file. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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

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

Sincerely,  
  
John Warren McGarry  
Vice Chairman

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**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: **Jack Mudd for U.S. Senate  
and Margaret Mudd, as treasurer\***

MUR: 4131

**I. GENERATION OF MATTER**

This matter was generated by a complaint filed with the Federal Election Commission by Edwina Rogers, as general counsel of the National Republican Senatorial Committee. See 2 U.S.C. § 437g(a)(1).

**II. FACTUAL AND LEGAL ANALYSIS**

**A. Applicable Law**

The Federal Election Campaign Act of 1971, as amended ("the Act") defines an "independent expenditure" as

an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate or agent of such candidate.

2 U.S.C. § 431(17). Conversely, any expenditure "made by any person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution," rather than an independent expenditure. 2 U.S.C. § 441a(a)(7)(B)(i).

\* Chet Blaylock was treasurer of Jack Mudd for U S Senate at the time the events at issue in this matter took place. By letter dated May 15, 1996, Jack Mudd for U S Senate informed the Commission that Margaret Mudd was its new treasurer

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The Act limits the amount of contributions individuals and groups may make.

Specifically, the Act provides that no multicandidate political committee shall make contributions "to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$5,000[.]" 2 U.S.C. § 441a(a)(2)(A).

The Act also makes it illegal for any candidate or committee to knowingly accept such a contribution. 2 U.S.C. § 441a(f). The term "contribution" includes "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office." 2 U.S.C. § 431(8)(A)(i). In turn, the term "anything of value" includes the in-kind provision of any goods or services. 11 C.F.R.

§ 100.7(a)(1)(iii)(A).

It is unlawful for any corporation to make a contribution in connection with a Federal election, or for any candidate or committee to knowingly accept such a contribution. 2 U.S.C. § 441b(a). It is also unlawful for any corporation, other than those described by the Supreme Court in FEC v. Massachusetts Citizens for Life, Inc., 479 U.S. 238 (1986) ("MCFL"), to make any expenditure in connection with a Federal election. See 2 U.S.C. § 441b(a).<sup>1</sup> A corporation's payment of compensation to an individual who renders services to a campaign committee or a candidate would constitute a gift of services as well as an indirect payment or a gift of something of value to the committee or candidate. 11 C.F.R. § 100.7(a)(3); Advisory Opinions 1984-37, 1984-24, 1978-6 and 1976-70. The Act excludes from the definition of "contribution" or "expenditure," however, the "establishment, administration and solicitation of contributions to a

<sup>1</sup> New 11 C.F.R. § 114.10, effective October 5, 1995, delineates precisely which corporations are such "qualified nonprofit corporations." But see Minnesota Citizens Concerned for Life, Inc. v. FEC, Civil No. 3-95-1147 (D. Minn. Apr. 19, 1996) (invalidating 11 C.F.R. § 114.10 as "too restrictive" and "contrary to a constitutional right," and therefore void under the Administrative Procedure Act). This regulation was not in effect at the time of the activity at issue here.

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separate segregated fund to be utilized for political purposes by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock.”

2 U.S.C. § 441b(b)(2)(C). Except for specified exceptions involving certain communications, infra, the Act generally requires that corporations, including incorporated membership organizations, direct and finance their political activities solely through the use of the voluntary contributions in their separate segregated funds and not through the use of general treasury funds. 117 Cong. Rec. 43381 (remarks of Representative Hansen).

Expenditures made on behalf of more than one clearly identified Federal candidate shall be attributed to each such candidate according to the benefit reasonably expected to be derived. 11 C.F.R. § 106.1(a)(1). In the case of a publication, the attribution shall be determined by the proportion of space devoted to each candidate as compared to the total space devoted to all candidates. Id. These methods shall also be used to allocate payments involving both expenditures on behalf of one or more clearly identified Federal candidates and disbursements on behalf of one or more clearly identified non-Federal candidates. Id.

Under regulations in effect at all times relevant to this matter, incorporated membership organizations were permitted to make communications, including partisan communications, to their members and executive and administrative personnel, and their families, notwithstanding the general prohibition on the use of corporate treasury funds in connection with elections to Federal office. 11 C.F.R. § 114.3(a)(2) (1994); cf. 2 U.S.C. § 431(9)(B)(iii) (exempting disbursements for such communications from definition of “expenditure”). No corporation was

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permitted to make contributions or expenditures for partisan communications to the general public. 11 C.F.R. § 114.3(a)(1)(1994).<sup>2</sup>

According to Commisison regulations, a member of a membership organization is any person who currently satisfies the requirements for membership in a membership association, affirmatively accepts the association's invitation to become a member, and either (i) has some significant financial attachment to the membership association other than the mere payment of dues, (ii) is required to pay on a regular basis a specific amount of dues and is entitled to vote directly either for at least one member who has full participatory and voting rights on the highest governing body of the membership association, or for those who select at least one member thereof, or (iii) is entitled to vote directly for all of those on the highest governing body of the membership association. 11 C.F.R. § 114.1(e)(2). In Chamber of Commerce of United States v. FEC, 69 F.3d 600 (D.C. Cir. 1995), reh'g denied, No. 94-5339, WL 86152 (D.C. Cir. March 1, 1996), this interpretation of "member" was rejected as going too far beyond the Supreme Court's observation in FEC v. National Right to Work Comm. ("NRWC"), 459 U.S. 197, 204 (1982), that the term "member" in the Act required "some relatively enduring and independently significant financial or organizational attachment" to the organization. Following NRWC but

<sup>2</sup> New regulations that became effective March 13, 1996 deleted the prohibition on "corporate and labor organization expenditures for 'partisan' communications to the general public because revised section 114.4 establishes that such communications are only prohibited if they contain express advocacy or are impermissibly coordinated with candidates or political committees." Explanation and Justification for Regulations on Corporate and Labor Organization Activity, Express Advocacy and Coordination with Candidates, 60 Fed. Reg. 64260, 64265 (December 14, 1995). In turn, these changes were made in light of judicial interpretations that applied 2 U.S.C. § 441b's prohibition on corporate expenditures (as opposed to its prohibition on corporate contributions) only to expenditures encompassing express advocacy of the election or defeat of a clearly identified Federal candidate. See Explanation and Justification for Regulations on Express Advocacy, Independent Expenditures, Corporate and Labor Organization Expenditures, 60 Fed. Reg. 35292-93 (July 6, 1995) (discussing MCFL, 479 U.S. at 249, Faucher v. FEC, 928 F.2d 468 (1st Cir.), cert. denied sub nom. FEC v. Keefer, 502 U.S. 820 (1991), and FEC v. National Organization of Women, 713 F.Supp. 428 (D.D.C. 1989)). Accordingly, this analysis applies an express advocacy standard, rather than a "partisan/nonpartisan" standard, to the question of whether Montana NARAL distributed its newsletter beyond its restricted class. Infra at 24-25.

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prior to the 1993 adoption of the regulation in question, the Commission determined whether persons were "members" by examining whether they had a right to participate in the governance of the organization and an obligation to help sustain the organization through regular financial contributions of a predetermined minimum amount. Advisory Opinions 1992-41, 1988-39, 1987-13, 1987-5, 1985-11, 1984-33. Where participatory rights in the organization were lacking, the Commission consistently found the requisite attachment lacking. AOs 1987-13, 1985-11, 1984-22.

Under regulations in effect during the time at issue here, "expressly advocating" meant any communication containing a message advocating election or defeat, including but not limited to the name of the candidate, or expressions such as *vote for*, *elect*, *support*, *cast your ballot for*, and *Smith for Congress*, or *vote against*, *defeat* or *reject*. 11 C.F.R. § 109.1(b)(2) (1994).<sup>3</sup>

Political committees registered with the Commission are required to file periodic reports of receipts and disbursements. 2 U.S.C. § 434. In particular, 2 U.S.C. § 434(b)(3)(A) requires treasurers of committees to identify each person (other than a political committee) who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions have an aggregate amount or value in excess of \$200 within the calendar year, together with the date and amount of any such contribution. In addition, principal campaign committees of candidates for United States Senator in the 1994 general election were required to notify in writing the Secretary of the Senate and the Secretary of State of the state in which they

<sup>3</sup> New regulations in effect October 5, 1995, significantly expanded and explained this definition. 11 C.F.R. § 100.22. But see *Maine Right to Life Comm., Inc. v. FEC*, 914 F. Supp. 8 (D. Me. 1996), reh'g denied, 95-261-B-H (Mar. 8, 1996) (invalidating new 11 C.F.R. § 100.22(b)).

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were a candidate of each contribution totaling \$1,000 or more, received by any authorized committee of the candidate after the 20th day but more than 48 hours before any election.

2 U.S.C. § 434(a)(6)(A). The Act further requires notification to be made within 48 hours after the receipt of the contribution and to include the name of the candidate and office sought, the date of receipt, the amount of the contribution, and the identification of the contributor. *Id.* The requirement for notification of these contributions is in addition to all other reporting requirements. 2 U.S.C. § 434(a)(6)(B).

**B. The Complaint**

The complaint notes that the "Election 1994" edition of "Choice News," a publication of the Montana National Abortion and Reproductive Rights Action League ("Montana NARAL"), stated that "Persuasion and Get Out the Vote calls to turn out pro-choice voters for Jack Mudd, Pat Williams, and local Missoula races will commence shortly before the election," and that Montana NARAL would distribute a Voter's Guide to 35,000 Montana voters. Complaint at 3-4. (Jack Mudd was a candidate in the 1994 general election for United States Senator from Montana; Jack Mudd for U.S. Senate ("the Mudd committee" or "the Mudd campaign") was his principal campaign committee.) "Choice News" itself, according to the complaint, was distributed "to an unknown number of potential Montana voters." *Id.* at 3. The complaint alleges that the Voter's Guide was mailed, the phone calls were made, and that Montana NARAL also made "literature 'drops'" on behalf of the Mudd candidacy. *Id.* at 4.

The complaint alleges that expenditures for these activities could not have been independent because Dave Hunter, who was named in "Choice News" as "chair of the PAC Committee of the Montana NARAL Choice Political Action Committee," was also "a senior advisor to . . . Mudd." *Id.* Accordingly, the complaint alleges, the Mudd committee violated

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2 U.S.C. § 441b by receiving prohibited corporate contributions from Montana NARAL. *Id.* at 3-4. Alternatively, the complaint alleges, even if the expenditures were made by the National Abortion and Reproductive Rights Action League PAC ("National NARAL PAC") and not Montana NARAL, the activities in question "[o]bviously . . . cost well in excess of" \$5,000; therefore, the complaint alleges, the Mudd campaign violated 2 U.S.C. § 441a(f) by receiving excessive contributions from National NARAL PAC. Finally, the complaint alleges that the Mudd campaign violated 2 U.S.C. § 434(a)(6)(A) by failing to file 48-hour notices for the alleged contributions.

C. Relevant Facts

1. NARAL Structure

At the outset, it may be helpful to outline the relationships between the various NARAL entities at issue in this matter. The National Abortion and Reproductive Rights Action League, Inc. ("National NARAL"), f/k/a the National Abortion Rights Action League, Inc., was a respondent in MUR 3109. Documents in the record of that matter indicate that National NARAL is a non-profit corporation, incorporated under the laws of the District of Columbia, and recognized by the Internal Revenue Service as a nonprofit organization described in 26 U.S.C. § 501(c)(4). According to documents on file with the Commission, the National Abortion and Reproductive Rights Action League PAC ("National NARAL PAC") is the separate segregated fund of National NARAL. National NARAL PAC is also qualified as a multicandidate committee as defined at 2 U.S.C. § 441a(a)(4).

Montana NARAL describes itself in documents in the Commission's possession as "a membership organization, organized and operated as a non-profit corporation under Montana law." These documents provide no details on the formal relationship between National NARAL

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and Montana NARAL. However, National NARAL's corporate by-laws, which are included in the record of MUR 3109, indicate that National NARAL encourages the formation of state affiliates, which are recognized as such under procedures set forth by National NARAL's board of directors. Given this provision of National NARAL's by-laws, it appears that Montana NARAL may be a state affiliate of National NARAL. Finally, the Montana National Abortion and Reproductive Rights Action League Choice PAC ("Montana NARAL PAC") is described in documents in the Commission's possession as "a Montana state PAC, organized and operated under Montana law." No committee by that name is registered with the Commission. Although the nature of any formal relationship between Montana NARAL and Montana NARAL PAC under Montana election law is not described in the documents, Eliza Frazer, the executive director of Montana NARAL, averred that she is also the treasurer of Montana NARAL PAC.

**2. Services Purportedly Purchased By National NARAL PAC from Montana NARAL**

Responding on behalf of his committee, Mudd essentially conceded that none of the expenditures at issue in this matter were independent. Similarly, in documents in the Commission's possession, National NARAL PAC and Montana NARAL asserted that the expenditures were purchases of grassroots political organizing services from Montana NARAL by National NARAL PAC that amounted to in-kind contributions from National NARAL PAC to Jack Mudd for U.S. Senate.

This section of this analysis will first recount the history of the transactions between National NARAL PAC and Montana NARAL on behalf of the Mudd campaign. It will then examine the services, provided by Montana NARAL, that were purportedly paid for by the National NARAL PAC payments

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a. **Payment History between National NARAL PAC and Montana NARAL**

Based on Mudd's response on behalf of his committee, on an affidavit of National NARAL PAC treasurer Evan J. Goldman that is in the Commission's possession, on information in disclosure reports, and on other information in the Commission's possession, it is possible to construct a chronology of National NARAL PAC's purported contributions to Mudd in the general election. This chronology is set forth in the following table:

<u>Payment Date</u>	<u>Payee</u>	<u>Amount</u>	<u>Purpose</u>
9/23/94	Montana NARAL	\$1,000	In-kind, Mudd
10/19/94	Mudd committee	\$2,000	Direct contribution
10/27/94	Montana NARAL	\$500	In-kind, Mudd
11/10/94	Montana NARAL	\$1,222.36	In-kind, Mudd
11/10/94	Montana NARAL	\$277.64	In-kind, Mudd
11/10/94	MT Alliance for Progressive Policy	\$80.70	In-kind, Mudd

The total amount of National NARAL PAC's reported general election contributions to the Mudd campaign equaled \$5,080.70.

In January, 1995, National NARAL PAC and Montana NARAL apparently determined that Montana NARAL had not expended on the Mudd campaign all of the money that National NARAL PAC had transferred to it for that purpose. Accordingly, on January 31, 1995, National NARAL PAC filed an amended 1994 October Monthly Report, in which its \$1,000 in-kind contribution to the Mudd committee dated September 23, 1994 was reduced to \$467.28. The difference was apparently retained by Montana NARAL, and was reported on National NARAL

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PAC's amended report as transfers by National NARAL PAC to an affiliated organization. After the amendment, the total amount of reported general election contributions from National NARAL PAC to the Mudd campaign equaled \$4,547.87.

**b. Services Provided by Montana NARAL**

In an affidavit in the Commission's possession, Frazer, Montana NARAL's executive director, described the activities Montana NARAL undertook on behalf of the Mudd campaign. Frazer acknowledged that Montana NARAL produced and mailed a "Voter's Guide."<sup>4</sup> Frazer did not state to whom the Voter's Guide was mailed, or how many voter guides were mailed. The guide expressly advocated the election of Mudd as U.S. Senator and Pat Williams as U.S. Representative; it also contained Montana NARAL PAC's endorsements in races for the Montana state legislature, and solicited contributions to Montana NARAL PAC. Frazer averred that, based on the proportional amount of space devoted to each candidate, she allocated 23.6 percent of the Voter's Guide's cost as an in-kind contribution from National NARAL PAC to the Mudd campaign. The one exception to the allocation, she averred, was a \$60 expense for pizza to feed volunteers who worked on the Voter's Guide; this expense was evidently allocated entirely to state candidates.

<sup>4</sup> As used in this analysis, the terms "voter guide" or "Voter's Guide" do not have the same meaning as the term "voter guide" used as a term of art in the Commission's regulations. There, the term "voter guide" refers to a publication paid for by the general treasury of a corporation or labor organization and directed to the general public that contains statements of the positions on campaign issues of two or more candidates for election to a Federal office and that, depending on the degree of coordination between the publisher of the guide and the candidates or their committees or agents, may not contain express advocacy or an electioneering message. By meeting these requirements, a voter guide, as described by the regulations, may be paid for by the corporation or union's general treasury without being deemed a contribution or expenditure. 11 C.F.R. § 114.4(c)(5), but see *Clifton v. FEC*, Civ. No. 96-66-P-H, slip op. at 16 (D. Me. May 20, 1996) (invalidating 11 C.F.R. § 114.4(c)(5) as *ultra vires*). As noted, no claim has been made that disbursements for the "Voter's Guide" in this matter were anything other than contributions. The publication at issue was more akin to a slate card. Nevertheless, in the interest of being consistent with terminology used in both the complaint and in other relevant documents in the Commission's possession, this analysis will refer to the publication as the "Voter's Guide."

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Frazer also acknowledged that Montana NARAL, "on behalf of [National] NARAL-PAC," conducted phone banks in support of the Mudd campaign. However, she averred, with one exception "these phone banks did not cost [Montana] NARAL anything. [Montana] NARAL was not required to pay for the telephone lines or facilities used to conduct these phone banks. It also did not pay people to place the calls -- all callers volunteered their time free of charge." The one exception was a phone bank that made calls to potential voters in Missoula, Montana; for that bank, Montana NARAL "paid an independent contractor \$1500[.]" Frazer asserted that based on the proportion of the caller script devoted to questions concerning Mudd, she allocated one-third of the cost of the Missoula phone bank, or \$500, as an in-kind contribution from National NARAL PAC to the Mudd campaign.

In addition, Frazer averred that Montana NARAL incurred certain miscellaneous expenses on behalf of the Mudd campaign that were paid for by National NARAL PAC. These apparently included a portion of the compensation of an intern who worked on projects related to the Mudd campaign, as well as telephone, postage, shipping, copying and facsimile charges. These expenses were also allocated between the Mudd campaign, the Williams campaign, and Montana NARAL PAC's support of candidates for state office. Addressing in her affidavit only the expenses allocated to the Mudd campaign, Frazer averred that she allocated these expenses "based on my knowledge of the costs incurred by [Montana] NARAL for Jack Mudd for U.S. Senate on behalf of [National] NARAL-PAC." No information was provided in Frazer's affidavit regarding the relationship, if any, between the "miscellaneous expenses" and either the Voter's Guide or the telephone banks. Frazer also averred that Montana NARAL had incurred further miscellaneous expenses in support of the Mudd campaign that had not yet been billed and thus were not included on the allocation sheet attached to her affidavit, but that the

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aggregate value of these expenses was less than the \$555 balance remaining at the time from NARAL PAC's prior payments to Montana NARAL.

**3. Radio Advertising**

In the "Election 1994" edition of "Choice News," which was appended to the complaint as an exhibit, an article criticizing Republican Senate nominee Conrad Burns's position on the Freedom of Access to Clinic Entrances Act ("FACE") states that

[Burns's] insensitivity to women's issues is all to [sic] evident in his latest campaign radio ads now airing in Kalispell . . . The Burns radio spot is in response to NARAL radio that Jack Mudd is the only candidate for U.S. Senate who trusts women and unlike his opponent would have voted for FACE.

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Complaint, Exhibit 1, at 1. There is no record in Commission disclosure databases of any National NARAL PAC contributions to Mudd's general election campaign other than the \$2,000 monetary contribution and the purportedly in-kind payments already discussed, nor are there any records in the databases of any independent expenditures on Mudd's behalf by National NARAL or National NARAL PAC. Moreover, in documents in the Commission's possession, Montana NARAL affirmatively represented that "[n]either [Montana] NARAL nor [National] NARAL, Inc made any contributions or independent expenditures to or on behalf of the Jack Mudd for U.S. Senate campaign," and National NARAL PAC treasurer Goldman averred in a sworn affidavit that "[d]uring the 1994 election cycle, [National] NARAL-PAC did not make any independent expenditures on behalf of Jack Mudd for U.S. Senate." Thus, it is unclear who paid for the "NARAL radio" referred to in "Choice News."

**4. "Choice News"**

The information in the complaint raises a question as to whether any person violated the Act in connection with Montana NARAL's use of its corporate resources to mail the "Election

1994" issue of "Choice News" to "an unknown number of potential voters in Montana." Frazer averred that 709 copies of "Choice News" were mailed, 673 of which were mailed to members of Montana NARAL and 36 of which were mailed to "NARAL-affiliated entities." Frazer's affidavit did not state how many copies of "Choice News" were printed or whether, and to whom, any copies were distributed by means other than mailing.

The "Election 1994" edition of "Choice News," which, as noted, was attached to the complaint, is an eight-page newsletter. Most of the articles in the newsletter appear to have little or no relation to the 1994 election; for instance, there are articles concerning the organization's new board, the activities of an intern, a raffle, and news from various Montana NARAL chapters. But other articles contain references to the 1994 elections and candidates in them, especially Senate candidates Mudd and Burns. The front-page article, "Three Arsons in Three Years . . . And Burns calls this Freedom of Speech," notes that "Conrad Burns has earned a 0% voting record from NARAL in 4 of 5 years," criticizes Burns's opposition to the Freedom of Access to Clinic Entrances Act, and contains the statement discussed supra that "Jack Mudd is the only candidate for U. S. Senate who trusts women." On the second page, an article entitled "Violence and the Freedom of Choice" states:

Our fight is to protect our right to a complete range of reproductive health care, including family planning, contraception, sexuality education, and abortion . . . Electing pro-choice candidates who favor maintaining freedom of access to complete reproductive health care services is our best chance to protect this right  
Most importantly, get yourself and your pro-choice friends to the polls on November 8.

On the third page, which contains the overall headline "PAC PAGE[ ]Activities of the MT NARAL Choice Political Action Committee," an article entitled "Voters' Guide Coming Soon!" states

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A major focus of this year's Guide is the sharply contrasting record of U.S. Senate incumbent, Conrad Burns, and his challenger, Jack Mudd. Burns has repeatedly voted against women and choice, earning a 0% voting record every year from NARAL except 1993.

Finally, the newsletter contains, on the third and fifth pages, the references to "persuasion and get out the vote calls" referred to in the discussion of the complaint. The Commission possesses no information regarding the financial or organizational attachments that existed between Montana NARAL and its "members."

D. Analysis

1. Summary

In two 1984 advisory opinions, the Commission set forth the requirements for transactions in which a separate segregated fund purports to make in-kind contributions to candidates by purchasing goods and services from the fund's connected organization. Three requirements from those opinions are relevant here. First, the fund must pay the connected organization in advance. Second, the payment must include an amount to cover the connected organization's personnel costs associated with the in-kind contributions, and this amount must not be less than the usual and normal charge of independent consultants of similar experience and ability for similar services. Third, if the purported in-kind contributions are on behalf of more than one clearly identified candidate, they must be allocated between the candidates pursuant to 11 C.F.R. § 106.1(a). Some of the purported in-kind contributions from National NARAL PAC to the Mudd committee through Montana NARAL did not meet these requirements, and the Commission is not in possession of sufficient information at this time to determine whether others met them or not. Accordingly, the Mudd committee may have received prohibited corporate contributions from Montana NARAL.

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In addition, the radio advertising on Mudd's behalf that was referred to in "Choice News" may have been an unreported excessive or prohibited in-kind contribution to the Mudd campaign. Finally, the "Election 1994" edition of "Choice News" expressly advocated Burns's defeat and may have been coordinated with a representative of the Mudd campaign. Because it may also have been distributed outside Montana NARAL's restricted class, it may have been a prohibited corporate contribution or expenditure by Montana NARAL to or on behalf of the Mudd campaign.

**2. In-Kind Purchases of Goods and Services from a Connected Organization:  
AOs 1984-24 and 1984-37**

In Advisory Opinions 1984-24 and 1984-37, the Commission considered proposals for two series of transactions similar to those at issue here. In both instances, the separate segregated funds of incorporated membership organizations proposed to make in-kind contributions to candidates by purchasing from the connected organizations on the candidates' behalf the services of corporate employees. In AO 1984-24, the separate segregated fund proposed to pay for these services, and for the use of corporate facilities and goods incidental thereto, either by reimbursing the connected organization for its actual costs plus a surcharge or by making advance payments of estimated costs to an escrow account, from which the corporation would withdraw reimbursement after it determined its actual costs. Under either scenario, the initial disbursement of funds for employee compensation or for other overhead costs was to be made by the connected organization. The request in AO 1984-37 differed in that the separate segregated fund proposed to pay directly to its connected organization in advance the usual and normal charge for the services to be rendered, based on the charges of independent political consultants of similar experience and ability.

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The Commission disapproved the proposal in AO 1984-24 but approved the one in AO 1984-37. Because both payment methods proposed by the requestor in AO 1984-24 "involve[d] the initial disbursement of corporate treasury funds" to compensate employees or pay costs of overhead or supplies and materials, the Commission viewed these disbursements as "loan[s], advance[s], or [things] of value to both the candidate and the . . . separate segregated fund," and concluded that they would be prohibited by 2 U.S.C. § 441b. By contrast, in AO 1984-37, all of the separate segregated fund's payments to the connected organization were to be made in advance; consequently, the Commission determined that there would be "no initial disbursement of corporate treasury funds that constitutes either a loan, advance, or anything of value to either the candidate or [the separate segregated fund]." Moreover, because the separate segregated fund proposed to pay for the consulting services of corporate employees based on the usual and normal charge for such services by independent political consultants of similar experience and ability, the Commission concluded that the separate segregated fund "would not receive anything of value from its dealings with [the connected organization]." However, the Commission noted that because the proposed transactions would result in in-kind contributions from the separate segregated fund to the recipient candidates' committees, the transactions were subject to all applicable limitations and reporting requirements – including the allocation requirement of 11 C.F.R. § 106.1(a).

Three principles from these opinions help decide the matter at hand. First, a separate segregated fund may make in-kind contributions to a candidate by purchasing goods and services from its connected organization on the candidate's behalf, so long as everything is paid for in advance. Second, if the services involve the performance of work by the connected organization's employees, the separate segregated fund's advance payment for such services

must be based on the usual and normal charge for such services by similarly situated independent vendors.<sup>5</sup> Third, if the services benefit more than one Federal candidate, or benefit Federal and non-Federal candidates, the in-kind contributions must be allocated between the candidates in accordance with 11 C.F.R. § 106.1(a)(1). We now turn to the application of these principles to the services purchased by National NARAL PAC from Montana NARAL.<sup>6</sup>

**3. Purchases from Montana NARAL by National NARAL PAC**

**a. Voter's Guide**

**i. Allocation Between Candidates**

At the threshold, it is necessary to ensure that the Voter's Guide's expenses were correctly allocated between Williams, Mudd, and state candidates. As Frazer stated in her affidavit, the Voter's Guide has eight panels. However, only six panels, rather than the 7.5 described in Frazer's affidavit, advocate the election of named candidates. Of these six panels, 2.25 appear to advocate the election of Mudd or the defeat of Burns, rather than the 1.75 noted in Frazer's affidavit; an aggregate of 0.75 panels appear to advocate the election of Williams, consistent with Frazer's affidavit; and three panels advocate the election of non-Federal

<sup>5</sup> Cf. Explanation and Justification for Regulations on Corporate and Labor Organization Activity: Express Advocacy and Coordination with Candidates, 60 Fed. Reg. 64260, 64264 (Dec. 14, 1995). There, in approving new regulations allowing similar advance payment procedures in different circumstances, the Commission required payment in advance of "fair market value," which it defined as

the price that would normally be paid in the marketplace where the corporation or labor organization would normally obtain these goods or services, if reasonably ascertainable. However, in no case is the fair market value less than the corporation or labor organization's actual cost, which includes total compensation earned by all employees [engaged in the activity], plus benefits and overhead.

<sup>6</sup> However, we first note two differences between the facts of this matter and those of AO 1984-37. First, Montana NARAL is not National NARAL PAC's connected organization, rather, it appears to be a state affiliate of National NARAL PAC's connected organization. Second, National NARAL PAC's purported purchase of goods and services apparently included the use of supplies and materials, as well as corporate personnel. However, neither of these distinctions change the applicability of AO 1984-37 to the situation at hand.

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candidates. Of the other two panels, one names no candidates but solicits contributions to Montana NARAL PAC, and one is the "mailer."

As noted, 11 C.F.R. § 106.1(a) provides that in the case of a publication made on behalf of more than one Federal candidate and/or both Federal and non-Federal candidates, the amount attributable to each candidate shall be determined by the proportion of space devoted to the particular candidate in relation to the space devoted to all candidates, rather than the total amount of space in the publication. However, neither the language of the regulation itself nor the Commission's explanation and justification of the specific rule for publications describe how to allocate space in publications parts of which advocate the election of Federal or non-Federal candidates and parts of which do not refer to specific candidates or elections. See Explanation and Justification of Regulations on Methods of Allocation Between Federal and Nonfederal Accounts; Payments; Reporting, 55 Fed. Reg. 26058, 26061 (June 26, 1990). In this case, the calculation must account for costs attributable both to the solicitation panel and the "mailer" panel, as well as those attributable to the panels endorsing Federal or non-Federal candidates.

The "mailer" panel is the easier of the two non-candidate panels to deal with; because it is necessary for the distribution by mail of all the messages contained in the publication, it can be considered attributable to all of those messages in proportion to their space in the remainder of the Voter's Guide. Thus, it need not be considered further. This leaves seven panels, one of which, the solicitation panel, does not have to do with candidates.

In the Commission's opinion, the most equitable way to deal with the solicitation panel is to subtract its proportional cost from the total cost of the Voter's Guide prior to making the particular-candidate-to-all-candidates calculation mandated by Section 106.1(a)(1). This subtraction is made in the following manner:

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Total cost of Voter's Guide =	\$7,214.00
Proportion attributable to solicitation panel = 1/7 =	14.3%
Total cost attributable to solicitation panel = \$7,214.00 x 0.143 =	\$1,031.60
Total cost attributable to all candidates = \$7,214.00 - \$1,031.60 =	\$6,182.40

With that calculation made, it is now possible to apply the formula of 11 C.F.R.

§ 106.1(a)(1) to determine how much of the total cost attributable to all candidates is attributable to Mudd.

Total panels attributable to candidates =	6
Total panels attributable to Mudd =	2.25
Proportion attributable to Mudd = 2.25/6 =	37.5%
Total cost attributable to candidates =	\$6,182.40
Total cost attributable to Mudd = \$6,182.40 x 0.375 =	\$2,318.40
Total cost allocated to Mudd by Montana NARAL =	\$1,688.00
Underallocation = \$2,318.40 - \$1,688.00 =	\$ 630.40

Because the underallocations of \$630.40 with respect to the Mudd campaign appears never to have been paid by National NARAL PAC to Montana NARAL, much less paid in advance, this amount appears to represent illegal corporate contributions from Montana NARAL to the Mudd campaign.

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ii. **Advance Payment and Personnel Costs**

With respect to those portions of the Voter's Guide costs that were allocated, National NARAL PAC's transactions with Montana NARAL met neither of the other conditions for approval of such transactions set forth in AO 1984-37. First, Frazer averred that "in each instance [i.e., with respect to both the Voter's Guide and other disbursements], funds were disbursed from [National] NARAL-PAC to [Montana] NARAL before [Montana] NARAL provided any goods or services to the Jack Mudd campaign on behalf of [National] NARAL-PAC." However, the supporting documentation for her affidavit appears to contradict this assertion in one instance and provides insufficient evidence to sustain it in others. National NARAL PAC reported making in-kind contributions of \$1,222.36 to the Mudd committee and \$502.41 to the Williams committee on November 10, 1994. November 10 was two days after the election. As is apparent from the allocation sheet prepared by Frazer, these amounts equaled the amounts allocated by Montana NARAL to pay for Mudd's and Williams's share of the postage for the Voter's Guide. Assuming the voter guide was mailed before the election, Montana NARAL apparently either paid for the postage and was reimbursed by National NARAL PAC, or received an extension of credit from the U.S. Postal Service for which National NARAL PAC transferred money to Montana NARAL to pay a portion of the outstanding bill. Montana NARAL thus made an initial expenditure of either its money or its credit to mail the Voter's Guide, and, pursuant to AO 1984-37, this initial expenditure appears to constitute an in-kind contribution by Montana NARAL to the Mudd committee in violation of 2 U.S.C. § 441b(a). As for the other Voter's Guide expenses listed on the allocation sheet, it cannot be determined whether National NARAL PAC paid Mudd's share in advance because it is not known precisely when the guide was produced or mailed, or the disbursements in question made.

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Second, Montana NARAL does not appear to have allocated any personnel costs, much less personnel costs computed at the usual and normal charge for similar services from nonconnected vendors of similar expertise, to the Voter's Guide. While the disclaimer indicates that much of the Voter's Guide was assembled through "volunteer efforts," and other documents in the Commission's possession indicate that an intern whose compensation was listed as a "miscellaneous expense" on the allocation sheet worked on the Voter's Guide, it would strain credulity to assume that neither Frazer nor any other full-time employee of Montana NARAL had any editorial input or oversight role with respect to the Voter's Guide. The as-yet-unknown personnel costs attributable to such full-time employees' work on the Voter's Guide would also constitute an in-kind contribution from Montana NARAL to the Mudd committee, in violation of 2 U.S.C. § 441b(a).

Accordingly, with respect to the facts surrounding the Voter's Guide, there is reason to believe that Jack Mudd for U.S. Senate and Margaret Mudd, as treasurer, violated 2 U.S.C. § 441b(a).

**b. Phone Banks**

As noted supra, Frazer acknowledged that Montana NARAL conducted phone banks on behalf of the Mudd campaign, but asserted that, with one exception, Montana NARAL incurred no costs associated with the phone banks because all of the calling was done by volunteers and all of the telephones and facilities were donated. In the case of the one exception, Frazer averred, Montana NARAL paid a professional consultant \$1,500, which was allocated one-third to Mudd, one-third to Williams, and one-third to a state candidate, based on the calling script.

The script contains seven questions, three of which mention the names of candidates. One of the three mentions Mudd and Burns; one mentions Williams and his opponents; and one

mentions candidates for a state legislative race. Based on this evidence, the allocation of the \$1,500 appears to have been made in accordance with 11 C.F.R. § 106.1(a)(1). Accord, 55 Fed. Reg. at 26061 (discussion of phone bank allocation). However, because there is no evidence indicating on what dates the phone calls were made or the \$1,500 disbursed, it cannot be determined from the current record whether National NARAL PAC paid Montana NARAL for these services in advance. In addition, as with the Voter's Guide disbursements, there is no apparent amount that was paid to cover personnel costs associated with Montana NARAL employees' involvement with the phone banks. Moreover, while Montana NARAL asserts that the phones and facilities for all but one phone bank were donated, there is currently no evidence in the record as to the identity of the individuals or entities that donated them. Depending on the circumstances, the donations could have resulted in excessive or prohibited contributions from the donors to the Mudd campaign.

Accordingly, there is reason to believe that Jack Mudd for U.S. Senate and Margaret Mudd, as treasurer, received contributions from Montana NARAL with respect to the phone bank activity in violation of 2 U.S.C. § 441b(a).

**c. Miscellaneous Expenses**

As noted, Frazer's allocation sheet records that Montana NARAL made certain miscellaneous disbursements on behalf of the Mudd campaign, the Williams campaign and state candidates. These included a portion of an intern's stipend, plus telephone, postage, shipping, copying and facsimile expenses. Frazer averred that the costs of the intern's stipend were allocated based on a time log kept by the intern, and that the other expenses were allocated based on Frazer's personal knowledge of the activities at issue. However, the Commission is not in

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possession of the intern's time log, and Frazer provides no further details as to how she allocated the other disbursements.

The total amount of such expenses in the column marked "Actual Gross" on the allocation sheet equals \$959, but the total amount of the "State Pac," "Mudd In-Kind," and "Williams In-Kind" columns in the aggregate equals \$1,107. Because of this discrepancy, and given the lack of supporting documentation, the Commission is not willing to assume at this time that the allocation of the miscellaneous expenses was correctly computed. Further, because there is no evidence disclosing when these disbursements were made, it is impossible to discern at this point whether National NARAL PAC paid for them in advance. Finally, there is no indication that the costs associated with the intern stipend, or any unallocated compensation costs for other paid Montana NARAL personnel who may have incurred the miscellaneous expenses, were computed based on the usual and normal charge of independent vendors of similar experience and ability.

Accordingly, with respect to the miscellaneous expenses, there is reason to believe that Jack Mudd for U.S. Senate and Margaret Mudd, as treasurer, received contributions from Montana NARAL in violation of 2 U.S.C. § 441b(a).

**4. Radio Advertising**

As discussed supra, an article in the "Election 1994 Edition" of "Choice News" contained a reference to "NARAL radio that Jack Mudd is the only candidate for U.S. Senate who trusts women and unlike his opponent would have voted for [the Freedom of Access to Clinic Entrances Act]." Also as discussed, when information in the Commission's disclosure databases is correlated with information in the response, there appears to be no reported disbursement that could account for such radio advertising. Depending on the content and

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context of the advertisement, the advertisement could have constituted an additional, unreported contribution to the Mudd campaign from National NARAL PAC or Montana NARAL.

Depending on the amount and source, this contribution could have been either excessive or prohibited.<sup>7</sup>

Accordingly, there is reason to believe that Jack Mudd for U.S. Senate and Margaret Mudd, as treasurer, violated 2 U.S.C. § 434(b) and either 2 U.S.C. § 441a(f) or 2 U.S.C. § 441b(a) with respect to radio advertising on behalf of the Mudd campaign.

##### 5. "Choice News"

In MCFL, the Supreme Court examined a "Special Edition" of a pro-life organization's newsletter that was prepared and distributed prior to a primary election. "[R]eaders were admonished that '[n]o pro-life candidate can win in November without your vote in September,'" and, in various manners, those candidates who had what the publishers perceived to be pro-life voting records or who had made perceived pro-life statements were identified as such. 479 U.S. at 243-44. The Court held that the newsletter expressly advocated the election or defeat of clearly identified candidates. "The publication not only urges voters to vote for 'pro-life' candidates, but also identifies . . . specific candidates fitting that description. The Edition . . . provides in effect an explicit directive: vote for these (named) candidates. The fact that this message is marginally less direct than 'Vote for Smith' does not change its essential nature." 479 U.S. at 249.

<sup>7</sup> Given the acknowledgement by all parties that the reported expenditures in this matter were not independent, it would appear that the radio advertisements at issue, if they constituted expenditures at all, would not be independent expenditures.

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"Choice News" similarly contains express advocacy. At two locations in the newsletter, Mudd's opponent Burns is identified as "earning a 0% voting record from NARAL" in all but one year of his tenure in the Senate; he is also characterized as "having repeatedly voted against women and choice," while Mudd is described as "the only candidate for U.S. Senate who trusts women." At another point in the newsletter, "[e]lecting pro-choice candidates who favor maintaining freedom of access to complete reproductive health services" is described as "our best chance" of achieving Montana NARAL's goals, and readers are urged to "get [themselves] and [their] pro-choice friends to the polls on November 8." Burns is clearly identified as the candidate who is "against . . . choice," and the readers are urged to elect "pro-choice candidates." Thus, "Choice News" contains express advocacy in almost precisely the same manner as the "Special Edition" in MCFL.

Nonetheless, the law permitted Montana NARAL to include express advocacy in "Choice News" if distribution of "Choice News" was limited to Montana NARAL's members and its executive and administrative personnel and their families. 2 U.S.C. §§ 431(9)(B)(iii); supra at 4 n.2. Montana NARAL asserts that "Choice News" was mailed only to its members and to NARAL-related entities. However, it remains unknown whether "Choice News" was distributed by any other means to any other recipients, or whether the recipients qualified as "members" of Montana NARAL within the meaning of 11 C.F.R. § 114.1(e)(2).<sup>8</sup> Furthermore, Dave Hunter is identified on the "PAC Page" of "Choice News" as the chair of Montana NARAL PAC; news

<sup>8</sup> Inasmuch as the "Election 1994" edition of "Choice News" was included as an exhibit to the complaint, it appears possible that at least one copy may have been distributed to someone not a member of Montana NARAL. While distribution of a *de minimis* number of copies of "Choice News" outside the restricted class would not violate the Act, Advisory Opinion 1978-97, at this stage of this enforcement matter possession of a copy of "Choice News" by the complainant raises questions regarding the extent of the distribution.

articles appended to the complaint indicate that during roughly the same period of time, Hunter took a position as a "senior advisor" to Mudd's campaign. Complaint, Exhibits 1 ("Choice News") and 4 (news accounts). Thus, it would appear that "Choice News" may have been coordinated in some fashion with a representative of Mudd's campaign, thereby making its distribution outside Montana NARAL's restricted class not merely a prohibited expenditure, but a prohibited contribution.

Accordingly, there is reason to believe that the Mudd committee and Margaret Mudd, as treasurer, received a contribution from Montana NARAL in violation of 2 U.S.C. § 441b(a) with respect to "Choice News."

#### 6. Reporting

Given the conclusions above that some or all of the transactions in this matter may have amounted to prohibited corporate in-kind contributions or advances from Montana NARAL to the Mudd committee, it follows that some or all of the purported in-kind contributions from National NARAL PAC to the Mudd committee may have been reported incorrectly.

Additionally, some of the transactions occurred within the 48-hour notice period but were not reflected on 48-hour notices, the extent of such transactions and the identity of the contributors involved (i.e., whether the contributor was National NARAL PAC or Montana NARAL) cannot be determined absent further discovery.

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Accordingly, there is reason to believe that Jack Mudd for U.S. Senate and Margaret Mudd, as treasurer, violated 2 U.S.C. §§ 434(a)(6)(A) and (b).

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

July 23, 1996

Mr. Si Seifert, Treasurer  
A Lot Of Folks For Pat Williams  
P. O. Box 1994  
Helena, Montana 59624

RE: MUR 4131  
A Lot Of Folks For Pat Williams  
and Si Seifert, as treasurer

Dear Mr. Seifert:

On July 16, 1996, the Federal Election Commission found reason to believe that A Lot Of Folks For Pat Williams and you, as treasurer, violated 2 U.S.C. §§ 434(a)(6)(A), 434(b), and 441b(a), provisions of the Federal Election Campaign Act of 1971, as amended. However, after considering the circumstances of this matter, the Commission also determined to take no further action and closed its file. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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

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

Sincerely,

John Warren McGarry  
Vice Chairman

Enclosure  
Factual and Legal Analysis

cc: The Hon. Pat Williams  
2329 Rayburn House Office Building  
Washington, D.C. 20515-2601

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**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: A Lot Of Folks For Pat Williams  
and Si Seifert, as treasurer

MUR: 4131

**I. GENERATION OF MATTER**

This matter was generated by a complaint filed with the Federal Election Commission by Edwina Rogers, as general counsel of the National Republican Senatorial Committee. See 2 U.S.C. § 437g(a)(1).

**II. FACTUAL AND LEGAL ANALYSIS**

**A. Applicable Law**

The Federal Election Campaign Act of 1971, as amended ("the Act") defines an "independent expenditure" as

an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate or agent of such candidate.

2 U.S.C. § 431(17). Conversely, any expenditure "made by any person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution," rather than an independent expenditure. 2 U.S.C. § 441a(a)(7)(B)(i).

The Act limits the amount of contributions individuals and groups may make. Specifically, the Act provides that no multicandidate political committee shall make contributions "to any candidate and his authorized political committees with respect to any

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election for Federal office which, in the aggregate, exceed \$5,000[.]” 2 U.S.C. § 441a(a)(2)(A).

The Act also makes it illegal for any candidate or committee to knowingly accept such a contribution. 2 U.S.C. § 441a(f). The term “contribution” includes “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.” 2 U.S.C. § 431(8)(A)(i). In turn, the term “anything of value” includes the in-kind provision of any goods or services. 11 C.F.R.

§ 100.7(a)(1)(iii)(A)

It is unlawful for any corporation to make a contribution in connection with a Federal election, or for any candidate or committee to knowingly accept such a contribution. 2 U.S.C. § 441b(a). It is also unlawful for any corporation, other than those described by the Supreme Court in FEC v. Massachusetts Citizens for Life, Inc., 479 U.S. 238 (1986) (“MCFL”), to make any expenditure in connection with a Federal election. See 2 U.S.C. § 441b(a).<sup>1</sup> A corporation’s payment of compensation to an individual who renders services to a campaign committee or a candidate would constitute a gift of services as well as an indirect payment or a gift of something of value to the committee or candidate. 11 C.F.R. § 100.7(a)(3); Advisory Opinions 1984-37, 1984-24, 1978-6 and 1976-70. The Act excludes from the definition of “contribution” or “expenditure,” however, the “establishment, administration and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock.”

<sup>1</sup> New 11 C.F.R. § 114.10, effective October 5, 1995, delineates precisely which corporations are such “qualified nonprofit corporations.” But see Minnesota Citizens Concerned for Life, Inc. v. FEC, Civil No. 3-95-1147 (D. Minn. Apr. 19, 1996) (invalidating 11 C.F.R. § 114.10 as “too restrictive” and “contrary to a constitutional right,” and therefore void under the Administrative Procedure Act). This regulation was not in effect at the time of the activity at issue here.

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2 U.S.C. § 441b(b)(2)(C). Except for specified exceptions involving certain communications, infra, the Act generally requires that corporations, including incorporated membership organizations, direct and finance their political activities solely through the use of the voluntary contributions in their separate segregated funds and not through the use of general treasury funds. 117 Cong. Rec. 43381 (remarks of Representative Hansen).

Expenditures made on behalf of more than one clearly identified Federal candidate shall be attributed to each such candidate according to the benefit reasonably expected to be derived. 11 C.F.R. § 106.1(a)(1). In the case of a publication, the attribution shall be determined by the proportion of space devoted to each candidate as compared to the total space devoted to all candidates. Id. These methods shall also be used to allocate payments involving both expenditures on behalf of one or more clearly identified Federal candidates and disbursements on behalf of one or more clearly identified non-Federal candidates. Id.

Political committees registered with the Commission are required to make periodic reports of their receipts and disbursements. 2 U.S.C. § 434. In particular, 2 U.S.C. § 434(b)(3)(A) requires treasurers of committees to identify each person (other than a political committee) who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions have an aggregate amount or value in excess of \$200 within the calendar year, together with the date and amount of any such contribution. In addition, principal campaign committees of candidates for United States Representative in the 1994 election were required to notify in writing the Clerk of the House of Representatives and the Secretary of State of the state in which they were a candidate of each contribution totaling

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\$1,000 or more, received by any authorized committee of the candidate after the 20th day but more than 48 hours before any election.<sup>2</sup> 2 U.S.C. § 434(a)(6)(A). The Act further requires notification to be made within 48 hours after receipt of the contribution and to include the name of the candidate and office sought, the date of receipt, the amount of the contribution, and the identification of the contributor. *Id.* The requirement for notification of these contributions is in addition to all other reporting requirements. 2 U.S.C. § 434(a)(6)(B).

**B. The Complaint**

The complaint notes that the "Election 1994" edition of "Choice News," a publication of the Montana National Abortion and Reproductive Rights Action League ("Montana NARAL"), stated that "'Persuasion and Get Out the Vote calls to turn out pro-choice voters for Jack Mudd, Pat Williams, and local Missoula races will commence shortly before the election,'" and that Montana NARAL would distribute a Voter's Guide to 35,000 Montana voters. Complaint at 3-4. (Pat Williams was a candidate in the same election for United States Representative from Montana. A Lot Of Folks For Pat Williams ("the Williams committee" or "the Williams campaign") was his authorized committee.) "Choice News" itself, according to the complaint, was distributed "to an unknown number of potential Montana voters." *Id.* at 3. The complaint alleges that the Voter's Guide was mailed, the phone calls were made, and that Montana NARAL also made "literature 'drops'" on behalf of the Williams candidacy. *Id.* at 4.

The complaint's principal allegation is that expenditures for these activities could not have been independent with respect to the candidacy of Jack Mudd for United States Senator

<sup>2</sup> Candidates for U S House of Representatives in the 1994 election cycle were required to file the reports described in 2 U S C § 434 with the Clerk of the House of Representatives. Public Law 104-79, enacted December 28, 1995, made the Commission the point of entry for the disclosure reports of House candidates' authorized committees

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because Dave Hunter, who was named in "Choice News" as "chair of the PAC Committee of the Montana NARAL Choice Political Action Committee," was also "a senior advisor to . . . Mudd." Id. However, the complaint alleges in the alternative that even if the expenditures were made by the National Abortion and Reproductive Rights Action League PAC ("National NARAL PAC") and not Montana NARAL, the activities in question "[o]bviously . . . cost well in excess of" \$5,000; therefore, the complaint alleges, any such contributions would have been in excess of the \$5,000 per election limit of 2 U.S.C. § 441a(a)(2)(A), and, by extension, the Williams committee would have violated 2 U.S.C. § 441a(f) by accepting such contributions. See id. at 4, 5.

**C. Relevant Facts**

**1. NARAL Structure**

At the outset, it may be helpful to outline the relationships between the various NARAL entities at issue in this matter. The National Abortion and Reproductive Rights Action League, Inc. ("National NARAL"), f/k/a the National Abortion Rights Action League, Inc., was a respondent in MUR 3109. Documents in the record of that matter indicate that National NARAL is a non-profit corporation, incorporated under the laws of the District of Columbia, and recognized by the Internal Revenue Service as a nonprofit organization described in 26 U.S.C. § 501(c)(4). According to documents on file with the Commission, National NARAL PAC is the separate segregated fund of National NARAL. National NARAL PAC is also qualified as a multicandidate committee as defined at 2 U.S.C. § 441a(a)(4).

Montana NARAL is described in documents in the Commission's possession as "a membership organization, organized and operated as a non-profit corporation under Montana law." The documents provide no details on the formal relationship between National NARAL

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and Montana NARAL. However, National NARAL's corporate by-laws, which are included in the record of MUR 3109, indicate that National NARAL encourages the formation of state affiliates, which are recognized as such under procedures set forth by National NARAL's board of directors. Given this provision of National NARAL's by-laws, it appears that Montana NARAL may be a state affiliate of National NARAL. Finally, the Montana National Abortion and Reproductive Rights Action League Choice PAC ("Montana NARAL PAC") is described in documents in the Commission's possession as "a Montana state PAC, organized and operated under Montana law." No committee by that name is registered with the Commission. Although the nature of any formal relationship between Montana NARAL and Montana NARAL PAC under Montana election law is not described in the documents in the Commission's possession, Eliza Frazer, the executive director of Montana NARAL, averred that she is also the treasurer of Montana NARAL PAC.

**2. Services Purportedly Purchased By National NARAL PAC from Montana NARAL**

The Williams committee's response essentially concedes that none of the expenditures at issue in this matter were independent. Similarly, in documents in the Commission's possession, National NARAL PAC and Montana NARAL assert that the expenditures were purchases of grassroots political organizing services from Montana NARAL by National NARAL PAC that amounted to in-kind contributions from National NARAL PAC to Jack Mudd for U.S. Senate and, by extension, A Lot Of Folks For Pat Williams.

This section of this analysis will first recount the history of the transactions between National NARAL PAC and Montana NARAL on behalf of the Williams campaign. It will then

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examine the services, provided by Montana NARAL, that were purportedly paid for by the National NARAL PAC payments.

**a. Payment History between National NARAL PAC and Montana NARAL**

Based on the Williams committee's response, on the affidavit of National NARAL PAC treasurer Evan J. Goldman, on information in disclosure reports, and on other information in the Commission's possession, it is possible to construct a chronology of National NARAL PAC's purported contributions to Williams in the general election. This chronology is set forth in the following table:

<u>Payment Date</u>	<u>Payee</u>	<u>Amount</u>	<u>Purpose</u>
9/23/94	Montana NARAL	\$1,000	In-kind, Williams
10/19/94	Montana NARAL	\$500	In-kind, Williams
10/27/94	Montana NARAL	\$2,000	In-kind, Williams
11/10/94	Montana NARAL	\$502.41	In-kind, Williams

The total amount of National NARAL PAC's reported general election contributions to the Williams campaign as reflected in National NARAL PAC's original post-General report equaled \$4,002.41.

In January, 1995, National NARAL PAC and Montana NARAL apparently determined that Montana NARAL had not expended on the Williams campaign all of the money that National NARAL PAC had transferred to it for that purpose. Accordingly, on January 31, 1995, National NARAL PAC filed an amended 1994 October Monthly Report, in which its \$1,000 in-kind contribution to the Williams committee dated September 23, 1994 was reduced to \$771.11. The difference was apparently retained by Montana NARAL, and was reported on National

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NARAL PAC's amended report as transfers by National NARAL PAC to an affiliated organization. After the amendment, the total amount of reported general election contributions from National NARAL PAC to the Williams campaign totaled \$3,773.52.

b. Services Provided by Montana NARAL

In her affidavit, Frazer, Montana NARAL's executive director, described the activities Montana NARAL undertook on behalf of the Williams campaign. Frazer acknowledged that Montana NARAL produced and mailed a "Voter's Guide."<sup>3</sup> Frazer did not state to whom the Voter's Guide was mailed, or how many voter guides were mailed. The guide expressly advocated the election of Jack Mudd as U.S. Senator and Williams as U.S. Representative; it also contained Montana NARAL PAC's endorsements in races for the Montana state legislature, and solicited contributions to Montana NARAL PAC. Frazer averred that, based on the proportional amount of space devoted to each candidate, she allocated 9.7 percent of the Voter's Guide's cost as an in-kind contribution from National NARAL PAC to the Williams campaign. The one exception to the allocation, she averred, was a \$60 expense for pizza to feed volunteers who worked on the Voter's Guide; this expense was evidently allocated entirely to state candidates.

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<sup>3</sup> As used in this analysis, the terms "voter guide" or "Voter's Guide" do not have the same meaning as the term "voter guide" used as a term of art in the Commission's regulations. There, the term "voter guide" refers to a publication paid for by the general treasury of a corporation or labor organization and directed to the general public that contains statements of the positions on campaign issues of two or more candidates for election to a Federal office and that, depending on the degree of coordination between the publisher of the guide and the candidates or their committees or agents, may not contain express advocacy or an electioneering message. By meeting these requirements, a voter guide, as described by the regulations, may be paid for by the corporation or union's general treasury without being deemed a contribution or expenditure. 11 C.F.R. § 114.4(c)(5), but see *Clifton v. FEC*, Civ. No. 96-66-P-HL, slip op. at 16 (D. Me. May 20, 1996) (invalidating 11 C.F.R. § 114.4(c)(5) as *ultra vires*). As noted, no claim has been made that disbursements for the "Voter's Guide" were anything other than contributions. The publication at issue was more akin to a slate card. Nevertheless, in the interest of being consistent with terminology used in both the complaint and in other relevant documents in the Commission's possession, this analysis will refer to the publication as the "Voter's Guide."

Frazer also acknowledged that Montana NARAL, "on behalf of [National] NARAL-PAC," conducted phone banks in support of the Williams campaign. However, she averred, with one exception "these phone banks did not cost [Montana] NARAL anything. [Montana] NARAL was not required to pay for the telephone lines or facilities used to conduct these phone banks. It also did not pay people to place the calls -- all callers volunteered their time free of charge." The one exception was a phone bank that made calls to potential voters in Missoula, Montana; for that bank, Montana NARAL "paid an independent contractor \$1500[.]" Frazer asserted that based on the proportion of the caller script devoted to questions concerning Mudd and Williams, she allocated one-third of the cost of the Missoula phone bank, or \$500, as an in-kind contribution from National NARAL PAC to the Mudd campaign; an allocation chart prepared by Frazer and attached to her affidavit indicates she did the same with respect to the Williams campaign.

In addition, Frazer averred that Montana NARAL incurred certain miscellaneous expenses on behalf of the Williams campaign that were paid for by National NARAL PAC. These apparently included a portion of the compensation of an intern who worked on projects related to the Williams campaign, as well as telephone, postage, shipping, copying and facsimile charges. These expenses were also allocated between the Mudd campaign, the Williams campaign, and Montana NARAL PAC's support of candidates for state office. Addressing in her affidavit only the expenses allocated to the Mudd campaign, Frazer averred that she allocated these expenses "based on my knowledge of the costs incurred by [Montana] NARAL for Jack Mudd for U.S. Senate on behalf of [National] NARAL-PAC." No information was provided in Frazer's affidavit regarding the relationship, if any, between the "miscellaneous expenses" and either the Voter's Guide or the telephone banks.

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Frazer's allocation sheet also indicates that \$2,351 was allocated as in-kind contributions from National NARAL PAC to the Williams campaign under the heading "Radio Williams."

**D. Analysis**

**1. Summary**

In two 1984 advisory opinions, the Commission set forth the requirements for transactions in which a separate segregated fund purports to make in-kind contributions to candidates by purchasing goods and services from the fund's connected organization. Three requirements from those opinions are relevant here. First, the fund must pay the connected organization in advance. Second, the payment must include an amount to cover the connected organization's personnel costs associated with the in-kind contributions, and this amount must not be less than the usual and normal charge of independent consultants of similar experience and ability for similar services. Third, if the purported in-kind contributions are on behalf of more than one clearly identified candidate, they must be allocated between the candidates pursuant to 11 C.F.R. § 106.1(a). Some of the purported in-kind contributions from National NARAL PAC to the Williams committee through Montana NARAL did not meet these requirements, and the Commission is not in possession of sufficient information to determine whether others met them or not. Accordingly, Montana NARAL may have made prohibited corporate contributions to the Williams committee.

**2. In-Kind Purchases of Goods and Services from a Connected Organization: AOs 1984-24 and 1984-37**

In Advisory Opinions 1984-24 and 1984-37, the Commission considered proposals for two series of transactions similar to those at issue here. In both instances, the separate segregated funds of incorporated membership organizations proposed to make in-kind

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contributions to candidates by purchasing from the connected organizations on the candidates' behalf the services of corporate employees. In AO 1984-24, the separate segregated fund proposed to pay for these services, and for the use of corporate facilities and goods incidental thereto, either by reimbursing the connected organization for its actual costs plus a surcharge or by making advance payments of estimated costs to an escrow account, from which the corporation would withdraw reimbursement after it determined its actual costs. Under either scenario, the initial disbursement of funds for employee compensation or for other overhead costs was to be made by the connected organization. The request in AO 1984-37 differed in that the separate segregated fund proposed to pay directly to its connected organization in advance the usual and normal charge for the services to be rendered, based on the charges of independent political consultants of similar experience and ability.

The Commission disapproved the proposal in AO 1984-24 but approved the one in AO 1984-37. Because both payment methods proposed by the requestor in AO 1984-24 "involve[d] the initial disbursement of corporate treasury funds" to compensate employees or pay costs of overhead or supplies and materials, the Commission viewed these disbursements as "loan[s], advance[s], or [things] of value to both the candidate and the . . . separate segregated fund," and concluded that they would be prohibited by 2 U.S.C. § 441b. By contrast, in AO 1984-37, all of the separate segregated fund's payments to the connected organization were to be made in advance; consequently, the Commission determined that there would be "no initial disbursement of corporate treasury funds that constitutes either a loan, advance, or anything of value to either the candidate or [the separate segregated fund]." Moreover, because the separate segregated fund proposed to pay for the consulting services of corporate employees based on the usual and normal charge for such services by independent political consultants of similar

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experience and ability, the Commission concluded that the separate segregated fund "would not receive anything of value from its dealings with [the connected organization]." However, the Commission noted that because the proposed transactions would result in in-kind contributions from the separate segregated fund to the recipient candidates' committees, the transactions were subject to all applicable limitations and reporting requirements -- including the allocation requirement of 11 C.F.R. § 106.1(a).

Three principles from these opinions help decide the matter at hand. First, a separate segregated fund may make in-kind contributions to a candidate by purchasing goods and services from its connected organization on the candidate's behalf, so long as everything is paid for in advance. Second, if the services involve the performance of work by the connected organization's employees, the separate segregated fund's advance payment for such services must be based on the usual and normal charge for such services by similarly situated independent vendors.<sup>4</sup> Third, if the services benefit more than one Federal candidate, or benefit Federal and non-Federal candidates, the in-kind contributions must be allocated between the candidates in accordance with 11 C.F.R. § 106.1(a)(1). We now turn to the application of these principles to the services purchased by National NARAL PAC from Montana NARAL.<sup>5</sup>

<sup>4</sup> Cf. Explanation and Justification for Regulations on Corporate and Labor Organization Activity: Express Advocacy and Coordination with Candidates, 60 Fed. Reg. 64260, 64264 (Dec. 14, 1995). There, in approving new regulations allowing similar advance payment procedures in different circumstances, the Commission required payment in advance of "fair market value," which it defined as

the price that would normally be paid in the marketplace where the corporation or labor organization would normally obtain these goods or services, if reasonably ascertainable. However, in no case is the fair market value less than the corporation or labor organization's actual cost, which includes total compensation earned by all employees [engaged in the activity], plus benefits and overhead

<sup>5</sup> However, we first note two differences between the facts of this matter and those of AO 1984-37. First, Montana NARAL is not National NARAL PAC's connected organization, rather, it appears to be a state affiliate of National NARAL PAC's connected organization. Second, National NARAL PAC's purported purchase of goods (Footnote continued on next page)

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**3. Purchases from Montana NARAL by National NARAL PAC**

**a. Voter's Guide**

**i. Allocation Between Candidates**

At the threshold, it is necessary to ensure that the Voter's Guide's expenses were correctly allocated between Williams, Mudd, and state candidates. As Frazer stated in her affidavit, the Voter's Guide has eight panels. However, only six panels, rather than the 7.5 described in Frazer's affidavit, advocate the election of named candidates. Of these six panels, 2.25 appear to advocate the election of Mudd or the defeat of Burns, rather than the 1.75 noted in Frazer's affidavit; an aggregate of 0.75 panels appear to advocate the election of Williams, consistent with Frazer's affidavit; and three panels advocate the election of non-Federal candidates. Of the other two panels, one names no candidates but solicits contributions to Montana NARAL PAC, and one is the "mailer."

As noted, 11 C.F.R. § 106.1(a) provides that in the case of a publication made on behalf of more than one Federal candidate and/or both Federal and non-Federal candidates, the amount attributable to each candidate shall be determined by the proportion of space devoted to the particular candidate in relation to the space devoted to all candidates, rather than the total amount of space in the publication. However, neither the language of the regulation itself nor the Commission's explanation and justification of the specific rule for publications describe how to allocate space in publications parts of which advocate the election of federal or non-Federal candidates and parts of which do not refer to specific candidates or elections. See Explanation and Justification of Regulations on Methods of Allocation Between Federal and Nonfederal

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and services apparently included the use of supplies and materials, as well as corporate personnel. However, neither of these distinctions change the applicability of A.O. 1984-37 to the situation at hand.

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Accounts; Payments; Reporting, 55 Fed. Reg. 26058, 26061 (June 26, 1990). In this case, the calculation must account for costs attributable both to the solicitation panel and the "mailer" panel, as well as those attributable to the panels endorsing Federal or non-Federal candidates.

The "mailer" panel is the easier of the two non-candidate panels to deal with; because it is necessary for the distribution by mail of all the messages contained in the publication, it can be considered attributable to all of those messages in proportion to their space in the remainder of the Voter's Guide. Thus, it need not be considered further. This leaves seven panels, one of which, the solicitation panel, does not have to do with candidates.

In the Commission's opinion, the most equitable way to deal with the solicitation panel is to subtract its proportional cost from the total cost of the Voter's Guide prior to making the particular-candidate-to-all-candidates calculation mandated by Section 106.1(a)(1). This subtraction is made in the following manner:

Total cost of Voter's Guide =	\$7,214.00
Proportion attributable to solicitation panel = 1/7 =	14.3%
Total cost attributable to solicitation panel = \$7,214.00 x 0.143 =	\$1,031.60
Total cost attributable to all candidates = \$7,214.00 - \$1,031.60 =	\$6,182.40

With that calculation made, it is now possible to apply the formula of 11 C.F.R.

§ 106.1(a)(1) to determine how much of the total cost attributable to all candidates is attributable to Williams.

Total panels attributable to candidates =	6
Total panels attributable to Williams =	0.75

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Proportion attributable to Williams = 0.75/6 =	12.5%
Total cost attributable to candidates =	\$6,182.40
Total cost attributable to Williams = \$6,182.40 x 0.125 =	\$ 772.80
Total cost allocated to Williams by Montana NARAL =	\$ 694.00
Underallocation = \$772.80 - \$694.00 =	\$ 78.80

Because the underallocation of \$78.80 with respect to the Williams campaign appears never to have been paid by National NARAL PAC to Montana NARAL, much less paid in advance, this amount appears to represent illegal corporate contributions from Montana NARAL to the Williams committee.

ii. **Advance Payment and Personnel Costs**

With respect to those portions of the Voter's Guide costs that were allocated, National NARAL PAC's transactions with Montana NARAL met neither of the other conditions for approval of such transactions set forth in AO 1984-37. First, Frazer averred that "in each instance [i.e., with respect to both the Voter's Guide and other disbursements], funds were disbursed from [National] NARAL-PAC to [Montana] NARAL before [Montana] NARAL provided any goods or services . . . on behalf of [National] NARAL-PAC." However, the supporting documentation for her affidavit appears to contradict this assertion in one instance and provides insufficient evidence to sustain it in others. National NARAL PAC reported making in-kind contributions of \$1,222.36 to the Mudd committee and \$502.41 to the Williams committee on November 10, 1994. November 10 was two days after the election. As is apparent from the allocation sheet prepared by Frazer, these amounts equaled the amounts

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allocated by Montana NARAL to pay for Mudd's and Williams's share of the postage for the Voter's Guide. Assuming the voter guide was mailed before the election, Montana NARAL apparently either paid for the postage and was reimbursed by National NARAL PAC, or received an extension of credit from the U.S. Postal Service for which National NARAL PAC transferred money to Montana NARAL to pay a portion of the outstanding bill. Montana NARAL thus made an initial expenditure of either its money or its credit to mail the Voter's Guide, and, pursuant to AO 1984-37, this initial expenditure appears to constitute an in-kind contribution by Montana NARAL to the Williams committee in violation of 2 U.S.C. § 441b(a). As for the other Voter's Guide expenses listed on the allocation sheet, it cannot be determined whether National NARAL PAC paid Williams's share in advance because it is not known precisely when the guide was produced or mailed, or the disbursements in question made.

Second, Montana NARAL does not appear to have allocated any personnel costs, much less personnel costs computed at the usual and normal charge for similar services from nonconnected vendors of similar expertise, to the Voter's Guide. While the disclaimer indicates that much of the Voter's Guide was assembled through "volunteer efforts," and documents in the Commission's possession indicate that an intern whose compensation was listed as a "miscellaneous expense" on the allocation sheet worked on the Voter's Guide, it would strain credulity to assume that neither Frazer nor any other full-time employee of Montana NARAL had any editorial input or oversight role with respect to the Voter's Guide. The as-yet-unknown personnel costs attributable to such full-time employees' work on the Voter's Guide would also constitute an in-kind contribution from Montana NARAL to the Williams committee, in violation of 2 U.S.C. § 441b(a).

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Accordingly, with respect to the facts surrounding the Voter's Guide, there is reason to believe that A Lot Of Folks For Pat Williams and Si Seifert, as treasurer, violated 2 U.S.C. § 441b(a).

**b. Phone Banks**

As noted supra, Frazer acknowledged that Montana NARAL conducted phone banks on behalf of the Williams campaign, but asserted that, with one exception, Montana NARAL incurred no costs associated with the phone banks because all of the calling was done by volunteers and all of the telephones and facilities were donated. In the case of the one exception, Frazer averred, Montana NARAL paid a professional consultant \$1,500, which was allocated one-third to Mudd, one-third to Williams, and one-third to a state candidate, based on the calling script.

The script contains seven questions, three of which mention the names of candidates. One of the three mentions Mudd and his opponent, one mentions Williams and his opponents; and one mentions candidates for a state legislative race. Based on this evidence, the allocation of the \$1,500 appears to have been made in accordance with 11 C.F.R. § 106.1(a)(1). Accord. 55 Fed. Reg. at 26061 (discussion of phone bank allocation). However, because there is no evidence indicating on what dates the phone calls were made or the \$1,500 disbursed, it cannot be determined from the current record whether National NARAL PAC paid Montana NARAL for these services in advance. In addition, as with the Voter's Guide disbursements, there is no apparent amount that was paid to cover personnel costs associated with Montana NARAL employees' involvement with the phone banks. Moreover, while Montana NARAL asserts that the phones and facilities for all but one phone bank were donated, there is currently no evidence in the record as to the identity of the individuals or entities that donated them. Depending on the

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circumstances, the donations could have resulted in excessive or prohibited contributions from the donors to the Williams committee.

Accordingly, there is reason to believe that A Lot Of Folks For Pat Williams and Si Seifert, as treasurer, received contributions from Montana NARAL with respect to the phone bank activity in violation of 2 U.S.C. § 441b(a).

**c. Miscellaneous Expenses**

As noted, Frazer's allocation sheet records that Montana NARAL made certain miscellaneous disbursements on behalf of the Williams campaign. These included a portion of an intern's stipend, plus telephone, postage, shipping, copying and facsimile expenses. Frazer averred that the costs of the intern's stipend were allocated between Williams, Mudd and state candidates based on a time log kept by the intern, and that the other expenses were allocated based on Frazer's personal knowledge of the activities at issue. However, the Commission is not in possession of the intern's time log, and Frazer provides no further details as to how she allocated the other disbursements.

The total amount of such expenses in the column marked "Actual Gross" on the allocation sheet equals \$959, but the total amount of the "State Pac," "Mudd In-Kind," and "Williams In-Kind" columns in the aggregate equals \$1,107. Because of this discrepancy, and given the lack of supporting documentation, the Commission is not willing to assume at this time that the allocation of the miscellaneous expenses was correctly computed. Further, because there is no evidence disclosing when these disbursements were made, it is impossible to discern at this point whether National NARAL PAC paid for them in advance. Finally, there is no indication that the costs associated with the intern stipend, or any unallocated compensation costs for other paid Montana NARAL personnel who may have incurred the miscellaneous

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expenses, were computed based on the usual and normal charge of independent vendors of similar experience and ability.

Accordingly, with respect to the miscellaneous expenses, there is reason to believe that A Lot Of Folks For Pat Williams and Si Seifert, as treasurer, received contributions from Montana NARAL in violation of 2 U.S.C. § 441b(a).

#### 4. Radio Advertising

As noted, the allocation sheet indicates that Montana NARAL spent \$2,351 on radio advertising in support of Williams's candidacy, and that these disbursements were treated as in-kind contributions from National NARAL PAC to the Williams committee. Again, however, because no evidence has been provided regarding the dates on which the disbursements were made, it is not possible to determine at this stage whether National NARAL PAC paid Montana NARAL in advance. Moreover, there is no information currently in the record concerning the extent to which Montana NARAL personnel were involved in the creation of, or decision-making regarding, the radio advertisements. Without this information, it is impossible to determine the amount National NARAL PAC should have included in its payment to Montana NARAL to cover personnel costs.

Accordingly, there is reason to believe that A Lot Of Folks For Pat Williams and Si Seifert, as treasurer, violated 2 U.S.C. § 441b(a) with respect to the radio advertisements on Williams's behalf.

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**5. Reporting**

Given the conclusions above that some or all of the transactions in this matter may have amounted to prohibited corporate in-kind contributions from Montana NARAL to National NARAL PAC, it follows that some or all of the purported in-kind contributions from National NARAL PAC to the Williams committee may have been reported incorrectly. Additionally, some of the transactions occurred within the 48-hour notice period but were not reflected on 48-hour notices; the extent of such transactions and the identity of the contributors involved (i.e., whether the contributor was National NARAL PAC or Montana NARAL) cannot be determined without further discovery.

Accordingly, there is reason to believe that A Lot Of Folks For Pat Williams and Si Seifert, as treasurer, violated 2 U.S.C. §§ 434(a)(6)(A) and (b).

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**FEDERAL ELECTION COMMISSION**  
WASHINGTON, D.C. 20463

**July 23, 1996**

**Mr. Geoffrey F. Aronow, Esq.**  
**Ms. Susan B. Chertkoff, Esq.**  
**Arnold & Porter**  
**555 12th Street, N.W.**  
**Washington, D.C. 20004**

**RE: MUR 4131**  
**National Abortion and Reproductive Rights**  
**Action League PAC and Evan J. Goldman,**  
**as treasurer**  
**Montana National Abortion and**  
**Reproductive Rights Action League**

**Dear Mr. Aronow and Ms. Chertkoff:**

On July 16, 1996, the Federal Election Commission ("the Commission") found reason to believe that your clients, the National Abortion and Reproductive Rights Action League PAC and Evan J. Goldman, as treasurer, violated 2 U.S.C. §§ 434(b) and 441a(a)(2)(A), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"), with respect to radio advertisements referencing Jack Mudd, and 2 U.S.C. §§ 434(b) and 441b(a) and 11 C.F.R. § 106.1(a)(1), provisions of the Act and the Commission's regulations, with respect to other activity at issue in this matter. Further, the Commission found reason to believe that your client, the Montana National Abortion and Reproductive Rights Action League, violated 2 U.S.C. § 441b(a). However, after considering the circumstances of this matter, the Commission also determined to take no further action and closed its file. The Factual and Legal Analyses, which formed bases for the Commission's findings, are attached for your information.

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

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Geoffrey L. Aronow, Esq. and Susan B. Chertkoff, Esq.  
MUR 4131  
Page 2

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

Sincerely,



John Warren McGarry  
Vice Chairman

Enclosure  
Factual and Legal Analyses (2)

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**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

**RESPONDENT:** National Abortion and Reproductive  
Rights Action League PAC and MUR 4131  
Evan Goldman, as treasurer

**I. GENERATION OF MATTER**

This matter was generated by a complaint filed with the Federal Election Commission by Edwina Rogers, as general counsel of the National Republican Senatorial Committee. See

2 U.S.C. § 437g(a)(1).

**II. FACTUAL AND LEGAL ANALYSIS**

**A. Applicable Law**

The Federal Election Campaign Act of 1971, as amended ("the Act") defines an "independent expenditure" as

an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate or agent of such candidate.

2 U.S.C. § 431(17). Conversely, any expenditure "made by any person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution," rather than an independent expenditure. 2 U.S.C. § 441a(a)(7)(B)(i).

The Act limits the amount of contributions individuals and groups may make. Specifically, the Act provides that no multicandidate political committee shall make contributions "to any candidate and his authorized political committees with respect to any

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election for Federal office which, in the aggregate, exceed \$5,000[.]” 2 U.S.C. § 441a(a)(2)(A).

The Act also makes it illegal for any candidate or committee to knowingly accept such a contribution. 2 U.S.C. § 441a(f). The term “contribution” includes “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.” 2 U.S.C. § 431(8)(A)(i). In turn, the term “anything of value” includes the in-kind provision of any goods or services. 11 C.F.R.

§ 100.7(a)(1)(iii)(A).

It is unlawful for any corporation to make a contribution in connection with a Federal election, or for any candidate or committee to knowingly accept such a contribution. 2 U.S.C. § 441b(a). It is also unlawful for any corporation, other than those described by the Supreme Court in FEC v. Massachusetts Citizens for Life, Inc., 479 U.S. 238 (1986) (“MCFL”), to make any expenditure in connection with a Federal election. See 2 U.S.C. § 441b(a).<sup>1</sup> A corporation’s payment of compensation to an individual who renders services to a campaign committee or a candidate would constitute a gift of services as well as an indirect payment or a gift of something of value to the committee or candidate. 11 C.F.R. § 100.7(a)(3); Advisory Opinions 1984-37, 1984-24, 1978-6 and 1976-70. The Act excludes from the definition of “contribution” or “expenditure,” however, the “establishment, administration and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock.”

<sup>1</sup> New 11 C.F.R. § 114.10, effective October 5, 1995, delineates precisely which corporations are such “qualified nonprofit corporations.” But see Minnesota Citizens Concerned for Life, Inc. v. FEC, Civil No. 3-95-1147 (D. Minn. Apr. 19, 1996) (invalidating 11 C.F.R. § 114.10 as “too restrictive” and “contrary to a constitutional right,” and therefore void under the Administrative Procedure Act). This regulation was not in effect at the time of the activity at issue here.

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2 U.S.C. § 441b(b)(2)(C). Except for specified exceptions involving certain communications, infra, the Act generally requires that corporations, including incorporated membership organizations, direct and finance their political activities solely through the use of the voluntary contributions in their separate segregated funds and not through the use of general treasury funds. 117 Cong. Rec. 43381 (remarks of Representative Hansen).

Expenditures made on behalf of more than one clearly identified Federal candidate shall be attributed to each such candidate according to the benefit reasonably expected to be derived. 11 C.F.R. § 106.1(a)(1). In the case of a publication, the attribution shall be determined by the proportion of space devoted to each candidate as compared to the total space devoted to all candidates. Id. These methods shall also be used to allocate payments involving both expenditures on behalf of one or more clearly identified Federal candidates and disbursements on behalf of one or more clearly identified non-Federal candidates. Id.

Political committees registered with the Commission are required to make periodic reports of their receipts and disbursements. 2 U.S.C. § 434. In particular, each political committee shall report the identification of each person (other than a political committee) who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions have an aggregate amount or value in excess of \$200 within the calendar year, together with the date and amount of any such contribution, and, if the reporting committee is not the authorized committee of a candidate, the name and address of each political committee which has received a contribution from the reporting committee during the reporting period, together with the date and amount of any such contribution. 2 U.S.C. §§ 434(b)(3)(A) and (b)(6)(B)(i).

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**B. The Complaint**

The complaint notes that the "Election 1994" edition of "Choice News," a publication of the Montana National Abortion and Reproductive Rights Action League ("Montana NARAL"), stated that "'Persuasion and Get Out the Vote calls to turn out pro-choice voters for Jack Mudd, Pat Williams, and local Missoula races will commence shortly before the election,'" and that Montana NARAL would distribute a Voter's Guide to 35,000 Montana voters. Complaint at 3-4. Jack Mudd was a candidate in the 1994 general election for United States Senator from Montana; Pat Williams was a candidate in the same election for United States Representative from Montana. "Choice News" itself, according to the complaint, was distributed "to an unknown number of potential Montana voters." Id. at 3. The complaint alleges that the Voter's Guide was mailed, the phone calls were made, and that Montana NARAL also made "literature 'drops'" on behalf of the Mudd and Williams candidacies. Id. at 4.

The complaint's principal allegation is that expenditures for these activities could not have been independent because Dave Hunter, who was named in "Choice News" as "chair of the PAC Committee of the Montana NARAL Choice Political Action Committee," was also "a senior advisor to . . . Mudd." Id. However, the complaint alleges in the alternative that even if the expenditures were made by the National Abortion and Reproductive Rights Action League PAC ("National NARAL PAC") and not Montana NARAL, the activities in question "[o]bviously . . . cost well in excess of" \$5,000; therefore, the complaint alleges, National NARAL PAC violated 2 U.S.C. § 441a(a)(2)(A) by making excessive contributions. Id. at 4, 5.

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**C. Relevant Facts**

**1. NARAL Structure**

At the outset, it may be helpful to outline the relationships between the various NARAL entities at issue in this matter. The National Abortion and Reproductive Rights Action League, Inc. ("National NARAL"), f/k/a the National Abortion Rights Action League, Inc., was a respondent in MUR 3109. Documents in the record of that matter indicate that National NARAL is a non-profit corporation, incorporated under the laws of the District of Columbia, and recognized by the Internal Revenue Service as a nonprofit organization described in 26 U.S.C. § 501(c)(4). According to documents on file with the Commission, National NARAL PAC is the separate segregated fund of National NARAL. National NARAL PAC is also qualified as a multicandidate committee as defined at 2 U.S.C. § 441a(a)(4).

Montana NARAL is described in the response to the complaint ("NARAL response") as "a membership organization, organized and operated as a non-profit corporation under Montana law." The NARAL response provides no details on the formal relationship between National NARAL and Montana NARAL. However, National NARAL's corporate by-laws, which are included in the record of MUR 3109, indicate that National NARAL encourages the formation of state affiliates, which are recognized as such under procedures set forth by National NARAL's board of directors. Given this provision of National NARAL's by-laws, it appears that Montana NARAL may be a state affiliate of National NARAL. Finally, the Montana National Abortion and Reproductive Rights Action League Choice PAC ("Montana NARAL PAC") is described in the response as "a Montana state PAC, organized and operated under Montana law." No committee by that name is registered with the Commission. Although the nature of any formal relationship between Montana NARAL and Montana NARAL PAC under Montana election law

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is not described in the response, Eliza Frazer, the executive director of Montana NARAL, averred that she is also the treasurer of Montana NARAL PAC.

**2. Services Purportedly Purchased By National NARAL PAC from Montana NARAL**

The NARAL response concedes that none of the expenditures at issue in this matter were independent. Instead, the response asserts, the expenditures were purchases of grassroots political organizing services from Montana NARAL by National NARAL PAC that amounted to in-kind contributions from National NARAL PAC to Jack Mudd for U.S. Senate.

This section of this analysis will first recount the history of the transactions between National NARAL PAC and Montana NARAL on behalf of the Mudd and Williams campaigns. It will then examine the services, provided by Montana NARAL, that were purportedly paid for by the National NARAL PAC payments.

**a. Payment History between National NARAL PAC and Montana NARAL**

Based on the affidavit of National NARAL PAC treasurer Evan J. Goldman, on information in disclosure reports, and on other information in the Commission's possession, it is possible to construct a chronology of National NARAL PAC's purported contributions to Williams and Mudd in the general election. This chronology is set forth in the following table:

<u>Payment Date</u>	<u>Payee</u>	<u>Amount</u>	<u>Purpose</u>
9/23/94	Montana NARAL	\$1,000	In-kind, Mudd
9/23/94	Montana NARAL	\$1,000	In-kind, Williams
10/19/94	Mudd committee	\$2,000	Direct contribution
10/19/94	Montana NARAL	\$500	In-kind, Williams
10/27/94	Montana NARAL	\$500	In-kind, Mudd

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10/27/94	Montana NARAL	\$2,000	In-kind, Williams
11/10/94	Montana NARAL	\$1,222.36	In-kind, Mudd
11/10/94	Montana NARAL	\$277.64	In-kind, Mudd
11/10/94	MT Alliance for Progressive Policy	\$80.70	In-kind, Mudd
11/10/94	Montana NARAL	\$502.41	In-kind, Williams

The total amount of National NARAL PAC's reported general election contributions to the Williams campaign as reflected in National NARAL PAC's original post-General report equaled \$4,002.41; the total amount of National NARAL PAC's reported general election contributions to the Mudd campaign equaled \$5,080.70.

In January, 1995, National NARAL PAC and Montana NARAL apparently determined that Montana NARAL had not expended on the Williams and Mudd campaigns all of the money that National NARAL PAC had transferred to it for that purpose. Accordingly, on January 31, 1995, National NARAL PAC filed an amended 1994 October Monthly Report, in which its \$1,000 in-kind contribution to the Williams committee dated September 23, 1994 was reduced to \$771.11 and its \$1,000 contribution of the same date to the Mudd committee was reduced to \$467.28. The difference was apparently retained by Montana NARAL, and was reported on National NARAL PAC's amended report as transfers by National NARAL PAC to an affiliated organization. After the amendment, the total amount of reported general election contributions from National NARAL PAC to the Mudd campaign equaled \$4,547.87; the corresponding amount of reported contributions to the Williams campaign totaled \$3,773.52.

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**b. Services Provided by Montana NARAL**

In her affidavit, Frazer, Montana NARAL's executive director, described the activities Montana NARAL undertook on behalf of the Mudd and Williams campaigns. Frazer acknowledged that Montana NARAL produced and mailed a "Voter's Guide."<sup>2</sup> Frazer did not state to whom the Voter's Guide was mailed, or how many voter guides were mailed. The guide expressly advocated the election of Mudd as U.S. Senator and Williams as U.S. Representative; it also contained Montana NARAL PAC's endorsements in races for the Montana state legislature, and solicited contributions to Montana NARAL PAC. Frazer averred that, based on the proportional amount of space devoted to each candidate, she allocated 23.6 percent of the Voter's Guide's cost as an in-kind contribution from National NARAL PAC to the Mudd campaign, and 9.7 percent of its cost as an in-kind contribution from National NARAL PAC to the Williams campaign. The one exception to the allocation, she averred, was a \$60 expense for pizza to feed volunteers who worked on the Voter's Guide; this expense was evidently allocated entirely to state candidates.

Frazer also acknowledged that Montana NARAL, "on behalf of [National] NARAL-PAC," conducted phone banks in support of the Mudd and Williams campaigns. However, she

<sup>2</sup> As used in this analysis, the terms "voter guide" or "Voter's Guide" do not have the same meaning as the term "voter guide" used as a term of art in the Commission's regulations. There, the term "voter guide" refers to a publication paid for by the general treasury of a corporation or labor organization and directed to the general public that contains statements of the positions on campaign issues of two or more candidates for election to a Federal office and that, depending on the degree of coordination between the publisher of the guide and the candidates or their committees or agents, may not contain express advocacy or an electioneering message. By meeting these requirements, a voter guide, as described by the regulations, may be paid for by the corporation or union's general treasury without being deemed a contribution or expenditure. 11 C.F.R. § 114.4(c)(5), but see *Clifton v. FEC*, Civ. No. 96-66-P-H, slip op. at 16 (D. Me. May 20, 1996) (invalidating 11 C.F.R. § 114.4(c)(5) as *ultra vires*). As noted, National NARAL PAC makes no claim that disbursements for the "Voter's Guide" in this matter were anything other than contributions. The publication at issue was more akin to a slate card. Nevertheless, in the interest of being consistent with terminology used in both the complaint and the response, this analysis will refer to the publication as the "Voter's Guide."

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averred, with one exception "these phone banks did not cost [Montana] NARAL anything. [Montana] NARAL was not required to pay for the telephone lines or facilities used to conduct these phone banks. It also did not pay people to place the calls -- all callers volunteered their time free of charge." The one exception was a phone bank that made calls to potential voters in Missoula, Montana; for that bank, Montana NARAL "paid an independent contractor \$1500[.]" Frazer asserted that based on the proportion of the caller script devoted to questions concerning Mudd and Williams, she allocated one-third of the cost of the Missoula phone bank, or \$500, as an in-kind contribution from National NARAL PAC to the Mudd campaign; an allocation chart prepared by Frazer and attached to her affidavit indicates she did the same with respect to the Williams campaign.

In addition, Frazer averred that Montana NARAL incurred certain miscellaneous expenses on behalf of the Mudd and Williams campaigns that were paid for by National NARAL PAC. These apparently included a portion of the compensation of an intern who worked on projects related to the Mudd and Williams campaigns, as well as telephone, postage, shipping, copying and facsimile charges. These expenses were also allocated between the Mudd campaign, the Williams campaign, and Montana NARAL PAC's support of candidates for state office. Addressing in her affidavit only the expenses allocated to the Mudd campaign, Frazer averred that she allocated these expenses "based on my knowledge of the costs incurred by [Montana] NARAL for Jack Mudd for U.S. Senate on behalf of [National] NARAL-PAC." No information was provided in the NARAL response regarding the relationship, if any, between the "miscellaneous expenses" and either the Voter's Guide or the telephone banks. Frazer also averred that Montana NARAL had incurred further miscellaneous expenses in support of the Mudd campaign that had not yet been billed and thus were not included on the allocation sheet

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attached to her affidavit, but that the aggregate value of these expenses was less than the \$555 balance remaining at the time from NARAL PAC's prior payments to Montana NARAL.

**3. Radio Advertising**

Although not addressed in the response, Frazer's allocation sheet also indicates that \$2,351 was allocated as in-kind contributions from National NARAL PAC to the Williams campaign under the heading "Radio Williams." Moreover, in the "Election 1994" edition of "Choice News," which was appended to the complaint as an exhibit, an article criticizing Republican Senate nominee Conrad Burns's position on the Freedom of Access to Clinic Entrances Act ("FACE") states that

[Burns's] insensitivity to women's issues is all to [sic] evident in his latest campaign radio ads now airing in Kalispell . . . The Burns radio spot is in response to NARAL radio that Jack Mudd is the only candidate for U.S. Senate who trusts women and unlike his opponent would have voted for FACE.

Complaint, Exhibit 1, at 1. There is no record in Commission disclosure databases of any National NARAL PAC contributions to Mudd's general election campaign other than the \$2,000 monetary contribution and the purportedly in-kind payments already discussed, nor are there any records in the databases of any independent expenditures on Mudd's behalf by National NARAL or National NARAL PAC. Moreover, the response affirmatively represented that "[n]either [Montana] NARAL nor [National] NARAL, Inc. made any contributions or independent expenditures to or on behalf of the Jack Mudd for U.S. Senate campaign," and National NARAL PAC treasurer Goldman averred in his sworn affidavit that "[d]uring the 1994 election cycle, [National] NARAL-PAC did not make any independent expenditures on behalf of Jack Mudd for U.S. Senate." Thus, it is unclear who paid for the "NARAL radio" referred to in "Choice News."

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**D. Analysis**

**1. Summary**

In two 1984 advisory opinions, the Commission set forth the requirements for transactions in which a separate segregated fund purports to make in-kind contributions to candidates by purchasing goods and services from the fund's connected organization. Three requirements from those opinions are relevant here. First, the fund must pay the connected organization in advance. Second, the payment must include an amount to cover the connected organization's personnel costs associated with the in-kind contributions, and this amount must not be less than the usual and normal charge of independent consultants of similar experience and ability for similar services. Third, if the purported in-kind contributions are on behalf of more than one clearly identified candidate, they must be allocated between the candidates pursuant to 11 C.F.R. § 106.1(a). Some of the purported in-kind contributions from National NARAL PAC to the Mudd and Williams committees through Montana NARAL did not meet these requirements, and the NARAL response does not provide sufficient information to determine whether others met them or not. Accordingly, Montana NARAL may have made prohibited corporate contributions to NARAL PAC. In addition, the radio advertising on Mudd's behalf that was referred to in "Choice News" may have been an unreported excessive or prohibited in-kind contribution to the Mudd campaign.

**2. In-Kind Purchases of Goods and Services from a Connected Organization: AOs 1984-24 and 1984-37**

In Advisory Opinions 1984-24 and 1984-37, the Commission considered proposals for two series of transactions similar to those at issue here. In both instances, the separate segregated funds of incorporated membership organizations proposed to make in-kind

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contributions to candidates by purchasing from the connected organizations on the candidates' behalf the services of corporate employees. In AO 1984-24, the separate segregated fund proposed to pay for these services, and for the use of corporate facilities and goods incidental thereto, either by reimbursing the connected organization for its actual costs plus a surcharge or by making advance payments of estimated costs to an escrow account, from which the corporation would withdraw reimbursement after it determined its actual costs. Under either scenario, the initial disbursement of funds for employee compensation or for other overhead costs was to be made by the connected organization. The request in AO 1984-37 differed in that the separate segregated fund proposed to pay directly to its connected organization in advance the usual and normal charge for the services to be rendered, based on the charges of independent political consultants of similar experience and ability.

The Commission disapproved the proposal in AO 1984-24 but approved the one in AO 1984-37. Because both payment methods proposed by the requestor in AO 1984-24 "involve[d] the initial disbursement of corporate treasury funds" to compensate employees or pay costs of overhead or supplies and materials, the Commission viewed these disbursements as "loan[s], advance[s], or [things] of value to both the candidate and the . . . separate segregated fund," and concluded that they would be prohibited by 2 U.S.C. § 441b. By contrast, in AO 1984-37, all of the separate segregated fund's payments to the connected organization were to be made in advance; consequently, the Commission determined that there would be "no initial disbursement of corporate treasury funds that constitutes either a loan, advance, or anything of value to either the candidate or [the separate segregated fund]." Moreover, because the separate segregated fund proposed to pay for the consulting services of corporate employees based on the usual and normal charge for such services by independent political consultants of similar

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experience and ability, the Commission concluded that the separate segregated fund "would not receive anything of value from its dealings with [the connected organization]." However, the Commission noted that because the proposed transactions would result in in-kind contributions from the separate segregated fund to the recipient candidates' committees, the transactions were subject to all applicable limitations and reporting requirements -- including the allocation requirement of 11 C.F.R. § 106.1(a).

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Three principles from these opinions help decide the matter at hand. First, a separate segregated fund may make in-kind contributions to a candidate by purchasing goods and services from its connected organization on the candidate's behalf, so long as everything is paid for in advance. Second, if the services involve the performance of work by the connected organization's employees, the separate segregated fund's advance payment for such services must be based on the usual and normal charge for such services by similarly situated independent vendors.<sup>3</sup> Third, if the services benefit more than one Federal candidate, or benefit Federal and non-Federal candidates, the in-kind contributions must be allocated between the candidates in accordance with 11 C.F.R. § 106.1(a)(1). We now turn to the application of these principles to the services purchased by National NARAL PAC from Montana NARAL.<sup>4</sup>

<sup>3</sup> Cf. Explanation and Justification for Regulations on Corporate and Labor Organization Activity: Express Advocacy and Coordination with Candidates, 60 Fed. Reg. 64260, 64264 (Dec. 14, 1995). There, in approving new regulations allowing similar advance payment procedures in different circumstances, the Commission required payment in advance of "fair market value," which it defined as

the price that would normally be paid in the marketplace where the corporation or labor organization would normally obtain these goods or services, if reasonably ascertainable. However, in no case is the fair market value less than the corporation or labor organization's actual cost, which includes total compensation earned by all employees [engaged in the activity], plus benefits and overhead.

<sup>4</sup> However, we first note two differences between the facts of this matter and those of AO 1984-37. First, Montana NARAL is not National NARAL PAC's connected organization, rather, it appears to be a state affiliate of National NARAL PAC's connected organization. Second, National NARAL PAC's purported purchase of goods (Footnote continued on next page)

**3. Purchases from Montana NARAL by National NARAL PAC**

**a. Voter's Guide**

**i. Allocation Between Candidates**

At the threshold, it is necessary to ensure that the Voter's Guide's expenses were correctly allocated between Williams, Mudd, and state candidates. As Frazer stated in her affidavit, the Voter's Guide has eight panels. However, only six panels, rather than the 7.5 described in Frazer's affidavit, advocate the election of named candidates. Of these six panels, 2.25 appear to advocate the election of Mudd or the defeat of Burns, rather than the 1.75 noted in Frazer's affidavit; an aggregate of 0.75 panels appear to advocate the election of Williams, consistent with Frazer's affidavit; and three panels advocate the election of non-Federal candidates. Of the other two panels, one names no candidates but solicits contributions to Montana NARAL PAC, and one is the "mailer."

As noted, 11 C.F.R. § 106.1(a) provides that in the case of a publication made on behalf of more than one Federal candidate and/or both Federal and non-Federal candidates, the amount attributable to each candidate shall be determined by the proportion of space devoted to the particular candidate in relation to the space devoted to all candidates, rather than the total amount of space in the publication. However, neither the language of the regulation itself nor the Commission's explanation and justification of the specific rule for publications describe how to allocate space in publications parts of which advocate the election of Federal or non-Federal candidates and parts of which do not refer to specific candidates or elections. See Explanation and Justification of Regulations on Methods of Allocation Between Federal and Nonfederal

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and services apparently included the use of supplies and materials, as well as corporate personnel. However, neither of these distinctions change the applicability of AO 1984-37 to the situation at hand.

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Accounts; Payments; Reporting, 55 Fed. Reg. 26058, 26061 (June 26, 1990). In this case, the calculation must account for costs attributable both to the solicitation panel and the "mailer" panel, as well as those attributable to the panels endorsing Federal or non-Federal candidates.

The "mailer" panel is the easier of the two non-candidate panels to deal with; because it is necessary for the distribution by mail of all the messages contained in the publication, it can be considered attributable to all of those messages in proportion to their space in the remainder of the Voter's Guide. Thus, it need not be considered further. This leaves seven panels, one of which, the solicitation panel, does not have to do with candidates.

In the Commission's opinion, the most equitable way to deal with the solicitation panel is to subtract its proportional cost from the total cost of the Voter's Guide prior to making the particular-candidate-to-all-candidates calculation mandated by Section 106.1(a)(1). This subtraction is made in the following manner:

Total cost of Voter's Guide =	\$7,214.00
Proportion attributable to solicitation panel = 1/7 =	14.3%
Total cost attributable to solicitation panel = \$7,214.00 x 0.143 =	\$1,031.60
Total cost attributable to all candidates = \$7,214.00 - \$1,031.60 =	\$6,182.40

With that calculation made, it is now possible to apply the formula of 11 C.F.R.

§ 106.1(a)(1) to determine how much of the total cost attributable to all candidates is attributable to Mudd and Williams.

**Mudd**

Total panels attributable to candidates = 6

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Total panels attributable to Mudd = 2.25

Proportion attributable to Mudd =  $2.25/6 = 37.5\%$

Total cost attributable to candidates = \$6,182.40

Total cost attributable to Mudd =  $\$6,182.40 \times 0.375 = \$2,318.40$

Total cost allocated to Mudd by Montana NARAL = \$1,688.00

Underallocation =  $\$2,318.40 - \$1,688.00 = \$ 630.40$

Williams

Total panels attributable to candidates = 6

Total panels attributable to Williams = 0.75

Proportion attributable to Williams =  $0.75/6 = 12.5\%$

Total cost attributable to candidates = \$6,182.40

Total cost attributable to Williams =  $\$6,182.40 \times 0.125 = \$ 772.80$

Total cost allocated to Williams by Montana NARAL = \$ 694.00

Underallocation =  $\$772.80 - \$694.00 = \$ 78.80$

By relying on Montana NARAL's misallocation of the Voter's Guide costs to determine the amount of its in-kind contributions to the Mudd and Williams campaigns, National NARAL PAC and Goldman, as treasurer, appear to have violated 11 C.F.R. § 106.1(a)(1). In addition, because the underallocations of \$630.40 with respect to the Mudd campaign and \$78.80 with respect to the Williams campaign appear never to have been paid by National NARAL PAC to

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Montana NARAL, much less paid in advance, these amounts appear to represent illegal corporate contributions from Montana NARAL to National NARAL PAC.

**ii. Advance Payment and Personnel Costs**

With respect to those portions of the Voter's Guide costs that were allocated, National NARAL PAC's transactions with Montana NARAL met neither of the other conditions for approval of such transactions set forth in AO 1984-37. First, Frazer averred that "in each instance [i.e., with respect to both the Voter's Guide and other disbursements], funds were disbursed from [National] NARAL-PAC to [Montana] NARAL before [Montana] NARAL provided any goods or services to the Jack Mudd campaign on behalf of [National] NARAL-PAC." However, the supporting documentation for her affidavit appears to contradict this assertion in one instance and provides insufficient evidence to sustain it in others. As noted, National NARAL PAC reported making in-kind contributions of \$1,222.36 to the Mudd committee and \$502.41 to the Williams committee on November 10, 1994. November 10 was two days after the election. As is apparent from the allocation sheet prepared by Frazer, these amounts equaled the amounts allocated by Montana NARAL to pay for Mudd's and Williams's share of the postage for the Voter's Guide. Assuming the voter guide was mailed before the election, Montana NARAL apparently either paid for the postage and was reimbursed by National NARAL PAC, or received an extension of credit from the U.S. Postal Service for which National NARAL PAC transferred money to Montana NARAL to pay a portion of the outstanding bill. Montana NARAL thus made an initial expenditure of either its money or its credit to mail the Voter's Guide, and, pursuant to AO 1984-37, this initial expenditure appears to constitute an in-kind contribution by Montana NARAL to National NARAL PAC in violation of 2 U.S.C. § 441b(a). As for the other Voter's Guide expenses listed on the allocation sheet, it

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cannot be determined whether National NARAL PAC paid Mudd's share or Williams's share in advance because it is not known precisely when the guide was produced or mailed, or the disbursements in question made.

Second, Montana NARAL does not appear to have allocated any personnel costs, much less personnel costs computed at the usual and normal charge for similar services from nonconnected vendors of similar expertise, to the Voter's Guide. While the disclaimer indicates that much of the Voter's Guide was assembled through "volunteer efforts," and the NARAL response also indicates that an intern whose compensation was listed as a "miscellaneous expense" on the allocation sheet worked on the Voter's Guide, it would strain credulity to assume that neither Frazer nor any other full-time employee of Montana NARAL had any editorial input or oversight role with respect to the Voter's Guide. The as-yet-unknown personnel costs attributable to such full-time employees' work on the Voter's Guide would also constitute an in-kind contribution from Montana NARAL to National NARAL PAC, in violation of 2 U.S.C. § 441b(a).

Accordingly, with respect to the facts surrounding the Voter's Guide, there is reason to believe that National NARAL PAC and Goldman, as treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 106.1(a)(1).

**b. Phone Banks**

As noted supra, Frazer acknowledged that Montana NARAL conducted phone banks on behalf of the Mudd and Williams campaigns, but asserted that, with one exception, Montana NARAL incurred no costs associated with the phone banks because all of the calling was done by volunteers and all of the telephones and facilities were donated. In the case of the one exception, Frazer averred, Montana NARAL paid a professional consultant \$1,500, which was

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allocated one-third to Mudd, one-third to Williams, and one-third to a state candidate, based on the calling script.

The script contains seven questions, three of which mention the names of candidates. One of the three mentions Mudd and Burns; one mentions Williams and his opponents; and one mentions candidates for a state legislative race. Based on this evidence, the allocation of the \$1,500 appears to have been made in accordance with 11 C.F.R. § 106.1(a)(1). Accord, 55 Fed. Reg. at 26061 (discussion of phone bank allocation). However, because there is no evidence indicating on what dates the phone calls were made or the \$1,500 disbursed, it cannot be determined from the current record whether National NARAL PAC paid Montana NARAL for these services in advance. In addition, as with the Voter's Guide disbursements, there is no apparent amount that was paid to cover personnel costs associated with Montana NARAL employees' involvement with the phone banks. Moreover, while Montana NARAL asserts that the phones and facilities for all but one phone bank were donated, there is currently no evidence in the record as to the identity of the individuals or entities that donated them. Depending on the circumstances, the donations could have resulted in excessive or prohibited contributions from the donors to National NARAL PAC.

Accordingly, there is reason to believe that National NARAL PAC and Goldman, as treasurer, violated 2 U.S.C. § 441b(a) with respect to the phone bank activity.

**c. Miscellaneous Expenses**

As noted, Frazer's allocation sheet records that Montana NARAL made certain miscellaneous disbursements on behalf of the Mudd and Williams campaigns and state candidates. These included a portion of an intern's stipend, plus telephone, postage, shipping, copying and facsimile expenses. Frazer averred that the costs of the intern's stipend were

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allocated based on a time log kept by the intern, and that the other expenses were allocated based on Frazer's personal knowledge of the activities at issue. However, the intern's time log was not included in the NARAL response, and Frazer provides no further details as to how she allocated the other disbursements.

The total amount of such expenses in the column marked "Actual Gross" on the allocation sheet equals \$959, but the total amount of the "State Pac," "Mudd In-Kind," and "Williams In-Kind" columns in the aggregate equals \$1,107. Because of this discrepancy, and given the lack of supporting documentation, the Commission is not willing to assume at this time that the allocation of the miscellaneous expenses was correctly computed. Further, because there is no evidence disclosing when these disbursements were made, it is impossible to discern at this point whether National NARAL PAC paid for them in advance. Finally, there is no indication that the costs associated with the intern stipend, or any unallocated compensation costs for other paid Montana NARAL personnel who may have incurred the miscellaneous expenses, were computed based on the usual and normal charge of independent vendors of similar experience and ability.

Accordingly, with respect to the miscellaneous expenses, there is reason to believe that National NARAL PAC and Goldman, as treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 106.1(a)(1).

**4. Radio Advertising**

**a. On Behalf of Williams**

As noted, the allocation sheet indicates that Montana NARAL spent \$2,351 on radio advertising in support of Williams's candidacy, and that these disbursements were treated as in-kind contributions from National NARAL PAC to the Williams committee. Again, however,

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because no evidence has been provided regarding the dates on which the disbursements were made, it is not possible to determine at this stage whether National NARAL PAC paid Montana NARAL in advance. Moreover, there is no information currently in the record concerning the extent to which Montana NARAL personnel were involved in the creation of, or decision-making regarding, the radio advertisements. Without this information, it is impossible to determine the amount National NARAL PAC should have included in its payment to Montana NARAL to cover personnel costs.

Accordingly, there is reason to believe that National NARAL PAC violated 2 U.S.C. § 441b(a) with respect to the radio advertisements on Williams's behalf.

**b. On Behalf of Mudd**

As discussed supra, an article in the "Election 1994 Edition" of "Choice News" contained a reference to "NARAL radio that Jack Mudd is the only candidate for U.S. Senate who trusts women and unlike his opponent would have voted for [the Freedom of Access to Clinic Entrances Act]." Also as discussed, when information in the Commission's disclosure databases is correlated with information in the response, there appears to be no reported disbursement that could account for such radio advertising. Depending on the content and context of the advertisement, the advertisement could have constituted an additional, unreported contribution to the Mudd campaign from National NARAL PAC or Montana NARAL. Depending on the amount and source, this contribution could have been either excessive or prohibited.<sup>5</sup>

<sup>5</sup> Given the acknowledgement by National NARAL PAC that the reported expenditures in this matter were not independent, it would appear that the radio advertisements at issue, if they constituted expenditures at all, would not be independent expenditures.

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Accordingly, there is reason to believe that National NARAL PAC and Goldman, as treasurer, violated 2 U.S.C. §§ 434(b) and 441a(a)(2)(A) with respect to radio advertising on behalf of the Mudd campaign.

**5. Reporting**

Given the conclusions above that some or all of the transactions in this matter may have amounted to prohibited corporate in-kind contributions from Montana NARAL to National NARAL PAC, it follows that some or all of the purported in-kind contributions from National NARAL PAC to the Mudd and Williams committees may have been reported incorrectly. Accordingly, there is reason to believe that National NARAL PAC and Goldman, as treasurer, violated 2 U.S.C. § 434(b).

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**FEDERAL ELECTION COMMISSION  
FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Montana National Abortion and  
Reproductive Rights Action League

MUR: 4131

**I. GENERATION OF MATTER**

This matter was generated by a complaint filed with the Federal Election Commission by Edwina Rogers, as general counsel of the National Republican Senatorial Committee. See 2 U.S.C. § 437g(a)(1).

**II. FACTUAL AND LEGAL ANALYSIS**

**A. Applicable Law**

The Federal Election Campaign Act of 1971, as amended ("the Act") defines an "independent expenditure" as

an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate or agent of such candidate.

2 U.S.C. § 431(17). Conversely, any expenditure "made by any person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution," rather than an independent expenditure. 2 U.S.C. § 441a(a)(7)(B)(i).

The Act limits the amount of contributions individuals and groups may make. Specifically, the Act provides that no multicandidate political committee shall make contributions "to any candidate and his authorized political committees with respect to any

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election for Federal office which, in the aggregate, exceed \$5,000[.]” 2 U.S.C. § 441a(a)(2)(A).

The Act also makes it illegal for any candidate or committee to knowingly accept such a contribution. 2 U.S.C. § 441a(f). The term “contribution” includes “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.” 2 U.S.C. § 431(8)(A)(i). In turn, the term “anything of value” includes the in-kind provision of any goods or services. 11 C.F.R.

§ 100.7(a)(1)(iii)(A).

It is unlawful for any corporation to make a contribution in connection with a Federal election, or for any candidate or committee to knowingly accept such a contribution. 2 U.S.C. § 441b(a). It is also unlawful for any corporation, other than those described by the Supreme Court in FEC v. Massachusetts Citizens for Life, Inc., 479 U.S. 238 (1986) (“MCFL”), to make any expenditure in connection with a Federal election. See 2 U.S.C. § 441b(a).<sup>1</sup> A corporation’s payment of compensation to an individual who renders services to a campaign committee or a candidate would constitute a gift of services as well as an indirect payment or a gift of something of value to the committee or candidate. 11 C.F.R. § 100.7(a)(3); Advisory Opinions 1984-37, 1984-24, 1978-6 and 1976-70. The Act excludes from the definition of “contribution” or “expenditure,” however, the “establishment, administration and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock.”

<sup>1</sup> New 11 C.F.R. § 114.10, effective October 5, 1995, delineates precisely which corporations are such “qualified nonprofit corporations.” But see Minnesota Citizens Concerned for Life, Inc. v. FEC, Civil No. 3-95-1147 (D. Minn. Apr. 19, 1996) (invalidating 11 C.F.R. § 114.10 as “too restrictive” and “contrary to a constitutional right,” and therefore void under the Administrative Procedure Act). This regulation was not in effect at the time of the activity at issue here. Moreover, the corporate respondent, Montana NARAL, has not, at this stage, claimed the protection of MCFL. Accordingly, the analysis herein presumes that Montana NARAL is not an “MCFL corporation.”

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2 U.S.C. § 441b(b)(2)(C). Except for specified exceptions involving certain communications, infra, the Act generally requires that corporations, including incorporated membership organizations, direct and finance their political activities solely through the use of the voluntary contributions in their separate segregated funds and not through the use of general treasury funds. 117 Cong. Rec. 43381 (remarks of Representative Hansen).

Expenditures made on behalf of more than one clearly identified Federal candidate shall be attributed to each such candidate according to the benefit reasonably expected to be derived. 11 C.F.R. § 106.1(a)(1). In the case of a publication, the attribution shall be determined by the proportion of space devoted to each candidate as compared to the total space devoted to all candidates. Id. These methods shall also be used to allocate payments involving both expenditures on behalf of one or more clearly identified Federal candidates and disbursements on behalf of one or more clearly identified non-Federal candidates. Id.

Under regulations in effect at all times relevant to this matter, incorporated membership organizations were permitted to make communications, including partisan communications, to their members and executive and administrative personnel, and their families, notwithstanding the general prohibition on the use of corporate treasury funds in connection with elections to Federal office. 11 C.F.R. § 114.3(a)(2) (1994); cf. 2 U.S.C. § 431(9)(B)(iii) (exempting disbursements for such communications from definition of "expenditure"). No corporation was permitted to make contributions or expenditures for partisan communications to the general public. 11 C.F.R. § 114.3(a)(1) (1994).<sup>2</sup>

<sup>2</sup> New regulations that became effective March 13, 1996 deleted the prohibition on "corporate and labor organization expenditures for 'partisan' communications to the general public because revised section 114.4 establishes that such communications are only prohibited if they contain express advocacy or are impermissibly coordinated with candidates or political committees." Explanation and Justification for Regulations on Corporate and (Footnote continued on following page)

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According to Commission regulations, a member of a membership organization is any person who currently satisfies the requirements for membership in a membership association, affirmatively accepts the association's invitation to become a member, and either (i) has some significant financial attachment to the membership association other than the mere payment of dues, (ii) is required to pay on a regular basis a specific amount of dues and is entitled to vote directly either for at least one member who has full participatory and voting rights on the highest governing body of the membership association, or for those who select at least one member thereof, or (iii) is entitled to vote directly for all of those on the highest governing body of the membership association. 11 C.F.R. § 114.1(e)(2). In Chamber of Commerce of United States v. FEC, 69 F.3d 600 (D.C. Cir. 1995), reh'g denied, No. 94-5339, WL 86152 (D.C. Cir. March 1, 1996), this interpretation of "member" was rejected as going too far beyond the Supreme Court's observation in FEC v. National Right to Work Comm. ("NRWC"), 459 U.S. 197, 204 (1982), that the term "member" in the Act required "some relatively enduring and independently significant financial or organizational attachment" to the organization. Following NRWC but prior to the 1993 adoption of the regulation in question, the Commission determined whether persons were "members" by examining whether they had a right to participate in the governance of the organization and an obligation to help sustain the organization through regular financial

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Labor Organization Activity; Express Advocacy and Coordination with Candidates, 60 Fed. Reg. 64260, 64265 (December 14, 1995). In turn, these changes were made in light of judicial interpretations that applied 2 U.S.C. § 441b's prohibition on corporate expenditures (as opposed to its prohibition on corporate contributions) only to expenditures encompassing express advocacy of the election or defeat of a clearly identified Federal candidate. See Explanation and Justification for Regulations on Express Advocacy, Independent Expenditures, Corporate and Labor Organization Expenditures, 60 Fed. Reg. 35292-93 (July 6, 1995) (discussing MCFL, 479 U.S. at 249; Faucher v. FEC, 928 F.2d 468 (1st Cir.), cert. denied sub nom. FEC v. Keefer, 502 U.S. 820 (1991); and FEC v. National Organization of Women, 713 F.Supp. 428 (D.D.C. 1989)). Accordingly, this analysis applies an express advocacy standard, rather than a "partisan/nonpartisan" standard, to the question of whether Montana NARAL distributed its newsletter beyond its restricted class. Infra at 26

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contributions of a predetermined minimum amount. Advisory Opinions 1992-41, 1988-39, 1987-13, 1987-5, 1985-11, 1984-33. Where participatory rights in the organization were lacking, the Commission consistently found the requisite attachment lacking. AOs 1987-13, 1985-11, 1984-22.

Under regulations in effect during the time at issue here, "expressly advocating" meant any communication containing a message advocating election or defeat, including but not limited to the name of the candidate, or expressions such as *vote for*, *elect*, *support*, *cast your ballot for*, and *Smith for Congress*, or *vote against*, *defeat* or *reject*. 11 C.F.R. § 109.1(b)(2) (1994).<sup>3</sup>

Persons other than political committees who make independent expenditures in excess of \$250 in a calendar year are required to report the expenditures to the Commission or the Secretary of the Senate, as appropriate. 2 U.S.C. § 434(c)(1). Any independent expenditure aggregating \$1,000 or more made after the 20th day, but more than 24 hours, before an election must be reported within 24 hours. 2 U.S.C. § 434(c)(2).

**B. The Complaint**

The complaint notes that the "Election 1994" edition of "Choice News," a publication of the Montana National Abortion and Reproductive Rights Action League ("Montana NARAL"), stated that "'Persuasion and Get Out the Vote calls to turn out pro-choice voters for Jack Mudd, Pat Williams, and local Missoula races will commence shortly before the election,'" and that Montana NARAL would distribute a Voter's Guide to 35,000 Montana voters. Complaint at 3-4.

<sup>3</sup> New regulations in effect October 5, 1995, significantly expanded and explained this definition. 11 C.F.R. § 100.22. But see Maine Right to Life Comm., Inc. v. FEC, 914 F.Supp. 8 (D. Me. 1996), reh'g denied, 95-261-B-H (Mar. 8, 1996) (invalidating new 11 C.F.R. § 100.22(b)).

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Jack Mudd was a candidate in the 1994 general election for United States Senator from Montana; Pat Williams was a candidate in the same election for United States Representative from Montana. "Choice News" itself, according to the complaint, was distributed "to an unknown number of potential Montana voters." Id. at 3. The complaint alleges that the Voter's Guide was mailed, the phone calls were made, and that Montana NARAL also made "literature 'drops'" on behalf of the Mudd and Williams candidacies. Id. at 4.

The complaint alleges that expenditures for these activities could not have been independent because Dave Hunter, who was named in "Choice News" as "chair of the PAC Committee of the Montana NARAL Choice Political Action Committee," was also "a senior advisor to . . . Mudd." Id. Accordingly, the complaint alleges, Montana NARAL violated 2 U.S.C. § 441b by making prohibited corporate contributions. Id. at 3-4. In the alternative, the complaint alleges, if the expenditures were in fact independent Montana NARAL violated 2 U.S.C. § 434(c) by failing to file 24-hour notices. Id. at 5.

C. Relevant Facts

1. NARAL Structure

At the outset, it may be helpful to outline the relationships between the various NARAL entities at issue in this matter. The National Abortion and Reproductive Rights Action League, Inc. ("National NARAL"), f/k/a the National Abortion Rights Action League, Inc., was a respondent in MUR 3109. Documents in the record of that matter indicate that National NARAL is a non-profit corporation, incorporated under the laws of the District of Columbia, and recognized by the Internal Revenue Service as a nonprofit organization described in 26 U.S.C. § 501(c)(4). According to documents on file with the Commission, the National Abortion and Reproductive Rights Action League PAC ("National NARAL PAC") is the separate segregated

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fund of National NARAL. National NARAL PAC is also qualified as a multicandidate committee as defined at 2 U.S.C. § 441a(a)(4).

Montana NARAL describes itself in its response to the complaint ("NARAL response") as "a membership organization, organized and operated as a non-profit corporation under Montana law." The NARAL response provides no details on the formal relationship between National NARAL and Montana NARAL. However, National NARAL's corporate by-laws, which are included in the record of MUR 3109, indicate that National NARAL encourages the formation of state affiliates, which are recognized as such under procedures set forth by National NARAL's board of directors. Given this provision of National NARAL's by-laws, it appears that Montana NARAL may be a state affiliate of National NARAL. Finally, the Montana National Abortion and Reproductive Rights Action League Choice PAC ("Montana NARAL PAC") is described in the response as "a Montana state PAC, organized and operated under Montana law." No committee by that name is registered with the Commission. Although the nature of any formal relationship between Montana NARAL and Montana NARAL PAC under Montana election law is not described in the response, Eliza Frazer, the executive director of Montana NARAL, averred that she is also the treasurer of Montana NARAL PAC.

**2. Services Purportedly Purchased By National NARAL PAC from Montana NARAL**

The NARAL response concedes that none of the expenditures at issue in this matter were independent. Instead, the response asserts, the expenditures were purchases of grassroots political organizing services from Montana NARAL by National NARAL PAC that amounted to in-kind contributions from National NARAL PAC to Jack Mudd for U.S. Senate.

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This section of this analysis will first recount the history of the transactions between National NARAL PAC and Montana NARAL on behalf of the Mudd and Williams campaigns. It will then examine the services, provided by Montana NARAL, that were purportedly paid for by the National NARAL PAC payments.

**a. Payment History between National NARAL PAC and Montana NARAL**

Based on the affidavit of National NARAL PAC treasurer Evan J. Goldman, on information in disclosure reports, and on other information in the Commission's possession, it is possible to construct a chronology of National NARAL PAC's purported contributions to Williams and Mudd in the general election. This chronology is set forth in the following table:

<u>Payment Date</u>	<u>Payee</u>	<u>Amount</u>	<u>Purpose</u>
9/23/94	Montana NARAL	\$1,000	In-kind, Mudd
9/23/94	Montana NARAL	\$1,000	In-kind, Williams
10/19/94	Mudd committee	\$2,000	Direct contribution
10/19/94	Montana NARAL	\$500	In-kind, Williams
10/27/94	Montana NARAL	\$500	In-kind, Mudd
10/27/94	Montana NARAL	\$2,000	In-kind, Williams
11/10/94	Montana NARAL	\$1,222.36	In-kind, Mudd
11/10/94	Montana NARAL	\$277.64	In-kind, Mudd
11/10/94	MT Alliance for Progressive Policy	\$80.70	In-kind, Mudd
11/10/94	Montana NARAL	\$502.41	In-kind, Williams

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The total amount of National NARAL PAC's reported general election contributions to the Williams campaign as reflected in National NARAL PAC's original post-General report equaled \$4,002.41; the total amount of National NARAL PAC's reported general election contributions to the Mudd campaign equaled \$5,080.70.

In January, 1995, National NARAL PAC and Montana NARAL apparently determined that Montana NARAL had not expended on the Williams and Mudd campaigns all of the money that National NARAL PAC had transferred to it for that purpose. Accordingly, on January 31, 1995, National NARAL PAC filed an amended 1994 October Monthly Report, in which its \$1,000 in-kind contribution to the Williams committee dated September 23, 1994 was reduced to \$771.11 and its \$1,000 contribution of the same date to the Mudd committee was reduced to \$467.28. The difference was apparently retained by Montana NARAL, and was reported on National NARAL PAC's amended report as transfers by National NARAL PAC to an affiliated organization. After the amendment, the total amount of reported general election contributions from National NARAL PAC to the Mudd campaign equaled \$4,547.87; the corresponding amount of reported contributions to the Williams campaign totaled \$3,773.52.

**b. Services Provided by Montana NARAL**

In her affidavit, Frazer, Montana NARAL's executive director, described the activities Montana NARAL undertook on behalf of the Mudd and Williams campaigns. Frazer acknowledged that Montana NARAL produced and mailed a "Voter's Guide."<sup>4</sup> Frazer did not

<sup>4</sup> As used in this analysis, the terms "voter guide" or "Voter's Guide" do not have the same meaning as the term "voter guide" used as a term of art in the Commission's regulations. There, the term "voter guide" refers to a publication paid for by the general treasury of a corporation or labor organization and directed to the general public that contains statements of the positions on campaign issues of two or more candidates for election to a Federal office and that, depending on the degree of coordination between the publisher of the guide and the candidates or their committees or agents, may not contain express advocacy or an electioneering message. By meeting these requirements, a voter guide, as described by the regulations, may be paid for by the corporation or union's general (Footnote continued on following page)

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state to whom the Voter's Guide was mailed, or how many voter guides were mailed. The guide expressly advocated the election of Mudd as U.S. Senator and Williams as U.S. Representative; it also contained Montana NARAL PAC's endorsements in races for the Montana state legislature, and solicited contributions to Montana NARAL PAC. Frazer averred that, based on the proportional amount of space devoted to each candidate, she allocated 23.6 percent of the Voter's Guide's cost as an in-kind contribution from National NARAL PAC to the Mudd campaign, and 9.7 percent of its cost as an in-kind contribution from National NARAL PAC to the Williams campaign. The one exception to the allocation, she averred, was a \$60 expense for pizza to feed volunteers who worked on the Voter's Guide; this expense was evidently allocated entirely to state candidates.

Frazer also acknowledged that Montana NARAL, "on behalf of [National] NARAL-PAC," conducted phone banks in support of the Mudd and Williams campaigns. However, she averred, with one exception "these phone banks did not cost [Montana] NARAL anything. [Montana] NARAL was not required to pay for the telephone lines or facilities used to conduct these phone banks. It also did not pay people to place the calls - all callers volunteered their time free of charge." The one exception was a phone bank that made calls to potential voters in Missoula, Montana; for that bank, Montana NARAL "paid an independent contractor \$1500[.]" Frazer asserted that based on the proportion of the caller script devoted to questions concerning Mudd and Williams, she allocated one-third of the cost of the Missoula phone bank, or \$500, as

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treasury without being deemed a contribution or expenditure 11 C.F.R. § 114.4(c)(5), but see *Clifton v. FEC*, Civ. No. 96-66-P-H, slip op. at 16 (D. Me. May 20, 1996) (invalidating 11 C.F.R. § 114.4(c)(5) as *ultra vires*). As noted, Montana NARAL makes no claim that disbursements for the "Voter's Guide" in this matter were anything other than contributions. The publication at issue was more akin to a slate card. Nevertheless, in the interest of being consistent with terminology used in both the complaint and the response, this analysis will refer to the publication as the "Voter's Guide."

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an in-kind contribution from National NARAL PAC to the Mudd campaign; an allocation chart prepared by Frazer and attached to her affidavit indicates she did the same with respect to the Williams campaign.

In addition, Frazer averred that Montana NARAL incurred certain miscellaneous expenses on behalf of the Mudd and Williams campaigns that were paid for by National NARAL PAC. These apparently included a portion of the compensation of an intern who worked on projects related to the Mudd and Williams campaigns, as well as telephone, postage, shipping, copying and facsimile charges. These expenses were also allocated between the Mudd campaign, the Williams campaign, and Montana NARAL PAC's support of candidates for state office. Addressing in her affidavit only the expenses allocated to the Mudd campaign, Frazer averred that she allocated these expenses "based on my knowledge of the costs incurred by [Montana] NARAL for Jack Mudd for U.S. Senate on behalf of [National] NARAL-PAC." No information was provided in the NARAL response regarding the relationship, if any, between the "miscellaneous expenses" and either the Voter's Guide or the telephone banks. Frazer also averred that Montana NARAL had incurred further miscellaneous expenses in support of the Mudd campaign that had not yet been billed and thus were not included on the allocation sheet attached to her affidavit, but that the aggregate value of these expenses was less than the \$555 balance remaining at the time from NARAL PAC's prior payments to Montana NARAL.

3. **Radio Advertising**

Although not addressed in the response, Frazer's allocation sheet also indicates that \$2,351 was allocated as in-kind contributions from National NARAL PAC to the Williams campaign under the heading "Radio Williams." Moreover, in the "Election 1994" edition of Choice News," which was appended to the complaint as an exhibit, an article criticizing

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**Republican Senate nominee Conrad Burns's position on the Freedom of Access to Clinic Entrances Act ("FACE") states that**

**[Burns's] insensitivity to women's issues is all to [sic] evident in his latest campaign radio ads now airing in Kalispell . . . The Burns radio spot is in response to NARAL radio that Jack Mudd is the only candidate for U.S. Senate who trusts women and unlike his opponent would have voted for FACE.**

**Complaint, Exhibit 1, at 1. There is no record in Commission disclosure databases of any National NARAL PAC contributions to Mudd's general election campaign other than the \$2,000 monetary contribution and the purportedly in-kind payments already discussed, nor are there any records in the databases of any independent expenditures on Mudd's behalf by National NARAL or National NARAL PAC. Moreover, in the response, Montana NARAL affirmatively represented that "[n]either [Montana] NARAL nor [National] NARAL, Inc. made any contributions or independent expenditures to or on behalf of the Jack Mudd for U.S. Senate campaign," and National NARAL PAC treasurer Goldman averred in his sworn affidavit that "[d]uring the 1994 election cycle, [National] NARAL-PAC did not make any independent expenditures on behalf of Jack Mudd for U.S. Senate." Thus, it is unclear who paid for the "NARAL radio" referred to in "Choice News."**

**4. "Choice News"**

**As the NARAL response notes, "[t]he Complaint also implies . . . that [Montana] NARAL violated the Act by using corporate resources to mail the Election 1994 issue of 'Choice News' to 'an unknown number of potential voters in Montana.'" Frazer averred that 709 copies of "Choice News" were mailed, 673 of which were mailed to members of Montana NARAL and 36 of which were mailed to "NARAL-affiliated entities." Frazer's affidavit did not**

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state how many copies of "Choice News" were printed or whether, and to whom, any copies were distributed by means other than mailing.

The "Election 1994" edition of "Choice News," which, as noted, was attached to the complaint, is an eight-page newsletter. Most of the articles in the newsletter appear to have little or no relation to the 1994 election; for instance, there are articles concerning the organization's new board, the activities of an intern, a raffle, and news from various Montana NARAL chapters. But other articles contain references to the 1994 elections and candidates in them, especially Senate candidates Mudd and Burns. The front-page article, "Three Arsons in Three Years . . . And Burns calls this Freedom of Speech," notes that "Conrad Burns has earned a 0% voting record from NARAL in 4 of 5 years," criticizes Burns's opposition to the Freedom of Access to Clinic Entrances Act, and contains the statement discussed supra that "Jack Mudd is the only candidate for U. S. Senate who trusts women." On the second page, an article entitled "Violence and the Freedom of Choice" states:

Our fight is to protect our right to a complete range of reproductive health care, including family planning, contraception, sexuality education, and abortion . . . Electing pro-choice candidates who favor maintaining freedom of access to complete reproductive health care services is our best chance to protect this right . . . Most importantly, get yourself and your pro-choice friends to the polls on November 8.

On the third page, which contains the overall headline "PAC PAGE[/]Activities of the MT NARAL Choice Political Action Committee," an article entitled "Voters' Guide Coming Soon!" states:

A major focus of this year's Guide is the sharply contrasting record of U.S. Senate incumbent, Conrad Burns, and his challenger, Jack Mudd. Burns has repeatedly voted against women and choice, earning a 0% voting record every year from NARAL except 1993.

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Finally, the newsletter contains, on the third and fifth pages, the references to "persuasion and get out the vote calls" referred to in the discussion of the complaint. No information was provided in the NARAL response regarding what financial or organizational attachments existed between Montana NARAL and its "members."

**D. Analysis**

**1. Summary**

In two 1984 advisory opinions, the Commission set forth the requirements for transactions in which a separate segregated fund purports to make in-kind contributions to candidates by purchasing goods and services from the fund's connected organization. Three requirements from those opinions are relevant here. First, the fund must pay the connected organization in advance. Second, the payment must include an amount to cover the connected organization's personnel costs associated with the in-kind contributions, and this amount must not be less than the usual and normal charge of independent consultants of similar experience and ability for similar services. Third, if the purported in-kind contributions are on behalf of more than one clearly identified candidate, they must be allocated between the candidates pursuant to 11 C.F.R. § 106.1(a). Some of the purported in-kind contributions from National NARAL PAC to the Mudd and Williams committees through Montana NARAL did not meet these requirements, and the NARAL response does not provide sufficient information to determine whether others met them or not. Accordingly, Montana NARAL may have made prohibited corporate contributions to NARAL PAC and to the Mudd and Williams committees.

In addition, the radio advertising on Mudd's behalf that was referred to in "Choice News" may have been an unreported excessive or prohibited in-kind contribution to the Mudd campaign. Finally, the "Election 1994" edition of "Choice News" expressly advocated Burns's

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defeat and may have been coordinated with a representative of the Mudd campaign. Because it may also have been distributed outside Montana NARAL's restricted class, it may have been a prohibited corporate contribution or expenditure by Montana NARAL to or on behalf of the Mudd campaign.

**2. In-Kind Purchases of Goods and Services from a Connected Organization: AOs 1984-24 and 1984-37**

In Advisory Opinions 1984-24 and 1984-37, the Commission considered proposals for two series of transactions similar to those at issue here. In both instances, the separate segregated funds of incorporated membership organizations proposed to make in-kind contributions to candidates by purchasing from the connected organizations on the candidates' behalf the services of corporate employees. In AO 1984-24, the separate segregated fund proposed to pay for these services, and for the use of corporate facilities and goods incidental thereto, either by reimbursing the connected organization for its actual costs plus a surcharge or by making advance payments of estimated costs to an escrow account, from which the corporation would withdraw reimbursement after it determined its actual costs. Under either scenario, the initial disbursement of funds for employee compensation or for other overhead costs was to be made by the connected organization. The request in AO 1984-37 differed in that the separate segregated fund proposed to pay directly to its connected organization in advance the usual and normal charge for the services to be rendered, based on the charges of independent political consultants of similar experience and ability.

The Commission disapproved the proposal in AO 1984-24 but approved the one in AO 1984-37. Because both payment methods proposed by the requestor in AO 1984-24 "involve[d] the initial disbursement of corporate treasury funds" to compensate employees or pay costs of

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overhead or supplies and materials, the Commission viewed these disbursements as "loan[s], advance[s], or [things] of value to both the candidate and the . . . separate segregated fund," and concluded that they would be prohibited by 2 U.S.C. § 441b. By contrast, in AO 1984-37, all of the separate segregated fund's payments to the connected organization were to be made in advance; consequently, the Commission determined that there would be "no initial disbursement of corporate treasury funds that constitutes either a loan, advance, or anything of value to either the candidate or [the separate segregated fund]." Moreover, because the separate segregated fund proposed to pay for the consulting services of corporate employees based on the usual and normal charge for such services by independent political consultants of similar experience and ability, the Commission concluded that the separate segregated fund "would not receive anything of value from its dealings with [the connected organization]." However, the Commission noted that because the proposed transactions would result in in-kind contributions from the separate segregated fund to the recipient candidates' committees, the transactions were subject to all applicable limitations and reporting requirements -- including the allocation requirement of 11 C.F.R. § 106.1(a).

Three principles from these opinions help decide the matter at hand. First, a separate segregated fund may make in-kind contributions to a candidate by purchasing goods and services from its connected organization on the candidate's behalf, so long as everything is paid for in advance. Second, if the services involve the performance of work by the connected organization's employees, the separate segregated fund's advance payment for such services must be based on the usual and normal charge for such services by similarly situated

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independent vendors.<sup>5</sup> Third, if the services benefit more than one Federal candidate, or benefit Federal and non-Federal candidates, the in-kind contributions must be allocated between the candidates in accordance with 11 C.F.R. § 106.1(a)(1). We now turn to the application of these principles to the services purchased by National NARAL PAC from Montana NARAL.<sup>6</sup>

**3. Purchases from Montana NARAL by National NARAL PAC**

**a. Voter's Guide**

**i. Allocation Between Candidates**

At the threshold, it is necessary to ensure that the Voter's Guide's expenses were correctly allocated between Williams, Mudd, and state candidates. As Frazer stated in her affidavit, the Voter's Guide has eight panels. However, only six panels, rather than the 7.5 described in Frazer's affidavit, advocate the election of named candidates. Of these six panels, 2.25 appear to advocate the election of Mudd or the defeat of Burns, rather than the 1.75 noted in Frazer's affidavit; an aggregate of 0.75 panels appear to advocate the election of Williams, consistent with Frazer's affidavit; and three panels advocate the election of non-Federal

<sup>5</sup> Cf. Explanation and Justification for Regulations on Corporate and Labor Organization Activity: Express Advocacy and Coordination with Candidates, 60 Fed. Reg. 64260, 64264 (Dec. 14, 1995). There, in approving new regulations allowing similar advance payment procedures in different circumstances, the Commission required payment in advance of "fair market value," which it defined as

the price that would normally be paid in the marketplace where the corporation or labor organization would normally obtain these goods or services, if reasonably ascertainable. However, in no case is the fair market value less than the corporation or labor organization's actual cost, which includes total compensation earned by all employees [engaged in the activity], plus benefits and overhead.

<sup>6</sup> However, we first note two differences between the facts of this matter and those of AO 1984-37. First, Montana NARAL is not National NARAL PAC's connected organization, rather, it appears to be a state affiliate of National NARAL PAC's connected organization. Second, National NARAL PAC's purported purchase of goods and services apparently included the use of supplies and materials, as well as corporate personnel. However, neither of these distinctions change the applicability of AO 1984-37 to the situation at hand.

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candidates. Of the other two panels, one names no candidates but solicits contributions to Montana NARAL PAC, and one is the "mailer."

As noted, 11 C.F.R. § 106.1(a) provides that in the case of a publication made on behalf of more than one Federal candidate and/or both Federal and non-Federal candidates, the amount attributable to each candidate shall be determined by the proportion of space devoted to the particular candidate in relation to the space devoted to all candidates, rather than the total amount of space in the publication. However, neither the language of the regulation itself nor the Commission's explanation and justification of the specific rule for publications describe how to allocate space in publications parts of which advocate the election of Federal or non-Federal candidates and parts of which do not refer to specific candidates or elections. See Explanation and Justification of Regulations on Methods of Allocation Between Federal and Nonfederal Accounts; Payments; Reporting, 55 Fed. Reg. 26058, 26061 (June 26, 1990). In this case, the calculation must account for costs attributable both to the solicitation panel and the "mailer" panel, as well as those attributable to the panels endorsing Federal or non-Federal candidates.

The "mailer" panel is the easier of the two non-candidate panels to deal with; because it is necessary for the distribution by mail of all the messages contained in the publication, it can be considered attributable to all of those messages in proportion to their space in the remainder of the Voter's Guide. Thus, it need not be considered further. This leaves seven panels, one of which, the solicitation panel, does not have to do with candidates.

In the Commission's opinion, the most equitable way to deal with the solicitation panel is to subtract its proportional cost from the total cost of the Voter's Guide prior to making the particular-candidate-to-all-candidates calculation mandated by Section 106.1(a)(1). This subtraction is made in the following manner:

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

July 26, 1996

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Craig M. Engle, Esq.  
General Counsel  
National Republican Senatorial Committee  
Ronald Reagan Republican Center  
425 Second Street, N.E.  
Washington, D.C. 20002

RE: MUR 4131  
National Abortion and Reproductive Rights  
Action League PAC and Evan J. Goldman,  
as treasurer  
Montana National Abortion and  
Reproductive Rights Action League  
Jack Mudd for U.S. Senate  
and Margaret Mudd, as treasurer  
A Lot Of Folks For Pat Williams  
and Si Seifert, as treasurer

Dear Mr. Engle:

This is in reference to the complaint your predecessor, Edwina Rogers, filed with the Federal Election Commission on November 7, 1994, concerning Jack Mudd for U.S. Senate and the Montana National Abortion and Reproductive Rights Action League.

Based on that complaint, on July 16, 1996, the Commission took several actions. First, with respect to radio advertisements referencing Jack Mudd, the Commission found reason to believe that the National Abortion and Reproductive Rights Action League PAC and Evan J. Goldman, as treasurer, violated 2 U.S.C. §§ 434(b) and 441a(a)(2)(A); that Montana National Abortion and Reproductive Rights Action League violated 2 U.S.C. § 441b(a); and that Jack Mudd for U.S. Senate and Margaret Mudd, as treasurer, violated 2 U.S.C. § 434(b) and either 2 U.S.C. § 441a(f) or 2 U.S.C. § 441b(a).

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Craig M. Engle, Esq.  
MUR 4131  
Page 2

Second, with respect to other activity at issue in this matter, the Commission found reason to believe that the National Abortion and Reproductive Rights Action League and Evan J. Goldman, as treasurer, violated 2 U.S.C. §§ 434(b) and 441b(a), and 11 C.F.R. § 106.1(a)(1); that Montana National Abortion and Reproductive Rights Action League violated 2 U.S.C. § 441b(a); that Jack Mudd for U.S. Senate and Margaret Mudd, as treasurer, violated 2 U.S.C. §§ 434(a)(6)(A), 434(b), and 441b(a); and that A Lot Of Folks For Pat Williams and Si Seifert, as treasurer, violated 2 U.S.C. §§ 434(a)(6)(A), 434(b), and 441b(a).

However, on the same date, after considering the circumstances of this matter, the Commission determined to take no further action against any of the respondents, and closed the file in this matter. A Statement of Reasons providing a basis for the Commission's decision will follow. This matter will become part of the public record within 30 days. The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

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

Sincerely,



Lawrence L. Calvert Jr.  
Attorney

Enclosure  
General Counsel's Report

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D C 20463

THIS IS THE END OF MUR # 4131

DATE FILMED 8/23/96 CAMERA NO. 2

CAMERAMAN EEJ

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Date: 8/21/96

Microfilm  
 Public Records  
 Press

THE ATTACHED MATERIAL IS BEING ADDED TO CLOSED MUR 4131

96043743058



**FEDERAL ELECTION COMMISSION**

WASHINGTON, D.C. 20463

**August 8, 1996**

**Ms. Margaret Mudd, Treasurer  
Jack Mudd for U.S. Senate  
20 Willowbrook  
Missoula, Montana 59802**

**RE: MUR 4131  
Jack Mudd for U.S. Senate  
and Margaret Mudd, as treasurer**

Dear Ms. Mudd:

Enclosed please find a Statement of Reasons adopted by the Commission explaining its decision to take no further action and close the file in the above-captioned matter. This document will be placed on the public record as part of the file of MUR 4131.

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

Sincerely,

  
Lawrence L. Calvert Jr.  
Attorney

Enclosure  
Statement of Reasons

96043743059



**FEDERAL ELECTION COMMISSION**  
WASHINGTON, D.C. 20463

**August 8, 1996**

**Mr. Craig M. Engle, Esq.**  
**General Counsel**  
**National Republican Senatorial Committee**  
**Ronald Reagan Republican Center**  
**425 Second Street, N.E.**  
**Washington, D.C. 20002**

**RE: MUR 4131**  
**National Abortion and Reproductive Rights**  
**Action League PAC and Evan J. Goldman,**  
**as treasurer**  
**Montana National Abortion and**  
**Reproductive Rights Action League**  
**Jack Mudd for U. S. Senate**  
**and Margaret Mudd, as treasurer**  
**A Lot Of Folks For Pat Williams**  
**and Si Seifert, as treasurer**

Dear Mr. Engle:

By letter dated July 26, 1996, the Office of the General Counsel informed you of determinations made with respect to the complaint filed by your predecessor, Edwina Rogers, concerning Jack Mudd for U.S. Senate and the Montana National Abortion and Reproductive Rights Action League. Enclosed with that letter was a copy of the First General Counsel's Report.

Enclosed please find a Statement of Reasons adopted by the Commission explaining its decision to take no further action and close the file in this matter. This document will be placed on the public record as part of the file of MUR 4131.

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

Sincerely,

  
Lawrence L. Calvert Jr.  
Attorney

96043743060



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

August 8, 1996

Mr. Geoffrey F. Aronow, Esq.  
Ms. Susan B. Chertkoff, Esq.  
Arnold & Porter  
555 12th Street, N.W.  
Washington, D. C. 20004

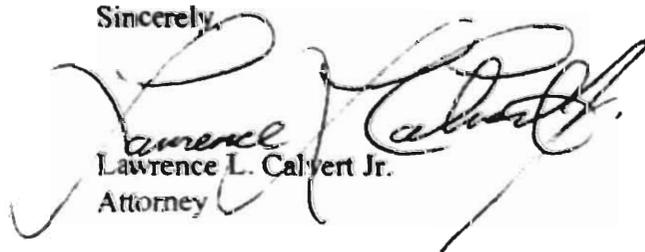
RE: MUR 4131  
National Abortion and Reproductive Rights  
Action League PAC and Evan J. Goldman,  
as treasurer  
Montana National Abortion and  
Reproductive Rights Action League

Dear Mr. Aronow and Ms. Chertkoff:

Enclosed please find a Statement of Reasons adopted by the Commission explaining its decision to take no further action and close the file in the above-captioned matter. This document will be placed on the public record as part of the file of MUR 4131.

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

Sincerely,



Lawrence L. Calvert Jr.  
Attorney

Enclosure  
Statement of Reasons

96043743061



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

August 8, 1996

Mr. Si Seifert, Treasurer  
A Lot Of Folks For Pat Williams  
P. O. Box 1994  
Helena, Montana 59624

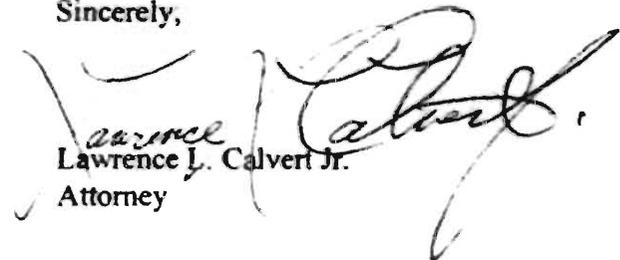
RE: MUR 4131  
A Lot Of Folks For Pat Williams  
and Si Seifert, as treasurer

Dear Mr. Seifert:

Enclosed please find a Statement of Reasons adopted by the Commission explaining its decision to take no further action and close the file in the above-captioned matter. This document will be placed on the public record as part of the file of MUR 4131.

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

Sincerely,

  
Lawrence J. Calvert Jr.  
Attorney

Enclosure  
Statement of Reasons

cc: Hon. Pat Williams  
P. O. Box 1996  
Helena, Montana 59624

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