FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4161

DATE FILMED 2-8-96 CAMERA NO. 4

CAMERAMAN S.E.G

9604372122

REPORTS ANALYSIS REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: March 11, 1994

ANALYST: DONALD AVERETT

I. COMMITTEE: Envoy Inc. Political Action Committee
(C00253112)
Don Garvey, Treasurer
3939 North Causeway Boulevard
Metairie, LA 70010

II. RELEVANT STATUTE: 2 U.S.C. §441b(a)
11 CFR §114.2

III. BACKGROUND:

Receipt of an Apparent Impermissible Contribution from a Corporation

Envoy Inc. Political Action Committee ("the Committee") filed a Statement of Organization on July 26, 1991 which disclosed Envoy, Inc. and Radiofone, Inc. as connected organizations (Attachment 2).

On August 21, 1991, the Reports Analysis Division ("RAD") analyst sent a Request for Additional Information ("RFAI") to the Committee. The RFAI asked for clarification of the relationship between the Committee, Envoy, Inc. and Radiofone, Inc. (Attachment 3). On September 12, 1991, a Second Notice was sent to the Committee for failure to respond to the RFAI (Attachment 4).

The Committee filed an Amended Statement of Organization on September 12, 1991. The amendment indicated that Envoy, Inc. is the Committee's connected organization and that Envoy, Inc. is a subsidiary of Radiofone, Inc. (Attachment 5).

On February 4, 1992, the Committee filed its 1991 Year End Report, which disclosed contributions totalling $9,947.00 from Radiofone, Inc. (Attachment 6).

On October 18, 1992, the Committee filed its 1992 October Quarterly Report. Schedule B of the report disclosed

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a refund of $1,100 to Radiofone, Inc. The report indicated that the refund took place on July 14, 1992 (Attachment 7).

On September 8, 1993, the RAD analyst sent an RFAI to the Committee for the 1991 Year End and 1992 Year End Reports. The RFAI advised the Committee to refund or transfer-out any contribution received from a corporation (Attachment 8).

On September 30, 1993, a Second Notice was sent to the Committee for failure to respond to the RFAI (Attachment 9).

Mr. Don Garvey, the treasurer, telephoned the RAD analyst on October 15, 1993. Mr. Garvey stated that the Committee had limited financial activity, that the reports were filed by the comptroller and that he, Mr. Garvey, was unaware of what activity was disclosed on the report. The RAD analyst advised Mr. Garvey of the apparent receipt of contributions from a corporation (Attachment 10).

Ms. Christine Tramell, a Committee representative, called the RAD analyst on October 15, 1993. The RAD analyst explained that the Committee's connected organization could directly pay for the Committee's operating expenses or reimburse the Committee within thirty (30) days of the Committee's payment of operating expenditures, but that the connected organization could not contribute to the Committee. Ms. Tramell indicated that she would review the transactions (Attachment 11).

On October 29, 1993, Mr. Michael Eckstein, an attorney for the Committee, called the RAD analyst and stated that he had just received the RFAI and Second Notice and that he would provide a response within a week (Attachment 12).

On November 4, 1993, Mr. Brian Baudot, the comptroller, telephoned the RAD analyst. The RAD analyst urged Mr. Baudot to provide a response to the RFAI as soon as possible. Mr. Baudot explained that he had incorrectly believed that the connected organization could contribute to the Committee. Mr. Baudot further stated that the Committee intended to raise sufficient funds to refund the total amount received from Radiofone, Inc. The RAD analyst advised Mr. Baudot to refund that amount and to provide a written response to the Commission (Attachment 13).

Mr. Eckstein, an attorney for the Committee, telephoned the RAD analyst on November 8, 1993. The RAD analyst advised Mr. Eckstein to refund any contributions from Radiofone, Inc. and to submit a photocopy of the refund check. Mr. Eckstein stated that the refund would be made within the week and that a written response to the RFAI would be submitted by November 12, 1993 (Attachment 14).

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On November 15, 1993, the Committee responded by letter. The letter states a "transfer-out" has been made to Radiofone, Inc. and encloses a copy of the check for the amount (Attachment 15). The refund was also disclosed on the 1993 Year End Report (Attachment 16).

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ATTACHMENT 1
(Page 1 of 2)

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

DATE 10MAR94
PAGE 1

COMMITTEE	DOCUMENT	RECEIPTS		DISBURSEMENTS		COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
						TYPE OF FILER		
ENVOY INC POLITICAL ACTION COMMITTEE						ID #C00253112	NON-PARTY	NON-QUALIFIED
CONNECTED ORGANIZATION: ENVOY INC/RADIOPONE INC								
1991	STATEMENT OF ORGANIZATION					26JUL91	3	91FEC/704/0214
	REQUEST FOR ADDITIONAL INFORMATION					21AUG91	3	91FEC/710/0769
	STATEMENT OF ORGANIZATION - AMENDMENT					12SEP91	3	91FEC/711/1686
	REQUEST FOR ADDITIONAL INFORMATION 2ND					12SEP91	4	91FEC/711/1719
	YEAR-END	9,947		8,848		1JUL91 -31DEC91	6	92FEC/735/2790
	REQUEST FOR ADDITIONAL INFORMATION					1JUL91 -31DEC91	4	93FEC/859/4986
	REQUEST FOR ADDITIONAL INFORMATION 2ND					1JUL91 -31DEC91	6	93FEC/862/1541
1992	APRIL QUARTERLY	1		0		1JAN92 -31MAR92	3	92FEC/748/3219
	JULY QUARTERLY	0		16		1APR92 -30JUN92	3	92FEC/765/0316
	OCTOBER QUARTERLY	20		1,113		1JUL92 -30SEP92	6	92FEC/788/0566
	YEAR-END	2,038		1,028		1OCT92 -31DEC92	5	93FEC/820/0563
	REQUEST FOR ADDITIONAL INFORMATION					1OCT92 -31DEC92	4	93FEC/859/4990
	REQUEST FOR ADDITIONAL INFORMATION 2ND					1OCT92 -31DEC92	5	93FEC/862/1536
	TOTAL	12,006	0	11,005	0		55	TOTAL PAGES

All reports have been reviewed.
Cash-on-hand balance as of 12/31/92: $1000
Outstanding debts owed by the committee
as of 12/31/92: $0

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FEDERAL ELECTION COMMISSION
1993-1994
COMMITTEE INDEX OF DISCLOSURE DOCUMENTS - (C)

DATE 10MAR94
PAGE 1

COMMITTEE DOCUMENT	RECEIPTS		DISBURSEMENTS		COVERAGE DATES / TYPE OF FILER	# OF PAGES	MICROFILM LOCATION
ENVOY INC POLITICAL ACTION COMMITTEE					ID #C00253112	NON-PARTY	NON-QUALIFIED
CONNECTED ORGANIZATION: ENVOY INC/RADIOPONE INC							
1993 MISCELLANEOUS REPORT TO FEC					15NOV93	3	93FEC/866/2506
JULY QUARTERLY	22		22		1JAN93 -30JUN93	3	93FEC/851/4230
YEAR-END	10,823		10,856		1JUL93 -31DEC93	5	94FEC/874/1060
TOTAL	10,845	0	10,878	0		11	TOTAL PAGES

All reports have been reviewed.
Ending cash-on-hand as of 12/31/93: $967
Outstanding debts owed by the committee as of 12/31/93: $0

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FEDERAL ELECTION COMMISSION

91 JUL 26 AM 11:48

MICHAEL L. ECKSTEIN
ATTORNEY AT LAW
A PROFESSIONAL CORPORATION
829 BARONNE STREET
NEW ORLEANS, LOUISIANA 70113
TEL. 504-581-9322
FAX 504-566-0040

July 15, 1991

Federal Election Commission
Washington, D.C. 20463

Re: Envoy, Inc. Political Action Committee

Gentlemen:

Enclosed please find Statement of Organization which we are filing in duplicate on behalf of Envoy, Inc. Political Action Committee. Please call me upon receipt.

Sincerely,

MICHAEL L. ECKSTEIN, ATTORNEY AT LAW
A PROFESSIONAL CORPORATION

By: Michael L. Eckstein

MLE:lfm
Enclosure
cc: Mr. Emery Dyer
74155/c/24

STATEMENT OF ORGANIZATION

(See reverse side for instructions)

FEDERAL ELECTION COMMISSION

1. (a) NAME OF COMMITTEE IN FULL ☐ (Check if name is changed)
ENVOY, INC. POLITICAL ACTION COMMITTEE

(b) Number and Street Address ☐ (Check if address is changed)
3939 N. Causeway Blvd., P. O. Box 7338,

(c) City, State and ZIP Code
Metairie, LA 70010-7338

2. DATE
91 JUL 26 AM 11:48

3. FEC IDENTIFICATION NUMBER
to be assigned

4. IS THIS STATEMENT AN AMENDMENT? ☐ YES ☒ 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

6.

Name of Any Connected Organization or Affiliated Committee	Mailing Address and ZIP Code	Relationship
Envoy, Inc.	P. O. Box 7338 3939 N. Causeway Blvd. Metairie, LA 70010-7338	connected
Radiofone, Inc.	P. O. Box 7338 3939 N. Causeway Blvd. Metairie, LA 70010-7338	connected

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
Emery Dyer	P.O. Box 7338, Metairie, LA 70010	Assistant Treasurer

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
Don Garvey	P. O. Box 7338, Metairie, LA 70010	Treasurer

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
Whitney National Bank	228 St. Charles, New Orleans, LA 70130

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
Don Garvey	D Garvey	7-2-91

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
(revised 4/91)

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FEDERAL ELECTION COMMISSION
WASHINGTON, DC [illegible]

[illegible]

[illegible] 21 [illegible]

Don Garvey, Treasurer
Envoy, Inc. Political Action
Committee
3939 N. Causeway Boulevard
P.O. Box 7336
Metairie, LA 70010-7336

Identification Number: C00255112

Reference: Statement of Organization

Dear Mr. Garvey:

This letter is prompted by the Commission's preliminary review of your Statement of Organization. The review raised questions concerning certain information contained in the Statement. An itemization follows:

-Your Statement of Organization shows both Envoy, Inc. and Radiofone, Inc. as connected organizations of your Separate Segregated Fund.

If both of these corporations are in fact the connected organizations for this committee as described in Advisory Opinion 1988-14 (attached), please amend your Statement of Organization to include Envoy, Inc. and Radiofone, Inc. in the name of your Political Action Committee.

Otherwise, please amend your Statement of Organization to identify which entity is your connected organization. In addition, please state the relationship of the other entity to your committee.

A written response or an amendment to your original report(s) correcting the above problem(s) should be filed with the Federal Election Commission within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 376-2488.

Sincerely,

Terry Reynolds

Terry Reynolds
Reports Analyst
Reports Analysis Division

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[¶5922] AO 1988-14, Two Corporations with One Political Action Committee

[Two corporations, related and affiliated because of common officers and stockholders, may form one political action committee. Answer to Neil C. Taylor of Taylor, Meeslee & Joyner, 501 W. Bay Street, Jacksonville, Florida 32202.]

This responds to your letter of March 7, 1988, requesting an advisory opinion on behalf of Atlantic Marine, Inc. ("AMI"), and Atlantic Dry Dock Corp., ("ADD"), concerning application of the Federal Election Campaign Act of 1971, as amended (the "Act"); and Commission regulations to certain proposed activities.

You state that AMI and ADD together propose to form a separate segregated fund ("PAC") pursuant to 2 U.S.C. §441b, and to solicit contributions[1]/ to the PAC from a variety of personnel of both companies. You have asked (1) whether AMI and ADD may form a PAC named "Atlantic Marine and Atlantic Dry Dock Separate Segregated Fund;" (2) whether the PAC may solicit contributions from personnel of both corporations; (3) whether a stockholder in both corporations may be the PAC's custodian and conduct twice-yearly solicitations; and (4) whether AMI and ADD are corporate affiliates, for purposes of the Act.

The answers to your first three questions turn on a resolution of the last question. Your request explains that these two corporations share many of the same officers and directors, [2]/ that shareholders common to AMI and ADD own approximately sixty percent (60%) of the outstanding shares of each corporation, and that the same corporate officer handles personnel matters for both corporations. Moreover, from a review of documents relating to AMI and ADD which were submitted along with your request, it is evident that the governing bodies of each corporation overlap and that many of the same people are vested with authority to direct both corporations. It is also clear that the decisions of officers and directors of both AMI and ADD are influenced by substantially the same people.

In the Commission's regulations implementing the contribution limits of the Act, specifically the antiproliferation language found in 2 U.S.C. §441a(a)(5), the concept of affiliation is applicable to a variety of relationships that may exist with respect to the control, direction or influence between organizations that intend to sponsor or establish political committees. 11 CFR 100.5(g)(2) and 110.3(a)(1). Commission regulations include the relevant factors that are considered in determining whether such affiliation exists: (1) ownership of a controlling interest in voting shares or securities; (2) provisions of by-laws, or other documents by which one entity has the authority, power, or ability to direct another entity; and (3) the authority, power, or ability to hire, appoint, discipline, discharge, demote, or remove or otherwise influence the decision of the officers of an entity.[3]/ 11 CFR 100.5(g)(2) and 110.3(a)(1); see Advisory Opinions 1988-4 [¶5914], 1987-21 [¶5884], 1986-42, and 1985-27 [¶5827].

When deciding whether one corporation is affiliated with another corporation for solicitation purposes, the Commission has applied the criteria for determining whether the corporations' PACs (presuming each entity has one) would be deemed affiliated for contribution limitation purposes. See Advisory Opinions 1984-36 [¶5781], 1983-48 [¶5749], 1982-18 [¶5664]. 1980-18 [¶5483]. 1979-77 [¶5454] and 1979-56 [¶5445]. Thus, considering the cited regulation factors in the context of the information provided and otherwise derived from a published corporate directory, the Commission concludes that Atlantic Marine, Inc., is affiliated with Atlantic Dry Dock Corp. for purposes of the Act.

The Act specifically addresses the case of two affiliated organizations each having their own fund or political committee. See, 2 U.S.C. §441a(a)(5). It does

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not, however, preclude the situation presented here, where corporations deemed affiliated for purposes of the Act intend to jointly sponsor a single political committee or separate segregated fund. See Advisory Opinion 1980-18. Accordingly, AMI and ADD may jointly establish a single PAC to receive and make political contributions in accordance with the Act and Commission regulations. See, in particular, 2 U.S.C. §441b and 11 CFR Part 114.[1]

Under the Act and Commission regulations, the name of any separate segregated fund must include the full name of its connected organization. 2 U.S.C. §432(e)(5); 11 CFR 102.14(c). While the regulations permit the use of a clearly recognizable abbreviation or acronym, the separate segregated fund must use the complete official name of its connected organization in its Statement of Organization, in all reports filed by the PAC, and in all disclosure notices. See 11 CFR 109.3, 110.11; see also Advisory Opinion 1987-26 [¶5905]. Accordingly, because AMI and ADD are joint sponsors of a single PAC, they may establish a PAC with an official name that includes the full name of both corporations. A name that meets the requirements would be: "Atlantic Marine, Inc., and Atlantic Dry Dock Corp. Separate Segregated Fund." That PAC, or AMI and ADD on behalf of the PAC, may solicit otherwise lawful contributions from those individuals and their families who are stockholders or executive or administrative personnel of either AMI or ADD. The personnel who may be solicited for voluntary contributions to the PAC are described below.

A separate segregated fund and its connected corporation(s) are limited as to the categories of personnel who may be solicited for contributions to the PAC. In this case, since AMI and ADD are for-profit corporations, with stock, the generally solicitable class would include the individual stockholders of both corporations and their families, as well as executive and administrative personnel of AMI and ADD and their families. 2 U.S.C. §441b(b)(4)(A)(i), 11 CFR 114.5(g). The term "stockholder" is defined in Commission regulations. 11 CFR 114.1(h). The term "executive or administrative personnel" is defined in the Act and Commission regulations. 2 U.S.C. §441b(b)(7), 11 CFR 114.1(c).

Finally, with regard to whether an individual who is a stockholder in both corporations may act as the PAC's custodian for purposes of twice-yearly solicitations permitted under the Act, the Commission concludes that such a person may not.

Under prescribed conditions, the PAC, or AMI and ADD on behalf of the PAC, may make written contribution solicitations twice each year to employees of AMI and ADD (other than the corporations' stockholders, executive or administrative personnel and their families). 2 U.S.C. §441b(b)(4)(B); 11 CFR 114.6. The regulations at 114.6(d)(1) disqualify certain categories of persons from serving as custodian for a separate segregated fund with respect to the twice yearly solicitations. Those persons disqualified are stockholders, officers, or employees of the corporation and officers or employees of that corporation's separate segregated fund. Other persons are not disqualified under the Commission's regulations, and could serve as custodians. See 11 CFR 114.6(d)(5); see also Advisory Opinion 1977-49 [¶5298]. Accordingly, under the Commission's regulations, it is clear that the Assistant Treasurer, who is a stockholder in both corporations, may not be a custodian for purposes of the PAC's twice-yearly solicitations.

This response constitutes an advisory opinion concerning application of the Act, or regulations prescribed by the Commission, to the specific transaction or activity set forth in your request. See 2 U.S.C. §437f.

Dated: April 22, 1988.

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[1] The Act prohibits a corporation from making contributions or expenditures in connection with a Federal election, but it excludes from the definition of "contribution" or "expenditure" the costs of establishment, administration and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation. 2 U.S.C. §441b(a) and 441b(b)(2)(C). See also, 11 CFR 114.1(a) and 114.1(b).

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Attachment 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-6

September 12, 1991

Don Garvey, Treasurer
Envoy, Inc. Political Action
Committee
3939 North Causeway Boulevard
P.O. Box 7338
Metairie, LA 70010-7338

Identification Number: C00253112

Reference: Statement of Organization

Dear Mr. Garvey:

This letter is to inform you that as of September 11, 1991, the Commission has not received your response to our request for additional information, dated August 21, 1991. That notice requested information essential to full public disclosure of your federal election financial activity and to ensure compliance with provisions of the Federal Election Campaign Act (the Act). A copy of our original request is enclosed.

If no response is received within fifteen (15) days from the date of this notice, the Commission may choose to initiate audit or legal enforcement action.

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

Sincerely,

John D. Gibson
Assistant Staff Director
Reports Analysis Division

Enclosure

MICHAEL L. ECKSTEIN
ATTORNEY AT LAW
A PROFESSIONAL CORPORATION
[illegible] BARONNE STREET
NEW ORLEANS, LOUISIANA [illegible]
TEL [illegible]
FAX [illegible]

FEDERAL ELECTION COMMISSION
91 SEP 12 AM 10:47

September 6, 1991

Federal Election Commission
Washington, D.C. 20463

Attn: Mr. Terry Reynolds
Reports Analyst
Reports Analysis Division

Re: Identification Number: C00253112
Envoy, Inc. Political Action Committee

Dear Mr. Reynolds:

As attorney for Envoy, Inc. Political Action Committee, I was forwarded your correspondence of August 21, 1991, a copy of which is attached hereto. For your information, I have included an Amended Statement of Organization to identify that Envoy, Inc. is a connected organization. For your information, the other corporation named in the Statement of Organization, Radiofone, Inc., is the parent of and owner of 100% of the issued and outstanding stock of Envoy, Inc.

If you need any other information, please direct any correspondence to me and I will promptly respond.

Thank you for your assistance on this matter. With best regards, I remain

Sincerely,

MICHAEL L. ECKSTEIN, ATTORNEY AT LAW
A PROFESSIONAL CORPORATION

By: Michael L. Eckstein
Michael L. Eckstein

MLE:lfm
Enclosure
cc: Mr. Don Garvey
Mr. Emery Dyer
3155/c/27

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STATEMENT O. ORGANIZATION

.02, Rev. 12/88

OFFICE USE ONLY

Attachment 5
Page 2 of 2

Name & Address of Committee	2. Date of this Statement	
Envoy, Inc. Political Action Committee 3939 N. Causeway Boulevard P. O. Box 7338 Metairie, LA 70010-7338		
	3. Estimated Membership	
	4. Amended Statement? x Yes ___ No	

COMMITTEE OFFICERS AND DIRECTORS (A chairman must be listed.)

a. Name(s) & Address(es)	b. Title(s)	c. Signature(s)
Don Garvey 3939 N. Causeway Blvd. Suite 200 Metairie, LA 70010	Chairman and Treasurer	
Larry Garvey 3939 N. Causeway Blvd. Suite 200 Metairie, LA 70010	President	
Emery Dyer 3939 N. Causeway Blvd. Suite 200 Metairie, LA 70010	Secretary and Asst. Treasurer	

6. AFFILIATED ORGANIZATIONS (Any organization, other than a political committee, which directly or indirectly establishes, administers or financially supports this committee.)

a. Name(s) & Address(es)	b. Relationship(s)
Envoy, Inc. 3939 N. Causeway Boulevard P. O. Box 7338 Metairie, LA 70010-7338	connected

7. DEPOSITORIES FOR COMMITTEE FUNDS (At least one bank or savings and loan must be named.)

a. Name(s)	b. Address(es)
Whitney National Bank	228 St. Charles Avenue New Orleans, LA 70130

COMPLETE THE FOLLOWING ONLY IF THIS COMMITTEE SUPPORTS A SINGLE CANDIDATE

8. Name of Candidate	9. Office Sought by the Candidate
N/A	N/A

N/A

10. Type of Committee (Check one) ___ Principal Campaign Committee ___ Subsidiary Committee

ATTACHMENT 6 OF ___
PAGE ___ OF ___
YE-1991

Schedule A — Itemized Receipts

Date Stamp of the Current Summary Page

FEC LINE NUMBER 11(a)(i)

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

Name of Committee (in full): Hardy, Inc. Political Action Committee

Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation	Date (month, day, year)	Amount of Each Receipt this Period
A. Schlotzsky, Inc. P.O. Box 6667 Metairie, Louisiana 70011	N/A	8/19/91	$1,600.00
Receipt For: ☐ Primary ☐ General ☐ Other (specify): N/A	Occupation: N/A		
	Aggregate Year-to-Date > $ 1,600.00		
B. Full Name, Mailing Address and ZIP Code: Same as above	N/A	8/30/91	$ 547.00
Receipt For: ☐ Primary ☐ General ☐ Other (specify): N/A	Occupation: N/A		
	Aggregate Year-to-Date > $ 2,147.00		
C. Full Name, Mailing Address and ZIP Code: Same as above	N/A	9/18/91	$1,000.00
Receipt For: ☐ Primary ☐ General ☐ Other (specify): N/A	Occupation: N/A		
	Aggregate Year-to-Date > $ 3,147.00		
D. Full Name, Mailing Address and ZIP Code: Same as above	N/A	9/27/91	$3,847.00
Receipt For: ☐ Primary ☐ General ☐ Other (specify): N/A	Occupation: N/A		
	Aggregate Year-to-Date > $ 6,994.00		
E. Full Name, Mailing Address and ZIP Code: Same as above	N/A	9/30/91	$1,000.00
Receipt For: ☐ Primary ☐ General ☐ Other (specify): N/A	Occupation: N/A		
	Aggregate Year-to-Date > $ 7,994.00		
F. Full Name, Mailing Address and ZIP Code: Same as above	N/A	10/7/91	$ 953.00
Receipt For: ☐ Primary ☐ General ☐ Other (specify): N/A	Occupation: N/A		
	Aggregate Year-to-Date > $ 8,947.00		
G. Full Name, Mailing Address and ZIP Code: Same as above	N/A	10/9/91	$1,000.00
Receipt For: ☐ Primary ☐ General ☐ Other (specify): N/A	Occupation: N/A		
	Aggregate Year-to-Date > $ 9,947.00		

SUBTOTAL of Receipts This Page (optional)	$9,947.00
TOTAL This Period (last page this line number only)	$9,947.00

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ATTACHMENT 7 OF ___
PAGE ___ OF ___
Q3-1992

SCHEDULE B

ITEMIZED DISBURSEMENTS

26 a

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

NAME OF COMMITTEE (in Full)
Envoy, Inc. Political Action Committee

	Purpose of Disbursement	Date (month day, year)	Amount of Each Disbursement This Period
A. Full Name, Mailing Address and ZIP Code Radiofone P.O. Box 8887 Metairie, Louisiana 70011	Contribution Refund Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	7/14/92	$1,100.00
B. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
C. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
D. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
E. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
F. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
G. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
H. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
I. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period

SUBTOTAL of Disbursements This Page (optional) $1,100.00

TOTAL This Period (last page this line number only) $1,100.00

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

SEP 8 [illegible]

Don Garvey, Treasurer
Garvey Inc. Political
Action Committee
3939 North Causeway Blvd.
P.O. Box 7338
Metairie, LA 70010

Identification Number: C00253112

Reference: Year End (7/1/91-12/31/91) and Year End (10/1/92-12/31/92) Reports

Dear Mr. Garvey:

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

-Your report discloses an apparent contribution(s) from a corporation(s) (pertinent portion attached). You are advised that a contribution from a corporation is prohibited by the Act, unless made from a separate segregated fund established by the corporation. (2 U.S.C. §441b(a)) If you have received a corporate contribution(s), the Commission recommends that you refund the full amount to the donor(s) in accordance with 11 CFR §103.3(b). Alternatively, if you choose to transfer the funds to an account not used to influence federal elections, the Commission advises that you inform the contributor in writing and provide the contributor with the option of receiving a refund. You may wish to seek a written authorization (either before or after the transfer-out) from the donor for any transfer-out to protect the donor's interests.

Please inform the Commission immediately in writing and provide a photocopy of your check for the refund or transfer-out. In the best interests of the committee, all refunds and transfers-out should be made within thirty (30) days of the treasurer's receipt of the contribution. See 11 CFR §103.3(b). Refunds and transfers-out should be disclosed on a supporting Schedule B for Line 28 or 22 of the report covering the period during which they are made.

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If the contribution(s) in question was incompletely or incorrectly disclosed, you should amend your original report with the clarifying information.

Although the Commission may take further legal steps concerning the acceptance of a prohibited contribution, prompt action by your committee to refund or transfer-out the amount will be taken into consideration.

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

Sincerely,

Donald L. Averett
Reports Analyst
Reports Analysis Division

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Attachment 9

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

RQ-3

September 30, 1993

Don Garvey, Treasurer
Envoy, Inc. Political Action
Committee
3939 North Causeway Boulevard
P.O. Box 7338
Metairie, LA 70010

Identification Number: C00253112

Reference: Year End (7/1/91-12/31/91) and Year End (10/1/92-12/31/92) Reports

Dear Mr. Garvey:

This letter is to inform you that as of September 29, 1993, the Commission has not received your response to our request for additional information, dated September 8, 1993. That notice requested information essential to full public disclosure of your federal election financial activity and to ensure compliance with provisions of the Federal Election Campaign Act (the Act). A copy of our original request is enclosed.

If no response is received within fifteen (15) days from the date of this notice, the Commission may choose to initiate audit or legal enforcement action.

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

Sincerely,

John D. Gibson
Assistant Staff Director
Reports Analysis Division

Enclosure

93035215341

Attachment 10

TELECON

ANALYST: Donald L. Averett

CONVERSATION WITH: Don Garvey, Treasurer

COMMITTEE: Envoy Inc. Political Action Committee
(C00253112)

DATE: 10/15/93

SUBJECT: CONTRIBUTIONS RECEIVED FROM A CORPORATION

Mr. Don Garvey, the committee treasurer, telephoned in response to the request for additional information. Mr. Garvey indicated that the committee had no federal activity. He further stated that he was not aware that the comptroller had filed any reports with the Commission and that he did not know what information would have been filed on the reports.

I advised Mr. Garvey that the committee was required to file reports whether or not there was federal activity. I further advised Mr. Garvey that the reports disclosed contributions received from a corporation.

Attachment 11

TELECON

ANALYST: Donald L. Averett

CONVERSATION WITH: Christine Tramell

COMMITTEE: Envoy Inc. Political Action Committee
(C00253112)

DATE: 10/15/93

SUBJECT: CONTRIBUTIONS RECEIVED FROM A CORPORATION

Ms. Christine Tramell, a representative of the committee, called the Commission and stated that Radiofone, Inc. is the sole owner of Envoy, Inc., the committee's connected organization.

I advised Ms. Tramell that the committee's connected organization could pay the committee's adminstrative expenses. I explained that the connected organization could pay for the administrative expenses directly or that if the committee paid the expenses the connected organization could reimburse the committee during the next thirty days. I advised her that the connected organization could not contribute to the committee.

Ms. Tramell requested a copy of the 1992 Campaign Guide for Corporations and Labor Organizations. She said that she would need to review the transactions between the committee and Radiofone, Inc.

TELECON

ANALYST: Donald L. Averett

CONVERSATION WITH: Mike Eckstein, Attorney

COMMITTEE: Envoy Inc. Political Action Committee
(C00253112)

DATE: 10/29/93

SUBJECT: CONTRIBUTIONS RECEIVED FROM A CORPORATION

Mr. Mike Eckstein, the committee's attorney, telephoned the Commission and stated that he had just received the request for additional information and the second notice. Mr. Eckstein said that he would be working on the issue over the weekend and would submit a response during the next week.

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TELECON

ANALYST: Donald L. Averett

CONVERSATION WITH: Brian Baudot, Comptroller

COMMITTEE: Envoy Inc. Political Action Committee
(C00253112)

DATE: 11/4/93

SUBJECT: CONTRIBUTIONS RECEIVED FROM A CORPORATION

Mr. Brian Baudot, the comptroller, telephoned the Commission and stated that he believed that Mr. Mike Eckstein had been granted an extension on responding to the request for additional information. I informed Mr. Baudot that I could not grant an extension and that Mr. Eckstein had indicated that the response would be filed during this week.

Mr. Baudot stated that the committee had incorrectly believed that the connected organization could contribute to the committee and that about 90% of the receipts from Radiofone, Inc. were intended to be contributions, not reimbursements for administrative expenses. He stated that he now understood that the committee would have to refund the contributions received from Radiofone, Inc. He further stated that the committee would have to raise additional funds before it would be able to make those refunds.

Mr. Baudot asked whether the connected organization could provide bonuses to employees to cover contributions which the employees make to the committee. I advised Mr. Baudot that this would constitute an impermissible contribution in the name of another and a contribution from the corporation. I further advised Mr. Baudot that any reimbursements made for administrative expenses incurred by the committee must have been received from the connected organization within thirty days of the original payment.

TELECON

ANALYST: Donald L. Averett

CONVERSATION WITH: Mike Eckstein. Attorney

COMMITTEE: Envoy Inc. Political Action Committee
(C00253112)

DATE: 11/8/93

SUBJECT: CONTRIBUTIONS RECEIVED FROM A CORPORATION

Mr. Mike Eckstein. the committee's attorney. telephoned the Commission and asked for directions on reporting the committee's refund to Radiofone. Inc. I advised Mr. Eckstein to immediately submit a photocopy of any refund check and cover letter to explain the apparent contributions from Radiofone. Inc. I further advised him to disclose the disbursement on Schedule B for Line 28(a) for the appropriate reporting period.

Mr. Eckstein said that the committee would be making a refund by the end of the week. He stated that. if necessary. the committee would raise contributions from individuals to provide sufficient funds for the refund. Mr. Eckstein stated that the committee would file a response by Friday. November 12. 1993.

Mr. Eckstein asked whether individuals could still make contributions and apply them towards their 1991 and 1992 contribution limits. I advised Mr. Eckstein that contributions from individuals would apply to the contribution limitations for the calendar year in which they were made.

RECEIVED
FEDERAL ELECTION
COMMISSION
ADMINISTRATIVE DIVISION

NOV 15 2 43 PM '93

C00253112

MICHAEL L. ECKSTEIN
ATTORNEY AT LAW
A PROFESSIONAL CORPORATION
829 BARONNE STREET
NEW ORLEANS, LOUISIANA 70113
TEL: 504-581-9322
FAX: 504-568-0040

MICHAEL L. ECKSTEIN*
*LL.M. IN TAXATION
BOARD CERTIFIED TAX ATTORNEY

November 11, 1993

VIA AIRBORNE EXPRESS

Federal Election Commission
Washington, D.C. 20463

Attn: Mr. Donald L. Averett
Reports Analyst
Reports Analysis Division

Re: Envoy, Inc. Political Action Committee

Dear Donald:

As per our conversation earlier this week, I have enclosed a copy of the check from the Envoy, Inc. Political Action Committee to Radiofone, Inc. so as to "transfer-out" the corporate contribution that was mistakenly made to the Political Action Committee. For your information, there was confusion on the part of the Political Action Committee as well as the principals and employees of Radiofone, Inc. in that they were under the impression that contributions could be made by Radiofone, Inc., the parent of Envoy, Inc., and that these contributions could then be disbursed by the Political Action Committee. The parties are aware of their mistake and three of the employees have contributed funds to the Political Action Committee in order to enable it to "transfer-out" of corporate contribution.

We do not expect this mistake to happen again and appreciate your assistance and cooperation on this matter.

Sincerely,

MICHAEL L. ECKSTEIN, ATTORNEY AT LAW
A PROFESSIONAL CORPORATION

By: Michael L. Eckstein

MLE:lfm
Enclosures
cc: Mr. Donald Garvey
Mr. Brian Boudot
74155/c/39

9 5 0 4 3 7 2 1 2 3 6

ENVOY, INC.
PAC ACCOUNT
FEDERAL ID NO. 72-0876016
P.O. BOX 6987
METAIRIE, LA 70011

1026

November 10, 93

14-17/660 100

PAY TO THE ORDER OF Radiofone $ 10,800.00

THE SUM 10800 DOLS 00 CTS DOLLARS

WHITNEY NATIONAL BANK
NEW ORLEANS, LOUISIANA

FOR

⑈001026⑈ ⑆065000171⑆ 1000500 3386⑈

CREDITED TO THE ACCOUNT OF
THE WITHIN NAMED PAYEE
A/C # 1001800027

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR INSTITUTION USE ONLY

THE SUM 10800 00

FEDERAL RESERVE BOARD OF GOVERNORS REG CC

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ATTACHMENT 16

SCHEDULE B **ITEMIZED DISBURSEMENTS**

1993 Year End Report

Use separate schedule(s) for each category of the Detailed Summary Page

PAGE 1 OF 1

FOR LINE NUMBER 28a

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

NAME OF COMMITTEE (In Full)

Envoy, Inc. Political Action Committee

A. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
Radiofone P.O. Box 8887 Metairie, LA 70011	Contribution Refund Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	11/10/93	$10,800.00
B. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
C. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
D. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
E. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
F. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
G. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
H. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
I. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period

SUBTOTAL of Disbursements This Page (optional) $10,800.00

TOTAL This Period (last page this line number only) $10,800.00

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RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

Dec 2 9 03 AM '94

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

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

Referral #94L-16
Staff Member: Robert A. Ridenour

SOURCE: INTERNALLY GENERATED

RESPONDENTS: Envoy, Inc. Political Action Committee and Don Garvey, as Treasurer
Radiofone, Inc.
Don Garvey
Larry Garvey
Brian Baudot

RELEVANT STATUTES:
2 U.S.C. § 431(7)
2 U.S.C. § 441b(a)
2 U.S.C. § 441b(b)(2)(C)
2 U.S.C. § 441f
11 C.F.R. § 100.7(a)(4)
11 C.F.R. § 102.5(a)(1)
11 C.F.R. § 102.5(a)(1)(i)
11 C.F.R. § 102.5(a)(1)(ii)
11 C.F.R. § 103.3(a)
11 C.F.R. § 103.3(b)
11 C.F.R. § 103.3(b)(1)
11 C.F.R. § 103.3(b)(4)
11 C.F.R. § 110.4(b)(1)(iii)
11 C.F.R. § 114.2(c)
11 C.F.R. § 114.5(g)(1)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

9 6 0 4 3 7 2 1 2 8 9

I. GENERATION OF MATTER

This matter was referred to the Office of the General Counsel by the Reports Analysis Division ("RAD") on March 14, 1994, following RAD's review of Envoy, Inc. Political Action Committee's ("the PAC") 1991 Year End Report. That report revealed that during 1991, the PAC and Don Garvey, as treasurer, apparently accepted $9,947 in contributions from Radiofone, Inc., a

Louisiana-chartered corporation. Review of the PAC's 1992 Year End Report showed Radiofone, Inc. also made further contributions to the PAC in the amount of $2,000 during the 1992 reporting cycle.

II. FACTUAL AND LEGAL ANALYSIS

A. Applicable Law

The Federal Election Campaign Act of 1971, as amended, ("the Act" or "FECA") prohibits corporations from making contributions or expenditures in connection with Federal elections. 2 U.S.C. § 441b(a). It is similarly unlawful for any officer or any director of any corporation to consent to any contribution or expenditure by the corporation in connection with Federal elections. Id. Likewise, political committees and candidates cannot knowingly accept corporate contributions. Id.

Instead, the Act allows corporations and labor unions to establish separate segregated funds or political action committees, which may make contributions in connection with Federal elections. 2 U.S.C. § 441b(b)(2)(C). Although officers or shareholders of the organizing corporation, known as the connected organization, 2 U.S.C. § 431(7), may be solicited to voluntarily contribute to the separate segregated fund, 11 C.F.R. § 114.5(g)(1), no contributions from a corporation may be accepted. 11 C.F.R. § 114.2(c).

The Act also prohibits any person from making a contribution in the name of another, or knowingly allowing his name to be used to effect such a contribution. 2 U.S.C. § 441f. Likewise, the Act provides that no person shall knowingly accept a contribution

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made by one person in the name of another person. Id. To assist the making of a contribution in the name of another is a violation of Commission regulations. 11 C.F.R. § 110.4(b)(1)(iii).

The Commission's regulations provide that a political committee has two options to ensure that prohibited monies are not used in connection with Federal elections. 11 C.F.R. § 102.5(a)(1). It may establish a single account for both Federal and non-Federal activity which can receive only contributions subject to the prohibitions and limitations of the Act. 11 C.F.R. § 102.5(a)(1)(ii). Or, it may establish a separate Federal account for Federal activity and a second account for state and local election activity. Only funds subject to the prohibitions and limitations of the Act can be deposited into the separate Federal account. 11 C.F.R. § 102.5(a)(1)(i).

Committee treasurers have an affirmative duty to use their best efforts to examine all contributions for evidence of illegality. 11 C.F.R. § 103.3(b)(1). When a contribution presents a genuine question as to whether it was made by a corporation or other prohibited contributor, the treasurer has ten days either to return the contribution or deposit it in a campaign depository. Id. If any questionable contribution is deposited, the treasurer must make at least one written or oral request for evidence of the legality of the contribution. Id. If deposited and the contribution cannot be determined to be legal, the treasurer must refund it within thirty days of receipt. Id.

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B. Discussion

On February 4, 1992, Envoy, Inc. PAC filed its Year End Report for 1991, its first year of operation. In that report, the PAC and Don Garvey, as treasurer, disclosed receipt of seven contributions totalling $9,947 from Radiofone, Inc.[1] Attachment 1 at 14. The PAC received the contributions, in amounts ranging from $547 to $3,847, from August 19 to October 9, 1991. Additionally, Radiofone, Inc. made $2,000 in contributions to the PAC in October of 1992. Attachment 4 at 3. Don Garvey, the PAC's treasurer, and Larry Garvey, the president of the PAC, (Attachment 1 at 13) are both officers of Radiofone, Inc., the contributing corporation. Attachment 5 at 3.

	CONTRIBUTIONS		REFUNDS	
CONTRIBUTOR	AMOUNT	DATE RCV'D	DATE	AMOUNT
Radiofone, Inc.	$ 1,600.00	08/19/91		
Radiofone, Inc.	$ 547.00	08/30/91		
Radiofone, Inc.	$ 1,000.00	09/18/91		
Radiofone, Inc.	$ 3,847.00	09/27/91		
Radiofone, Inc.	$ 1,000.00	09/30/91		
Radiofone, Inc.	$ 953.00	10/07/91		
Radiofone, Inc.	$ 1,000.00	10/09/91		
Radiofone, Inc.			07/14/92	$ 1,100.00
Radiofone, Inc.	$ 1,000.00	10/05/92		
Radiofone, Inc.	$ 1,000.00	10/26/92		
Radiofone, Inc.			11/10/93	$10,800.00
TOTAL	$11,947.00			$11,900.00

Radiofone, Inc. apparently contributed to the PAC in violation of 2 U.S.C. § 441b(a). The PAC apparently accepted these contributions from a corporation in violation of 2 U.S.C. § 441b(a). Also, the PAC apparently had not set up separate

1. Radiofone, Inc. is the parent company of Envoy, Inc., the PAC's connected organization. Radiofone, Inc. owns 100 percent of Envoy, Inc.'s corporate shares. Attachment 1 at 12. Radiofone, Inc. and Envoy, Inc. are both incorporated in Louisiana.

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accounts for Federal and non-Federal activity, pursuant to 11 C.F.R. § 102.5(a)(1)(i). The PAC made contributions in connection with both Federal and non-Federal elections. Because the PAC did not set up a separate Federal account and received prohibited corporate funds into its single account, the PAC apparently violated 11 C.F.R. § 102.5(a)(1)(ii).

Additionally, since both the PAC's treasurer and president are officers of the corporation, it appears they may have consented to the corporation's contributions to the PAC, in violation of 2 U.S.C. § 441b(a). Likewise, because Brian Baudot is controller of Radiofone, Inc., it appears he may have consented to the corporation's contributions to the PAC.

The PAC reported no transfers to Radiofone Inc. in its 1991 Year End Report; consequently, it appears that the PAC did not avail itself of the 30-day opportunity to return prohibited contributions allowed by 11 C.F.R. § 103.3(b)(1). The PAC's 1992 Quarterly Report does show a $1,100 refund to Radiofone, Inc. on July 14, 1992.[2] Attachment 3 at 4.

RAD notified the PAC of possible violations on September 8, 1993. Attachment 1 at 16. RAD telephone communication records show that on November 4, 1993, the PAC inquired whether the connected organization, Envoy, Inc., could provide bonuses to

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2. The PAC's reports indicate the $1,100 was the amount remaining in its account after the majority of Radiofone, Inc.'s contributions were disbursed. Attachment 2 at 4 and 5.

Since its establishment, Envoy, Inc. PAC has received no contributions other than contributions from Radiofone, Inc. and the individual contributions discussed supra.

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employees, who in turn would contribute to the separate segregated fund. RAD informed the PAC that such a strategy would be a prohibited contribution in the name of another and a prohibited corporate contribution. Attachment 1 at 23.

By check dated November 10, 1993, the PAC refunded $10,800[3] to Radiofone, Inc., two years after receipt of the prohibited funds. Attachment 1 at 25. In a letter to RAD accompanying a copy of the check, the PAC admitted it had received impermissible corporate contributions. Attachment 1 at 24. The PAC explained that it and Radiofone, Inc. were under the mistaken impression that contributions could be made by the parent company. Id. Of note, it appears that Brian Baudot, controller of Radiofone, Inc. -- and not the PAC's treasurer Don Garvey -- signed the PAC's check refunding $10,800 to Radiofone, Inc. Id. at 25.

On the date the refund check was issued, however, the PAC's reports show that its account held only $1,000, which would have been insufficient to cover the refund check. Attachment 5 at 1. In the letter accompanying the check, the PAC also disclosed that Radiofone, Inc. corporate officers contributed the funds to reimburse the corporation. Attachment 1 at 24. Those contributions, totalling $10,800, were not received by the PAC until nine days after the date of the refund check. The PAC listed the contributors and their contributions as: Don Garvey, Radiofone Services, Inc. Officer, $5,000; Larry Garvey, Radiofone

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3. This figure approximately reflects the return of $9,947 of Radiofone, Inc. contributions in 1991, and $2,000 in contributions in 1992, subtracting the $1,100 refunded on July 14, 1992.

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Services, Inc. Officer, $5,000; and Brian Baudot, Radiofone Services, Inc. Controller, $800. Attachment 5 at 3. Consequently, it appears that the PAC issued the refund check to Radiofone, Inc. without sufficient funds, and then covered the check with contributions from officers of Radiofone, Inc.

These circumstances, i.e., the overlap of officers between the PAC and Radiofone, Inc.; the refund check written without sufficient funds; the subsequent contributions from officers of Radiofone, Inc. to cover the check; the PAC's refund check appears to have been signed by the controller of Radiofone, Inc., who was not reported to be an officer of the PAC; and the PAC's inquiry to RAD about reimbursing officers for contributions, all give rise to the appearance that the contributions from the officers of Radiofone, Inc. were actually contributions made by the corporation. This Office also believes this set of circumstances suggests knowing and willful violations of 2 U.S.C. §§ 441b(a) and 441f.

C. Conclusion

First, concerning the original 1991-92 contributions from Radiofone, Inc. to the PAC, totalling $11,947, this Office recommends that the Commission find reason to believe that Envoy, Inc. PAC and Don Garvey, as treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a)(1)(ii) by accepting prohibited corporate funds in an account subject to the prohibitions and limitations of the Act. Correspondingly, this Office recommends that the Commission find reason to believe Radiofone, Inc., a Louisiana corporation, violated 2 U.S.C. § 441b(a) by making contributions

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to the PAC. Further, this Office recommends the Commission find reason to believe Radiofone, Inc. officers Don Garvey, Larry Garvey, and Brian Baudot violated 2 U.S.C. § 441b(a) by consenting to Radiofone, Inc.'s contributions to the PAC.

Second, concerning the contributions from officers of Radiofone, Inc., totalling $10,800, which were used to cover the PAC's refund check to Radiofone, Inc., in the amount of $10,800, this Office recommends that the Commission find reason to believe that: (1) Radiofone, Inc. knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f by making contributions of corporate funds to the PAC in the name of its officers; (2) Envoy, Inc. PAC and Don Garvey, as treasurer, knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f by accepting corporate contributions which were made in the name of another; (3) Don Garvey, Larry Garvey, and Brian Baudot knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f by consenting to corporate contributions to the PAC and by permitting their names to be used to make the contributions.

III. DISCOVERY

Further investigation regarding the contributions made by Don Garvey, Larry Garvey, and Brian Baudot to Envoy, Inc. PAC is warranted in this matter. The investigation will inquire into the circumstances surrounding their making of the contributions, including whether the corporation took any action to provide bonuses to them or reimburse them for the contributions. To expedite the investigation, this Office recommends that the Commission approve the attached Subpoenas for the Production of

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Documents and Orders to Answer Interrogatories.

IV. RECOMMENDATIONS

1. Open a MUR.

2. With regard to the 1991-92 contributions of corporate funds from Radiofone, Inc. to Envoy, Inc. PAC:

   a. Find reason to believe that Envoy, Inc. PAC and Don Garvey, as treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a)(1)(ii).

   b. Find reason to believe Radiofone, Inc., a Louisiana corporation, violated 2 U.S.C. § 441b(a).

   c. Find reason to believe Don Garvey, Larry Garvey, and Brian Baudot violated 2 U.S.C. § 441b(a) by consenting to Radiofone, Inc.'s contributions.

3. With regard to the November, 1993 contributions made to Envoy, Inc. PAC in the names of Don Garvey, Larry Garvey, and Brian Baudot:

   a. Find reason to believe that Envoy, Inc. PAC and Don Garvey, as treasurer, knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

   b. Find reason to believe that Radiofone, Inc. knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

   c. Find reason to believe that Don Garvey, Larry Garvey, and Brian Baudot knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f by consenting to corporate contributions to the PAC and by permitting their names to be used to make the contributions.

4. Approve the attached Factual and Legal Analyses and appropriate letters.

5. Approve the attached Subpoena for the Production of Documents and Answers to Interrogatories to Envoy, Inc. PAC and Don Garvey, as treasurer.

6. Approve the attached Subpoena for the Production of Documents and Answers to Interrogatories to Radiofone, Inc. and Don Garvey, as chairman.

7. Approve the attached Subpoena for the Production of Documents and Answers to Interrogatories to Don Garvey.

8. Approve the attached Subpoena for the Production of

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Documents and Answers to Interrogatories to Larry Garvey.

9. Approve the attached Subpoena for the Production of Documents and Answers to Interrogatories to Brian Baudot.

Lawrence M. Noble
General Counsel

12/1/94
Date

BY: [signature]
Lois G. Lerner
Associate General Counsel

Attachments:
1. RAD Referral Report.
2. Envoy, Inc. PAC 1991 Year End Report.
3. Envoy, Inc. PAC 1992 October 15 Quarterly Report.
4. Envoy, Inc. PAC 1992 Year End Report.
5. Envoy, Inc. PAC 1993 Year End Report.
6. Factual and Legal Analysis (Envoy, Inc. PAC and Don Garvey, as treasurer).
7. Factual and Legal Analysis (Radiofone, Inc.).
8. Factual and Legal Analysis (Don Garvey, an officer of Radiofone, Inc.).
9. Factual and Legal Analysis (Larry Garvey, an officer of Radiofone, Inc.).
10. Factual and Legal Analysis (Brian Baudot, an officer of Radiofone, Inc.).
11. Subpoena for the Production of Documents and Answers to Questions for Envoy, Inc. PAC and Don Garvey, as treasurer.
12. Subpoena for the Production of Documents and Answers to Questions to Radiofone, Inc. and Don Garvey, as chairman.
13. Subpoena for the Production of Documents and Answers to Questions for Don Garvey.
14. Subpoena for the Production of Documents and Answers to Questions for Larry Garvey.
15. Subpoena for the Production of Documents and Answers to Questions for Brian Baudot.

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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: DECEMBER 7, 1994

SUBJECT: RAD REFERRAL #94L-16 - FIRST GENERAL COUNSEL'S REPORT DATED 12/1/94.

The above-captioned document was circulated to the Commission on Friday, December 2, 1994 at 12:00 p.m.

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

Commissioner Aikens	
Commissioner Elliott	
Commissioner McDonald	
Commissioner McGarry	
Commissioner Potter	XXX
Commissioner Thomas	XXX

This matter will be placed on the meeting agenda for Tuesday, December 13, 1994.

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

9604372129

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	RAD Referral
Envoy, Inc. Political Action	)	#94L-16 (MUR 4161)
Committee and Don Garvey, as	)	
treasurer;	)	
Radiofone, Inc.;	)	
Don Garvey;	)	
Larry Garvey;	)	
Brian Baudot	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on December 13, 1994, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions with respect to RAD Referral #94L-16:

1. Open a MUR.

2. With regard to the 1991-92 contributions of corporate funds from Radiofone, Inc. to Envoy, Inc. PAC:

   a. Find reason to believe that Envoy, Inc. PAC and Don Garvey, as treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5 (a)(1)(ii).

   b. Find reason to believe Radiofone, Inc., a Louisiana corporation, violated 2 U.S.C. § 441b(a).

   c. Find reason to believe Don Garvey, Larry Garvey, and Brian Baudot violated 2 U.S.C. § 441b(a) by consenting to Radiofone, Inc.'s contributions.

(continued)

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3. With regard to the November, 1993 contributions made to Envoy, Inc. PAC in the names of Don Garvey, Larry Garvey, and Brian Baudot:

   a. Find reason to believe that Envoy, Inc. PAC and Don Garvey, as treasurer, violated 2 U.S.C. §§ 441b(a) and 441f.

   b. Find reason to believe that Radiofone, Inc. violated 2 U.S.C. §§ 441b(a) and 441f.

   c. Find reason to believe that Don Garvey, Larry Garvey, and Brian Baudot violated 2 U.S.C. §§ 441b(a) and 441f by consenting to corporate contributions to the PAC and by permitting their names to be used to make the contributions.

4. Approve the Factual and Legal Analyses and appropriate letters recommended in the General Counsel's December 1, 1994, report

5. Approve the Subpoena for the Production of Documents and Answers to Interrogatories to Envoy, Inc. PAC and Don Garvey, as treasurer, as recommended in the General Counsel's December 1, 1994 report.

6. Approve the Subpoenas for the Production of Documents and Answers to Interrogatories to Radiofone, Inc. and Don Garvey, as chairman, as recommended in the General Counsel's December 1, 1994 report.

(continued)

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7. Approve the Subpoena for the Production of Documents and Answers to Interrogatories to Don Garvey, as recommended in the General Counsel's December 1, 1994 report.

8. Approve the Subpoena for the Production of Documents and Answers to Interrogatories to Larry Garvey, as recommended in the General Counsel's December 1, 1994 report.

9. Approve the Subpoena for the Production of Documents and Answers to Interrogatories to Brian Baudot as recommended in the General Counsel's December 1, 1994 report.

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

Attest:

12-15-94
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 27, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Brian Baudot, Comptroller
Radiofone, Inc.
3939 N. Causeway Blvd., P.O. Box 7338
Metairie, LA 70010-7338

RE: MUR 4161
Brian Baudot

Dear Mr. Baudot:

On December 13, 1994, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. §§ 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Statements should be submitted under oath. All responses to the enclosed Order to Submit Written Answers and Subpoena to Produce Documents must be submitted within 30 days of your receipt of this Order and Subpoena. Any additional materials or statements you wish to submit should accompany the response to the Order and Subpoena. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this Order and Subpoena. If you intend to be represented by counsel, 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 or other communications from the Commission.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may

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complete its investigation of the matter. Further, requests for pre-probable cause conciliation will not be entertained after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public. For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Robert Ridenour, the attorney assigned to this matter, at (202) 219-3400.

For the Commission,

Trevor Potter
Chairman

Enclosures
Order and Subpoena
Factual and Legal Analysis
Procedures
Designation of Counsel Form

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
) MUR 4161
)

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Brian Baudot
Radiofone, Inc.
P.O. Box 7338
3939 N. Causeway Blvd.
Metairie, LA 70010-7338

Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 30 days of receipt of this Order and Subpoena.

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WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand in Washington, D.C. on this 22nd, day of December, 1994.

For the Commission,

Trevor Potter
Chairman

ATTEST:

for Delores Hardy
Marjorie W. Emmons
Secretary to the Commission

Attachments
Questions and Document Requests

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INSTRUCTIONS

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

Each answer shall be preceded by the question or interrogatory to which the answer pertains.

In answering these interrogatories and requests for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records, or in the possession of or known by or otherwise available to your attorneys, agents, employees, or other representatives of you and/or your attorneys.

The response to each interrogatory shall set forth separately the identification of each person capable of furnishing testimony concerning the response given. In addition, the response shall identify those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder. In addition, state whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

The following interrogatories and requests for production of documents are continuing in nature, requiring you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

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DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" or "your" shall mean the named respondents in this action to whom these discovery requests are addressed, including all persons who act in any capacity for respondents or in any relationship to respondents, including officers, employees, agents or attorneys thereof, and/or others who act on their behalf.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Identify" with respect to a person shall mean to state the full name, the most recent business and residence addresses, the most recent business and home telephone numbers, the person's position and job description at the time in question with respect to the interrogatory, the present occupation or position of such person, and the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean to state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, and the number of pages comprising the document.

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The singular form of a word should be interpreted to include the plural and the plural form of a word should be interpreted to include the singular.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be outside of their scope.

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BEFORE THE FEDERAL ELECTION COMMISSION

INTERROGATORIES AND REQUESTS FOR DOCUMENTS

1. Please describe your position and responsibilities from August, 1991, through December, 1993, as Controller for Radiofone, Inc. and as an officer of Radiofone, Inc.

2. Please describe your position and responsibilities from August, 1991 through December, 1993, as an officer for Envoy, Inc.

3. Please describe your position and responsibilities from August, 1991 to December, 1993, as an officer for Envoy, Inc. Political Action Committee ("Envoy, Inc. PAC).

4. Please explain why you signed the refund check from Envoy, Inc. PAC, check #1026, made out to Radiofone, Inc.

5. Regarding the contribution made by you in November of 1993 to Envoy, Inc. PAC, please provide the following information:

   a. Please describe the circumstances surrounding the solicitation of the contribution and identify who solicited the contribution.

   b. Please describe how you determined the amount of your contribution to Envoy, Inc. PAC.

   c. Please identify and produce all documents relating to your contribution to Envoy, Inc. PAC including copies (both sides) of all checks, money orders, or other written instruments used to make the contribution to Envoy, Inc. PAC.

   d. Please identify and produce copies of all written notes, memoranda, or correspondence concerning, relating, or pertaining to your contribution to Envoy, Inc. PAC.

   e. Please state the source of the funds used to make the contribution.

6. Please state whether you received any funds, compensation, reimbursement, or other consideration in connection with your contribution to Envoy, Inc. PAC.

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7. If the answer to Interrogatory No. 6 is in the affirmative, please identify what person or entity paid or reimbursed you in connection with the contribution.

8. If the answer to Interrogatory No. 6 is in the affirmative, please state how and when you were compensated or reimbursed in connection with your contribution to Envoy, Inc. PAC.

9. Please identify and produce all documents relating to any payment, including cash payment, compensation, reimbursement or other benefit you received in connection with your contribution to Envoy, Inc. PAC.

10. Please provide the date, amount, and purpose of every payment, including cash payments, advancements, reimbursements, or other benefits provided to you by Radiofone, Inc. or Envoy, Inc. from October 1993 through March 1994.

11. Please identify and produce all documents relating to each of the disbursements or benefits identified in response to Interrogatory No. 10, including, but not limited to copies of bank statements or accounts recording the deposit or receipt of the disbursements or benefits.

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Brian Baudot MUR 4161

I. GENERATION OF MATTER

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

II. FACTUAL AND LEGAL ANALYSIS

A. Applicable Law

The Federal Election Campaign Act of 1971, as amended, ("the Act" or "FECA") prohibits corporations from making contributions or expenditures in connection with Federal elections. 2 U.S.C. § 441b(a). It is similarly unlawful for any officer or any director of any corporation to consent to any contribution or expenditure by the corporation in connection with Federal elections. Id.

Instead, the Act allows corporations and labor unions to establish separate segregated funds or political action committees, which may make contributions in connection with Federal elections. 2 U.S.C. § 441b(b)(2)(C). Although officers or shareholders of the organizing corporation, known as the connected organization, 2 U.S.C. § 431(7), may be solicited to voluntarily contribute to the separate segregated fund, 11 C.F.R. § 114.5(g)(1), no contributions from a corporation may be accepted. 11 C.F.R. § 114.2(c).

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The Act also prohibits any person from making a contribution in the name of another, or knowingly allowing his name to be used to effect such a contribution. 2 U.S.C. § 441f. Likewise, the Act provides that no person shall knowingly accept a contribution made by one person in the name of another person. Id. To assist the making of a contribution in the name of another is a violation of Commission regulations. 11 C.F.R. § 110.4(b)(1)(iii).

B. Discussion

On February 4, 1992, Envoy, Inc. PAC filed its Year End Report for 1991, its first year of operation. In that report, the PAC and Don Garvey, as treasurer, disclosed receipt of seven contributions totalling $9,947 from Radiofone, Inc.[1] The PAC received the contributions, in amounts ranging from $547 to $3,847, from August 19 to October 9, 1991. Additionally, Radiofone, Inc. made $2,000 in contributions to the PAC in October of 1992. Don Garvey, the PAC's treasurer, and Larry Garvey, the PAC's president, are both officers of Radiofone, Inc., the contributing corporation.

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1. Radiofone, Inc. is the parent company of Envoy, Inc., the PAC's connected organization. Radiofone, Inc. owns 100 percent of Envoy, Inc.'s corporate shares. Radiofone, Inc. and Envoy, Inc. are both incorporated in Louisiana.

CONTRIBUTIONS			REFUNDS	
CONTRIBUTOR	AMOUNT	DATE RCV'D	DATE	AMOUNT
Radiofone, Inc.	$ 1,600.00	08/19/91		
Radiofone, Inc.	$ 547.00	08/30/91		
Radiofone, Inc.	$ 1,000.00	09/18/91		
Radiofone, Inc.	$ 3,847.00	09/27/91		
Radiofone, Inc.	$ 1,000.00	09/30/91		
Radiofone, Inc.	$ 953.00	10/07/91		
Radiofone, Inc.	$ 1,000.00	10/09/91		
Radiofone, Inc.			07/14/92	$ 1,100.00
Radiofone, Inc.	$ 1,000.00	10/05/92		
Radiofone, Inc.	$ 1,000.00	10/26/92		
Radiofone, Inc.			11/10/93	$10,800.00
TOTAL	$11,947.00			$11,900.00

Radiofone, Inc. apparently contributed to the PAC in violation of 2 U.S.C. § 441b(a). Because Brian Baudot is controller of Radiofone, Inc., it appears he may have consented to the corporation's contributions to the PAC, in violation of 2 U.S.C. § 441b(a).

The PAC reported no transfers to Radiofone Inc. in its 1991 Year End Report; consequently, it appears that the PAC did not avail itself of the 30-day opportunity to return prohibited contributions allowed by 11 C.F.R. § 103.3(b)(1). The PAC's 1992 Quarterly Report does show a $1,100 refund to Radiofone, Inc. on July 14, 1992.[2]

The Reports Analysis Division ("RAD") notified the PAC of possible violations on September 8, 1993. RAD telephone communication records show that on November 4, 1993, the PAC inquired whether the connected organization, Envoy, Inc., could

2. The PAC's reports indicate the $1,100 was the amount remaining in its account after the majority of Radiofone, Inc.'s contributions were disbursed.

Since its establishment, Envoy, Inc. PAC has received no contributions other than contributions from Radiofone, Inc. and the individual contributions discussed supra.

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provide bonuses to employees, who in turn would contribute to the separate segregated fund. RAD informed the PAC that such a strategy would be a prohibited contribution in the name of another and a prohibited corporate contribution.

By check dated November 10, 1993, the PAC refunded $10,800[3] to Radiofone, Inc., two years after receipt of the prohibited funds. In a letter to RAD accompanying a copy of the check, the PAC admitted it had received impermissible corporate contributions. The PAC explained that it and Radiofone, Inc. were under the mistaken impression that contributions could be made by the parent company. Of note, it appears that Brian Baudot, controller of Radiofone, Inc. -- and not the PAC's treasurer Don Garvey -- signed the PAC's check refunding $10,800 to Radiofone, Inc.

On the date the refund check was issued, however, the PAC's reports show that its account held only $1,000, which would have been insufficient to cover the refund check. In the letter accompanying the check, the PAC also disclosed that Radiofone, Inc. corporate officers contributed the funds to reimburse the corporation. Those contributions, totalling $10,800, were not received by the PAC until nine days after the date of the refund check. The PAC listed the contributors and their contributions as: Don Garvey, Radiofone Services, Inc. Officer, $5,000; Larry Garvey, Radiofone Services, Inc. Officer, $5,000; and Brian

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3. This figure approximately reflects the return of $9,947 of Radiofone, Inc. contributions in 1991, and $2,000 in contributions in 1992, subtracting the $1,100 refunded on July 14, 1992.

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Baudot, Radiofone Services, Inc. Controller, $800. Consequently, it appears that the PAC issued the refund check to Radiofone, Inc. without sufficient funds, and then covered the check with contributions from officers of Radiofone, Inc.

These circumstances, i.e., the overlap of officers between the PAC and Radiofone, Inc.; the refund check written without sufficient funds; the subsequent contributions from officers of Radiofone, Inc. to cover the check; the PAC's refund check appears to have been signed by the controller of Radiofone, Inc., who was not reported to be an officer of the PAC; and the PAC's inquiry to RAD about reimbursing officers for contributions, all give rise to the appearance that the contributions from the officers of Radiofone, Inc. were actually contributions made by the corporation. This Office also believes this set of circumstances suggests violations of 2 U.S.C. §§ 441b(a) and 441f.

Therefore, based on the foregoing, there is reason to believe that in 1991-1992, Brian Baudot, controller of Radiofone, Inc., violated 2 U.S.C. § 441b(a) by consenting to corporate contributions to a political committee. Further, there is reason to believe that in November 1993, Mr. Baudot violated 2 U.S.C. §§ 441b(a) and 441f by consenting to corporate contributions to the PAC and by permitting his name to be used to make one of the contributions.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 27, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Don Garvey, Treasurer
Envoy, Inc. Political Action Committee
3939 N. Causeway Blvd., P.O. Box 7338
Metairie, LA 70010-7338

RE: MUR 4161
Envoy, Inc. Political Action Committee and Don Garvey, as Treasurer

Dear Mr. Garvey:

On December 13, 1994, the Federal Election Commission found that there is reason to believe Envoy, Inc. Political Action Committee and you, as treasurer ("the Committee"), violated 2 U.S.C. §§ 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act") and 11 C.F.R. § 102.5(a)(1)(ii) of the Commission's regulations. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Statements should be submitted under oath. All responses to the enclosed Order to Submit Written Answers and Subpoena to Produce Documents must be submitted within 30 days of your receipt of this Order and Subpoena. Any additional materials or statements you wish to submit should accompany the response to the Order and Subpoena. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this Order and Subpoena. If you intend to be represented by counsel, 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 or other communications from the Commission.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the

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General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, requests for pre-probable cause conciliation will not be entertained after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public. For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Robert Ridenour, the attorney assigned to this matter, at (202) 219-3400.

For the Commission,

Trevor Potter
Chairman

Enclosures
Order and Subpoena
Factual and Legal Analysis
Procedures
Designation of Counsel Form

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
	)	MUR 4161
	)	

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Envoy, Inc. Political Action Committee and
Don Garvey, as Treasurer
P.O. Box 7338
3939 N. Causeway Blvd.
Metairie, LA 70010-7338

Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 30 days of receipt of this Order and Subpoena.

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WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand in Washington, D.C. on this 22, day of December, 1994.

For the Commission,

Trevor Potter
Chairman

ATTEST:

for Dolores Hardy
Marjorie W. Emmons
Secretary to the Commission

Attachments
Questions and Document Requests

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INSTRUCTIONS

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

Each answer shall be preceded by the question or interrogatory to which the answer pertains.

In answering these interrogatories and requests for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records, or in the possession of or known by or otherwise available to your attorneys, agents, employees, or other representatives of you and/or your attorneys.

The response to each interrogatory shall set forth separately the identification of each person capable of furnishing testimony concerning the response given. In addition, the response shall identify those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder. In addition, state whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

The following interrogatories and requests for production of documents are continuing in nature, requiring you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

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DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" or "your" shall mean the named respondents in this action to whom these discovery requests are addressed, including all persons who act in any capacity for respondents or in any relationship to respondents, including officers, employees, agents or attorneys thereof, and/or others who act on their behalf.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Identify" with respect to a person shall mean to state the full name, the most recent business and residence addresses, the most recent business and home telephone numbers, the person's position and job description at the time in question with respect to the interrogatory, the present occupation or position of such person, and the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean to state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, and the number of pages comprising the document.

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The singular form of a word should be interpreted to include the plural and the plural form of a word should be interpreted to include the singular.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be outside of their scope.

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BEFORE THE FEDERAL ELECTION COMMISSION

INTERROGATORIES AND REQUESTS FOR DOCUMENTS

1. Please state the amount of funds Envoy, Inc. Political Action Committee ("Envoy, Inc. PAC") had in its account(s) at the time the refund check (#1026) to Radiofone, Inc. was written.

2. Please state why Brian Baudot signed the refund check from Envoy, Inc. PAC to Radiofone, Inc.

3. Please identify and produce all documents, memoranda and records of conversations relating to the PAC's refund of contributions to Radiofone, Inc., including copies of the front and back of the refund check.

4. Please identify and produce all bank statements for Envoy, Inc. PAC's accounts from July 1991 to December 1993.

5. Regarding the contributions made by Don Garvey, Larry Garvey, and Brian Baudot in November 1993 to Envoy, Inc. PAC, please provide the following:

a. Please describe how the PAC solicited the contributions from Don Garvey, Larry Garvey, and Brian Baudot and please identify who solicited the funds on behalf of the PAC.

b. Please identify and produce all documents, memoranda, and records of conversations relating to the contributions to Envoy, Inc. PAC made by Don Garvey, Larry Garvey and Brian Baudot.

c. Please state whether Don Garvey, Larry Garvey and/or Brian Baudot received any funds, compensation or reimbursement in connection with their making the contributions to Envoy, Inc. PAC.

d. If the answer to Interrogatory No. 5(c) is in the affirmative, please identify what person or entity paid or reimbursed the individuals in connection with the contributions.

e. If the answer to Interrogatory No. 5(c) is in the affirmative, please describe how and when each contributor was compensated or reimbursed in connection with his contribution to Envoy, Inc. PAC.

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FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Envoy, Inc. PAC and Don Garvey, as Treasurer **MUR 4161**

I. GENERATION OF MATTER

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

II. FACTUAL AND LEGAL ANALYSIS

A. Applicable Law

The Federal Election Campaign Act of 1971, as amended, ("the Act" or "FECA") prohibits corporations from making contributions or expenditures in connection with Federal elections. 2 U.S.C. § 441b(a). Likewise, political committees and candidates cannot knowingly accept corporate contributions. Id.

Instead, the Act allows corporations and labor unions to establish separate segregated funds or political action committees, which may make contributions in connection with Federal elections. 2 U.S.C. § 441b(b)(2)(C). Although officers or shareholders of the organizing corporation, known as the connected organization, 2 U.S.C. § 431(7), may be solicited to voluntarily contribute to the separate segregated fund, 11 C.F.R. § 114.5(g)(1), no contributions from a corporation may be accepted. 11 C.F.R. § 114.2(c).

The Act also prohibits any person from making a contribution in the name of another, or knowingly allowing his name to be used to effect such a contribution. 2 U.S.C. § 441f. Likewise, the

Act provides that no person shall knowingly accept a contribution made by one person in the name of another person. Id. To assist the making of a contribution in the name of another is a violation of Commission regulations. 11 C.F.R. § 110.4(b)(1)(iii).

The Commission's regulations provide that a political committee has two options to ensure that prohibited monies are not used in connection with Federal elections. 11 C.F.R. § 102.5(a)(1). It may establish a single account for both Federal and non-Federal activity which can receive only contributions subject to the prohibitions and limitations of the Act. 11 C.F.R. § 102.5(a)(1)(ii). Or, it may establish a separate Federal account for Federal activity and a second account for state and local election activity. Only funds subject to the prohibitions and limitations of the Act can be deposited into the separate Federal account. 11 C.F.R. § 102.5(a)(1)(i).

Committee treasurers have an affirmative duty to use their best efforts to examine all contributions for evidence of illegality. 11 C.F.R. § 103.3(b)(1). When a contribution presents a genuine question as to whether it was made by a corporation or other prohibited contributor, the treasurer has ten days either to return the contribution or deposit it in a campaign depository. Id. If any questionable contribution is deposited, the treasurer must make at least one written or oral request for evidence of the legality of the contribution. Id. If deposited and the contribution cannot be determined to be legal, the treasurer must refund it within thirty days of receipt. Id.

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B. Discussion

On February 4, 1992, Envoy, Inc. PAC filed its Year End Report for 1991, its first year of operation. In that report, the PAC and Don Garvey, as treasurer, disclosed receipt of seven contributions totalling $9,947 from Radiofone, Inc.[1] The PAC received the contributions, in amounts ranging from $547 to $3,847, from August 19 to October 9, 1991. Additionally, Radiofone, Inc. made $2,000 in contributions to the PAC in October of 1992. Don Garvey, the PAC's treasurer, and Larry Garvey, the president of the PAC, are both officers of Radiofone, Inc., the contributing corporation.

	CONTRIBUTIONS		REFUNDS	
CONTRIBUTOR	AMOUNT	DATE RCV'D	DATE	AMOUNT
Radiofone, Inc.	$ 1,600.00	08/19/91		
Radiofone, Inc.	$ 547.00	08/30/91		
Radiofone, Inc.	$ 1,000.00	09/18/91		
Radiofone, Inc.	$ 3,847.00	09/27/91		
Radiofone, Inc.	$ 1,000.00	09/30/91		
Radiofone, Inc.	$ 953.00	10/07/91		
Radiofone, Inc.	$ 1,000.00	10/09/91		
Radiofone, Inc.			07/14/92	$ 1,100.00
Radiofone, Inc.	$ 1,000.00	10/05/92		
Radiofone, Inc.	$ 1,000.00	10/26/92		
Radiofone, Inc.			11/10/93	$10,800.00
TOTAL	$11,947.00			$11,900.00

The PAC apparently accepted contributions from Radiofone, Inc., a corporation, in violation of 2 U.S.C. § 441b(a). Also, the PAC apparently had not set up separate accounts for Federal and non-Federal activity, pursuant to 11 C.F.R. § 102.5(a)(1)(i). The PAC made contributions in connection with both Federal and

1. Radiofone, Inc. is the parent company of Envoy, Inc., the PAC's connected organization. Radiofone, Inc. owns 100 percent of Envoy, Inc.'s corporate shares. Radiofone, Inc. and Envoy, Inc. are both incorporated in Louisiana.

non-Federal elections. Because the PAC did not set up a separate Federal account and received prohibited corporate funds into its single account, the PAC apparently violated 11 C.F.R. § 102.5(a)(1)(ii).

The PAC reported no transfers to Radiofone Inc. in its 1991 Year End Report; consequently, it appears that the PAC did not avail itself of the 30-day opportunity to return prohibited contributions allowed by 11 C.F.R. § 103.3(b)(1). The PAC's 1992 Quarterly Report does show a $1,100 refund to Radiofone, Inc. on July 14, 1992.[2]

The Reports Analysis Division ("RAD") notified the PAC of possible violations on September 8, 1993. RAD telephone communication records show that on November 4, 1993, the PAC inquired whether the connected organization, Envoy, Inc., could provide bonuses to employees, who in turn would contribute to the separate segregated fund. RAD informed the PAC that such a strategy would be a prohibited contribution in the name of another and a prohibited corporate contribution.

By check dated November 10, 1993, the PAC refunded $10,800[3] to Radiofone, Inc., two years after receipt of the prohibited funds. In a letter to RAD accompanying a copy of the check, the

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2. The PAC's reports indicate the $1,100 was the amount remaining in its account after the majority of Radiofone, Inc.'s contributions were disbursed.

Since its establishment, Envoy, Inc. PAC has received no contributions other than contributions from Radiofone, Inc. and the individual contributions discussed supra.

3. This figure approximately reflects the return of $9,947 of Radiofone, Inc. contributions in 1991, and $2,000 in contributions in 1992, subtracting the $1,100 refunded on July 14, 1992.

PAC admitted it had received impermissible corporate contributions. The PAC explained that it and Radiofone, Inc. were under the mistaken impression that contributions could be made by the parent company. Of note, it appears that Brian Baudot, controller of Radiofone, Inc. -- and not the PAC's treasurer Don Garvey -- signed the PAC's check refunding $10,800 to Radiofone, Inc.

On the date the refund check was issued, however, the PAC's reports show that its account held only $1,000, which would have been insufficient to cover the refund check. In the letter accompanying the check, the PAC also disclosed that Radiofone, Inc. corporate officers contributed the funds to reimburse the corporation. Those contributions, totalling $10,800, were not received by the PAC until nine days after the date of the refund check. The PAC listed the contributors and their contributions as: Don Garvey, Radiofone Services, Inc. Officer, $5,000; Larry Garvey, Radiofone Services, Inc. Officer, $5,000; and Brian Baudot, Radiofone Services, Inc. Controller, $800. Consequently, it appears the PAC issued the refund check to Radiofone, Inc. without sufficient funds, and then covered the check with contributions from officers of Radiofone, Inc.

These circumstances, i.e., the overlap of officers between the PAC and Radiofone, Inc.; the refund check written without sufficient funds; the subsequent contributions from officers of Radiofone, Inc. to cover the check; the PAC's refund check appears to have been signed by the controller of Radiofone, Inc., who was not reported to be an officer of the PAC; and the PAC's inquiry to

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RAD about reimbursing officers for contributions, all give rise to the appearance that the contributions from the officers of Radiofone, Inc. were actually contributions made by the corporation. This Office also believes this set of circumstances suggests violations of 2 U.S.C. §§ 441b(a) and 441f.

Therefore, based on the foregoing, there is reason to believe that in 1991-1992, Envoy Inc. PAC and Don Garvey, as treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a)(1)(ii) by accepting prohibited corporate contributions in an account subject to the prohibitions and limitations of the Act. Further, there is reason to believe that in November 1993, Envoy Inc. PAC and Don Garvey, as treasurer, violated 2 U.S.C. §§ 441b(a) and 441f by accepting corporate contributions which were made in the name of another.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 27, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Radiofone, Inc.
c/o Don Garvey, President
3939 N. Causeway Blvd., P.O. Box 7338
Metairie, LA 70010-7338

RE: MUR 4161
Radiofone, Inc.

Dear Mr. Garvey:

On December 13, 1994, the Federal Election Commission found that there is reason to believe Radiofone, Inc. violated 2 U.S.C. §§ 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Statements should be submitted under oath. All responses to the enclosed Order to Submit Written Answers and Subpoena to Produce Documents must be submitted within 30 days of your receipt of this Order and Subpoena. Any additional materials or statements you wish to submit should accompany the response to the Order and Subpoena. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this Order and Subpoena. If you intend to be represented by counsel, 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 or other communications from the Commission.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may

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complete its investigation of the matter. Further, requests for pre-probable cause conciliation will not be entertained after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public. For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Robert Ridenour, the attorney assigned to this matter, at (202) 219-3400.

For the Commission,

Trevor Potter
Chairman

Enclosures
Order and Subpoena
Factual and Legal Analysis
Procedures
Designation of Counsel Form

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
	)	MUR 4161
	)	

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Radiofone, Inc.
c/o Don Garvey, President
P.O. Box 7338
3939 N. Causeway Blvd.
Metairie, LA 70010-7338

Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 30 days of receipt of this Order and Subpoena.

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WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand in Washington, D.C. on this 22nd, day of December, 1994.

For the Commission,

Trevor Potter
Chairman

ATTEST:

for Delores Hardy
Marjorie W. Emmons
Secretary to the Commission

Attachments
Questions and Document Requests

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INSTRUCTIONS

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

Each answer shall be preceded by the question or interrogatory to which the answer pertains.

In answering these interrogatories and requests for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records, or in the possession of or known by or otherwise available to your attorneys, agents, employees, or other representatives of you and/or your attorneys.

The response to each interrogatory shall set forth separately the identification of each person capable of furnishing testimony concerning the response given. In addition, the response shall identify those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder. In addition, state whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

The following interrogatories and requests for production of documents are continuing in nature, requiring you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

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DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" or "your" shall mean the named respondents in this action to whom these discovery requests are addressed, including all persons who act in any capacity for respondents or in any relationship to respondents, including officers, employees, agents or attorneys thereof, and/or others who act on their behalf.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Identify" with respect to a person shall mean to state the full name, the most recent business and residence addresses, the most recent business and home telephone numbers, the person's position and job description at the time in question with respect to the interrogatory, the present occupation or position of such person, and the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean to state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, and the number of pages comprising the document.

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The singular form of a word should be interpreted to include the plural and the plural form of a word should be interpreted to include the singular.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be outside of their scope.

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BEFORE THE FEDERAL ELECTION COMMISSION

INTERROGATORIES AND REQUESTS FOR DOCUMENTS

MUR 4161
Radiofone, Inc.

1. Please state upon what date the Envoy, Inc. PAC refund check (dated November 10, 1994, check #1026, amount $10,800.00) was received by the corporation and upon what date the check was deposited or cashed.

2. Please provide a copy of the front and the back of the refund check.

3. Please state why Brian Baudot signed the refund check from Envoy, Inc. PAC, check #1026, made out to Radiofone, Inc.

4. Please identify by date and amount all payments, including cash payments, advancements, reimbursements, or other benefits provided to the following individuals from October 1993, through March 1994, and describe the purpose of each such disbursement or benefit:

a. Don Garvey

b. Larry Garvey

c. Brian Baudot

5. Please produce each and every document concerning or relating to the disbursements or benefits identified in response to Interrogatory No. 4 including, but not limited to copies (both sides) of all checks, money orders, or other written instruments with which Radiofone, Inc. or Envoy, Inc. made a disbursement or provided a benefit to Don Garvey, Larry Garvey, or Brian Baudot.

6. Regarding the contributions made by Don Garvey, Larry Garvey, and Brian Baudot to Envoy, Inc. PAC in November 1993, please provide the following information:

a. Please state whether Don Garvey, Larry Garvey, and Brian Baudot received any funds, compensation, reimbursement, or other consideration from Radiofone, Inc. or Envoy, Inc. in connection with their contributions to Envoy, Inc. PAC.

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b. If the answer to Interrogatory No. 6(a) is in the affirmative, please state how and when each contributor was compensated or reimbursed in connection with his contribution to Envoy, Inc. PAC.

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Radiofone, Inc. MUR 4161

I. GENERATION OF MATTER

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

II. FACTUAL AND LEGAL ANALYSIS

A. Applicable Law

The Federal Election Campaign Act of 1971, as amended, ("the Act" or "FECA") prohibits corporations from making contributions or expenditures in connection with Federal elections. 2 U.S.C. § 441b(a). It is similarly unlawful for any officer or any director of any corporation to consent to any contribution or expenditure by the corporation in connection with Federal elections. Id. Likewise, political committees and candidates cannot knowingly accept corporate contributions. Id.

Instead, the Act allows corporations and labor unions to establish separate segregated funds or political action committees, which may make contributions in connection with Federal elections. 2 U.S.C. § 441b(b)(2)(C). Although officers or shareholders of the organizing corporation, known as the connected organization, 2 U.S.C. § 431(7), may be solicited to voluntarily contribute to the separate segregated fund, 11 C.F.R. § 114.5(g)(1), no contributions from a corporation may be accepted. 11 C.F.R. § 114.2(c).

The Act also prohibits any person from making a contribution in the name of another, or knowingly allowing his name to be used to effect such a contribution. 2 U.S.C. § 441f. Likewise, the Act provides that no person shall knowingly accept a contribution made by one person in the name of another person. Id. To assist the making of a contribution in the name of another is a violation of Commission regulations. 11 C.F.R. § 110.4(b)(1)(iii).

B. Discussion

On February 4, 1992, Envoy, Inc. PAC filed its Year End Report for 1991, its first year of operation. In that report, the PAC and Don Garvey, as treasurer, disclosed receipt of seven contributions totalling $9,947 from Radiofone, Inc.[1] The PAC received the contributions, in amounts ranging from $547 to $3,847, from August 19 to October 9, 1991. Additionally, Radiofone, Inc. made $2,000 in contributions to the PAC in October of 1992. Don Garvey, the PAC's treasurer, and Larry Garvey, the president of the PAC, are both officers of Radiofone, Inc., the contributing corporation.

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1. Radiofone, Inc. is the parent company of Envoy, Inc., the PAC's connected organization. Radiofone, Inc. owns 100 percent of Envoy, Inc.'s corporate shares. Radiofone, Inc. and Envoy, Inc. are both incorporated in Louisiana.

CONTRIBUTIONS			REFUNDS	
CONTRIBUTOR	AMOUNT	DATE RCV'D	DATE	AMOUNT
Radiofone, Inc.	$ 1,600.00	08/19/91		
Radiofone, Inc.	$ 547.00	08/30/91		
Radiofone, Inc.	$ 1,000.00	09/18/91		
Radiofone, Inc.	$ 3,847.00	09/27/91		
Radiofone, Inc.	$ 1,000.00	09/30/91		
Radiofone, Inc.	$ 953.00	10/07/91		
Radiofone, Inc.	$ 1,000.00	10/09/91		
Radiofone, Inc.			07/14/92	$ 1,100.00
Radiofone, Inc.	$ 1,000.00	10/05/92		
Radiofone, Inc.	$ 1,000.00	10/26/92		
Radiofone, Inc.			11/10/93	$10,800.00
TOTAL	$11,947.00			$11,900.00

Radiofone, Inc. apparently contributed to the PAC in violation of 2 U.S.C. § 441b(a). The PAC reported no transfers to Radiofone Inc. in its 1991 Year End Report; consequently, it appears that the PAC did not avail itself of the 30-day opportunity to return prohibited contributions allowed by 11 C.F.R. § 103.3(b)(1). The PAC's 1992 Quarterly Report does show a $1,100 refund to Radiofone, Inc. on July 14, 1992.[2]

The Reports Analysis Division ("RAD") notified the PAC of possible violations on September 8, 1993. RAD telephone communication records show that on November 4, 1993, the PAC inquired whether the connected organization, Envoy, Inc., could provide bonuses to employees, who in turn would contribute to the separate segregated fund. RAD informed the PAC that such a strategy would be a prohibited contribution in the name of another and a prohibited corporate contribution.

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2. The PAC's reports indicate the $1,100 was the amount remaining in its account after the majority of Radiofone, Inc.'s contributions were disbursed.

Since its establishment, Envoy, Inc. PAC has received no contributions other than contributions from Radiofone, Inc. and the individual contributions discussed supra.

By check dated November 10, 1993, the PAC refunded $10,800[3] to Radiofone, Inc., two years after receipt of the prohibited funds. In a letter to RAD accompanying a copy of the check, the PAC admitted it had received impermissible corporate contributions. The PAC explained that it and Radiofone, Inc. were under the mistaken impression that contributions could be made by the parent company. Of note, it appears that Brian Baudot, controller of Radiofone, Inc. -- and not the PAC's treasurer Don Garvey -- signed the PAC's check refunding $10,800 to Radiofone, Inc.

On the date the refund check was issued, however, the PAC's reports show that its account held only $1,000, which would have been insufficient to cover the refund check. In the letter accompanying the check, the PAC also disclosed that Radiofone, Inc. corporate officers contributed the funds to reimburse the corporation. Those contributions, totalling $10,800, were not received by the PAC until nine days after the date of the refund check. The PAC listed the contributors and their contributions as: Don Garvey, Radiofone Services, Inc. Officer, $5,000; Larry Garvey, Radiofone Services, Inc. Officer, $5,000; and Brian Baudot, Radiofone Services, Inc. Controller, $800. Consequently, it appears that the PAC issued the refund check to Radiofone, Inc. without sufficient funds, and then covered the check with contributions from officers of Radiofone, Inc.

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3. This figure approximately reflects the return of $9,947 of Radiofone, Inc. contributions in 1991, and $2,000 in contributions in 1992, subtracting the $1,100 refunded on July 14, 1992.

These circumstances, i.e., the overlap of officers between the PAC and Radiofone, Inc.; the refund check written without sufficient funds; the subsequent contributions from officers of Radiofone, Inc. to cover the check; the PAC's refund check appears to have been signed by the controller of Radiofone, Inc., who was not reported to be an officer of the PAC; and the PAC's inquiry to RAD about reimbursing officers for contributions, all give rise to the appearance that the contributions from the officers of Radiofone, Inc. were actually contributions made by the corporation. This Office also believes this set of circumstances suggests violations of 2 U.S.C. §§ 441b(a) and 441f.

Therefore, based on the foregoing, there is reason to believe that in 1991-1992, Radiofone, Inc., a Louisiana corporation, violated 2 U.S.C. § 441b(a) by contributing to Envoy, Inc. PAC, a political committee. Further, there is reason to believe that in November 1993, Radiofone, Inc. violated 2 U.S.C. §§ 441b(a) and 441f by making corporate contributions in the name of another.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

December 27, 1994

Don Garvey, President
Radiofone, Inc.
3939 N. Causeway Blvd., P.O. Box 7338
Metairie, LA 70010-7338

RE: MUR 4161
Don Garvey

Dear Mr. Garvey:

On December 13, 1994, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. §§ 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Statements should be submitted under oath. All responses to the enclosed Order to Submit Written Answers and Subpoena to Produce Documents must be submitted within 30 days of your receipt of this Order and Subpoena. Any additional materials or statements you wish to submit should accompany the response to the Order and Subpoena. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this Order and Subpoena. If you intend to be represented by counsel, 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 or other communications from the Commission.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may

complete its investigation of the matter. Further, requests for pre-probable cause conciliation will not be entertained after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public. For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Robert Ridenour, the attorney assigned to this matter, at (202) 219-3400.

For the Commission,

Trevor Potter
Chairman

Enclosures
Order and Subpoena
Factual and Legal Analysis
Procedures
Designation of Counsel Form

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
	)	MUR 4161
	)	

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Don Garvey
Radiofone, Inc.
P.O. Box 7338
3939 N. Causeway Blvd.
Metairie, LA 70010-7338

Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 30 days of receipt of this Order and Subpoena.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand in Washington, D.C. on this 22nd, day of December, 1994.

For the Commission,

Trevor Potter
Chairman

ATTEST:

for Delores Hardy
Marjorie W. Emmons
Secretary to the Commission

Attachments
Questions and Document Requests

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INSTRUCTIONS

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

Each answer shall be preceded by the question or interrogatory to which the answer pertains.

In answering these interrogatories and requests for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records, or in the possession of or known by or otherwise available to your attorneys, agents, employees, or other representatives of you and/or your attorneys.

The response to each interrogatory shall set forth separately the identification of each person capable of furnishing testimony concerning the response given. In addition, the response shall identify those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder. In addition, state whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

The following interrogatories and requests for production of documents are continuing in nature, requiring you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

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DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" or "your" shall mean the named respondents in this action to whom these discovery requests are addressed, including all persons who act in any capacity for respondents or in any relationship to respondents, including officers, employees, agents or attorneys thereof, and/or others who act on their behalf.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Identify" with respect to a person shall mean to state the full name, the most recent business and residence addresses, the most recent business and home telephone numbers, the person's position and job description at the time in question with respect to the interrogatory, the present occupation or position of such person, and the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean to state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, and the number of pages comprising the document.

The singular form of a word should be interpreted to include the plural and the plural form of a word should be interpreted to include the singular.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be outside of their scope.

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BEFORE THE FEDERAL ELECTION COMMISSION

INTERROGATORIES AND REQUESTS FOR DOCUMENTS

1. Please describe your position and responsibilities from August, 1991 through December, 1993, both as an officer and Chairman for Radiofone, Inc.

2. Please describe your position and responsibilities from August, 1991 through December, 1993, as an officer for Envoy, Inc.

3. Please describe your position and responsibilities from August, 1991 through December, 1993, as Treasurer for Envoy, Inc. Political Action Committee ("Envoy Inc. PAC").

4. Regarding the contribution made by you in November of 1993 to Envoy, Inc. PAC, please provide the following information:

a. Please describe the circumstances surrounding the solicitation of the contribution and identify who solicited the contribution.

b. Please describe how you determined the amount of your contribution to Envoy, Inc. PAC.

c. Please identify and produce all documents relating to your contribution to Envoy, Inc. PAC including copies (both sides) of all checks, money orders, or other written instruments used to make the contribution to Envoy, Inc. PAC.

d. Please identify and produce copies of all written notes, memoranda, or correspondence concerning, relating, or pertaining to your contribution to Envoy, Inc. PAC.

e. Please state the source of the funds used to make the contribution.

5. Please state whether you received any funds, compensation, reimbursement, or other consideration in connection with your contribution to Envoy, Inc. PAC.

6. If the answer to Interrogatory No. 5 is in the affirmative, please identify what person or entity paid or reimbursed you in connection with the contribution.

7. If the answer to Interrogatory No. 5 is in the affirmative, please state how and when you were compensated or reimbursed in connection with your contribution to Envoy, Inc. PAC.

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8. Please identify and produce all documents relating to any payment, including cash payment, compensation, reimbursement, or other consideration you received in connection with your contribution to Envoy, Inc. PAC.

9. Please provide the date, amount, and purpose of every payment, including cash payments, advancements, reimbursements, or other benefits provided to you by Radiofone, Inc. or Envoy, Inc. from October 1993 through March 1994.

10. Please identify and produce all documents relating to each of the disbursements or benefits identified in response to Interrogatory No. 9, including, but not limited to copies of bank statements or accounts recording the deposit or receipt of the disbursements or benefits.

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Don Garvey **MUR 4161**

I. GENERATION OF MATTER

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

II. FACTUAL AND LEGAL ANALYSIS

A. Applicable Law

The Federal Election Campaign Act of 1971, as amended, ("the Act" or "FECA") prohibits corporations from making contributions or expenditures in connection with Federal elections. 2 U.S.C. § 441b(a). It is similarly unlawful for any officer or any director of any corporation to consent to any contribution or expenditure by the corporation in connection with Federal elections. Id. Likewise, political committees and candidates cannot knowingly accept corporate contributions. Id.

Instead, the Act allows corporations and labor unions to establish separate segregated funds or political action committees, which may make contributions in connection with Federal elections. 2 U.S.C. § 441b(b)(2)(C). Although officers or shareholders of the organizing corporation, known as the connected organization, 2 U.S.C. § 431(7), may be solicited to voluntarily contribute to the separate segregated fund, 11 C.F.R. § 114.5(g)(1), no contributions from a corporation may be accepted. 11 C.F.R. § 114.2(c).

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The Act also prohibits any person from making a contribution in the name of another, or knowingly allowing his name to be used to effect such a contribution. 2 U.S.C. § 441f. Likewise, the Act provides that no person shall knowingly accept a contribution made by one person in the name of another person. Id. To assist the making of a contribution in the name of another is a violation of Commission regulations. 11 C.F.R. § 110.4(b)(1)(iii).

B. Discussion

On February 4, 1992, Envoy, Inc. PAC filed its Year End Report for 1991, its first year of operation. In that report, the PAC and Don Garvey, as treasurer, disclosed receipt of seven contributions totalling $9,947 from Radiofone, Inc.[1] The PAC received the contributions, in amounts ranging from $547 to $3,847, from August 19 to October 9, 1991. Additionally, Radiofone, Inc. made $2,000 in contributions to the PAC in October of 1992. Don Garvey, the PAC's treasurer, and Larry Garvey, the president of the PAC, are both officers of Radiofone, Inc., the contributing corporation.

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1. Radiofone, Inc. is the parent company of Envoy, Inc., the PAC's connected organization. Radiofone, Inc. owns 100 percent of Envoy, Inc.'s corporate shares. Radiofone, Inc. and Envoy, Inc. are both incorporated in Louisiana.

CONTRIBUTIONS			REFUNDS	
CONTRIBUTOR	AMOUNT	DATE RCV'D	DATE	AMOUNT
Radiofone, Inc.	$ 1,600.00	08/19/91		
Radiofone, Inc.	$ 547.00	08/30/91		
Radiofone, Inc.	$ 1,000.00	09/18/91		
Radiofone, Inc.	$ 3,847.00	09/27/91		
Radiofone, Inc.	$ 1,000.00	09/30/91		
Radiofone, Inc.	$ 953.00	10/07/91		
Radiofone, Inc.	$ 1,000.00	10/09/91		
Radiofone, Inc.			07/14/92	$ 1,100.00
Radiofone, Inc.	$ 1,000.00	10/05/92		
Radiofone, Inc.	$ 1,000.00	10/26/92		
Radiofone, Inc.			11/10/93	$10,800.00
TOTAL	$11,947.00			$11,900.00

Radiofone, Inc. apparently contributed to the PAC in violation of 2 U.S.C. § 441b(a). Additionally, since Don Garvey, the PAC's treasurer, is an officer of the corporation, it appears he may have consented to the corporation's contributions to the PAC, in violation of 2 U.S.C. § 441b(a).

The PAC reported no transfers to Radiofone Inc. in its 1991 Year End Report; consequently, it appears that the PAC did not avail itself of the 30-day opportunity to return prohibited contributions allowed by 11 C.F.R. § 103.3(b)(1). The PAC's 1992 Quarterly Report does show a $1,100 refund to Radiofone, Inc. on July 14, 1992.[2]

The Reports Analysis Division ("RAD") notified the PAC of possible violations on September 8, 1993. RAD telephone communication records show that on November 4, 1993, the PAC inquired whether the connected organization, Envoy, Inc., could

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2. The PAC's reports indicate the $1,100 was the amount remaining in its account after the majority of Radiofone, Inc.'s contributions were disbursed.

Since its establishment, Envoy, Inc. PAC has received no contributions other than contributions from Radiofone, Inc. and the individual contributions discussed supra.

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provide bonuses to employees, who in turn would contribute to the separate segregated fund. RAD informed the PAC that such a strategy would be a prohibited contribution in the name of another and a prohibited corporate contribution.

By check dated November 10, 1993, the PAC refunded $10,800[3] to Radiofone, Inc., two years after receipt of the prohibited funds. In a letter to RAD accompanying a copy of the check, the PAC admitted it had received impermissible corporate contributions. The PAC explained that it and Radiofone, Inc. were under the mistaken impression that contributions could be made by the parent company. Of note, it appears that Brian Baudot, controller of Radiofone, Inc. -- and not the PAC's treasurer Don Garvey -- signed the PAC's check refunding $10,800 to Radiofone, Inc.

On the date the refund check was issued, however, the PAC's reports show that its account held only $1,000, which would have been insufficient to cover the refund check. In the letter accompanying the check, the PAC also disclosed that Radiofone, Inc. corporate officers contributed the funds to reimburse the corporation. Those contributions, totalling $10,800, were not received by the PAC until nine days after the date of the refund check. The PAC listed the contributors and their contributions as: Don Garvey, Radiofone Services, Inc. Officer, $5,000; Larry Garvey, Radiofone Services, Inc. Officer, $5,000; and Brian

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3. This figure approximately reflects the return of $9,947 of Radiofone, Inc. contributions in 1991, and $2,000 in contributions in 1992, subtracting the $1,100 refunded on July 14, 1992.

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Baudot, Radiofone Services, Inc. Controller, $800. Consequently, it appears that the PAC issued the refund check to Radiofone, Inc. without sufficient funds, and then covered the check with contributions from officers of Radiofone, Inc.

These circumstances, i.e., the overlap of officers between the PAC and Radiofone, Inc.; the refund check written without sufficient funds; the subsequent contributions from officers of Radiofone, Inc. to cover the check; the PAC's refund check appears to have been signed by the controller of Radiofone, Inc., who was not reported to be an officer of the PAC; and the PAC's inquiry to RAD about reimbursing officers for contributions, all give rise to the appearance that the contributions from the officers of Radiofone, Inc. were actually contributions made by the corporation. This Office also believes this set of circumstances suggests violations of 2 U.S.C. §§ 441b(a) and 441f.

Therefore, based on the foregoing, there is reason to believe that in 1991-1992, Don Garvey, a corporate officer of Radiofone, Inc., violated 2 U.S.C. § 441b(a) by consenting to corporate contributions to a political committee. Further, there is reason to believe that in November 1993, Don Garvey violated 2 U.S.C. §§ 441b(a) and 441f by consenting to corporate contributions to the PAC and by permitting his name to be used to make one of the contributions.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 27, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Larry Garvey
Radiofone, Inc.
3939 N. Causeway Blvd., P.O. Box 7338
Metairie, LA 70010-7338

RE: MUR 4161
Larry Garvey

Dear Mr. Garvey:

On December 13, 1994, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. §§ 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Statements should be submitted under oath. All responses to the enclosed Order to Submit Written Answers and Subpoena to Produce Documents must be submitted within 30 days of your receipt of this Order and Subpoena. Any additional materials or statements you wish to submit should accompany the response to the Order and Subpoena. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this Order and Subpoena. If you intend to be represented by counsel, 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 or other communications from the Commission.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may

complete its investigation of the matter. Further, requests for pre-probable cause conciliation will not be entertained after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public. For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Robert Ridenour, the attorney assigned to this matter, at (202) 219-3400.

For the Commission,

Trevor Potter
Chairman

Enclosures
Order and Subpoena
Factual and Legal Analysis
Procedures
Designation of Counsel Form

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
) MUR 4161
)

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Larry Garvey
Radiofone, Inc.
P.O. Box 7338
3939 N. Causeway Blvd.
Metairie, LA 70010-7338

Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 30 days of receipt of this Order and Subpoena.

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WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand in Washington, D.C. on this 22nd, day of December, 1994.

For the Commission,

Trevor Potter
Chairman

ATTEST:

for Delores Hardy
Marjorie W. Emmons
Secretary to the Commission

Attachments
Questions and Document Requests

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INSTRUCTIONS

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

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The response to each interrogatory shall set forth separately the identification of each person capable of furnishing testimony concerning the response given. In addition, the response shall identify those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder. In addition, state whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

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DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" or "your" shall mean the named respondents in this action to whom these discovery requests are addressed, including all persons who act in any capacity for respondents or in any relationship to respondents, including officers, employees, agents or attorneys thereof, and/or others who act on their behalf.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Identify" with respect to a person shall mean to state the full name, the most recent business and residence addresses, the most recent business and home telephone numbers, the person's position and job description at the time in question with respect to the interrogatory, the present occupation or position of such person, and the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean to state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, and the number of pages comprising the document.

The singular form of a word should be interpreted to include the plural and the plural form of a word should be interpreted to include the singular.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be outside of their scope.

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BEFORE THE FEDERAL ELECTION COMMISSION

INTERROGATORIES AND REQUESTS FOR DOCUMENTS

1. Please describe your position and responsibilities from August, 1991 through December, 1993, as both an officer and Secretary of Radiofone, Inc.

2. Please describe your position and responsibilities from August, 1991 through December, 1993, as an officer for Envoy, Inc.

3. Please describe your position and responsibilities from August, 1991 through December, 1993, as President of Envoy, Inc. Political Action Committee ("Envoy, Inc. PAC").

4. Regarding the contribution made by you in November of 1993 to Envoy, Inc. PAC, please provide the following information:

   a. Please describe the circumstances surrounding the solicitation of the contribution and identify who solicited the contribution.

   b. Please describe how you determined the amount of your contribution to Envoy, Inc. PAC.

   c. Please identify and produce all documents relating to your contribution to Envoy, Inc. PAC including copies (both sides) of all checks, money orders, or other written instruments used to make the contribution to Envoy, Inc. PAC.

   d. Please identify and produce copies of all written notes, memoranda, or correspondence concerning, relating, or pertaining to your contribution to Envoy, Inc. PAC.

   e. Please state the source of the funds used to make the contribution.

5. Please state whether you received any funds, compensation, reimbursement, or other consideration in connection with your contribution to Envoy, Inc. PAC.

6. If the answer to Interrogatory No. 5 is in the affirmative, please identify what person or entity paid or reimbursed you in connection with the contribution.

7. If the answer to Interrogatory No. 5 is in the affirmative, please state how and when you were compensated or reimbursed in connection with your contribution to Envoy, Inc. PAC.

8. Please identify and produce all documents relating to any payment, including cash payments, compensation, reimbursement, or other consideration you received in connection with your contribution to Envoy, Inc. PAC.

9. Please provide the date, amount, and purpose of every payment, including cash payments, advancements, reimbursements, or other benefits provided to you by Radiofone, Inc. or Envoy, Inc. from October 1993 through March 1994.

10. Please identify and produce all documents relating to each of the disbursements or benefits identified in response to Interrogatory No. 9, including, but not limited to copies of bank statements or accounts recording the deposit or receipt of the disbursements or benefits.

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Larry Garvey MUR 4161

I. GENERATION OF MATTER

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

II. FACTUAL AND LEGAL ANALYSIS

A. Applicable Law

The Federal Election Campaign Act of 1971, as amended, ("the Act" or "FECA") prohibits corporations from making contributions or expenditures in connection with Federal elections. 2 U.S.C. § 441b(a). It is similarly unlawful for any officer or any director of any corporation to consent to any contribution or expenditure by the corporation in connection with Federal elections. Id.

Instead, the Act allows corporations and labor unions to establish separate segregated funds or political action committees, which may make contributions in connection with Federal elections. 2 U.S.C. § 441b(b)(2)(C). Although officers or shareholders of the organizing corporation, known as the connected organization, 2 U.S.C. § 431(7), may be solicited to voluntarily contribute to the separate segregated fund, 11 C.F.R. § 114.5(g)(1), no contributions from a corporation may be accepted. 11 C.F.R. § 114.2(c).

The Act also prohibits any person from making a contribution

in the name of another, or knowingly allowing his name to be used to effect such a contribution. 2 U.S.C. § 441f. Likewise, the Act provides that no person shall knowingly accept a contribution made by one person in the name of another person. Id. To assist the making of a contribution in the name of another is a violation of Commission regulations. 11 C.F.R. § 110.4(b)(1)(iii).

B. Discussion

On February 4, 1992, Envoy, Inc. PAC filed its Year End Report for 1991, its first year of operation. In that report, the PAC and Don Garvey, as treasurer, disclosed receipt of seven contributions totalling $9,947 from Radiofone, Inc.[1] The PAC received the contributions, in amounts ranging from $547 to $3,847, from August 19 to October 9, 1991. Additionally, Radiofone, Inc. made $2,000 in contributions to the PAC in October of 1992. Don Garvey, the PAC's treasurer, and Larry Garvey, the president of the PAC, are both officers of Radiofone, Inc., the contributing corporation.

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1. Radiofone, Inc. is the parent company of Envoy, Inc., the PAC's connected organization. Radiofone, Inc. owns 100 percent of Envoy, Inc.'s corporate shares. Radiofone, Inc. and Envoy, Inc. are both incorporated in Louisiana.

CONTRIBUTIONS			REFUNDS	
CONTRIBUTOR	AMOUNT	DATE RCV'D	DATE	AMOUNT
Radiofone, Inc.	$ 1,600.00	08/19/91		
Radiofone, Inc.	$ 547.00	08/30/91		
Radiofone, Inc.	$ 1,000.00	09/18/91		
Radiofone, Inc.	$ 3,847.00	09/27/91		
Radiofone, Inc.	$ 1,000.00	09/30/91		
Radiofone, Inc.	$ 953.00	10/07/91		
Radiofone, Inc.	$ 1,000.00	10/09/91		
Radiofone, Inc.			07/14/92	$ 1,100.00
Radiofone, Inc.	$ 1,000.00	10/05/92		
Radiofone, Inc.	$ 1,000.00	10/26/92		
Radiofone, Inc.			11/10/93	$10,800.00
TOTAL	$11,947.00			$11,900.00

Radiofone, Inc. apparently contributed to the PAC in violation of 2 U.S.C. § 441b(a). Additionally, since Larry Garvey is both the PAC's president and an officer of Radiofone, Inc., it appears he may have consented to the corporation's contributions to the PAC, in violation of 2 U.S.C. § 441b(a).

The PAC reported no transfers to Radiofone Inc. in its 1991 Year End Report; consequently, it appears that the PAC did not avail itself of the 30-day opportunity to return prohibited contributions allowed by 11 C.F.R. § 103.3(b)(1). The PAC's 1992 Quarterly Report does show a $1,100 refund to Radiofone, Inc. on July 14, 1992.[2]

The Reports Analysis Division ("RAD") notified the PAC of possible violations on September 8, 1993. RAD telephone communication records show that on November 4, 1993, the PAC inquired whether the connected organization, Envoy, Inc., could

---

2. The PAC's reports indicate the $1,100 was the amount remaining in its account after the majority of Radiofone, Inc.'s contributions were disbursed.

Since its establishment, Envoy, Inc. PAC has received no contributions other than contributions from Radiofone, Inc. and the individual contributions discussed supra.

provide bonuses to employees, who in turn would contribute to the separate segregated fund. RAD informed the PAC that such a strategy would be a prohibited contribution in the name of another and a prohibited corporate contribution.

By check dated November 10, 1993, the PAC refunded $10,800[3] to Radiofone, Inc., two years after receipt of the prohibited funds. In a letter to RAD accompanying a copy of the check, the PAC admitted it had received impermissible corporate contributions. The PAC explained that it and Radiofone, Inc. were under the mistaken impression that contributions could be made by the parent company. Of note, it appears that Brian Baudot, controller of Radiofone, Inc. -- and not the PAC's treasurer Don Garvey -- signed the PAC's check refunding $10,800 to Radiofone, Inc.

On the date the refund check was issued, however, the PAC's reports show that its account held only $1,000, which would have been insufficient to cover the refund check. In the letter to RAD accompanying the check, the PAC also disclosed that Radiofone, Inc. corporate officers contributed the funds to reimburse the corporation. Those contributions, totalling $10,800, were not received by the PAC until nine days after the date of the refund check. The PAC listed the contributors and their contributions as: Don Garvey, Radiofone Services, Inc. Officer, $5,000; Larry Garvey, Radiofone Services, Inc. Officer, $5,000; and Brian

---

3. This figure approximately reflects the return of $9,947 of Radiofone, Inc. contributions in 1991, and $2,000 in contributions in 1992, subtracting the $1,100 refunded on July 14, 1992.

Baudot, Radiofone Services, Inc. Controller, $800. Consequently, it appears that the PAC issued the refund check to Radiofone, Inc. without sufficient funds, and then covered the check with contributions from officers of Radiofone, Inc.

These circumstances, i.e., the overlap of officers between the PAC and Radiofone, Inc.; the refund check written without sufficient funds; the subsequent contributions from officers of Radiofone, Inc. to cover the check; the PAC's refund check appears to have been signed by the controller of Radiofone, Inc., who was not reported to be an officer of the PAC; and the PAC's inquiry to RAD about reimbursing officers for contributions, all give rise to the appearance that the contributions from the officers of Radiofone, Inc. were actually contributions made by the corporation. This Office also believes this set of circumstances suggests violations of 2 U.S.C. §§ 441b(a) and 441f.

Therefore, based on the foregoing, there is reason to believe that in 1991-1992, Larry Garvey, an officer of Radiofone, Inc., violated 2 U.S.C. § 441b(a) by consenting to corporate contributions to a political committee. Further, there is reason to believe that in November 1993, Mr. Garvey violated 2 U.S.C. §§ 441b(a) and 441f by consenting to corporate contributions to the PAC and by permitting his name to be used to make one of the contributions.

MICHAEL L. ECKSTEIN
ATTORNEY AT LAW
A PROFESSIONAL CORPORATION
629 BARONNE STREET
NEW ORLEANS, LOUISIANA 70113
TEL: 504-581-9322
FAX: 504-566-0040

MICHAEL L. ECKSTEIN*
*LL.M. IN TAXATION
BOARD CERTIFIED TAX ATTORNEY

JAN 23 9 34 AM '95
RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

January 20, 1995

VIA AIRBORNE EXPRESS

Mr. Trevor Potter
Officer of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 4161
Don Garvey
Larry Garvey
Brian Baudot
Radiofone, Inc.
Envoy, Inc. PAC and Don Garvey as Treasurer

Dear Mr. Potter:

Enclosed are Statements of Designation of Counsel for the above respondents. Additionally, I am writing to request an extension of time to respond to MUR 4161 on behalf of each of the respondents.

My office was in receipt of the above information from respondents on January 7, 1995. I require an extension to answer on behalf of the respondents due to the fact that I am currently in the process of negotiations to relocate my office, and am heavily engaged in litigation in the U. S. District Court, Southern District of California, Civil Action No. 1-93-20352, a multi-party litigation which has several court dates and settlement conferences scheduled between now and until the due date of January 28, 1995. Accordingly, I would appreciate if the Federal Election Commission would grant an extension of time of twenty (20) days.

Sincerely,

MICHAEL L. ECKSTEIN, ATTORNEY AT LAW
A PROFESSIONAL CORPORATION

By: Michael L. Eckstein

MLE:lfm
Enclosures
cc: Mark Jeansonne, Esq.,
Radiofone, Inc.
74155/c/42

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4161

NAME OF COUNSEL: Michael L. Eckstein, Attorney at Law, A Professional Corporation

ADDRESS: 829 Baronne street

New Orleans, LA 70113

TELEPHONE: (504) 581-9322

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.

Date 1/17/95

Signature

RESPONDENT'S NAME: Brian Baudot, Comptroller, Radiofone, Inc.

ADDRESS: 3939 N. Causeway Blvd., P. O. Box 7338

Metairie, LA 70010-7338

HOME PHONE:

BUSINESS PHONE: (504) 830-1525

JAN 25 9 37 AM '95

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4161

NAME OF COUNSEL: Michael L. Eckstein, Attorney at Law, A Professional Corporation

ADDRESS: 829 Baronne Street
New Orleans, LA 70113

TELEPHONE: (504) 581-9322

JAN 25 9 35 AM '95

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.

1/17/95
Date

Signature

RESPONDENT'S NAME: Envoy, Inc. Political Action Committee and Don Garvey, as Treasurer

ADDRESS: 3939 N. Causeway Blvd., P. O. Box 7338
Metairie, LA 70010-7338

HOME PHONE:

BUSINESS PHONE: (504) 830-1525

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4161

NAME OF COUNSEL: Michael L. Eckstein, Attorney at Law, A Professional Corporation

ADDRESS: 829 Baronne street

New Orleans, LA 70113

TELEPHONE: (504) 581-9322

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.

1/17/95
Date

Signature

RESPONDENT'S NAME: Don Garvey, President Radiofone, Inc.

ADDRESS: 3939 N. Causeway Blvd., P. O. Box 7338

Metairie, LA 70010-7338

HOME PHONE:

BUSINESS PHONE: (504) 830-1525

JAN 23 9 38 AM '95

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4161

NAME OF COUNSEL: Michael L. Eckstein, Attorney at Law, A Professional Corporation

ADDRESS: 829 Baronne Street
New Orleans, LA 70113

TELEPHONE: (504) 581-9322

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.

1/14/95
Date

Signature

RESPONDENT'S NAME: Radiofone, Inc.
c/o Don Garvey, President

ADDRESS: 3939 N. Causeway Blvd., P.O. Box 7338
Metairie, LA 70010-7338

HOME PHONE: —

BUSINESS PHONE: (504) 830-1525

95043021377

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4161

NAME OF COUNSEL: Michael L. Eckstein, Attorney at Law, A Professional Corporation

ADDRESS: 829 Baronne Street

New Orleans, LA 70113

TELEPHONE: (504) 581-9322

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.

1/17/95
Date

Signature

RESPONDENT'S NAME: Larry Garvey

ADDRESS: c/o Radiofone, Inc.
3939 N. Causeway Blvd., P. O. Box 7338

Metairie, LA 70010-7338

HOME PHONE:

BUSINESS PHONE: (504) 830-1525

JAN 23 9 34 AM '95

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

February 1, 1995

Michael L. Eckstein
Attorney at Law
829 Baronne Street
New Orleans, LA 70113

RE: MUR 4161
Envoy, Inc. PAC and
Don Garvey, as treasurer,
et al.

Dear Mr. Eckstein:

This is to confirm our response to your letter dated January 20, 1995, which we received on January 25, 1995, requesting an extension of 20 days to respond to the Commission's findings of reason to believe and its Orders to Submit Written Answers and Subpoenas to Produce Documents. As you were previously advised by this Office on January 27, 1995, we have granted the requested extension. Accordingly, your response is due by the close of business on February 17, 1995.

The Office of General Counsel approved an extension in this matter for you to respond substantively to the discovery requests. The Commission expects full and complete responses to its Orders and Subpoenas. This Office reminds you that the time for filing a motion to quash has passed and that this extension does not extend the deadline for such a motion.

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

Sincerely,

Robert A. Ridenour
Attorney

95043721379

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of: Don Garvey * * * MUR 4161 * *

RECEIVED FEDERAL ELECTION COMMISSION OFFICE OF GENERAL COUNSEL
FEB 17 12 27 PM '95

ANSWERS TO INTERROGATORIES AND REQUESTS FOR DOCUMENTS

TO: Office of the General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Respondent, Don Garvey, responds to the Federal Election Commission's Interrogatories and Requests for Documents as follows:

INTERROGATORY NO. 1:

Please describe your position and responsibilities from August 1991, through December, 1993, both as an officer and Chairman for Radiofone, Inc.

ANSWER TO INTERROGATORY NO. 1:

I am President and a member of the Board of Directors of Radiofone, Inc. I oversee all administrative functions of Radiofone, Inc., which includes, but is not limited to, personnel management, billing, financial operations, contracts, benefits, etc. Radiofone, Inc. conducts business activities in Texas, Louisiana, Mississippi and Florida.

INTERROGATORY NO. 2:

Please describe your position and responsibilities from August, 1991 through December, 1993, as an officer for Envoy, Inc.

ANSWER TO INTERROGATORY NO. 2:

My position and responsibilities with Envoy, Inc. are the same as those stated in Interrogatory No. 1 of Radiofone, Inc.

INTERROGATORY NO. 3:

Please describe your position and responsibilities from August, 1991 through December, 1993, as Treasurer for Envoy, Inc. Political Action Committee ("Envoy, Inc. PAC").

ANSWER TO INTERROGATORY NO. 3:

My responsibilities were to assist in the review and consideration of political candidates that were to receive or to be considered for contributions from Envoy, Inc. PAC.

INTERROGATORY NO. 4:

Regarding the contribution made by you in November of 1993 to Envoy, Inc. PAC, please provide the following information:

a. Please describe the circumstances surrounding the solicitation of the contribution and identify who solicited the contribution.

b. Please describe how you determined the amount of your contribution to Envoy, Inc. PAC.

c. Please identify and produce all documents relating to your contribution to Envoy, Inc. PAC including copies (both sides) of all checks, money orders, or other written instruments used to make the contribution to Envoy, Inc. PAC.

d. Please identify and produce copies of all written notes, memoranda, or correspondence concerning, relating, or pertaining to your contribution to Envoy, Inc. PAC.

e. Please state the source of the funds used to make the contribution.

ANSWER TO INTERROGATORY AND REQUEST FOR DOCUMENTS NO. 4:

a. I agreed to contribute the maximum amount allowed by law to Envoy, Inc. PAC. I feel strongly that supporting responsible political candidates is good for Louisiana and New Orleans.

b. Envoy, Inc. PAC was originally begun as a vehicle for my brother and me to make anonymous political contributions. Therefore, once notified of potential problems with the contributions by Radiofone, Inc., I wanted to make the maximum contribution possible.

c. See Exhibit D1, attached.

d. There were no written notes, memoranda or correspondence concerning, relating, or pertaining to our contribution to Envoy, Inc. PAC.

e. I contributed my own personal funds to Envoy, Inc. PAC on November 18, 1993. My funds were received by way of a capital distribution by Garvey Enterprises, a partnership in which I am a

50-50 owner with my brother, Larry Garvey.

INTERROGATORY NO. 5:

Please state whether you received any funds, compensation, reimbursement, or other consideration in connection with your contribution to Envoy, Inc. PAC.

ANSWER TO INTERROGATORY NO. 5:

I subsequently received a $5,000.00 distribution from Radiofone, Inc. on December 9, 1993, but I am not of the opinion that those funds were received "in connection" with my contribution to Envoy, Inc. PAC. More particularly, my brother, Larry Garvey and I, are each 50% owners of Radiofone, Inc. and we each received a $5,000.00 distribution. I am of the opinion that my distribution was received more "in connection" with my stock ownership rather than as a result of a contribution to Envoy, Inc. PAC.

INTERROGATORY NO. 6:

If the answer to Interrogatory No. 5 is in the affirmative, please identify what person or entity paid or reimbursed you in connection with the contribution.

ANSWER TO INTERROGATORY NO. 6:

I am not of the opinion that the payment to Envoy, Inc. PAC described in Interrogatory No. 5 should be construed as being paid or reimbursed "in connection" with my contribution to the PAC. See Answer to Interrogatory No. 5.

INTERROGATORY NO. 7:

If the answer to Interrogatory No. 5 is in the affirmative, please state how and when you were compensated or reimbursed in connection with your contribution to Envoy, Inc. PAC.

ANSWER TO INTERROGATORY NO. 7:

See answer to Interrogatory No. 5.

INTERROGATORY NO. 8:

Please identify and produce all documents relating to any payment, including cash payments, compensation, reimbursement or other consideration you received in connection with your contribution to Envoy, Inc. PAC.

ANSWER TO INTERROGATORY AND REQUEST FOR DOCUMENTS NO. 8:

See Exhibit D2, attached.

INTERROGATORY NO. 9:

Please provide the date, amount, and purpose of every payment, including cash payments, advancements, reimbursements, or other benefits provided to you by Radiofone, Inc. or Envoy, Inc. from October 1993 through March 1994.

ANSWER TO INTERROGATORY NO. 9:

See Exhibit D3, attached.

INTERROGATORY NO. 10:

Please identify and produce all documents relating to each of the disbursements or benefits identified in response to Interrogatory No. 9, including, but not limited to copies of bank statements or accounts recording the deposit or receipt of the disbursements or benefits.

ANSWER TO INTERROGATORY AND REQUEST FOR DOCUMENTS NO. 10:

See Exhibit D3, attached.

I declare under penalty of perjury that the foregoing is true and correct. Executed on February 16, 1995 in New Orleans, Louisiana.

DON GARVEY

Respectfully submitted,

MICHAEL L. ECKSTEIN, ATTORNEY AT LAW, A PROFESSIONAL CORPORATION

By: _____

Michael L. Eckstein (#05268)
Sarah T. Eckstein (#20643)
829 Baronne Street
New Orleans, Louisiana 70113
(504) 581-9322

74155\d\07

Attorneys for Respondents

EXHIBIT
D1

352

GARVEY ENTERPRISES
P. O. BOX 8887
METAIRIE, LA 70011

Nov 18 1993

14-17/850 100

PAY TO THE ORDER OF J Donald Garvey $ 5,000.00

THE SUM 5000 DOLS 00 CTS DOLLARS

WHITNEY NATIONAL BANK
NEW ORLEANS, LOUISIANA

VOID AFTER 90 DAYS

FOR Capital Distribution

[redacted]

353

GARVEY ENTERPRISES
P. O. BOX 8887
METAIRIE, LA 70011

Nov 18 1993

14-17/850 100

PAY TO THE ORDER OF Laurence D Garvey $ 5,000.00

THE SUM 5000 DOLS 00 CTS DOLLARS

WHITNEY NATIONAL BANK
NEW ORLEANS, LOUISIANA

VOID AFTER 90 DAYS

FOR Capital Distribution

[redacted]

354

GARVEY ENTERPRISES
P. O. BOX 8887
METAIRIE, LA 70011

Nov 18 1993

14-17/850 100

PAY TO THE ORDER OF Brian Baudot $ 800.00

THE SUM 800 DOLS 00 CTS DOLLARS

WHITNEY NATIONAL BANK
NEW ORLEANS, LOUISIANA

VOID AFTER 90 DAYS

FOR Loan

[redacted]

ENDORSE HERE

X

Credit to Envoy, Inc. PAC Acct

#10005003386

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE

0 4 2 7 2 7

▶065 000 171◀
WHITNEY NATL BANK
228 ST CHARLES AVE
NEW ORLEANS, LA.
(504) 586-7232

NOV 10 93

ENDORSE HERE

X

Credit to Envoy, Inc. PAC Acct

#10005003386

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE

0 4 2 7 2 7

▶065 000 171◀
WHITNEY NATL BANK
228 ST CHARLES AVE
NEW ORLEANS, LA.
(504) 586-7232

NOV 10 93

ENDORSE HERE

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Credit to Envoy, Inc. PAC Acct.

#10005003386

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
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▶065 000 171◀
WHITNEY NATL BANK
228 ST CHARLES AVE
NEW ORLEANS, LA.
(504) 586-7232

NOV 10 93

9 6 0 4 3 7 2 1 3 9 5

EXHIBIT
D2

CHECK NO	CHECK DATE	VENDOR NO
117598	12/09/93	80559

CHECK NO 117598

RADIOFONE, INC.
D/B/A BEEPERS UNLIMITED
P.O. BOX 8887
METAIRIE, LA 70011-8887

WHITNEY NATIONAL BANK
New Orleans LA
14-17/650

FIVE THOUSAND AND 00/100 DOLLARS

CHECK AMOUNT
$*****5,000.00

PAY TO THE ORDER OF GARVEY, DON

VOID AFTER 90 DAYS

D. Garvey
AUTHORIZED SIGNATURE

[redacted] [redacted]

P 3 0 4 3 7 2 1 3 3 7

Pay to the order of
Garvey Enterprises
Acct: 10007000803

D. Garvey

CREDITED TO THE ACCOUNT OF
THE WITHIN NAMED PAYEE
A/C # 10007000803

37

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of: Larry Garvey *
*
* MUR 4161
*
*

RECEIVED FEDERAL ELECTION COMMISSION OFFICE OF GENERAL COUNSEL
FEB 11 12 27 PM '95

ANSWERS TO INTERROGATORIES AND REQUESTS FOR DOCUMENTS

TO: Office of the General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Respondent, Larry Garvey, responds to the Federal Election Commission's Interrogatories and Requests for Documents as follows:

INTERROGATORY NO. 1:

Please describe your position and responsibilities from August 1991, through December, 1993, as both an officer and Secretary of Radiofone, Inc.

ANSWER TO INTERROGATORY NO. 1:

I am Secretary and Chairman of the Board of Radiofone, Inc. I oversee the operational aspects of Radiofone, Inc. businesses which include the construction, operation and maintenance of the paging and cellular system. Radiofone conducts business activities in Texas, Louisiana, Mississippi and Florida.

INTERROGATORY NO. 2:

Please describe your position and responsibilities from August, 1991 through December, 1993, as an officer for Envoy, Inc.

ANSWER TO INTERROGATORY NO. 2:

My position and responsibilities with Envoy, Inc. are the same as those stated in Interrogatory No. 1.

INTERROGATORY NO. 3:

Please describe your position and responsibilities from August, 1991 through December, 1993, as President of Envoy, Inc. Political Action Committee ("Envoy, Inc. PAC").

ANSWER TO INTERROGATORY NO. 3:

My responsibilities were to assist in the review and consideration of political candidates that were to receive or to be considered for contributions from Envoy, Inc. PAC.

INTERROGATORY NO. 4:

Regarding the contribution made by you in November of 1993 to Envoy, Inc. PAC, please provide the following information:

a. Please describe the circumstances surrounding the solicitation of the contribution and identify who solicited the contribution.

b. Please describe how you determined the amount of your contribution to Envoy, Inc. PAC.

c. Please identify and produce all documents relating to your contribution to Envoy, Inc. PAC including copies (both sides) of all checks, money orders, or other written instruments used to make the contribution to Envoy, Inc. PAC.

d. Please identify and produce copies of all written notes, memoranda, or correspondence concerning, relating, or pertaining to your contribution to Envoy, Inc. PAC.

e. Please state the source of the funds used to make the contribution.

ANSWER TO INTERROGATORY AND REQUEST FOR DOCUMENTS NO. 4:

a. I agreed to contribute the maximum amount allowed by law to Envoy, Inc. PAC. I feel strongly that supporting responsible political candidates is good for Louisiana and New Orleans.

b. Envoy, Inc. PAC was originally begun as a vehicle for my brother and me to make anonymous political contributions. Therefore, once notified of potential problems with the Radiofone, Inc. contributions, I wanted to make the maximum contribution possible.

c. See Exhibit L1, attached.

d. There were no written notes, memoranda or correspondence concerning, relating, or pertaining to our contribution to Envoy, Inc. PAC.

e. I contributed my own personal funds to Envoy, Inc. PAC, on November 18, 1993. My funds were received by way of a capital distribution by Garvey Enterprises, a partnership in which I am a

50-50 owner with my brother, Don Garvey.

INTERROGATORY NO. 5:

Please state whether you received any funds, compensation, reimbursement, or other consideration in connection with your contribution to Envoy, Inc. PAC.

ANSWER TO INTERROGATORY NO. 5:

I subsequently received a $5,000.00 distribution from Radiofone, Inc. on December 9, 1993, but I am not of the opinion that those funds were received "in connection" with my contribution to Envoy, Inc. PAC. More particularly, my brother, Don Garvey and I, are each 50% owners of Radiofone, Inc. and we each received a $5,000.00 distribution. I am of the opinion that my distribution was received more "in connection" with my stock ownership rather than as a result of a contribution to Envoy, Inc. PAC.

INTERROGATORY NO. 6:

If the answer to Interrogatory No. 5 is in the affirmative, please identify what person or entity paid or reimbursed you in connection with the contribution.

ANSWER TO INTERROGATORY NO. 6:

I am not of the opinion that the payment to Envoy, Inc. PAC is described in Interrogatory No. 5 should be construed as being paid or reimbursed "in connection" with my contribution to the PAC. See Answer to Interrogatory No. 5.

INTERROGATORY NO. 7:

If the answer to Interrogatory No. 5 is in the affirmative, please state how and when you were compensated or reimbursed in connection with your contribution to Envoy, Inc. PAC.

ANSWER TO INTERROGATORY NO. 7:

See answer to Interrogatory No. 5.

INTERROGATORY NO. 8:

Please identify and produce all documents relating to any payment, including cash payments, compensation, reimbursement or other consideration you received in connection with your contribution to Envoy, Inc. PAC.

ANSWER TO INTERROGATORY AND REQUEST FOR DOCUMENTS NO. 8:

See Exhibit L2, attached.

INTERROGATORY NO. 9:

Please provide the date, amount, and purpose of every payment, including cash payments, advancements, reimbursements, or other benefits provided to you by Radiofone, Inc. or Envoy, Inc. from October 1993 through March 1994.

ANSWER TO INTERROGATORY NO. 9:

See Exhibit L3, attached.

INTERROGATORY NO. 10:

Please identify and produce all documents relating to each of the disbursements or benefits identified in response to Interrogatory No. 9, including, but not limited to copies of bank statements or accounts recording the deposit or receipt of the disbursements or benefits.

ANSWER TO INTERROGATORY AND REQUEST FOR DOCUMENTS NO. 10:

See Exhibit L3, attached.

I declare under penalty of perjury that the foregoing is true and correct. Executed on February 16, 1995 in New Orleans, Louisiana.

Larry Garvey

LARRY GARVEY

Respectfully submitted,

MICHAEL L. ECKSTEIN, ATTORNEY AT LAW, A PROFESSIONAL CORPORATION

By: Michael L. Eckstein

Michael L. Eckstein (#05268)
Sarah T. Eckstein (#20643)
829 Baronne Street
New Orleans, Louisiana 70113
(504) 581-9322

74155\d\06

Attorneys for Respondents

EXHIBIT
11

52

GARVEY ENTERPRISES
P. O. BOX 8887
METAIRIE, LA 70011

Nov 18 1993 $\frac{14-17}{650}$ 100

PAY TO THE ORDER OF J Donald Garvey $ 5,000.00

THE SUM 5000 DOLS 00 CTS DOLLARS

WHITNEY NATIONAL BANK
NEW ORLEANS, LOUISIANA

VOID AFTER 90 DAYS

FOR Capital Distribution

[redacted]

353

GARVEY ENTERPRISES
P. O. BOX 8887
METAIRIE, LA 70011

Nov 18 1993 $\frac{14-17}{650}$ 100

PAY TO THE ORDER OF Laurence D Garvey $ 5,000.00

THE SUM 5000 DOLS 00 CTS DOLLARS

WHITNEY NATIONAL BANK
NEW ORLEANS, LOUISIANA

VOID AFTER 90 DAYS

FOR Capital Distribution

[redacted]

354

GARVEY ENTERPRISES
P. O. BOX 8887
METAIRIE, LA 70011

Nov 18 1993 $\frac{14-17}{650}$ 100

PAY TO THE ORDER OF Brian Baudot $ 800.00

THE SUM 800 DOLS 00 CTS DOLLARS

WHITNEY NATIONAL BANK
NEW ORLEANS, LOUISIANA

VOID AFTER 90 DAYS

FOR Loan

[redacted]

ENDORSE HERE

X

Credit to Envoy, Inc. PAC Acct

#10005003386

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE

RESERVED FOR FINANCIAL INSTITUTION USE

⑆065000171⑆

WHITNEY NATL BANK

228 ST. CHARLES AVE

NEW ORLEANS, LA.

(504) 586-7232

NOV 19 83

ENDORSE HERE

X

Credit to Envoy, Inc. PAC Acct

#10005003386

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE

RESERVED FOR FINANCIAL INSTITUTION USE

⑆065000171⑆

WHITNEY NATL BANK

228 ST. CHARLES AVE

NEW ORLEANS, LA.

(504) 586-7232

NOV 19 83

ENDORSE HERE

X

Credit to Envoy, Inc. PAC Acct.

#10005003386

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE

RESERVED FOR FINANCIAL INSTITUTION USE

⑆065000171⑆

WHITNEY NATL BANK

228 ST. CHARLES AVE

NEW ORLEANS, LA.

(504) 586-7232

NOV 19 83

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9 0 0 4 3 0 7 2 1 3 9 2

EXHIBIT
L2

CHECK NO	CHECK DATE	VENDOR NO
117588	12/09/93	80002

CHECK NO 117588

RADIOFONE, INC.
D/B/A BEEPERS UNLIMITED
P.O. BOX 8887
METAIRIE, LA 70011-8887

WHITNEY NATIONAL BANK
New Orleans, LA
14-17/650

FIVE THOUSAND AND 00/100 DOLLARS

CHECK AMOUNT
$*****5,000.00

PAY TO THE ORDER OF GARVEY, LARRY

VOID AFTER 90 DAYS

AUTHORIZED SIGNATURE

[redacted]

Larry Garvey

Pay to the order of
Garvey Enterprises
Acct: 10007000803

CREDITED TO THE ACCOUNT OF
THE WITHIN NAMED PAYEE
A/C # 10007000803

29

EXHIBIT L3

16275 16275 93/08/03

RADIOFONE, INC.
A/P DUPLICATE PAYMENTS
FOR THE PERIOD OF: 93/01/01 TO 93/12/31

VENDOR NUMBER	NAME	VOUCHER NUMBER	INVOICE NUMBER	CHECK DATE	CHECK NUMBER		INVOICE AMOUNT
10080	GARVEY ENTERPRISES	18746	18746	93/09/02	109606		6,000.00
		18747	18747	93/09/02	109606		7,000.00
		18748	18748	93/09/02	109606		28,070.00
		22890	22890	93/10/01	112010		6,000.00
		22891	22891	93/10/01	112010		7,000.00
		22892	22892	93/10/01	112010		28,070.00
		23483	OCT.REC	93/10/08	112732		6,000.00
		23484	OCT REC	93/10/08	112732		7,000.00
		24760	1197	93/10/25	1197		170,000.00
		25073	25073	93/11/02	114406		6,000.00
		25074	25074	93/11/02	114406		7,000.00
		26652	PAC ACCT	93/11/17	115972		10,000.00
		27369	11.26.93	93/11/29	116532		12,000.00
		27535	27535	93/12/02	116797		6,000.00
		27536	27536	93/12/02	116797		7,000.00
						VENDOR TOTAL	730,646.00
80276	GARVEY JR.,JAMES	1324	01.08.93	93/01/19	91889		50.40
		1325	01.15.93	93/01/19	91889		53.40
		2554	01.28.93	93/02/05	93397		47.71
		3319	REISSUE	93/02/15	94051		35.00
		13496	05.19.93	93/06/08	103030		40.71
		18085	08.20.93	93/08/23	108977		536.55
		18372	06.20.93	93/08/25	109189		1,368.95
		20180	6.20.93	93/09/17	111014		50.00
		22633	09.26.93	93/09/30	111844		433.16
		23114	10.04.93	93/10/05	112370		197.34
						VENDOR TOTAL	2,816.62
80002	GARVEY, LARRY	1400	MISC.EXP	93/01/21	92185		198.72
		2364	01.31.93	93/02/03	93156		53.19
		4353	02.25.93	93/03/02	95067		12.75
		5955	LNCH/EXP	93/03/19	96750		57.62
		15757	07.22.93	93/07/23	106530		57.87
		15963	07.26.93	93/07/27	106726		123.04
		15966	07-26-93	93/07/27	106726		198.00
		24735	OCT 93	93/10/25	113934		344.54
		28321	12.08.93	93/12/09	117588		5,000.00
						VENDOR TOTAL	6,037.69
60663	GARVEY,DANIEL	4240	4240	93/03/01	94959		40.00
		7054	7054	93/04/01	97663		40.00
		9569	9569	93/05/04	100222		40.00
		11659	11659	93/06/01	102346		40.00
		13999	13999	93/07/01	104700		40.00
		16343	16343	93/08/03	107186		40.00
		18816	18816	93/09/02	109686		40.00
		22957	22957	93/10/01	112071		40.00
		25140	25140	93/11/02	114473		40.00
		27603	27603	93/12/02	116904		40.00

RADIOFONE, INC.

A/P DUPLICATE PAYMENTS

FOR THE PERIOD OF: 94/01/01 TO 94/12/31

PAGE 212

VENDOR NUMBER	NAME	VOUCHER NUMBER	INVOICE NUMBER	CHECK DATE	CHECK NUMBER		INVOICE AMOUNT
		18193	18193	94/10/03	145423		6,000.00
00080	GARVEY ENTERPRISES	18194	18194	94/10/03	145423		7,000.00
		18195	18195	94/10/03	145423		20,070.00
		18425	CLEAR	94/10/04	145330		274.53
		20406	20406	94/11/02	148829		490.00
		20407	20407	94/11/02	148829		6,000.00
		20408	20408	94/11/02	148829		7,000.00
		20409	20409	94/11/02	148829		[illegible]
		22543	11.29.94	94/12/29	1595		19,675.00
		22592	22592	94/12/02	152162		480.00
		22593	22593	94/12/02	152162		[illegible]
		22594	22594	94/12/02	152162		7,000.00
		22595	22595	94/12/02	152162		20,070.00
		24817	94 PROP.	94/12/27	154080		19,500.00
						VENDOR TOTAL	537,689.53
00070	GARVEY JR., JAMES	9459	03.24.94	94/03/29	127231		80.35
		7457	04.25.94	94/04/27	129873		100.00
		8897	05.19.94	94/05/23	131907		57.37
		20213	COPIES	94/08/02	139762		20.00
		24574	12.22.94	94/12/27	154946		23.97
						VENDOR TOTAL	241.69
00082	GARVEY, LARRY	2502	6299	94/02/04	122894		459.61
		2542	FEB94	94/02/07	123049		288.21
		2574	FEB2	94/02/08	123129		61.04
		6762	03.14.94	94/03/15	126191		180.25
		5448	03.29.94	94/03/29	127227		50.00
		9232	05.29.94	94/05/26	132326		260.32
		9876	06.06.94	94/06/07	133817		121.00
		11170	05.13.94	94/06/23	135364		121.00
		17409	07.16.94	94/09/29	142838		86,531.07
						VENDOR TOTAL	88,076.48
00089	GARVEY, DANIEL	308	308	94/01/08	119828		60.00
		2212	2212	94/02/02	122574		40.00
		3812	3812	94/03/02	124921		40.00
		5300	EXPS.	94/03/26	126908		333.17
		5795	5795	94/04/01	127731		40.00
		7718	7718	94/05/02	130344		40.00
		9729	9729	94/06/02	132730		40.00
		11799	11799	94/07/01	136081		40.00
		13862	13862	94/08/01	139131		40.00
		16029	16029	94/09/02	142032		40.00
		18324	18324	94/10/03	145514		40.00
		20539	20539	94/11/02	148914		40.00
		22726	22726	94/12/02	152499		40.00
						VENDOR TOTAL	813.17

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MICHAEL L. ECKSTEIN*
LL.M. IN TAXATION
BOARD CERTIFIED TAX ATTORNEY

February 16, 1995

FEB 17 12 27 PM '95
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

VIA FEDERAL EXPRESS

Office of the General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Attention: Robert A. Ridenour

Re: MUR 4161
Envoy, Inc. Political Action Committee
and Don Garvey, as Treasurer, et al.

Dear Mr. Ridenour:

Enclosed please find the respondents' Reply Brief to the Federal Election Commission's Factual and Legal Analysis as well as responses to the Commission's Interrogatories and Requests for Documents.

Additionally, respondents hereby give notice that they would like to enter pre-probable cause conciliation pursuant to 11 C.F.R. 111.18(d).

Sincerely,

MICHAEL L. ECKSTEIN, ATTORNEY AT LAW
A PROFESSIONAL CORPORATION

By: Michael L. Eckstein
Michael L. Eckstein

MLE:cab
Enclosures
cc: Mr. Don Garvey
Mr. Larry Garvey
Mark Jeansonne, Esq.
Mr. Brian Baudot
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FEDERAL ELECTION COMMISSION

RESPONDENTS: Envoy, Inc. PAC and Don Garvey, as Treasurer, et al.

MUR 4161

FEB 17 12 27 PM '95
FEDERAL ELECTION COMMISSION OFFICE OF GENERAL COUNSEL

REPLY BRIEF TO FEDERAL ELECTION COMMISSION'S FACTUAL AND LEGAL ANALYSIS

INTRODUCTION

This brief is submitted on behalf of Envoy, Inc. PAC and Don Garvey, as Treasurer, Radiofone, Inc., Don Garvey, Larry Garvey and Brian Baudot ("Respondents") in response to the Factual and Legal Analysis of the Federal Election Commission ("the Commission" or "FEC").

In its analysis, the FEC alleges that in 1991-1992, Radiofone, Inc. made corporate contributions to Envoy, Inc. PAC, and that in 1993 respondents consented to corporate contributions to Envoy, Inc. PAC and permitted their names to be used to make those contributions. However, the respondent, Radiofone, Inc., mistakenly made contributions to the PAC in 1991 and 1992, and respondents, Don Garvey, Larry Garvey and Brian Baudot, did not intentionally make contributions in the name of another.

FACTS

Envoy, Inc. Political Action Committee was established in July, 1991, at both the state and federal level, at the request of Don Garvey and Larry Garvey, both principals and the sole

shareholders of two Louisiana corporations, Radiofone, Inc. and Envoy, Inc. See Statement of Organization filed with the State of Louisiana and with the FEC attached as Exhibits "A" and "B".

The Garveys and Radiofone are well respected, philanthropic citizens that on a yearly basis make donations and provide support to over 500 charitable causes in the New Orleans area and such charitable donations and support are greater than one hundred times the amount of the political contributions at issue. In fact, Don Garvey and Larry Garvey were interested in establishing a PAC in order to enable them, individually, to make anonymous political contributions to candidates who worked hard to make Louisiana a better place to live.

During the period from July 1, 1991 through December 31, 1992, Envoy, Inc. PAC contributed funds to several campaigns. Contributions totalled $9,800.00 [1] and were made to fourteen candidates. All contributions except one were made to non-federal candidates. As reported, the contributions to the PAC were from Radiofone, Inc.

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[1] In preparation of this reply brief, it has been discovered that contributions in 1991 and 1992 actually totalled $9,800.00, and not the previously stated amount of $10,800.00. This is because on September 25, 1991, the PAC issued a check to Hunt Downer for $1,000.00. The PAC reported the contribution voided on July 14, 1992, because the check had not been presented for payment. However, this check was eventually presented for payment in October, 1992. Accordingly, the PAC reported the paid check in its Report of Receipts and Disbursements filed on January 11, 1993, thereby reporting a single $1,000.00 contribution twice.

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In September, 1993, Don Garvey, Treasurer of Envoy, Inc. PAC, received correspondence from the FEC dated September 8, 1993 notifying Envoy that reports from July 1, 1991 through December 31, 1991 and October 1, 1992 through December 31, 1992 reflected that prohibited contributions from a corporation had occurred. During the week of November 8, 1993, Envoy, Inc. PAC, through its attorney, Michael L. Eckstein, spoke with Donald L. Averett of the FEC to discuss the corporate contributions mistakenly made to the PAC. As explained, the error had occurred because of confusion by the principals and employees who believed that, as allowed under Louisiana law, contributions could be made by corporations. In their conversation, Eckstein and Averett agreed that in order to resolve the error, the PAC would reimburse the funds to Radiofone, Inc. and that employees would contribute personal funds to the PAC in order to enable it to "transfer out" the corporate contribution. Accordingly, the PAC issued a check for $10,800.00 to Radiofone, Inc. and three employees, Larry Garvey, Don Garvey and Brian Baudot contributed personal funds to the PAC in order to cover the debts created by the corporate transfer to Radiofone.

Because of the great concern of the shareholders and administrative employees of Radiofone, Inc., the Garveys and Baudot felt that it was crucial that funds be transferred from the PAC immediately. Accordingly, Don Garvey and Larry Garvey distributed personal funds from a wholly owned real estate partnership, Garvey Enterprises, which issued the Garveys each a check for $5,000.00

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(the yearly limit of an individual contribution to a political committee). Brian Baudot, because of his knowledge of the FEC's inquiry, his concern that he may have been partially responsible for the error regarding the corporate contributions and his belief in the benefits of the PAC, requested that he be permitted to contribute the balance of $800.00 to the PAC. The Garveys agreed to loan Baudot the $800.00 from their personal funds held in Garvey Enterprises. The three checks issued from Garvey Enterprises were signed over to the PAC, and on November 19, 1993, deposited into the PAC's bank account.

On December 19, 1993, both Don and Larry Garvey were each distributed $5,000.00 from Radiofone, Inc., their wholly owned company and each, in turn, then made a capital contribution to Garvey Enterprises in a like amount. Radiofone, Inc. also paid Brian Baudot $800.00 in compensation, and he, in turn, used these funds to repay his outstanding loan. The Garveys, who were not of the opinion that Baudot should incur financial hardship as a result of the circumstances at issue, authorized Radiofone to pay Baudot $800.00, not knowing that paying this compensation to Baudot might be considered a circumvention/violation of the federal law governing campaign contributions.

ANALYSIS

The Respondents' Actions Are Not Violative of the Intent of the Federal Election Campaign Act.

The intent of the Federal Election Campaign Act ("FECA") is to destroy corporate influence over elections and to address the feeling that corporate officers have no right to use corporate funds for political contributions without the consent of shareholders. United States v. CIO, 335 U.S. 106, 92 L.Ed. 1849, 68 S. Ct. 1349 (1948); see also, Ash v. Cort, 422 U.S. 66, 45 L.Ed.2d 26, 95 S. Ct. 2080 (1975). In addition to protecting the population from undue influence by corporations and labor unions, the Act's goal is to ensure the responsiveness of elected officials to the public at large and to limit the actuality and appearance of corruption resulting from large individual financial contributions. Buckley v. Valeo, 424 U.S. 1, 46 L.Ed.2d 659, 96 S. Ct. 612 (1976); Louchheim, Eng & People, Inc., v. Carson, 241 S.E.2d 401 (N.C. App. 1978).

In the instant case, contributions by Radiofone to Envoy, Inc. PAC were committed by error due to the respondents' belief that contributions could be made by a corporation to a political committee. The amount of the contributions by Radiofone, Inc. demonstrate that the contributions were not made in an attempt to circumvent campaign contribution limitations or to exert corporate influence over any individual. Additionally, by virtue of the fact

that the Garveys are the sole shareholders and directors of Radiofone, Inc., no dissenting or minority shareholders have been harmed by the corporation's contributions. It is also extremely important to note that Don Garvey and Larry Garvey, as sole shareholders of Radiofone, and through their contributions in the name of Radiofone, Inc., made no contributions in excess of either the individual or aggregate limits, i.e, individuals are allowed to make contributions of up to $1,000.00 a year to a single federal candidate and $5,000.00 a year to a political committee. 2 USC Sec. 441a(a)(1)(A) and (B).

In 1992, Radiofone, Inc. made contributions to state and local campaigns totalling $8,800.00. In light of the fact that the stock of Radiofone, Inc. is owned entirely by Don Garvey and Larry Garvey in equal proportions, each shareholder, in theory, made contributions of $4,400.00 to a political committee in 1991. In 1992, Radiofone, Inc.'s contributions totalled $1,000.00, or, only $500.00 per shareholder. [2] No single contribution for either year was greater than $1,000.00 (or $500.00 per shareholder). Thus, had the Garveys' contributions been made on an individual basis, instead of through corporate contributions, no violations would have occurred.

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[2] Additionally, under Louisiana law, corporations may contribute to state and local elections, and only $1,000.00 of the total contributions was made to a federal election. La. R.S. 18:1505.2(F).

Also, the Garveys' contributions in 1993 were to reimburse contributions for two years, 1991 and 1992. Had they realized that they had actually contributed a total of $9,800.00 instead of $10,800.00, they would have each contributed $4,900.00 to the PAC, and no other individuals would have made contributions. On the other hand, if the Garveys could have and/or are allowed to each contribute greater than $5,000.00 in 1993, due to the fact that two years of contributions were at issue, there would have been no need for other individuals (Baudot) to contribute.

Moreover, the respondents, because of their lack of familiarity with the regulations governing federal contributions and their desire to comply with the law, have never used the PAC for political contributions since 1993 when they were made aware of possible problems by the FEC.

Questions Regarding the Respondents' 1993 Contributions Arise from An Effort to Cure Prior Corporate Contributions and Not from an Intent to Circumvent the Law.

The second issue of the FEC's analysis involves the PAC's refund to Radiofone and the contribution of employees of Radiofone to the PAC. The FEC points to the following circumstances which "give rise to the appearance that the contributions from the officers of Radiofone were actually contributions made by the corporation": (1) The overlap of officers between Envoy, Inc. PAC and Radiofone, Inc.; (2) The refund check written without

sufficient funds; (3) Subsequent contributions from officers of Radiofone, Inc. to cover the checks; (4) The fact that the PAC's refund check appears to have been signed by the controller of Radiofone, Inc. who is not reported to be an officer of the PAC; and (5) Envoy's inquiry to the FEC about reimbursing officers for contributions.

First, in response, by necessity, there is an overlap of officers between Envoy and Radiofone. Radiofone, Inc. is a closely-held corporation, (wholly owned by Messrs. Don and Larry Garvey), and Envoy, Inc. is a wholly owned subsidiary of Radiofone.

Second, the allegation that a refund check was written without sufficient funds is inaccurate. Baudot, accountant for both Radiofone, Inc. and Envoy, Inc., upon notification that corporate funds were incorrectly received by the PAC, wrote a check refunding Radiofone, Inc. for its total contributions, knowing that this check would not be deposited until sufficient funds were gathered for contribution to the PAC. Additionally, in light of the small size of Radiofone and Envoy's administrative and executive personnel, respondents knew that Radiofone would not deposit Envoy's check until sufficient funds had been provided by employees to cover the check. The checks to Envoy, Inc. PAC and from the PAC to Radiofone were deposited and paid November 19, 1993.

Third, Don Garvey, Larry Garvey and Brian Baudot did make contributions to reimburse the PAC to enable it to refund the corporate contributions. However, Don Garvey, Larry Garvey and Brian Baudot were not coerced or threatened into making the contributions. Rather, Don Garvey and Larry Garvey, as the sole shareholders and directors of Radiofone, Inc., were the individuals responsible for creating the PAC. The financial impact to the Garveys was the same whether the funds were contributed on an individual basis, or in the corporation's name, since they were the sole shareholders of Radiofone, Inc. and, therefore, financially impacted by political contributions made through Radiofone, Inc. in similar fashion as individual contributions. Additionally, Baudot was not coerced or threatened to make his contribution. Rather, Baudot was concerned that the $5,000.00 contribution limitation per individual per year would apply to the Garveys, (despite the fact that two years of contributions were at issue), thereby leaving an $800.00 shortage in the PAC's account. Accordingly, Baudot voluntarily offered to contribute funds to cover the balance remaining after the Garveys' contributions.

Fourth, the PAC's refund check was signed by the controller of Radiofone, Inc., Baudot, because Baudot is an accountant for Radiofone, Inc. and Envoy, Inc., and as such, his responsibilities include familiarity with all accounting functions of Radiofone and its related organizations. Additionally, Baudot is listed on the bank account for Envoy, Inc. PAC as a signatory.

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Fifth, despite the FEC's allegations, Envoy, Inc. PAC representatives do not recall and do not believe they ever asked the FEC about reimbursing officers for contributions. Regardless, as provided above, the contributions to reimburse the PAC were made by two personal contributions from the Garvey's and by a loan from the Garveys to Baudot. The contributions were made in this manner because the respondents were anxious to cure the violation as soon as possible. Thus, they decided to resolve the situation by obtaining funds as expediently as possible.

Louisiana Law Demonstrates that the Respondents' Alleged Violations Were Not the Result of Any Scheme to Violate the Law.

From its inception, employees at Radiofone and Envoy, Inc. were uncertain how the state and federal committees established were to operate. In fact, on numerous occasions, employees contacted the FEC in an effort to determine how to report specific receipts and disbursements of the PAC. Unfortunately, those employees neglected to file reports of state and local contributions with the existing state created PAC (by the same name, Envoy, Inc. PAC), and mistakenly reported all contributions to the Commission, even though two PAC's had been originally established, and the original intent was to have the federal contributions reported to the FEC and the state and local contributions reported to the state.

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Although the FECA provides that corporations may not make contributions in connection with federal elections, where state law permits, a corporation may use corporate funds as contributions in state and local elections. 2 USC Sec. 441b(b)(a); Cort v. Ash, 95 S.Ct. 2080, 422 U.S. 66, 45 L.Ed.2d 26 (1975). In Cort, the Supreme Court provided:

> In addition to the action pressed here,... the use of corporate funds in violation of federal law may, under the law of some states, gives rise to a cause of action for breach of fiduciary duty.... Corporations are creatures of state law, and investors commit their funds to corporate directors on the understanding that, except where federal law expressly requires certain responsibilities of directors with respect to stockholders, state law will govern the internal affairs of the corporation. If, for example, state law permits corporations to use corporate funds as contributions in state elections,... shareholders are on notice that their funds may be so used and have no recourse under any federal statute. We are necessarily reluctant to imply a federal right to recover funds used in violation of a federal statute where the law governing the corporation may put a shareholder on notice if there may be no such recovery.

Cort, 45 L.Ed.2d at 40.

In Louisiana, a corporation is permitted to contribute to state and local campaigns:

> No profit or non-profit corporation... shall make any campaign contribution or expenditure unless specifically authorized to do so whether (1) by the vote of the board of directors of the corporation... at a regular or special meeting thereof, or (2) by the President, Vice-President, Secretary or Treasurer of a corporation whom the board has specifically empowered to authorize those contributions or expenditures... No profit or

> non-profit corporation... shall make any contribution or expenditure, other than an in-kind contribution or expenditure, except by check.

La. R.S. 18:1505.2(F).

In its Factual and Legal Analysis the Commission takes issue with all contributions of the PAC. However, of all of the contributions, only $1,000.00 was contributed to a federal candidate.

Clearly, because Louisiana law permits a corporation to make contributions to local and state campaigns, had the respondents reported its state and local contributions as originally envisioned with the State of Louisiana, there would be no federal right granted to the FEC to regulate Radiofone Inc's contribution of funds to the state and local campaigns. Therefore, if the FEC determines a violation of the Act has occurred, the contribution constituting the violation is properly limited to the funds contributed to a federal election, or, $1,000.00. Additionally, if the FEC determines the $800.00 contributed by Baudot was actually a contribution made in the name of another, it is not unreasonable to consider that Baudot's $800.00 contribution was to reimburse a payment to a state or local election, and thus, not prohibited by the Act.

Any Possible Violation by Respondents Was Not Knowing and Willful.

In making its determination of whether there is probable cause to believe a violation of the Act has occurred, respondents request that the Commission consider that any possible violation was not knowing and willful.

Whether a violation is intentional has been given great weight by the courts in determining whether civil penalties under the Act should be levied. For instance, in National Right to Work Committee, Inc. v. Fed. Elect. Com'n., 716 F.2d 1401 (D.C. Cir. 1983), the court found that solicitations by a non-profit, non-capital stock corporation violated the FECA restrictions on contributions by corporations in connection with federal elections. However, the court refused to award civil penalties to the FEC on the basis that the violations were not made in "defiance" or "knowing, conscious and deliberate flaunting" of the FECA so as to warrant a penalty assessment and a requirement to refund the funds solicited. The court based its denial of civil penalties on the failure of the FEC to provide any guidance whatsoever to defendant where defendant had made its willingness to comply apparent and also based on ambiguities in the applicable statute. National Right to Work Committee, Inc. at 1403.

In Fed. Elect. Com'n v. Ted Hailey Congressional Committee, 852 F.2d 1111 (9th Cir. 1988), a court affirmed a trial court's failure to impose civil penalties where it was found that post-election loan guarantees for a loan to repay campaign debts were contributions within the meaning of the FECA. The FEC sought nearly $85,000.00 in civil penalties under 2 USC Sec. 437g(a)(6)(B). However, the court refused to award penalties finding that "the circumstances of appellees' candid reporting of the loan guarantees, the rapid repayment of the loan by the former candidate from personal funds and a clear innocence of appellees leaves no justifiable grounds for assessment of penalties." Ted Hailey Congressional Committee at 1116. The court also considered that caselaw interpreting the Act provides that defendants may incur sufficient personal costs to act as a deterrent (legal fees, accounting fees, refund and monies illegally collected, etc.) Id.

In determining whether to assess penalties, courts have also looked to the following guidelines: (1) the good or bad faith of the defendants; (2) the injury to the public; (3) the defendant's ability to pay; and (4) the necessity of vindicating the authority of the responsible agency. Fed. Elect. Com'n v. Committee of 100 Democrat, 844 F. Supp. 1, 7 (D.C. Cir. 1993).

The above caselaw underscores the fact that any possible violation of the Act by respondents was unintentional. As demonstrated, any alleged violation creates no injury to the

public, as no contribution limitations have been violated and there are no minority or dissenting shareholders involved. Respondents have candidly reported all campaign contributions and have willingly and candidly complied with all inquiries of the FEC, and any problems resulting from the respondents' efforts to cure the original problem of corporate contributions to the PAC have been caused by the respondents excessive zeal in trying to remedy the perceived violation. Fed. Elect. Com'n v. Nat'l Ed. Ass'n, 457 F. Supp. 1102, 1112 (D.C. Cir. 1978) (defendants violation was not intentional disregard of the rights of its members through coercion, but rather was an indirect infringement of rights through excessive zeal). Finally, the respondents' intent is also demonstrated by its willingness and desire to terminate the PAC, which also indicates that there would be no future violations from respondents. Fed. Elect. Com'n v. NRA Political Victory Fund, 778 F. Supp. 62, 66 (D.C. Cir. 1991).

CONCLUSION

In September of 1993, Radiofone was notified that the Federal Election Campaign Act prohibits corporate contributions to federal candidates. Since that time, in an effort to maintain total compliance and cooperation, the respondents have made no political contributions. In fact, the current inquiry stems from the respondents diligent and sincere effort to cure the corporate contributions in 1991 and 1992. Any possible violations that have

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occurred as a result of that effort were unintentional. The respondents' motivation behind establishing the PAC and making contributions to the PAC was to allow the sole shareholders of Radiofone, Inc. and Envoy, Inc. to make anonymous political contributions to qualified candidates involved in Louisiana political campaigns in hopes of making Louisiana a better place to live. Finally, because of the problems which have arisen with the use of the PAC and in an effort to demonstrate the willingness to comply with FEC regulations, the respondents are willing to terminate the PAC.

Respectfully submitted,

MICHAEL L. ECKSTEIN, ATTORNEY AT LAW, A PROFESSIONAL CORPORATION

By: _____

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829 Baronne Street
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(504) 581-9322

Attorneys for Respondents

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of: Brian Baudot *
*
* MUR 4161
*
*

RECEIVED FEDERAL ELECTION COMMISSION OFFICE OF GENERAL COUNSEL
FEB 17 12 27 PM '95

ANSWERS TO INTERROGATORIES AND REQUESTS FOR DOCUMENTS

TO: Office of the General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Respondent, Brian Baudot, responds to the Federal Election Commission's Interrogatories and Requests for Documents as follows:

INTERROGATORY NO. 1:

Please describe your position and responsibilities from August 1991, through December, 1993, as Controller for Radiofone, Inc. and as an officer of Radiofone, Inc.

ANSWER TO INTERROGATORY NO. 1:

As Controller for Radiofone, Inc., I oversee the operations of the finance department, assist in negotiations for financing, assist in compliance matters and other general accounting review.

INTERROGATORY NO. 2:

Please describe your position and responsibilities from August, 1991 through December, 1993, as an officer for Envoy, Inc.

ANSWER TO INTERROGATORY NO. 2:

As comptroller for Envoy, Inc., I have the same job description as provided in Interrogatory No. 1.

INTERROGATORY NO. 3:

Please describe your position and responsibilities from August, 1991 to December, 1993, as an officer for Envoy, Inc. Political Action Committee ("Envoy, Inc. PAC).

9604372141 5

ANSWER TO INTERROGATORY NO. 3:

I was not an officer of the Envoy Political Action Committee. I was listed as a signatory on the bank account in the event all other signatories were unavailable.

INTERROGATORY NO. 4:

Please explain why you signed the refund check from Envoy, Inc. PAC, check #1026, made out to Radiofone, Inc.

ANSWER TO INTERROGATORY NO. 4:

I was advised that Envoy, Inc. was to reimburse Radiofone, Inc. for contributions made to Envoy, Inc. PAC. No other signatory on the bank account was available to sign the refund check from Envoy, Inc. PAC to Radiofone, Inc. and the parties were attempting to comply with the FEC's instructions as soon as possible.

INTERROGATORY NO. 5:

Regarding the contribution made by you in November of 1993 to Envoy, Inc. PAC, please provide the following information:

a. Please describe the circumstances surrounding the solicitation of the contribution and identify who solicited the contribution.

b. Please describe how you determined the amount of your contribution to Envoy, Inc. PAC.

c. Please identify and produce all documents relating to your contribution to Envoy, Inc. PAC including copies (both sides) of all checks, money orders, or other written instruments used to make the contribution to Envoy, Inc. PAC.

d. Please identify and produce copies of all written notes, memoranda, or correspondence concerning, relating, or pertaining to your contribution to Envoy, Inc. PAC.

e. Please state the source of the funds used to make the contribution.

ANSWER TO INTERROGATORY AND REQUEST FOR DOCUMENTS NO. 5:

a. I was not solicited for a contribution.

b. I was aware that $10,800.00 was to be reimbursed to Radiofone, Inc. I was handling the communications between Envoy, Inc. and outside counsel related to the Envoy PAC and believed strongly in the purposes for which the PAC was created. I decided

to borrow and then contribute funds in the amount of the $800.00 excess amount not paid by Messrs. Don and Larry Garvey.

c. See Exhibit B1, attached.

d. There were no written notes, memoranda or correspondence concerning, relating, or pertaining to our contribution to Envoy, Inc. PAC.

e. I borrowed, on a short term basis, $800.00 from Garvey Enterprises.

INTERROGATORY NO. 6:

Please state whether you received any funds, compensation, reimbursement, or other consideration in connection with your contribution to Envoy, Inc. PAC.

ANSWER TO INTERROGATORY NO. 6:

I borrowed funds, on a short term basis, from Garvey Enterprises, which was subsequently repaid with funds I received from Radiofone, Inc. I do not feel the subsequently received funds should be considered as payments made "in connection" with my contribution to Envoy, Inc. PAC since my intent at the time of my contribution, on November 18, 1993, was to contribute the $800.00 to the PAC. The funds received from Radiofone, Inc. which were used to repay my loan from Garvey Enterprises were later recognized as ordinary income.

INTERROGATORY NO. 7:

If the answer to Interrogatory No. 6 is in the affirmative, please identify what person or entity paid or reimbursed you in connection with the contribution.

ANSWER TO INTERROGATORY NO. 7:

See Answer to Interrogatory No. 6.

INTERROGATORY NO. 8:

If the answer to Interrogatory No. 6 is in the affirmative, please state how and when you were compensated or reimbursed in connection with your contribution to Envoy, Inc. PAC.

ANSWER TO INTERROGATORY NO. 8:

See Answer to Interrogatory No. 6.

9604372141 7

INTERROGATORY NO. 9:

Please identify and produce all documents relating to any payment, including cash payment, compensation, reimbursement or other benefit you received in connection with your contribution to Envoy, Inc. PAC.

ANSWER TO INTERROGATORY AND REQUEST FOR DOCUMENTS NO. 9:

See Exhibit B2, attached.

INTERROGATORY NO. 10:

Please provide the date, amount, and purpose of every payment, including cash payments, advancements, reimbursements, or other benefits provided to you by Radiofone, Inc. or Envoy, Inc. from October 1993 through March 1994.

ANSWER TO INTERROGATORY NO. 10:

See Exhibit B3, attached.

INTERROGATORY NO. 11:

Please identify and produce all documents relating to each of the disbursements or benefits identified in response to Interrogatory No. 10, including, but not limited to copies of bank statements or accounts recording the deposit or receipt of the disbursements or benefits.

ANSWER TO INTERROGATORY AND REQUEST FOR DOCUMENTS NO. 11:

See Exhibit B3, attached.

I declare under penalty of perjury that the foregoing is true and correct. Executed on February 16, 1995 in New Orleans, Louisiana.

BRIAN BAUROT

Respectfully submitted,

MICHAEL L. ECKSTEIN, ATTORNEY AT LAW, A PROFESSIONAL CORPORATION

By: _____

Michael L. Eckstein (#05268)
Sarah T. Eckstein (#20643)
829 Baronne Street
New Orleans, Louisiana 70113
(504) 581-9322

Attorneys for Respondents

74155\d\05

96043721419

EXHIBIT
B1

352

GARVEY ENTERPRISES
P. O. BOX 8887
METAIRIE, LA 70011

Nov 18 1993 14-17/650 100

PAY TO THE ORDER OF J Donald Garvey $ 5,000.00

THE SUM 5000 DOLS 00 CTS DOLLARS

WHITNEY NATIONAL BANK
NEW ORLEANS, LOUISIANA

VOID AFTER 90 DAYS

FOR Capital Distribution

[redacted]

353

GARVEY ENTERPRISES
P. O. BOX 8887
METAIRIE, LA 70011

Nov 18 1993 14-17/650 100

PAY TO THE ORDER OF Laurence D Garvey $ 5,000.00

THE SUM 5000 DOLS 00 CTS DOLLARS

WHITNEY NATIONAL BANK
NEW ORLEANS, LOUISIANA

VOID AFTER 90 DAYS

FOR Capital Distribution

[redacted]

354

GARVEY ENTERPRISES
P. O. BOX 8887
METAIRIE, LA 70011

Nov 18 1993 14-17/650 100

PAY TO THE ORDER OF Brian Baudot $ 800.00

THE SUM 800 DOLS 00 CTS DOLLARS

WHITNEY NATIONAL BANK
NEW ORLEANS, LOUISIANA

VOID AFTER 90 DAYS

FOR Loan

[redacted]

ENDORSE HERE

x

Credit to Envoy, Inc. PAC Acct

#10005003386

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE

▶065 000 171◀

(504) 586-7232

NOV 10 93

ENDORSE HERE

x Laurence Garney

Credit to Envoy, Inc. PAC Acct

#10005003386

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE

▶065 000 171◀

NEW ORLEANS, LA.

(504) 586-7232

NOV 10 93

ENDORSE HERE

x

Credit to Envoy, Inc. PAC Acct.

#10005003386

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE

▶065 000 171◀

NEW ORLEANS, LA.

(504) 586-7232

NOV 10 93

9604372141

EXHIBIT
B2

CHECK NO	CHECK DATE	VENDOR NO
117590	12/09/93	80037

CHECK NO 117590

WHITNEY NATIONAL BANK
New Orleans, LA
14-17/850

RADIOFONE, INC.
D/B/A BEEPERS UNLIMITED
P.O. BOX 8887
METAIRIE, LA 70011-8887

EIGHT HUNDRED AND 00/100 DOLLARS

CHECK AMOUNT
$*******800.00

PAY TO THE ORDER OF BAUDOT, BRIAN

VOID AFTER 90 DAYS

AUTHORIZED SIGNATURE

[redacted]

Pay to the Order of
Garvey Enterprises
Acct: 10007000803

CREDITED TO THE ACCOUNT OF
THE WITHIN NAMED PAYEE
A/C # 10007000803

37

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		37

ADDITIONAL CHECK LISTING SPACE
DATE OTHER SIDE

DEPOSIT TICKET

14-17/650 100

GARVEY ENTERPRISES
P. O. BOX 8667
METAIRIE, LA 70011

WHITNEY NATIONAL BANK
NEW ORLEANS, LOUISIANA

Deposits May Not Be Available For Immediate Withdrawal

DATE Dec 11, 1115

	DOLLARS	CENTS
COIN		
CURRENCY		
CHECKS LIST EACH SEPARATELY		
1 Cadwise	[illegible]	
2 "	5000	00
3 "	80	00
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
TOTAL FROM OTHER SIDE OR ATTACHED LIST		
TOTAL	10800	00

Checks and other items are received for deposit subject to the provisions of the Uniform Commercial Code or any other applicable collection agreement.

9 5 0 4 3 7 2 1 4 2 4

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of:	*	
Envoy, Inc. Political Action	*	
Committee and Don Garvey,	*	MUR 4161
as Treasurer	*	
	*	

RECEIVED FEDERAL ELECTION COMMISSION OFFICE OF GENERAL COUNSEL
FEB 17 12 27 PM '95

ANSWERS TO INTERROGATORIES AND REQUESTS FOR DOCUMENTS

TO: Office of the General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Respondents, Envoy, Inc. Political Action Committee and Don Garvey, as Treasurer, responds to the Federal Election Commission's Interrogatories and Requests for Documents as follows:

INTERROGATORY NO. 1:

Please state the amount of funds Envoy, Inc. Political Action Committee ("Envoy, Inc. PAC") had in its account(s) at the time the refund check (#1026) to Radiofone, Inc. was written.

ANSWER TO INTERROGATORY NO. 1:

Envoy, Inc. PAC had funds in excess of the $10,800.00 paid as a refund to Radiofone, Inc. on the date the check was delivered for payment and deposit to Radiofone, i.e., November 19, 1993.

INTERROGATORY NO. 2:

Please state why Brian Baudot signed the refund check from Envoy, Inc. PAC to Radiofone, Inc.

ANSWER TO INTERROGATORY NO. 2:

Mr. Baudot was advised that Envoy, Inc. was to reimburse Radiofone, Inc. for contributions made to Envoy, Inc. PAC. No other signatory on the bank account was available to sign the refund check from Envoy, Inc. PAC to Radiofone, Inc. and parties were attempting to become in compliance as soon as possible.

9 5 0 4 3 7 2 1 4 2 5

INTERROGATORY AND REQUEST FOR DOCUMENTS NO. 3:

Please identify and produce all documents, memoranda and records of conversations relating to the PAC's refund of contributions to Radiofone, Inc., including copies of the front and back of the refund check.

ANSWER TO INTERROGATORY AND REQUEST FOR DOCUMENTS NO. 3:

See Exhibit E1, attached.

INTERROGATORY AND REQUEST FOR DOCUMENTS NO. 4:

Please identify and produce all bank statements for Envoy, Inc. PAC's accounts from July 1991 to December 1993.

ANSWER TO INTERROGATORY AND REQUEST FOR DOCUMENTS NO. 4:

See Exhibit E2, attached.

INTERROGATORY AND REQUEST FOR DOCUMENTS NO. 5:

Regarding the contributions made by Don Garvey, Larry Garvey, and Brian Baudot in November 1993 to Envoy, Inc. PAC, please provide the following:

a. Please describe how the PAC solicited the contributions from Don Garvey, Larry Garvey, and Brian Baudot and please identify who solicited the funds on behalf of the PAC.

b. Please identify and produce all documents, memoranda, and records of conversations relating to the contributions to Envoy, Inc. PAC made by Don Garvey, Larry Garvey and Brian Baudot.

c. Please state whether Don Garvey, Larry Garvey and/or Brian Baudot received any funds, compensation or reimbursement in connection with their making the contributions to Envoy, Inc. PAC.

d. If the answer to Interrogatory No. 5(c) is in the affirmative, please identify what person or entity paid or reimbursed the individuals in connection with the contributions.

e. If the answer to Interrogatory No. 5(c) is in the affirmative, please describe how and when each contributor was compensated or reimbursed in connection with his contribution to Envoy, Inc. PAC.

ANSWER TO INTERROGATORY AND REQUEST FOR DOCUMENTS NO. 5:

a. Envoy, Inc. PAC made no solicitations for contributions.

b. There are no documents, memorandums and/or records of conversations relating to the contributions to Envoy, Inc. PAC made by Don Garvey, Larry Garvey and/or Brian Baudot.

c. With regard to Brian Baudot, Mr. Baudot borrowed $800.00 which was subsequently repaid with funds received from Radiofone, Inc. Mr. Baudot did not feel the subsequently received funds should be considered a payment made "in connection" with his contribution to Envoy, Inc. PAC since his intent at the time of the contribution on November 18, 1993 was to contribute the $800.00 to the Envoy, Inc. PAC. The funds received from Radiofone, Inc. which were used to repay his loan were later recognized as ordinary income.

With regard to Don and Larry Garvey, both paid personal funds to Envoy, Inc PAC in the amount of $5,000.00 on November 18, 1993. Don and Larry Garvey were each distributed $5,000.00 from Radiofone, Inc. Both Larry and Don Garvey were distributed funds, which in their opinion, were made more "in connection" with their stock ownership in Radiofone.

d. See Answer to Interrogatory and Request for Documents No. 5(c).

e. See Answer to Interrogatory and Request for Documents No. 5(c).

I declare under penalty of perjury that the foregoing is true and correct. Executed on February 16, 1995 in New Orleans, Louisiana.

ENVOY, INC. PAC

By: D Garvey

and

D Garvey

DON GARVEY, as Treasurer

95043721427

Respectfully submitted,

MICHAEL L. ECKSTEIN, ATTORNEY AT LAW, A PROFESSIONAL CORPORATION

By: _____

Michael L. Eckstein (#05268)
Sarah T. Eckstein (#20643)
829 Baronne Street
New Orleans, Louisiana 70113
(504) 581-9322

Attorneys for Respondents

74155\d\09

9 6 0 4 3 7 2 1 4 2 8

EXHIBIT

E1

1026

ENVOY, INC.
PAC ACCOUNT
FEDERAL ID NO. 72-0876016
P.O. BOX 8887
METAIRIE, LA 70011

November 10, 93 14-17/650 100

PAY TO THE ORDER OF Radiofone $ 10,800.00

THE SUM 10800 DOLS 00 CTS DOLLARS

WHITNEY NATIONAL BANK
NEW ORLEANS, LOUISIANA

FOR 524-0170

⑈001026⑈ ⑆065000171⑆ 1000500 3386⑈ ⑈0001080000⑈

CREDITED TO THE ACCOUNT OF
THE WITHIN NAMED PAYEE
A/C # 1001800827

⑆065000171⑆

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of: Radiofone, Inc. *
*
* MUR 4161
*
*

RECEIVED FEDERAL ELECTION COMMISSION OFFICE OF GENERAL COUNSEL
FEB 17 12 27 PM '95

ANSWERS TO INTERROGATORIES AND REQUESTS FOR DOCUMENTS

TO: Office of the General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Respondent, Radiofone, Inc., responds to the Federal Election Commission's Interrogatories and Requests for Documents as follows:

INTERROGATORY NO. 1:

Please state upon what date the Envoy, Inc. PAC refund check (dated November 10, 1994, check #1026, amount $10,800.00) was received by the corporation and upon what date the check was deposited or cashed.

ANSWER TO INTERROGATORY NO. 1:

The Envoy, Inc. PAC refund check in the amount of $10,800.00 was received and deposited by the corporation on November 19, 1993.

REQUEST FOR PRODUCTION OF DOCUMENT NO. 2:

Please provide a copy of the front and the back of the refund check.

ANSWER TO REQUEST FOR PRODUCTION OF DOCUMENT NO. 2:

See Exhibit R1, attached.

INTERROGATORY NO. 3:

Please state why Brian Baudot signed the refund check from Envoy, Inc. PAC, check #1026, made out to Radiofone, Inc.

ANSWER TO INTERROGATORY NO. 3:

As per instructions received by the FEC through the attorney for Envoy, Inc. PAC, Envoy, Inc. PAC was instructed to reimburse

9504372140

Radiofone, Inc. for payments made directly to Envoy, Inc. PAC. No other signatory on the bank account was available to sign the refund check from Envoy, Inc. PAC to Radiofone, Inc. and the parties were attempting to become in compliance as soon as possible.

INTERROGATORY NO. 4:

Please identify by date and amount all payments, including cash payments, advancements, reimbursements, or other benefits provided to the following individuals from October 1993, through March 1994, and describe the purpose of each such disbursement or benefit:

a. Don Garvey

b. Larry Garvey

c. Brian Baudot

ANSWER TO INTERROGATORY NO. 4:

See Exhibit R2, attached, and answer to Interrogatory No. 6.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 5:

Please produce each and every document concerning or relating to the disbursements or benefits identified in response to Interrogatory No. 4 including, but not limited to copies (both sides) of all checks, money orders, or other written instruments with which Radiofone, Inc. or Envoy, Inc. made a disbursement or provided a benefit to Don Garvey, Larry Garvey, or Brian Baudot.

ANSWER TO REQUEST FOR PRODUCTION OF DOCUMENT NO. 5:

See Exhibit R2, attached.

INTERROGATORY NO. 6:

Regarding the contributions made by Don Garvey, Larry Garvey, and Brian Baudot to Envoy, Inc. PAC in November 1993, please provide the following information:

a. Please state whether Don Garvey, Larry Garvey, and Brian Baudot received any funds, compensation, reimbursement, or other consideration from Radiofone, Inc. or Envoy, Inc. in connection with their contributions to Envoy, Inc. PAC.

b. If the answer to Interrogatory No. 6(a) is in the affirmative, please state how and when each contributor was compensated or reimbursed in connection with his

contribution to Envoy, Inc. PAC.

ANSWER TO INTERROGATORY NO. 6:

a. With regard to Brian Baudot, Mr. Baudot borrowed $800.00 which was subsequently repaid with funds received from Radiofone, Inc. Mr. Baudot did not feel the subsequently received funds should be considered a payment made "in connection" with his contribution to Envoy, Inc. PAC since his intent at the time of the contribution on November 18, 1993 was to contribute the $800.00 to the Envoy, Inc. PAC. The funds received from Radiofone, Inc. which were used to repay his loan were later recognized as ordinary income.

With regard to Don and Larry Garvey, both paid personal funds to Envoy, Inc PAC in the amount of $5,000.00 on November 18, 1993. Don and Larry Garvey were each distributed $5,000.00 from Radiofone, Inc. Both Larry and Don Garvey were distributed funds, which in their opinion, were made more "in connection" with their stock ownership in Radiofone.

b. See Answer to Interrogatory No. 6(a).

I declare under penalty of perjury that the foregoing is true and correct. Executed on February 16, 1995 in New Orleans, Louisiana.

RADIOFONE, INC.

By: D Garvey

Respectfully submitted,

MICHAEL L. ECKSTEIN, ATTORNEY AT LAW, A PROFESSIONAL CORPORATION

By: Michael L. Eckstein

Michael L. Eckstein (#05268)
Sarah T. Eckstein (#20643)
829 Baronne Street
New Orleans, Louisiana 70113
(504) 581-9322

Attorneys for Respondents

74155\d\08

EXHIBIT
R1

1026

ENVOY, INC
PAC ACCOUNT
FEDERAL ID NO. 72-0876016
P.O. BOX 8887
METAIRIE, LA 70011

November 10, 93

14-17/650 100

PAY TO THE ORDER OF Radiofone $ 10,800.00

THE SUM 10800 DOLS 00 CTS DOLLARS

WHITNEY NATIONAL BANK
NEW ORLEANS, LOUISIANA

FOR 524-0170

⑈001026⑈ ⑆065000171⑆ 1000503386⑈ ⑈0001080000⑈

CREDITED TO THE ACCOUNT OF
THE WITHIN NAMED PAYEE
A/C # 1001800827

⑆065000171⑆

EXHIBIT
R2

CHECK NO	CHECK DATE	VENDOR NO.
117598	12/09/93	80559

CHECK NO 117598

RADIOFONE, INC.
D/B/A BEEPERS UNLIMITED
P.O. BOX 8887
METAIRIE, LA 70011-8887

WHITNEY NATIONAL BANK
New Orleans, LA
14-17/650

FIVE THOUSAND AND .00/100 DOLLARS

CHECK AMOUNT
$*****5,000.00

PAY TO THE ORDER OF GARVEY, DON

VOID AFTER 90 DAYS

AUTHORIZED SIGNATURE

[redacted]

9 6 0 4 3 7 2 1 4 3 5

Pay to the order of
Garvey Enterprises
Acct: 10007000803

D. Garvey

CREDITED TO THE ACCOUNT OF
THE WITHIN NAMED PAYEE
A/C # 10007000803

34

CHECK NO	CHECK DATE	VENDOR NO
117590	12/09/93	80037

CHECK NO 117590

WHITNEY NATIONAL BANK
New Orleans, LA
14-17/650

RADIOFONE, INC.
D/B/A BEEPERS UNLIMITED
P.O. BOX 8887
METAIRIE, LA 70011-8887

EIGHT HUNDRED AND 00/100 DOLLARS

CHECK AMOUNT
$********800.00

PAY TO THE ORDER OF

BAUDOT, BRIAN

VOID AFTER 90 DAYS

AUTHORIZED SIGNATURE

[redacted]

9 5 0 4 3 2 4 3 7

336

Pay to the Order of
Garvey Enterprises
Acct: 10007000803

CREDITED TO THE ACCOUNT OF
THE WITHIN NAMED PAYEE
A/C # 10007000803

37

CHECK NO.	CHECK DATE	VENDOR NO.
117588	12/09/93	80002

CHECK NO. 117588

WHITNEY NATIONAL BANK
New Orleans, LA
14-17/650

RADIOFONE, INC.
D/B/A BEEPERS UNLIMITED
P.O. BOX 8887
METAIRIE, LA 70011-8887

FIVE THOUSAND AND 00/100 DOLLARS

CHECK AMOUNT
$*****5,000.00

PAY TO THE ORDER OF GARVEY, LARRY

VOID AFTER 90 DAYS

D. Garvey
AUTHORIZED SIGNATURE

[redacted]

Larry Garvey

Pay to the order of
Garvey Enterprises
Acct: 10007000803

CREDITED TO THE ACCOUNT OF
THE WITHIN NAMED PAYEE
A/C # 10007000803

29

MICHAEL L. ECKSTEIN
ATTORNEY AT LAW
A PROFESSIONAL CORPORATION
829 BARONNE STREET
NEW ORLEANS, LOUISIANA 70113
TEL: 504-581-9322
FAX: 504-568-0040

MICHAEL L. ECKSTEIN*
*LL.M. IN TAXATION
BOARD CERTIFIED TAX ATTORNEY

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM
FEB 23 8 47 AM '95

February 20, 1995

FEB 24 9 22 AM '95

VIA FACSIMILE NO.: (202) 219-3923
AND U.S. MAIL

Office of the General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Attention: Robert A. Ridenour, Esq.

Re: MUR 4161
Envoy, Inc. Political Action Committee
and Don Garvey, as Treasurer, et al.

Dear Mr. Ridenour:

Enclosed please find Exhibits "A" and "B" inadvertently omitted from the respondents' Reply Brief to the Federal Election Commission's Factual and Legal Analysis.

With best regards, I remain

Sincerely,

MICHAEL L. ECKSTEIN, ATTORNEY AT LAW
A PROFESSIONAL CORPORATION

By: Michael L. Eckstein
Michael L. Eckstein

MLE:cab
Enclosures
74155\c\31

CC: Mark Jeansonne, Esq.

EXHIBIT "A"

August 9, 1991

Office of the Supervisory Committee
Elections Committee
Secretary of State
P. O. Box 94125
Baton Rouge, Louisiana 70804

Re: Envoy, Inc. Political Action Committee

Gentlemen:

Enclosed please find Statement of Organization which we are filing on behalf of Envoy, Inc. Political Action Committee together with a check in the sum of $100.00 to cover the filing fee. Please issue a Certificate of Registration evidencing filing of same.

Sincerely,

MICHAEL L. ECKSTEIN, ATTORNEY AT LAW
A PROFESSIONAL CORPORATION
ORIGINAL SIGNED

By: Michael L. Eckstein
Michael L. Eckstein

MLE:lfm
Enclosures
cc: Mr. Don Garvey
Mr. Emery Dyer
74155/c/25

9 2 0 4 3 7 2 1 4 4 1

STATEMENT OF ORGANIZATION

OFFICE USE ONLY

FORM 202, Rev. 12/88

1. Name & Address of Committee	2. Date of this Statement	
Envoy, Inc. Political Action Committee 3939 N. Causeway Boulevard P. O. Box 7338 Metairie, LA 70010-7338	August 9, 1991	
	3. Estimated Membership 75	
	4. Amended Statement? ___Yes X No	

5. COMMITTEE OFFICERS AND DIRECTORS (A chairman must be listed.)

a. Name(s) & Address(es)	b. Title(s)	c. Signature(s)
Don Garvey 3939 N. Causeway Blvd. Suite 200 Metairie, LA 70010	Chairman and Treasurer	D Garvey
Larry Garvey 3939 N. Causeway Blvd. Suite 200 Metairie, LA 70010	President	L Garvey
Emery Dyer 3939 N. Causeway Blvd. Suite 200 Metairie, LA 70010	Secretary and Asst. Treasurer	E Dyer

6. AFFILIATED ORGANIZATIONS (Any organization, other than a political committee, which directly or indirectly establishes, administers or financially supports this committee.)

a. Name(s) & Address(es)	b. Relationship(s)
Envoy, Inc. 3939 N. Causeway Boulevard P. O. Box 7338 Metairie, LA 70010-7338	connected
Radiofone, Inc. 3939 N. Causeway Blvd. Suite 200, Metairie, LA 70010-7338	connected

7. DEPOSITORIES FOR COMMITTEE FUNDS (At least one bank or savings and loan must be named.)

a. Name(s)	b. Address(es)
Whitney National Bank	228 St. Charles Avenue New Orleans, LA 70130

COMPLETE THE FOLLOWING ONLY IF THIS COMMITTEE SUPPORTS A SINGLE CANDIDATE

8. Name of Candidate	9. Office Sought by the Candidate
N/A	N/A

N/A

10. Type of Committee (Check one) ___Principal Campaign Committee ___Subsidiary Committee

EXHIBIT "B"

July 15, 1991

Federal Election Commission
Washington, D.C. 20463

Re: Envoy, Inc. Political Action Committee

Gentlemen:

Enclosed please find Statement of Organization which we are filing in duplicate on behalf of Envoy, Inc. Political Action Committee. Please call me upon receipt.

Sincerely,

MICHAEL L. ECKSTEIN, ATTORNEY AT LAW
A PROFESSIONAL CORPORATION
ORIGINAL SIGNED

By: Michael L. Eckstein

MLE:lfm
Enclosure
cc: Mr. Emery Dyer
74155/c/24

STATEMENT OF ORGANIZATION

(See reverse side for instructions)

1. (a) NAME OF COMMITTEE IN FULL ☐ (Check if name is changed)
ENVOY, INC. POLITICAL ACTION COMMITTEE

2. DATE

(b) Number and Street Address ☐ (Check if address is changed)
3939 N. Causeway Blvd., P. O. Box 7338,

3. FEC IDENTIFICATION NUMBER
to be assigned

(c) City, State and ZIP Code
Metairie, LA 70010-7338

4. IS THIS STATEMENT AN AMENDMENT? ☐ YES ☒ 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 _____ (name of candidate) and is NOT an authorized committee.

☐ (d) This committee is a _____ (National, State or subordinate) committee of the _____ (Democratic, Republican, etc.) Party.

☒ (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.

6. Name of Any Connected Organization or Affiliated Committee	Mailing Address and ZIP Code	Relationship
Envoy, Inc.	P. O. Box 7338 3939 N. Causeway Blvd. Metairie, LA 70010-7338	connected
Radiofone, Inc.	P.O. Box 7338 3939 N. Causeway Blvd. Metairie, LA 70010-7338	connected

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
Emery Dyer	P.O. Box 7338, Metairie, LA 70010	Assistant Treasurer

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
Don Garvey	P. O. Box 7338, Metairie, LA 70010	Treasurer

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
Whitney National Bank	228 St. Charles, New Orleans, LA 70130

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
Don Garvey	D Garvey	7-2-91

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
(revised 4/87)

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

BEFORE THE FEDERAL ELECTION COMMISSION

29 10 02 AM '95

SENSITIVE

In the Matter of)
)
Envoy, Inc. Political Action Committee)
and Don Garvey, as treasurer) MUR 4161
Radiofone, Inc.)
Don Garvey)
Larry Garvey)
Brian Baudot)

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On December 13, 1994, the Federal Election Commission ("Commission") opened a MUR and found reason to believe that Envoy, Inc. Political Action Committee and Don Garvey, as treasurer, ("Envoy PAC" or the "PAC"), Radiofone, Inc., Don Garvey, Larry Garvey, and Brian Baudot (collectively, "Respondents") violated 2 U.S.C. §§ 441b(a) and 441f. On the same date, the Commission also approved Subpoenas for the Production of Documents and Answers to Interrogatories to Envoy PAC, Radiofone, Inc., Don Garvey, Larry Garvey, and Brian Baudot. Respondents submitted their responses and have requested conciliation prior to a finding of probable cause to believe. Respondents also assert their willingness to terminate Envoy PAC. This report analyzes the results of the investigation and recommends that the Commission enter into pre-probable cause conciliation negotiations.

II. DISCUSSION

A. Responses

Don Garvey and Larry Garvey are brothers and the sole shareholders of Radiofone Inc. and Envoy Inc.; they created Envoy

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Inc. PAC in July 1991. Attachment 1 at 1-2. According to Respondents, they "were interested in establishing a PAC in order to enable them, individually, to make anonymous political contributions. . . ." Id. at 2.

Respondents acknowledge that Radiofone, Inc.[1] made contributions to Envoy PAC in 1991-1992. Id. According to Envoy PAC's reports, Radiofone contributed in total $11,947 to the PAC. Envoy PAC accepted seven contributions from Radiofone, Inc., totaling $9,947, from August through October of 1991. On July 14, 1992, Envoy PAC refunded $1,100 to Radiofone, Inc., outside the 30-day limit for returning prohibited contributions imposed by 11 C.F.R. § 103.3(b)(1). In October of 1992, Radiofone, Inc. contributed an additional $2,000 to Envoy PAC. Therefore, the total amount of prohibited contributions received by Envoy PAC was $11,947; the total amount unrefunded was approximately $10,800.

Respondents assert that they "believed that, as allowed under Louisiana law, contributions could be made by corporations."[2] Id. at 3. Respondents also state that they created both a federal political committee and a state political committee, and their "original intent was to have the federal contributions reported to the FEC and the state and local contributions reported to the

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1. Radiofone, Inc., the contributing corporation, is the parent corporation of Envoy, Inc., the PAC's connected organization.

2. Louisiana law allows corporations to make contributions when such contributions are specifically authorized by either the corporation's board of directors or by a corporate officer specifically empowered by the corporate board of directors to make contributions. La. Rev. Stat. Ann § 18:1505.2(F).

state." Id. at 10. However, Respondents "neglected to file reports of state and local contributions with the existing state-created PAC (by the same name, Envoy, Inc. PAC), and mistakenly reported all contributions to the Commission. . . ." Id.

The Respondents state that after the Reports Analysis Division ("RAD") notified them that Radiofone, Inc.'s contributions to Envoy PAC were prohibited, "the Garveys and Baudot felt that it was crucial that funds be transferred from the PAC immediately." Id. at 3. According to Respondents, Mr. Baudot was also concerned "that he may have been partially responsible for the error regarding the corporate contributions. . . ." Id. at 4. At that time, Envoy PAC had insufficient funds to reimburse Radiofone its $10,800 in contributions. "Accordingly, Don Garvey and Larry Garvey distributed personal funds from a wholly-owned real estate partnership, Garvey Enterprises, which issued the Garveys each a check for $5,000.00. . . ."[3] Id. at 3-4. In addition, "[t]he Garveys agreed to loan Baudot the $800.00 from their personal funds held in Garvey Enterprises." Id. at 4. The total distributed by Garvey Enterprises was $10,800. "The three checks issued from Garvey Enterprises were signed over to the PAC, and on November 19, 1993, deposited into the PAC's bank account." Id. The corporate officers' combined contributions of $10,800 enabled Envoy PAC to cover the

3. The Louisiana Secretary of State confirms that Garvey Enterprises is registered as a partnership in Louisiana. The partners are Larry Garvey and Don Garvey.

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reimbursement check written to Radiofone, Inc., dated November 10, 1993.

In apparent confusion between contributions made to the PAC and contributions made by the PAC, Respondents state that "it has been discovered that [the PAC's] contributions in 1991 and 1992 actually totaled $9,800.00, and not the previously stated amount of $10,800.00." Id. at 2. Respondents contend that had the Garveys "realized that they had actually contributed a total of $9,800.00 [through the PAC] instead of $10,800.00, they would have each contributed $4,900.00 to the PAC, and no other individuals would have made contributions." Id. at 7.

After Radiofone deposited the reimbursement check from the PAC, on December 9, 1993,[4] Radiofone, Inc. paid Don Garvey and Larry Garvey each a $5,000 "capital distribution," and paid $800 "in compensation" to Brian Baudot, for a total of $10,800. Id. at 4. Don Garvey and Larry Garvey then made a "capital contribution to Garvey Enterprises in a like amount." Id. Brian Baudot likewise turned over the $800 he received from Radiofone, Inc. to Garvey Enterprises, to repay what Respondents characterize as Garvey Enterprises' "loan" to him. Id.

Respondents argue that the contributions from the officers to Envoy PAC were not contributions in the name of another, but if their activities resulted in contributions in the name of another,

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4. While the response states Radiofone, Inc. distributed the funds on December 19, 1993 (Attachment 1 at 4), this apparently was a typographical error. The responses to interrogatories and the documents produced by Respondents indicate Radiofone, Inc. distributed the funds on December 9, 1993.

it was not intentional. Id. at 1. Respondents assert that Radiofone, Inc.'s payment of $10,800 to the corporate officers was not reimbursement for the officers' $10,800 in contributions to Envoy PAC. Don Garvey and Larry Garvey both state in response to interrogatories that in their "opinion," the $5,000 "distribution was received more 'in connection' with [their] stock ownership rather than as a result of a contribution to Envoy Inc. PAC." Attachment 3 at 3 and 13. As for Radiofone, Inc.'s payment to Brian Baudot, Respondents state that "[t]he Garveys, who were not of the opinion that Baudot should incur financial hardship as a result of the circumstances at issue, authorized Radiofone to pay Baudot $800.00, not knowing that paying this compensation to Baudot might be considered a circumvention/violation of the federal law governing campaign contributions." Attachment 1 at 4.

In conclusion, Respondents assert that any violation of the Act was not a result of any knowing and willful activity. Id. at 13. "Respondents have candidly reported all campaign contributions and willingly and candidly complied with all inquiries of the FEC, and any problems resulting from the [R]espondents' efforts to cure the original problem of corporate contributions to the PAC have been caused by the [R]espondents' excessive zeal in trying to remedy the perceived violation." Id. at 15.

B. Analysis

1. 1991-92 Contributions

It is uncontested that Radiofone, Inc., a Louisiana corporation, made contributions to Envoy, Inc. PAC in connection

with a Federal election and that Envoy, Inc. PAC accepted the corporate contributions from Radiofone. Based on the responses, it is also apparent that Don Garvey, president of Radiofone, Inc.; Larry Garvey, secretary and chairman of the board of Radiofone, Inc.; and Brian Baudot, controller of Radiofone, Inc., consented to the corporate contributions made to Envoy, Inc. PAC. Concerning these contributions, the Respondents contend they "believed that, as allowed under Louisiana law, contributions could be made by corporations." Id. at 3. This Office agrees that the original contributions made by Radiofone appear to have been made in error through a misunderstanding of the law.

Respondents also appear to be confused about the amount in violation. According to Respondents, contributions made by the PAC totaled $9,800 instead of $10,800. However, the amount of contributions made by the PAC is irrelevant. It is the $11,947 in corporate contributions from Radiofone to Envoy PAC which is the basis of the violation of 2 U.S.C. § 441b(a), and not the total amount of contributions made by Envoy PAC to various candidates. Because the PAC had previously refunded $1,100 to Radiofone, the amount of unrefunded corporate contributions totaled approximately $10,800.[5]

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5. On July 14, 1992, Envoy PAC voided a $1,000 contribution check to Hugh Downer because the candidate had not cashed the PAC's check; on the same day, the PAC refunded $1,100 to Radiofone, bringing the PAC's cash on hand to approximately $0. In October of 1992, Downer attempted to cash the check; subsequently, Radiofone made two additional $1,000 contributions to the PAC and Envoy PAC then paid Downer. The reports acknowledge two separate $1,000 contributions to Hugh Downer, but the PAC only paid one of them. This transaction did not affect the amount of money Radiofone had contributed to the PAC, which is

2. Contributions Made in the Name of Another

Contrary to the Respondents' assertions, the evidence submitted by them indicates that the funds Don Garvey, Larry Garvey, and Brian Baudot contributed to Envoy PAC were, in fact, Radiofone, Inc. funds. After Respondents learned from RAD that Radiofone, Inc.'s contributions were prohibited, the PAC was faced with the need to raise sufficient funds to enable it to transfer out the $10,800 in prohibited contributions. Envoy PAC had contributed all of the 1991-92 prohibited contributions from Radiofone, Inc. to state and federal candidates, and therefore had insufficient funds in its account to reimburse Radiofone, Inc.

According to Respondents, "Don Garvey and Larry Garvey distributed personal funds from a wholly-owned real estate partnership, Garvey Enterprises," and the Garveys loaned Mr. Baudot $800 "from their personal funds held in Garvey Enterprises." Id. at 3-4. What Respondents do not mention in their response -- but which the corporate records of Radiofone produced by Respondents clearly show -- is that on November 17, 1993, Radiofone, Inc. transferred $10,800 to Garvey Enterprises for a payment designated "PAC ACCT". Attachment 3 at 19. The next day, November 18, 1993, Garvey Enterprises made the disbursements described by Respondents, giving three checks, totaling $10,800, to Don Garvey, Larry Garvey and Brian Baudot, from its Account No. at the Whitney National Bank in

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(Footnote 5 continued from previous page)
the amount in violation.

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New Orleans, LA.[6] Attachment 3 at 5. Respondents state that each of them then contributed his check from Garvey Enterprises to Envoy PAC. Attachment 1 at 4 and Attachment 3 at 5-6. Based upon the documents provided by Respondents, Garvey Enterprises gave the Garveys and Mr. Baudot a total of $10,800, which is the same amount that had been transferred to Garvey Enterprises by Radiofone, Inc. for its "PAC ACCT" on the previous day. Therefore, it appears that Respondents routed the money through Garvey Enterprises in order to mask the fact that the funds contributed to Envoy PAC by the Radiofone officers were, in fact, Radiofone, Inc. funds. Later, on the same date, Envoy PAC's $10,800 reimbursement check was deposited and paid to Radiofone. Attachment 1 at 8.

On December 9, 1993, after the refund, Radiofone, Inc. disbursed three checks, totaling $10,800, to the officers. Don Garvey received $5,000, Larry Garvey received $5,000, and Brian Baudot received $800. Attachment 3 at 7-8, 17-18, and 28-29. Copies of these checks show that the officers endorsed the checks and turned them over to Garvey Enterprises. Id. The checks were deposited by Garvey Enterprises in Account No. the same account from which Garvey Enterprises had originally disbursed the money to the officers. Id. See also Attachment 3 at 30-31. This series of transactions is synopsized in a diagram created by this Office. Attachment 4.

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6. The checks were in the amounts of $5,000 to Don Garvey for "capital distribution," $5,000 to Larry Garvey for "capital distribution," and $800 to Brian Baudot for "loan." Id.

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In sum, the record fully supports the Commission's reason to believe findings that the contributions made to the PAC in November 1993 were corporate contributions made in the name of another. Further, it is evident that Respondents tried to veil the corporate source of the money used for the officers' contributions to Envoy PAC by channeling the money through Garvey Enterprises, a partnership that the Act would regard as an acceptable source for contributions.

C. Knowing and Willful

The Act addresses violations of law that are knowing and willful. See, 2 U.S.C. §§ 437g(a)(5)(C) and 437g(d). The phrase "knowing and willful" indicates that "actions [were] taken with full knowledge of all of the facts and a recognition that the action is prohibited by law." 122 Cong. Rec. H3778 (daily ed. May 3, 1976).

The knowing and willful standard requires knowledge that one is violating the law. Federal Election Commission v. John A. Dramesi for Congress Committee, 640 F. Supp. 985 (D. N.J. 1986). A knowing and willful violation may be established "by proof that the defendant acted deliberately and with knowledge that the representation was false." United States v. Hopkins, 916 F.2d 207, 214 (5th Cir. 1990). An inference of a knowing and willful violation may be drawn "from the defendants' elaborate scheme for disguising" their actions and that they "deliberately conveyed information they knew to be false to the Federal Election Commission." Id. at 214-15.

This Office previously had recommended that the Commission find reason to believe that Respondents had knowingly and willfully violated the Act concerning the contributions to the PAC from Radiofone's corporate officers, but the Commission wanted this Office to investigate further before making that finding. Following an investigation, the documented evidence in this case indicates that Respondents knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f with regard to the 1993 contributions made by the corporate officers to Envoy PAC. Respondents had specific knowledge that contributions from a corporation made in the name of another were prohibited because of their contact with RAD. Although Respondents assert that Envoy PAC representatives "do not recall and do not believe that they ever asked the FEC about reimbursing officers for contributions," (Attachment 1 at 10), Commission records are to the contrary.

Specifically, RAD telephone communication records indicate that on November 4, 1993, Brian Baudot asked a RAD analyst whether the connected organization could provide bonuses to employees in reimbursement for contributions employees make to the committee. The RAD analyst reports that he advised Mr. Baudot that such a activity would be an impermissible contribution in the name of another and a contribution from the corporation. Attachment 2. After being advised corporate contributions were prohibited and, further, that corporate contributions cannot be used to reimburse employees for their contributions, the record is clear that Respondents funded the employees' contributions through "laundered" corporate moneys.

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This Office is not, however, recommending a new reason to believe finding concerning the 2 U.S.C. §§ 441b(a) and 441f violations because, although aggravated by the knowing and willful nature, the underlying violations are the same. Instead, we have included the phrase "knowingly and willfully" in the admission clause of the proposed conciliation agreement. This practice is consistent with MUR 2602 (Conley D. Wolfswinkel and Wolfswinkel Group, Incorporated) where the Commission found reason to believe that these respondents violated 2 U.S.C. § 441b and, after the investigation, the respondents admitted to a knowing and willful violation of that section of the Act in the admission clause of the conciliation agreement. Cf. MUR 2893 (Dean Ward Marion) (The Commission found reason to believe that the respondent violated 2 U.S.C. § 441f; after an investigation, the respondent admitted to knowingly permitting his name to be used to effect a corporate contribution, in violation of 2 U.S.C. § 441f.).

D. Garvey Enterprises

The Act prohibits any person from making a contribution in the name of another person or knowingly permitting his or her name to be used to effect such a contribution. 2 U.S.C. § 441f. Further, no person shall knowingly help or assist any person in making a contribution in the name of another.[7] 2 U.S.C. § 441f

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7. According to its Explanation and Justification, this regulation "applies to those who initiate or instigate or have some significant participation in a plan or scheme to make a contribution in the name of another. . . ." 54 Fed. Reg. 34105 (August 17, 1989). The regulation was based on Federal Election Comm'n v. Rodriguez, Case No. 86-687-Civ-T-10(B) (M.D. Fla., May 5, 1987)(unpublished order denying motion for summary judgment). In Rodriguez, the District Court found that aiding or

and 11 C.F.R. § 110.4(b)(1)(iii). Partnerships are included in the Act's definition of "person." 2 U.S.C. § 431(11).

The record indicates that Garvey Enterprises knowingly assisted in the making of a contribution in the name of another by serving as the conduit for corporate funds from Radiofone, Inc. to Don Garvey, Larry Garvey, and Brian Baudot. The partnership was an integral portion of the scheme to mask the source of the impermissible funds. Accordingly, this Office recommends that the Commission find reason to believe that Garvey Enterprises knowingly and willfully violated 2 U.S.C. § 441f.

III. DISCUSSION OF CONCILIATION AGREEMENTS AND CIVIL PENALTIES

This Office recommends that the Commission accept Respondents' request to enter into pre-probable cause conciliation at this time because it appears that the facts of the case have been substantially developed. It does not appear that further investigation is warranted because the evidence of the violations is contained in Respondents' discovery responses.

Attached for the Commission's approval is a single conciliation agreement for all of the previously named Respondents and Garvey Enterprises.

(Footnote 7 continued from previous page)
assisting in the making of contributions in the name of another is a violation of Section 441f ("No person shall make a contribution in the name of another . . . .").

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IV. **RECOMMENDATIONS**

1. Find reason to believe that Garvey Enterprises knowingly and willfully violated 2 U.S.C. § 441f.

2. Enter into conciliation prior to a finding of probable cause to believe with Envoy, Inc. Political Action Committee and Don Garvey, as treasurer; Radiofone, Inc.; Garvey Enterprises; Don Garvey; Larry Garvey; and Brian Baudot.

3. Approve the attached factual and legal analysis, proposed conciliation agreement and appropriate letters.

Lawrence M. Noble
General Counsel

6/28/95
Date

BY: [signature]
Lois G. Lerner
Associate General Counsel

Attachments

1. Response.
2. Record of Telephone Communication.
3. Answers to Interrogatories submitted by Don Garvey, Larry Garvey, and Brian Baudot.
4. Diagram of Transactions.
5. Conciliation Agreement
6. Factual and Legal Analysis

Staff assigned: Stephan O. Kline

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/LISA R. DAVIS L.R.D.
COMMISSION SECRETARY

DATE: JULY 5, 1995

SUBJECT: MUR 4161 - GENERAL COUNSEL'S REPORT DATED JUNE 28, 1995.

The above-captioned document was circulated to the Commission on THURSDAY, JUNE 29, 1995 at 4:00 p.m.

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

Commissioner Aikens	
Commissioner Elliott	XXX
Commissioner McDonald	
Commissioner McGarry	
Commissioner Potter	
Commissioner Thomas	

This matter will be placed on the meeting agenda for TUESDAY, JULY 18, 1995.

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

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Envoy, Inc. Political Action Committee and Don Garvey, as treasurer;	)	MUR 4161
Radiofone, Inc.;	)	
Don Garvey;	)	
Larry Garvey;	)	
Brian Baudot.	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on July 13, 1995, the Commission decided by a vote of 6-0 to take the following actions in MUR 4161:

1. Find reason to believe that Garvey Enterprise knowingly and willfully violated 2 U.S.C. § 441f.

2. Enter into conciliation prior to a finding of probable cause to believe with Envoy, Inc. Political Action Committee and Don Garvey, as treasurer; Radiofone, Inc.; Garvey Enterprises; Donald Garvey; Larry Garvey; and Brian Baudot.

(continued)

3. Approve the factual and legal analysis, proposed conciliation agreement and appropriate letters, as recommended in the General Counsel's Report dated June 28, 1995.

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

Attest:

7-13-95
Date

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

Received in the Secretariat:	Thurs.,	June 29, 1995	10:02 a.m.
Circulated to the Commission:	Thurs.,	June 29, 1995	4:00 p.m.
Deadline for vote:	Wed.,	July 05, 1995	4:00 p.m.
Received Objection:	Wed.,	July 05, 1995	1:13 p.m.
Placed on Agenda for:	Tues.,	July 18, 1995	
Objection Withdrawn:	Thurs.,	July 13, 1995	10:22 a.m.
Withdrawn from Agenda			

mwd

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 17, 1995

Michael L. Eckstein, Esq.
829 Baronne Street
New Orleans, Louisiana 70113

RE: MUR 4161
Envoy, Inc. Political Action Committee and Don Garvey, as treasurer; Radiofone, Inc.; Garvey Enterprises; Don Garvey; Larry Garvey; and Brian Baudot

Dear Mr. Eckstein:

On December 13, 1994, the Commission found reason to believe that Envoy, Inc. Political Action Committee and Don Garvey, as treasurer; Radiofone, Inc.; Don Garvey; Larry Garvey; and Brian Baudot violated 2 U.S.C. §§ 441b(a) and 441f of the Federal Election Campaign Act of 1971, as amended ("the Act"). At your request, on July 13, 1995, the Commission determined to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe.

Also on July 13, 1995, the Federal Election Commission found that there is reason to believe that Garvey Enterprises knowingly and willfully violated 2 U.S.C. § 441f. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Garvey Enterprises may submit any factual or legal materials that it believes is relevant to the Commission's consideration of this matter. It should submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of General Counsel ordinarily will not give extensions beyond 20 days.

If you will not be representing Garvey Enterprises in this matter, please advise the Office of General Counsel immediately. Otherwise, please submit the enclosed authorization form confirming that you are also counsel for Garvey Enterprises.

In order to expedite the resolution of this matter, the Commission also decided to offer to enter into negotiations with Garvey Enterprises directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Enclosed is a conciliation agreement relating to all of the Respondents, including Garvey Enterprises, that the Commission has approved in settlement of this matter. If the Respondents agree with the provisions of the enclosed agreement, they should sign and return the agreement, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, they should respond to this notification as soon as possible.

If you have any questions or suggestions for changes in the agreement, or if you wish to arrange a meeting in connection with a mutually satisfactorily conciliation agreement, please contact Stephan Kline, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Danny L. McDonald
Chairman

Enclosures
Factual and Legal Analysis
Designation of Counsel Form
Conciliation Agreement

FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Garvey Enterprises MUR 4161

I. GENERATION OF MATTER

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

II. FACTUAL AND LEGAL ANALYSIS

A. Applicable Law

The Federal Election Campaign Act of 1971, as amended, (the "Act") prohibits corporations from making contributions or expenditures in connection with federal elections. 2 U.S.C. § 441b(a). The Act also prohibits any person from making a contribution in the name of another person or knowingly permitting his or her name to be used to effect such a contribution. 2 U.S.C. § 441f. Further, no person shall knowingly help or assist any person in making a contribution in the name of another.[1] 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b)(1)(iii). Partnerships are included in the Act's definition of "person." 2 U.S.C. § 431(11).

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1. According to its Explanation and Justification, this regulation "applies to those who initiate or instigate or have some significant participation in a plan or scheme to make a contribution in the name of another. . . ." 54 Fed. Reg. 34105 (August 17, 1989). The regulation was based on Federal Election Comm'n v. Rodriguez, Case No. 86-687-Civ-T-10(B) (M.D. Fla., May 5, 1987)(unpublished order denying motion for summary judgment). In Rodriguez, the District Court found that aiding or assisting in the making of contributions in the name of another is a violation of Section 441f ("No person shall make a contribution in the name of another . . . .").

The Act addresses violations of law that are knowing and willful. See, 2 U.S.C. §§ 437g(a)(5)(C) and 437g(d). The phrase "knowing and willful" indicates that "actions [were] taken with full knowledge of all of the facts and a recognition that the action is prohibited by law." 122 Cong. Rec. H3778 (daily ed. May 3, 1976).

The knowing and willful standard requires knowledge that one is violating the law. Federal Election Commission v. John A. Dramesi for Congress Committee, 640 F. Supp. 985 (D.N.J. 1986). A knowing and willful violation may be established "by proof that the defendant acted deliberately and with knowledge that the representation was false." United States v. Hopkins, 916 F.2d 207, 214 (5th Cir. 1990). An inference of a knowing and willful violation may be drawn "from the defendants' elaborate scheme for disguising" their actions and that they "deliberately conveyed information they knew to be false to the Federal Election Commission." Id. at 214-15.

B. Analysis

Don Garvey and Larry Garvey are brothers and the sole shareholders of Radiofone Inc. ("Radiofone") and Envoy Inc.; they created Envoy Inc. PAC ("Envoy PAC" or the "PAC") in July 1991. Brian Baudot is the controller of Radiofone. Garvey Enterprises is a wholly-owned real estate partnership in which Don Garvey and Larry Garvey are the only partners.

Radiofone, Inc.[2] made contributions to Envoy PAC in 1991-1992. According to Envoy PAC's reports, Radiofone contributed in total $11,947 to the PAC. Envoy PAC accepted seven contributions from Radiofone, Inc., totaling $9,947, from August through October of 1991. On July 14, 1992, Envoy PAC refunded $1,100 to Radiofone, Inc. In October of 1992, Radiofone, Inc. contributed an additional $2,000 to Envoy PAC. Therefore, the total amount of prohibited contributions received by Envoy PAC was $11,947; the total amount unrefunded was approximately $10,800.

The Reports Analysis Division ("RAD") notified Envoy PAC that the contributions it received from Radiofone, Inc. were prohibited and needed to be refunded. The PAC did not have $10,800 to refund to Radiofone. RAD telephone communication records indicate that on November 4, 1993, Brian Baudot asked a RAD analyst whether the connected organization could provide bonuses to employees in reimbursement for contributions employees make to a PAC. The RAD analyst advised Mr. Baudot that such a activity would be an impermissible contribution in the name of another and a contribution from the corporation.

By check dated November 10, 1993, Envoy PAC refunded $10,800 to Radiofone. At that time, the PAC still had insufficient funds to reimburse Radiofone its $10,800 in contributions. In the letter to RAD accompanying a copy of the check, Envoy PAC disclosed that corporate officers of Radiofone contributed the funds to reimburse the corporation. Those contributions, totaling

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2. Radiofone, Inc., the contributing corporation, is the parent corporation of Envoy, Inc., the PAC's connected organization.

$10,800, were not received by Envoy PAC until nine days after the date of the refund check, on November 19, 1993.

The corporate records of Radiofone clearly show that on November 17, 1993, Radiofone, Inc. transferred $10,800 to Garvey Enterprises for a payment designated "PAC ACCT". Then, on the next day, November 18, 1993, Garvey Enterprises distributed $5,000 each to Don Garvey and Larry Garvey and $800 to Brian Baudot. The three disbursements, totaling $10,800, were drawn from Garvey Enterprises' Account No. at the Whitney National Bank in New Orleans, LA.[3] Don Garvey, Larry Garvey, and Brian Baudot signed the three Garvey Enterprises' checks over to the PAC, and on November 19, 1993, the checks were deposited into the PAC's bank account. Later, on the same date, Envoy PAC's $10,800 reimbursement check was deposited and paid to Radiofone.

On December 9, 1993, after the refund, Radiofone, Inc. disbursed three checks, totaling $10,800, to the officers. Don Garvey received $5,000, Larry Garvey received $5,000, and Brian Baudot received $800. Copies of these checks show that the officers endorsed the checks and turned them over to Garvey Enterprises. The checks were deposited by Garvey Enterprises in Account No. the same account from which Garvey Enterprises had originally disbursed the money to the officers.

---

3. The checks were in the amounts of $5,000 to Don Garvey for "capital distribution," $5,000 to Larry Garvey for "capital distribution," and $800 to Brian Baudot for "loan."

After being advised that corporate contributions were prohibited and, further, that corporate contributions cannot be used to reimburse employees for their contributions, it is evident that Envoy PAC, Radiofone, Don Garvey, Larry Garvey, and Brian Baudot tried to veil the corporate source of the money used for the officers' contributions to Envoy PAC by channeling the money through Garvey Enterprises, a partnership that the Act would regard as an acceptable source for contributions.

The record indicates that Garvey Enterprises knowingly assisted in the making of a contribution in the name of another by serving as the conduit for corporate funds from Radiofone, Inc. to Don Garvey, Larry Garvey, and Brian Baudot. The partnership was an integral portion of the scheme to mask the source of the impermissible funds. Therefore, there is reason to believe that Garvey Enterprises knowingly and willfully violated 2 U.S.C. § 441f.

MICHAEL L. ECKSTEIN
ATTORNEY AT LAW
A PROFESSIONAL CORPORATION
1515 POYDRAS STREET
SUITE 2195
NEW ORLEANS, LOUISIANA 70112
TEL: 504-527-0701
FAX: 504-566-0040

MICHAEL L. ECKSTEIN*
SARAH THOMAS ECKSTEIN

*LL.M. IN TAXATION
BOARD CERTIFIED TAX ATTORNEY

RECEIVED
FEDERAL ELECTION
COMMISSION

JUL 31 11 28 AM '95

July 28, 1995

Mr. Danny L. McDonald, Chairman
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

VIA AIRBORNE EXPRESS

JUL 31 2 15 PM '95

Re: MUR 4161
Don Garvey
Larry Garvey
Brian Baudot
Radiofone, Inc.
Envoy, Inc. PAC and Don Garvey as Treasurer
Garvey Enterprises

Dear Mr. McDonald:

Enclosed is a Statement of Designation of Counsel for Garvey Enterprises. Additionally, I am writing to request an extension of time to respond to MUR 4161 on behalf of Garvey Enterprises.

My office was in receipt of the above information on July 19, 1995. I request an extension to answer on behalf of Garvey Enterprises due to the fact that my office is heavily engaged in litigation in the U.S. District Court, Southern District of California, Civil Action No. 1-93-20352, a multi-party litigation which has several court dates and depositions scheduled over the next month. Accordingly, I would appreciate if the Federal Election Commission would grant an extension of time of twenty (20) days.

Sincerely,

MICHAEL L. ECKSTEIN, ATTORNEY AT LAW
A PROFESSIONAL CORPORATION

By: Michael L. Eckstein

Michael L. Eckstein

MLE:cab
Enclosures
cc: Mark Jeansonne, Esq.
Radiofone, Inc.
74155\c136

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4161

NAME OF COUNSEL: Michael L. Eckstein
Sarah T. Eckstein

ADDRESS: 1515 Poydras Street
Suite 2195
New Orleans, LA 70112

TELEPHONE: (504) 527-0701

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GEN. CSL
JUL 31 2 15 PM '95

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.

July 26, 1995
Date

Signature

RESPONDENT'S NAME: Garvey Enterprises

ADDRESS: 3131 N. I-10 Service Rd.
Metairie, Louisiana 70002

HOME PHONE: N/A

BUSINESS PHONE: (504) 830-5400

9604372147 0

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Via Facsimile and Mail

Michael L. Eckstein, Esq.
1515 Poydras Street
Suite 2195
New Orleans, LA 70112

August 1, 1995

Re: MUR 4161
Garvey Enterprises

Dear Mr. Eckstein:

This is in response to your letter dated July 28, 1995, which we received on July 31, 1995, requesting a 20-day extension of time to respond to the reason to believe findings against Garvey Enterprises in MUR 4161. After considering the circumstances presented in your letter, the Office of General Counsel has granted you an additional 20 days to respond. Accordingly, your response is due by the close of business on August 28, 1995. Please note that this extension does not extend the pre-probable cause conciliation period involving Garvey Enterprises and your other clients, which is scheduled to terminate on August 21, 1995.

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

Sincerely,

Stephan O. Kline
Attorney

9504372147 1

LAW OFFICES
WEBSTER, CHAMBERLAIN & BEAN
1747 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006
(202) 785-9500
FAX: (202) 835-0243

GEORGE D. WEBSTER
ARTHUR L. HEROLD
ALAN P. DYE
EDWARD D. COLEMAN
BURKETT VAN KIRK
FRANK M. NORTHAM
GERARD P. PANARO
JOHN W. HAZARD, JR.
CHARLES M. WATKINS
HUGH K. WEBSTER
DAVID P. GOCH
BRENLEY LOCKE ELIAS

OF COUNSEL
CHARLES E. CHAMBERLAIN
J. COLEMAN BEAN

September 18, 1995

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
SEP 20 11 29 AM '95

VIA FACSIMILE AND U.S. MAIL

Anne A. Weissenborn, Esq.
Senior Attorney
Office of General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: MUR 4161

Dear Ms. Weissenborn:

This is to request an extension of one week, to October 2, the date by which we are to provide affidavits from the individual Respondents in this matter. These persons are presently attending the annual convention of The Personal Communications Industry Association in Orlando, Florida, and therefore it will be very difficult to adequately prepare and have signed the affidavits by the original deadline of September 25.

Thank you for your consideration of this request.

Very truly yours,

Hugh K. Webster

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4161

NAME OF COUNSEL: George D. Webster and Hugh K. Webster

ADDRESS: Webster, Chamberlain & Bean
1747 Pennsylvania Avenue, N.W.
Suite 1000
Washington, D.C. 20006

TELEPHONE: (202)785-9500

The above-named individuals are hereby designated as counsel and are authorized to receive any notifications and other communications from the Commission and to act on behalf of Respondent before the Commission.

3/4/95
Date

Signature

RESPONDENT'S NAME: See Attachment

ADDRESS:

TELEPHONE:

HOME TELEPHONE (if individual):

95 AUG 9 1 15 PM '95

9604372147

Respondents

Larry Garvey
Don Garvey
Brian Baudot
Garvey Enterprizes
Radiophone, Inc.
Envoy, Inc. Political Action Committee
and Don Garvey as treasurer

P.O. Box 7338
3939 North Causeway Boulevard
Metairie, LA 70010-7338
(504)837-8330

RESPONDE

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 20, 1995

Hugh K. Webster, Esquire
Webster, Chamberlain & Bean
1747 Pennsylvania Avenue, N.W.
Washington, DC 20006

RE: MUR 4161

Dear Mr. Webster:

This is in response to your letter dated September 18, 1995, which we received by facsimile on that same date, requesting an extension until October 2, 1995 to provide affidavits from the individual Respondents in this 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 October 2, 1995.

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

Sincerely,

Karen White

Karen White
Paralegal

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

LAW OFFICES
WEBSTER, CHAMBERLAIN & BEAN
1747 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006
(202) 785-9500
FAX: (202) 835-0243

GEORGE D. WEBSTER
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JOHN W. HAZARD, JR.
CHARLES M. WATKINS
HUGH K. WEBSTER
DAVID P. GOCH
BRENLEY LOCKE ELIAS

OF COUNSEL
CHARLES E. CHAMBERLAIN
J. COLEMAN BEAN

October 2, 1995

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
OCT 2 4 38 PM '95

HAND-DELIVERED

Anne Weissenborn, Esquire
Office of General Counsel
FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Sixth Floor
Washington, D.C. 20463

Re: MUR 4161

Dear Anne:

Enclosed is the affidavit of respondent J. Donald Garvey in the above-referenced matter. Thank you once again for allowing us to submit the Brian Baudot affidavit tomorrow. It will be hand-delivered prior to 12 noon.

Very truly yours,

Hugh K. Webster

HKW/jc
Encls.

WEISSEN.102

BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
95 OCT 2 4 59 PM

In the Matter of

Envoy, Inc. Political Action
Committee and Don Garvey,
as Treasurer

MUR 4161

Radiofone, Inc.
Garvey Enterprises
Don Garvey
Larry Garvey
Brian Baudot

AFFIDAVIT

State of Louisiana)
) ss:
City of New Orleans)

I, J. Donald Garvey, being duly sworn, depose and affirm that the statements contained in the attached Exhibit, and the representations included therein, are true and correct to the best of my knowledge, information, and belief.

D Garvey
J. Donald Garvey

Subscribed and sworn to
before me this 29 th day
of September, 1995.

Mark J. Jeanscone, Notary Public
My Commission Expires: At Death

95043572.477

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Envoy, Inc. Political Action Committee and Don Garvey, as Treasurer	)	
	)	MUR 4161
Radiofone, Inc.	)	
Garvey Enterprises	)	
Don Garvey	)	
Larry Garvey	)	
Brian Baudot	)	

EXHIBIT TO
AFFIDAVIT OF J. DONALD GARVEY

1. My name is J. Donald Garvey. I am President of Radiofone, Inc. ("Radiofone"). Radiofone is a family-owned, independent radio paging and cellular telephone company. Also, I am a partner of Garvey Enterprises[1], which is a partnership that owns real estate.

2. My brother, Lawrence D. Garvey, and I started Radiofone in 1958 as a partnership. We incorporated in 1979. We started Garvey Enterprises in 1991. When we started Radiofone, we had only two employees, myself and my brother. I own 50% of Radiofone and Garvey Enterprises. My brother owns 50% as well.

3. Initially we started Radiofone as a telephone answering service business. We learned the telephone answering service business from our parents. With the advent of radio paging service, we obtained licenses from the Federal Communications Commission and began to offer radio paging services in New Orleans.

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[1] Garvey Enterprises has been merged into Wentworth Industries, L.L.C.

Additionally, with the advent of cellular telephone technology, we were successful in obtaining cellular telephone licenses in south Louisiana.

4. As you can expect, our company has grown significantly in the last three years. If you combine all of our companies, we employ approximately eight hundred people. Approximately four hundred employees have been hired within the last three years.

5. As President of Radiofone, I am responsible for developing long term company objectives and business plans. I also oversee all administrative functions. The company objectives are implemented through our Vice President and management group. I am not involved with the day-to-day activities of Radiofone, except in the global sense. I am available to help resolve conflicts between managers and to help define company goals.

6. The idea of forming a political action committee was suggested to me at a meeting of a local chamber of commerce during a discussion of the best way to support candidates that we thought were pro-business. Subsequently, in July 1991, I asked our attorney, Michael Eckstein, to establish a PAC.

7. We were advised by Mr. Eckstein that Envoy, Inc., an affiliate corporation of Radiofone could sponsor a political action committee legitimately under state and federal election laws, as opposed to Radiofone itself, and that this might enable us to effect political contributions without direct identification of Radiofone or ourselves. We accepted this advice.

8. I had very little involvement in the administration or operation of the PAC.

9. In fact, I was on a leave of absence from business for a large portion of 1991 and 1992 due to my wife's illness.

10. My sole involvement with the PAC was to make the decision with Larry Garvey as to which candidates would receive contributions and to direct that those contributions be made. I do not recall having any involvement with respect to how the PAC would be funded; this is a function that typically would be handled by employees.

11. In September, 1993, I was informed by Mr. Baudot that the Federal Election Commission had expressed concern regarding corporate contributions to Envoy PAC. This was the first time I had knowledge of how the PAC was funded, and that the funding mechanism, i.e., payments from Radiofone, was inappropriate.

12. Upon being informed by Mr. Baudot, Mr. Eckstein was asked to contact the FEC, to determine the problem, and to work with Mr. Baudot to resolve the problem. With a company of several hundred employees, I simply cannot oversee every task. Delegating this matter to someone else is consistent with how I handle most corporate tasks, as is true with the vast majority of top business executives.

13. Mr. Baudot briefly explained the refund process that he proposed to utilize and was ultimately utilized. I was not familiar with FEC rules and I just assumed that to the extent I was to take any action that such action was in accordance with FEC

of speaking with such person. Not knowing any of the details, I likely would have referred the call to Brian Baudot, or his superior, Emery Dyer.

18. Although I am listed as Treasurer of the PAC, I have performed very few, if any, functions in that capacity.

19. The primary purpose in starting the PAC was to make relatively anonymous contributions. The PAC was not a vehicle to help perpetuate any business goals or the mission of our business. It is probably for this reason that the proper time and consideration to this matter was not invested when contacted by the FEC. Not only will this not happen again but it is also for these reasons why we have continuously expressed our intent to terminate the PAC as soon as this matter is resolved.

20. In reviewing the matters addressed by the FEC, I should note that I feel that any distribution that has ever been received by me from Garvey Enterprises or any other entity owned by my brother and I is our personal funds. Since the great majority of these businesses are owned on a 50/50 basis, each pays tax on the earnings of the business, etc. and a great majority of our assets are invested in all of the entities. When we need to distribute funds, upon distribution, I consider these to be my personal funds. Transactions between our entities are properly accounted for and all taxes due are paid.

21. I have not knowingly or willfully committed violations of the federal election laws or regulations.

EXHIBIT.JDG

rules. This matter should have been handled with more involvement on my part, and quite frankly, I was completely unaware of the rules and regulations of the FECA and just assumed that whatever acts were being taken were proper and correct and due to the tremendous amount of time, effort and work involved in running over twenty entities, I am only able to fully invest my time and concentration on major business decisions. I should also note it was not uncommon for me or Larry to be requested for signatures by many people in various capacities for the company as well as the other entities owned by my brother and me. As a practical matter, given the position of these employees, in the companies, very few details are ever provided; we have to rely on the people working for us to accomplish these things.

14. To emphasize, at the time, November 1993, I had absolutely no knowledge of the federal election laws beyond the general and recently-acquired knowledge that corporate contributions are not permitted.

15. Had I known that the refund process was impermissible, I never would have allowed it to occur.

16. This was my last involvement with the PAC until December 1994 when the FEC again served notification, this time that the refund process was unacceptable and allegedly in violation of the federal election laws. This is the first time I learned that the refund process was objectionable.

17. I recall being told in November 1993 that someone from the FEC had called me while I was out, but I have no recollection

LAW OFFICES
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JOHN W. HAZARD, JR.
CHARLES M. WATKINS
HUGH K. WEBSTER
DAVID P. GOCH
BRENLEY LOCKE ELIAS

OF COUNSEL
CHARLES E. CHAMBERLAIN
J. COLEMAN BEAN

October 3, 1995

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
OCT 3 2 24 PM '95

HAND-DELIVERED

Anne Weissenborn, Esquire
Office of General Counsel
FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Sixth Floor
Washington, D.C. 20463

Re: MUR 4161

Dear Anne:

Enclosed is the affidavit of respondent Brian Baudot.

It is our hope that this affidavit, along with that of Don Garvey, answers the FEC's remaining questions and establishes that there were no knowing or willful violations.

Please note that we have submitted the affidavits of Don Garvey and Brian Baudot because the FEC seemed most interested in these two individuals, and certainly Mr. Baudot was involved to the greatest extent. Of course, we would be glad to submit affidavits from anyone else, including Larry Garvey (who actually had even less involvement than Don Garvey) and Christine Trammell.

Please let me know if you or Stephan do need anything further.

Very truly yours,

Hugh K. Webster

Hugh K. Webster

HKW/jc
Encl.

WEISSEN.103

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Envoy, Inc. Political Action
Committee and Don Garvey,
as Treasurer

MUR 4161

Radiofone, Inc.
Garvey Enterprises
Don Garvey
Larry Garvey
Brian Baudot

AFFIDAVIT

State of Louisiana)
) ss:
City of New Orleans)

I, Brian Baudot, being duly sworn, depose and affirm that the statements contained in the attached Exhibit, and the representations included therein, are true and correct to the best of my knowledge, information, and belief.

Brian Baudot

Subscribed and sworn to
before me this 29 th day
of September, 1995.

Mark J. Jeansonne, Notary Public
My Commission Expires: At Death

9604372143 4

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Envoy, Inc. Political Action Committee and Don Garvey, as Treasurer	)	
	)	MUR 4161
Radiofone, Inc.	)	
Garvey Enterprises	)	
Don Garvey	)	
Larry Garvey	)	
Brian Baudot	)	

EXHIBIT TO
AFFIDAVIT OF BRIAN BAUDOT

1. My name is Brian Baudot. I am the Controller of Radiofone, Inc. ("Radiofone") and over twenty other entities owned by Don and Larry Garvey.

2. As controller, I am responsible for accounting and financial reporting for Radiofone and all other entities owned by Don and Larry Garvey. Additionally, I handle miscellaneous functions which include, for example, administration of the Envoy PAC. The PAC is presently dormant.

3. As the sole owners of Radiofone, Don and Larry Garvey selected candidates that were to receive contributions and instructed me to issue checks to these individuals.

4. The Garveys had very little involvement in the administration of the PAC. It was my decision, based upon my lack of knowledge regarding the prohibition on corporate contributions, to initially fund the PAC with contributions from Radiofone.

5. Even though Don Garvey was the treasurer of the PAC, he had very little involvement in the administration, other than described above.

6. In September 1993, I became aware, upon being notified by the Federal Election Commission ("FEC"), that the contributions by Radiofone to the federal PAC, as corporate contributions, were a violation of FEC rules. Prior to that time I had no knowledge that such contributions were a violation of FEC rules.

7. I became aware after reviewing correspondence mailed to Don Garvey in September 1993 by the FEC that impermissible contributions had been made to the federal PAC, Radiofone's attorney, Michael Eckstein, was asked to contact the FEC to discuss the problem and to work with me to resolve the situation. I worked with Mr. Eckstein in trying to do this.

8. I was surprised to learn that the contributions from the corporations to the Envoy PAC account were not permissible because I had disclosed the source of the contributions over a two year period without objection from the FEC.

It was my understanding that Radiofone could contribute to the PAC, as evidenced by the fact the checks were cut to the PAC and reported on the forms to the FEC.

9. I do not recall personally speaking with any representative of the FEC.

10. Once I became aware that corporate contributions to the federal PAC were a violation of FEC rules, it was my responsibility to cure the situation. The cure, after discussions with Michael

Eckstein, was for individuals to contribute to the PAC account. It was my intention, once I became aware of the violation, to resolve the problem and to have Don and Larry Garvey personally contribute to the PAC.

I wanted to resolve the situation with the least burden on the Garveys. In my opinion, as controller of Radiofone, it would have been awkward for me to ask the Garveys for personal checks, it would have been inconvenient for the Garveys to write personal checks, and it would have delayed the resolution of the situation. I have very little involvement with the Garveys' personal finances, and am not responsible for the preparation of their individual tax returns or tax planning.

After dealing with these two men for many years, I thought that it would be time consuming to orchestrate the writing of personal checks to the PAC account and having them get involved in the process. Simply as a matter of convenience, and in my opinion, in accordance with FEC rules, I initiated capital distributions from Garvey Enterprises to Don and Larry Garvey. It is my belief that at the point that each of them endorsed the check, representing their capital distributions, that money became their personal, after tax funds. I intentionally placed the restricted, special endorsement on the back of the check making them payable to the PAC account. I was not comfortable handing them a distribution check from their partnership and asking them to endorse the check on the back as the blank endorsement and hand the check back over to me for me to deposit into the PAC account. It

is my understanding that once a check is endorsed by signature on the back, anyone holding the check can cash that check. To show them that after endorsing the check the check could only be negotiated to the PAC account, I had the restricted endorsement typed on the back of each check. The checks were then deposited directly into the PAC account. This process accomplished in my mind one thing and one thing only: it kept Don and Larry Garvey from having to deposit a distribution check into their personal checking account, go home, find their checkbooks and write another check payable to the Envoy PAC account, wait for the checks to clear, make sure the checks cleared in the correct order, etc. It was my belief that Don and Larry Garvey, individually, contributed to the PAC account, upon endorsement on the back of the check, not Garvey Enterprises or Radiofone.

11. In an attempt to resolve the situation in an expeditious fashion, I borrowed $800 from Garvey Enterprises and contributed the amounts to the PAC. At a later time, I was reimbursed by Radiofone. Radiofone and Garvey Enterprises were not my employer. I did not believe that any action taken by Garvey Enterprises or Radiofone were contrary to FEC rules.

12. Initially, the PAC refunded $10,800 to Radiofone. Next, Radiofone loaned $10,800 to Garvey Enterprises. To understand why I did this, one must understand how the various Garvey-related entities operate from an accounting standpoint.

In effect, Radiofone acts as the bank for its 20 or more related companies. It is the clearinghouse for all funds. When a

company has excess cash in its bank accounts, it transfers the money to Radiofone. This is booked as a loan. When a company needs funds, Radiofone provides the money to the company. All funds are separately accounted for and identified for each company through various inter-company receivable and payable accounts.

This inter-company borrowing system is a valid method of cash management. At the request of our lenders, Radiofone and its companies have been audited and received unqualified opinions from its external auditors.

13. At the initiation of the refund process, Garvey Enterprises had approximately $1,700 in its account, which is consistent with the cash management practice described above of transferring excess funds to Radiofone. In fact, Garvey Enterprises owed approximately $400,000 to Radiofone at the end of 1993. Because Garvey Enterprises needed funds, it borrowed them from Radiofone. Again, this is what the Garvey entities do when they need funds. It is standard procedure. It is common for Garvey Enterprises to borrow the necessary funds or receive a distribution of capital from related entities for the purpose of paying the Garveys' personal expenses.

14. It is typical with the Garveys that unless a decision involves a significant amount of money or is an important and unique business decision, few details or explanations are given to Don and Larry Garvey due to the lack of time and human resources necessary to manage all of the Garveys' businesses. This is also true with this situation in that I did not understand that the

anonymous basis and these contributions are typically made from other entities to remain anonymous.

18. To emphasize, it was not my intent to improperly circumvent the prohibition on corporate contributions. Rather it was my intent to comply with the law in such a way that the involvement of and inconvenience to the Garveys would be as minimal as possible. The refund process absolutely was not an attempt to circumvent the law or conceal the corporate source of any monies.

19. I am a licensed certified public accountant. I do not own any stock in Radiofone, Inc. or any Garvey entities. Many of the financial transactions of Radiofone, Inc. and the other Garvey-owned entities are conducted in the same fashion. The accounting procedures have been used consistently, accepted by the auditors in the Company's accounting firm, and are in accordance with generally accepted accounting principles. In light of all these factors, it is very clear that I was not taking any step whatsoever that I thought would be in violation of any FEC rules. I did not financially gain by this transaction nor did I expect to benefit or enhance my employment position with the Company by structuring this transaction - I just thought I was doing my job. There was no reason for me to do anything that was a violation of the laws and I would not have done it. If I made a mistake, I made a mistake based on my own interpretation of the law.

20. I did not knowingly or willfully violate the federal election laws.

EXHIBIT.MB

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT
JAN 22 2 12 PM '96

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Envoy, Inc. Political Action Committee and Don Garvey, as treasurer	)	MUR 4161
Radiofone, Inc.	)	
Garvey Enterprises	)	SENSITIVE
Don Garvey	)	
Larry Garvey	)	
Brian Baudot	)	

GENERAL COUNSEL'S REPORT

I. **BACKGROUND**

Attached is a conciliation agreement submitted on behalf of Envoy, Inc. Political Action Committee and Don Garvey, as treasurer; Radiofone, Inc.; Garvey Enterprises; Don Garvey; Larry Garvey; and Brian Baudot ("Respondents"). Attachment 1. The attached agreement contains no changes from the agreement approved by the Commission on December 14, 1995. A check for the civil penalty has been received. Attachment 2.

II. **RECOMMENDATIONS**

1. Accept the attached conciliation agreement with Envoy, Inc. Political Action Committee and Don Garvey, as treasurer, Radiofone, Inc., Garvey Enterprises, Don Garvey, Larry Garvey, and Brian Baudot.

2. Approve the appropriate letter.

3. Close the file.

Lawrence M. Noble
General Counsel

Date 1/22/96

BY: Lois G. Lerner
Associate General Counsel

Attachments:

1. Conciliation agreement
2. Civil penalty check

Attorney assigned: Stephan O. Kline

9604372140 1

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Envoy, Inc. Political Action Committee	)	MUR 4161
and Don Garvey, as treasurer;	)	
Radiofone, Inc.;	)	
Garvey Enterprises;	)	
Don Garvey;	)	
Larry Garvey;	)	
Brian Baudot.	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on January 24, 1996, the Commission decided by a vote of 5-0 to take the following actions in MUR 4161:

1. Accept the conciliation agreement with Envoy, Inc. Political Action Committee and Don Garvey, as treasurer, Radiofone, Inc., Garvey Enterprises, Don Garvey, Larry Garvey, and Brian Baudot, as recommended in the General Counsel's Report dated January 22, 1996.

2. Approve the appropriate letter, as recommended in the General Counsel's Report dated January 22, 1996.

(continued)

3. Close the file.

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

Attest:

1-24-96
Date

Delores Hardy
for Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Mon., Jan. 22, 1996 2:12 p.m.
Circulated to the Commission: Mon., Jan. 22, 1996 4:00 p.m.
Deadline for vote: Thurs., Jan. 25, 1996 4:00 p.m.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Hugh K. Webster, Esq.
Webster, Chamberlain & Bean
1747 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

January 26, 1996

RE: MUR 4161

Dear Mr. Webster:

On January 24, 1996, the Federal Election Commission accepted the signed conciliation agreement submitted on behalf of Envoy, Inc. Political Action Committee and Don Garvey, as treasurer; Radiofone, Inc.; Garvey Enterprises; Don Garvey; Larry Garvey; and Brian Baudot in settlement of violations of 2 U.S.C. §§ 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). Accordingly, the file has been closed in this matter.

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

Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Stephan O. Kline

Stephan O. Kline
Attorney

Enclosure

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Envoy, Inc. Political Action Committee and Don Garvey, as treasurer	)	MUR 4161
Radiofone, Inc.	)	
Garvey Enterprises	)	
Don Garvey	)	
Larry Garvey	)	
Brian Baudot	)	

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that: (1) Envoy, Inc. Political Action Committee and Don Garvey, as treasurer, ("Envoy PAC" or the "PAC"), Radiofone, Inc., Don Garvey, Larry Garvey, and Brian Baudot violated 2 U.S.C. §§ 441b(a) and 441f; (2) Envoy PAC violated 11 C.F.R. § 102.5(a)(1)(ii); and (3) Garvey Enterprises knowingly and willfully violated 2 U.S.C. § 441f.

NOW, THEREFORE, the Commission and Envoy PAC, Radiofone, Inc., Don Garvey, Larry Garvey, Brian Baudot, and Garvey Enterprises (collectively, "Respondents"), having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

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

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

1. Envoy, Inc. Political Action Committee is a political committee within the meaning of 2 U.S.C. § 431(4). Don Garvey is treasurer of Envoy PAC. Larry Garvey is president of Envoy PAC.

2. Radiofone, Inc. ("Radiofone") is a corporation which has been doing business in Louisiana at least since August of 1991. Don Garvey is president of Radiofone. Larry Garvey is secretary and chairman of the board of Radiofone. Brian Baudot is controller of Radiofone.

3. Garvey Enterprises is a partnership registered in Louisiana. Larry Garvey and Don Garvey are the sole partners of Garvey Enterprises.

4. The Federal Election Campaign Act of 1971, as amended (the "Act"), prohibits corporations from making contributions or expenditures in connection with federal elections. 2 U.S.C. § 441b(a). It is also unlawful for any officer or any director of any corporation to consent to any contribution or expenditure by the corporation in connection with Federal elections. 2 U.S.C. § 441b(a). Political committees and candidates cannot knowingly accept corporate contributions. Id.

5. Pursuant to 2 U.S.C. § 441f, no person shall make a contribution in the name of another person or knowingly permit his or her name to be used to effect such a contribution, nor shall

any person knowingly accept a contribution made by one person in the name of another. Furthermore, no person may knowingly help or assist any person in making a contribution in the name of another. 2 U.S.C. § 441f.

6. Pursuant to 2 U.S.C. § 431(11), partnerships are included within the Act's definition of "person".

7. Pursuant to 11 C.F.R. § 102.5(a), a political committee conducting both federal and non-federal activities may either accept only funds subject to the Act's prohibitions and limitations or establish a separate depository account which is treated as a separate political committee. For committees opting to establish a separate depository account, all disbursements, contributions, expenditures, and transfers made by the committee in connection with any federal election shall be made from its federal account.

8. Pursuant to 11 C.F.R. § 103.3(b)(1), committee treasurers have an affirmative duty to use their best efforts to examine all contributions for evidence of illegality. When a contribution presents a genuine question as to whether it was made by a corporation or other prohibited contributor, the treasurer has ten days either to return the contribution or to deposit it in a campaign depository. 11 C.F.R. § 103.3(b)(1). If deposited and the contribution cannot be determined to be legal, the treasurer must refund it within thirty days of receipt. Id.

9. Between August 19, 1991 and October 26, 1992, Radiofone made nine contributions totaling $11,947 to Envoy PAC. Envoy PAC failed to segregate those funds in a non-Federal account. Envoy PAC subsequently used those funds and made contributions in connection with both Federal and non-Federal elections. On July 14, 1992, Envoy PAC refunded $1,100 to Radiofone.

10. On September 8, 1993, the Reports Analysis Division ("RAD") notified Envoy PAC of possible violations of the Act concerning contributions made to Envoy PAC by Radiofone. The unrefunded amount of corporate contributions totaled approximately $10,800.

11. On November 4, 1993, Envoy PAC, through Envoy Inc.'s controller Brian Baudot, inquired whether its connected organization, Envoy, Inc., could provide bonuses to employees, who in turn would contribute to the separate segregated fund. RAD informed Envoy PAC that such a transaction would constitute a prohibited contribution in the name of another and a prohibited corporate contribution.

12. By check dated November 10, 1993, Envoy PAC refunded $10,800 to Radiofone. On that date Envoy PAC's account held only $1,000. In the letter to RAD accompanying a copy of the check, Envoy PAC disclosed that corporate officers of Radiofone contributed the funds to reimburse the corporation. Those contributions, totaling $10,800, were not received by Envoy PAC until nine days after the date of the refund check, on November 19, 1993.

13. Several transactions led up to Envoy PAC's reimbursement to Radiofone. On November 17, 1993, Radiofone transferred $10,800 to Garvey Enterprises in a payment designated "PAC ACCT." On November 18, 1993, Garvey Enterprises distributed three checks: two for $5,000 each to Don Garvey and Larry Garvey (the checks' stated purposes were for "capital distribution"), and a third check in the amount of $800 to Brian Baudot (the check was designated a "loan"). The three checks were signed over to Envoy PAC and deposited into Envoy PAC's bank account on November 19, 1993. Later, on the same date, Envoy PAC's $10,800 reimbursement check was deposited and paid to Radiofone.

14. On December 9, 1993, Radiofone disbursed three checks totaling $10,800: $5,000 each to Don Garvey and Larry Garvey and $800 to Brian Baudot. These checks were endorsed and turned over to Garvey Enterprises. Garvey Enterprises then deposited these checks into the same account from which it had originally disbursed the same amount of money to the officers on November 18, 1993.

V. 1. Envoy Inc. PAC and Don Garvey, as treasurer, accepted $11,947 in corporate contributions, in violation of 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a)(1)(ii).

2. Radiofone Inc. made $11,947 in corporate contributions to Envoy, Inc. PAC, in violation of 2 U.S.C. § 441b(a).

3. Don Garvey, Larry Garvey, and Brian Baudot violated 2 U.S.C. § 441b(a) by consenting to Radiofone, Inc.'s contributions to Envoy, Inc. PAC totaling $11,947.

4. Envoy Inc. PAC and Don Garvey, as treasurer, violated 2 U.S.C. §§ 441b(a) and 441f by accepting $10,800 in corporate contributions made in the names of Don Garvey, Larry Garvey, and Brian Baudot.

5. Radiofone Inc. violated 2 U.S.C. §§ 441b(a) and 441f by making $10,800 in corporate contributions to Envoy Inc. PAC in the names of Don Garvey, Larry Garvey, and Brian Baudot.

6. Garvey Enterprises violated 2 U.S.C. § 441f by assisting in the making of $10,800 in corporate contributions by Radiofone, Inc. to Envoy Inc. PAC in the names of Don Garvey, Larry Garvey, and Brian Baudot.

7. Don Garvey, Larry Garvey, and Brian Baudot violated 2 U.S.C. §§ 441b(a) and 441f by consenting to $10,800 in corporate contributions to Envoy PAC and by permitting their names to be used to make the corporate contributions.

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of thirty thousand dollars ($30,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

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

FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

BY: _____ Date 1/26/96
Lois G. Lerner
Associate General Counsel

FOR THE RESPONDENTS:

_____ Date 1/15/96
Envoy Inc. Political Action Committee ("PAC")

_____
J. Donald Garvey, Treasurer of PAC

_____
Lawrence D. Garvey

_____
Radiofone, Inc.

_____
Brian Baudot

_____
J. Donald Garvey

_____
Wentworth Industries L.L.C., formerly Garvey Enterprises

VENDOR: 73495

OUR REF. NO.	YOUR INV. NO.	INVOICE DATE	INVOICE AMOUNT	AMOUNT PAID	DISCOUNT TAKEN	NET CHECK AMOUNT
1323	SETTLEM	01/12/96	30,000.00	30,000.00	.00	30,000.00
					CHECK TOTAL	30,000.00

CHECK NO.	CHECK DATE	VENDOR NO.
	01/16/96	73495

WHITNEY NATIONAL BANK
New Orleans, LA
14-17/650

RADIOFONE, INC.
D/B/A BEEPERS UNLIMITED
P.O. BOX 8887
METAIRIE, LA 70011-8887

THIRTY THOUSAND AND 00/100 DOLLARS

CHECK AMOUNT
$****30,000.00

PAY TO THE ORDER OF FEDERAL ELECTION COMMISSION

VOID AFTER 90 DAYS

AUTHORIZED SIGNATURE

refund process initiated by me may have been contrary to FEC rules. I assumed I had taken the necessary steps to cure the earlier mistake, and accordingly, little time was invested in this explanation to the Garveys. I briefly described the refund process to the Garvey's when I asked them to endorse their checks over to the PAC. It is obvious that the proper time and consideration was not given to this issue, and as a result, mistakes were made.

15. I did not obtain approval of the particulars of the refund process from anyone in any formal sense, including the Garveys. I initiated the refund process. As controller for Radiofone and its subsidiaries and related companies, I am authorized to issue and sign on most of the corporate bank accounts. As controller of the Company, I do have the authority to execute such transactions.

16. It should also be added that it was my belief that at the point that each of the Garveys endorsed the check, that money became their personal after-tax funds. I intentionally placed restricted, special endorsements on the back of the checks making them payable to the PAC account. It was my belief that Don and Larry individually contributed to the PAC account notwithstanding endorsements on the back of the distribution checks from Garvey Enterprises.

17. The fact that numerous businesses were utilized in the refund process including Garvey Enterprises, is not uncommon. In fact, large charitable contributions are made by Radiofone on an

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4161

DATE FILMED 2-8-96 CAMERA NO. 4

CAMERAMAN S.E.G

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