



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4263

DATE FILMED 1-24-57 CAMERA NO. 4

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DEMOCRATIC PARTY

of Wisconsin

MUR 4263

RECEIVED
FEDERAL ELECTIONS
COMMISSION
OFFICE OF GENERAL
COUNSEL
SEP 15 6 01 AM '95

September 11, 1995

The Honorable Danny L. McDonald, Chairman
The Honorable Lee Ann Elliott, Vice Chairperson
Federal Elections Commission
999 E Street, N.W.
Washington, D.C. 20463

Dear Chairman McDonald and Vice Chair Elliott:

The Federal Elections Campaign Act (FECA) explicitly requires that every candidate for Congress regularly report on their campaign finances in order for the Federal Elections Commission (FEC) to enforce the law, as well as to guarantee the public's right to know who is financing the campaigns of those who seek to represent us in Congress.

Scott West, who ran in the 7th Wisconsin Congressional District in 1994, and who, according to news reports, plans to run again next year, has failed to comply with the law by not filing his 1995 mid year report to account for any and all fundraising and spending activities for the first six months of this year.

Under Section 434(B) of FECA, the law clearly states that all principal campaign committees of a candidate for the House of Representatives or for the Senate in non-election years must file a report "covering the period beginning January 1 and ending June 30, which shall be filed no later than July 31." Today it is September 11 -- more than two months after the end of the reporting period, and Mr. West has not yet filed his report.

Because of his failure to comply with the law, the Commission is not able to determine if he is complying with the rules on who is contributing to his campaign, nor is it able to determine if his campaign expenditures are legal. More importantly, the people of Wisconsin and the 7th District are kept in the dark about what this campaign committee is doing in raising and spending money.

If this was an isolated incident, it would not be an egregious error. But his failure reflects a consistent and flagrant disregard for the spirit and letter of the law. Following are a few examples:

On September 2, 1994 - 10 days before the Wisconsin primary - the FEC sent a telegram to the West for Congress campaign stating that the campaign "may have failed to file the pre-primary report of receipts and expenditures as required by the Federal Election Campaign Act, as

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amended. You were previously notified of the due date for this report."

In a memorandum dated February 4, 1995, regarding 'Year End Report' which was due the previous month, Mr. West stated that "I am sitting here in horror looking at my year-end report sitting on my desk. This document was to be mailed on Tuesday, January 31st. This delay is a result of my miscommunication with my staff. They thought I was mailing it, I thought they were mailing it. I'll send the Year-End Report on Monday, February 6, 1995 using UPS Next Day Air. The document should arrive on February 7, 1995 before 10:00 a.m."

The report was not received until February 16, sent via regular certified mail.

In a memorandum dated June 6, 1995, regarding 'Report Update/Correction and Your Help', Mr. West state "My campaign staff is currently dis-assembled and has not met for quite some time. I am assembling the staff to begin the process of running again. The first item of business is to review your communiques, review our records, check, double check and triple check to make sure we are in compliance with all FEC policies and regulations. I will personally make sure that my committee has responded completely too (sic) all FEC inquiries before July 1, 1995." Nevertheless, his next report due on July 31 has not yet been received.

Of especial concern is the fact that according to the last 'West for Congress' report which was filed after the due date in February, 1995, Mr. West's campaign committee was more than \$24,000 in debt. That included \$9,300 still owed in rent to Heritage Investments in Stevens Point, more than \$7000 to two fundraising firms, \$1,423 in salary to David Welch of Milwaukee, more than \$600 to the Wisconsin Veterans of Foreign Wars, and even more than \$1,000 to the Washington, D.C. political consulting firm of Frank Luntz. According to that report, there was only one contribution for \$350, and one disbursement of \$477 to a Robin West for 'travel reimbursement'.

Section 2 U.S.C.434 (b)(8) states that reports must include "the amount and nature of outstanding debts and obligations owed by or to such political committee; and where such debts and obligations are settled for less than their reported amount or value, a statement as to the circumstances and conditions under which such debts or obligations were extinguished and the consideration therefor." The people of Wisconsin deserve to know if any of these debts were reduced or forgiven, or whether Mr. West has begun to pay them off.

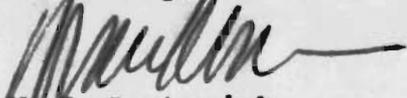
Also, Mr. West continues to blame 'staff' for these failures to comply with the law. To paraphrase President Truman, when it comes to matters like this, the 'buck' stops -- or should stop -- with

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the candidate who is seeking to oversee and write our Nation's laws.

These examples reflect a continued pattern of disregard for the law, and as such clearly represent a 'knowing and willful' violation under 2 U.S.C. Sec.437g of FECA. As a resident of Wisconsin, and a concerned voter, I request that the Commission immediately investigate and take action in this matter.

Sincerely,



Mark Sostarich
Chairman

Subscribed and sworn to
before me this 11th day of September, 1995.


Notary Public, State of Wisconsin
My Commission expires 3/24/96.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 22, 1995

Mark Sostarich, Chairman
Democratic Party of Wisconsin
222 State Street
Madison, WI 53703-2273

RE: MUR 4263

Dear Mr. Sostarich:

This letter acknowledges receipt on September 18, 1995, of the complaint that you filed on behalf of the Democratic Party of Wisconsin alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). The respondent(s) will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 4263. Please refer to this number in all future communications. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosure
Procedures

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 22, 1995

Steve Debot, Treasurer
West for Congress
1400 Strongs Avenue
Stevens Point, WI 54481

RE: MUR 4263

Dear Mr. Debot:

The Federal Election Commission received a complaint which indicates that West for Congress ("Committee") and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4263. Please refer to this number in all future correspondence.

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

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

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

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If you have any questions, please contact me at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

cc: Scott West

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WEST FOR CONGRESS
STEVE DEBOT - TREASURER
P.O. BOX 1000
STEVENS POINT, WI 54481

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

Oct 30 11 03 AM '95

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

RE: MUR 4263
Our File: 13022C

Dear Sir/Madam:

I have received the letter of Mary L. Taksar, Attorney for the Central Enforcement Docket, dated September 22, 1995 regarding the above matter under review. This letter is my response to the complaint of September 11, 1995 filed by Chairman Mark Sostarich of the Democratic Party of Wisconsin. This response is being given by me under oath as indicated at the foot of this letter. Also attached to this letter and incorporated with this letter is the Affidavit of Scott West.

I have reviewed the attached Affidavit of Scott West. It is factually correct. All required reports have been filed (including requested amendments current through September 13, 1995) and, but for the inadvertent delay in filing, there has been no violation of the FECA. The delays in filing were not knowing or willful but arose either because of misunderstandings between staff (including Mr. West) or out of ignorance of a particular filing provision.

I do not suggest that ignorance of the law in any way excuses the tardiness of "West for Congress" in filing the reports. However, the fact that all reports have been filed and contain all of the necessary information required should indicate to the commission that the filing delays arose out of neglect, not out of any willful and knowing action by "West for Congress".

Thank you for your attention to this matter. I appreciate the fact that the matter will be kept confidential.

Sincerely,


STEVE DEBOT, Treasurer
WEST FOR CONGRESS

Subscribed and sworn to
before me this 25 day of October, 1995.



Notary Public, State of Wisconsin
My Commission expires 6-13-99

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4. I do not disagree with the factual allegations that the three reports described above were filed late. They were. I do disagree with the complaint's characterization that the three late filings above are "a few examples." In fact, they are the only instances of late report filing by "West for Congress."

5. The pre-primary report referred to in the Complaint was due on September 1, 1994 and was actually filed on September 7, 1994, within one week. The failure to file this report on time occurred because of a computer software problem and the inability to generate the necessary lists to submit with the report. Once the problem was rectified, the report was submitted.

6. Upon conclusion of the 1994 campaign my volunteer staff quickly disbanded to seek regular employment. The job of complying with the FECA reporting requirements became largely mine. The understanding which I had with my treasurer, Steve Debot, was that all of the filing information would be assembled and then presented to him for final review and signature as treasurer of "West for Congress." In January of 1995 my travel requirements caused me to be absent from Stevens Point at the end of the month. The information for the January 31 report was assembled and available prior to January 31, 1995. I believed that the materials for the report had already been submitted to treasurer Steve Debot. My sister, Robin West, who served as a volunteer in my campaign, oftentimes handled the delivery of materials to Steve Debot. She was under the impression that I had delivered the materials to Mr. Debot. I was under the impression that she had delivered the materials. Upon my return to Stevens Point in early February I discovered that the report materials were still in my office. This resulted in the memo of

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February 4, 1995 referred to in the Complaint. I also spoke with Robin Kelly at the FEC subsequent to the memorandum. I was told that while the FEC was not in a position to grant filing extensions that I should just file the materials as quickly as possible. I inquired about filing using an overnight courier but was advised to file the report via regular mail which I did.

7. While I am not presently a declared candidate, it is true that I have an interest in running for the 7th Wisconsin Congressional District seat in the House of Representatives again. Because of this interest I contacted the FEC on September 13, 1995 and again spoke with Robin Kelly about the necessary filing requirements. She was able to locate my file and, in checking through it, advised me that I was responsible for a July 31 report. I had not been aware of this reporting requirement although I now understand it comes about because of the fact that I had a debt remaining after the campaign. I was again told that the FEC cannot grant extensions to the filing deadlines but that I should get the report submitted "as soon as possible." Preparation of this report again had to be done while I was dealing with matters of my employment and without the benefit of any campaign staff. While the complaint refers to a memorandum dated June 6, 1995, I did not speak with Robin Kelly or become aware of the July 31 filing requirement until September 13, 1995. I put the report together (including requested amendments) and saw to its filing on my return from a business trip on October 11, 1995.

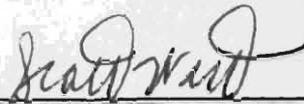
8. The three reports mentioned in the complaint of September 11, 1995 have all been filed. One was filed about two months late. The other two were filed within one to three weeks of the filing

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deadline. The reports are complete.

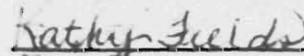
9. The actions of "West for Congress" and most certainly treasurer Steve Debot do not reflect a consistent or flagrant disregard for the spirit or letter of the law nor do the short filing delays exhibit any "knowing and willful" violation under 2 U.S.C. Sec. 437g of the FECA.

Dated: October 18, 1995



SCOTT WEST

Subscribed and sworn to
before me this 18th day of October, 1995.



Notary Public, State of Wisconsin
My Commission expires 12/3/96.

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

RECEIVED
FEDERAL ELECTION COMMISSION
CUT IS 11-11-95

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

MUR 4263
DATE COMPLAINT FILED: September 18, 1995
DATE OF NOTIFICATION: September 22, 1995
DATE ACTIVATED: June 13, 1996
STAFF MEMBER: Eugene H. Bull

COMPLAINANT: Mark Sostarich, Chairman
Democratic Party of Wisconsin

RESPONDENTS: West for Congress
and John A. Mills, as treasurer

RELEVANT STATUTE: 2 U.S.C. § 434(a)(2)(A) and (B)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

This matter was initiated by a complaint received from Mark Sostarich, Chairman of the Democratic Party of Wisconsin ("Complainant") against West for Congress and John A. Mills, as treasurer ("Respondents"). Complainant alleges that Scott West "failed to comply with the law by not filing his 1995 mid year report to account for any and all fundraising and spending activities for the first six months of [1995]." Complainant further alleges that West's failure to file the 1995 Mid-Year Report is not an isolated event, but rather reflects a "consistent and flagrant disregard for the spirit and letter of the law," and "as such clearly represent[s] a knowing and willful violation under 2 U.S.C. Sec.437g of FECA." In support of the foregoing, Complainant references the late filing of Respondents' 1994 12 Day Pre-Primary Report, the 1994 Year End Report, and the

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1995 Mid-Year Report. Complainant points out that the 1995 Mid-Year Report showed Respondents were "more than \$24,000 in debt." Complainant asserts that "the people of Wisconsin deserve to know if any of these debts were reduced or forgiven, or whether Mr. West has begun to pay them off."

In their response, Respondents contend that "the delays in filing were not knowing and willful but arose either because of misunderstandings between staff (including Mr. West) or out of ignorance of a particular filing provision." Respondents argue that this contention is supported by "the fact that all reports have been filed and contain all of the necessary information . . ." Additionally, while Mr. West admits in an affidavit submitted with the response that the three reports mentioned in the complaint were late, he asserts that those reports were the only ones filed late by Respondents.

The Reports Analysis Division ("RAD") did not refer Respondents to the Office of General Counsel for failure to timely file their 1994 12 Day Pre-Primary Report, 1994 Year End Report, and 1995 Mid-Year Report

Moreover, the Commission's interest in pursuing these

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violations remains undiminished because the candidate, Scott West, is currently seeking federal office.

II. FACTUAL AND LEGAL ANALYSIS

Accordingly, based on the Factual and Legal Analysis (*see Attachment 1*), this Office recommends that the Commission find reason to believe the Respondents violated 2 U.S.C. § 434(a)(2)(A)(i), (ii), and (iii), and 2 U.S.C. § 434(a)(2)(B)(i) and (ii).

III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

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IV. RECOMMENDATIONS

- 1. Find reason to believe that West for Congress and John Mills, as treasurer, violated 2 U.S.C. § 434(a)(2)(A)(i), (ii) and (iii), and 2 U.S.C. § 434(a)(2)(B)(i) and (ii), and enter into conciliation prior to a finding of probable cause to believe.
- 2. Approve the attached Factual and Legal Analysis, conciliation agreement, and the appropriate letter.

Lawrence M. Noble
General Counsel

10-11-96

Date

BY:



Lois G. Lerner
Associate General Counsel

Attachments:

- 1. Proposed Factual and Legal Analysis
- 2. Proposed Conciliation Agreement

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FEDERAL ELECTION COMMISSION

Washington, DC 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/LISA DAVIS 
COMMISSION SECRETARY

DATE: OCTOBER 17, 1996

SUBJECT: MUR 4263 - First General Counsel's Report
dated October 11, 1996.

The above-captioned document was circulated to the Commission on Tuesday, October 15, 1996.

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

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

This matter will be placed on the meeting agenda for

Tuesday, October 22, 1996.

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)
) MUR 4263
West for Congress)
and John A. Mills, as treasurer)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on October 22, 1996, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MUR 4263:

1. Find reason to believe that West for Congress and Dennis A. Schmit, as treasurer, violated 2 U.S.C. § 434(a) (2)(A)(i), (ii) and (iii), and 2 U.S.C. § 434(a)(2)(B)(i) and (ii), and enter into conciliation prior to a finding of probable cause to believe.
2. Approve the Factual and Legal Analysis, conciliation agreement and the appropriate letter as recommended in the General Counsel's October 11, 1996 report, subject to amendment by substituting the name of Dennis A. Schmit, as treasurer, for that of John Mills, wherever appropriate.

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

Attest:

97043773509
10-23-96
Date

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



FEDERAL ELECTION COMMISSION

Washington, DC 20463

November 4, 1996

Dennis A. Schmit, Treasurer
West for Congress
3403 Main Street
Stevens Point, WI 54481

RE: MUR 4263
West for Congress, and
Dennis A. Schmit, as treasurer

Dear Mr. Schmit:

On October 22, 1996, the Federal Election Commission found that there is reason to believe that West for Congress and you, as treasurer, violated 2 U.S.C. § 434(a)(2)(A)(i), (ii), and (iii), and 2 U.S.C. § 434(a)(2)(B)(i) and (ii), 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. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

In order to expedite the resolution of this matter, the Commission has also decided to offer to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Enclosed is a conciliation agreement that the Commission has approved.

If you are interested in expediting the resolution of this matter by pursuing pre-probable cause conciliation and if you agree with the provisions of the enclosed agreement, please sign and return the agreement, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

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Dennis A. Schmit, Treasurer
Page 2

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.

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

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Eugene Bull, the staff member assigned to this matter, at (202) 219-3690.

Sincerely,



Lee Ann Elliott
Chairman

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

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: West for Congress MUR 4263
and John A. Mills, as treasurer

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This matter was initiated by a complaint received from Mark Sostarich, Chairman of the Democratic Party of Wisconsin ("Complainant") against West for Congress and John A. Mills, as treasurer ("Respondents"). Complainant alleges that Scott West "failed to comply with the law by not filing his 1995 mid year report to account for any and all fundraising and spending activities for the first six months of [1995]." Complainant further alleges that West's failure to file the 1995 Mid-Year Report is not an isolated event, but rather reflects a "consistent and flagrant disregard for the spirit and letter of the law," and "as such clearly represent[s] a knowing and willful violation under 2 U.S.C. Sec.437g of FECA." In support of the foregoing, Complainant references the late filing of Respondents' 1994 12 Day Pre-Primary Report, the 1994 Year End Report, and the 1995 Mid-Year Report. Complainant points out that the 1995 Mid-Year Report showed Respondents were "more than \$24,000 in debt." Complainant asserts that "the people of Wisconsin deserve to know if any of these debts were reduced or forgiven, or whether Mr. West has begun to pay them off."

In their response, Respondents contend that "the delays in filing were not knowing and willful but arose either because of misunderstandings between staff (including Mr. West) or out of ignorance of a particular filing provision." Respondents

argue that this contention is supported by "the fact that all reports have been filed and contain all of the necessary information . . ." Additionally, while Mr. West admits in an affidavit submitted with the response that the three reports mentioned in the complaint were late, he asserts that those reports were the only ones filed late by Respondents.

A. APPLICABLE LAW AND ANALYSIS

The Federal Election Campaign Act of 1971, as amended, (the "Act") requires treasurers of the principal campaign committee of a candidate for the House of Representatives or the Senate, to file periodic reports of receipts and disbursements. 2 U.S.C. § 434(a)(2). In any calendar year in which there is a regularly scheduled election for which such candidate is seeking election or nomination for election, the principal campaign committee of a candidate shall file quarterly reports no later than the 15th day after the last day of each quarter. 2 U.S.C. § 434(a)(2)(A)(iii). Such a committee shall also file a pre-election report, which shall be filed no later than the 12th day before (or posted by registered or certified mail no later than the 15th day before) any election in which such candidate is seeking election, or nomination for election, and which shall be complete as of the 20th day before such election. 2 U.S.C. § 434(a)(2)(A)(i). Such committee shall also file a post-general election report, which shall be filed no later than the 30th day after the general election and which shall be complete as of the 20th day after such general election. 2 U.S.C. § 434(a)(2)(A)(ii).

In any calendar year other than those in which a regularly scheduled general election is held, the principal campaign committee shall file a report no later than July 31 covering the period beginning January 1 and ending June 30. 2 U.S.C. § 434(a)(2)(B)(i).

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In addition, such committee shall also file a report covering the period beginning July 1 and ending December 31, to be filed no later than January 31 of the following year.

2 U.S.C. § 434(a)(2)(B)(ii).

West for Congress is the principal campaign committee of congressional candidate, Scott West. John A. Mills is the treasurer of West for Congress. Between June 1994 and August 1996, Respondents failed to timely file a total of seven reports.

Pursuant to 2 U.S.C. § 434(a)(2)(A)(iii), the due date for the Committee's 1994 July Quarterly Report was July 15, 1994. On July 19, 1994, the Committee filed the 1994 July Quarterly Report, 4 days late, disclosing receipts totaling \$16,020 and disbursements totaling \$12,914. Pursuant to 2 U.S.C. § 434(a)(2)(A)(i), the due date for the Committee's 1994 12 Day Pre-Primary Report was September 1, 1994. On September 6, 1994, the Committee filed the 1994 12 Day Pre-Primary Report, 5 days late, disclosing receipts totaling \$21,991 and disbursements totaling \$25,525. Pursuant to 2 U.S.C. § 434(a)(2)(A)(ii), the due date for the Committee's 1994 30 Day Post-General Report was December 8, 1994. On December 9, 1994, the Committee filed the 1994 30 Day Post-General Report, 1 day late, disclosing receipts totaling \$25,044 and disbursements totaling \$25,454. Pursuant to 2 U.S.C. § 434(a)(2)(A)(iii), the due date for the Committee's 1994 Year End Report was January 31, 1995. On February 16, 1995, the Committee filed the 1994 Year End Report, 16 days late, disclosing receipts totaling \$350 and disbursements totaling \$477.

Pursuant to 2 U.S.C. § 434(a)(2)(B)(i), the due date for the Committee's 1995 Mid-Year Report was July 31, 1995. On October 12, 1995, the Committee filed the

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1995 Mid-Year Report, 73 days late, disclosing receipts totaling \$605 and disbursements totaling \$622. Pursuant to 2 U.S.C. § 434(a)(2)(B)(ii), the due date for the Committee's 1995 Year End Report was January 31, 1996. On February 5, 1996, the Committee filed the 1995 Year End Report, 5 days late, disclosing receipts totaling \$1,150 and disbursements totaling \$1,108. Pursuant to 2 U.S.C. § 434(a)(2)(A)(iii), the due date for the Committee's 1996 July Quarterly Report was July 15, 1996. On July 18, 1996, the Committee filed the 1996 July Quarterly Report, 3 days late, disclosing receipts totaling \$8,507 and disbursements totaling \$9,595.

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Although Complainant alleges that Respondents' failure to timely file the reports set out in the complaint was knowing and willful, no evidence has been presented to refute Respondents' claim that the delay in filing the reports was due to misunderstandings between staff or ignorance of the Act. Moreover, five of the reports were between just one and five days late and the remaining two were 16 and 73 days late. Hence, this Office makes no knowing and willful recommendation. However, based on the foregoing, there is reason to believe that West for Congress and John A. Mills, as treasurer, violated 2 U.S.C. § 434(a)(2)(A)(i), (ii), and (iii), and 2 U.S.C. § 434(a)(2)(B)(i) and (ii).



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 20, 1996

Nov 20 2 21 PM '96

FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

TWO WAY MEMORANDUM

TO: OGC Docket
FROM: Rosa E. Swinton Accounting Technician Leslie D. Brown Disbursing Technician
SUBJECT: Account Determination for Funds Received

We recently received a check from **West for Congress**, check number **1577**, dated **November 12, 1996**, for the amount of **\$3,500.00**. A copy of the check and any correspondence is being forwarded. Please indicate below which account the funds should be deposited and give the MUR/Case number and name associated with the deposit.

TO: Rosa E. Swinton Accounting Technician Leslie D. Brown Disbursing Technician
FROM: OGC Docket **By OA**
SUBJECT: Disposition of Funds Received

In reference to the above check in the amount of **\$3500.00**, the MUR/Case number is **4263** and in the name of **West for Congress**. Place this deposit in the account indicated below:

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

Anita Alexander
Signature

11-20-96
Date

9764373516

WEST FOR CONGRESS
1400 STRONGS AVE.
STEVENS POINT, WI 54481

1577

11/12 1996

79-136/720

PAY TO THE
ORDER OF

Federal Election Commission

\$ 3,500.00

three thousand five hundred

DOLLARS

BANK ONE.

Bank One, Stevens Point, WI
Stevens Point, Wisconsin 54481

TWO SIGNATURES REQUIRED

[Signature]

MEMO

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FEDERAL ELECTION
COMMISSION
SECRETARIAT

BEFORE THE FEDERAL ELECTION COMMISSION

Dec 19 2 27 PM '96

In the Matter of)
)
West for Congress and Dennis A. Schmit,)
as treasurer)

MUR 4263

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

Attached is a conciliation agreement which has been signed by Dennis A. Schmit, the treasurer of West for Congress Committee. Attachment 1. The attached agreement contains no changes from the agreement approved by the Commission on October 22, 1996. A check for the civil penalty has been received. Attachment 2. This Office recommends that the Commission accept the attached conciliation agreement and close the file.

II. RECOMMENDATIONS

1. Accept the attached conciliation agreement with West for Congress and Dennis A. Schmit, as treasurer, and close the file.
2. Approve the appropriate letter.

Lawrence M. Noble
General Counsel

12/19/96
Date

BY: 
Lois G. Lerner
Associate General Counsel

Attachments

1. Signed Conciliation Agreement
2. Photocopy of civil penalty check

Staff Assigned: Eugene H. Bull

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
West for Congress and Dennis A.) MUR 4263
Schmit, as treasurer.)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on December 24, 1996, the Commission decided by a vote of 4-0 to take the following actions in MUR 4263:

1. Accept the conciliation agreement with West for Congress and Dennis A. Schmit, as treasurer, and close the file, as recommended in the General Counsel's Report dated December 19, 1996.
2. Approve the appropriate letter, as recommended in the General Counsel's Report dated December 19, 1996.

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

Attest:

12-26/96
Date

for Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat:	Thurs., Dec. 19, 1996	2:27 p.m.
Circulated to the Commission:	Thurs., Dec. 19, 1996	4:00 p.m.
Deadline for vote:	Tues., Dec. 24, 1996	4:00 p.m.

bjr

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

January 16, 1997

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mark Sostarich, Chairman
Democratic Party of Wisconsin
222 State Street
Madison, WI 53703-2273

RE: MUR 4263

Dear Mr. Sostarich:

This is in reference to the complaint you filed with the Federal Election Commission on September 18, 1995, on behalf of the Democratic Party of Wisconsin concerning the West for Congress Committee.

The Commission found that there was reason to believe West for Congress and Dennis A. Schmit, as treasurer, violated 2 U.S.C. § 434(a)(2)(A)(i), (ii) and (iii), and 2 U.S.C. § 434(a)(2)(B)(i) and (ii), provisions of the Federal Election Campaign Act of 1971, as amended. On December 24, 1996, a conciliation agreement signed by the respondents was accepted by the Commission. Accordingly, the Commission closed the file in this matter on that same date. A copy of this agreement is enclosed for your information.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Eugene H. Bull
Attorney

Enclosure
Conciliation Agreement

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

January 16, 1997

Dennis A. Schmit, Treasurer
West for Congress
3403 Main Street
Stevens Point, WI 54481

RE: MUR 4263

Dear Mr. Schmit:

On December 24, 1996, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on your behalf in settlement of a violation of 2 U.S.C. § 434(a)(2)(A)(i), (ii) and (iii) and 2 U.S.C. § 434(a)(2)(B)(i) and (ii), provisions of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter.

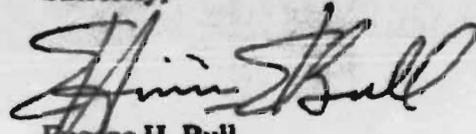
The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any 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.

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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,



Eugene H. Bull
Attorney

Enclosure
Conciliation Agreement

cc: Scott West

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 4263
West for Congress and)
Dennis A. Schmit, as treasurer)

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
Dec 12 3 11 PM '96

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by Mark Sostarich, Chairman of the Democratic Party of Wisconsin. The Federal Election Commission ("Commission") found reason to believe that West for Congress and Dennis A. Schmit, as treasurer, ("Respondents") violated 2 U.S.C. § 434(a)(2)(A)(i), (ii), and (iii), and 2 U.S.C. § 434(a)(2)(B)(i) and (ii).

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

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

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

1. West for Congress is a principal campaign committee within the meaning of 2 U.S.C. § 431(5).

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2. **Dennis A. Schmit is the treasurer of West for Congress.**

3. **In any calendar year in which there is a regularly scheduled election for which a candidate is seeking election or nomination for election, the principal campaign committee of such candidate shall file quarterly reports no later than the 15th day after the last day of each quarter. 2 U.S.C. § 434(a)(2)(A)(iii). The principal campaign committee shall file a pre-election report, which shall be filed no later than the 12th day before (or posted by registered or certified mail no later than the 15th day before) any election in which such candidate is seeking election, or nomination for election, and which shall be complete as of the 20th day before such election. 2 U.S.C. § 434(a)(2)(A)(i). The principal campaign committee shall also file a post-general election report, which shall be filed no later than the 30th day after the general election and which shall be complete as of the 20th day after such general election. 2 U.S.C. § 434(a)(2)(A)(ii). In any calendar year other than those in which a regularly scheduled general election is held, the principal campaign committee shall file a report no later than July 31 covering the period beginning January 1 and ending June 30. 2 U.S.C. § 434(a)(2)(B)(i). In addition, the principal campaign committee shall also file a report covering the period beginning July 1 and ending December 31, to be filed no later than January 31 of the following year. 2 U.S.C. § 434(a)(2)(B)(ii).**

4. **Pursuant to 2 U.S.C. § 434(a)(2)(A)(iii), the due date for the Committee's 1994 July Quarterly Report was July 15, 1994. On July 19, 1994, the Committee filed the 1994 July Quarterly Report, 4 days late, disclosing receipts totaling \$16,020 and disbursements totaling \$12,914.**

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5. Pursuant to 2 U.S.C. § 434(a)(2)(A)(i), the due date for the Committee's 1994 12 Day Pre-Primary Report was September 1, 1994. On September 6, 1994, the Committee filed the 1994 12 Day Pre-Primary Report, 5 days late, disclosing receipts totaling \$21,991 and disbursements totaling \$25,625.

6. Pursuant to 2 U.S.C. § 434(a)(2)(A)(ii), the due date for the Committee's 1994 30 Day Post-General Report was December 8, 1994. On December 9, 1994, the Committee filed the 1994 30 Day Post-General Report, 1 day late, disclosing receipts totaling \$25,044 and disbursements totaling \$25,454.

7. Pursuant to 2 U.S.C. § 434(a)(2)(A)(iii), the due date for the Committee's 1994 Year End Report was January 31, 1995. On February 16, 1995, the Committee filed the 1994 Year End Report, 16 days late, disclosing receipts totaling \$350 and disbursements totaling \$477.

8. Pursuant to 2 U.S.C. § 434(a)(2)(B)(i), the due date for the Committee's 1995 Mid-Year Report was July 31, 1995. On October 12, 1995, the Committee filed the 1995 Mid-Year Report, 73 days late, disclosing receipts totaling \$605 and disbursements totaling \$622.

9. Pursuant to 2 U.S.C. § 434(a)(2)(B)(ii), the due date for the Committee's 1995 Year End Report was January 31, 1996. On February 5, 1996, the Committee filed the 1995 Year End Report, 5 days late, disclosing receipts totaling \$1,150 and disbursements totaling \$1,108.

10. Pursuant to 2 U.S.C. § 434(a)(2)(A)(iii), the due date for the Committee's 1996 July Quarterly Report was July 15, 1996. On July 18, 1996, the Committee filed the

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1996 July Quarterly Report, 3 days late, disclosing receipts totaling \$8,507 and disbursements totaling \$9,595.

V. Respondents failed to timely file their 1994 July Quarterly Report and Year End Report in violation of 2 U.S.C. § 434(a)(2)(A)(iii); their 1994 12 Day Pre-Primary Report in violation of 2 U.S.C. § 434(a)(2)(A)(i); their 1994 30 Day Post-General Report in violation of 2 U.S.C. § 434(a)(2)(A)(ii); their 1995 Mid-Year Report in violation of 2 U.S.C. § 434(a)(2)(B)(i); their 1995 Year End Report in violation of 2 U.S.C. § 434(a)(2)(B)(ii); and their 1996 July Quarterly Report in violation of 2 U.S.C. § 434(a)(2)(A)(iii).

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of three thousand five hundred dollars (\$3,500) 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 requirement 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

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oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

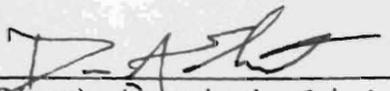
FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

BY: 
Lois G. Lerner
Associate General Counsel

1/15/97
Date

FOR THE RESPONDENTS:


(Name) Dennis A. Schmit
(Position) Treasurer

12-10-96
Date

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4263

DATE FILMED 1-27-97 CAMERA NO. 4

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