FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4264

DATE FILMED 5-14-96 CAMERA NO. 4

CAMERAMAN JMH

9604334114

OFFICE OF GENERAL COUNSEL

Sep 27 1 37 PM '95

COMPLAINT BEFORE THE
FEDERAL ELECTION COMMISSION

DEMOCRATIC SENATORIAL CAMPAIGN COMMITTEE, Plaintiff, v. THE MAINE REPUBLICAN PARTY and SENATOR BILL COHEN, Defendants.	MUR 4264

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INTRODUCTION

The Maine Republican Party has embarked on an ambitious and flagrantly illegal program of raising "soft money" for the re-election candidacy of Senator Bill Cohen. A reception is scheduled for this Saturday, September 23, at Ogunquit, Maine, featuring President George Bush as a "special guest" -- and representatives of many state corporations bearing company checks for the Cohen re-election effort.

This complaint requests an investigation by the FEC of this violation of section 441b of the Act, which prohibits "soft money" corporate spending in support of federal candidates, including Senator Cohen.

FACTS

Few illegal "soft money" events have been advertised more openly, or conducted in more clear cut violation of the law, than the one scheduled by The Maine Republican Party for this weekend in Maine. Solicitations have been accompanied by a letter from the Party Finance Chair, Forrester Smith, who acknowledges an attempt to circumvent federal law. He states:

> As you know, corporations can't give to Bill Cohen directly so I hope you'll urge them to come via The Maine Republican Party.

Mr. Smith urges "your company and all your clients" (his emphasis) to attend the fundraiser, which he describes as "special and exciting." (Exhibit "A).

The written solicitation (Exhibit "B") includes a response card which emphasizes the strong business presence and corporate money wanted and expected at the event. Contributors are specifically asked to "make your business check payable" to The Maine Republican Party. Recipients of the solicitation are all "corporate representatives" and invited in that capacity: each is asked to state whether he or she will "represent our campaign at Senator Cohen's reception" or will be sending other "representatives from our company."

THE VIOLATION

Federal candidates in Maine, like all federal candidates, are required to comply with the prohibition on corporate spending in federal elections. Likewise, political parties must comply with this prohibition.

Section 441b states:

> It is unlawful for any national bank or corporation whatever, or to make a contribution or expenditure in connection with any election at which presidential and vice presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to, Congress are to be voted for . . . or for any candidate, political committee, or other person knowingly to accept or receive any contribution prohibited by this section, or any officer or any director of any corporation or any national bank or any officer of any labor organization to consent to any contribution or expenditure by the corporation, national bank, or labor organization, as the case may be prohibited by this section.

In recent years, the Federal Election Commission has promulgated specific rules under court order to assure that parties do not misuse "soft money" illicitly to aid their federal candidates. 11 C.F.R. § 106.5. The law clearly requires that any activity, like the one conducted this weekend in Maine, that is intended to assist a federal candidate be paid with only those funds

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permitted under federal law -- individual contributions or contributions from registered political action committees, all made within limits and reported. All corporate contributions made directly or indirectly are strictly prohibited. The Maine Republican Party has completely disregarded this requirement.[1]

PENALTIES

Federal law imposes aggravated penalties for "knowing and willful" violations of the Act. 2 U.S.C. §§ 437g(a)(5)(B), (C); § 437g(d). Here Mr. Smith specifically admits an intent to accomplish by indirect means what the law directly prohibits. ("As you know, corporations can't give to Bill Cohen directly so I hope you'll urge them to come via The Maine Republican Party. The law states that:

> For purposes of [the corporate spending prohibition], the term "contribution or expenditure" shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section . . . .

See also § 114.1(a)(1).

CONCLUSION

Because of the serious nature of these violations, the Commission should act immediately to institute an investigation and complete it promptly to assure that any illegal monies raised from corporations this weekend in Maine for Senator Cohen are not spent in his campaign.

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[1]Should the Maine Party have wished to engage in "joint fundraising" activity with Senator Cohen, it could have done so but did not. It has not complied with the specific requirements of the Commission's joint fundraising regulations. 11 C.F.R. § 102.17.

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Respectfully submitted,

Donald Foley
Executive Director
Democratic Senatorial Campaign Committee
430 South Capitol Street, N.W.
Washington, DC 20003
(202) 224-2447

Subscribed and sworn to before me this 26 day of September, 1995.

Notary Public

My commission expires May 31, 1999

Holly L. Schupp
Notary Public, District of Columbia
My Commission Expires May 31, 1999

The Maine Republican Party

Enclosed is an invitation to a very special and exciting George Bush - Bill Cohen event. I hope your company and all your clients will come to this fundraiser. As you know, corporations can't give to Bill Cohen directly so I hope you'll urge them to come via the Maine Republican Party.

I have sent all your clients invitations so please bring them and yourselves.

Forrester Smith

• Post Office Box O • Augusta, Maine 04332
207-622-6247 • fax 207-623-5322

Paid for and authorized by the Maine Republican Party, P. James Nicholson, Treasurer. Contributions to this organization are not deductible as charitable contributions for Federal Income Tax purposes.

State Finance Chair

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The Maine Republican Party

cordially invites you to

a reception

honoring

Senator William Cohen

with special guest

President George Bush

Saturday, September 23, 1995
7:00 p.m. to 8:30 p.m.

The Cliff House
Bald Head Cliff, Shore Road, Ogunquit

Corporate Contribution
$100 per Person

RSVP with enclosed card
or call 207-622-6247

Senator William Cohen with President George Bush

☐ I will represent our company at Senator Cohen's reception with President Bush.

Also attending: _____

_____ _____

_____ _____

☐ I cannot attend but am sending representatives from our company.

_____ _____

_____ _____

Enclosed is our business check in the amount of _____ for _____ tickets at $100 per person.

☐ I cannot attend and cannot send representatives but here is our corporate contribution of $ _____.

Please make your company business check payable to
The Maine Republican Party

2 6 0 4 3 / 3 4 1 7 0

President George Bush

cordially invites you to a reception honoring

Senator Bill Cohen

Saturday, September 23, 1995

The Cliff House
Ogunquit, Maine

VIP Reception 6:00 pm
$1,000 per person

General Reception 7:00 pm
$100 per person

Reception with President Bush
September 23, 1995

( ) **Yes, I will attend private VIP reception and photo opportunity with President Bush and Senator Cohen. Enclosed is my contribution for $1,000 per person.** ***(Limited space available.)***

Attending will be _____

( ) **Yes, I will attend the general reception with President Bush and Senator Cohen. Enclosed is my contribution of $_____ for _____ reservations ($100 per person).**

Attending will be _____

_____

( ) **No, I am unable to attend, but I want to help Senator Bill Cohen's re-election campaign. Enclosed is $_____.**

Please make check payable to: Cohen for Senator

For more information please call (207)761-9696

Name _____

Address _____

City, State, Zip _____

Home Phone _____ ***Work Phone*** _____

Federal law requires that Cohen for Senate report the full name, address, occupation and name of employer for each individual whose contributions aggregate in excess of $200 in a calendar year. Please complete the following:

Employer _____

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 29, 1995

Donald Foley, Executive Director
Democratic Senatorial Campaign Committee
430 South Capitol St., SE
Washington, DC 20003

RE: MUR 4264

Dear Mr. Foley:

This letter acknowledges receipt on September 20, 1995, of the complaint you filed on behalf of the Democratic Senatorial Campaign Committee alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). The respondent(s) will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 4264. 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

9604373412 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 29, 1995

P. James Nicholson, Treasurer
The Maine Republican Party
76 Silver St.,
Waterville, ME 04901

RE: MUR 4264

Dear Mr. Nicholson:

The Federal Election Commission received a complaint which indicates that the Maine Republican Party("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 4264. 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

If you have any questions, please contact Alva E. Smith 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

9604373412 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 29, 1995

Forrester Smith
c/o The Maine Republican Party
76 Silver St.,
Waterville, ME 04901

RE: MUR 4264

Dear Mr. Smith:

The Federal Election Commission received a complaint which indicates that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4264. Please refer to this number in all future correspondence.

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

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

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

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

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 29, 1995

Merton G. Henry, Treasurer
Cohen for Senator
P.O. Box 1379
Portland, ME 04104

RE: MUR 4264

Dear Mr. Henry:

The Federal Election Commission received a complaint which indicates that Cohen for Senator ("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 4264. Please refer to this number in all future correspondence.

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

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

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

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 29, 1995

The Honorable Bill Cohen
322 Hart Senate Office Building
Washington, DC 20510

RE: MUR 4264

Dear Senator Cohen:

The Federal Election Commission received a complaint which indicates that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4264. Please refer to this number in all future correspondence.

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

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

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If you have any questions, please contact Alva E. Smith 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

9 5 0 4 3 3 4 1 7 0

THOMAS B. WHEATLEY
ATTORNEY AT LAW*
55 HIGHLAND STREET
PORTLAND, MAINE 04103-3042
(207) 773-0155 FAX: (207) 773-0152

*ALSO LICENSED IN MASSACHUSETTS

RECEIVED FEDERAL ELECTION COMMISSION OFFICE OF GENERAL COUNSEL
OCT 18 12 01 PM '95

October 17, 1995

by fax to (202) 219-3923 and overnight mail
Alva E. Smith
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: Democratic Senatorial Campaign Committee v. The Maine Republican Party and Senator Bill Cohen, MUR 4264.

Dear Ms. Smith:

As I mentioned in my telephone call today, I am writing on behalf of The Maine Republican Party to request additional time to respond to the Complaint and Ms. Taksar's letter of September 29, 1995.

Ms. Taksar's letter, postmarked on October 2, 1995, was addressed to The Maine Republican Party's Finance Chairman at the address of the party's Treasurer in Waterville, Maine. It was received there on October 5, 1995, and forwarded on to the party headquarters in Augusta. I knew nothing about it until October 11, 1995, when I was called by The Maine Republican Party's new Executive Director, Rick Tyler. If the response is due 15 days after October 5, 1995, it currently is due on October 20, 1995. I am busy with other matters in my law practice this week, and need additional time to prepare the response. I, therefore, respectfully request an additional 20 days to respond on behalf of The Maine Republican Party, which would make the response due by November 9, 1995.

I have asked the Maine Republican Party's Executive Director to mail and fax the designation of counsel form to you. His address at the party's headquarters is: Richard W. Tyler, Executive Director, The Maine Republican Party, 100 Water Street, Hallowell, Maine 04347, and the telephone number there is (207) 622-6247.

I of course would appreciate a prompt decision on my request for more time, as otherwise I will have to drop other business in order to get a response to you by Friday. Thank you for your help.

Sincerely,

Thomas B. Wheatley

Thomas B. Wheatley

cc: Richard W. Tyler

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STATEMENT OF DESIGNATION OF COUNSEL

MUR 4264

NAME OF COUNSEL: Thomas B Wheatley

ADDRESS: 55 Highland St.
Portland, ME 04103

TELEPHONE: 207-773-0155
207-773-0152 fax

RECEIVED FEDERAL ELECTION COMMISSION OFFICE OF GENERAL COUNSEL
OCT 18 12 00 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.

Oct. 17, 1995
Date

Signature
Richard W Tyler

RESPONDENT'S NAME: Richard W. Tyler of Maine Republican Party

ADDRESS: 160 Water St
Hallowell, ME 04347

HOME PHONE:

BUSINESS PHONE: 207-622-6247

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 20, 1995

Thomas B. Wheatley, Esq.
55 Highland Street
Portland, ME 04103

RE: MUR 4264

Dear Mr. Wheatley:

This is in response to your facsimile dated October 17, 1995, requesting an extension until November 9, 1995 to respond to the complaint filed in the above-noted matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on November 9, 1995.

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

Sincerely,

Erik Morrison

Erik Morrison
Staff Member

95043934174

SENATOR

Bill Cohen

October 20, 1995

Mary L. Tasker, Esquire
Central Enforcement Docket
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
OCT 23 3 06 PM '95

Re: MUR 4264

Dear Ms. Tasker:

As Treasurer of the Cohen for Senator Committee, I am responding to your letter and the accompanying complaint, which we received on October 6, 1995. The complaint should be dismissed immediately by the Federal Election Commission since its assertions of violations are contradicted by the plain facts in the case and nothing contained in the complaint, despite its overheated rhetoric, constitutes a violation of federal election law. In short, this complaint is a transparent attempt to score political points and grab headlines without concern for the facts, the law or the legitimate workload of the Commission.

FACTS

Former President George Bush agreed to sponsor a September 23, 1995 fundraising event in Ogunquit, Maine for Senator Bill Cohen's 1996 re-election campaign. The Cohen for Senator Committee paid all the costs of the event, including the mailing of the invitations. Affidavit of Merton G. Henry, at ¶4 (hereinafter "Henry Aff.") Affidavit of Forrester Smith, at ¶6 (hereinafter "Smith Aff.").

The Maine Republican Party ("State Party"), after learning of the event, asked if it could send out invitations to the same event so that it could raise funds for its non-federal account. Affidavit of Rick Tyler (hereinafter "Tyler Aff.") at ¶2. The state party wished to raise non-federal funds so that it would not compete with Senator Cohen for funds at the event he was organizing. Tyler Aff., ¶2; Smith Aff. ¶3. Corporate funds raised by a state party are permissible under Maine law. None of the funds raised by the state party have gone or will

1385 Congress Street
P.O. Box 1379, Portland, Maine 04104
Tel. (207) 879-BILL

Paid for by Cohen for Senator, Merton G. Henry, Treas.

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go to aid Senator Cohen's re-election effort. Henry Aff., ¶5, 6; Tyler Aff., ¶5; Smith Aff. ¶4.

Senator Cohen's Committee agreed to this request because, as the highest ranking Republican officeholder in Maine, Senator Cohen tries to aid the state party when he can. Henry Aff., ¶3. Once Senator Cohen agreed to let the Party raise funds from the event, Party officials, without showing the invitation first to any representatives of Senator Cohen's committee, mailed over 1,000 invitations to the event along with a handwritten note that solicited non-federal funds for its accounts. Smith Aff.¶2; Tyler Aff., ¶3; Henry Aff., ¶5. Approximately 15 of the invitations included the handwritten note from Forrester Smith that is the subject of this complaint. Tyler Aff., ¶4. The Cohen Committee paid all the costs of the event itself, Henry Aff., ¶4; Tyler Aff., ¶4; Smith Aff. ¶2. Donors wrote checks to either the Cohen for Senator Committee or the Maine Republican Party. The event raised $4,465.02 for the Maine Republican Party. Smith Aff., ¶6; Tyler Aff., ¶6.

There was never any intent to use the funds raised by the state party to aid Senator Cohen. Henry Aff., ¶5, 6; Smith Aff., ¶4; Tyler Aff., ¶6, 7. There has not been (and will not be) any use of the funds raised by the Maine Republican Party for its non-federal account on behalf of Senator Cohen's campaign. Id.

DISCUSSION

Complaint's Inaccurate Statements: The complaint loses its validity by its reckless disregard for the facts. For example, in the first paragraph, the complaint states that the reception will feature "representatives of many state corporations bearing company checks for the Cohen re-election effort." There were no company checks and no corporate contributions for the Cohen re-election effort. Henry Aff., ¶6; Smith Aff., ¶4; Tyler Aff., ¶6. Other than this sweeping and inaccurate charge, the complaint can offer no evidence. Indeed, evidence would be impossible, since there were no such contributions. Id.

In the second paragraph, the complaint describes this reception as an "illegal 'soft money' event" and alleges the handwritten letter from the state party "acknowledges an attempt to circumvent the law." First, a reading of the state party letter shows that there is no attempt to circumvent federal law. The letter states that there is a special event

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that donors can attend. The letter says that since corporations cannot give to Senator Cohen's campaign, the event with former President Bush and Senator Cohen will nonetheless be open to contributors who wish to help the state party's non-federal account. There is nothing illegal about this. And there is certainly no violation by Senator Cohen's Committee for a statement by the state party on its letterhead with its disclaimer that no one affiliated with Senator Cohen's Committee even saw before it was distributed.

Secondly, it is curious that the Democratic Senatorial Campaign Committee would call an event with separate federal and non-federal solicitations an "illegal soft money event" given that the DSCC itself frequently holds events in Washington and around the country to solicit both types of funds. Indeed, the DSCC's report filed with the FEC shows a robust attempt both to raise and spend non-federal funds. While the complaint cites 2 U.S.C. §441b, the gravamen of that code section is the making of "a contribution or expenditure in connection with any election" for federal office. Yet there is no charge (and there cannot be because it never happened and was never contemplated) that Senator Cohen's committee ever received non-federal contributions or made expenditures with non-federal funds. The state party did receive non-federal funds from persons who wished to attend the event with the former President but did not wish to spend personal or PAC money. And that is permissible under Maine law. There never was, nor will there ever be, any contribution to or expenditure by the state party on Senator Cohen's behalf with non-federal funds. Henry Aff., ¶5; Tyler Aff., ¶6; Smith Aff., ¶4.

At the bottom of Page 2, the complaint states that a reception such as this one "intended to assist a federal candidate" can only be paid for with funds permitted under federal election law. Since the event was paid for exclusively with federal funds from Senator Cohen's Committee, Henry Aff., ¶4; Tyler Aff., ¶3; Smith Aff., ¶6, this complaint must be dismissed. The state party asked, and was permitted, to try to raise funds for its non-federal account through this event. But Senator Cohen's committee paid all costs and in no way received or benefitted from the non-federal funds raised by the state party. Id. As the attachments to the complaint make clear, any non-federal funds had to be made payable to the Maine Republican Party. The assertion that the state party "disregarded" the federal law prohibition on corporate contributions is just plain wrong.

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Similarly, the inference on Page 3 of knowing and willful violations is ridiculous, and certainly not supported by so much as a shred of evidence. Likewise, the unsupported insinuation of improper "direct or indirect payment" is frivolous, especially since Senator Cohen's committee paid for the entire event and has received nothing from the state party.

Law: Besides manufacturing some citations to portions of the statute and regulations that are irrelevant to this matter, there are no violations in this case. The complaint itself, in fact, does not allege any specific violations, primarily because there were none.

Summary: Persons attending the event with former President Bush and Senator Cohen could gain admittance either by writing a federally permissible check to Senator Cohen's committee, or by writing a check from non-federal sources to the Maine Republican Party. Senator Cohen paid all the costs of the event; the state party paid no costs. Federal law includes no prohibition on a Senator helping a state party to raise money, whether federal or non-federal.

There is no allegation (nor facts to support such an allegation) of illegal spending on Senator Cohen's behalf, and since Senator Cohen's committee paid all the event's costs, it is difficult to see how he could have accepted a corporate contribution. Similarly, Senator Cohen's committee knows that the state party is not permitted to spend non-federal funds on Senator Cohen's election, and the committee has no intention of violating the law.

CONCLUSION

This complaint is completely lacking in merit and should be dismissed by the Commission. However, there is one item in the complaint with which Senator Cohen's Committee and the DSCC agree -- the Commission should act immediately.

Unsubstantiated political charges such as these should not be allowed to fester. Respondents urge the Federal Election Commission to dismiss this complaint promptly.

Respectfully submitted,

Merton G. Henry

Merton G. Henry, Treasurer
Cohen for Senator Committee

95043341178

BEFORE THE FEDERAL ELECTION COMMISSION

Matter Under Review 4264,

Cohen for Senate Committee

AFFIDAVIT

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
OCT 23 3 07 PM '95

Merton G. Henry, being duly sworn, deposes and states as follows:

1. I have been Treasurer of the Cohen for Senator Committee ("Committee") continuously since 1990. I held that position up to and including the September 23, 1995 fundraising event that is at issue in this MUR.

2. That event consisted of a reception hosted by former President George Bush in Ogunquit, Maine to benefit the Cohen for Senator Committee. The Cohen for Senator Committee sent invitations for the event by mail.

3. The Maine Republican Party, after learning about the event, asked if it could also raise some money from that event. Because Senator Cohen is the senior Republican office holder in the state, it is his policy to assist the state party whenever possible. Accordingly, the Cohen for Senate Committee agreed that the state party could seek to raise non-federal funds pursuant to Maine law for its non-federal accounts from the event.

4. The Cohen for Senator Committee paid all costs associated with the event including mailing invitations, food, beverages and all associated costs. The lone exception was invitations sent by the Maine Republican Party to solicit non-federal contributions for its non-federal account.

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5. In raising its funds, the state party sent out over 1,000 invitations to its own list. No official of the Cohen for Senate Committee saw the state party's invitation before it was sent out and mailed. The Maine Party did raise some funds from that event for its own uses. None of those funds were ever planned to go to Senator Cohen's campaign. None have gone to Senator Cohen's campaign. And none will be used to benefit Senator Cohen's campaign.

6. The Cohen Committee received no company or corporate contributions or checks as a result of the September 23rd fundraising event, or any other fundraising event. The Cohen Committee in no way received or benefitted from the non-federal funds raised by the state party.

Merton G. Henry
Merton G. Henry, Treasurer
Cohen for Senator Committee

Sworn to before me this
20th day of October, 1995

Denice A. Harris
Notary Public

My Commission Expires:

DENICE A. HARRIS
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES NOVEMBER 2, 1997

BEFORE THE FEDERAL ELECTION COMMISSION

Matter Under Review 4264,
Cohen for Senate Committee

AFFIDAVIT

Rick Tyler, being duly sworn, deposes and states as follows:

1. I am Executive Director of the Maine Republican Party. I served in this capacity up to and including the September 23, 1995 fundraising reception hosted by former President George Bush for Senator Bill Cohen.

2. After learning of the event to benefit Senator Cohen's campaign, the Maine Republican Party, desirous of raising funds for its own programs, asked the Cohen for Senator Committee if it could also raise funds at the event. In order not to compete with Senator Cohen's Committee, the State party agreed to raise only non-federal funds from corporations, as permitted by Maine law.

3. The Maine Republican Party paid for its own fundraising invitations and mailed out 1,000. It paid for no other costs associated with the event which, to my knowledge, was paid for entirely by Senator Cohen's Committee.

4. The Maine party sent out its invitations without showing them first to any representative of Senator Cohen's Committee. Approximately fifteen of the one thousand was sent with a handwritten note from the party's Finance Chairman, Forrester Smith. That solicitation instructed potential donors to make any corporate checks payable to the Maine Republican Party.

5. None of the funds raised by the State party at the event have gone or will go to aid Senator Cohen's reelection effort. There were no company checks and no corporate contributions for the Cohen reelection effort as a result of this event. There was never any intent to have the funds used in such a manner. The Maine Republican Party's intent was to use the funds for its own programs and purposes.

6. To the best of my knowledge and belief, Senator Cohen's Committee never received any non-federal contributions or made expenditures with non-federal funds. The State party did raise $4,465.02 in non-federal funds, but there has not been and will not be any contribution or expenditure by the State party with non-federal funds to aid Senator Cohen's reelection campaign.

7. The invitation to the event and Forester Smith's handwritten note evidenced no attempt to circumvent federal election law. The invitation is quite explicit that all non-federal funds will go to the Maine Republican Party for its programs, and those funds will not go to benefit Senator Cohen. The invitation was sent on the State party's name and contained the State party's disclaimer.

Rick Tyler

Sworn to before me this

23rd day of October, 1995

My commission Expires: 9/6/1998

MARK R. DOYON
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES SEPTEMBER 6, 1998

9604331412

BEFORE THE FEDERAL ELECTION COMMISSION

Matter Under Review 4264,

Cohen for Senate Committee

AFFIDAVIT

Forrester Smith, being duly sworn, deposes and states as follows:

1. I am State Finance Chair of the Maine Republican Party and have served in that capacity on a continuous basis since 1992.

2. As State Finance Chair, I enclosed a hand-written note in invitations sent by the state party to the September 23, 1995 event paid for by the Cohen for Senate Committee. The purpose of my note was to urge corporate donations to the Maine Republican Party.

3. Because I knew that federal law prohibits corporate contributions to federal campaigns such as Senator Cohen's, I thought that this event provided a good opportunity for the state party to raise corporate funds, which are permitted under Maine law for state elections. Since the Cohen Committee was generous enough to allow the state party to use this event for the state party's own fundraising efforts, I felt it was important for us not to target the same source of funds as Senator Cohen's committee. Therefore, we set out to raise funds that could not be used to aid Senator Cohen.

4. The purpose of my note was never in any way to solicit corporate or other donations for the direct or indirect benefit of the Cohen Committee. My note simply reminded those on the state party's mailing list that, while they could not make corporate donations to aid the Cohen Committee, they could to the state party for use under Maine law. There were no corporate funds for Senator Cohen's Committee and it is the intent of the state party to follow federal election law and <u>not</u> spend any corporate funds to aid Senator Cohen's campaign.

5. I sent my handwritten note without having any discussions whatsoever with anyone associated with the Cohen Committee, and no one on the Cohen Committee saw or approved my note before it was sent in the mails.

6. The state party raised $4,465.02 from the event. To the best of my knowledge, the Cohen for Senate Committee paid all costs of the event. The state party did not pay any costs of the event.

Forrester P. Smith

Forrester Smith

Sworn to before me this

23rd day of October, 1995

Mark R. Doyon

My commission Expires: 9/6/1998

MARK R. DOYON
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES SEPTEMBER 6, 1998

96043341444

THOMAS B. WHEATLEY
ATTORNEY AT LAW*
55 HIGHLAND STREET
PORTLAND, MAINE 04103-3042
(207) 773-0155 FAX: (207) 773-0152

*ALSO LICENSED IN MASSACHUSETTS

RECEIVED FEDERAL ELECTION COMMISSION OFFICE OF GENERAL COUNSEL
NOV 7 11 12 AM '95

November 6, 1995

By Overnight Mail

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

Re: Democratic Senatorial Campaign Committee v. The Maine Republican Party and Senator Bill Cohen, MUR 4264

Dear Ms. Tasker:

As counsel to the Maine Republican Party, I am writing in response to your letter of September 29, 1995, and the enclosed Complaint.[1] The Complaint charges that "The Maine Republican Party has embarked on an ambitious and flagrantly illegal program of raising 'soft money' for the re-election candidacy of Senator Bill Cohen." Nothing could be farther from the truth. As detailed in the accompanying Affidavits of Rick Tyler, the Executive Director of the Maine Republican Party, and Forrester Smith, the Finance Chair of the Maine Republican Party:

Former President George Bush agreed to sponsor a September 23, 1995 fundraising event in Ogunquit, Maine for Senator Bill Cohen's 1996 reelection campaign. After learning of the event,

---

[1] Your letter, postmarked on October 2, 1995, was addressed to the Maine Republican Party's Finance Chairman at the address of the party's treasurer in Waterville, Maine. It was received there on October 5, 1995, forwarded to the party's headquarters in Augusta, and then forwarded on to me on October 11, 1995. By letter of October 17, 1995, I asked for additional time to submit this response. By letter of October 20, 1995, I was notified that my request had been granted by the Office of the General Counsel, and that this response is due by the close of business on November 9, 1995.

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the Maine Republican Party, desirous of raising funds for its own programs, asked the Cohen for Senator Committee if it could also raise funds at the event. In order not to compete with Senator Cohen's Committee, the State party committee agreed to raise only non-federal funds from corporations, as permitted by Maine law. The Maine Republican Party paid for its own fundraising invitations, and mailed 1,000 of them, but paid for no other costs associated with the event, which were all paid by Senator Cohen's Committee.

Approximately fifteen of the one thousand invitations were sent with the handwritten note from the party's Finance Chairman, Forrester Smith, which serves as the basis for the Democratic Senatorial Campaign Committee's Complaint. There was no attempt nor intent to circumvent Federal Election Law. The invitation is quite explicit that all corporate donations were for the Maine Republican Party and not for Senator Cohen.

None of the funds raised by the Maine Republican Party at the event were intended to go to or will go to aid Senator Cohen's reelection effort. There were no company checks and no corporate contributions for the Cohen reelection effort as a result of this event.

The Maine Republican Party concurs with the filing made by Senator Cohen's Committee that the Commission should act immediately to dismiss the Democratic Senatorial Campaign Committee's Complaint, that unsubstantiated and invalid political charges such as these should not be allowed to fester.

Respectfully submitted,

Thomas B. Wheatley

Thomas B. Wheatley,
Counsel to
The Maine Republican Party

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RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
Nov 7 11 11 AM '95

BEFORE THE FEDERAL ELECTION COMMISSION

Matter Under Review 4264,

Maine Republican Party

AFFIDAVIT

Rick Tyler, being duly sworn, deposes and states as follows:

1. I am Executive Director of the Maine Republican Party. I served in this capacity up to and including the September 23, 1995 fundraising reception hosted by former President George Bush for Senator Bill Cohen.

2. After learning of the event to benefit Senator Cohen's campaign, the Maine Republican Party, desirous of raising funds for its own programs, asked the Cohen for Senator Committee if it could also raise funds at the event. In order not to compete with Senator Cohen's Committee, the State party agreed to raise only non-federal funds from corporations, as permitted by Maine law.

3. The Maine Republican Party paid for its own fundraising invitations and mailed out 1,000. It paid for no other costs associated with the event which, to my knowledge, was paid for entirely by Senator Cohen's Committee.

4. The Maine party sent out its invitations without showing them first to any representative of Senator Cohen's Committee. Approximately fifteen of the one thousand was sent with a handwritten note from the party's Finance Chairman, Forrester Smith. That solicitation instructed potential donors to make any corporate checks payable to the Maine Republican Party.

5. None of the funds raised by the State party at the event have gone or will go to aid Senator Cohen's reelection effort. There were no company checks and no corporate contributions for the Cohen reelection effort as a result of this event. There was never any intent to have the funds used in such a manner. The Maine Republican Party's intent was to use the funds for its own programs and purposes.

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6. To the best of my knowledge and belief, Senator Cohen's Committee never received any non-federal contributions or made expenditures with non-federal funds. The State party did raise $4,465.02 in non-federal funds, but there has not been and will not be any contribution or expenditure by the State party with non-federal funds to aid Senator Cohen's reelection campaign.

7. The invitation to the event and Forester Smith's handwritten note evidenced no attempt to circumvent federal election law. The invitation is quite explicit that all non-federal funds will go to the Maine Republican Party for its programs, and those funds will not go to benefit Senator Cohen. The invitation was sent on the State party's name and contained the State party's disclaimer.

Rick Tyler

Sworn to before me this
23rd day of October, 1995

My commission Expires: 9/6/1998

MARK R. DOYON
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES SEPTEMBER 6, 1998

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BEFORE THE FEDERAL ELECTION COMMISSION

Matter Under Review 4264,

Maine Republican Party

AFFIDAVIT

Forrester Smith, being duly sworn, deposes and states as follows:

1. I am State Finance Chair of the Maine Republican Party and have served in that capacity on a continuous basis since 1992.

2. As State Finance Chair, I enclosed a hand-written note in invitations sent by the state party to the September 23, 1995 event paid for by the Cohen for Senate Committee. The purpose of my note was to urge corporate donations to the Maine Republican Party.

3. Because I knew that federal law prohibits corporate contributions to federal campaigns such as Senator Cohen's, I thought that this event provided a good opportunity for the state party to raise corporate funds, which are permitted under Maine law for state elections. Since the Cohen Committee was generous enough to allow the state party to use this event for the state party's own fundraising efforts, I felt it was important for us not to target the same source of funds as Senator Cohen's committee. Therefore, we set out to raise funds that could not be used to aid Senator Cohen.

4. The purpose of my note was never in any way to solicit corporate or other donations for the direct or indirect benefit of the Cohen Committee. My note simply reminded those on the state party's mailing list that, while they could not make corporate donations to aid the Cohen Committee, they could to the state party for use under Maine law. There were no corporate funds for Senator Cohen's Committee and it is the intent of the state party to follow federal election law and <u>not</u> spend any corporate funds to aid Senator Cohen's campaign.

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5. I sent my handwritten note without having any discussions whatsoever with anyone associated with the Cohen Committee, and no one on the Cohen Committee saw or approved my note before it was sent in the mails.

6. The state party raised $4,465.02 from the event. To the best of my knowledge, the Cohen for Senate Committee paid all costs of the event. The state party did not pay any costs of the event.

Forrester Smith

Forrester Smith

Sworn to before me this

23rd day of October, 1995

My commission Expires: 9/6/1998

MARK R. DOYON
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES SEPTEMBER 6, 1998

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RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT
APR 11 4 16 PM '96

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

FIRST GENERAL COUNSEL'S REPORT **SENSITIVE**

MUR	4264
Date Complaint filed:	September 20, 1995
Date Activated:	March 12, 1996
Staff Member:	Stephan O. Kline

COMPLAINANT: Democratic Senatorial Campaign Committee

RESPONDENTS: Maine Republican Party and
P. James Nicholson, as treasurer
Cohen for Senator and
Merton G. Henry, as treasurer
Senator Bill Cohen

RELEVANT STATUTE: 2 U.S.C. § 441b

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

MUR 4264 arose from a complaint received by the Federal Election Commission ("Commission") on September 20, 1995. Donald Foley, Executive Director of the Democratic Senatorial Campaign Committee, ("Complainant" or "DSCC") alleged that the Maine Republican Party and Senator Bill Cohen violated provisions of the Federal Election Campaign Act of 1971, as amended, ("Act" or "FECA"). Respondents -- Maine Republican Party and P. James Nicholson, as treasurer ("Maine Republican Party" or "state party"); Senator Cohen; and the Cohen for Senator Committee and Merton G. Henry, as treasurer, ("the Cohen Committee") -- were notified of the complaint on

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September 29, 1995. Senator Cohen and the Cohen Committee responded to the complaint on October 23, 1995. The Maine Republican Party responded to the complaint on November 7, 1995.

II. FACTUAL AND LEGAL ANALYSIS

A. Law

Under FECA, it is unlawful for any corporation to make a contribution or expenditure in connection with a federal election, or for any candidate or political committee to knowingly accept any prohibited contribution. 2 U.S.C. § 441b(a). A contribution or expenditure includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money or any services, or anything of value. 2 U.S.C. § 441b(b)(2).

In contrast, Maine election law permits corporations to make contributions in connections with state and local elections. The identical $5,000 limitation is in effect for political committees, other committees, associations, and corporations. Me. Rev. Stat. Ann. tit. 21-A § 1015(2).

Pursuant to 11 C.F.R. § 100.5(e)(4), a party committee is a political committee which represents a political party and is part of the official party structure at the national, state, or local level. Under Commission regulation 11 C.F.R. § 102.5(a)(3), any party committee solicitation which makes any reference to a federal candidate or federal election shall be presumed to be for the purpose of influencing a federal election, and contributions resulting from that solicitation shall be subject to the prohibitions and limitations of the Act. This presumption may be rebutted by demonstrating that the funds

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were solicited with express notice that they would not be used for federal election purposes.

B. Complaint

The Democratic Senatorial Campaign Committee and Donald Foley as Executive Director filed a complaint with the Commission on September 20, 1995. Complainant states that the Maine Republican Party violated FECA by raising "soft money" for the re-election campaign of Senator Bill Cohen. According to the complaint, a reception was to be held on September 23, 1995 at Ogunquit Maine for Senator Cohen. Former-President George Bush was to be a "special guest" at the reception. Complainant alleges that "Few illegal 'soft money' events have been advertised more openly, or conducted in more clear cut violation of the law, than the one scheduled by The Maine Republican Party for this weekend in Maine." Complaint at 1.

Complainant attached two invitations to the complaint. The first states:

> President George Bush
> cordially invites you to a reception honoring
> Senator Bill Cohen
> Saturday, September 23, 1995

Attachment 1 at 1. The invitation notes that there is a VIP reception costing $1,000 per person and a general reception costing $100 per person. A card enclosed with the invitation allowed invitees to check off which reception they would attend or, if they could not attend, that they could still contribute to Senator Cohen's re-election campaign. The card states: "Please make checks payable to: Cohen for Senator." Id.

The second invitation reads as follows:

> The Maine Republican Party
> cordially invites you to

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a reception
honoring
Senator William Cohen
with special guest
President George Bush

Id. at 2. This invitation also states: "corporate contribution, $100 per person." A card enclosed with this second invitation allowed an invitee to check off three options: "I will represent our company at Senator Cohen's reception with President Bush;" "I cannot attend but am sending representatives from our company -- enclosed is our business check in the amount of . . . ;" or, "I cannot attend and cannot send representatives but here is our corporate contribution of . . . ." Finally, the card noted: "Please make your company business check payable to The Maine Republican Party." Id. Complainant alleges that this response card "emphasizes the strong business presence and corporate money wanted and expected at the event." Complaint at 2.

Complainant also enclosed a handwritten note on Maine Republican Party letterhead, which, according to Complainant, "acknowledges an attempt to circumvent federal law." Complaint at 1. The note states:

> Enclosed is an invitation to a very special and exciting George Bush-Bill Cohen event. I hope your company and all your clients will come to this fund-raiser. As you know, corporations can't give to Bill Cohen directly so I hope you'll urge them to come via the Maine Republican Party.
>
> I have sent all your clients invitations so please bring them and yourselves.
>
> Forrester Smith
>
> State Finance Chair

Attachment 1 at 3.

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Complainant argues that FECA stands for the proposition that federal candidates and political parties must comply with the prohibition on corporate spending in federal elections. "The law clearly requires that any activity, like the one conducted this weekend in Maine, that is intended to assist a federal candidate be paid with only those funds permitted under federal law . . . . All corporate contributions made directly or indirectly are strictly prohibited. The Maine Republican Party has completely disregarded this requirement." Complaint at 2-3. Because Forrester Smith "specifically admits an intent to accomplish by indirect means what the law directly prohibits," id. at 3, Complainant suggests that this fundraising activity might constitute a knowing and willful violation of the Act.

C. **Responses**

1. Cohen for Senate Committee and Merton G. Henry, as treasurer Senator Bill Cohen

Senator Cohen and the Cohen Committee (the "Cohen Respondents") responded to the initial complaint on October 23, 1995, and denied the allegations. According to the Cohen Respondents, President George Bush agreed to sponsor a fundraising event for Senator Cohen's 1996 re-election campaign. The Cohen Committee paid all costs for the event including the mailing out of its own invitations. According to the Cohen Respondents, the Maine Republican Party learned that the event would take place and asked the Cohen Committee if the state party could send out invitations to the same event and raise funds for its non-federal account. According to the response, "the state party wished to raise non-federal funds so that it would not compete with Senator Cohen for

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funds at the event he was organizing." Response at 1. Senator Cohen agreed to this request.

The Cohen Committee response states that: "Once Senator Cohen agreed to let the Party raise funds from the event, Party officials, without showing the invitation first to any representatives of Senator Cohen's committee, mailed over 1000 invitations to the event along with a handwritten note that solicited non-federal funds for its accounts." Id. at 2. The Cohen Respondents assert that none of the $4,465.02 in funds raised at this fund-raiser by the Maine Republican Party "have gone or will go to aid Senator Cohen's re-election effort," and all costs for the fundraising event were paid by the Cohen Committee. Id. at 1-3.

The Cohen Respondents note that corporate funds raised by a state party are permissible under Maine law. They argue that the complaint is invalid "for its reckless disregard for the facts. . . . The complaint states that the reception will feature 'representatives of many state corporations bearing company checks for the Cohen re-election effort.' There were no company checks and no corporate contributions for the Cohen re-election effort." Id. at 2. The response continues:

> The letter says that since corporations cannot give to Senator Cohen's campaign, the event with former President Bush and Senator Cohen will nonetheless be open to contributors who wish to help the state party's non-federal account. There is nothing illegal about this. And there is certainly no violation by Senator Cohen's Committee for a statement by the state party on its letterhead with its disclaimer that no one affiliated with Senator Cohen's Committee even saw before it was distributed.

Id. at 3. The response notes that while the complaint cites 2 U.S.C. § 441b as the central code section of the complaint, "there is no charge . . . that Senator Cohen's committee

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ever received non-federal contributions or made expenditures with non-federal funds." Id. at 3.

The Cohen Committee attached and referred to three affidavits in its response -- from Merton G. Henry, treasurer of the Cohen for Senator Committee; Forrester Smith, State Finance Chair of the Maine Republican Party; and Rick Tyler, Executive Director of the Maine Republican Party. Attachment 2.

Mr. Henry states that the Maine Republican Party asked the Cohen Committee if the state party could send out its own invitations to the President Bush-Senator Cohen event to raise its own money. The Cohen Committee agreed and paid all costs associated for the event, except for invitations sent out by the state party to solicit non-federal contributions for its non-federal account. Mr. Henry notes that:

> In raising its funds, the state party sent out over 1,000 invitations to its own list. No official of the Cohen for Senate Committee saw the state party's invitation before it was sent out and mailed. The Maine Party did raise some funds from that event for its own uses. None of those funds were ever planned to go to Senator Cohen's campaign. None have gone to Senator Cohen's campaign. And none will be used to benefit Senator Cohen's campaign.

Attachment 2 at 2.

In his affidavit, Forrester Smith states that the purpose of his handwritten note attached to the Maine Republican Party's invitation "was to urge corporate donations to the Maine Republican Party." Id. at 3.

> The purpose of my note was never in any way to solicit corporate or other donations for the direct or indirect benefit of the Cohen Committee. My note simply reminded those on the state party's mailing list that, while they could not make corporate donations to aid the Cohen Committee, they could to the state party for use under Maine law. There were no corporate funds for Senator Cohen's Committee and it is the

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> intent of the state party to follow federal election law and not spend any corporate funds to aid Senator Cohen's campaign.

Id. Mr. Smith states that prior to sending the note, he did not discuss it with anyone associated with the Cohen Committee. He says that the event raised $4,465.02 for the Maine Republican Party.

Rick Tyler states that "in order not to compete with Senator Cohen's Committee, the State party agreed to raise only non-federal funds from corporations, as permitted by Maine law. Id. at 5. The only costs associated with the President Bush-Senator Cohen event paid for by the state party were its own invitations. Approximately fifteen of the one thousand Maine Republican Party invitations contained Mr. Smith's cover message.

2. The Maine Republican Party and P. James Nicholson, as treasurer

The Maine Republican Party responded to the complaint on November 7, 1995, and also denied the allegations. The state party attached copies of the Smith and Tyler affidavits to its response. Attachment 2 at 3-6. The state party states that:

> after learning of the event, the Maine Republican Party, desirous of raising funds for its own programs, asked the Cohen for Senator Committee, if it could also raise funds at the event. In order not to compete with Senator Cohen's Committee, the State party agreed to raise only non-federal funds from corporations, as permitted by Maine law.

Maine Republican Party response at 2. The state party argues that there was no attempt to circumvent FECA, and that the "invitation is quite explicit that all corporate donations were for the Maine Republican Party and not for Senator Cohen." Id.

D. Analysis

Even though the Maine Republican Party is legally permitted to accept corporate contributions for use in state elections, the manner in which the party raised these

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corporate funds appears to violate FECA. The party mailed out a formal printed invitation and at least fifteen[1] of the invitations included a handwritten attachment from Forrester Smith. Attachment 1 at 2-3. The formal invitation states: "The Maine Republican Party cordially invites you to a reception honoring Senator William Cohen with special guest President George Bush." The Maine Republican Party is a party committee which mailed out a solicitation that makes reference to a federal candidate. The invitation expressly states that this was an event to honor Senator Cohen, and this was the very same event where Senator Cohen was raising money for his own candidacy. Pursuant to 11 C.F.R. § 102.5(a)(3), the solicitation is presumed to be for the purpose of influencing a federal election. Even though checks were to be made payable to the Maine Republican Party, there was no express notice that the solicited funds would not be used for federal election purposes.

The problems raised by those invitations accompanied by the handwritten note from the state finance chair are even more obvious. The note states: "Enclosed is an invitation to a very special and exciting George Bush-Bill Cohen event. I hope your company and all your clients will come to this fund-raiser. As you know, corporations can't give to Bill Cohen directly so I hope you'll urge them to come via the Maine Republican Party." This note not only references a federal candidate and is enough to

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[1] The Cohen Committee states that "Party officials, without showing the invitation first to any representatives of Senator Cohen's committee, mailed over 1000 invitations to the event along with a handwritten note that solicited non-federal funds for its accounts." Cohen Response at 2. In fact, based on the affidavit from the state party chair, it appears that the note was only attached to fifteen invitations. However, even though it was only sent to fifteen invitees, the handwritten note specifically asks recipients to bring corporate clients to the fund-raiser.

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raise the presumption that solicited funds will be used for the purpose of influencing a federal election, but it also contains a clear implication that because the invitee cannot contribute to Senator Cohen directly, the corporation can indirectly help Senator Cohen by contributing to the Maine Republican Party. The note also contains no express notice that the solicited funds would not be used for federal election purposes.

Based on all the information set forth above, this Office recommends that the Commission find reason to believe that the Maine Republican Party and P. James Nicholson, as treasurer, violated 2 U.S.C. § 441b. Because only fifteen of the more explicit handwritten notes were mailed out, because the solicitation only raised $4,465.02 in corporate contributions, and because none of the contributions actually appears to have been used to influence federal elections as Senator Cohen is not seeking re-election, this Office further recommends that the Commission take no further action as to this violation and send an admonishment letter to the Maine Republican Party.

Based on the responses, affidavits, and the Maine Republican Party and Cohen Committee 1995 Year End Reports, there is no indication that the state party made any expenditures on behalf of Senator Cohen, that Senator Cohen accepted any contributions or transfers from the state party, or that there were any discussions to use this money on Senator Cohen's behalf.[2] All expenses for the President Bush-Senator Cohen

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[2] Respondents did not violate the provision at 11 C.F.R. § 102.17 governing joint fundraising by committees other than separate segregated funds. Pursuant to the Explanation and Justification discussing this provision, prohibited contributions need not be included in the total receipts for the purpose of allocating expenses. 48 Fed. Reg. 26300 (1983). In this situation, because all funds collected by the state party were corporate contributions prohibited under FECA, the committees were not required to comply with the joint fundraising procedures, and the Maine Republican Party was not responsible for advancing any costs of the event.

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fundraising event, except for the state party's actual invitation, were paid by the Cohen Committee and not by the Maine Republican Party. The invitation mailed out by the Cohen Committee, attachment 1 at 1, is entirely permissible under federal and state law, and all contributions accepted by the Cohen Committee complied with the Act's prohibitions. According to affidavits from the treasurer of the Cohen Committee, the executive director of the Maine Republican Party, and the state finance chair of the Maine Republican Party, no one from the Cohen Committee saw or approved either the Party's invitation or the accompanying handwritten note before it was sent out. Accordingly, this Office recommends that the Commission find no reason to believe that Cohen for Senator and Merton G. Henry, as treasurer, and Senator Bill Cohen violated 2 U.S.C. § 441b.

III. RECOMMENDATIONS

1. Find reason to believe that the Maine Republican Party and P. James Nicholson, as treasurer, violated 2 U.S.C. § 441b, but take no further action.

2. Find no reason to believe that Cohen for Senator and Merton G. Henry, as treasurer; and Senator Bill Cohen violated 2 U.S.C. § 441b.

3. Approve the appropriate letters.

4. Close the file.

Lawrence M. Noble
General Counsel

4/9/96
Date

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

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Attachments:

1. Fund-raiser invitations
2. Affidavits

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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: APRIL 17, 1996

SUBJECT: MUR 4264 - FIRST GENERAL COUNSEL'S REPORT DATED APRIL 9, 1996.

The above-captioned document was circulated to the Commission on: Friday, April 12, 1996 at 12:00 p.m.

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

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

This matter will be placed on the meeting agenda for: Tuesday, April 23, 1996.

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

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 4264
Maine Republican Party and	)	
P. James Nicholson, as	)	
treasurer;	)	
Cohen for Senator and	)	
Merton G. Henry, as treasurer;	)	
Senator Bill Cohen	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on April 23, 1996, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MUR 4264:

1. Find reason to believe that the Maine Republican Party and P. James Nicholson, as treasurer, violated 2 U.S.C. § 441b, but take no further action.

2. Find no reason to believe that Cohen for Senator and Merton G. Henry, as treasurer, and Senator Bill Cohen violated 2 U.S.C. § 441b.

3. Approve the appropriate letters as recommended in the General Counsel's April 9, 1996 report.

4. Close the file.

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

Attest:

4-24-96
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 29, 1996

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Donald Foley, Executive Director
Democratic Senatorial Campaign Committee
430 South Capitol Street, S.E.
Washington, D.C. 20003

RE: MUR 4264

Dear Mr. Foley:

This is in reference to the complaint you filed with the Federal Election Commission on September 20, 1995, concerning invitations to a fund-raiser honoring Senator Bill Cohen.

Based on that complaint, on April 23, 1996, the Commission found that there was reason to believe the Maine Republican Party and P. James Nicholson, as treasurer, violated 2 U.S.C. § 441b, a provision of he Federal Election Campaign Act of 1971, as amended. However, after considering the circumstances of this matter, the Commission determined to take no further action against the Maine Republican Party and P. James Nicholson, as treasurer, and closed the file in this matter on the same date. This matter will become part of the public record within 30 days. The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

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

Sincerely,

Stephan O. Kline
Attorney

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 29, 1996

Merton G. Henry, Treasurer
Cohen for Senator Committee
1385 Congress Street
P.O. Box 1379
Portland, Maine 04104

RE: MUR 4264
Cohen for Senator Committee and
Merton G. Henry, as treasurer

Dear Mr. Henry:

On September 29, 1995, the Federal Election Commission notified the Cohen for Senator Committee and you, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On April 23, 1996, the Commission found, on the basis of the information in the complaint, and information provided by you, that there is no reason to believe the Cohen for Senator Committee and Merton G. Henry, as treasurer, violated 2 U.S.C. § 441b. Accordingly, the Commission closed its file 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.

Sincerely,

Lawrence M. Noble
General Counsel

BY: _____
Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

9604373416

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 29, 1996

The Honorable Bill Cohen
322 Hart Senate Office Building
Washington, D.C. 20510

RE: MUR 4264
Senator Bill Cohen

Dear Senator Cohen:

On September 29, 1995, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On April 23, 1996, the Commission found, on the basis of the information in the complaint, and information provided by you, that there is no reason to believe that you violated 2 U.S.C. § 441b. Accordingly, the Commission closed its file 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.

Sincerely,

Lawrence M. Noble
General Counsel

BY:
Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report

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9604343167

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 29, 1996

Thomas B. Wheatley, Esq.
55 Highland Street
Portland, Maine 04103-3042

RE: MUR 4264
Maine Republican Party and
P. James Nicholson, as treasurer

Dear Mr. Wheatley:

On April 23, 1996, the Federal Election Commission found reason to believe that your clients, the Maine Republican Party and P. James Nicholson, as treasurer, ("Committee") violated 2 U.S.C. § 441b, a provision of the Federal Election Campaign Act of 1971, as amended. However, after considering the circumstances of this matter, the Commission also determined to take no further action and closed its file. The General Counsel's Report, which formed a basis for the Commission's finding, is attached for your information.

The Commission reminds you that the Committee's solicitations for corporate contributions violated 2 U.S.C. § 441b because they made reference to a federal candidate. These solicitations were presumed to be for the purpose of influencing federal elections because they failed to contain an express notice that they would not be used for federal election purposes. Your clients should take steps to ensure that this activity does not occur in the future.

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

If you have any questions, please contact Stephan Kline, the attorney assigned to this matter at (202) 219-3690.

Sincerely,

John Warren McGarry
Vice Chairman

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4264

DATE FILMED 5-14-96 CAMERA NO. 4

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