FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4274

DATE FILMED 9-15-97 CAMERA NO. 4

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MUR 4274

PERKINS COIE

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
607 FOURTEENTH STREET, N.W. · WASHINGTON, D.C. 20005-2011
TELEPHONE: (202) 628-6600 · FACSIMILE: (202) 434-1690

ROBERT F. BAUER
(202) 434-1602

October 10, 1995

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
OCT 10 3 13 PM '95

Lawrence M. Noble, Esq.
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Dear Mr. Noble:

In September of 1990, the Democratic Congressional Campaign Committee ("DCCC") filed a complaint alleging the failure of GOPAC under the Chairmanship of Newt Gingrich to register and to report as required by law its expenditures to influence federal elections. Since that time, following investigation and failure of GOPAC to conciliate over apparent violations, the FEC has instituted an action in federal court to enforce the applicable legal requirements.

At the time of DCCC's complaint it appeared that GOPAC's activities as a federal committee commenced around 1990. DCCC based this allegation on solicitations then available. It now appears, however, that GOPAC's illegal efforts to circumvent the registration and reporting requirements of the Act commenced well before 1990 -- around 1986, at the time Mr. Gingrich became Chair. Attached as Exhibit A of this complaint is an article appearing in The Washington Post of October 2, 1995, which reports on GOPAC solicitations in 1986 reflecting a federal election influencing purpose.

This new evidence requires the expansion of the Commission's investigation and the amendment of its current complaint in district court to address these violations

[04031-0001/DA952780.007]

from 1986 to 1990. So, too, does still more new reporting on GOPAC's activities by Ms. Connie Bruck in the October 9, 1995 edition of The New Yorker. Following extensive research, Ms. Bruck also finds that GOPAC's purpose from the beginning of Gingrich's chairmanship in 1986 was the establishment of a Republican Congressional majority. "He saw," Ms. Bruck writes, "how he could transform [GOPAC] into a high-powered vehicle that, with him at the controls, could soar over the restrictions imposed upon the N.R.C.C. (National Republican Congressional Committee)" (p.60). Ms. Bruck cites, as an example, a GOPAC videotape produced in 1988 and featuring Mr. Gingrich, entitled "We Are a Majority." Mr. Gingrich's appeal on that tape focuses on the "paradox" that Republican strength in Presidential elections did not translate into a majority in the House of Representatives. GOPAC, with Gingrich at the helm, was apparently designed, as early as the 1988 Congressional election cycle, to address that paradox.

Ms. Bruck also notes GOPAC's practice in 1990 of raising money for Congressional candidates by hosting candidates at its meetings and arranging for GOPAC members to provide contributions. Bruck's reporting, which depends on named and credible sources, raises the question of whether this practice was followed also in the 1988 Congressional election cycle.

For the foregoing reasons, the Democratic Congressional Campaign Committee respectively requests that its complaint be amended to address illegal activities now known to have occurred before 1990, and specifically in 1986 when Mr. Gingrich became Chair. The DCCC also requests that the FEC's current enforcement action

taken into account the duration of illegal activities for a period of four years longer than had previously been established.

Respectfully submitted,

Robert F. Bauer
B. Holly Schadler
General Counsel to Democratic
Congressional Campaign Committee
430 South Capitol Street, S.E.
Washington, DC 20003
(202) 628-6600

Subscribed and sworn to before me this 10th day of October, 1995.

Notary Public

My commission expires _____.

CLAUDETTE B. HENRY
Notary Public, Washington, D.C.
My Commission Expires June 30, 1998

RFB/BHS:smb

EXHIBIT A

Gingrich Letters Offer Insight on GOPAC's Goals

Focus Seemed to Shift Despite Legal Limits

By Toni Locy
Washington Post Staff Writer

Nashville real estate developer Ted Welch had established himself as a generous GOP donor by 1986 when Rep. Newt Gingrich (R-Ga.) focused on him as a prospective charter member for GOPAC, a Republican fund-raising group Gingrich hoped to build into a major political force.

In a letter encouraging Welch to make a $10,000-a-year contribution, Gingrich offered a glimpse into GOPAC's strategy that illustrates why the highly secretive group became so controversial. That letter and two others—copies of which were obtained by The Washington Post—are enlightening because little has been known about how GOPAC raised and spent money in its early years.

Gingrich's communications with both Welch and his friend, then-Gov. Lamar Alexander, also left a clear impression that GOPAC had shifted its attention from state and local politics to federal races long before it was legally allowed to do so.

Concern about GOPAC's secrecy and whether it was violating federal election laws has only heightened since Republicans gained control of Congress in 1994 in keeping with the group's long-range goal. The Federal Election Commission recently brought suit against GOPAC, questioning the legality of its operations during several years when it was not yet registered as a federal political action committee but working ardently to gain a GOP congressional majority.

See GOPAC, A8, Col. 1

THE WASHINGTON POST

MONDAY, OCTOBER 2, 1995

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Letters Shed Light on Secretive GOPAC

GOPAC, From A1

Gingrich wrote to Welch that GOPAC was "active in 22 congressional districts" and working with the National Republican Congressional Committee to develop a "farm team" of GOP congressional candidates who would help the party gain control of Congress. In the July 1986 letter, he explained that GOPAC's mission had the "hearty endorsement" of President Ronald Reagan and other Republican Party leaders.

Both Welch and Alexander, to whom Gingrich had written for help recruiting Welch, were concerned by the oblique language in Gingrich's appeal. Welch, who now serves as finance chairman for Alexander's presidential campaign, said he declined the GOPAC pitch. "I felt like they were doubling up on the NCC [national congressional committee] and switching their focus," he said in an interview.

Alexander wrote back to Gingrich, "If you are simply building up one more organization to raise money for congressional races, I doubt you will find Ted interested and you will have lost my interest. . . . The last thing we need is another Washington-based fundraising operation promoting Senators and Congressmen."

Gingrich, now the House speaker, has insisted repeatedly that GOPAC was not involved in raising money for national political races until after it registered as a federal political action committee in May 1991. But GOPAC's activities and its secretive operating style have been a recurring issue for Gingrich, who used the fund-raising arm to build his national reputation and lend support to his GOP allies across the country.

Gingrich's chairmanship of GOPAC—a position he resigned in May after an ethics complaint was filed—is now under review by the House ethics committee, which is considering naming a special counsel to probe a half-dozen complaints about the speaker's ancillary activities. Of key concern to the committee is whether GOPAC's big backers, many of whom also are hefty Gingrich contributors, received special access or favors from Gingrich on issues they had before Congress.

Under pressure, GOPAC recently has begun limited disclosure of its financial picture, allowing reporters to make notes but not photocopy some of its contribution records. Gingrich this week announced that freshman Rep. John Barden Shadegg (R-Ariz.) would take over as GOPAC chairman. Shadegg, a former Arizona prosecutor who enforced state campaign finance laws, said he will "absolutely insist" that GOPAC comply with state and federal laws governing public disclosure.

Meanwhile, GOPAC is battling the FEC to protect the privacy of its backers. The FEC's suit in U.S. District Court contends that GOPAC masqueraded as a nonprofit corporation, keeping most of its finances secret, while its real purpose was "to elect Republican candidates to the U.S. House of Representatives."

To prove its case, the FEC is focusing on GOPAC's activities from 1989 to 1991 and seeking access to materials ranging from a list of GOPAC contributors to minutes of meetings that may have been attended by charter members, people who give or raise $10,000 a year.

The FEC also is contacting GOPAC's charter members, asking them what they were told about GOPAC's goals when they were first recruited. The list, which GOPAC has kept confidential, was compiled and published last year by Mother Jones magazine; the FEC submitted the article to the court. The list includes corporate executives such as Dwayne O. Andreas of the agriculture giant Archer Daniels Midland Co. along with lesser-known, traditional Gingrich supporters such as J. Patrick Rooney of Golden Rule Insurance Co.

In August, GOPAC went to court to try to prevent the FEC from contacting its contributors, saying it constituted harassment. But federal Judge Paul L. Friedman allowed the FEC to move forward, saying it had a right to contact any and all potential witnesses.

The FEC's lawsuit focuses on a direct mailing project—the Campaign for Fair Elections—conducted from June 1989 to August 1990. In it, Gingrich solicited contributions to help "break the Democrats' iron grip on Congress by building a new Republican majority in the House of Representatives." He described a plan "to gain a Republican majority in the House of Representatives by 1992. . . . Our plan is ambitious. We're aiming to overturn a Democratic reign that's lasted 35 years."

Gingrich uses similar rhetoric in letters he sent to Alexander and Welch in July 1986, about two months before he became GOPAC's general chairman. At the time the letters were written, he was the group's campaign chairman.

Alexander and Welch were so put off by the pitch that Alexander wrote back to Gingrich, telling him they were "troubled" by the emphasis on Congress over statehouses, and warning him that he would lose support if he established yet another political action committee for congressional candidates.

In a phone interview, Welch said that after he read the letter or talked to Gingrich, he remembered thinking that GOPAC was "changing course." Welch said he was an early GOPAC supporter, going back to when it was founded in 1979 by Pierre S. "Pete" du Pont IV, then governor of Delaware. Under du Pont's leadership, the group contributed more than $1.4 million to 1,200 state legislative candidates between 1979 and 1984, according to Gingrich's letter to Welch.

But in 1984, House leaders Robert H. Michel (Ill.) and Guy Vander Jagt (Mich.) approached du Pont and "asked him to change the scope of GOPAC," Gingrich wrote. "In order to win a majority in the U.S. House of Representatives, they knew Republicans had to become more competitive in more congressional districts, and to do that we had to build from the grass-roots level. They felt GOPAC was the ideal organization for this job.

"GOPAC's program now is to build Party strength and groom promising future congressional candidates in congressional districts where there may not be a possibility of winning a seat right away, but where voting demographics show there is a Republican voting strength and that with the right candidate and sufficient Party strength, a win can be ours," Gingrich wrote.

In his Sept. 2, 1986, response, Alexander said he thought Gingrich had abandoned GOPAC's original mission. "The suggestion is that you are now busy electing Congressmen, instead of Legislators," Alexander wrote. "You may mean that you are electing Legislators *WHO WILL ULTIMATELY RUN FOR CONGRESS*. That is a good idea. The Legislatures ought to be the breeding ground for future Congressmen."

Mark Merritt, an Alexander spokesman, said Alexander "vaguely" recalled the exchange of letters and did not remember if he ever got a response from Gingrich to his concerns.

Welch, a former Republican National Committee finance chairman, said he also wanted GOPAC to continue catering to state and local candidates. "I felt like they had found a niche with the legislators being the farm team," he said.

Tony Blankley, a Gingrich spokesman, said he knew nothing about the letters and referred calls to GOPAC. Lisa Nelson, GOPAC's executive director, said the letters apparently were "produced out of house," meaning that they were not in GOPAC's current files.

She said she believes the letters have no relevance to the FEC's lawsuit against GOPAC because it deals with the 1989 and 1990 fund-raising campaign.

"My comment regarding these letters is that it is clearly our goal and our purpose to elect legislators who would one day run for higher office," Nelson said. "We continue to recruit and train candidates at the local level . . . [to] build this farm team."

FOR MORE INFORMATION

To read the full text of the letters between Newt Gingrich and Lamar Alexander, see Digital Ink, The Post's on-line service. To learn about Digital Ink, call 1-800-510-5104, Ext. 9000.

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

October 18, 1995

Robert F. Bauer, Esq.
B. Holly Schadler, Esq.
General Counsel to Democratic Congressional
Campaign Committee
430 South Capitol Street, SE
Washington, D.C. 20003

RE: MUR 4274

Dear Mr. Bauer & Ms. Schadler:

This letter acknowledges receipt on October 10, 1995, of the complaint you filed on behalf of the Democratic Congressional 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 4274. 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 (HES)

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosure
Procedures

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

October 18, 1995

Lisa B. Nelson, Treasurer
GOPAC Incorporated
440 First Street, NW, #400
Washington, D.C. 20001

RE: MUR 4274

Dear Ms. Nelson:

The Federal Election Commission received a complaint which indicates that GOPAC Incorporated 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 4274. 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 GOPAC Incorporated 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

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

If you have any questions, please contact 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 (HRS)

Mary L. Taksar, Attorney
Central Enforcement Docket

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

97043031960

FEDERAL ELECTION COMMISSION
Washington, DC 20463

October 18, 1995

The Honorable Newt Gingrich
United States House of Representatives
2428 Rayburn Building
Washington, D.C. 20515

RE: MUR 4274

Dear Representative Gingrich:

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 4274. 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

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counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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 (AES)

Mary L. Taksar, Attorney
Central Enforcement Docket

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

97043031962

FEDERAL ELECTION COMMISSION
Washington, DC 20463

October 18, 1995

The Honorable Newt Gingrich
3099 Quail Ridge Ct.
Marietta, GA 30067

RE: MUR 4274

Dear Representative Gingrich:

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 4274. 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

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counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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 (HES)

Mary L. Taksar, Attorney
Central Enforcement Docket

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

97043031964

PYNE & DERRY, P. C.
ATTORNEYS AT LAW
SUITE 640
THE CHEVY CHASE METRO BUILDING
TWO WISCONSIN CIRCLE
CHEVY CHASE, MARYLAND 20815

(301) 961-0240
FAX (301) 907-3920

JOHN J. PYNE
PETER E. DERRY

DISTRICT OF COLUMBIA OFFICE
1000 CONNECTICUT AVENUE, N. W.
WASHINGTON, D. C. 20036

November 2, 1995

VIA MESSENGER

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
Nov 2 12 14 PM '95

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

Re: MUR 4274

Dear Sirs:

This is GOPAC, Incorporated's response to the captioned MUR, initiated as a result of a letter from the DCCC requesting an expansion of the Commission's investigation and an amendment of the pending lawsuit in the United States District Court. The predicate for this request consists of an article dated October 2, 1995, in The Washington Post and a report in The New Yorker magazine dated October 9, 1995. It does not require extensive citation to demonstrate that these publications are hardly primary sources on which to base a serious request for an investigation.

The DCCC alleges here, as in its initial complaint, that GOPAC attempted to influence federal elections prior to its registration as a political committee with the FEC. As you know, Judge Oberdorfer has ruled in FEC v. GOPAC, Inc., Civil Action No. 94-0828-LFO, that GOPAC's goal of electing Republicans to the United States House of Representatives "without more, would not establish the Commission's claim [that GOPAC attempted to influence federal elections]". The Judge held that GOPAC could be considered a political committee if its major objective sometime prior to its registration had been to elect a particular federal candidate or particular federal candidates. That is the issue which is currently being litigated.

With particular respect to the article in The Washington Post, the July, 1986, letter from Congressman Gingrich quoted therein clearly demonstrates that it was not GOPAC's

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purpose to elect a particular federal candidate then or at any other time: "GOPAC's program now is to . . . groom promising future congressional candidates in districts where there may not be a possibility of winning a seat right away, but where voting demographics show there is a Republican voting strength and that with the right candidate and sufficient Party strength, a win can be ours." (Emphasis supplied.) Coupled with the statement in the antecedent paragraph, also quoted by the Post, that "we had to build from the grass roots level," (emphasis supplied), it is evident that GOPAC was simply continuing its program of supporting state and local candidates to build a "farm team" which would produce congressional candidates. As Judge Oberdorfer has ruled on the public record, this is not evidence that GOPAC made contributions or expenditures for the purpose of influencing any federal election.

An additional compelling reason the Commission should decline to conduct further investigation regarding the Post article is the bar of the five year statute of limitations, found at 28 U.S.C., Section 2462. It provides as follows:

> Except as otherwise provided by Act of Congress, an action, suit or proceeding for the enforcement of any civil fine, penalty, or forfeiture, pecuniary or otherwise, shall not be entertained unless commenced within five years from the date when the claim first accrued. . . .

This time limitation has been found expressly applicable to the Federal Election Commission. Federal Election Commission v. National Republican Senatorial Committee, 877 F.Supp. 15 (1995). The statute of limitations accrues and begins to run when the alleged violation occurred; there is no tolling period. 3M Co. v. Browner, 17 F.3d 1453, 1462 (D.C. Cir. 1994). Since the letter referenced in the Post article was written in 1986, the statute of limitations expired in 1991 and no action can be now maintained on the basis of that letter.

The videotape, "We Are A Majority", referenced in the DCCC letter, was turned over to the FEC by GOPAC, along with thousands of other documents, at the request of the Commission's attorneys, along with thousands of other documents. The introduction to that tape, by the Honorable Howard Callaway, states that GOPAC supports the election of state and local candidates in order to build a farm team. Should you choose to view the copy of the videotape which the Commission has, you will find that neither in the introduction nor in the address by

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Congressman Gingrich, is there any suggestion that GOPAC's purpose was to support the election of any particular federal candidate or candidates.

The remaining allegations in the DCCC letter, based on "credible sources" in The New Yorker magazine report are all encompassed within the District Court litigation in which, as you know, the FEC has engaged in extensive and wide-ranging discovery, including the depositions of Messrs. Gingrich and Callaway, among others, the production of thousands of documents by GOPAC, and contact with GOPAC donors by FEC attorneys. Discovery in the case is now closed and the matter is moving toward resolution. Since the matters complained of are already dealt with in the District Court case, it would be duplicative and unavailing to initiate further investigation.

In light of the foregoing, GOPAC, Inc. requests the Commission to dismiss the complaint in MUR 4274. If you have any questions, please contact the undersigned counsel for GOPAC, Inc.

Respectfully submitted,

PYNE & DERRY, P.C.

Peter E. Derry

Peter E. Derry

PED/mr

97044031967

MUR 4274

NAME OF COUNSEL: Peter E. Derry, Esq.

ADDRESS: 2 Wisconsin Circle
Suite 640
Chevy Chase, Maryland 20815

TELEPHONE: (301) 961-0240

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
Nov 2 12 16 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.

November 2 1995
Date

Lisa Nelson
Signature
Lisa Nelson

RESPONDENT'S NAME: GOPAC, Inc.

ADDRESS: 440 First Street, N.W.
Suite 400
Washington, D.C. 20001

HOME PHONE:

BUSINESS PHONE: (202) 484-2282

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WILEY, REIN & FIELDING

1776 K STREET, N.W.
WASHINGTON, D.C. 20006
(202) 429-7000

JAN WITOLD BARAN
(202) 429-7330

FACSIMILE
(202) 429-7049

November 9, 1995

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

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
NOV 14 11 29 AM '95

Re: MUR 4274

Dear Ms. Taksar:

This office represents Newt Gingrich in the above-captioned matter. Enclosed please find a Statement of Designation of Counsel executed November 8, 1995. Our client only recently received your notice dated October 18, 1995.

It appears that this matter is inextricably linked to a pending civil action in which our client is not a party and which will not be resolved until next year. Furthermore, we note that the complaint referenced in your letter, filed by counsel for the Democratic Congressional Campaign Committee, does not allege let alone describe any violation of law by Mr. Gingrich. Your letter states that the DCCC complaint "indicates" a violation by our client. We discern no violation. Accordingly, our client does not seem to be a proper or necessary party to this proceeding.

I trust that if your office has any questions, that you will contact undersigned counsel.

Sincerely,

Jan Witold Baran

Encl.

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STATEMENT OF DESIGNATION OF COUNSEL

MUR 4274

NAME OF COUNSEL: Jan W. Baran

ADDRESS: Wiley, Rein and Fielding
1776 K Street, N.W.
Washington, D.C.

TELEPHONE: (202) 429-7330

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

November 8, 1995
Date

Newt Gingrich
Signature

RESPONDENT'S NAME: Newton L. Gingrich

ADDRESS: H-232, Capitol Building
Washington, D.C. 20515

HOME PHONE:

BUSINESS PHONE:

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AGENDA DOCUMENT NO. X97-55

BEFORE THE FEDERAL ELECTION COMMISSION

FEDERAL ELECTION COMMISSION
SECRETARIAT
Aug 14 4 ... 97

In the Matter of)
)
) ENFORCEMENT PRIORITY
)

SENSITIVE
AUG 19 1997
EXECUTIVE SESSION
SUBMITTED LATE

GENERAL COUNSEL'S REPORT

I. INTRODUCTION.

The cases listed below have been identified as either stale or of low priority based upon evaluation under the Enforcement Priority System (EPS). This report is submitted to recommend that the Commission no longer pursue these cases.

II. CASES RECOMMENDED FOR CLOSURE.

A. Cases Not Warranting Further Action Relative to Other Cases Pending Before the Commission

EPS was created to identify pending cases which, due to the length of their pendency in inactive status or the lower priority of the issues raised in the matters relative to others presently pending before the Commission, do not warrant further expenditure of resources. Central Enforcement Docket (CED) evaluates each incoming matter using Commission-approved criteria which results in a numerical rating of each case.

Closing such cases permits the Commission to focus its limited resources on more important cases presently pending before it. Based upon this review, we have identified 34 cases which do not warrant further action relative to other pending matters.[1]

[1] These cases are: MUR 4470 (*Ward for Congress*); MUR 4478 (*Citizens for Tom Reynolds*); MUR 4492 (*Friends of Ken Poston*); MUR 4498 (*Darryl Roberts for Congress*); MUR 4506 (*The Hon. Ted Little*); MUR 4512 (*Friends of Lane Evans*); MUR 4517 (*Unknown Respondent*); MUR 4518 (*Kansans for Rathbun*); MUR 4520 (*Larry Lerner for*

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Attachment 1 to this report contains summaries of each case, the EPS rating, and the factors leading to assignment of a low priority and recommendation not to further pursue the matter.

B. Stale Cases

Effective enforcement relies upon the timely pursuit of complaints and referrals to ensure compliance with the law. Investigations concerning activity more distant in time usually require a greater commitment of resources, primarily due to the fact that the evidence of such activity becomes more remote and consequently more difficult to develop. Focusing investigative efforts on more recent and more significant activity also has a more positive effect on the electoral process and the regulated community. In recognition of these facts, EPS also provides us with the means to identify those cases which, though earning a higher rating when received, remained unassigned due to a lack of resources for effective investigation. The utility of commencing an investigation declines as these cases age, until they reach a point when activation of a case would not be an efficient use of the Commission's resources.

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Congress); MUR 4522 (*Republican Party of Bexar County*); MUR 4523 (*Cong. Andrea Seastrand*); MUR 4524 (*Danny Covington Campaign Fund Committee*); MUR 4526 (*Hoeffell for Congress*); MUR 4528 (*Pete King for Congress*); MUR 4529 (*Pete King for Congress*); MUR 4532 (*Citizen's Committee for Gilman for Congress*); MUR 4535 (*Visclosky for Congress*); MUR 4537 (*Di Nicola for Congress*); MUR 4541 (*Ross Perot*); MUR 4548 (*Blagojevich for Congress*); MUR 4550 (*Friends of Wamp for Congress*); MUR 4551 (*John N. Hostettler*); MUR 4557 (*De La Rosa for Congress*); MUR 4559 (*Bill Baker for Congress*); MUR 4560 (*George Stuart Jr. for Congress*); MUR 4562 (*Wayne E. Schile*); MUR 4566 (*Al Gore*); MUR 4574 (*Danny Covington Campaign Fund Committee*); MUR 4576 (*Volunteers for Shimkus*); MUR 4579 (*New Zion Baptist Church*); MUR 4580 (*Friends of Mike Forbes*); MUR 4584 (*Bill Baker for Congress*); MUR 4588 (*Navarro for Congress*); and MUR 4613 (*Guy Kelley for Congress*).

2 The U.S. District Court for the District of Columbia, however, held in *Democratic Senatorial Campaign Committee v. FEC*, Civil Action No. 95-0349 (D.D.C. April 17, 1996) that 24 months was too long a time in which to hold a case in an inactive status.

Twenty one cases have remained on the Central Enforcement Docket for a sufficient period of time to render them stale, all of which are recommended for closure in this Report.[4] This group includes four MURs that became stale several months ago, but were held pending criminal prosecution by the Department of Justice.[5] DOJ obtained convictions in the two criminal cases related to these four MURs (*U.S. v. Jay Kim* and *U.S. v. Dynamic Energy Resources*) based upon guilty pleas by the key defendants, who are also the principal respondents in our pending matters. Pursuit of civil enforcement action in view of the satisfactory results obtained in the criminal cases would not be the most effective use of the Commission's scarce resources at this time.

We recommend that the Commission exercise its prosecutorial discretion and direct closure of the cases listed below, effective August 29, 1997. Closing these cases as

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[4] These cases are: MUR 4274 (*GOPAC*); MUR 4358 (*Miller for Senate*); MUR 4361 (*ABC-TV*); MUR 4368 (*Citizens Business Bank*); MUR 4380 (*AFGE Local 2391 PAC*); MUR 4385 (*Dial for Congress*); MUR 4386 (*Zimmer for Senate*); MUR 4396 (*ABC*); MUR 4404 (*Friends of Steve Stockman*); MUR 4410 (*38th Legislative District*); MUR 4417 (*Our Choice II*); MUR 4422 (*Desane for Congress Committee*); and Pre-MUR 336 (*Park National Bank & Trust*).

[5] These cases are: MUR 3796 (*Jay Kim for Congress*); MUR 3798 (*Jay Kim*); MUR 4275 (*Jay Kim*); and MUR 4356 (*Dynamic Energy Resources*). In dismissing the Jay Kim cases, we also recommend closing Pre-MUR 352, which is the transmittal of the guilty plea agreement and related documentation in the criminal case against Congressman Kim forwarded by United States Attorney's office.

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of this date will permit CED and the Legal Review Team the necessary time to prepare closing letters and case files for the public record.

III. RECOMMENDATIONS.

A. Decline to open a MUR, close the file effective August 29, 1997, and approve the appropriate letters in the following matters:

Pre-MUR 336 Pre-MUR 352

B. Take no action, close the file effective August 29, 1997, and approve the appropriate letters in the following matters:

MUR 3796	MUR 4396	MUR 4522	MUR 4559
MUR 3798	MUR 4404	MUR 4523	MUR 4560
MUR 4274	MUR 4410	MUR 4524	MUR 4562
MUR 4275	MUR 4417	MUR 4526	MUR 4566
	MUR 4422	MUR 4528	MUR 4574
MUR 4356	MUR 4470	MUR 4529	MUR 4576
MUR 4358	MUR 4478	MUR 4532	MUR 4579
MUR 4361	MUR 4492	MUR 4535	MUR 4580
MUR 4368	MUR 4498	MUR 4537	MUR 4584
	MUR 4506	MUR 4541	MUR 4588
MUR 4380	MUR 4512	MUR 4548	MUR 4613
MUR 4385	MUR 4517	MUR 4550	
MUR 4386	MUR 4518	MUR 4551	
	MUR 4520	MUR 4557	

8/14/97
Date

LM Noble (JH)
Lawrence M. Noble
General Counsel

Attachment:
Case Summaries

9704303197 4

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	Agenda Document No. X97-55
Enforcement Priority	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on August 19, 1997, do hereby certify that the Commission decided by a vote of 4-1 to take the following actions with respect to Agenda Document No. X97-55:

A. Decline to open a MUR, close the file effective August 29, 1997, and approve the appropriate letters in the following matters:

1. Pre-MUR 336. 2. Pre-MUR 352.

B. Take no action, close the file effective August 29, 1997, and approve the appropriate letters in the following matters:

1. MUR 3796.	2. MUR 3798.	3. MUR 4274.
4. MUR 4275.	5. MUR 4356.	6. MUR 4358.
7. MUR 4361.	8. MUR 4368.	9. MUR 4380.
10. MUR 4385.	11. MUR 4386.	12. MUR 4396.
13. MUR 4404.	14. MUR 4410.	15. MUR 4417.
16. MUR 4422.	17. MUR 4470.	18. MUR 4478.

(continued)

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19. MUR 4492.	20. MUR 4498.	21. MUR 4506.
22. MUR 4512.	23. MUR 4517.	24. MUR 4518.
25. MUR 4520.	26. MUR 4522.	27. MUR 4523.
28. MUR 4524.	29. MUR 4526.	30. MUR 4528
31. MUR 4529.	32. MUR 4532.	33. MUR 4535.
34. MUR 4537.	35. MUR 4541.	36. MUR 4548
37. MUR 4550.	38. MUR 4551.	39. MUR 4557.
40. MUR 4559.	41. MUR 4560.	42. MUR 4562.
43. MUR 4566.	44. MUR 4574.	45. MUR 4576.
46. MUR 4579.	47. MUR 4580.	48. MUR 4584.
49. MUR 4588.	50. MUR 4613.	

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

Attest:

8-21-97
Date

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

97044331976

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 29, 1997

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert F. Bauer, Esquire
B. Holly Schadler, Esquire
Democratic Congressional Campaign Committee
430 South Capitol Street, S.E.
Washington, D.C. 20003

RE: MUR 4274

Dear Mr. Bauer and Ms. Schadler:

On October 10, 1995, the Federal Election Commission received your complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended ("the Act").

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action in the matter. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on August 29, 1997. This matter will become part of the public record within 30 days.

The Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437(g)(a)(8).

Sincerely,

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

97043831977

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 29, 1997

Perry E. Derry, Esquire
2 Wisconsin Circle, Suite 640
Chevy Chase, MD 20815

RE: MUR 4274
GOPAC Incorporated and Lisa B. Nelson, as treasurer

Dear Mr. Derry:

On October 18, 1995, the Federal Election Commission notified your clients of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action against your clients. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in the matter on August 29, 1997.

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

If you have any questions, please contact Alva E. Smith on our toll-free telephone number, (800) 424-9530. Our local telephone number is (202) 219-3400.

Sincerely,

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

97043831978

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 29, 1997

Jan W. Baran, Esquire
WILEY, REIN & FIELDING
1776 K Street, N.W.
Washington, D.C. 20006

RE: MUR 4274
The Honorable Newton Gingrich

Dear Mr. Baran:

On October 18, 1995, the Federal Election Commission notified your client of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action against your client. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in the matter on August 29, 1997.

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

If you have any questions, please contact Alva E. Smith on our toll-free telephone number, (800) 424-9530. Our local telephone number is (202) 219-3400.

Sincerely,

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

9 7 0 4 3 3 1 9 7 9

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4274

DATE FILMED 9-15-97 CAMERA NO. 4

CAMERAMAN JM

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Date: 11/7/97

✓ Microfilm

_____ Press

THE ATTACHED MATERIAL IS BEING ADDED TO CLOSED MUR 4274

9704384493

CLOSED

Friends Of

NEWT GINGRICH

September 16, 1997

Ms. Alva E. Smith, Paralegal
Federal Election Commission
999 E. Street, NW
Washington, DC 20463

RE: MUR 4274

Dear Ms. Smith,

I am writing in regards to the above referenced MUR. Your letter informing our committee that the MUR was closed with no action was received by the firm of Wiley, Rein & Fielding. This firm was our designated counsel in this matter, but their services are no longer retained by The Honorable Newton Gingrich or any segment of his organization. We would request that this fact be recorded and subsequently noted in the public record. Thank you for your cooperation in this matter.

Sincerely,

Scott Rials
Campaign Manager, Friends of Newt Gingrich

cc: Mr. F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

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P.O. Box 1399, Roswell, Georgia 30077
770/587-2330 Fax: 770/587-2339
E-mail:fong@mindspring.com Web site http://www.newt.org

Paid for by Friends of Newt Gingrich, not at taxpayer's expense. Corporate contributions are prohibited by law. Contributions are not tax deductible.