



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

THIS IS THE BEGINNING OF MUR # 4308

DATE FILMED 12/13/96 CAMERA NO. 4

CAMERAMAN E.L.S.

96043772025

PICKERING

★ FOR CONGRESS ★

February 15, 1996

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
FEB 20 2 54 PM '96

Lawrence C. Noble, Esq.
General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

MUR 4308

Re: Friends of Mike Gunn
January 31, 1996 FEC Filing

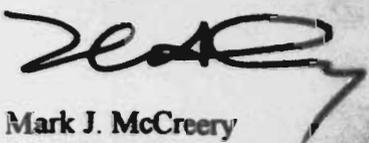
Dear Mr. Noble:

I write as Treasurer for the Pickering for Congress Congressional Campaign Committee ("Committee") concerning the legal filing requirements of Friends of Mike Gunn Congressional Campaign Committee ("Gunn").

The Federal Election Commission ("FEC") year-end report due of all Federal campaigns on January 31, 1996, was not filed by Gunn with the Secretary of State of Mississippi in clear violation of 11 CFR 108.1. This regulation clearly states that Federal Congressional campaigns are to file a copy of their report "with the Secretary of State of the appropriate State."

We respectfully ask the FEC to address this situation in a most expeditious manner. The primary date for this congressional race is March 12th, and as you are aware, we have an additional filing due January 29th (the pre-primary report). It is our committee's wish to have a level playing field and by not following this filing requirement, Gunn is circumventing these efforts.

Sincerely,



Mark J. McCreery
Treasurer

cc: The Honorable Eric Clark
Secretary of State, Mississippi

Subscribed and sworn to
before me in my presence, Mark J. McCreery
this 15th day of Feb.
19 96 A Notary Public in
and for the County of Madison
State of MS
(Signature) Michelle DeWaldy
Notary Public
Notary Public State of Mississippi At Large
My Commission Expires: September 5, 1999
BONDED THRU HEIDEN-MARCHETTI, INC.

9604372026

PICKERING

★ FOR CONGRESS ★

February 15, 1996

Lawrence C. Noble, Esq.
General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

00683998 834 002 01800

AMF SAN JUAN PR
EXPRESS MAIL

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0098100007

Washington, DC

20009

SAN GERMAN PR 00080

DCA

Re: Friends of Gunn
January 31, 1996 FEC Filing

Dear Mr. Noble:

I write as Treasurer for the Pickering for Congress Congressional Campaign Committee ("Committee") concerning the year-end report due January 31, 1996 of the Friends of Mike Gunn Congressional campaign ("Gunn").

There is the appearance of numerous problems with Gunn's filing that challenge the very spirit of campaign finance that the Federal Election Commission ("FEC") is legally required to protect.

The first issue is with respect to the \$50,000 Loan that Gunn attained from Trustmark National Bank on December 29, 1995 and detailed on this report. The actual Note documentation from Trustmark National Bank (Exhibit "1") clearly documents a loan to "Friends of Mike Gunn Congressional Campaign." The note is signed by Grace Gunn of "Friends of Mike Gunn Congressional Campaign." However, close examination of the Assignment and Borrowed Collateral Certificate (Exhibits "2" and "3") do not list "Friends of Mike Gunn Congressional Campaign," but rather "Friends of Mike Gunn." Gunn has a State Senator campaign committee with the State of Mississippi, named "Friends of Mike Gunn." These documents suggest that Gunn defacto transferred funds from his nonfederal campaign committee to his Federal Congressional campaign committee in clear violation of 11 CFR 110.3(d) which prohibits such transfers. Finally, with regard to this first issue of the \$50,000 Loan, this committee wishes to point out that this loan was signed on December 29, 1995 and terminates on January 10, 1996 - a period of 12 Days. Was Gunn attempting to inflate his numbers on this report? Is this a violation of the FEC rules and regulations?

The second issue with Gunn's January 31, 1996 FEC filing involves the conversion of campaign funds for personal use. Gunn reports two expenditures to "Gunn & Associates" in the amounts of \$420.00 (dated 12/07/95) and \$509.46 (dated 12/13/95) for a total of \$929.46. This appears to be in violation of 11 CFB 113.1 which says that a candidate cannot use campaign funds for personal use.

P.O. Box 6440 ★ Laurel, MS 39441 ★ 601-425-2447

Paid for by Pickering for Congress, Mark McCreery, Treasurer.

9604372027

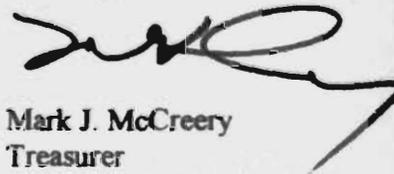
Mr. Lawrence C. Noble, Esq.
February 13, 1996
Page Two

The third issue revolves around the use of nonfederal campaign funds for Gunn's Federal Congressional campaign. It is apparent that Gunn, who from all appearances seems to running a full-fledged campaign with staff, offices, overhead, direct mail, and fundraising events, is not reporting all his expenditures on his FEC reports. The January 31, 1996 report lists just \$2,983.55 in expenditures, with \$929.46 of that total to "Gunn & Associates" as outlined above.

Gunn has admitted openly that he has paid for direct mail pieces that he is using in his federal Congressional campaign committee with funds from his nonfederal campaign committee - See Exhibit "4". It is inconceivable to this committee that Gunn has only spent \$2,054.09 with vendors other than himself. Every campaign is faced with startup costs of phones, deposits, and rent if they have an office - and Gunn does. In addition, direct mail, fundraising events, and personnel all require startup costs that should have been on this FEC report as either an expenditure or as a debt and obligation. In this instance, Gunn is blatantly violating numerous sections of the rules and regulations of the FEC.

We respectfully ask the FEC to address this situation in a most expeditious manner. The primary date for this Congressional race is March 12th, and as you are aware, we have an additional filing due January 29th (the pre-primary report). It is our committee's wish to have a level playing field and by violating numerous sections of the rules and regulations of the FEC - Gunn is circumventing the spirit of the Act and is endangering the integrity of this election.

Sincerely,



Mark J. McCreery
Treasurer

cc: The Honorable Eric Clark
Secretary of State, Mississippi

Subscribed and sworn to
before me in my presence, Mark S. McCreery
this 15th day of Feb.
19 96 A Notary Public in
and for the County of Madison
State of MS
(Signature): Michelle C. Waldrop
Notary Public

Notary Public State of Mississippi At Large
My Commission Expires: September 5, 1999
BONDED THRU HEIDEN-MARCHETTI, INC.

9604372028

Trustmark National Bank (Member)

FRIENDS OF MIKE GUNN CONGRESSIONAL CAMPAIGN	Account No. _____
PO BOX 1432	Inst No. 03004
_____	Office No. 043
_____	Date of Note Dec. 29, 1995
WARREN, ME 03067	

For value received, we the undersigned, accept, and all of us jointly and severally promise to pay to the order of Trustmark National Bank, known as Bank, or its then existing office in Jackson, Mississippi, or any branch thereof, the sum of

Twenty Thousand And 00/100
Dollars (\$ 20,000.00) with interest from Dec. 29, 1995 at a

- Fixed interest rate of 8.25% % per annum with paid
- Variable interest rate with an annual rate of _____ % per annum, and rate is subject to change by the following rate _____ as it changes to be _____ and paid Ceiling of _____ % Floor of _____ %

If checked, the interest on this note shall be calculated on a basis of a year of 360 days and actual number of days elapsed if not checked, the interest on the note shall be calculated on a basis of a year of 365 days and actual number of days elapsed

Payable As Follows:

- In 12 days on Jan. 10, 1996 with interest earned payable as follows: **AT MATURITY**
- On demand
- On demand, but if no demand is made, on _____ with interest earned payable as follows: _____
- In _____ payments of \$ _____ each, on the _____ day of _____ and _____ thereafter, to be applied first to interest on the unpaid balance and then to principal until the _____ day of _____ when the unpaid balance and any interest amount shall be due and payable in full. If the note is not to a variable rate, on each adjustment date the bank may, at its option, recompute the balance and adjust the scheduled payments over the remaining life of the term.
- On the _____ day of _____ and on the same day of each _____ thereafter the sum of \$ _____ to be applied to principal and at the same time the amount owing for interest on the total principal of the indebtedness then remaining unpaid, such payments to continue until the borrower with the principal and interest are fully paid, except that the final payment of principal and interest, if not earlier paid, shall be due and payable on the _____ day of _____

Security Provisions:

This loan is secured by a Security Agreement or a Blanket Lien of our date herewith covering the following property described below, together with Collateral and any proceeds thereof (Check One) if other type specified:
Assignment of:
CHECKING ACCOUNT # 0708290001 OF
TRUSTMARK NATIONAL BANK IN THE NAME OF
FRIENDS OF MIKE GUNN CONGRESSIONAL CAMPAIGN

I hereby acknowledge receipt of a copy of this note and agree to the terms and conditions contained on this note and the reverse side hereof
FRIENDS OF MIKE GUNN CONGRESSIONAL CAMPAIGN

BY: GRACE GUNN

AJS 5069
043 00003069

See Other Side For Additional Contract Terms.

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96015923538



Borrowed Collateral Certificate

Date 12/22/92

I, MIKE GUNN
do hereby certify that the following property belonging to me has been pledged to you as collateral security.

PROPERTY REFERRED TO IS THE "BORROWER", FOR WHICH THE FOLLOWING PROPERTY BELONGING TO ME HAS BEEN PLEDGED TO YOU AS COLLATERAL SECURITY.

CHECKING ACCOUNT # 0702199901 OF
TRUSTMARK NATIONAL BANK IN THE NAME OF
FRIENDS OF MIKE GUNN WITH A BALANCE
THIS DATE IN THE AMOUNT OF \$ 52,000.00.

and for the purpose of creating and borrower to obtain credit therefor, I hereby certify that the said property has been duly assigned, assigned, transferred and delivered by me to said borrower, and by these presents, I do hereby assign, release and transfer unto said borrower all of my right, title and interest in and to said property, and hereby expressly authorize said borrower to pledge or hypothecate, all or any part of said property for the satisfaction of all or any part of said loan, and all renewals and extensions thereof, and also for any and all other indebtedness of the said borrower to you, incurred at any time before this certificate shall have been recorded in writing and all renewals and extensions thereof, and I have made this my last, full, complete, and exclusive act of disposal of said property.

Witness my hand and seal of office this 22nd day of December, 1992, at the City of Memphis, Tennessee.

MIKE GUNN
[Signature]

[Signature]

96043772031
96015923540

Mike Gunn passed bills that:

- Cut taxes.
- Reform welfare.
- Crack down on crime.
- Limit politicians' terms.
- Return ethics to government.
- Cut and privatize government.
- Restore Christian-Judeo values such as school prayer.

What Others Say about Mike Gunn:

"Among the best...[an] adept lawmaker... works hard...consistently done a good job."
— Northside Sun

"Truly exceptional in integrity and as a leader. Mike has blazed a trail of dramatic legislative accomplishment."
— Lt. Governor Eddie Briggs

"A fair and concise leader. He [has] voting power in both the House and Senate."
— Governor Kirk Fordice

"A gentleman of high integrity and character...[whose] qualifications are truly outstanding...a proven conservative."
— U.S. Senator Trent Lott

"Gunn takes stands on issues, and that alone is a rarity in today's political forum."
— Jackson Journal of Business

A Proven Record of Service

- Environment Committee Chairman. Finance Subcommittee Chairman. On the Public Health & Welfare, Labor, Oil & Gas, and Insurance Committees.
- The only person in the USA to receive the "Outstanding Legislator" award two years in row from the American Legislative Exchange Council, the country's largest, independent group of legislators.
- Rated the "Champion of Business" for legislative excellence by the Business-Industry Political Education Committee.
- One of four legislators awarded the "Guardian of Small Business" by the National Federation of Independent Business.
- A small businessman; not a lawyer.
- Hinds Jr. College, AA; Ole Miss, BPA; University of Virginia, MBA; University of Texas' LBJ School of Public Affairs; Library of Congress' Graduate School for congressional staff.
- Who's Who in the World, Who's Who in the U.S., Who's Who in Politics.
- Northwest Rankin PTA.
- Northwest Rankin Athletic Association.

Paid for by Friends of Mike Gunn
P.O. Box 31613, Jackson, MS 39286; 829-2000.

EXHIBIT "4"

Mike Gunn

Senator



Republican

Mike Gunn

For a better life.
In a better Mississippi.

As your Republican state Senator, Mike Gunn is working hard to improve the quality of life for you and your family. His record of service is without parallel.

Mike Gunn is the only person to win the coveted "Outstanding Legislator in the Nation" award two years in a row from the American Legislative Exchange Council — the country's largest, independent group of legislators.

The Business Industry Political Education Committee calls Mike a "Business Champion" for his leadership in authoring and promoting free enterprise initiatives and business support.

A better Rankin County

Mike Gunn's one of us. He's the first north Rankin County resident to represent us in the Senate.

Mike's committed to making our county a better place to live. For example, due to a bill he sponsored, the state will construct a bridge connecting north Rankin to

downtown Jackson. This will reduce the heavy traffic on Highway 25.

For far too long, the Pearl River Valley Water District wouldn't commit to renew property leases to District homeowners. This



A Personal Note from Mike Gunn

Dear Friend,

I ask for your prayers and vote for the Republican nomination for Congress on March 12th.

Voters are fed-up with politics as usual. They're tired of politicians who say one thing, then do another after they're elected.

That's why I'm taking this unconventional step of sending to you this brochure left over from my state Senate reelection campaign. I don't want to waste my campaign dollars on new expenditures unless absolutely necessary.

Please accept this brochure as proof of when I'm in Congress, I'll be just as frugal in spending your dollars as I am in spending mine.

Thank you. And the Lord bless you abundantly in the new year.

Mike Gunn

P.S. If you can volunteer some time or help financially, please write me at P.O. Box 5835, Brandon, MS 38047.

Thanks to Mike, able-bodied welfare recipients must work for their benefits. And to stop the incentive for illegitimacy, welfare recipients no longer may receive extra cash for children born out of wedlock.



Governor Fordice praised Mike's welfare reform calling it "the most innovative program in the country."

Mike Gunn believes good government must be moral government. Mike led the fight to return school prayer. He supports term limits for politicians and strong ethics laws to keep them honest.

Our families are our future

Mike's top legislative commitment is to our families. And no bigger struggle do our families have than paying taxes.

Mike is leading the fight to reduce taxes. The Senate passed his income tax cut. The Governor approved his bill to chop the cost of car tags in half. And Mike supported exempting retirees' income from tax.

Mike wants our children to have the best education possible. He voted for the program that gives your child up to \$2500 to pay college tuition. And Mike supports bonus pay to reward teacher excellence.





FEDERAL ELECTION COMMISSION
Washington, DC 20463

February 28, 1996

Mark J. McCreery, Treasurer
Pickering for Congress Congressional
Campaign Committee
P.O. Box 6440
Laurel, MS 39441

RE: MUR 4308

Dear Mr. McCreery:

This letter acknowledges receipt on February 20, 1996, of your complaint 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 4308. 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

96043772034



FEDERAL ELECTION COMMISSION

Washington, DC 20463

February 28, 1996

**Fred Gene Ray, Treasurer
Friends of Mike Gunn
105 Shenandoah Estates Circle
Brandon, MS 39042**

RE: MUR 4308

Dear Mr. Ray:

The Federal Election Commission received a complaint which indicates that Friends of Mike Gunn, you, as treasurer, the Honorable Michael Gunn's nonfederal campaign committee(s), and its treasurer(s) 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 4308. 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 above - noted parties 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.

9604372035

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, DC 20463

February 28, 1996

The Honorable F. Michael Gunn
105 Shenandoah Estates Circle
Brandon, MS 39042

RE: MUR 4308

Dear Senator Gunn:

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 4308. 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.

96043772037

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 6 0 4 3 7 2 0 3 8

WELLS MARBLE & HURST, PLLC
ATTORNEYS AT LAW

MAILING ADDRESS:
POST OFFICE BOX 131
JACKSON, MISSISSIPPI 39205-0131

STREET ADDRESS:
400 LAMAR LIFE BUILDING
317 E. CAPITOL STREET
JACKSON, MISSISSIPPI 39201-3405

TELEPHONE: (601) 355-8321
FACSIMILE: (601) 355-4217

WILLIAM CALVIN WELLS (1844-1914)
MAJOR W. CALVIN WELLS (1878-1957)
WILLIAM CALVIN WELLS, JR. (1908-1988)

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
Mar 18 3 16 PM '96

March 8, 1996

ERSKINE W. WELLS
ROLAND D. MARBLE
JOE JACK HURST
J. JERRY LANGFORD
JOHN E. HUGHES, III
JAMES S. ARMSTRONG
WILLIAM H. GLOVER, JR.
WENDELL H. COOK, JR.
KENNA L. MANSFIELD, JR.
STEVEN H. BEGLEY
DAN H. FAIRLY
ROY H. LIDDELL
WALTER D. WILLSON
KELLY D. SIMPKINS
LANA E. GILLON
PHILIP A. GUNN
BRIDGET H. HANSFORD

The Hon. Mary L. Taksar
General Counsel's Office
Federal Election Commission
Washington, D.C. 20463

Re: MUR4308

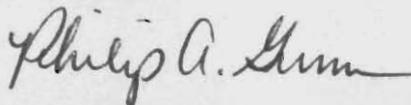
Dear Ms. Taksar:

Enclosed you will find the response of F. Michael Gunn to the Complaints filed against him in the above-referenced matter. As you will notice, Mr. Gunn has addressed each of the allegations in the Complaints one by one and has submitted his response under oath in order to ensure that all the allegations are answered and that there are no questions surrounding the integrity of his campaign.

After reviewing the enclosed Affidavit, we feel certain that your office will be satisfied that Mr. Gunn has committed no violation of any Federal Election Commission regulation and that this matter can be laid to rest.

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

Sincerely,



Philip A. Gunn

PAG/gvw
Enclosure

9604372039

AFFIDAVIT OF F. MICHAEL GUNN

STATE OF MISSISSIPPI

COUNTY OF HINDS

Personally appeared before me, the undersigned authority at law in and for the aforesaid jurisdiction, **F. MICHAEL GUNN**, who, being by me first duly sworn, states the following:

1. Regarding Mr. McCreery's letter of February 28, 1996, alleging that we did not file a copy of our FEC year-end report with the Secretary of State, said report was mailed on January 31, 1996, and received by the Secretary of State on February 12, 1996, as evidenced by Exhibit "A" attached hereto. The letter also mentions a filing date on January 29, 1996. We are not aware of any such filing date.

2. Regarding Mr. McCreery's letter dated February 15, 1996, we respond to the allegations contained therein as follow:

a. Concerning the first issue raised by McCreery's letter, the name of the Committee as reported in our Statement of Candidacy is "Friends of Mike Gunn". On the bank account the words "Congressional Campaign" were added to distinguish this account from any other account maintained by the candidate. We do not consider the additional words to have any significance as they were used in the bank's loans documents. No funds have been transferred from a non-federal campaign committee to the congressional campaign account.

The \$50,000 loan made by Trustmark National Bank was made in anticipation of a large expense that was going to be made by the campaign to increase the name ID of the candidate. The expense never materialized, therefore, the loan was repaid. It was never the Committee's intent to

9604377204C

inflate the bottom line. The letter asks if the short-term loan is a violation of FEC rules and regulations. We are not aware of any such violation.

b. In regard to the second issue in Mr. McCreary's letter, the \$929.46 to Gunn & Associates was for reimbursement of campaign expenses. (See Exhibit "B" for documentation.) The campaign has not used any campaign funds for personal use.

c. In response to the third issue, it is true that our expenditures were only \$2,983.55 through December 31, 1995. We did not have a campaign office until after January 2, 1996. The campaign had incurred expenses which were paid in the normal course of business after January 1, and all of which were included in the report covering the period of January 1-February 21, 1996.

3. In regard to the fourth issue concerning direct mail pieces paid by the non-federal campaign for use in the federal campaign, less than one dozen of these brochures were distributed. After that distribution, the campaign decided it was not proper to use such materials and discontinued doing so.

Further Affiant saith not.

This the 12 day of March, 1996.

F. Michael Gunn
F. MICHAEL GUNN

SWORN TO AND SUBSCRIBED BEFORE ME, this the 12th day of March

1996.

Bette J. Purcell
NOTARY PUBLIC

MY COMMISSION EXPIRES: August 1, 1998

96043772041

RECEIVED
FEB 12 1996

USE FEC MAILING LABEL
OR
TYPE OR PRINT

1. NAME OF COMMITTEE (in full)
Friends of Mike Gunn

ADDRESS (number and street) Check if different than previously reported.
105 Shenandoah Estates Circle

CITY, STATE and ZIP CODE **Brandon MS 39042**

STATE/DISTRICT **MS - 3**

2. FEC IDENTIFICATION NUMBER OF STATE
C00309476

3. IS THIS REPORT AN AMENDMENT?
 YES NO

4. TYPE OF REPORT

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

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

SUMMARY

5. Covering Period	COLUMN A This Period	COLUMN B Calendar Year-to-Date
<u>12-4-95</u> through <u>12-31-95</u>		
6. Net Contributions (other than loans)		
(a) Total Contributions (other than loans) (from Line 11(e))	46,665.00	46,665.00
(b) Total Contribution Refunds (from Line 20(d))	0	0
(c) Net Contributions (other than loans) (subtract Line 6(b) from 6(a))	46,665.00	46,665.00
7. Net Operating Expenditures		
(a) Total Operating Expenditures (from Line 17)	2,983.55	2,983.55
(b) Total Offsets to Operating Expenditures (from Line 14)	0	0
(c) Net Operating Expenditures (subtract Line 7(b) from 7(a))	2,983.55	2,983.55
8. Cash on Hand at Close of Reporting Period (from Line 27)	185,681.45	
9. Debts and Obligations Owed TO the Committee (Itemize all on Schedule C and/or Schedule D)	0	
10. Debts and Obligations Owed BY the Committee (Itemize all on Schedule C and/or Schedule D)	142,000.00	

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

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

Type or Print Name of Treasurer
Fred G. Ray

Signature of Treasurer *Fred G. Ray* Date **1/31/96**

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. 5437g.

9604372042

STATEMENT

JAN 25 1996

Page 1

Postage Savers, Inc
 P.O. BOX 31175
 Jackson, Mississippi 39206-1175
 Phone (601)366-0072

12/01/95 THROUGH 12/13/95
 00670

105 Shenandoah Estates Circle
 Brandon MS 39042
 Ms. Grace Gunn

Barcode Pieces	Handsort Pieces	NON Stamp	1oz/2oz Residual	3oz Residual	Qualified Pieces Mailed	POSTAGE ADDED				
						1oz/2oz Residual	3oz Residual	NON Stamped	Overseas	
12/08/95	0	0	1008	0	0	1008	0.00	0.00	169.34	0.00
12/11/95	0	0	1132	0	0	1132	0.00	0.00	165.27	0.00
12/12/95	0	0	2535	0	0	2535	0.00	0.00	425.88	0.00
TOTAL:	0	0	4675	0	0	4675	0.00	0.00	760.49	0.00

4675 QUALIFYING 126.25
 Postage added for Residual 1 0.00
 Postage added for Residual 2 0.00
 Postage added for Non-Stamped 760.49
 Postage added for Overseas Mail 0.00

12/1/95 Rec'd check \$1297 for advance postage -417.00
 12/8/95 Meter strip added for 427 pcs. @ \$.058 each 24.77
 12/8/95 Meter &/or seal 1008 pcs. @ \$.07 per ■ 7.06
 12/11/95 Rec'd check \$1006 for advance postage -420.00
 12/12/95 Meter strip added for 112 non-qual pcs. 4.55
 12/12/95 Set up for ink jet addressing 25.00
 12/12/95 Hand insert 1132 pcs. @ \$.30 per ■ 33.96
 12/12/95 Meter &/or seal 1132 pcs. @ \$.07 per ■ 7.92
 12/12/95 This mailing "Birthday Cards" 0.00
 12/12/95 Meter strip added for non-qual pcs. 74.69
 12/12/95 Meter &/or seal 2535 pcs. @ \$.07 per ■ 17.75
 12/12/95 This mailing "Contribution Letters" 0.00

Total Due Postage Savers, Inc. 245.44

*Should I
 run pkg.
 for postage*



9604377204

96043772044

0.00 *

410.42 +

49.04 +

50.00 +

509.46 *

reimburs
Amot Associates

\$ 100²
12-13-91

ISSUED BY DELTA AIRLINES

ISSUED BY DELTA AIRLINES

PASSENGER RECEIPT

03DEC95 80066

DL7JC JAN FTO

STOCKMAN/STEVE CONGRESSMAN

NOT VALID FOR TRANSPORTATION

PSGR TICKET 0062192034286

NON-REVENUE SERVICE CHARGE

JAN DL ATL DL DCA

FROM JACKSON MISS TO ATLANTA

DL DL

USD 50.00

USD 50.00

00605814675635

0 006 2921084696 1

ISSUED BY DELTA AIRLINES

SPECIAL SERVICE TICKET

THIS IS YOUR RECEIPT

NOT VALID FOR TRAVEL

NOT VALID FOR TRAVEL

0 006 2921084696 1

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MERCHANT COPY

N 3892996

Montgomery

Car Rental

For worldwide reservation contact your travel agent or call

1-800-FOR-CARS (1-800-367-2277)

RENTAL RENTER IS PROVIDED

Where available, and to protect me against the operation of the vehicle optional SLI coverage.

Accept Frequent Flyer Number

Confirmation No. H

Master Source

Company Name 800

Address SELF Renter

Address GINN

Driver's License No. 185 SHENANDOAH ESTAT BRANDON MS 39842

Expires 418648574 Date of Birth Weight X Height Color H/B

Local Contact 05/26/98 05/26/56

Additional Information

Additional Driver Charge applies if car is rented with less fuel.

Address City State Zip

NO ADDITIONAL DRIVER Driver's License No. State / Prov.

Expires Date of Birth Weight Height Color Eyes

AMEX Name

MC Company 372836282016002 5/97

VISA Address

DC City & State

OS Claim No. 04/94 03/97 50

Thrifty CB Division FRANK M. GINN 28

Other

THRIFTY RENT A CAR PEARL, MS

4233900000000000 01

DEC 04, 95 283646

FM GINN

SALE

592939 50044381 Convertible-trip to COLUMBUS

AUTO RENTAL AGREEMENT # 3892996

RENTAL DATE 12/04

RETURN DATE

TOTAL \$49.04

Frank M. Ginn

Driver's License No. 185 SHENANDOAH ESTAT BRANDON MS 39842

Expires 418648574 Date of Birth Weight X Height Color H/B

Local Contact 05/26/98 05/26/56

Additional Information

Additional Driver Charge applies if car is rented with less fuel.

Address City State Zip

NO ADDITIONAL DRIVER Driver's License No. State / Prov.

Expires Date of Birth Weight Height Color Eyes

AMEX Name

MC Company 372836282016002 5/97

VISA Address

DC City & State

OS Claim No. 04/94 03/97 50

Thrifty CB Division FRANK M. GINN 28

Other

I have read and understand PDW. I know that if I decline the optional PDW, I am responsible for all loss whether it is my fault or not. All the information provided to you by me in connection with this rental is true. I have read and agree to the terms of this page and on the rental contract. I authorize you to process a credit card voucher for any charges under this agreement.

Signature: Frank M. Ginn

Vehicle Number	3892996	
Make	1	Model 1260
License Plate No.	CHRY	LEACON
Owning City	R47272	MS
Vehicle will be returned (date)	250206	JAN
Date and Time In	12/05/95	8:00
Date and Time Out	12/05/95	8:53
Time Used	12/04/95	8:18:30
Per Mile @		
Per Days	1 @	44.99
Wks @		44.99
Hrs @		219.99
		14.00
Sub Total		44.99
Time plus miles charges		44.99
Surcharge		
PDW Daily Rate		
Return Fee		
Taxable Refueling Service		
Sub Total		44.99
Tax or Surcharge		4.95
Airport Access Tax/Fee		
Non-Taxable Refueling Service		
Misc. Charges @ Adjustments		
SLI Daily Rate @		5.00
Daily Rate		25.00
Daily Rate		
Mile Amount		49.04
Voucher Amount		49.04
Cash Collected		
Net Due Thrifty		
Requested by	RA out by	RA in by
		7 12/05/95

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© 1991 GMAC/200 GMAC/Car System, Inc.

Thrifty features quality products of the Chrysler Corporation and other fine cars.



Charges Subject to Final Audit

INVOICE

96043772047

KATHRYNE
5800 OLD CANTON ROAD
MOBILE, MS. 39157
PHONE (501) 956-2903
Have A Good Day!
Date - 12/02 Time - 10:27a
Station ID: 01

Purchase

Kathryne's - dinner

Clerk: *W/Steve*
Record Number: 029

Stockman

Account Number

Amount \$ 410.42

Tip \$ _____

Total \$ _____

Fran M. L...

Auth Codes: 32

~~Printed~~

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

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

OCT 24 1 45 PM '96

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

MUR: 4308
DATE COMPLAINT FILED: 2/20/96
DATE OF NOTIFICATION: 2/28/96
DATE ACTIVATED: 6/13/96

STAFF MEMBER: Phillip L. Wise

COMPLAINANT: Pickering for Congress Congressional Campaign Committee
and Mark J. McCreery, as treasurer

RESPONDENTS: Friends of Mike Gunn and Fred Gene Ray, as treasurer
F. Michael Gunn

RELEVANT STATUTES: 2 U.S.C. § 434(a)(2)(A)(i)
2 U.S.C. § 434(b)
2 U.S.C. § 439(a)(1)
2 U.S.C. § 439a
2 U.S.C. § 441b
11 C.F.R. § 102.5(b)
11 C.F.R. § 104.3(d)
11 C.F.R. § 104.11(a) and (b)
11 C.F.R. § 108.1
11 C.F.R. § 110.3(d)
11 C.F.R. § 113.1(g)
11 C.F.R. § 116.3(a) and (c)

INTERNAL REPORTS CHECKED: DISCLOSURE REPORTS

FEDERAL AGENCIES CHECKED: NONE

I. GENERATION OF MATTER

This matter was initiated by a signed sworn complaint filed with the Federal Election Commission ("the Commission") on February 20, 1996, by the Pickering for Congress Congressional Campaign Committee and Mark J. McCreery, as treasurer ("the PC Committee"). In this complaint the PC Committee alleges that during the 1996 Congressional race in

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Mississippi, that the Friend's of Mike Gunn and Fred Gene Ray, as treasurer ("the Gunn Committee") failed to file its 1995 Year End Report with the Secretary of State of Mississippi; that the Gunn Committee transferred funds from the candidate's nonfederal campaign committee to the candidate's federal campaign committee; and that the Gunn Committee used funds from the candidate's nonfederal campaign committee to make expenditures on behalf of the candidate's federal campaign activity. The PC Committee also alleges that the candidate converted campaign funds for personal use. On March 18, 1996, the respondents submitted their response to the complaint in a sworn Affidavit of F. Michael Gunn. See Attachment 1.

II. FACTUAL AND LEGAL ANALYSIS

A. THE LAW

The Federal Election Campaign Act of 1971, as amended ("the Act") states that a copy of each report and statement required to be filed by any person under this Act shall be filed by such person with the Secretary of State (or equivalent State officer) of the appropriate State, or, if different, the officer of such State who is charged by State law with maintaining State election campaign reports. 2 U.S.C. § 439(a)(1).

Pursuant to 2 U.S.C. § 434(a)(2)(A)(i) if the political committee is the principal campaign committee of a candidate for the House of Representatives or for the Senate in any calendar year during which there is a regularly scheduled election for which such candidate is seeking election, or nomination for election, the treasurer shall file a pre-election report, which shall be filed no later than the 12th day before (or posted by registered or certified mail no later than the 15th day before) any election in which such candidate is seeking election, or nomination for election, and which shall be complete as of the 20th day before such election.

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Pursuant to 2 U.S.C. § 434(b) each report filed under this section shall disclose all receipts and all disbursements for the reporting period and calendar year.

Under the Act contributions or expenditures by national banks, corporations, or labor organizations are prohibited with regard to federal election activity. 2 U.S.C. § 441b.

Any organization that makes contributions or expenditures in connection with federal elections, but does not qualify as a political committee under the Act must establish a separate account, which only contains funds subject to the prohibitions and limitations of the Act, from which such contributions and expenditures shall be made; or demonstrate through a reasonable accounting method that whenever it makes contributions and expenditures with regard to federal election activity, that the organization has received sufficient funds subject to the limitations and prohibitions of the Act for use in making such contributions and expenditures. 11 C.F.R. § 102.5(b).

Pursuant to 11 C.F.R. § 104.3(d) each report filed shall, on Schedule C or D, as appropriate, disclose the amount and nature of outstanding debts and obligations owed by or to the reporting committee. Loans obtained by an individual prior to becoming a candidate for use in connection with that individual's campaign shall be reported as an outstanding loan owed to the lender by the candidate's principal campaign committee.

Transfers of funds or assets from a candidate's campaign committee or account for a nonfederal election to his or her principal campaign committee or other authorized committee for a federal election are prohibited. However, at the option of the nonfederal committee, the nonfederal committee may refund contributions, and may coordinate arrangements with the candidate's principal campaign committee or other authorized committee(s) for a solicitation by

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the federal committee to the same contributors. The full cost of this solicitation shall be paid by the Federal committee. 11 C.F.R. § 110.3(d).

Amounts received by a candidate as contributions that are in excess of any amount necessary to defray his expenditures, and any other amounts contributed to an individual for the purpose of supporting his or her activities as a holder of Federal office, may be used by such candidate or individual, as the case may be, to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office, may be contributed to any organization described in section 170(c) of title 26, or may be used for any other lawful purpose, including transfers without limitation to any national, State, or local committee of any political party; except that no such amounts may be converted by any person to any personal use, other than to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office. 2 U.S.C. § 439a. Personal use means any use of funds in a campaign account of a present or former candidate to fulfill a commitment, obligation or expense of any person that would exist irrespective of the candidate's campaign or duties as a Federal officeholder. 11 C.F.R. § 113.1(g).

Pursuant to 11 C.F.R. § 104.11(a) debts and obligations owed by or to a political committee which remain outstanding shall be continuously reported until extinguished.

Pursuant to 11 C.F.R. § 104.11(b) a debt or obligation, including a loan, written contract, written promise or written agreement to make an expenditure, the amount of which is \$500 or less, shall be reported as of the time payment is made or not later than 60 days after such obligation is incurred, whichever comes first. A debt or obligation, including a loan, written contract, written promise or written agreement to make an expenditure, the amount of which is

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over \$500 shall be reported as of the date on which the debt or obligation is incurred, except that any obligation incurred for rent, salary or other regularly reoccurring administrative expense shall not be reported as a debt before the payment due date.

Pursuant to 11 C.F.R. § 116.3(a) a commercial vendor that is not a corporation may extend credit to a candidate, a political committee or another person on behalf of a candidate or political committee. An extension of credit will not be considered a contribution to the candidate or political committee provided that the credit is extended in the ordinary course of the commercial vendor's business and the terms are substantially similar to extensions of credit to nonpolitical debtors that are of similar risk and size of obligation. In determining whether credit was extended in the ordinary course of business, the Commission will consider whether the vendor followed its established procedures and its past practices; whether the vendor received prompt payment in full with regard to previously extended credit to the same candidate or political committee; and whether the extension of credit conformed to the usual and normal practice in the vendor's trade or industry. 11 C.F.R. § 116.3(c).

B. DISCUSSION

1. Transfer of Funds from Nonfederal to Federal Committee

(a). The Loan

(1) Complaint

According to the complaint, on December 29, 1995, Gunn obtained a \$50,000.00 loan from Trustmark National Bank. The PC Committee states that documentation indicates that the loan is to "Friends of Mike Gunn Congressional Campaign," and is signed by Grace Gunn of "Friends of Mike Gunn Congressional Campaign." The complaint alleges that

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the Assignment and Borrowed Collateral Certificate do not list "Friends of Mike Gunn Congressional Campaign," but rather "Friends of Mike Gunn," which is the name of Mr. Gunn's State campaign committee. This being the case the complaint alleges that the documentation evidences a transfer of funds from Gunn's nonfederal committee to his federal committee in violation of federal election laws.

The complaint also alleges that since the loan was signed on December 29, 1995 and terminated on January 10, 1996 (a period of twelve days) Gunn attempted to inflate his receipts for this report, which may be in violation of federal election laws.

(2) Response

Mr. Gunn stated that in the Statement of Candidacy his committee is reported as "Friends of Mike Gunn;" however, on the bank account the words "Congressional Campaign" were added to distinguish this account from any other account maintained by the candidate. Mr. Gunn indicates that the use of the additional words "Congressional Campaign" on the loan documents does not change the nature of the committee.

According to Mr. Gunn the \$50,000.00 loan made by Trustmark National Bank was made in anticipation of a large expense that was going to be made by the campaign. Mr. Gunn stated that since the expense never materialized the loan was repaid. He also stated that it was never the Gunn Committee's intent to inflate the bottom line. Mr. Gunn also argues that the Gunn Committee does not believe the short-term loan is a violation of Federal election laws.

Mr. Gunn states that no funds have been transferred from a non-federal campaign committee to the congressional campaign account.

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(3). Analysis

In view of the facts that the federal committee was named "Friends of Mike Gunn"; that the reports filed by the Gunn Committee reported this loan as being to the federal committee; and that no evidence has been presented to dispute the fact that the loan was entered into by and for the federal committee, there appears to be no violation of 11 C.F.R. § 110.3(d) by the Gunn Committee with regard to the \$50,000.00 loan from Trustmark National Bank.

The complaint also alleges that this loan, which was signed on December 29, 1995 and terminated on January 10, 1996, was an attempt by Mr. Gunn to inflate his receipts, which may be in violation of federal election laws. From a review of the loan documents, and Mr. Gunn's response, it appears that this was a legitimate loan entered into by the parties thereto; therefore, the fact that it was paid back in a short period of time does not appear to result in any violation of the Act or the Commission's regulations.

(b). Small Amount of Reported Expenditures

(1). Complaint

The PC Committee has alleged that due to the small amount of reported expenditures (\$2,983.55 in expenditures) in the 1995 Year End Report covering the period from December 4, 1995 to December 31, 1995, it appears that the Gunn Committee was not reporting all expenditures on its FEC reports, and that the small amount of reported expenditures is evidence that the Gunn Committee must have been using funds from the candidate's nonfederal committee to pay for federal campaign activities.

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(2). Response

In his affidavit Mr. Gunn states that, as reported, the Gunn Committee's expenditures were only \$2,983.55 through December 31, 1995. Mr. Gunn states that this small amount of expenditures is due to the fact that the committee did not have a campaign office until after January 2, 1996. He also states that the campaign incurred expenses which were paid in the normal course of business after January 1, 1996, all of which were included in the report covering the period of January 1 to February 21, 1996.

(3). Analysis

In view of the explanation for the small number of expenditures in the affidavit by Mr. Gunn, and the information contained in the reports filed by the Gunn Committee, which show the dates, purpose, and amounts of the expenditures, there appears to be no violation of 11 C.F.R. § 110.3(d) by the Gunn Committee with regard to the small amount of expenditures reported prior to December 31, 1995, as alleged in the complaint.

In his affidavit Mr. Gunn did make the statement that, "[t]he campaign had incurred expenses which were paid in the normal course of business after January 1, and all of which were included in the report covering the period of January 1-February 21, 1996." This did raise a question as to whether the committee had failed to report some debts and obligations which it incurred prior to the end of the reporting period for the 1995 Year End Report.

Certain debts and obligations must be reported continuously until repaid. 11 C.F.R. §§ 104.3(d) and 104.11. Unpaid bills and written contracts or agreements to make expenditures are considered debts. 11 C.F.R. § 100.8(a)(2). Debts and obligations (other than loans) are reported on Schedule D according to the following rules: A debt of \$500 or less is reportable

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once it has been outstanding 60 days from the date incurred (the date of the transaction, not the date the bill is received). The debt is disclosed on the next regularly scheduled report; and a debt exceeding \$500 must be reported in the report covering the date on which the debt was incurred. 11 C.F.R. §§ 104.3(d) and 104.11. Regularly recurring administrative expenses like rent and salaries do not have to be reported until payment is due. 11 C.F.R. § 104.11(b).

A review of the expenditures reported by the Committee in its 1996 Pre-Primary Report appears to indicate that no expenses were reflected in that report that should have been reported in the 1995 Year End Report. In view of the affidavit by Mr. Gunn, and the information contained in the reports filed by the Gunn Committee, except as discussed below, there appears to be no violation of 2 U.S.C. § 434(b) as a result of the small amount of expenditures reported by the Gunn Committee in the 1995 Year End Report.

(c). **The Flyers**

(1). **Complaint**

In the complaint the PC Committee alleges that Mr. Gunn admitted that he paid for direct mail pieces used in his federal Congressional campaign with funds from his nonfederal campaign committee.

(2). **Response**

In his affidavit Mr. Gunn admits that the nonfederal campaign paid for direct mail pieces used in the federal campaign. Mr. Gunn states that less than one dozen of these brochures were distributed, and that after that distribution, the campaign decided it was not proper to use such materials and discontinued doing so.

9 6 0 4 3 7 2 0 5 6

(3). Analysis

This use of nonfederal campaign funds for federal campaign related expenditures in effect is a prohibited transfer of such funds and therefore appears to be a violation of 11 C.F.R. § 110.3(d) by both the Gunn Committee, and the Gunn Nonfederal Committee. See MUR 3946 ((Friends of Marsha Murphy) in which the Commission determined that the payment for a "testing the waters" poll, for the candidate's federal campaign by the candidate's State committee constituted an "in-kind" transfer of funds, in violation 11 C.F.R. § 110.3(d)). Furthermore, since Mississippi allows State campaign committees to accept contributions from corporations, labor unions and banks, the nonfederal campaign funds used to make expenditures for the federal campaign, more than likely included such prohibited funds. Accordingly, it appears that there is a violation of 2 U.S.C. § 441b(a) by the Gunn Committee. Further, as there is no showing by the respondents that the nonfederal committee made the expenditures on behalf of the federal committee from an account that contained only funds subject to the limitations and prohibitions of the Act, there appears to be a violation of 11 C.F.R. § 102.5(b). In addition, since the Gunn Committee did not report the receipt of this expenditure for the direct mail pieces, as a contribution by the nonfederal committee there appears to be a violation of 2 U.S.C. § 434(b) by the Gunn Committee.

2. Conversion of Campaign Funds For Personal Use**(a). Complaint**

The complaint alleges that, Mr. Gunn, the candidate, converted campaign funds for his personal use. The PC Committee states that this conversion for personal use is apparent in the Gunn Committee's January 31, 1996 FEC report, which reflected two expenditures made

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to Gunn & Associates, one on December 7, 1995, in the amount of \$420.00, and the other on December 13, 1995, in the amount of \$509.46, for a total of \$929.46.

(b). Response

Mr. Gunn states that the Gunn Committee's two expenditures to Gunn & Associates, one on December 7, 1995, in the amount of \$420.00, and the other on December 13, 1995, in the amount of \$509.46, for a total of \$929.46, were reimbursements for campaign expenses. Mr. Gunn submitted invoices which indicated the purpose of the payments to Gunn & Associates were reimbursements for campaign related postage, car rental, political dinner, and a service charge for changing an airline ticket. Mr. Gunn also asserts that the campaign has not used any campaign funds for personal use.

(c). Analysis

(1). Personal Use

According to the Secretary of State's Office For Mississippi, Business Section, Gunn & Associates is not registered as a corporation in the State of Mississippi. The address for Gunn & Associates, as listed on the Committee's reports, is the same as that of the candidate, and the Gunn Committee. Information obtained by this Office appears to indicate that Gunn & Associates is a sole proprietorship, direct mail operation run out of the candidate's home. In addition the invoices, and reported disbursements to Gunn & Associates from the Gunn Committee appear to evidence a business relationship between them.

In view of the foregoing, which includes invoices that appears to be for services rendered to the Gunn Committee by Gunn & Associates, there appears to be no conversion of campaign

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funds for personal use by Mr. Gunn. Accordingly, there also appears to be no violation of 2 U.S.C. § 439a by Mr. Gunn and the Gunn Committee.

(2) Ordinary Course of Business

An issue raised by Mr. Gunn's response is whether the services rendered and initially paid for by Gunn & Associates, and reimbursed by the Gunn Committee, were in the normal course of business. See 11 C.F.R. § 116.3(c). With no information about the normal operation of this business it is impossible to determine with certainty whether advance payment for the campaign related postage, car rental, a political dinner, and a service charge for changing an airline ticket, are services rendered in the normal course of business to nonpolitical customers or clients. Because advances for car rental, a political dinner, and payment toward an airline ticket may not be within the company's normal business practices, it appears that some or all of the amount involved should have been reported as a contribution by Gunn & Associates to the Gunn Committee.¹ See 11 C.F.R. § 116.3(a). Gunn & Associates appears to be a sole proprietorship of the candidate. It has long been accepted that the business roles and personal roles of any individual who is a sole proprietor of an unincorporated business, are virtually indistinguishable. Therefore, contributions by a sole proprietorship are treated as contributions by the individual who is the sole proprietor of the business. See AO 1975-31, AO 1980-89, and AO 1990-9. Accordingly, the candidate, Mr. Gunn, and Gunn & Associates are considered one, and thus can make unlimited contributions to Mr. Gunn's campaign committee. See 11 C.F.R. § 110.10(a) and (b). Nevertheless, the failure to report these advances as contributions appears to be a violation of 2 U.S.C. § 434(b) by the Gunn Committee. The Gunn Committee reported the

¹ The term contribution includes any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office. 2 U.S.C. § 431(8)(A)(i).

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payments for the services rendered in the 1995 Year End Report as disbursements to Gunn & Associates; these advances should have been reported as contributions from the candidate in that same report.

The Act and regulations treat in-kind contributions the same as all other contributions and thus require committees to report them during the reporting period in which they were made.

2 U.S.C. § 434(b); 11 C.F.R. §§ 104.3(a) and 104.13(a).

3. **Failure to File Reports**

(a). **Complaint**

According to the PC Committee, the Gunn Committee failed to file a copy of its Federal 1995 Year End Report of receipts and disbursements with the Secretary of State of Mississippi, as is required by federal election laws.

The PC Committee also alleged that the 1996 Pre-Primary Report was due on January 29, 1996, and that the Gunn Committee would not make this required filing.

(b). **Response**

In his response Mr. Gunn stated that a copy of the Gunn Committee's 1995 Year End Report was mailed to the Secretary of State for Mississippi, on January 31, 1996 and received by the Secretary of State on February 12, 1996. As proof of this filing attached to Mr. Gunn's response was a copy of the Year End Report stamped "RECEIVED FEB 12 1996 ELECTIONS DIVISION SECRETARY OF STATE."

Mr. Gunn also stated that he was not aware of any January 29, 1996 filing date, as alleged in the complaint.

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(c). Analysis

Under the Act the Gunn Committee was required to file a copy of its Year End Report of receipts and disbursements with the Secretary of State of Mississippi. Mr. Gunn presented a copy of this report stamped received by the Secretary of State as proof of its filing.

Accordingly, there appears to be no violation of 2 U.S.C. § 439(a)(1) by the Gunn Committee as alleged in the complaint.

The PC Committee also alleged that since the Primary Election in Mississippi was on March 12, 1996, that the 1996 Pre-Primary Report was due on January 29, 1996. In fact the Pre-Primary Report was due on February 29, 1996, not January 29, 1996, which the Gunn Committee filed in a timely fashion by registered/certified mail postmarked, February 26, 1996.

Accordingly, there appears to be no violation of 2 U.S.C. § 434(a)(2)(A)(i) by the Gunn Committee.

III. CONCLUSIONS

In view of the foregoing this Office recommends that the Commission find no reason to believe that the Gunn Committee violated 2 U.S.C. §§ 434(a)(2)(A)(i), 439(a)(1), and 439a, as alleged in the complaint. This Office also recommends that the Commission find no reason to believe that F. Michael Gunn, the candidate, violated any provisions of the Act or the Commission's regulations as alleged in this complaint, because the violations at issue in this matter were the result of actions by the committee and not the candidate personally.

With respect to the expenditures by the nonfederal committee for the flyers used by the federal committee, this Office recommends that the Commission find reason to believe that the Gunn Committee violated 2 U.S.C. §§ 434(b), and 441b(a), and 11 C.F.R. § 110.3(d) of the Act

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and the Commission's regulations; and reason to believe that the Gunn Nonfederal Committee violated 2 U.S.C. § 441b(a), and 11 C.F.R. §§ 102.5(b), and 110.3(d). Although this Office does not know how much money was spent on these brochures, and to whom they were sent, with less than 12 brochures it is very likely that only a minimal amount was spent, and the distribution also was likely very small. Accordingly, this Office recommends that the Commission take no further action in this matter and send an admonishment to all respondents.

Further, since it appears that the advances by Gunn & Associates, one in the amount of \$420.00, and the other in the amount of \$509.46, for a total of \$929.46, may be contributions by the candidate to the Gunn Committee, this Office recommends that the Commission find reason to believe that the Gunn Committee violated 2 U.S.C. § 434(b) by failing to report these amounts as contributions by the candidate. However, since the amount involved is small, and the reimbursements were made within days of receipt, this Office also recommends that the Commission take no further action with regard to this violation.

IV. RECOMMENDATIONS

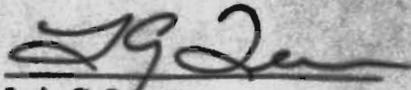
1. Find reason to believe that Friends of Mike Gunn and Fred Gene Ray, as treasurer violated 2 U.S.C. §§ 434(b) and 441b(a), and 11 C.F.R. § 110.3(d), but take no further action.
2. Find reason to believe that Mike Gunn's Nonfederal Campaign and its treasurer violated 2 U.S.C. § 441b(a), and 11 C.F.R. §§ 110.3(d) and 102.5(b), but take no further action.
3. Find no reason to believe that the Friends of Mike Gunn and Fred Gene Ray, as treasurer violated 2 U.S.C. §§ 434(a)(2)(A)(i), 439(a)(1), and 439a.
4. Find no reason to believe that F. Michael Gunn violated any provisions of the Act or the Commission's regulations as alleged in the complaint in this matter.
5. Approve the appropriate letters.

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6. Close the file.

Lawrence M. Noble
General Counsel

10/23/96
Date

BY: 
Lois G. Lerner
Associate General Counsel

Attachments:
Gunn's Response

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Friends of Mike Gunn and Fred Gene) MUR 4308
Ray, as treasurer;)
F. Michael Gunn.)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on October 29, 1996, the Commission decided by a vote of 5-0 to take the following actions in MUR 4308:

1. Find reason to believe that Friends of Mike Gunn and Fred Gene Ray, as treasurer violated 2 U.S.C. §§ 434(b) and 441b(a), and 11 C.F.R. § 110.3(d), but take no further action.
2. Find reason to believe that Mike Gunn's Nonfederal Campaign and its treasurer violated 2 U.S.C. § 441b(a), and 11 C.F.R. §§ 110.3(d) and 102.5(b), but take no further action.
3. Find no reason to believe that the Friends of Mike Gunn and Fred Gene Ray, as treasurer violated 2 U.S.C. §§ 434(a)(2)(A)(i), 439(a)(1), and 439a.
4. Find no reason to believe that F. Michael Gunn violated any provisions of the Act or the Commission's regulations as alleged in the complaint in this matter.

(continued)

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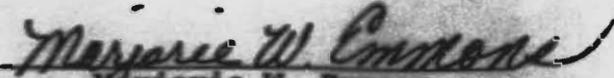
5. Approve the appropriate letters, as recommended in the General Counsel's Report dated October 23, 1996.

6. Close the file.

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

Attest:

10-30-96
Date


Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Thurs., Oct. 24, 1996 1:49 p.m.
Circulated to the Commission: Thurs., Oct. 24, 1996 4:00 p.m.
Deadline for vote: Tues., Oct. 29, 1996 4:00 p.m.

bjr

96043772065



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 13, 1996

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mark J. McCreery, Treasurer
Pickering for Congress Congressional
Campaign Committee
P.O. Box 6440
Laurel, MS 39441

RE: MUR 4308
Friends of Mike Gunn and Fred Gene Ray,
as treasurer, and F. Michael Gunn

Dear Mr. McCreery:

This is in reference to the complaint you filed with the Federal Election Commission, on February 20, 1996, concerning the Friends of Mike Gunn and Fred Gene Ray, as treasurer, and F. Michael Gunn.

Based on that complaint, on October 29, 1996, the Commission found that there was reason to believe the Friends of Mike Gunn and Fred Gene Ray, as treasurer violated 2 U.S.C. §§ 434(b) and 441b(a), provisions of the Federal Election Campaign Act of 1971, as amended, and 11 C.F.R. § 110.3(d), and instituted an investigation of this matter. The Commission also found reason to believe that Mike Gunn's Nonfederal Campaign and its treasurer violated 2 U.S.C. § 441b(a), and 11 C.F.R. §§ 110.3(d) and 102.5(b). However, after considering the circumstances of this matter, the Commission determined to take no further action against the Friends of Mike Gunn and Fred Gene Ray, as treasurer, and Mike Gunn's Nonfederal Campaign and its treasurer, and closed the file in this matter on October 29, 1996.

On October 29, 1996, the Commission found no reason to believe that the Friends of Mike Gunn and Fred Gene Ray, as treasurer violated 2 U.S.C. §§ 434(a)(2)(A)(i), 439(a)(1), and 439a. On that same date the Commission found no reason to believe that F. Michael Gunn violated any provisions of the Act or the Commission's regulations, as alleged in the complaint in this matter.

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Mark J. McCreery, Treasurer
Page 2

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,

Phillip L. Wise
Phillip L. Wise
Attorney

Enclosure
General Counsel's Report

96043772067



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 13, 1996

Fred Gene Ray, Treasurer
Friends of Mike Gunn
105 Shenandoah Estates Circle
Brandon, MS 39042

RE: MUR 4308
Friends of Mike Gunn and Fred Gene Ray,
as treasurer, and F. Michael Gunn

Dear Mr. Ray:

On October 29, 1996, the Federal Election Commission found reason to believe the Friends of Mike Gunn and you, as treasurer violated 2 U.S.C. §§ 434(b) and 441b(a), provisions of the Federal Election Campaign Act of 1971, as amended, and 11 C.F.R. § 110.3(d), and instituted an investigation of this matter. The Commission also found reason to believe that Mike Gunn's Nonfederal Campaign and its treasurer violated 2 U.S.C. § 441b(a), and 11 C.F.R. §§ 110.3(d) and 102.5(b). 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 expenditures by the nonfederal committee for the flyers used by the federal committee, appear to be a violation of 2 U.S.C. § 441b(a), and 11 C.F.R. §§ 110.3(d) and 102.5(b) of the Act and the Commission's regulations. Further, the Friends of Mike Gunn's acceptance of the benefit of these expenditures, made by the nonfederal committee, and its failure to report these expenditures as receipt of a contribution, appears to be a violation of 2 U.S.C. §§ 434(b), and 441b(a), and 11 C.F.R. § 110.3(d) of the Act and the Commission's regulations. You should take steps to ensure that this activity does not occur in the future.

On October 29, 1996, the Commission found **no reason** to believe that the Friends of Mike Gunn and Fred Gene Ray, as treasurer violated 2 U.S.C. §§ 434(a)(2)(A)(i), 439(a)(1), and 439a. On that same date the Commission found **no reason** to believe that F. Michael Gunn violated any provisions of the Act or the Commission's regulations, as alleged in the complaint in this matter.

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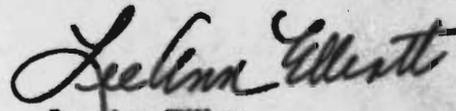
Fred Gene Ray, Treasurer

Page 2

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 Phillip L. Wise, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,



Lee Ann Elliott
Chairman

Enclosure
GC Report

cc: candidate

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4308

DATE FILMED 12/13/96 CAMERA NO. 4

CAMERAMAN E.E.S.

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