



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4381

DATE FILMED 4-1-97 CAMERA NO. 4

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 7, 1996

**MEMORANDUM**

**TO:** LAWRENCE M. NOBLE  
GENERAL COUNSEL

**THROUGH:** JOHN C. SURINA  
STAFF DIRECTOR

**FROM:** ROBERT J. COSTA *AK*  
ASSISTANT STAFF DIRECTOR  
AUDIT DIVISION

**SUBJECT:** UNITED REPUBLICAN FUND OF ILLINOIS, INC. FEDERAL  
ELECTION COMMITTEE -REFERRAL MATTER

On May 17, 1996 the Commission approved the final audit report (FAR) on the United Republican Fund of Illinois, Inc. Federal Election Committee (the Committee). The report was released to the public on May 31, 1996. Attached is Finding II.A. from this report, Apparent Over-funding by the Non-federal Account, which is being referred to your office.

With respect to this finding, the non-federal account over-funded its share of allocable expenses in the amount of \$90,084. In its response to the interim audit report, the Committee provided documentation demonstrating that \$41,620 of the \$90,084 were actually non-federal expenses. Further, the Committee filed amended Schedules D (Debts and Obligations) disclosing the remaining \$48,464 as debt owed to the non-federal account.

All workpapers and related documentation are available for review in the Audit Division. Should you have any questions, please contact Marty Favin at 219-3720.

**Attachment:**

- FAR Finding II.A. (Apparent Over-funding by the Non-federal Account), FAR Pgs. 3 - 6.

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**A. Apparent Over-funding by the Non-federal Account**

Section 102.5(a)(1)(i) of Title 11 of the Code of Federal Regulations states, in part, that if committees which finance political activity in connection with federal and non-federal elections establish a separate federal account in a depository, no transfers may be made to such federal account from any other accounts maintained by such organization for the purpose of financing activity in connection with non-federal elections, except as provided in 11 CFR 106.6(e).

Section 106.6(e)(1) of Title 11 of the Code of Federal Regulations provides that nonconnected committees that have established separate federal and non-federal accounts under 11 CFR §102.5(a)(1)(i) shall pay the expenses of joint federal and non-federal activities as follows: (i) pay the entire amount of an allocable expense from its federal account and transfer funds from its non-federal account to its federal account solely to cover the non-federal share of that allocable expense; or (ii) establish a separate allocation account into which funds from its federal and non-federal accounts shall be deposited solely for the purpose paying the allocable expenses of joint federal and non-federal activities.

Additionally, 11 CFR §106.6(e)(1)(B) states that the committee shall transfer funds from its federal and non-federal accounts to its allocation account in amounts proportionate to the federal and non-federal share of each allocable expense. Section 106.6(e)(2)(iii) of Title 11 of the Code of Federal Regulations states, in part, that any portion of a transfer from a committee's non-federal account to its allocation account that does not meet the requirements of paragraph (e)(2)(ii) of this section shall be presumed to be a loan or contribution from the non-federal account to a federal account, in violation of the Act.

The Committee opened a separate allocation account on September 11, 1992 pursuant to 11 CFR §106.6(e)(1)(ii). Prior to this date, all federal and non-federal operating expenses, excluding bank service charges, were paid from a non-federal account; a practice not in accordance with 11 CFR §106.6(e)(1)(i).<sup>2/</sup> After September 11, 1992, the majority of payments made from the non-federal account were either transfers to the allocation account or direct contributions to non-federal candidates.

The Audit staff identified a fundraising event which, based on a number of contributor cards entitled "Federal and State Candidate Reception," involved contributions for both federal and non-federal purposes. No documentation was available relative to the particulars of this event nor were any records available relative to any other possible federal/non-federal fundraising events. As a result, the Audit staff considered all other expenses administrative and generic voter drive costs.

To determine the correct allocation of administrative expenses and generic voter drive costs, the Audit staff calculated the funds expended ratio which is the ratio of funds spent by the Committee on behalf of federal candidates to funds spent for all federal and non-federal candidates over the two-year federal election cycle pursuant to 11 CFR §106.6(c)(1).

The Audit staff then reviewed all expenses paid in 1992 from the non-federal account prior to the opening of the allocation account and applied the funds expended ratio to payments considered administrative expenses. As a result, it was determined that federal expenses totaling \$86,746 were paid from the non-federal account between January 1, 1992 and September 10, 1992. During this time period, the Committee did not follow either of the two options provided for at 11 CFR §106.6(e)(1). Allocable expenses were not initially paid from a federal account and the Committee had not yet opened an allocation account. The Committee should have reported these payments as memo entries on Schedules H-4 (Joint Federal/Non-federal Activity Schedule) (see Finding II.B.5).

The Committee disclosed debt owed to the non-federal account on each of the three FEC disclosure reports covering this time period. The amounts disclosed by the Committee were reasonably close to the federal share of allocable expenses as determined by the Audit staff for these report periods. However, no transfers were made from the federal accounts to the non-federal account relative to these expenses and the Committee discontinued the disclosure of this debt owed to the non-federal account beginning with the 1992 Post-General report (covering activity October 15, 1992 through November 23, 1992).

<sup>2/</sup> There was no federal activity during calendar year 1991.

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The Audit staff determined that subsequent to the opening of the allocation account through December 31, 1992, the federal portion of expenses paid by the Committee from the allocation account was \$18,963. Since transfers from the federal account to the allocation account totaled \$15,625 during this period, the Audit staff considered the \$3,338 difference as federal expenses paid with non-federal funds.<sup>3/</sup>

In summary, the Audit staff determined that the federal portion of shared expenses paid from the non-federal account totaled \$90,084 (\$86,746 + \$3,338). Photocopies of the workpapers supporting the \$90,084 total were provided to the Committee at the exit conference. The Committee Treasurer stated that she understood the analysis and would attempt to demonstrate that some of the expenses were not shared expenses. She added that she would reopen a federal account<sup>4/</sup> and disclose the amount owed as a debt to the non-federal account.

In the interim audit report, the Audit staff recommended that the Committee either demonstrate that the non-federal account did not over-fund its portion of shared expenses in the amount of \$90,084, or refund the over-funded amount to the non-federal account. In the event of a refund, the Audit staff further recommended that the Committee submit documentation in support of the transaction.

In the Committee's response to the interim audit report the Treasurer stated that certain expenses considered allocable by the Audit staff were related only to non-federal activities. The Committee included documentation which demonstrated that \$38,282 of the \$86,746 considered by the Audit staff to be the federal portion of shared expenses paid directly from the non-federal account were non-federal expenses and therefore not allocable.

The Treasurer also stated that "[p]revious URF Treasurers clearly did not understand that only joint expenses for political, administrative and fundraising were to be paid out of the separate allocation account. We regret that this misunderstanding by previous Treasurers resulted in erroneous reporting." The Committee also provided documentation demonstrating that more than \$3,338 in expenses paid from the allocation account were 100% non-federal and therefore not

<sup>3/</sup> The Audit staff was unable to test the timing of transfers from the non-federal account to the separate allocation account (see Finding II.B.3.)

<sup>4/</sup> At the exit conference the Committee Treasurer stated that the Committee's federal and allocation accounts were apparently closed in June 1994 by the previous Treasurer. No additional information was provided to the Audit staff concerning why these accounts were closed.

allocable. Based upon the documentation available during the audit fieldwork, the Audit staff had initially considered \$3,338 in expenses paid from the separate allocation account to have been improperly funded by the non-federal account. In summary, it now appears that the amount of over-funding by the non-federal account equaled \$48,464 (\$90,084 - \$38,282 - \$3,338).

No refund was made to the non-federal account, but the Committee did file amended Schedules D (Debts and Obligations) to several reports disclosing a \$48,600 debt owed to the non-federal account as of December 31, 1992.

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Attached for Commission approval is the form letter that would be sent should these recommendations be approved. With the exception of notification letters sent to respondents in audit referrals, this Office will use the form notification letters currently used by the Enforcement Division. Since there is no form notification letter for audit referrals, this Office drafted the form notification letter at Attachment 1. Unlike RAD referrals, audit referrals are immediately assigned a MUR number and will eventually go on the public record when closed. Thus, it is necessary for us to notify the respondents in these instances prior to the matter appearing on the public record.

**II. CASES RECOMMENDED FOR CLOSING**

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

Having evaluated the PFESP enforcement caseload, this Office has identified 12 cases that do not warrant pursuit relative to other pending matters.<sup>2</sup> A short description of each case and the factors leading to assignment of a relatively low priority and consequent recommendation not to pursue each case is attached to this Report. See Attachment 2. Also attached are the referral materials where that information has not been circulated previously to the Commission. See Attachment 3.

<sup>2</sup> These matters are: (1) MUR 4251 (Republican State Committee of Delaware); (2) MUR 4266 (Friends of Marc Little); (3) MUR 4271 (People for English); (4) MUR 4300 (The Committee to Elect Michael Flanagan); (5) MUR 4337 (Montana State Democratic Central Committee); (6) MUR 4345 (Nevada State Democratic Party); (7) MUR 4346 (Citizens for Jack Metcalf); (8) MUR 4381 (United Republican Fund of Illinois, Inc.); (9) MUR 4400 (San Bernardino County Republican Central Committee); (10) MUR 4436 (Abraham for Senate); (11) MUR 4441 (Republican Party of Dade County); and (12) MUR 4618 (Mississippi Democratic Party Political Action Committee).

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**RECOMMENDATIONS**

- 1. Approve the notification form letter at Attachment 1.
- 2. Take no further action, close the file effective (date) and approve the appropriate letters in the following matters:

- a. MUR 4251
- b. MUR 4266
- c. MUR 4271
- d. MUR 4300
- e. MUR 4337
- f. MUR 4345
- g. MUR 4346
- h. MUR 4381
- i. MUR 4400
- j. MUR 4436
- k. MUR 4441
- l. MUR 4618

2/21/97  
 Date

  
 Lawrence M. Noble  
 General Counsel

**Attachments**

- 1. Form letter
- 2. Description of low rated cases
- 3. Referral materials not previously circulated

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
Enforcement Priority System II. )

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on February 27, 1997, the Commission decided by a vote of 5-0 to take the following actions in the above-captioned matter:

1. Approve the notification form letter, as recommended in the General Counsel's Report dated February 21, 1997.
2. Take no further action, close the file effective March 5, 1997 and approve the appropriate letters in the following matters:
 

a. MUR 4251	g. MUR 4346
b. MUR 4266	h. MUR 4381
c. MUR 4271	i. MUR 4400
d. MUR 4300	j. MUR 4436
e. MUR 4337	k. MUR 4441
f. MUR 4345	l. MUR 4618

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

Attest:

2-27-97  
Date

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

Received in the Secretariat:	Fri., Feb. 21, 1997	4:21 p.m.
Circulated to the Commission:	Mon., Feb. 24, 1997	11:00 a.m.
Deadline for vote:	Thurs., Feb. 27, 1997	4:00 p.m.

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

March 19, 1997

Deborah D. Dietz, Treasurer  
United Republican Fund of IL, Inc.  
Federal Election Committee  
100 West Monroe Street, Suite 1600  
c/o Morris, Rathnau & Dela Rose  
Chicago, IL 60603

RE: MUR 4381

Dear Ms. Dietz:

On June 10, 1996, the Audit Division referred the enclosed matters to the Office of General Counsel involving United Republican Fund of Illinois, Inc. ("Committee") and Deborah D. Dietz, as treasurer, for possible enforcement action. The referral emanated from an audit of the Committee undertaken pursuant to 2 U.S.C. § 438(b). After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against the Committee. Accordingly, the Commission closed its file in this matter on March 5, 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 me at (800)424-9530 or (202) 219-3690.

Sincerely,

Gregory R. Baker  
Special Assistant General Counsel

Enclosure

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4381

DATE FILMED 4-1-97 CAMERA NO. 4

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