



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4390

DATE FILMED 4-25-97 CAMERA NO. 1

CAMERAMAN JMW

97043792751

6860 North Calle Mechero
Tucson, Arizona 85718
May 31, 1996

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
JUN 4 12 20 PM '96

Office Of The General Counsel
Federal Elections Commission
999 E Street, NW
Washington, DC 20463

To The General Counsel,

I spoke today with Federal Election Commission Information Specialist Erica McMahon regarding the sworn complaint (concerning a then apparent violation of Arizona State Election Law) that I filed with the office of the Pima County Attorney dated May 21, 1996 (attached).

Subsequently, I understand from the Elections Director for that State of Arizona that a "genuine loophole in the law" exists under Arizona Law based upon the definition of "Candidate": "Candidate means an individual who receives or gives consent for receipt of a contribution for his nomination for or election to any office in this state other than a federal office."

Arizona state laws says: "A candidate's campaign committee shall not contribute or transfer monies to another candidate's campaign committee. This subsection and the contribution limitations of this section do not apply to a transfer or contribution of monies made by a candidate's designated campaign committee to another campaign committee designated by that same candidate."

As the Tucson Weekly correctly reported May 30, 1996: The cited transfer of funds from a local or state campaign "is legal. And we're sure Mikey's contributors will be happy to know he's happier giving away their money than his own."

In my opinion: It may be legal under Arizona law, but it certainly is not right!

Please assume this scenario: A contributor has already given the maximum contribution of \$1,000 to a Congressional campaign.

Is it not possible to exceed that \$1,000 limitation by the contributor then giving funds to a local or state campaign for transfer to a Congressional campaign?

As Ms. McMahon and I discussed: In this case (Supervisor Boyd's transfer of funds to Congressman Kolbe), it "looks like contributions have been made in the name of another which is possibly a violation of Federal Law."

I, as a past Republican District Chairman (Arizona L.D. 12) and present Precinct Committeeman in which both Congressman Jim Kolbe's and Supervisor Mike Boyd's districts are located, would like a formal ruling from your office.

Thank you in advance to your immediate consideration of this matter.

Sincerely yours,

Samuel Winchester Morey
Samuel Winchester Morey, Citizen
520-297-8858, fax - 520-297-8881

STATE OF ARIZONA

COUNTY OF PIMA

This instrument was signed and sealed on this 31 day of

May, 1996, by Samuel W. Morey

In witness whereof I hereunto set my hand and official seal.

LaDonna Carney
LaDonna Carney
NOTARY PUBLIC

My Commission Expires Sept. 9, 1999

97043792752

PIMA COUNTY
DIVISION OF ELECTIONS

6860 North Calle Mechero
Tucson, Arizona 85718
May 21, 1996

RECEIVED

PC80CU MAY21'96PM 3:21

96 MAY 21 PM 4: 32

95 MAY 21 PM 4: 11

Christopher J. Roads, Deputy County Attorney
Civil Division
32 North Stone Avenue, #1500
Tucson, Arizona 85701

U.S. ATTORNEY
TUCSON, AZ

Dear Mr. Roads,

As a qualified elector of Pima County, The State of Arizona, I hereby file a sworn complaint with the office of the Pima County Attorney (as is my right under A.R.S. 16-905 L.) to wit: a violation (s) of Arizona Revised Statutes 16-905 (Contribution limitations; civil penalty; definition) - has apparently occurred, in that Supervisor Mike Boyd's campaign committee is apparently in violation of A.R.S. 16-905 G. "A candidate's campaign committee shall not contribute or transfer monies to another candidate's campaign committee."

Please reference:

Political Committee CAMPAIGN FINANCE REPORT (Pima County) for Mike Boyd Campaign Committee, 5441 N. Swan #602, Tucson, AZ 85718 with phone number 299-7689. ID# is 022-1994.

Page 2. lists: Committee Name: Mike Boyd Campaign and Report covering period: January 1, 1995 to December 31, 1995.

Specifically, Schedule D-6, page 1 of 1 titled TRANSFERS TO OTHER POLITICAL COMMITTEES lists:

<u>Name, Address, City, State, and ZIP</u>	<u>Date of Transfer</u>	<u>Amount of Transfer</u>
Jim Kolbe, Congressman % Kolbe '96 Tucson AZ	6/1/95	\$100.00
Jim Kolbe, Congressman % Kolbe '96 Tucson AZ	9/1/95	\$200.00

Thank you in advance for investigating this matter.

STATE OF ARIZONA
COUNTY OF PIMA

} ss.

This instrument was acknowledged before me this 21st day of May, 1996, by Samuel Winchester Morey
In witness whereof I herewith set my hand and official seal.

Darlene R. B... NOTARY PUBLIC

Sincerely,

Samuel Winchester Morey
Samuel Winchester Morey, Citizen
297-8858, fax-297-8881

1. of 4.
5/21/96

97043792753

**PIMA COUNTY
CAMPAIGN FINANCE REPORT**

PIMA COUNTY
DIVISION OF ELECTIONS
96 JAN 31 PM 4: 56

1. Mike Boyd Campaign Committee
Full Name of Committee
5441 N. Swan #602
Address
Tucson AZ 85718 299-7689
City ZIP Code Phone Number

2. Mike Boyd, Pima County Supervisor 3.
Sponsoring Organization or Candidate and Office

ID#
022-1994

4. **REPORTING PERIOD** **FILING PERIOD**
(Please check appropriate box)

a. **JANUARY 31 REPORT** - For Period of
 November 29, 1994 thru December 31, 1995 January 2, 1996 thru January 31, 1996

b. **JUNE 30 REPORT** - For Period of
 January 1, 1996 thru May 31, 1996 June 1, 1996 thru June 30, 1996

c. **PRE-PRIMARY ELECTION REPORT** - For Period of
 June 1, 1996 thru August 21, 1996 August 22, 1996 thru August 29, 1996

d. **POST-PRIMARY ELECTION REPORT** - For Period of
 August 22, 1996 thru September 30, 1996 October 1, 1996 thru October 10, 1996

e. **PRE-GENERAL ELECTION REPORT** - For Period of
 October 1, 1996 thru October 16, 1996 October 17, 1996 thru October 24, 1996

f. **POST-GENERAL ELECTION REPORT** - For Period of
 October 17, 1996 thru November 25, 1996 November 26, 1996 thru December 5, 1996

g. **JANUARY 31, REPORT** - For period of
 November 25, 1996 thru December 31, 1997 January 1, 1998 thru January 31, 1998

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SUMMARY		Column A This Period	Column B Campaign To Date
5. (a) Surplus from Previous Campaign			328.13
(b) Cash on Hand at Beginning of this Reporting Period		2,050.75	
(c) Total Receipts (from corresponding columns on Detailed Summary Page, Line 8)		24,150.00	29,025.00
(d) Subtotal [add Lines 5(b) and 5(c) for Column A and add 5(a) and 5(c) for Column B]		26,200.75	29,353.13
6. Total Disbursements (from corresponding columns on Detailed Summary Page, Line 18)		5,594.54	8,746.92
7. Cash on Hand at Close of Reporting Period [Subtract Line 6 from Line 5(d) - Column A must equal Column B]		20,606.21	20,606.21

**DETAILED SUMMARY PAGE
RECEIPTS AND DISBURSEMENTS**

ID #
022-1994

1. Committee Name Mike Boyd Campaign 2.
3. Report covering period from January 1, 1995 thru December 31, 1995

RECEIPTS

4. Contributions other than loans and in-kind:
- (a) Individuals - more than \$25 (Total from Schedule A)
 - (b) Individuals - aggregate \$25 or less (Total from Schedule A-1)
 - (c) Political Committees (Total from Schedule B)
 - (d) Subtotal Contributions [add 4(a), 4(b), and 4(c)]
 - (e) Refund of contributions (Total from Schedule F-2)
 - (f) Total Contributions Other than Loans and In-kind [subtract 4(e) from 4(d)]
5. (a) Loans made or guaranteed by candidate (Total from Schedule C)
(b) All other loans (Total from Schedule C-2)
(c) Total Loans [add 5(a) and 5(b)]
6. In-kind contributions (Total from Schedule E)
7. Dividends, interest, and other forms of receipts (Total from Schedule F-1)
8. Total Receipts [add 4(f), 5(c), 6, and 7]

COLUMN A THIS PERIOD	COLUMN B CAMPAIGN TO DATE
24,625.00	29,175.00
155.00	180.00
425.00	725.00
25,205.00	30,080.00
1,055.00	1,055.00
24,150.00	29,025.00
0	0
0	0
0	0
0	0
0	0
24,150.00	29,025.00
5,194.54	7,666.92
0	0
0	0
0	0
0	0
0	0
0	0
0	0
400.00	1,180.00
0	0
5,594.54	8,846.92
0	100.00
5,594.54	8,746.92
0	0

DISBURSEMENTS

9. Expenditures for operating expenses (Total from Schedule G)
10. Independent Expenditures (Total from Schedule D-1)
11. Value of in-kind expenditures (Total from Schedule E)
12. Loans made by reporting committee (Total from Schedule D-2)
13. (a) Repayment of loans made or guaranteed by candidate (Total from Schedule D-4)
(b) Repayment of all other loans (Total from Schedule D-5)
(c) Total Loan Repayments [add 13(a) and 13(b)]
14. Transfers to other political committees (Total from Schedule D-6)
15. Any other disbursement (Total from Schedule D-7)
16. Subtotal disbursements [add lines 9, 10, 11, 12, 13(c), 14, and 15]
17. Rebates, refunds and other offsets to operating expenses (Total from Schedule D-3)
18. Total disbursements [subtract line 17 from line 16]
19. Total Outstanding Debts owed by Reporting Candidate or Political Committee (Schedule F-3)

9-7-04 379 755

I certify, under penalty of perjury, that I have examined the contents of this campaign finance report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer PAULA MAXWELL 1-31-96

Signature of Treasurer M. Boyd
3. of 4.
5/21/96

TRANSFERS TO OTHER POLITICAL COMMITTEE

SCHEDULE D-6

ID #

022-1994

1. Committee Name Mike Boyd Campaign

2

3. Report covering period from January 1, 1995

December 31, 1995

97043792756

TRANSFERS MADE BY THE REPORTING COMMITTEE		DATE TRANSFER MADE	AMOUNT OF THE TRANSFER
NAME AND ADDRESS TO WHOM TRANSFER (DISBURSEMENT) WAS MADE			
a.	NAME, ADDRESS, CITY, STATE, AND ZIP Jim Kolbe, Congressman § America/Israel Friends Tucson AZ	4/26/95	\$100.00
b.	NAME, ADDRESS, CITY, STATE, AND ZIP Jim Kolbe, Congressman § Kolbe '96 Tucson AZ	6/1/95	\$100.00
c.	NAME, ADDRESS, CITY, STATE, AND ZIP Jim Kolbe, Congressman § Kolbe '96 Tucson AZ	9/1/95	\$200.00
d.	NAME, ADDRESS, CITY, STATE, AND ZIP		
e.	NAME, ADDRESS, CITY, STATE, AND ZIP		
f.	NAME, ADDRESS, CITY, STATE, AND ZIP		
5. ENTER TOTAL ONLY IF LAST PAGE OF SCHEDULE D-6 (Transfer total to Detailed Summary Page, Line 14, Column A)			\$400.00



FEDERAL ELECTION COMMISSION

Washington, DC 20463

June 6, 1996

Samuel Winchester Morey
6860 North Calle Mechero
Tucson, AZ 85718

Dear Mr. Morey:

This is to acknowledge receipt on June 4, 1996, of your letter dated May 31, 1996. The Federal Election Campaign Act of 1971, as amended ("the Act") and Commission Regulations require that the contents of a complaint meet certain specific requirements. One of these requirements is that a complaint be sworn to and signed in the presence of a notary public and notarized. Your letter was not properly sworn to.

In order to file a legally sufficient complaint, you must swear before a notary that the contents of your complaint are true to the best of your knowledge and the notary must represent as part of the jurat that such swearing occurred. The preferred form is "Subscribed and sworn to before me on this ____ day of ____, 19__." A statement by the notary that the complaint was sworn to and subscribed before him/her also will be sufficient. We regret the inconvenience that these requirements may cause you, but we are not statutorily empowered to proceed with the handling of a compliance action unless all the statutory requirements are fulfilled. See 2 U.S.C. § 437g.

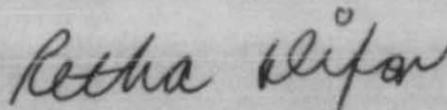
Enclosed is a Commission brochure entitled "Filing a Complaint." I hope this material will be helpful to you should you wish to file a legally sufficient complaint with the Commission.

Please note that this matter will remain confidential for a 15 day period to allow you to correct the defects in your complaint. If the complaint is corrected and refiled within the 15 day period, the respondents will be so informed and provided a copy of the corrected complaint. The respondents will then have an additional 15 days to respond to the complaint on the merits. If the complaint is not corrected, the file will be closed and no additional notification will be provided to the respondents.

97043792757

If you have any questions concerning this matter, please contact me at (202) 219-3410.

Sincerely,



Retha Dixon
Docket Chief

Enclosure

cc: Mike Boyd Campaign Committee
Kolbe 96

97043792758

6860 North Calle Mechero
Tucson, Arizona 85718
June 13, 1996

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

JUN 18 12 22 PM '96

MUR 4390

Office Of The General Counsel
Federal Elections Commission
Attention: Ms. Maura Callaway,
Asst. to the Asst. General Counsel
999 E Street, NW
Washington, DC 20463

Dear Ms. Callaway,

This is to confirm our conversation today regarding the letter I had submitted May 31, 1996 to The Federal Election Commission (herein entitled Exhibit 1. found on page 3 with the my sworn complaint filed with the Pima County Attorney dated May 21, 1996 found as Exhibit 2 on page 4).

This is a re-submission of the same letter (updated, sworn to, signed in the presence of a notary public, notarized, and shown as page 2) because the original did not meet the requirements of the Federal Election Campaign Act of 1971, as amended ("the Act") and Commission Regulations which require that the contents of a complaint meet certain specific requirements.

I understand that one of these requirements is that complaint be sworn to and signed in the presence of a notary public and notarized.

I understand that the preferred form is "Subscribed and sworn to before me on this _____ day of _____, 19__.

Please attach this to the original submission which shows receipt by the Pima County Attorney.

Sincerely yours,

Samuel Winchester Morey
Samuel Winchester Morey, Citizen
520-297-8858, fax - 520-297-8881

Subscribed and sworn to before me on this 13 day of June, 1996.

Bettie Moody, Notary



97043792759

6860 North Calle Mechero
Tucson, Arizona 85718
June 13, 1996

Office Of The General Counsel
Federal Elections Commission
999 E Street, NW
Washington, DC 20463

To The General Counsel,

I spoke May 31, 1996 with Federal Election Commission Information Specialist Erica McMahon regarding the sworn complaint (concerning a then apparent violation of Arizona State Election Law) that I filed with the office of the Pima County Attorney dated May 21, 1996 (attached).

Subsequently, I understand from the Elections Director for that State of Arizona that a "genuine loophole in the law" exists under Arizona Law based upon the definition of "Candidate": "Candidate means an individual who receives or gives consent for receipt of a contribution for his nomination for or election to any office in this state other than a federal office."

Arizona state laws says: "A candidate's campaign committee shall not contribute or transfer monies to another candidate's campaign committee. This subsection and the contribution limitations of this section do not apply to a transfer or contribution of monies made by a candidate's designated campaign committee to another campaign committee designated by that same candidate."

As the Tucson Weekly correctly reported May 30, 1996: The cited transfer of funds from a local or state campaign "is legal. And we're sure Mikey's contributors will be happy to know he's happier giving away their money than his own."

In my opinion: It may be legal under Arizona law, but it certainly is not right!

Please assume this scenario: A contributor has already given the maximum contribution of \$1,000 to a Congressional campaign.

Is it not possible to exceed that \$1,000 limitation by the contributor then giving funds to a local or state campaign for transfer to a Congressional campaign?

As Ms. McMahon and I discussed: In this case (Supervisor Boyd's transfer of funds to Congressman Kolbe), it "looks like contributions have been made in the name of another which is possibly a violation of Federal Law."

I, as a past Republican District Chairman (Arizona L.D. 12) and present Precinct Committeeman in which both Congressman Jim Kolbe's and Supervisor Mike Boyd's districts are located, would like a formal ruling from your office.

Thank you in advance to your immediate consideration of this matter.

Sincerely yours,
Samuel Winchester Morey
Samuel Winchester Morey, Citizen
520-297-8858, fax - 520-297-8881

Subscribed and sworn to before me on this 13 day of June, 1996.



Bettie Moody, Notary

9704379276C

Exhibit 1.
6860 North Calle Mechero
Tucson, Arizona 85718
May 31, 1996

Office Of The General Counsel
Federal Elections Commission
999 E Street, NW
Washington, DC 20463

To The General Counsel,

I spoke today with Federal Election Commission Information Specialist Erica McMahon regarding the sworn complaint (concerning a then apparent violation of Arizona State Election Law) that I filed with the office of the Pima County Attorney dated May 21, 1996 (attached).

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As the Tucson Weekly correctly reported May 30, 1996: The cited transfer of funds from a local or state campaign "*is legal. And we're sure Mikey's contributors will be happy to know he's happier giving away their money than his own.*"

In my opinion: *It may be legal under Arizona law, but it certainly is not right!*

Please assume this scenario: A contributor has already given the maximum contribution of \$1,000 to a Congressional campaign.

Is it not possible to exceed that \$1,000 limitation by the contributor then giving funds to a local or state campaign for transfer to a Congressional campaign?

As Ms. McMahon and I discussed: In this case (Supervisor Boyd's transfer of funds to Congressman Kolbe), it "looks like contributions have been made in the name of another which is possibly a violation of Federal Law."

I, as a past Republican District Chairman (Arizona L.D. 12) and present Precinct Committeeman in which both Congressman Jim Kolbe's and Supervisor Mike Boyd's districts are located, would like a formal ruling from your office.

Thank you in advance to your immediate consideration of this matter.

Sincerely yours,

Samuel Winchester Morey, Citizen
520-297-8858, fax - 520-297-8881

97043792761

Exhibit 2.

6860 North Calle Mechero
Tucson, Arizona 85718
May 21, 1996

Christopher J. Roads, Deputy County Attorney
Civil Division
32 North Stone Avenue, #1500
Tucson, Arizona 85701

Dear Mr. Roads,

As a qualified elector of Pima County, The State of Arizona, I hereby file a sworn complaint with the office of the Pima County Attorney (as is my right under A.R.S. 16-905 L.) to wit: a violation (s) of Arizona Revised Statutes 16-905 (Contribution limitations; civil penalty; definition) - has apparently occurred, in that Supervisor Mike Boyd's campaign committee is apparently in violation of A.R.S. 16-905 G. "A candidate's campaign committee shall not contribute or transfer monies to another candidate's campaign committee."

Please reference:

Political Committee CAMPAIGN FINANCE REPORT (Pima County) for Mike Boyd Campaign Committee, 5441 N. Swan #602, Tucson, AZ 85718 with phone number 299-7689. ID# is 022-1994.

Page 2. lists: Committee Name: Mike Boyd Campaign and Report covering period: January 1, 1995 to December 31, 1995.

Specifically, Schedule D-6, page 1 of 1 titled TRANSFERS TO OTHER POLITICAL COMMITTEES lists:

<u>Name, Address, City, State, and ZIP</u>	<u>Date of Transfer</u>	<u>Amount of Transfer</u>
Jim Kolbe, Congressman % Kolbe '96 Tucson AZ	6/1/95	\$100.00
Jim Kolbe, Congressman % Kolbe '96 Tucson AZ	9/1/95	\$200.00

Thank you in advance for investigating this matter.

Sincerely,

Samuel Winchester Morey, Citizen
297-8858, fax-297-8881

97043792762



FEDERAL ELECTION COMMISSION
Washington, DC 20463

June 25, 1996

Samuel Winchester Morey
6860 North Calle Mechero
Tucson, AZ 85718

RE: MUR 4390

Dear Mr. Morey:

This letter acknowledges receipt on June 18, 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 4390. 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,

Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosure
Procedures

97043792763



FEDERAL ELECTION COMMISSION
Washington, DC 20463

June 25, 1996

Paula Maxwell, Treasurer
Mike Boyd Campaign Committee
5441 N. Swan, #602
Tucson, AZ 85718

RE: MUR 4390

Dear Ms. Maxwell:

The Federal Election Commission received a complaint which indicates that the Mike Boyd Campaign Committee ("Committee") and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4390. Please refer to this number in all future correspondence.

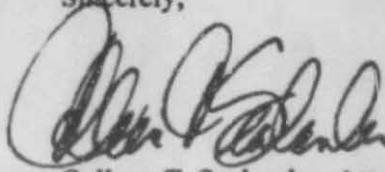
Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the Committee and you, as treasurer, in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements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

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

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

Sincerely,



Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures

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

97043792765



FEDERAL ELECTION COMMISSION
Washington, DC 20463

June 25, 1996

William H. Kelley, Treasurer
Kolbe '96
P.O. Box 31568
Tucson, AZ 85751

RE: MUR 4390

Dear Mr. Kelley:

The Federal Election Commission received a complaint which indicates that Kolbe '96 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 4390. Please refer to this number in all future correspondence.

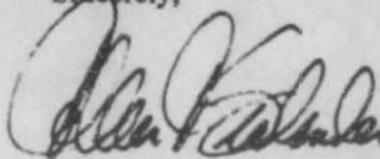
Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against Kolbe '96 and you, as treasurer, in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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

97043792766

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,



Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures

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

cc: The Honorable James Thomas Kolbe

97043792767

MUNGER AND MUNGER, P.L.C.

ATTORNEYS AT LAW
A PROFESSIONAL LIMITED LIABILITY COMPANY
NATIONAL BANK PLAZA
333 NORTH WILMOT, SUITE 300
TUCSON, ARIZONA 85711
(520) 721-1900
FAX (520) 747-1550

JOHN F. MUNGER
CLARK W. MUNGER
PHILIP KIMBLE
KAREN S. HALLER
SUSAN GAYLORD WILLIS
MARK E. CHADWICK
JOY ATHENA
KATHLEEN H. HERIGHTY
ROBERT K. LEWIS
CRAIG H. WISNOM
THOMAS A. DENKER

MICHAEL M. RACY
GOVERNMENT RELATIONS DIRECTOR
INON-LAWYERS

OF COUNSEL
LAWRENCE V. ROBERTSON, JR.
ADMITTED TO PRACTICE IN
ARIZONA, COLORADO, MONTANA,
NEVADA, TEXAS, WYOMING,
DISTRICT OF COLUMBIA

OF COUNSEL
DORIS BATES

OF COUNSEL
OGARRIO Y DIAZ
ABOGADOS
AV. CONSTITUYENTES 345 PISO 7
11830 MEXICO, D.F.
PHONE: 271-3222 FAX: 271-3668
(LICENSED SOLELY IN MEXICO)

July 9, 1996

Colleen T. Sealander, Attorney
Central Enforcement Docket
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

Re: MUR 4390

Dear Ms. Sealander:

This firm represents Representative James T. Kolbe and Kolbe '96 in the matters addressed in your letter of June 25, 1996. Pursuant to your invitation, this letter is to inform you of the position of Representative Kolbe and Kolbe '96 with respect to those matters.

The only provision of the Federal Election Campaign Act that even arguably might have been violated by the contributions in question is 2 U.S.C. § 441f, "Contributions in name of another prohibited." However, Kolbe '96 would be in violation of that section only if it "knowingly [accepted] a contribution made by one person in the name of another person." As the facts of this matter clearly show, no such contribution was made, and Kolbe '96 certainly did not knowingly accept such a contribution.

The contributions in question came about through two transfers of funds to Kolbe '96 from Pima County, Arizona, Supervisor Mike Boyd's Mike Boyd Campaign Committee in the Summer and Fall of 1995. The total amount of these two contributions was three hundred dollars (\$300.00). As the enclosed affidavit of Supervisor Boyd shows, neither the intent nor the effect of those transfers was to make a contribution to Kolbe '96 in the name of any person or entity other than the Mike Boyd Campaign Committee.

"The purposes of the [Federal Election Campaign] Act are to limit spending in federal election campaigns and to eliminate the

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
Jul 10 10 10 AM '96

97043792768

Page 2
July 9, 1996

actual or perceived pernicious influence over candidates for elective office that wealthy individuals or corporations could achieve by financing the 'political war-chests' of those candidates." *Orloski v. Federal Election Commission*, 795 F.2d 156, 163 (D.C. Cir. 1986) (citation omitted). As shown by Supervisor Boyd's affidavit, there has been absolutely no attempt by any person or entity -- wealthy or otherwise -- to make unlimited campaign contributions to Kolbe '96 through the conduit of the Mike Boyd Campaign Committee. This conclusion that no violation of campaign-contribution limits was intended or effected by the contributions in question is further buttressed by the fact that a very small amount of money is involved.

Finally, and irrespective of the intent of the Mike Boyd Campaign Committee in making the questioned contributions, it cannot possibly be said that Kolbe '96 "knowingly [accepted] a contribution made by one person in the name of another person." (Emphasis added.) To this day, Kolbe '96 has no reason to believe that the contributions were made by one person in the name of another within the meaning of 2 U.S.C. § 441f (or that those contributions violated any other state or federal law). At most, this matter involves a minor error in judgment by a valued supporter of Representative Kolbe. Therefore, we respectfully request your office consider the matter closed.

If there is anything further we may do, please let us know.

Very truly yours,

MUNGER AND MUNGER, P.L.C.

John P. Munger

JFM:mbd
Enclosure

D:\work\john\kolbe'96.ltr

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AFFIDAVIT OF MIKE BOYD

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

JUL 10 10 10 AM '96

STATE OF ARIZONA)
) ss.
COUNTY OF PIMA)

Mike Boyd, being duly sworn, upon his oath deposes and says as follows:

1. On or about June 1, 1995, the Mike Boyd Campaign Committee made a transfer of one hundred dollars (\$100.00) to Kolbe '96.

2. On or about September 1, 1995, the Mike Boyd Campaign Committee made a transfer of two hundred dollars (\$200.00) to Kolbe '96.

3. The transfers of funds referred to in paragraphs (1) and (2) above were made at my direction.

4. No person or entity asked, suggested, proposed, recommended, or in any way contributed to my decision that the Mike Boyd Campaign Committee make the transfers of funds referred to in paragraphs (1) and (2) above.

5. The sole purpose for the transfers of funds referred to in paragraphs (1) and (2) above was to make a contribution from the Mike Boyd Campaign Committee to Kolbe '96.

6. The Mike Boyd Campaign Committee is the true contributor of the funds transferred to Kolbe '96 as referred to in paragraphs (1) and (2) above.

7. The transfers of funds referred to in paragraphs (1) and (2) above were not, nor were they intended to be, contributions made by one person in the name of another.

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8. The transfers of funds referred to in paragraphs (1) and (2) above had neither the purpose nor the effect of aiding any person or entity in exceeding any legal limitation on the amounts that may be contributed to a federal election campaign.

9. The transfers of funds referred to in paragraphs (1) and (2) above had neither the purpose nor the effect of facilitating a contribution by any person or entity that is not entitled to make a contribution to a federal election campaign.

10. There is no person or entity other than the Mike Boyd Campaign Committee that can be said to have made a contribution to Kolbe '96 by or through the transfers of funds referred to in paragraphs (1) and (2) above.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Mike Boyd

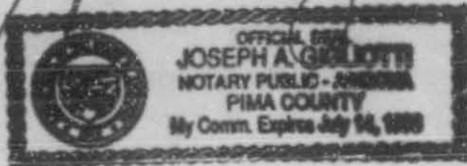
Mike Boyd

9TH SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me this day of July, 1996, by Mike Boyd.

Joseph A. Gilotti

Notary Public

My Commission Expires:
7-14-98
D:\work\john\boyd.aff



STATEMENT OF DESIGNATION OF COUNSEL

MUR 4390

NAME OF COUNSEL: John F. Munger, Esq.

FIRM: Munger and Munger, P.L.C.

ADDRESS: 333 North Wilmot, Suite 300

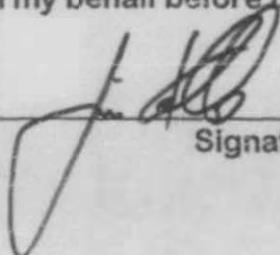
Tucson, Arizona 85711

TELEPHONE: (520) 721-1900

FAX: (520) 747-1550

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.

7/8/96
Date


Signature

RESPONDENT'S NAME: Kolbe '96

ADDRESS: P.O. Box 31568

Tucson, Arizona 85751

TELEPHONE: HOME ()

BUSINESS (520) 325-1996

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
JUL 10 10 20 AM '96

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FED. ELECTION COMMISSION
MAR 5 11 40 AM '97

In the Matter of)
)
)
)

ENFORCEMENT PRIORITY

SENSITIVE

GENERAL COUNSEL'S REPORT

MAR 11 1997

EXECUTIVE SESSION

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 25 cases which do

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not warrant further action relative to other pending matters.¹ 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 remote 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.

¹ These cases are: MUR 4332 (*Bill Thomas Campaign Committee*); MUR 4347 (*Anonymous Respondent*); MUR 4354 (*Brian Steel for Congress*); MUR 4367 (*Philipstown Republicans*); MUR 4371 (*Employment Group*); MUR 4373 (*Cannon for Congress*); MUR 4374 (*Mark Stodola for Congress Primary Committee*); MUR 4375 (*Westchester County Conservative Party*); MUR 4377 (*Braxton for Congress*); MUR 4379 (*Teamsters Local Union No. 135*); MUR 4383 (*Pauken for Congress*); MUR 4384 (*Willie Colon for U.S. Congress*); MUR 4388 (*Bill Witt for Senate and Congress*); MUR 4390 (*Kolbe 96*); MUR 4391 (*Pat Roberts for Congress Committee*); MUR 4393 (*Cecil J. Banks*); MUR 4397 (*AFL-CIO*); MUR 4405 (*Katz for Congress Committee*); MUR 4411 (*First Evangelical Presbyterian Church*); MUR 4414 (*Turietta-Koury for Congress Committee*); MUR 4418 (*Bell Atlantic*); MUR 4421 (*Butler for Mayor*); MUR 4448 (*Friends for Jim Rapp*); Pre-MUR 334 (*Kinnamon for Congress*); and Pre-MUR 335 (*Davis for Congress*).

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We have identified cases which have remained on the Central Enforcement Docket for a sufficient period of time to render them stale 12 are not worthy of further action, and merit closure.⁴

We recommend that the Commission exercise its prosecutorial discretion and direct closure of the cases listed below, effective April 1, 1997. Closing these cases as 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.

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⁴ These cases are: MUR 4139 (*Enid 94*); MUR 4150 (*Frank Fasi*); MUR 4257 (*DSCC*); MUR 4258 (*NRSC*); MUR 4260 (*Packwood & Auto Dealers*); MUR 4261 (*NRA Institute for Legis.*); MUR 4262 (*Oregon Republican Party*); MUR 4265 (*NRSC; Sen. Phil Gramm*); MUR 4272 (*Bishop for Congress*); MUR 4279 (*Russ Berrie Co.*); MUR 4284 (*United We Stand America*); and Pre-MUR 322 (*Royal Hawaiian Country Club*).

III. RECOMMENDATIONS.

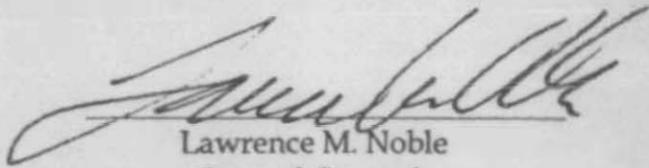
A. Decline to open a MUR, close the file effective April 1, 1997, and approve the appropriate letters in the following matters:

- 1. Pre-MUR 322
- 2. Pre-MUR 334
- 3. Pre-MUR 335.

B. Take no action, close the file effective April 1, 1997, and approve the appropriate letters in the following matters:

- | | | |
|--------------|--------------|--------------|
| 1. MUR 4139 | 13. MUR 4347 | 25. MUR 4390 |
| 2. MUR 4150 | 14. MUR 4354 | 26. MUR 4391 |
| 3. MUR 4257 | 15. MUR 4367 | 27. MUR 4393 |
| 4. MUR 4258 | 16. MUR 4371 | 28. MUR 4397 |
| 5. MUR 4260 | 17. MUR 4373 | 29. MUR 4405 |
| 6. MUR 4261 | 18. MUR 4374 | 30. MUR 4411 |
| 7. MUR 4262 | 19. MUR 4375 | 31. MUR 4414 |
| 8. MUR 4265 | 20. MUR 4377 | 32. MUR 4418 |
| 9. MUR 4272 | 21. MUR 4379 | 33. MUR 4421 |
| 10. MUR 4279 | 22. MUR 4383 | 34. MUR 4448 |
| 11. MUR 4284 | 23. MUR 4384 | |
| 12. MUR 4332 | 24. MUR 4388 | |

3/5/97
Date


Lawrence M. Noble
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Enforcement Priority) Agenda Document #X97-16

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on March 11, 1997, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions with respect to the above-captioned matter:

- A. Decline to open a MUR, close the file effective April 1, 1997, and approve the appropriate letters in the following matters:
1. Pre-MUR 322;
 2. Pre-Mur 334;
 3. Pre-MUR 335.
- B. Take no action, close the file effective April 1, 1997, and approve the appropriate letters in the following matters:
- | | |
|--------------|---------------|
| 1. MUR 4139; | 10. MUR 4279; |
| 2. MUR 4150; | 11. MUR 4284; |
| 3. MUR 4257; | 12. MUR 4332; |
| 4. MUR 4258; | 13. MUR 4347; |
| 5. MUR 4260; | 14. MUR 4354; |
| 6. MUR 4261; | 15. MUR 4367; |
| 7. MUR 4262; | 16. MUR 4371; |
| 8. MUR 4265; | 17. MUR 4373; |
| 9. MUR 4272; | 18. MUR 4374; |

(continued)

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Federal Election Commission
Certification: Enforcement Priority
March 11, 1997

Page 2

- | | |
|---------------|---------------|
| 19. MUR 4375; | 27. MUR 4393; |
| 20. MUR 4377; | 28. MUR 4397; |
| 21. MUR 4379; | 29. MUR 4405; |
| 22. MUR 4383; | 30. MUR 4411; |
| 23. MUR 4384; | 31. MUR 4414; |
| 24. MUR 4388; | 32. MUR 4418; |
| 25. MUR 4390; | 33. MUR 4421; |
| 26. MUR 4391; | 34. MUR 4448. |

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

Attest:

3-12-97
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 1, 1997

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Samuel Winchester Morey
6860 North Calle Mechero
Tucson, AZ 85718

RE: MUR 4390

Dear Mr. Morey:

On June 18, 1996, 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 has determined to exercise its prosecutorial discretion and to take no action against the respondents. See attached narrative. Accordingly, the Commission closed its file in this matter on April 1, 1997, 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. § 437g(a)(8).

Sincerely,

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Attachment
Narrative

97043792779

**MUR 4390
KOLBE '96**

Samuel Morey alleges that contributors who gave the limit to Congressman Kolbe's 1996 campaign later contributed to Supervisor Mike Boyd's committee, a local committee in Arizona, which subsequently transferred funds received in this manner to Kolbe's committee. Mr. Morey further alleges that this transfer "looks like contributions have been made in the name of another." Boyd's committee report covering 1/1/95-12/31/95, which was attached to the complaint, shows transfers totaling \$400 from Boyd's committee to Kolbe's committee. Mr. Morey also complained to the State of Arizona because Mr. Boyd's transfers may be contrary to state law, citing A.R.S. 16-905 G, which Mr. Morey summarizes as prohibiting transfers between candidate campaign committees.

Counsel for respondent Kolbe '96 states that the committee received only two transfers of funds totaling \$300 from Supervisor Mike Boyd's committee. Respondent further states that Kolbe '96 did not knowingly accept a contribution in the name of another when it accepted the funds, and that it has no reason to believe such was the case. Respondent concludes that this situation appeared, at most, to reflect a minor error in judgment by a valued supporter of Representative Kolbe.

Respondent Mike Boyd states that the transfers were made at his direction as a contribution to Kolbe '96. These transfers were not, nor intended to be, made by one person in the name of another. Likewise, Boyd denies that these payments were intended to aid anyone in exceeding campaign contribution limits or facilitate a contribution to be made by anyone not entitled to make a contribution to a federal campaign.

This matter is less significant relative to others pending before the Commission.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 1, 1997

Paula Maxwell, Treasurer
Mike Boyd Campaign Committee
5441 N. Swan, #602
Tucson, AZ 85718

RE: MUR 4390

Dear Ms. Maxwell:

On June 25, 1996, the Federal Election Commission notified you 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 has determined to exercise its prosecutorial discretion and to take no action against the Mike Boyd Campaign Committee and you, as treasurer. See attached narrative. Accordingly, the Commission closed its file in this matter on April 1, 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 at (202) 219-3400.

Sincerely

F. Andrew Turlay
Supervisory Attorney
Central Enforcement Docket

Attachment
Narrative

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

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MUR 4390
KOLBE '96

Samuel Morey alleges that contributors who gave the limit to Congressman Kolbe's 1996 campaign later contributed to Supervisor Mike Boyd's committee, a local committee in Arizona, which subsequently transferred funds received in this manner to Kolbe's committee. Mr. Morey further alleges that this transfer "looks like contributions have been made in the name of another." Boyd's committee report covering 1/1/95-12/31/95, which was attached to the complaint, shows transfers totaling \$400 from Boyd's committee to Kolbe's committee. Mr. Morey also complained to the State of Arizona because Mr. Boyd's transfers may be contrary to state law, citing A.R.S. 16-905 G, which Mr. Morey summarizes as prohibiting transfers between candidate campaign committees.

Counsel for respondent Kolbe '96 states that the committee received only two transfers of funds totaling \$300 from Supervisor Mike Boyd's committee. Respondent further states that Kolbe '96 did not knowingly accept a contribution in the name of another when it accepted the funds, and that it has no reason to believe such was the case. Respondent concludes that this situation appeared, at most, to reflect a minor error in judgment by a valued supporter of Representative Kolbe.

Respondent Mike Boyd states that the transfers were made at his direction as a contribution to Kolbe '96. These transfers were not, nor intended to be, made by one person in the name of another. Likewise, Boyd denies that these payments were intended to aid anyone in exceeding campaign contribution limits or facilitate a contribution to be made by anyone not entitled to make a contribution to a federal campaign.

This matter is less significant relative to others pending before the Commission.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 1, 1997

John F. Munger, Esq.
Munger and Munger, P.L.C.
National Bank Plaza
333 North Wilmot, Suite 300
Tucson, AZ 85711

RE: MUR 4390
Kolbe '96, William H. Kelley, Treasurer

Dear Mr. Kelley:

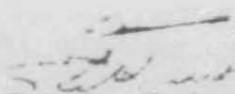
On June 25, 1996, the Federal Election Commission notified your clients of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against your clients. See attached narrative. Accordingly, the Commission closed its file in this matter on April 1, 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 at (202) 219-3400.

Sincerely


F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Attachment
Narrative

97043792783

MUR 4390
KOLBE '96

Samuel Morey alleges that contributors who gave the limit to Congressman Kolbe's 1996 campaign later contributed to Supervisor Mike Boyd's committee, a local committee in Arizona, which subsequently transferred funds received in this manner to Kolbe's committee. Mr. Morey further alleges that this transfer "looks like contributions have been made in the name of another." Boyd's committee report covering 1/1/95-12/31/95, which was attached to the complaint, shows transfers totaling \$400 from Boyd's committee to Kolbe's committee. Mr. Morey also complained to the State of Arizona because Mr. Boyd's transfers may be contrary to state law, citing A.R.S. 16-905 G, which Mr. Morey summarizes as prohibiting transfers between candidate campaign committees.

Counsel for respondent Kolbe '96 states that the committee received only two transfers of funds totaling \$300 from Supervisor Mike Boyd's committee. Respondent further states that Kolbe '96 did not knowingly accept a contribution in the name of another when it accepted the funds, and that it has no reason to believe such was the case. Respondent concludes that this situation appeared, at most, to reflect a minor error in judgment by a valued supporter of Representative Kolbe.

Respondent Mike Boyd states that the transfers were made at his direction as a contribution to Kolbe '96. These transfers were not, nor intended to be, made by one person in the name of another. Likewise, Boyd denies that these payments were intended to aid anyone in exceeding campaign contribution limits or facilitate a contribution to be made by anyone not entitled to make a contribution to a federal campaign.

This matter is less significant relative to others pending before the Commission.

97043792784



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4390

DATE FILMED 4-25-97 CAMERA NO. 1

CAMERAMAN JMJ

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