



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

THIS IS THE BEGINNING OF MUR # 4597

DATE FILMED 1-8-87 CAMERA NO. 4

CAMERAMAN JMH

9704372871

MAILING ADDRESS
POST OFFICE BOX 95086
LINCOLN, NEBRASKA 68509



OFFICE LOCATION
11TH FLOOR, STATE CAPITOL
PHONE (402) 471-2522 and 2523

NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION
STATE of NEBRASKA

July 24, 1996

Pre-MUR 337

TO: Office of the General Counsel

FROM: Dannie Trautwein, Executive Director

RE: Reports of Corporate and/or union contributions to federal candidates

As you may be aware, the State of Nebraska permits corporate contributions to state and local candidates. These contributions are required to be reported within 10 days after the end of the calendar month in which any contribution or expenditure is made or personal service provided.

On occasion, this office receives reports which appear to reflect corporate contributions to candidates for federal office. As an example, the enclosed Report of Political Contributions of a Corporation, Union, or Other Association (B-7) discloses a \$1,000 contribution to Ben Nelson. We, of course, have no information as to the acceptance of the contribution by the candidate.

This matter is forwarded for your review as you deem necessary.

DT/sd

Attachment:

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ITEM 3					INDIRECT CONTRIBUTIONS (In-Kind, Personal Services and Independent Expenditures) Complete for all indirect contributions and expenditures except expenditures for the establishment or administration of a separate segregated political fund.	
DATE	VALUE (Cost)	NATURE (See Key)	SUPPORT OR OPPOSE	CANDIDATE, BALLOT QUESTION OR POLITICAL COMMITTEE		
				CORPORATION, UNION OR ASSOCIATION OF A CANDIDATE, BALLOT QUESTION OR POLITICAL COMMITTEE		

Name of Payee _____

Description of Contribution or Expenditure _____

KEY: (See Definitions) A - in-Kind B - Personal Services C - Independent Expenditure

ITEM 4 EXPENDITURES FOR ESTABLISHMENT OR ADMINISTRATION OF A SEPARATE SEGREGATED POLITICAL FUND (See Definition—Separate Segregated Political Fund)

A corporation, union or association may not make a contribution to its own fund except that it may make expenditures and provide personal services for the establishment and administration of its fund.

Fund Name _____ Acronym: _____

Address _____

STREET ADDRESS OR RURAL ROUTE CITY STATE ZIP CODE

DATE	DESCRIPTION OF PERSONAL SERVICES PROVIDED OR OTHER EXPENSES FOR ESTABLISHMENT OR ADMINISTRATION OF FUND

VERIFICATION

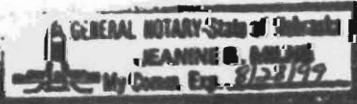
STATE OF Nebraska)

COUNTY OF Douglas) ss

Daniel N. Witt upon oath, state that I am duly authorized to file this report,
 (Name of Individual Signing)

that I have used all reasonable diligence in its preparation and that to the best of my knowledge it is true and complete.

Subscribed and sworn to before me this 18 day of July 1996

(SEAL)  Jeanine B. Milne
 (Notary Public)



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 2, 1996

Ms. Dannie Trautwein
Executive Director
Nebraska Accountability & Disclosure Commission
Post Office Box 95086
Lincoln, NE 68509

RE: Pre-MUR 337

Dear Ms. Trautwein:

This is to acknowledge receipt of your letter dated July 24, 1996, advising us of the possibility of a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") by Dan Witt Builders, Inc. We will review the matter and advise you of the Commission's determination.

Pursuant to 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A), the Commission's review of this matter shall remain confidential until the file has been closed.

If you have any questions or additional information, please call the Central Enforcement Docket at (202) 219-3400. Our file number for this matter is Pre-MUR 337.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

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

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

PRE-MURS: 331, 337, 340
DATE ACTIVATED: 9/18/96

STAFF MEMBER Frances B. Hagan

SOURCE: INTERNALLY GENERATED

RESPONDENTS: Nebraskans for Nelson
Michael A. Shrier, Treasurer
Bereuter for Congress Committee
James W. Hewitt, Treasurer
Dan Witt Builders, Inc.
Snyder Industries, Inc.
Erickson & Sederstrom, P.C.
Nebraska Democratic State Central Committee (non-federal account)
Gerry Finnegan, Treasurer

RELEVANT STATUTE: 2 U.S.C. § 441b(a)
2 U.S.C. § 432(b)
11 C.F.R. § 102.8(c)
11 C.F.R. § 110.6(b)(2)(E)(iii)
11 C.F.R. § 103.3(b)

INTERNAL REPORTS CHECKED: Disclosure Indexes, Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

Three inter-related matters were referred to the Office of the General Counsel by Dannie Trautwein, Executive Director of the Nebraska Accountability and Disclosure Commission ("Nebraska Commission"). According to the referrals, "the State of Nebraska permits corporate contributions to state and local candidates." The referrals explain, "These contributions are required to be reported [by the contributing corporation] within 10 days after the end of the

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calendar month in which any contribution or expenditure is made or personal service provided."

When corporate contributions reported to the State appear to relate to Federal elections, the Nebraska Commission refers them to the FEC.

The Nebraska Commission referred corporate contributions totaling \$2,500 to the Nebraskans for Nelson Committee ("Nelson Committee") and \$400 to the Bereuter for Congress Committee ("Bereuter Committee") as reported by corporate contributors:¹

CONTRIBUTOR	AMOUNT	DATE	REPORTED RECIPIENT
Snyder Industries, Inc.	\$1,000	3-08-96	Ben Nelson Ben Nelson for Senate
Erickson & Sederstrom, P.C.	\$ 500	7/28/96	Ben Nelson for U.S. Senate Committee
	\$ 400	7/28/96	Bereuter Committee
Dan Witt Builders, Inc.	\$1,000	7/10/96	Ben Nelson

A review of the Nelson Committee's 1996 April, July, and September Quarterly Reports, and 12-Day Pre-General Report shows no related receipts or refunds that could indicate return of prohibited receipts. Similarly, the Bereuter Committee's 1996 reports to date offer no indication of related corporate deposits or refunds.

¹ The Nebraskans for Nelson Committee is principal campaign committee for Governor E. Benjamin Nelson, unsuccessful candidate for election to the U.S. Senate (NE) in the 1996 general election (42% of the vote). The Bereuter for Congress Committee is principal campaign committee for Douglas K. Bereuter (NE), who won re-election to the U.S. House of Representatives with 70% of the vote.

One referral included a file memorandum of a telephone conversation between Nebraska Commission staff auditor Gary Anderson and the Chief Financial Officer of Snyder Industries, Inc. ("SII"). In it, the auditor informed the CFO that the Nebraska Democratic State Central Committee (non-federal account) ("NDSCC--non-federal") reported receiving \$1,000 from SII, and that such contributions must be reported with the Nebraska Commission. According to auditor Anderson, SII's CFO stated that the contribution was intended for the Nelson campaign, and that the check was made payable to "Ben Nelson -- Nelson for Senate" in response to a solicitation letter from the Nelson campaign.² The auditor informed the CFO that corporate contributions are impermissible in connection with federal elections. SII's CFO replied that he was not aware of the prohibitions and would probably make no future political contributions.

Auditor Anderson states in a follow-up letter that the NDSCC--non-federal filing does not show receipts from the other corporate respondents, Dan Witt Builders, Inc. or Erickson & Sederstrom, P.C. during 1996. The NDSCC--non-federal's report, provided with the referral supplement, confirms his statement. Based on a telephone discussion between OGC staff and the auditor, this apparently "rerouted" contribution appears to be an isolated incident with no evidence of other similar transactions. In addition, the Nebraska Democratic State Central Committee (federal account) ("NDSCC") reports covering 1996 contain no information on the corporate funds reported to the Nebraska Commission.³

II. FACTUAL AND LEGAL ANALYSIS

The Federal Election Campaign Act of 1971, as amended, ("the Act") prohibits the making or knowing acceptance of corporate contributions or expenditures in connection with a federal

² Mr. Anderson did not see the solicitation letter and thus cannot verify its source.

³ The NDSCC's 1996 July Quarterly reported \$768.93 in-kind contributions on behalf of the Nelson Committee.

election. 2 U.S.C. § 441b(a). The Act defines "contribution" or "expenditure" to include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value to any candidate or campaign committee. 2 U.S.C. § 441b(b)(2).

The Act permits a contributor to direct or earmark a contribution to a candidate committee through an intermediary or conduit. 2 U.S.C. § 441a(a)(8). 11 C.F.R. § 110.6(b)(2)(E)(iii) states that any person who receives an earmarked contribution shall forward such earmarked contribution to the candidate or authorized committee in accordance with . At 2 U.S.C. § 432(b)(1), the Act specifies that every person who receives a contribution for an authorized political committee shall forward such contribution to the treasurer no later than 10 days after receiving it. If the contribution exceeds \$50, the contributor's name and address are required along with the date of receipt. See also 11 C.F.R. § 102.8.

11 C.F.R. § 103.3(b) explains that apparent prohibited contributions may be either deposited into a campaign depository or returned to the contributor within 10 days of receipt. The treasurer must make his or her best efforts to determine the legality of the contribution. If the contribution cannot be determined to be legal, the treasurer must refund the contribution within thirty days of receipt. Id.

Based on the referral information and review of the disclosure reports, there is no evidence that corporate monies were deposited into a federal account. Any contributor checks appropriately returned in accordance with 11 C.F.R. § 103.3(b) would not show up on reports. Therefore, it does not appear that a violation of 2 U.S.C. § 441b(a) occurred in this matter.

As stated above, the SII corporate check made out to the Nelson Committee and admittedly intended for Governor Ben Nelson's U.S. Senate campaign, was instead routed to the

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NDSCC--non-federal and deposited into its account without consulting the contributor. In Advisory Opinion 1983-18, the Commission made it clear that where a conduit "declines to follow the donor's designation instructions, it should refund the designated contribution to the donor." Furthermore, citing 11 C.F.R. § 103.3(b), the Commission reiterated that the conduit must refund the contribution if it is impermissible. *Id.* Thus, the NDSCC--non-federal could not legally opt to deposit SII's check into the non-federal account without explicit direction from the contributor.

Based on this analysis, the Office of the General Counsel recommends that the Commission open a Matter Under Review and find reason to believe that the Nebraska Democratic State Central Committee (non-federal account) violated 2 U.S.C. § 432(b)(1) and 11 C.F.R. § 110.6(b)(2)(E)(iii). However, based on the amount of the violation (\$1,000), this Office also recommends that the Commission take no further action concerning this respondent. We recommend that the notification letter contain an admonishment against similar future activity. In addition, we recommend that the Commission find no reason to believe that the respondent candidate committees, their treasurers, or the corporate respondents violated 2 U.S.C. § 441b(a), and close the file in these matters.

III. RECOMMENDATIONS

Regarding Pre-MUR 331:

1. Open a MUR.
2. Find reason to believe that the Nebraska Democratic State Central Committee (non-federal account) and Gerry Finnegan, as treasurer, violated 2 U.S.C. § 432(b)(1) and 11 C.F.R. § 110.6(b)(2)(E)(iii), but take no further action.
3. Find no reason to believe that the following violated 2 U.S.C. § 441b(a):
 - a) Nebraskans for Nelson and Michael A. Shrier, as treasurer;

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b) Snyder Industries, Inc.

4. Approve the appropriate letters and close the file.

Regarding Pre-MUR 337:

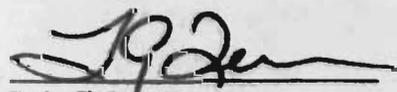
1. Open a MUR.
2. Find no reason to believe that the following violated 2 U.S.C. § 441b(a):
 - a) Nebraskans for Nelson and Michael A. Shrier, as treasurer.
 - b) Dan Witt Builders, Inc.
3. Approve the appropriate letters and close the file.

Regarding Pre-MUR 340:

1. Open a MUR.
2. Find no reason to believe that the following violated 2 U.S.C. § 441b(a):
 - a) Nebraskans for Nelson and Michael A. Shrier, as treasurer;
 - b) Bereuter for Congress Committee and James W. Hewitt, as treasurer;
 - c) Erickson & Sederstrom, P.C.
3. Approve the appropriate letters and close the file.

Lawrence M. Noble
General Counsel

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12/3/96
Date

BY: 
Lois G. Lerner
Associate General Counsel

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Nebraskans for Nelson and)
Michael A. Shrier, Treasurer;)
Beruter for Congress Committee)
and James W. Hewitt, Treasurer;) Pre-MURs 331, 337,
Dan Witt Builders, Inc.;) 340
Snyder Industries, Inc.;)
Erickson & Sederstrom, P.C.;)
Nebraska Democratic State Central)
Committee (non-federal account);)
Gerry Finnegan, Treasurer.)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on December 11, 1996, the Commission decided by a vote of 4-1 to take the following actions in Pre-MURs 331, 337, 340:

Regarding Pre-MUR 331:

MUR 4596

1. Open a MUR.
2. Find reason to believe that the Nebraska Democratic State Central Committee (non-federal account) and Gerry Finnegan, as treasurer, violated 2 U.S.C. § 432(b)(1) and 11 C.F.R. § 110.6(b)(2)(E)(iii), but take no further action.
3. Find no reason that the following violated 2 U.S.C. § 441b(a):
 - a) Nebraskans for Nelson and Michael A. Shrier, as treasurer;
 - b) Snyder Industries, Inc.

(continued)

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4. Approve the appropriate letters and close the file, as recommended in the General Counsel's Report dated December 3, 1996.

Regarding Pre-MUR 337:

~~MUR 4597~~

1. Open a MUR.
2. Find no reason to believe that the following violated 2 U.S.C. § 441b(a):
 - a) Nebraskans for Nelson and Michael A. Shrier, as treasurer
 - b) Dan Witt Builders, Inc.
3. Approve the appropriate letters and close the file, as recommended in the General Counsel's Report dated December 3, 1996.

Regarding Pre-MUR 340:

MUR 4598

1. Open a MUR.
2. Find no reason to believe that the following violated 2 U.S.C. § 441b(a):
 - (a) Nebraskans for Nelson and Michael A. Shrier, as treasurer
 - (b) Bereuter for Congress Committee and James W. Hewitt, as treasurer

(continued)

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(c) Erickson & Sederstrom, P.C.

3. Approve the appropriate letters and close the file, as recommended in the General Counsel's Report dated December 3, 1996.

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

Attest:

12-11-96
Date


Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat:	Fri., Dec. 06, 1996	11:22 a.m.
Circulated to the Commission:	Fri., Dec. 06, 1996	2:00 p.m.
Deadline for vote:	Tues., Dec. 10, 1996	4:00 p.m.

mwd

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 23, 1996

Dannie Trautwein, Executive Director
Nebraska Accountability and Disclosure Commission
P.O. Box 95086
Lincoln, Nebraska 68509

RE: MURs 4596, 4597, 4598

Dear Ms. Trautwein:

This is in reference to the matters involving the Nebraska Democratic State Central Committee, Nebraskans for Nelson, Bereuter for Congress Committee, and three corporate contributors which your office referred to the Federal Election Commission on June 17, July 29, and August 19, 1996.

On December 11, 1996, the Commission found that there was reason to believe the Nebraska Democratic State Central Committee (non-federal account) and Gerry Finnegan, as treasurer, violated 2 U.S.C. § 432(b)(1), a provision of the Federal Election Campaign Act of 1971, as amended. On December 19, 1996, the Commission found reason to believe the Nebraska Democratic State Central Committee (non-federal account) and Gerry Finnegan, as treasurer, violated 11 C.F.R. § 110.6(b)(2)(iii). The latter vote was required to correct the citation of the regulation. The Commission determined to take no further action concerning both findings pertaining to these respondents. The Commission also found no reason to believe that the other respondents in this matter violated 2 U.S.C. § 441b(a) and closed the file. A copy of the General Counsel's Report is enclosed for your information.

If you have any questions, please contact Frances B. Hagan, the staff member assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

BY: 
Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 23, 1996

Mr. Daniel N. Witt
Dan Witt Builders, Inc.
2705 S. 87th Street
Omaha, Nebraska 68124

RE: MUR 4597
Dan Witt Builders, Inc.

Dear Mr. Witt:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission considered the issue of whether Dan Witt Builders, Inc., violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"), by making a prohibited corporate contribution to the Nebraskans for Nelson Committee. On December 11, 1996, the Commission found no reason to believe that Dan Witt Builders, Inc., violated 2 U.S.C. § 441b(a). Accordingly, the Commission has closed the file in this matter.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 23, 1996

Michael A. Shrier, Treasurer
Nebraskans for Nelson
2912 S. 84th Street
Omaha, NE 68124

RE: MURs 4596, 4597, 4598
Nebraskans for Nelson
Michael A. Shrier, as treasurer

Dear Mr. Shrier:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission considered the issue of whether the Nebraskans for Nelson and you, as treasurer, violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"), by accepting prohibited corporate contributions from Snyder Industries, Inc., Dan Witt Builders, Inc., and Erickson & Sederstrom, P.C. On December 11, 1996, the Commission found no reason to believe that the Nebraskans for Nelson and Michael A. Shrier, as treasurer, violated 2 U.S.C. § 441b(a). Accordingly, the Commission has closed the file in this matter.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4587

DATE FILMED 1-8-97 CAMERA NO. 4

CAMERAMAN JAIN

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