



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4618

DATE FILMED 4-1-97 CAMERA NO. 4

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 24, 1997

MEMORANDUM

MUR 4618

TO: Lawrence M. Noble
General Counsel

THROUGH: John C. Surina
Staff Director

FROM: Robert J. Costa
Assistant Staff Director
Audit Division

SUBJECT: Mississippi Democratic Party Political Action Committee —
Referral Matters

On January 16, 1997, the Commission approved the final audit report on the Mississippi Democratic Party Political Action Committee. The report will be released to the public on January 24, 1997. The attached finding from the FAR is being referred to your Office:

● FAILURE TO FILE DISCLOSURE REPORTS (Finding II.E.) /

During the audit period the Committee failed to file the following reports for 1994; the second and third quarters, pre-general, post-general and year-end. Also, this Committee has a prior history (MUR 3800) of filing reports late

However, given the number of reports not filed, the period covered and the Committee's history a referral is warranted.

All workpapers and related documents are available for review in the Audit Division. Should you have any questions, please contact Robert Morcomb or Joe Swearingen at 219-3720.

Attachment as stated

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E. FAILURE TO FILE DISCLOSURE REPORTS

Section 434(a)(4) of Title 2 of the United States Code states, in relevant part, that all political committees other than authorized committees of a candidate shall file quarterly reports, in a calendar year in which a regularly scheduled general election is held, which shall be filed no later than the 15th day after the last day of each calendar quarter; except that the report for the quarter ending on December 31 of such calendar year shall be filed no later than January 31 of the following calendar year; a pre-election report, which shall be filed no later than the 12th day before any election in which the committee makes a contribution to or an expenditure on behalf of a candidate in such election, and which shall be complete as of the 20th day before the election; and, a post-general election report, which shall be filed no later than the 30th day after the general election and which shall be complete as of the 20th day after such general election.

During the audit period, the Committee filed a mid-year and a year-end report for 1993 and filed a disclosure report covering the first quarter of 1994.⁴ Thus, the Committee did not file reports covering the second and third quarters of 1994 nor did it file a pre-general, post-general, or year-end disclosure report. The reports for the period from April 1, 1994 to December 31, 1994 should have reflected a beginning cash balance of \$84, total receipts of \$28,437, total disbursements of \$24,853, and an ending cash balance of \$3,668. In addition to the activity in the federal accounts, the Committee impermissibly made 24 disbursements totaling \$11,691 from its non-federal accounts which were for allocable activity (see Finding II.B.).

At the exit conference, the Committee was informed that it would be required to file disclosure reports covering this period. The Audit staff stated that we would provide the Committee officials with information needed to file the reports once we had obtained the necessary records. The Audit staff subsequently provided the Committee with schedules which show the total activity to be reported as well as the transactions required to be itemized on the supporting schedules. A portion of the information provided to the Committee was obtained via Commission subpoena.

In the interim audit report, the Audit staff recommended that the Committee file a disclosure report which covers the period from April 1, 1994, to December 31, 1994.

In response to the interim audit report, the Committee filed disclosure reports, Schedules A and Schedules H-4 for 1994 to complete the public record.

⁴ In settlement of Matter Under Review 3800, the Committee paid a civil penalty in the amount of \$15,000 for failing to file disclosure reports during the 1991-92 election cycle.

BEFORE THE FEDERAL ELECTION COMMISSION

FEB 21 4 21 PM '97

In the Matter of)
)
Enforcement Priority System II)
)

SENSITIVE

GENERAL COUNSEL'S REPORT

I. INTRODUCTION

On September 10, 1996, the Commission approved an Enforcement Priority System for enforcement matters assigned to OGC Public Financing, Ethics & Special Projects staff ("EPS II"). See Memorandum to the Commission, *PFESP Enforcement Priority System*, dated August 6, 1996.

This Office has rated all of its PFESP enforcement cases under EPS II. Based upon that evaluation, this Office has identified 12 MURs for closing. By closing these 12 cases, this Office will be better able to focus its resources on the more significant cases, generally presidential matters. Moreover, these closings will enable us to process the 1996 presidential audits in a more efficient manner.

¹ This Office is currently assessing the impact of *FEC v. Williams*, No. 95-55320 (9th Cir. Filed Dec. 26, 1996), on our caseload. In *Williams*, the court ruled that the five-year statute of limitations under 28 U.S.C. § 2462 applies to the imposition of civil penalties in Commission enforcement actions. Unlike the initial implementation of the Enforcement Priority System ("EPS"), this Office is not recommending that certain cases involving stale activity be closed at this time. See, e.g., Implementation of the Enforcement Priority System, approved April 20, 1993. This Office will forward specific recommendations in light of *Williams* in a subsequent report to the Commission.

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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.² 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.

² 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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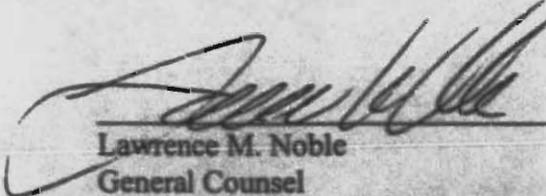
RECOMMENDATIONS

- 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

Peggy Peterson, Treasurer
Mississippi Democratic Party
Political Action Committee
832 North Congress Street
Jackson, MS 39215

RE: MUR 4618

Dear Ms. Peterson:

On January 24, 1997, the Audit Division referred the enclosed matters to the Office of General Counsel involving the Mississippi Democratic Party Political Action Committee ("Committee") and Peggy Peterson, 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 # 4618

DATE FILMED 4-1-97 CAMERA NO. 4

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