



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4790

DATE FILMED 9/10/98 CAMERA NO. 2

CAMERAMAN SES

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PERKINS COIE LLP

607 FOURTEENTH STREET, N.W. WASHINGTON, D.C. 20005-2011

TELEPHONE 202 628-6600 FACSIMILE 202 434-1690

ROBERT F. BAUER  
(202) 434-1602

July 31, 1998

Pre-MUR 367

Lois G. Lerner, Esq.  
Associate/Deputy General Counsel  
Office of General Counsel  
Federal Election Commission  
999 E Street, NW - 6th Floor  
Washington, DC 20463

Re: Pre-Probable Cause Conciliation for E. William Crotty

Dear Ms. Lerner:

I appreciate your prompt response to my request for a meeting to address the circumstances of a request for pre-probable cause conciliation on behalf of E. William Crotty.

E. William Crotty is currently the Senior Managing Partner of the law firm of Black, Crotty, Sims, Hubka, Burnett, Birch & Samuels, L.L.P. He has been engaged in the practice of law since 1958, prior to which he served as a specialist with the Army Audit Agency. Mr. Crotty has been active for many years in Democratic Party politics at the national state and local levels. Over that time, he has contributed to a number of candidates and political committees, including party committees, and also raised funds for such candidates and committees.

In May 1997, President Clinton nominated Mr. Crotty to the post of Ambassador to Barbados. Mr. Crotty submitted successfully to a complete background check. He also provided various materials separately to the Senate Foreign Relations Committee to facilitate its deliberations, including a four-year history of the federal contributions he had made.

The Committee review indicated that for the 1995-1996 Congressional election cycle, Mr. Crotty may have exceeded the \$25,000 annual limitations. The Committee brought this to Mr. Crotty's attention in June 1998. Upon further review with counsel, Mr. Crotty concluded that the limitations inadvertently had been exceeded for this

[28813-0001/DA982090.034]

Lois G. Lerner, Esq.  
July 31, 1998  
Page 2

period, by the amount of \$13,989. He promptly notified the Committee of this determination and immediately proceeded to contact various committees and candidates to request refunds in some instances and, in others, transfers from federal to nonfederal accounts, to address the violation that had been committed.

Exhibit A attached to this letter identifies contributions made by Mr. Crotty applicable to the 1996 federal Congressional elections -- and to the annual limit -- in the amount of \$24,525.00. Exhibit B lists additional contributions made by Mr. Crotty in the 1996 Congressional election cycle which required refund or reallocation to address violation of the limit. As you will note, the refunds and reallocations total \$14,464.00.

Mr. Crotty is aware that the request for refunds or reallocations at this date does not "cure" the violation, but he also believes, and the Senate Foreign Relations Committee staff agreed, that this was a responsible action to take in the circumstances. By letter dated June 23, 1998, Mr. Crotty informed the State Department of the inadvertent violation of the limit and the steps taken to address this violation. A copy of the pertinent pages of this communication to the State Department (omitting material unrelated to this matter) is attached as Exhibit C.

Mr. Crotty has also informed the Senate Foreign Relations Committee of these steps. The Chairman of the Senate Foreign Relations Committee, the Honorable Jesse Helms, and the Ranking Member, the Honorable Joseph Biden, have advised Mr. Crotty that the nomination can still proceed successfully to full Senate consideration and confirmation provided that complete resolution is effected through the Commission's enforcement process. They have informed him specifically that, if he is able to conciliate this violation successfully within the next 30 days, the nomination can be placed on the September calendar for action.

Accordingly, Mr. Crotty would like to proceed promptly to pre-probable cause conciliation. In view of the limited time remaining in this Congressional session and the few days available for Senate action in September, he would like to resolve the matter this August. To this end, Mr. Crotty is bringing all of the relevant information to the Commission and, together with this letter, is submitting a proposed conciliation agreement.

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Lois G. Lerner, Esq.  
July 31, 1998  
Page 3

Expedited action would enable this Presidential appointment to proceed to Senate confirmation on a bipartisan basis. Mr. Crotty has been urged to proceed on this basis, with active support from both the Chairman and Ranking Member of the Committee. He respectfully requests that the Commission take all appropriate action in these circumstances to bring about successful conciliation within the coming month of August.

I look forward to discussing this matter further with you on Monday.

Very truly yours,



Robert F. Bauer  
Counsel to E. William Crotty

RFB:dml  
Attachments

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(A)

**E. WILLIAM CROTTY  
1996 FEDERAL CONTRIBUTIONS**

Brennan for U.S. Senate	9/30/96	\$1,000
Browder for Senate, Inc.	5/28/96	\$1,000
Byron for Congress	8/8/96	\$1,000
Cohen for Senator	12/18/95	\$1,000
Connie Galiazzo DeJuliiis for Congress	9/24/96	\$ 250
Fowler for Congress	8/16/96	\$ 25
Friends of Mark Warner	12/1/95	\$1,000
Friends of Max Baucus	2/14/97	\$1,000
Friends of Max Cleland for the US Senate	2/21/96	\$1,000
Friends of Schumer	12/22/95	\$1,000
Friends of Senator Carl Levin	12/26/95	\$1,000
Friends of Senator Carl Levin	7/27/96	\$1,000
George Stuart Jr. for Congress	10/25/96	\$ 500
Jim Chapman for Senate	12/19/95	\$ 500
Kerry Committee	12/15/94	\$1,000
Kolbe '96	12/7/95	\$ 250
New Jersey Victory Fund '96	2/7/96	\$ 500
(Torricelli for U.S. Senate, Inc. \$382)		
New Republican Majority Fund	2/22/96	\$ 500
Oregon Victory Fund	12/13/95	\$1,000
(Wyden for Senate \$950)		
People for Weiland	11/28/95	\$ 250
People for Weiland	5/22/96	\$ 250
People for Weiland	10/18/96	\$1,000
Roger H. Bedford for U.S. Senate	11/6/95	\$ 200
Roger H. Bedford for U.S. Senate	4/10/96	\$ 500
Roger H. Bedford for U.S. Senate	5/22/96	\$ 250
Roger H. Bedford for U.S. Senate	10/8/96	\$1,000
Tim Johnson for South Dakota, Inc.	8/11/95	\$1,000
Tim Johnson for South Dakota, Inc.	12/27/95	\$ 500
Torricelli for Senate	9/5/96	\$1,000
Women's Council Fund	5/31/96	\$4,000
(Sally Thompson for U.S. Senate \$2,000)		
(Karpan for Wyoming \$2,000)		
Wyden for Senate	12/15/95	\$ 50
<b>TOTAL:</b>		<b>\$24,525</b>

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(B)

**1996 FEDERAL CONTRIBUTIONS  
REFUNDED OR REALLOCATED**

Citizens for Harkin	12/14/94	\$1,000
Clinton/Gore '96 Primary Committee, Inc.	6/7/95	\$1,000
Clinton/Gore '96 Legal & Acct. Compliance	8/5/96	\$1,000
Democratic Executive Committee of Florida	12/30/96	\$1,164
DNC Services Corporation/DNC	9/30/96	\$1,000
DNC Services Corporation/DNC	10/28/96	\$ 300
Victory '96	8/16/96	\$3,000
(DNC Services Corp./DNC \$3,000)		
Women's Council Fund	5/31/96	\$6,000
(Democratic Senatorial Campaign Committee)		
	<b>TOTAL:</b>	<b>\$14,464</b>

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*E. William Crotty*  
*501 North Grandview Avenue*  
*Daytona Beach, Florida 32118*

July 15, 1998

BY HAND

Ms. Loretta Oliver  
Congressional Relations Specialist  
Office of Legislative Affairs  
H-Room 5917  
Department of State  
2201 C Street N.W.  
Washington, DC 20520

RE: ADDITIONAL QUESTIONS FROM THE SENATE FOREIGN  
RELATIONS COMMITTEE DATED JUNE 25, 1998

Dear Ms. Oliver:

I am happy to provide the following information to the Senate Foreign Relations Committee, in response to the additional questions it posed on June 25, 1998. I hope that this supplemental information will satisfy the Committee's requests. Of course, if the Committee requires additional information on these or any other matters, I will be pleased to respond.

- 1) Please list all political donations that were not included in your original political contributions report to the Committee, and the reason each of these contributions was not included in your original submission to the Committee.

In my original response to Part B, Question 6 of the Senate questionnaire (submitted March 3, 1998), I listed all contributions to federal candidates or committees in the amount of \$1,000 or more, since that is what I understood the form to require.<sup>1</sup>

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<sup>1</sup> The State Department also requires a separate "Federal

Ms. Loretta Oliver  
July 15, 1998  
Page 2 of 15

On June 23, 1998, I provided updated and corrected information to the State Department regarding contributions to federal candidates and committees. There were two reasons for the revisions. First, after reviewing my original report, the Committee staff informed me that there may be some question as to whether my contributions attributable to the 1996 election year exceeded the \$25,000 annual limit. To respond to that inquiry, it was necessary to include, in the updated schedule for contributions attributable to 1996, contributions in amounts less than \$1,000.<sup>2</sup> Second, despite my best efforts and the best efforts of my office, I made two mistakes in preparing the original report:

- I inadvertently overlooked one contribution (to Friends of Max Baucus in the amount of \$1,000 on 2/14/97); and
- I inadvertently "double-counted" a contribution to the Women's Council Fund in the amount of \$10,000 on 5/31/96).<sup>3</sup>

The Committee's June 25, 1998 question seeks a list of "all political donations" (without regard to amount or state/federal designation) that were not included in my original report. I have reviewed my records again and I have cross-checked them against the records of the FEC. To the

Campaign Contribution Report." While that report also seeks only federal contributions, it is not limited to contributions of \$1,000 or more. Because the two reporting forms were part of the same information-gathering process, apparently I overlooked the absence of a financial limitation in the Federal Campaign Contribution Report and simply used the same schedule of federal contributions (\$1,000 or more) to respond to that form. My recollection is that my secretary asked and received approval from the State Department to use the same schedule for both forms.

<sup>2</sup> These contributions may be found in my June 23, 1998 supplemental schedule under the heading "Checks Under \$1,000".

<sup>3</sup> The Women's Council Fund contribution was to a joint fundraiser, and was allocated to the DSCC (\$6,000), Sally Thompson for U.S. Senate (\$2,000), and Karpan for Wyoming (\$2,000). My original report first listed the aggregate contribution to the Women's Council Fund and then also listed each of the allocations, thereby incorrectly increasing the total amount of my contributions by \$10,000.

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best of my knowledge and ability, the following are the only additional federal contributions that were not set forth in my previous schedules:<sup>4</sup>

<u>Candidate/Committee</u>	<u>Date</u>	<u>Amount</u>
Citizens for Baucus	6/7/93	\$ 250
Friends for Bryan	9/20/93	\$ 500
Democratic Executive Comm. Of Florida	2/7/94	\$ 500
Campbell Victory Fund (for '98)	3/13/96	\$ 713
Friends of Patrick J. Kennedy (for '94)	4/29/96	\$ 500
Tillie Fowler	8/16/96	\$ 25

Finally, Exhibit A hereto contains a list of all of my personal contributions that I believe were for state and local elections, which as noted were not required to be included in the prior forms. This schedule is based upon a review of my records and a records check with the Division of Elections of Volusia County and the State of Florida Division of Elections.

- 2) Please list the reason for the return of each check to re-election campaigns for Harkin, Kennedy, Clinton/Gore, and Kerry.

Senator Harkin: Following the submission of my March 3, 1998 response to the Senate questionnaire, the Committee staff brought to my attention the possibility that my contributions attributable to the 1996 election year may have exceeded the \$25,000 limit. That, of course, was never my intention. Therefore, I promptly sought the advice of an election law specialist. After reviewing the matter with him, I concluded that the best course was (a) to request the return of certain contributions (from Senator Harkin, from the Clinton/Gore '96 Primary Committee, and from the

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<sup>4</sup> The contributions were not listed on the original report because they were under \$1,000. The contributions were not listed on the supplemental schedule because I listed only those contributions under \$1,000 that related to the 1996 spending limit issue. Finally, in addition to those contributions that I believe to be my own, I have included contributions by my law firm if they were attributed to me in the reports to the FEC.

Clinton/Gore '96 Legal & Accounting Compliance Fund) and (b) to request that the DNC and the DSCC reclassify certain other contributions (which had been reported to the FEC by them as "hard" money rather than "soft" money). In response to my request, Senator Harkin authorized the return of my \$1,000 contribution.

Senator Kennedy: I have not been able to locate records regarding the refund of this contribution, and my recollection of its return may have been in error. Based on a review of the FEC records, the contribution to Mitchell for Senate (3/30/93, \$1,000) was returned on October 20, 1994, and I may have confused the two contributions.

Clinton/Gore '96: See the explanation set forth above. In response to my request, both the Primary Committee and the Legal and Accounting Compliance Fund authorized the return of my contributions.

Senator Kerry: According to the FEC records, the Kerry Committee refunded the contribution on February 29, 1996. I do not recall the reasons for or the circumstances surrounding the refund.

- 3) Please list the date each of these checks were returned.

Citizens For Harkin: I received a check from Citizens for Harkin, Inc., in the amount of \$1,000, dated June 15, 1998, on or about June 17, 1998.

Senator Kennedy: See the explanation set forth above. The FEC records show the Mitchell for Senate refund having been made on October 20, 1994.<sup>5</sup>

Clinton/Gore '96: I received a check from Clinton/Gore '96 General Election (Legal and Accounting Compliance Fund), in the amount of \$1,000, dated June 11, 1998, on or about June 12, 1998. I received a check from Clinton/Gore '96 Primary Committee, Inc., in the amount of \$1,000, dated June 11, 1998, on or about June 12, 1998.

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<sup>5</sup> My prior schedules listed a contribution to Mitchell for Senate on the same date, in the same amount. That was an error. It should have indicated a refund on that date.

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Senator Kerry: According to the FEC records, February 29, 1995.

- 4) You indicated in your amended federal campaign contribution reporting that "I include some non-federal information as it relates in part to reclassification of some of my earlier reported contributions by recipients." Please identify the reason for this reclassification. Please specify the date of each reclassification.

The reference to "non-federal" meant "soft" as opposed to "hard" contributions. With respect to the reason for the reclassification, please see the explanation set forth above.

The DSCC reallocated the \$6,000 contribution (made on 5/31/96)<sup>6</sup> on June 22, 1998. The DSCC confirmed to me that, at the time the contribution was made, it could have lawfully been received into the DSCC's "non-federal" account.

The DNC agreed on June 15, 1998 to reclassify three of my contributions (\$3,000 on 8/16/96; \$1,000 on 9/30/96; and \$300 on 10/28/96) on the same basis. The DNC informed me on June 23, 1998 that the transfer had occurred.

The Democratic Executive Committee of Florida confirmed to me on June 11, 1998 that it had inadvertently deposited my contribution (\$1,164 on 12/30/96) into its "federal" account when it should have been deposited into its "non-federal" account. It committed at that time to make the appropriate transfers to reflect a "non-federal" contribution.

- 5) Your responses to the Committee's questionnaire regarding work on behalf of the County of Volusia, Florida are unclear. In Part D.4. you indicated that you represented the County regarding "airport, erosion, and other county needs." In your responses to the Supplemental Committee questionnaire, you indicated that you lobbied for the County on "transportation funding". Please explain this inconsistency, and fully describe the nature of your representation for the County of Volusia.

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<sup>6</sup> This was part of the \$10,000 contribution to the Women's Council Fund. See note 1.

# PERKINS COIE LLP

607 FOURTEENTH STREET, N.W. - WASHINGTON, D.C. 20005-2011  
TELEPHONE: 202 628-6600 - FACSIMILE: 202 434-1690

August 6, 1998

Lois G Lerner, Esq.  
Associate/Deputy General Counsel  
Office of General Counsel  
Federal Election Commission  
999 E Street, NW - 6th Floor  
Washington, DC 20463

**Re: Pre-Probable Cause Conciliation for E. William Crotty**

Dear Ms. Lerner:

This is in response to your call of August 5, 1998, in which you asked about additional contributions by Mr. Crotty.

Specifically, your office has identified three contributions in addition to the list which we had supplied: two contributions to Senator Kennedy's campaign committee and one to Senator Graham's campaign committee.

Mr. Crotty did make two contributions to Kennedy for Senate 2000 in 1995, but these contributions would count toward his 2000 federal annual contribution limit. Similarly, Mr. Crotty made a contribution to Friends of Bob Graham in 1996, but Senator Graham is running for re-election in 1998, so the contribution would count toward his 1998 contribution limit.

We calculate that the amount by which Mr. Crotty exceeded his 1996 federal contribution limit is \$13,989, but would be pleased to review further with you the contributions on which this total is based.

[28813-0001/DA982100.040]

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Lois G. Lerner, Esq.  
August 6, 1998  
Page 2

Please call me if you have any questions or need any additional information.

Very truly yours,



Robert F. Bauer  
Counsel to E. William Crotty

RFB:dml  
Attachments

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 11, 1998

Robert F. Bauer, Esq.  
Perkins Coie LLP  
607 Fourteenth Street, NW  
Washington, DC 20005-2011

RE: Pre-MUR 367  
E. William Crotty

Dear Mr. Bauer:

This is to acknowledge receipt of your letter dated July 31, 1998, and your amended letter received via facsimile on August 7, 1998, advising us of a possible violation of the Federal Election Campaign Act of 1971, as amended, by E. William Crotty, your client. We will review the matter and notify you as soon as the Federal Election Commission takes action on your submission.

If you have any questions, please contact Jennifer H. Boyd on our local number, (202) 694-1650. For your information, we have attached a brief description of the Commission's procedures for handling matters such as this.

Sincerely,

F. Andrew Turley  
Supervisory Attorney  
Central Enforcement Docket

Enclosure  
Procedures

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

FEDERAL  
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COMMISSION

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**FIRST GENERAL COUNSEL'S REPORT**

PRE-MUR: 367

DATE ACTIVATED: August 1, 1998

STAFF MEMBERS: Susan L. Lebeaux  
Deborah Rice

SOURCE: INTERNALLY GENERATED

RESPONDENT: E. William Crotty

RELEVANT STATUTE: 2 U.S.C. § 441a(a)(3)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

This matter came before the Commission as a result of a sua sponte submission by counsel for E. William Crotty on July 31, 1998. The letter noted that in connection with Mr. Crotty's ambassadorial nomination (now pending in the Senate), the Senate Foreign Relations Committee's review of materials submitted by Mr. Crotty indicated that he might have exceeded the \$25,000 annual contribution limits for the 1996 calendar year. Upon further review with counsel, Mr. Crotty concluded that the limitation inadvertently had been exceeded for that period.<sup>1</sup> Accompanying the letter were schedules of contributions made by Mr. Crotty for the relevant time-period along with a proposed conciliation agreement.

<sup>1</sup> Counsel's July 31, 1998 letter further noted that Mr. Crotty had notified the Senate Foreign Relations Committee and, while recognizing that such actions would not "cure" the violation, also contacted various committees and candidates to request either refunds or transfers from federal to nonfederal accounts to address the violation of the limit.

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## II. ANALYSIS AND CONCILIATION RECOMMENDATION

Pursuant to 2 U.S.C. § 441a(a)(3), an individual is prohibited from making contributions aggregating more than \$25,000 in a calendar year. Furthermore, any contributions made to a candidate in a year other than the calendar year in which the election is held with respect to which such contribution is made, is considered to be made during the calendar year in which such election is held. Id.

As noted above, counsel for Mr. Crotty states that Mr. Crotty has concluded that he inadvertently made contributions which total more than \$25,000 for the 1996 calendar year. The schedules provided by counsel show a total of \$38,989 of contributions counting toward Mr. Crotty's 1996 limit. This Office's review of the public records confirms that total. The following contributions by Mr. Crotty are attributable to the 1996 calendar year:

<u>Date</u>	<u>Amt</u>	<u>Election</u>	<u>Recipient</u>
12/14/94	1,000	G	Citizens for Harkin
06/07/95	1,000	P	Clinton/Gore '96 Primary Committee Inc.
08/11/95	1,000	P	Tim Johnson for South Dakota Inc.
11/06/95	200	P	Roger H. Bedford for U.S. Senate
11/28/95	250	p	People for Weiland
12/01/95	1,000	P	Friends of Mark Warner
12/07/95	250	P	Kolbe '96
12/13/95	1,000	P	Oregon Victory Fund
12/15/95	50	G	Wyden for Senate
12/18/95	1,000	P	Cohen for Senator
12/19/95	500	P	Jim Chapman for Senate
12/22/95	1,000	P	Friends of Schumer
12/26/95	1,000	P	Friends of Senator Carl Levin
12/27/95	500	G	Tim Johnson for South Dakota Inc.
12/30/95	1,000	P	Kerry Committee
02/07/96	500	P	New Jersey Victory Fund '96
02/21/96	1,000	P	Friends of Max Cleland for U.S. Senate
02/22/96	500	P	New Republican Majority Fund
04/10/96	500	P	Roger H. Bedford for U.S. Senate
05/22/96	250	P	Roger H. Bedford for U.S. Senate

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<u>Date</u>	<u>Amt</u>	<u>Election</u>	<u>Recipient</u>
05/22/96	250	P	People for Weiland
05/28/96	1,000	P	Browder for Senate Inc.
05/31/96	1,000	G	Sally Thompson for U.S. Senate
05/31/96	1,000	P	Sally Thompson for U.S. Senate
05/31/96	2,000	P	Karpan for Wyoming
05/31/96	6,000	P	Democratic Senatorial Campaign Committee
07/27/96	1,000	G	Friends of Senator Carl Levin
08/05/96	1,000	G	Clinton/Gore '96 Gen Election Legal & Accounting
08/06/96	1,000	P	Byron for Congress
08/16/96	25	P	Fowler for Congress
08/16/96	3,000	P	Democratic National Committee
09/05/96	1,000	G	Toricelli for U.S. Senate Inc
09/24/96	250	P	Connie Galiazzo Dejuliis for Congress
09/30/96	1,000	G	Brennan for U.S. Senate
09/30/96	1,000	P	Democratic National Committee
10/08/96	1,000	G	Roger H. Bedford for U.S. Senate
10/18/96	1,000	G	People for Weiland
10/25/96	500	G	George Stuart Jr. for Congress
10/28/96	300	P	Democratic National Committee
12/30/96	1,164	P	Florida Democratic Party
02/14/97	1,000	P	Friends of Max Baucus

Total: \$38,989

In sum, Mr. Crotty apparently exceeded the annual aggregate limit on contributions by \$13,989 for the 1996 calendar year.

Based on the above, this Office recommends that the Commission find reason to believe that Mr. Crotty violated 2 U.S.C. § 441a(a)(3), offer to enter into conciliation with Mr. Crotty prior to a finding of probable cause to believe, and approve the attached conciliation agreement

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III. RECOMMENDATIONS

1. Open a MUR.
2. Find reason to believe that E. William Crotty violated 2 U.S.C. § 441a(a)(3) and enter into conciliation prior to a finding of probable cause to believe.
3. Approve the attached Factual and Legal Analysis and proposed conciliation agreement and the appropriate letter.

Lawrence M. Noble  
General Counsel

8/11/98  
Date

BY:   
Lois G. Lerner  
Associate General Counsel

Attachments:

1. August 6, 1998 Letter
2. Factual and Legal Analysis
3. Proposed Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of  
E. William Crotty.

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Pre-MUR 367

MUR 4790

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on August 14, 1998, the Commission decided by a vote of 6-0 to take the following actions in Pre-MUR 367:

1. Open a MUR.
2. Find reason to believe that E. William Crotty violated 2 U.S.C. § 441a(a)(3) and enter into conciliation prior to a finding of probable cause to believe.
3. Approve the Factual and Legal Analysis and proposed conciliation agreement and the appropriate letter, as recommended in the General Counsel's Report dated August 11, 1998.

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

Attest:

8-14-98  
Date

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

Received in the Secretariat:	Tues., Aug. 11, 1998	1:32 p.m.
Circulated to the Commission:	Tues., Aug. 11, 1998	4:00 p.m.
Deadline for vote:	Fri., Aug. 14, 1998	4:00 p.m.

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

August 17, 1998

Robert F. Bauer, Esq.  
Perkins Coie LLP  
607 Fourteenth Street, N.W.  
Washington, D.C. 20005-2011

RE: MUR 4790  
E. William Crotty

Dear Mr. Bauer:

On August 14, 1998, the Federal Election Commission found that there is reason to believe your client, E. William Crotty, violated 2 U.S.C. § 441a(a)(3), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

In order to expedite the resolution of this matter, the Commission has also decided to offer to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Enclosed is a conciliation agreement that the Commission has approved.

If your client is interested in expediting the resolution of this matter by pursuing **preprobable cause conciliation**, and agrees with the provisions of the enclosed agreement, please **sign and return the agreement, along with the civil penalty**, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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 investigation to be made public.

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Robert F. Bauer, Esq.  
Page 2

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Susan L. Lebeaux, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

*Joan D. Aikens*

Joan D. Aikens  
Chairman

Enclosures  
Factual and Legal Analysis  
Conciliation Agreement  
Procedures

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FEDERAL ELECTION COMMISSION  
FACTUAL AND LEGAL ANALYSIS

RESPONDENT: E. WILLIAM CROTTY MUR: 4790

This matter was generated based on information ascertained by the Federal Election Commission ("Commission") in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2).

The subject concerns a sua sponte submission by counsel for E. William Crotty on July 31, 1998. The letter noted that in connection with Mr. Crotty's ambassadorial nomination, Mr. Crotty discovered that he had inadvertently exceeded the \$25,000 annual limit for federal contributions in 1996.<sup>1</sup> Accompanying the letter were schedules of contributions made by Mr. Crotty for the relevant time-period.

Pursuant to 2 U.S.C. § 441a(a)(3), an individual is prohibited from making contributions aggregating more than \$25,000 in a calendar year. Furthermore, any contributions made to a candidate in a year other than the calendar year in which the election is held with respect to which such contribution is made, is considered to be made during the calendar year in which such election is held. Id.

Mr. Crotty's schedules show a total of \$38,989 of contributions counting toward his 1996 limit, and the public records confirm that total. The following contributions by Mr. Crotty are attributable to the 1996 calendar year:

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<sup>1</sup> Counsel's July 31, 1998 letter further noted that while Mr. Crotty recognized that such actions would not "cure" the violation, he had also contacted various committees and candidates

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<u>Date</u>	<u>Amt</u>	<u>Election</u>	<u>Recipient</u>
12/14/94	1,000	G	Citizens for Harkin
06/07/95	1,000	P	Clinton/Gore '96 Primary Committee Inc.
08/11/95	1,000	P	Tim Johnson for South Dakota Inc.
11/06/95	200	P	Roger H. Bedford for U.S. Senate
11/28/95	250	p	People for Weiland
12/01/95	1,000	P	Friends of Mark Warner
12/07/95	250	P	Kolbe '96
12/13/95	1,000	P	Oregon Victory Fund
12/15/95	50	G	Wyden for Senate
12/18/95	1,000	P	Cohen for Senator
12/19/95	500	P	Jim Chapman for Senate
12/22/95	1,000	P	Friends of Schumer
12/26/95	1,000	P	Friends of Senator Carl Levin
12/27/95	500	G	Tim Johnson for South Dakota Inc.
12/30/95	1,000	P	Kerry Committee
02/07/96	500	P	New Jersey Victory Fund '96
02/21/96	1,000	P	Friends of Max Cleland for U.S. Senate
02/22/96	500	P	New Republican Majority Fund
04/10/96	500	P	Roger H. Bedford for U.S. Senate
05/22/96	250	P	Roger H. Bedford for U.S. Senate
05/22/96	250	P	People for Weiland
05/28/96	1,000	P	Browder for Senate Inc.
05/31/96	1,000	G	Sally Thompson for U.S. Senate
05/31/96	1,000	P	Sally Thompson for U.S. Senate
05/31/96	2,000	P	Karpan for Wyoming
05/31/96	6,000	P	Democratic Senatorial Campaign Committee
07/27/96	1,000	G	Friends of Senator Carl Levin
08/05/96	1,000	G	Clinton/Gore '96 Gen Election Legal & Accounting
08/06/96	1,000	P	Byron for Congress
08/16/96	25	P	Fowler for Congress
08/16/96	3,000	P	Democratic National Committee
09/05/96	1,000	G	Torricelli for U.S. Senate Inc
09/24/96	250	P	Connie Galiazzo Dejuliis for Congress
09/30/96	1,000	G	Brennan for U.S. Senate
09/30/96	1,000	P	Democratic National Committee
10/08/96	1,000	G	Roger H. Bedford for U.S. Senate
10/18/96	1,000	G	People for Weiland
10/25/96	500	G	George Stuart Jr. for Congress

to request either refunds or transfers from federal to nonfederal accounts to address the violation of the limit.

<u>Date</u>	<u>Amt</u>	<u>Election</u>	<u>Recipient</u>
10/28/96	300	P	Democratic National Committee
12/30/96	1,164	P	Florida Democratic Party
02/14/97	1,000	P	Friends of Max Baucus

Total: \$38,989

Therefore, there is reason to believe that Mr. Crotty violated 2 U.S.C. § 441a(a)(3) by exceeding the annual aggregate limit on contributions by \$13,989 for the 1996 calendar year.

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

AUG 28 4 21 PM '98

August 28, 1998

**TWO WAY MEMORANDUM**

TO: OGC Docket  
FROM: Rosa E. Swinton  
Accounting Technician  
SUBJECT: Account Determination for Funds Received

We recently received a check from **E. William Crotty**, check number **3000547674**, dated **August 20, 1998**, for the amount of **\$13,989.00**. A copy of the check and any correspondence is being forwarded. Please indicate below which account the funds should be deposited and give the MUR/Case number and name associated with the deposit.

=====

TO: Rosa E. Swinton  
Accounting Technician  
FROM: OGC Docket  
SUBJECT: Disposition of Funds Received

In reference to the above check in the amount of \$ 13,989.00, the MUR/Case number is 4790 and in the name of E. William Crotty. Place this deposit in the account indicated below:

- Budget Clearing Account (OGC), 95F3875.16
- Civil Penalties Account, 95-1099.160
- Other: \_\_\_\_\_

*Rosa E. Swinton*  
Signature

8-31-98  
Date

90043075019

SUNTRUST

Official Check

3000547674

99-2/2047

Purchaser E. WILLIAM CROTTY

Date 08-20-98

ALD 560099  
Initials (type) Center

PAY

SUNTRUST BANK 13,989<sup>00</sup>/<sub>100</sub>cts  
E CENTR FL 320

\$ \*13,989.00\*\*\*

To the Order of FEDERAL ELECTION COMMISSION

SunTrust Banks, Inc. by its Authorized Agent  
SunTrust Bank, East Central Florida

*[Signature]*  
Authorized Signature

Payable at any SunTrust Bank

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

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AUG 27 12 44 PM '98

August 27, 1998

**SENSITIVE**

SEP 1 1998

**MEMORANDUM**

TO: The Commission

FROM: Lois G. Lerner *Lois G. Lerner by AAS*  
Associate General Counsel

SUBJECT: General Counsel's Report in MUR 4790

**EXECUTIVE SESSION  
SUBMITTED LATE**

The Office of the General Counsel requests that the attached report be placed on the September 1, 1998 Executive Session agenda to ensure consideration of the matter by the Commission before Respondent's ambassadorial nomination is taken up by the Senate the first week of September.

98040090021



Attachments

1. Conciliation Agreement
2. Photocopy of civil penalty check

Staff Assigned: Susan L. Lebeaux  
Deborah Rice

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of                    )  
  )     MUR 4790  
E. William Crotty                    )

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on September 1, 1998, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 4790:

1. Accept the conciliation agreement with E. William Crotty as recommended in the General Counsel's August 27, 1998 report.
2. Close the file.
3. Approve the appropriate letter as recommended in the General Counsel's August 27, 1998 report.

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

Attest:

9-2-98

Date

*Marjorie W. Emmons*

Marjorie W. Emmons  
Secretary of the Commission

98043895024



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

September 3, 1998

Robert F. Bauer, Esq.  
Perkins Coie LLP  
607 Fourteenth Street, N.W.  
Washington, D.C. 20005-2011

RE: MUR 4790  
E. William Crotty

Dear Mr. Bauer:

On September 1, 1998, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on your client's behalf in settlement of a violation of 2 U.S.C. § 441a(a)(3), a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed 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.

Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

Susan L. Lebeaux  
Attorney

Enclosure: Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
E. William Crotty ) MUR 4790  
 )

CONCILIATION AGREEMENT

This matter was initiated by a sua sponte submission by E. William Crotty ("Respondent"). According to the submission, Respondent recently discovered that he had inadvertently exceeded the \$25,000 annual limit for federal contributions in 1996. The Federal Election Commission ("Commission") found reason to believe that Respondent violated 2 U.S.C. § 441a(a)(3).

NOW, THEREFORE, the Commission and the Respondent, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Respondent, E. William Crotty, was an individual contributor to federal political committees for the 1996 elections.

2. 2 U.S.C. § 441a(a)(3) limits total contributions by an individual in any calendar year to \$25,000. The statute states that any contribution to a candidate or authorized committee with respect to a particular election made in a non-election year shall be considered to be made during the calendar year in which such election is held. See 11 C.F.R. § 110.5(c)(2).

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COMMISSION  
ACCOUNTING OFFICE  
JUN 27 10 59 AM '98

3. Respondent made contributions totaling \$38,989, or \$13,989 in excess of the annual limit for the 1996 elections.

4. In June 1998, Respondent learned that his contributions may have exceeded the statutory limit. Upon determining that his contributions for the 1996 elections exceeded the annual limit, Respondent promptly took steps to address these violations by making requests for refunds or for other appropriate actions by certain of the recipients of those contributions. Respondent requested and received in June of 1998 the refund of \$3,000 in contributions to candidate committees and to the Clinton/Gore '96 General Legal and Accounting Compliance Fund, and also requested in the same month that contributions made to national Democratic Party committees, totaling \$10,300, be reclassified as nonfederal contributions and transferred to nonfederal accounts of those committees. In addition, Respondent determined that a contribution in the amount of \$1,164 made to a state party committee in December of 1996 and intended for that committee's nonfederal account had been deposited erroneously in the party's federal account, and Respondent requested and the party agreed to the transfer of that amount from its federal account to an appropriate nonfederal account.

V. Respondent made contributions totaling \$38,989, or \$13,989 in excess of the annual contribution limits for 1996 in violation of 2 U.S.C. § 441a(a)(3).

VI. Respondent will pay a civil penalty to the Federal Election Commission in the amount of Thirteen Thousand, Nine Hundred Eighty-nine Dollars (\$13,989), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

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IX. Respondent shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirement contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence M. Noble  
General Counsel

BY: Lois G. Lerner by AAS  
Lois G. Lerner  
Associate General Counsel

9/3/98  
Date

FOR THE RESPONDENT:

[Signature]  
Robert F. Bauer  
Counsel to E. William Crotty

8/27/98  
Date

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FEDERAL ELECTION COMMISSION  
WASHINGTON DC 20463

THIS IS THE END OF MUR # 4790  
DATE FILMED 9/10/98 CAMERA NO. 2  
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