



FEDERAL ELECTION COMMISSION

1125 K STREET NW
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 769

Date Filmed Aug 13 81 Camera No. --- 2

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FEDERAL ELECTION COMMISSION

Internal RAO memo

The above-described material was removed from this file pursuant to the following exemption provided in the Freedom of Information Act, 5 U.S.C. Section 552(b):

- | | |
|--|---|
| <input type="checkbox"/> (1) Classified Information | <input type="checkbox"/> (6) Personal privacy |
| <input type="checkbox"/> (2) Internal rules and practices | <input type="checkbox"/> (7) Investigatory files |
| <input type="checkbox"/> (3) Exempted by other statute | <input type="checkbox"/> (8) Banking Information |
| <input type="checkbox"/> (4) Trade secrets and commercial or financial information | <input type="checkbox"/> (9) Well Information (geographic or geophysical) |
| <input checked="" type="checkbox"/> (5) Internal Documents | |

Signed

R.B.

date

4/7/81

FEDERAL ELECTION COMMISSION

Conciliator Negotiations
exempt by statute

The above-described material was removed from this file pursuant to the following exemption provided in the Freedom of Information Act, 5 U.S.C. Section 552(b):

- | | |
|--|---|
| <input type="checkbox"/> (1) Classified Information | <input type="checkbox"/> (6) Personal privacy |
| <input type="checkbox"/> (2) Internal rules and practices | <input type="checkbox"/> (7) Investigatory files |
| <input checked="" type="checkbox"/> (3) Exempted by other statute | <input type="checkbox"/> (8) Banking Information |
| <input type="checkbox"/> (4) Trade secrets and commercial or financial information | <input type="checkbox"/> (9) Well Information (geographic or geophysical) |
| <input type="checkbox"/> (5) Internal Documents | |

Signed

R. Roggi

date

4/7/81



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

April 7, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John H. Hodgson II, Esquire
Dobbs & Nielsen
Suite 550, 1225 Eighth Street
Sacramento, California 95814

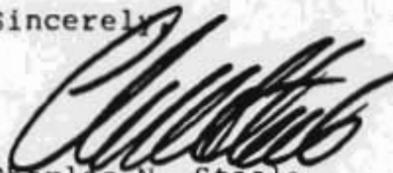
Re: MUR 769

Dear Mr. Hodgson:

On April 3, 1981, the Commission accepted the conciliation agreement signed by you and a civil penalty in settlement of a violation of 2 U.S.C. §§ 441b(a) and 441a, provisions of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter, and it will become a part of the public record within thirty days. However, 2 U.S.C. § 437g(a)(4)(B) prohibits any information derived in connection with any conciliation attempt from becoming public without the written consent of the respondent and the Commission. Should you wish any such information to become part of the public record, please advise us in writing.

Enclosed you will find a fully executed copy of the final conciliation agreement for your files.

Sincerely,



Charles N. Steele
General Counsel

Enclosure
Conciliation Agreement

6103044369

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John R. Hodgson II, Esquire
Dobbs & Nielsen
Suite 550, 1225 Eighth Street
Sacramento, California 95814

Re: MUR 769

Dear Mr. Hodgson:

On 1981, the Commission accepted the conciliation agreement signed by you and a civil penalty in settlement of a violation of 2 U.S.C. §§ 441b(a) and 441a provisions of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter, and it will become a part of the public record within thirty days. However, 2 U.S.C. § 437g(a)(4)(B) prohibits any information derived in connection with any conciliation attempt from becoming public without the written consent of the respondent and the Commission. Should you wish any such information to become part of the public record, please advise us in writing.

Enclosed you will find a fully executed copy of the final conciliation agreement for your files.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Conciliation Agreement

RB
4/6/81

81030241370

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
California Dental Political) MUR 769 (78)
Action Committee, et al.)

CONCILIATION AGREEMENT

This matter having been initiated by the Federal Election Commission ("Commission") in the ordinary course of carrying out its supervisory responsibilities; and, after an investigation, the Commission having found reason to believe that the California Dental Political Action Committee ("CALDPAC") violated 2 U.S.C. § 441b(a) and 2 U.S.C. § 441a(a)(2)(A);

WHEREFORE, the Commission and CALDPAC, having participated in informal methods of conciliation, do hereby agree as follows:

- I. The Commission has jurisdiction over CALDPAC and the subject matter of this case, and this agreement has the effect of a conciliation agreement under 2 U.S.C. § 437g(a)(4)(A).
- II. The facts underlying this matter are as follows:
 - A. The American Dental Association ("ADA") is a national, voluntary membership organization of dentists. Constituent societies of states, commonwealths, territories and insular possessions of the United States have federated to form the ADA.
 - B. The American Dental Political Action Committee ("ADPAC") is a political committee established

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by and "connected with", as defined in 11 C.F.R. § 100.15, the ADA.

- C. The California Dental Association ("CDA") is one of the constituent societies comprising the ADA. CDA is primarily composed of dentists who reside in California.
- D. CAL-D-PAC is a political committee "connected with", as defined in 11 C.R.F. § 100.15, the CDA.
- E. During the 1978 election cycle, CAL-D-PAC and ADPAC made separate contributions to the same candidate for federal office, which, if aggregated, exceeded five thousand dollars (\$5,000) per election.
- F. CAL-D-PAC conducts a voluntary contribution solicitation along with the annual CDA dues statement. CAL-D-PAC received both federal (non-corporate dentists) and state (incorporated dentists) contributions through this solicitation. CAL-D-PAC would then receive checks from CDA on a regular basis as a result of CDA collecting both CAL-D-PAC contributions and CDA dues. Prior to July 1, 1977, CAL-D-PAC commingled corporate and non-corporate contributions in its federal savings account by virtue of accepting a check from CDA containing both corporate and non-corporate funds. Also prior to July 1,

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1977, CAL-D-PAC transferred funds in excess of one hundred thousand dollars (\$100,000) to its federal account from its state and administrative accounts that contained corporate monies. The contributions CAL-D-PAC made to federal candidates prior to July 1, 1977, never exceeded the amount of the permissible federal non-corporate contributions received by CAL-D-PAC. Since July 1, 1977, CAL-D-PAC has not made transfers from its state (corporate) checking and savings accounts to its federal (non-corporate) checking and savings accounts.

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- III. A. The Commission alleges that CAL-D-PAC's failure to report ADPAC as an affiliated committee as described in paragraph II. E. above, was a violation of 2 U.S.C. § 443(b)(2), and 11 C.F.R. § 102.2. The Commission also alleges that CAL-D-PAC's contribution to a candidate which, when aggregated with a contribution by ADPAC to the same election exceeded five thousand dollars (\$5,000) as described in paragraph 2 above was a violation of 2 U.S.C. § 441a(a)(2). However, both ADPAC and the Commission recognize this as a case of first impression. CAL-D-PAC enters into this conciliation agreement in order to resolve the matter without formal litigation, and does not contest these allegations.

B. CAL-D-PAC admits that by accepting transfers from an account containing corporate monies as described in paragraph II. F. or commingling in its own account corporate monies as described in paragraph II. F., and expending those funds in connection with a federal election is a violation of 2 U.S.C. § 441b(a). The Commission recognizes also that CAL-D-PAC has correctly segregated the corporate and non-corporate contributions since July 1, 1977.

IV. CAL-D-PAC has filed a statement of organization (copy attached hereto) with the Commission which identifies ADPAC by name and address pursuant to 2 U.S.C. § 433(b)(2) and 11 C.F.R. § 102.2. Hereafter, CAL-D-PAC shall file such amended statements of organization as are necessary

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with the Commission to include identification by name and address of all political committees which hereafter become "connected with" the ADA. CALDPAC shall continue to include in its statement of organization filed with the Commission identification by name and address of any political committee described in this paragraph as long as the political committee remains "connected with" the ADA.

V. CALDPAC agrees for the period from the date of this agreement forward that CALDPAC will not make contributions to any candidate or political committee which, when aggregated with contributions to the same candidate or same political committee by ADPAC or any other political committee described in paragraph IV above, exceed the contribution limitations of 2 U.S.C. § 441a(a)(2).

VI. A. CALDPAC agrees that it will be required to request the return of any contribution or portion thereof made by CALDPAC after the date of this agreement to any candidate or political committee which, when aggregated with any prior contribution or contributions made by CALDPAC or ADPAC or any other political committee described in paragraph IV above to the same candidate or the same political committee, exceeds the contribution limitations set forth in paragraph V above; however,

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- B. The Commission agrees that CALDPAC will not be required to request the return of any contribution or portion thereof made by CALDPAC to any candidate or political committee if an excess of the contribution limitations set forth in paragraph V above results from a subsequent contribution made by ADPAC or any other political committee described in paragraph IV above to the same candidates or the same political committee.
- C. For the purpose of this conciliation agreement, the date on which a contribution will be considered as made to a candidate or political committee will be the date of the receipt of the contribution as reported to the Commission by the recipient candidate or recipient political committee. Any contribution reported by the recipient candidate or recipient political committee as received from ADPAC or any other political committee described in paragraph IV above on the same date as a contribution received from CALDPAC will be considered as having been made subsequent to the contribution from CALDPAC.

VII. CALDPAC agrees for the period from the date of this agreement forward that CALDPAC will not make any contributions in connection with a Federal election from an account that contains corporate monies or

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from an account that received a transfer of funds from another account that contained corporate funds. This conciliation agreement, unless violated, constitutes a complete bar to any further action by the Commission based on the violations alleged in paragraph III above against CAL-D-PAC and CDA.

VIII. CAL-D-PAC will transfer one hundred thirty-one thousand three hundred eighty-seven dollars and forty-eight cents (\$131,387.48) from its federal account to its state account. Such transfers will be made before any additional federal contributions can be made.

IX. CAL-D-PAC will pay a civil penalty of one thousand dollars to the United States Treasury pursuant to 2 U.S.C. § 437g(a)(5)(A).

X. This conciliation agreement, unless violated, constitutes a complete bar to any further action by the Commission based on the violations alleged in paragraph III above against CAL-D-PAC and CDA.

XI. This conciliation agreement, unless violated, precludes a finding of probable cause by the Commission, that a knowing and willful violation of the Act has occurred, and the Commission agrees not to refer this matter to the Attorney General of the United States pursuant to 2 U.S.C. § 437g(a)(5)(C).

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XII. This conciliation agreement shall become effective on the date that counsel for all parties hereto, having been duly authorized, have executed the same.

John H. Hodgson
John H. Hodgson II
Counsel for Respondent
California Dental Political
Action Committee

Charles N. Steele 6 April 1961
Charles N. Steele
General Counsel for the
Federal Election Commission

81030241378

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 769
California Dental Political)
Action Committee, et al.)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on April 3, 1981, the Commission decided by a vote of 6-0 to take the following actions regarding MUR 769:

1. Approve the conciliation agreement, attached to the Memorandum to the Commission, dated March 31, 1981, in settlement of this matter and authorize the General Counsel to affix his signature thereto.
2. Send the letter to the respondent's counsel, as attached to the Memorandum to the Commission, dated March 31, 1981.
3. CLOSE THE FILE.

Attest:

4/3/81
Date

Jody A. Custer
Marjorie W. Emmons *for*
Secretary of the Commission

Received in Office of Commission Secretary:
Circulated on 48 hour vote basis:

3-31-81, 12:33
3-31-81, 4:00

81030241379

Amended **Statement of Organization
 For a Political Committee**

Supporting any candidate(s) for federal office and anticipating contribu-
 tions or expenditures in excess of \$1,000 in any calendar year in support
 of such candidate(s).
 (See Reverse Side For Instructions.)

Note: Committees authorized by a candidate to receive contributions and make expenditures in connection with more than one election must maintain separate records with respect to each election.

1(a) Name of Committee (in full) <input type="checkbox"/> Check if name or address is changed California Dental Political Action Committee	2 Identification Number C 00005751
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(b) Address (number and street) 1127 11th Street, Suite 544	3 Date April 10, 1978
--	--------------------------

(c) City, State and ZIP code Sacramento, California	4 Is this an amended statement? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If "YES" FILL IN ONLY THOSE LINES ON WHICH THERE HAS BEEN A CHANGE
--	---

5 Check one:

(a) This committee has been designated as the principal campaign committee for _____ (Name of Candidate) a candidate for _____ (Federal office sought) in the _____ (Year of election) Election to be held in the State of _____ (State in which election is held)

(THE PRINCIPAL CAMPAIGN COMMITTEE WILL FORWARD TO THE COMMISSION A COPY OF THE STATEMENT OF ORGANIZATION FOR EACH AFFILIATED COMMITTEE REQUIRED TO FILE WITH IT.)

(b) This committee is supporting only one candidate, and is authorized by _____ (Name of Candidate) to receive contributions and make expenditures with respect to the _____ (General, Primary, Runoff, etc) Election(s) held in _____ (Year of election in State), and will file all reports and statements with the candidate's principal campaign committee, _____ (Full name of principal campaign committee)

(ATTACH A COPY OF CANDIDATE'S WRITTEN AUTHORIZATION.) (FEC FORM 2a)

(c) This committee supports only one candidate _____ (Name of Candidate) but is not an authorized committee.

(d) This committee supports more than one Federal candidate and is not a party committee.

(e) This committee is a _____ (National, State, county, city) committee of the _____ (Democratic, Republican, etc.) Party.

6 Names of affiliated and/or connected organizations	Mailing address and ZIP code	Relationship
American Dental Political Action Committee	1101 17th Street, NW Suite 1006 Washington, DC 20036	affiliated committee
American Dental Assoc.	211 E. Chicago Avenue Chicago, Ill. 60611	Connected organization of affiliated committee

If the registering political committee has identified a "connected organization" above, please indicate type of organization:

Corporation Labor organization Membership organization Trade association Cooperative

Corporation without capital stock Other (please specify)

Submit additional information on separate continuation sheets appropriately labeled and attached to this Statement of Organization. Indicate in the appropriate section above when information is continued on separate page(s).

Name of Committee **Cal D Pac (federal)**

- 7 Area, Scope and Jurisdiction of Committee:**
- (a) Will this committee operate in more than one State? Yes No
 - (b) Will it operate on a statewide basis in one State? Yes No
 - (c) Will it primarily support candidates seeking State or local office? Yes No
 - (d) Will it support or does it anticipate supporting directly or indirectly, candidates for Federal office in excess of \$1,000 in a calendar year? Yes No

8 (a) List by name, address, office sought, and party affiliation, any candidate for Federal office that this committee is supporting:

Full name(s) of candidate(s)	Mailing address and ZIP code	Office sought	Party
same			

(b) List by name, address, office sought, and party affiliation, any candidate(s) for any other public office(s) that this committee is supporting (unless the committee is supporting the entire ticket of a party as indicated in line 9)

Full name(s) of candidate(s)	Mailing address and ZIP code	Office sought	Party
same			

9 If this committee is supporting the entire ticket of a party, give name of party ▶

10 Identify by name, address and position, the person in possession of committee books and records:

Full name	Mailing address and ZIP code	Title or position
same		

Submit additional information on separate continuation sheets appropriately labeled and attached to this Statement of Organization. Indicate in the appropriate section above when information is continued on separate page(s).

Name of Committee **Cal D Pac (federal)**

11 List by name, address and position, other principal officers of the committee (include chairman, treasurer, secretary, assistant treasurer, assistant secretary, members of finance committee):

Full name	Mailing address and ZIP code	Title or position
Same		

12 Does this committee plan to stay in existence beyond the current calendar year? Yes No
 If "Yes" for how long? ▶

13 In the event of dissolution, what disposition will be made of residual funds? _____

14 List all banks or other repositories in which the committee deposits funds, holds accounts, rents safety deposit boxes or maintains funds:

Name of bank, repository, etc.	Mailing address and ZIP code
same	

15 List all election reports required to be filed by this committee with States and local jurisdictions, together with the names, addresses, and positions of the recipients of the reports (other than reports filed with Secretaries of State pursuant to USC 439(a)):

Report title	Dates required	Name and position of recipient	Mailing address and ZIP code
same			

Submit additional information on separate continuation sheets appropriately labeled and attached to this Statement of Organization. Indicate in the appropriate section above when information is continued on separate page(s).

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

John H. Hodgson II
 John H. Hodgson II, (Signature of Treasurer) Esq.

April 10, 1978
 (Date)

Note: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. § 437g or § 441j (see instructions)

For further information contact: ▶

Federal Election Commission
 1325 K Street, N.W.
 Washington, D.C. 20463

610370139



FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

May 8, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John Lewis Smith, III
Baker & Hostetler
818 Connecticut Avenue, N.W.
Washington, D.C. 20006

Re: MUR 769 (78)

Dear Mr. Smith:

On April 29, 1980, the Commission authorized the General Counsel to sign the conciliation agreement that you previously signed on March 21, 1980. Enclosed per your request are three executed copies of this agreement for your files.

If you have any questions concerning this matter please call Mr. Robert Bogin at (202) 523-4073.

Thank you for your cooperation in this matter.

Sincerely,

Enc:

1. SENDER: Complete items 1, 2, and 3. Add your address to the "RETURN TO" address. The following service is requested (circle): <input type="checkbox"/> Show to whom and date delivered <input type="checkbox"/> Show to whom, date, and address <input type="checkbox"/> RESTRICTED DELIVERY (Show to whom and date delivered) <input type="checkbox"/> RESTRICTED DELIVERY (Show to whom, date, and address of delivery) \$_____ (CONSULT POSTMASTER FOR FEES)		2. ARTICLE ADDRESSED TO: <i>John Lewis Smith III</i>	
3. ARTICLE DESCRIPTION REGISTERED NO. <i>944742</i>	CERTIFIED NO. _____ INSURED NO. _____	4. I have received the article described above SIGNATURE <input type="checkbox"/> Addressee <input type="checkbox"/> Authorized agent <i>Clare H. Milbourn</i>	
5. ADDRESS (Complete only if requested) DATE OF DELIVERY <i>5/9/80</i> POSTMARK _____		6. UNABLE TO DELIVER BECAUSE _____ CLERK'S INITIALS _____	

U.S. GPO: 1979-272-192

MUR 769 - Bogin

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
American Dental Political) MUR 769 (78)
Action Committee, et al.)

CONCILIATION AGREEMENT

This matter having been initiated by the Federal Election Commission ("Commission") in the ordinary course of carrying out its supervisory responsibilities; and, the Commission having found reason to believe that the American Dental Political Action Committee ("ADPAC") violated 2 U.S.C. § 433(b)(2) and 2 U.S.C. § 441a(a)(2)(A);

WHEREFORE, the Commission and ADPAC, having participated in informal methods of conciliation, do hereby agree as follows:

- I. The Commission has jurisdiction over ADPAC and the subject matter of this case, and this agreement has the effect of a conciliation agreement under 2 U.S.C. § 437g(a)(4)(A) [Public L. No. 96-187, § 309(a)(4)(A)].
- II. The facts underlying this matter are as follows:
 - A. ADPAC is a political committee established by and "connected with," as defined in 11 C.F.R. § 100.15, the American Dental Association ("ADA").
 - B. The ADA is a national, voluntary membership organization of dentists. Constituent societies of states, commonwealths, territories and insular possessions of the United States have federated to form the ADA. Many of these constituent societies have also established and are "connected

with" political committees, as defined in 2 U.S.C. § 431(d) [Public L. No. 96-187, § 301(4)] and 11 C.F.R. § 100.14.

C. During both the 1976 and 1978 election cycles, ADPAC and certain political committees "connected with" constituent societies of the ADA made separate contributions to the same candidates for federal office which, if aggregated, in certain instances exceeded five thousand dollars (\$5,000) per election.

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III. The Commission alleges that ADPAC's failure to report as affiliated committees any political committees which are "connected with" any constituent society of the ADA as described in paragraph II above was a violation of 2 U.S.C. § 433(b)(2) and 11 C.F.R. § 102.2. The Commission also alleges that ADPAC's contributions to candidates which when aggregated with contributions to the same candidates in the same elections by political committees "connected with" constituent societies of the ADA, exceeded five thousand dollars (\$5,000) as described in paragraph II above were violations of 2 U.S.C. § 441a(a)(2). However, both ADPAC and the Commission recognize that this issue has never been adjudicated. ADPAC enters into this conciliation agreement in order to resolve this matter without formal litigation, and does not contest these allegations.

- IV. This conciliation agreement, unless violated, constitutes a complete bar to any further action by the Commission based on the violations alleged in paragraph II above against ADPAC; ADA; any political committee which is "connected with" any of the constituent societies of states, commonwealths, territories or insular possessions which are federated to form the ADA, provided that any such political committee has signed and entered into a separate conciliation agreement with the Commission in regard to the above-mentioned matters under review; any constituent society described in this paragraph which is "connected with" any political committee also described in the paragraph, provided the political committee has signed and entered into a separate conciliation agreement with the Commission in regard to the above-mentioned matters under review; any candidate or political committee who or which received contributions prior to the date of this conciliation agreement from ADPAC or any of the political committees described in this paragraph.
- V. Concurrent with the execution of this conciliation agreement and in accordance with its terms, ADPAC has filed a statement of organization (copy attached hereto) with the Commission which includes identification by name and address, pursuant to 2 U.S.C. § 433(b)(2) [Public L. No. 96-187, § 303(b)(2)] and 11 C.F.R. § 102.2, of those political committees which are

"connected with," as defined in 11 C.F.R. § 100.15, any of the constituent societies of states, commonwealths, territories or insular possessions which are federated to form the ADA. Hereafter, ADPAC shall file such amended statements of organization as are necessary with the Commission to include identification by name and address of all political committees which hereafter become "connected with" any of the constituent societies of states, commonwealths, territories, or insular possessions which are, or which may hereafter be, federated to form the ADA. ADPAC shall continue to include in its statement of organization filed with the Commission identification by name and address of any political committee described in this paragraph as long as the political committee remains "connected with" any constituent society described in this paragraph.

- VI. ADPAC agrees for the period from the date of this agreement forward that ADPAC will not make contributions to any candidate or political committee which, when aggregated with contributions to the same candidate or same political committee by any of the political committees of the constituent societies described in paragraph V above, exceed the contribution limitations of 2 U.S.C. § 441a(a)(2).

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VII. A. ADPAC agrees that it will be required to request the return of any contribution or portion thereof made by ADPAC after the date of this agreement to any candidate or political committee which, when aggregated with any prior contribution or contributions made by ADPAC or any of the political committees "connected with" any of the constituent societies identified in paragraph V above to the same candidate or the same political committee, exceeds the contribution limitations set forth

in paragraph VI above; however,

B. The Commission agrees that ADPAC will not be required to request the return of any contribution or portion thereof made by ADPAC to any candidate or political committee if an excess of the contribution limitations set forth in paragraph VI above results from a subsequent contribution made by any of the political committees "connected with" any of the constituent societies identified in paragraph VI above to the same candidate or the same political committee.

C. For the purpose of this conciliation agreement, the date on which a contribution will be considered as made to a candidate or political committee will be the date of the receipt of the contribution as reported to the Commission by the recipient candidate or recipient political committee. Any contribution reported by the recipient candidate

or recipient political committee as received from any political committee "connected with" any constituent society identified in paragraph VI above on the same date as a contribution received from ADPAC will be considered as having been made prior to the contribution from ADPAC.

VIII. This conciliation agreement, unless violated, precludes a finding of probable cause by the Commission, that a knowing and willful violation of the Act has occurred based on the violations alleged in paragraph III above against ADPAC or ADA, and the Commission agrees not to refer this matter to the Attorney General of the United States pursuant to 2 U.S.C. § 437g(a)(5)(C) [Public L. No. 96-187, § 309(a)(5)(C)].

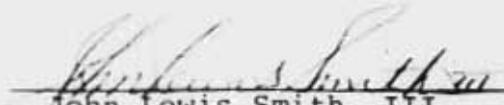
IX. In any communication subject to the requirements of 2 U.S.C. § 441d(a) [Public L. No. 96-187, § 318(a)] and 11 C.F.R. § 109.4, ADPAC may comply with the requirement to include in a non-authorization notice the name of any affiliated or connected organization in regard to any political committee which ADPAC has reported in its statement of organization pursuant to paragraph V of this conciliation agreement by including the following:

ADPAC is connected with the ADA and has listed in reports filed with the FEC all political committees connected with constituent societies federated to form the ADA.

X. This conciliation agreement shall become effective on the date that counsel for all parties hereto,

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having been duly authorized, have executed the same.



John Lewis Smith, III
William H. Schweitzer
Counsel for Respondent
American Dental Political
Action Committee



Charles N. Steele
General Counsel
for the Federal Election
Commission

3/21/80
Date

8 May 1980
Date

619001-790

ATTACHMENT I

Arkansas Dental PAC
California Dental PAC
Dental PAC of Michigan
Empire Dental PAC
Florida Dental PAC
Indiana Dental PAC
Iowa Dental PAC
Kentucky Dental PAC
Minnesota Dental Health Plan Public Affairs Committee
Mississippi Dental PAC
Montana Dental PAC
Nebraska Dental PAC
Nevada Dental PAC
New Hampshire Dental PAC
North Carolina Dental PAC
Ohio Dental PAC
Oklahoma Dental PAC
Pennsylvania Dental PAC
Tennessee Dental PAC
Utah Dental PAC
Virginia Dental PAC
Wyoming Dental PAC

800#
135

DOBBS & NIELSEN

Attorneys and Counselors at Law

SUITE 550, 1225 EIGHTH STREET
SACRAMENTO, CA 95814

(916) 446-6752

WMB

May 13, 1980

008049

Robert Bogin, Esq.
Federal Election Commission
1325 "K" Street, N.W.
Washington, D.C. 20463

Re: MUR 769 (78)

Dear Mr. Bogin:

In the interest of resolving the above matter, this office which serves as treasurer and legal counsel to the California Dental Political Action Committee would like to discuss informal conciliation with your office. Please contact me at your convenience so we may discuss this matter further.

Very sincerely,

John H. Hodgson

JOHN H. HODGSON II

JHH:kat

01010014393

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
American Dental Political) MUR 769
Action Committee, et al.)

CERTIFICATION

I, Marjorie W. Emons, Recording Secretary for the Federal Election Commission's Executive Session on April 29, 1980, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 769:

1. Authorize the General Counsel to sign the conciliation agreement attached to the April 24, 1980 report in this matter.
2. Send out the letter of notification attached to the April 24, 1980 report.

Attest:

5-1-80
Date

Marjorie W. Emons
Marjorie W. Emons
Secretary to the Commission

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01017241393

BAKER, HOSTETLER, FROST & TOWERS

818 CONNECTICUT AVE., N.W.

WASHINGTON, D.C. 20006

Robert I. Bogin, Esq.
Federal Election Commission
1325 K Street, N. W.
Washington, D. C. 20543



FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20463

November 14, 1979

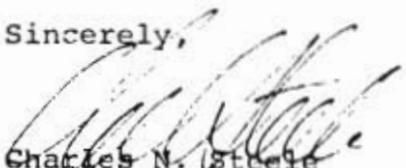
John Lewis Smith, III
Baker & Hostetler
818 Connecticut Avenue, N.W.
Washington, D.C. 20006

Re: MUR 769 (78)

Dear Mr. Smith:

This letter will confirm a discussion you had with members of this Office on November 5, 1979. It was agreed that the proposed settlement of the above-referenced matter submitted on November 13, 1979, will be considered an offer of compromise pursuant to Rule 408 of the Federal Rules of Evidence. Thus, the proposed settlement will not be proffered as evidence in a court of law to prove ADPAC's liability as alleged in this action.

Sincerely,



Charles N. Steele
Acting General Counsel

hand-delivered



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE *mwe*
FROM: MARJORIE W. EMMONS/MARGARET CHANEY *mc*
DATE: NOVEMBER 13, 1979
SUBJECT: MUR 769 - Interim Investigatory Report
dated 11-8-79; Received in the OCS
11-9-79, 10:51

The above-named document was circulated to
the Commission on a 24-hour no-objection basis
at 2:00, November 9, 1979.

There were no objections to the Interim Investigatory
Report at the time of the deadline.

01030941397

November 9, 1979

MEMORANDUM TO: Marge Emmons
FROM: Elissa T. Garr
SUBJECT: MUR 769

Please have the attached Interim Invest Report on
MUR 769 distributed to the Commission.

Thank you.

61030244398

BEFORE THE FEDERAL ELECTION COMMISSION

NOV 9 AIO: 51

In the Matter of

American Dental Political Action Committee (ADPAC)) MUR 769 (78)
California Dental Political Action Committee (CALDPAC))

Interim Investigatory Report

On November 5, 1979, staff of the Office of General Counsel met with the Executive Director and the attorneys for ADPAC. ADPAC has retained new counsel. The attorneys presently representing ADPAC are the same ones which represent the American Medical Association (AMA) and the American Medical Political Action Committee (AMPAC). At this meeting, ADPAC, in an attempt to avoid the necessity and the expense of production, initiated a proposal of settlement in this matter. A written settlement proposal will be delivered to this office on November 12, 1979. Although details of the proposed settlement agreement cannot be stated with precision pending delivery of the written proposal, we have been led to believe that the proposal will be similar to the one made by AMPAC. As soon as possible, we will evaluate ADPAC's proposed settlement of this matter, and make a recommendation for the Commission's consideration.

In addition to its proposal of settlement, ADPAC stated it had objections to the Commission's subpoena. The attorneys for ADPAC agreed to send by November 16, 1979, a written draft

1010041398

11610

LAW OFFICES

MILLER & MANDEL ELECTION

A PROFESSIONAL CORPORATION

555 SOUTH FLOWER STREET - SUITE 4170

LOS ANGELES, CALIFORNIA 90071

PALM SPRINGS OFFICE

1255 EAST RAMON ROAD

PALM SPRINGS, CALIFORNIA 92262

(714) 320-1145

JESSE D. MILLER
S. JEROME MANDEL
PETER H. MASON
KURT H. BLADEL
DOUGLAS W. STERN

1979 NOV 13 PM 1:47

November 7, 1979

MUR 769

Robert Bogin, Esq.
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

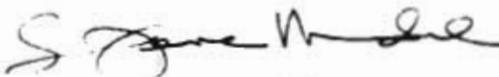
Re: California Dental Association

Dear Mr. Bogin:

This firm represents California Dental Association, the recipient of a subpoena duces tecum previously issued by the FEC. A motion to quash the subpoena was filed on behalf of CDA, and the FEC denied the motion. Production of documents has been ordered for November 12, 1979.

You and I have had a number of conversations pertaining to the possibilities of narrowing the subpoena duces tecum. As I indicated to you during our telephone conversation of November 7, 1979, our client is not yet in a position to thoroughly evaluate and analyze the proposals which have been discussed between our respective offices. Although we continue to consider the proposals CDA will not be producing any documents on November 12, 1979. I understand from our conversations, however, that in the event you choose to proceed with filing an enforcement action, lines of communication will remain open with a view toward possibly settling our differences in regard to this matter.

Very truly yours,



S. Jerome Mandel

SJM:cr

cc: Dale F. Redig, D.D.S.
Executive Director
California Dental Association

NOV 13 1979
GENERAL INVESTIGATIVE DIVISION
FEDERAL ELECTION COMMISSION

LAW OFFICES

MILLER & MANDEL

A PROFESSIONAL CORPORATION

SOUTH FLOWER STREET • SUITE 4170

LOS ANGELES, CALIFORNIA 90071

Robert Bogin, Esq.
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

26 1 11 01 AON 62

RECEIVED
FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

1154



RECEIVED
FEDERAL ELECTION
COMMISSION

SUITE 1006 / 1101 17th STREET, NORTHWEST, WASHINGTON, D.C. 20036 / NOV 5 PM 1:31

- ive Committee
- man
Jim M. Creason, DDS
Mad Haven, Michigan
- in Chairman
John T. Scott, D.M.D.
Baltimore, Washington
- Treasurer
Dudley S. Moore, DDS
Santa Rosa, California
- Robert B. Dixon, DDS
Austin, Texas
- H. Franklin Miller, DDS
Memphis, Tennessee
- Directors
- Mrs. Roland M. Adams
Bakersfield, California
- Edward U. Austin, DDS
Charlotte, North Carolina
- Thomas T. Catalano, DDS
Catskill, New York
- William C. Crockett, DDS
Salt Lake City, Utah
- H. William Gilman, DDS
Indianapolis, Indiana
- John J. Houlton, DDS
Concord, New Hampshire
- Lawrence Kern, DDS
Empire, New York
- Abraham Kobren, DDS
White Plains, New York
- Arvid A. Lanza, DDS
Ridge Park, New York
- Joseph R. Lehman, DDS
Dayton, Ohio
- Scott L. Sooley, DDS
Westfield, New Jersey
- Terence J. McCollow, DDS
Minneapolis, Minnesota
- Alex J. McKechnie, Jr., DDS
Camp Hill, Pennsylvania
- Ernest E. Novey, Jr., D.M.D.
Glastonbury, Connecticut
- A. Lynn Ryan, D.M.D.
Vancouver, Washington
- Leon Schwartz, DDS
Tampa, Florida
- Henry M. Sorreis, DDS
Houston, Texas
- Glenn A. Tatum, Jr., DDS
Decatur, Georgia
- F. W. Troner, DDS
Eggen, Illinois
- Consultant
John B. Wilson, DDS
Indian Wells, California
- Executive Director
Mark L. Adams, Esq.

November 2, 1979

Mr. Robert Bogin
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 769(20)

19 OCT 5 PM 4:04

Dear Mr. Bogin:

This letter is to inform the Commission that Messrs. John Lewis Smith, III and William Schweitzer, members of the firm of Baker, Hostetler, Frost and Towers, are now attorneys for the American Dental Political Action Committee.

Sincerely,
Mark L. Adams
Mark L. Adams
Executive Director

MLA:jlj

cc: Messrs. Smith and Schweitzer

SUITE 1006
1101 17th STREET, N.W.
WASHINGTON, D.C. 20036



Mr. Robert Bogin
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the matter of)	
)	
American Dental Political)	MUR 769
Action Committee)	
California Dental Political)	
Action Committee)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on October 10, 1979, the Commission decided by a vote of 4-0 to take the following actions regarding the above-captioned matter:

1. The motion to quash the subpoena filed by ADPAC should in all respects be denied. Staff should so notify ADPAC and advise it to comply on newly scheduled dates with the subpoena. Staff should be permitted to agree to certain general safeguards as to the inspection and copying of documents, provided that such safeguards do not infringe on or interfere with the requests for production.
2. Should ADPAC fail to comply with the subpoena, authorization is granted to institute a civil action pursuant to 2 U.S.C. § 437(d) (b) to achieve compliance.

Voting for this determination were Commissioners Aikens, Harris, McGarry, and Reiche.

Attest:

10/19/79
Date

Marjorie W. Emmons

 Marjorie W. Emmons
 Secretary to the Commission

General Counsel's Report dated:	10-3-79
Received in Office of the Commission Secretary:	10-4-79, 3:56
Circulated on 48 hour vote basis:	10-5-79, 2:00
Certified:	10-10-79, 4:45
Errata circulated on informational basis:	10-18-79, 4:00
Certification revised:	10-19-79, 9:00

010:004110

October 18, 1999

MEMORANDUM TO: Marge Emmons
FROM: Jane Colgrove
SUBJECT: MUR 769

Please have the attached Errata for MUR 769 distributed to the Commission on an informational basis. The certification should be changed accordingly.

Please return the original Memo to the Office of General Counsel after circulation. Thank you.

81030241406



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

October 17, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. S. Jerome Mandel
Miller and Mandel
555 South Flower Street
Suite 4170
Los Angeles, California 90071

Re: MUR 769 (78)

Dear Mr. Mandel:

On October 10, 1979, the Commission voted to deny the California Dental Association's motion to quash or modify the Commission subpoena issued to the Association on August 17, 1979, and the Commission has directed the Office of General Counsel to proceed with attaining compliance with the subpoena. (See enclosed Commission order). Therefore, the date for the production of documents originally scheduled for September 17, 1979, has been rescheduled for November 12, 1979.

Should you have any questions or conflicts concerning the production of the requested documents on the rescheduled date, please contact Robert Bogin, the attorney assigned to this matter, at (202) 523-4073.

Sincerely,

Enclosure

1. The following service is requested: check one Show to whom at date delivered: <input checked="" type="checkbox"/> RESTRICTED DELIVERY Show to whom date and date delivered: <input type="checkbox"/> RESTRICTED DELIVER Show to whom date and address of delivery: <input type="checkbox"/> CONSULT POSTMASTER FOR FEES		2. ARTICLE ADDRESSED TO RECEIVED FEDERAL ELECTION COMMISSION	
3. ARTICLE DESCRIPTION REGISTERED NO. 943082 CERTIFIED NO. 2808		4. SIGNATURE Always obtain signature of addressee or agent Addressed to: <i>Taura DeLeon</i> Authorized agent	
5. ADDRESS (Complete only if requested) DATE OF DELIVERY: 10/17/79		6. UNABLE TO DELIVER BECAUSE: CLERK'S INITIALS	

610:204:408

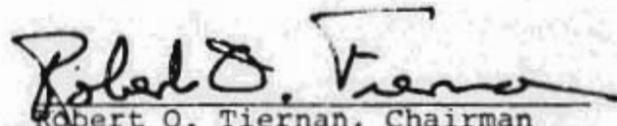
BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
American Dental Political) MUR 769 (78)
Committee)
California Dental Political)
Action Committee)

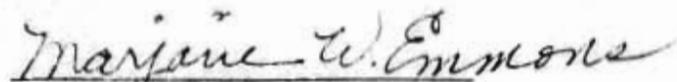
COMMISSION ORDER

5103024405
The application of the California Dental Association to quash or modify the Commission subpoena issued on July 19, 1979, and served on August 17, 1979, is in all respects denied. Movants have failed to indicate that the investigation is not within the authority of the Commission, that the Commission's subpoena is too indefinite, that the information sought is not reasonably relevant, that the inquiry is an infringement of its and its members' First Amendment rights or that the information is privileged from disclosure. The staff of the Office of General Counsel is directed to take all necessary and proper steps to insure that the requests contained in the subpoenas are fully complied with.

10/16/79
Date


Robert O. Tiernan, Chairman
Federal Election Commission

ATTEST:


Marjorie W. Emmons
Secretary to the Commission

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. S. Jerome Mandel
Miller and Mandel
555 South Flower Street
Suite 4170
Los Angeles, California 90071

Re: MUR 769 (78)

Dear Mr. Mandel:

On October , 1979, the Commission voted to deny the California Dental Association's motion to quash or modify the Commission subpoena issued to the Association on August 17, 1979, and the Commission has directed the Office of General Counsel to proceed with attaining compliance with the subpoena. (See enclosed Commission order). Therefore, the date for the production of documents originally scheduled for September 17, 1979, has been rescheduled for November 12, 1979.

Should you have any questions or conflicts concerning the production of the requested documents on the rescheduled date, please contact Robert Bogin, the attorney assigned to this matter, at (202) 523-4073.

Sincerely,

William C. Oldaker
General Counsel

Enclosure

RB
10/16/79

81030244410



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE
FROM: MARJORIE W. EMMONS/MARGARET CHANEY *me*
DATE: OCTOBER 16, 1979
SUBJECT: ORDER IN RELATION TO MUR 769

The attached order, approved on October 12, 1979
by a vote of 6-0, has been signed and sealed this date.

ATTACHMENT:
Order - CDA

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
American Dental Political) MUR 769
Action Committee)
California Dental Political)
Action Committee)

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on October 12, 1979, the Commission decided by a vote of 6-0 to take the following actions regarding the above-captioned matter:

1. The motion to quash or modify the subpoena filed by CDA should in all respects be denied. Staff should so notify CDA and advise it to comply on newly scheduled dates with the subpoena. Staff should be permitted to agree to certain general safeguards as to the inspection and copying of documents, provided that such safeguards do not infringe on or interfere with the request for production. Staff should also be permitted to confer with CDA on its interpretation of the scope of the requests so as to possibly lessen CDA's burden of compliance with the subpoena.
2. Should CDA fail to comply with the subpoena, authorization is granted to institute a civil action pursuant to 2 U.S.C. §437d(b) to achieve compliance.

Voting for this determination were Commissioners Aikens, Friedersdorf, Harris, McGarry, Reiche, and Tiernan.

Attest:

10/12/79
Date

Marjorie W. Emmons
Marjorie W. Emmons, Secretary to the Commission

General Counsel's Report Dated: 10-9-79
Received in Office of the Commission Secretary: 10-10-79, 2:02
Circulated on 48 hour vote basis: 10-10-79, 4:00

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October 9, 1979

MEMORANDUM TO: Marge Emmons
FROM: Elissa T. Garr
SUBJECT: MUR 769

Please have the attached General Counsel's Report on MUR 769 distributed to the Commission on a 48 hour tally basis.

Thankyou.

81030244413

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
American Dental Political) MUR 769 (78)
Action Committee)
California Dental Political)
Action Committee)

RECEIVED 10/2/79

General Counsel's Report in Opposition to
Motion to Quash or Modify Commission Subpoena

I. Summary of Proceeding

On July 19, 1979, the Commission issued subpoenas for the production of documents to the American Dental Political Action Committee (ADPAC), the California Dental Political Action Committee (CALDPAC), and their parent organizations, the American Dental Association (ADA) and the California Dental Association (CDA). These subpoenas were issued pursuant to a Commission investigation of possible affiliation between ADPAC and CALDPAC. The subpoenas directed the addressee or the person having custody of the respective group's records to produce documents in connection with the Commission's investigation. The subpoena to CDA was received on August 17, 1979.

On August 21, 1979, the Commission received a motion by CDA to quash or modify its subpoena.^{1/}

^{1/} CDA's motion is similar to the motion by ADA which the Commission denied on August 22, 1979, and to the motion made by ADPAC which is currently pending. CALDPAC has notified us that it will comply with the subpoena.

U I 7 : 2 0 4 1 4 1 2

CDA asserts in support of its motion that the Commission's inquiry is beyond its statutory authority, compliance will be unduly burdensome, that the information sought is not relevant to the Commission's investigation, that the subpoena infringes upon the First Amendment rights of CDA and its members and that compliance with the subpoena may transgress the attorney-client privilege.^{2/}

For the reason set forth hereinafter, we believe that CDA's arguments are without merit except as to the comments below regarding the burdensomeness of the request. Accordingly, we recommend that the motion to quash or modify be denied. However, we note CDA's assertion that compliance with the subpoena may disrupt its business and we would suggest that the staff negotiate with CDA as to the scope of the request and reduce CDA's burden with compliance.

II. Legal Analysis

A. Statutory Authority, Relevance and Burdensomeness

CDA asserts that the Commission does not have the statutory authority to subpoena the records of a non-profit

^{2/} CDA further objects to the subpoena on the grounds that it was improperly served. The subpoena was addressed to Henry L. Ernstthal as the Executive Director of CDA. Apparently Mr. Ernstthal has been replaced as Director by Dr. Dale F. Redig. However, inasmuch as the subpoena was received by the Executive Director, response has been made and no prejudice to CDA has been shown, we find this objection without merit.

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corporation, that compliance with the subpoena is unduly burdensome and that the information sought is not relevant to the Commission's investigation. These assertions are unfounded. As required, the Commission's inquiry is within the scope of the agency's authority, compliance with the subpoena is not unduly burdensome, and the information sought is reasonably relevant to the objectives of the investigation. United States v. Morton Salt Co., 338 U.S. 632 (1950); Oklahoma Press Publishing Co. v. Walling, 327 U.S. 186 (1946). The Commission clearly has the statutory authority to subpoena CDA's records pertaining to its political activities. The Commission is charged with administering, enforcing and interpreting the Federal Election Campaign Act of 1971, as amended and chapters 95 and 96 of the Internal Revenue Code of 1954. The Commission has exclusive primary jurisdiction with respect to the civil enforcement of these provisions 2 U.S.C. §437c(b), and has the power to require by subpoena the production of all documentary evidence relating to the execution of its duties. 2 U.S.C. §437d(a)(3).

The information the Commission is seeking is reasonably relevant to the objectives of its investigation into the question of possible affiliation between ADPAC and CALDPAC.

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Any assertion that the scope of the Commission's inquiry is limited to the political action committee of CDA is an overly restrictive view of the Commission's investigatory powers. The scope of the subpoena involves a concern whether contributions made by the separate political committees established by a professional association and its related state entities must be subject to a common contribution limitation. See House Conference Report, No. 94-1057, 94th Cong., 2nd Sess., p. 58; see also §110.3(a)(1)(D) of the Commission's Regulations. An investigation of this issue must necessarily focus on the relationship of the professional association to its political committees.

The Commission need not modify the subpoena based on CDA's opinion that the requested material is not relevant to the Commission's investigation of a possible violation of 2 U.S.C. §441a(a)(5). All of the requested information might disclose whether ADPAC or CALDPAC is established or financed or maintained or controlled by CDA. Such a request to modify the subpoena overly constricts the scope of the Commission's inquiry. At the investigative stage, the Commission's requests need not be restricted to a particular theory of a possible violation. Federal Trade Commission v.

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Texaco, 555 F.2d 862 (D.C. Cir.) en banc, cert. denied, 431 U.S. 974 (1977). Nor would it be appropriate for CDA to determine which documents might contain relevant evidence for the Commission's investigation. Equal Employment Opportunity Commission v. University of New Mexico, 504 F.2d 1296, 1300 (10th Cir. 1974). All of the requested documents may contain relevant information about the relationship of CDA to other dental associations, CALDPAC and other political action committees. CDA should not have the ability to screen information from the Commission.

Compliance with the Commission's subpoena is not unduly burdensome and would not disrupt the normal operations of CDA, if CDA adopted a reasonable interpretation of the scope of the Commission's requests. For example, CDA asserts that Specification 1 which requests production of documents relating to the establishment and history of CALDPAC mandates the production of all documents pertaining to CALDPAC without limitation. This is an unreasonable interpretation of the Commission's request. Furthermore, assuming that CDA would be required to produce all of these documents, a court would still enforce compliance with the subpoena since the degree of permissible burden placed on a respondent is weighed against the relevancy of a request. The more relevant a

request the greater the burden which can be placed on a respondent. Federal Trade Commission v. Texaco, supra 555 F.2d at 882. Establishment of a political action committee is one of the indicia of affiliation. Therefore any request by the Commission for information on the role CDA and ADA played in the formation of CALDPAC is extremely relevant and CDA must comply with the request even if compliance would be burdensome.

B. First Amendment

CDA objects to the Commission subpoena in that it seeks materials related to the political activities and thoughts of both ADPAC and its members, thus chilling the exercise of the First Amendment rights to freedom of association and expression of ADPAC and ADPAC's members. This objection is without merit. ADPAC has made no showing that the requested material would unconstitutionally chill the exercise of its or its members First Amendment rights to freedom of association and expression. The Commission is seeking information concerning the relationship and possible affiliation of ADPAC to ADA and state dental association and their PACs. The Commission is not seeking CDA's membership records. NAACP v. Alabama, 357 U.S. 449, (1958). As for legitimate concerns ADPAC may profess about freedom of

expression, those concerns are outweighed by the public interest. The Courts have upheld the Act's limitations on contributions and its reporting and disclosure requirements. See generally Buckley v. Valeo, 424 U.S. 1 (1976), Federal Election Commission v. Weinstein, 462 F.Supp. 243 (S.D.N.Y. 1978), and SEC v. Wall Street Transit Corp., 422 F.2d 1371 (2d Cir.), cert. denied, 398 U.S. 958 (1970), which held that disclosure requirements are not automatically invalidated by a "chilling effect" on speech. Thus, any possible infringement on ADPAC's or its members First Amendment rights would be outweighed by the public's right to know.

C. Privileges

CDA objects to the Commission subpoena on the theory that some of the documents might infringe on privileges held by CDA such as the attorney-client privilege. The possibility that some documents might be privileged from disclosure is not sufficient reason for the Commission to quash its subpoena. If an objection to disclose is raised by CDA to a particular document during the inspection of CDA's records based on privilege, the objection can be considered at a later date by a court without depriving the Commission of the opportunity to inspect the documents

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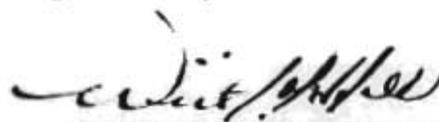
not alleged to be privileged. The inspection of the documents should be allowed to go forward without interruption and questions of privilege can be considered in a single proceeding after inspection. See generally, Young v. Motion Picture Association of America, Inc., 28 F.R.D. 2, 5-7 (D.D.C. 1961); Smith v. Crown Publishers, Inc., 14 F.R.D. 514 (S.D.N.Y. 1953).

III. Recommendation

The motion to quash or modify the subpoena filed by CDA should in all respects be denied. Staff should so notify CDA and advise it to comply on newly scheduled dates with the subpoena. Staff should be permitted to agree to certain general safeguards as to the inspection and copying of documents, provided that such safeguards do not infringe on or interfere with the request for production. Staff should also be permitted to confer with CDA on its interpretation of the scope of the requests so as to possibly lessen CDA's burden of compliance with the subpoena. Should CDA fail to comply with the subpoena, we request authorization to institute a civil action, pursuant to 2 U.S.C. §437d(b), to achieve compliance.

10/9/79

Date



William C. Oldaker
General Counsel

Attachment: Motion to Quash; Comm. Order

6101091121

1 JESSE D. MILLER
2 S. JEROME MANDEL
3 PETER H. MASON
4 Members of the Firm of
5 MILLER & MANDEL
6 A Professional Corporation
7 555 South Flower Street, Suite 4170
8 Los Angeles, California 90071
9 Telephone: (213) 485-8771
10
11 Attorneys for California
12 Dental Association

8 UNITED STATES OF AMERICA
9 FEDERAL ELECTION COMMISSION

11 _____)
12 In the Matter of)
13 CALIFORNIA DENTAL ASSOCIATION)
14 _____)

15
16 APPLICATION OF THE CALIFORNIA DENTAL
17 ASSOCIATION TO QUASH AND/OR MODIFY SUBPOENA;
18 MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT
19 THEREOF; AFFIDAVIT OF DALE F. REDIG, D.D.S.

20
21 Comes now Applicant California Dental Association (hereinafter
22 "CDA") pursuant to Title 11, Section 111.13 of the Code of Federal
23 Regulations, moving that the Federal Election Commission (herein-
24 after the "Commission") quash and/or modify that subpoena osten-
25 sibly served upon CDA on August 17, 1979. This Application is
26 based upon the grounds that said subpoena is indefinite and over-
27 broad, that it calls for the production of wholly irrelevant docu-
28 ments and materials, that compliance with the subpoena will be

1 overly burdensome and oppressive, that the subpoena infringes upon
2 the First Amendment rights of CDA and its members, that the Fed-
3 eral Election Commission has no jurisdiction over CDA because of
4 its nonprofit status, that the absence of any protective orders or
5 provisions deny CDA due process of law, and that production might
6 infringe upon the attorney-client privilege.

7 Notwithstanding the fact that the subpoena is directed to
8 Mr. Henry L. Ernstthal, who is no longer associated with CDA, CDA
9 files this Application on behalf of itself and its present Execu-
10 tive Director.

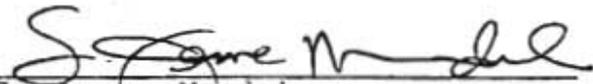
11 Said Application is based upon the accompanying Memorandum of
12 Points and Authorities, the accompanying Affidavit of Dale F. Redig,
13 D.D.S., and upon such further oral or documentary evidence which
14 may be presented by CDA if afforded the opportunity to be heard on
15 this matter.

16 CDA respectfully requests the opportunity to present oral ar-
17 guement in support of this Application.

18 Respectfully submitted,

19 MILLER & MANDEL
20 A Professional Corporation

21 DATED: August 21, 1979

22 By: 
23 S. Jerome Mandel
24 Attorneys for California
25 Dental Association
26
27
28

1 JESSE D. MILLER
S. JEROME MANDEL
2 PETER H. MASON
Members of the firm of
3 MILLER & MANDEL
A Professional Corporation
4 555 S. Flower Street, Suite 4170
Los Angeles, California 90071
5 Telephone: (213) 485-8771
6 Attorneys for
CALIFORNIA DENTAL ASSOCIATION
7

8 UNITED STATES OF AMERICA
9 FEDERAL ELECTION COMMISSION
10

11 _____)
12 In the Matter of)
13 CALIFORNIA DENTAL ASSOCIATION)
14 _____)

15
16 MEMORANDUM OF POINTS AND AUTHORITIES
17 IN SUPPORT OF APPLICATION TO QUASH
18 AND/OR MODIFY SUBPOENA
19

20 I

21 INTRODUCTION

22 Applicant California Dental Association (hereinafter "CDA")
23 hereby files this Application to Quash and/or Limit Subpoena
24 pursuant to Title 11, Section 111.13 of the Code of Federal
25 Regulations. Said application is necessitated because the sub-
26 poena ostensibly served upon CDA by the Federal Election Commis-
27 sion (hereinafter the "Commission") on August 17, 1979 is
28 objectionable by its very terms, in that it is indefinite and

1 overbroad, seeks the production of documents and materials
2 wholly irrelevant to any possible investigation being conducted
3 by the Commission, is burdensome and oppressive, infringes upon
4 the First Amendment rights of CDA and its members, that the
5 Commission has no jurisdiction over CDA, a non-profit corporation,
6 that compliance with the subpoena may transgress the attorney-
7 client privilege, and that production of documents, in the
8 absence of appropriate protective orders may deny to CDA due
9 process of law.

10 As stated throughout this memorandum, compliance with this
11 subpoena is not justified in light of the fact that CDA has not
12 been informed of the true nature and scope of the investigation
13 presently being conducted by the Commission. As can be seen
14 from the accompanying Declaration of Dale F. Redig, D.D.S., the
15 failure of the Commission to provide to CDA adequate guidelines
16 from which CDA can determine the relevant scope of the investi-
17 gation is compounded by the fact that CDA will be compelled to
18 review virtually every document in its possession and control in
19 order to sufficiently comply with the subpoena as it is pre-
20 sently stated. As CDA submits in the discussion which follows,
21 the nature of the subpoena served by the Commission requires
22 that the subpoena be quashed and/or modified.

23 II

24 THE SUBPOENA IS NOT ENFORCEABLE

25 SINCE IT IS TOO INDEFINITE, OVERBROAD,

26 AND SEEKS PRODUCTION OF IRRELEVANT DOCUMENTS

27 It is a well established provision in Federal Law that
28 subpoenas issued by administrative agencies and commissions must

1 comply with certain minimal requirements before those subpoenas
2 may be enforced. United States Equal Employment Opportunity
3 Commission v. General Electric Company Medical Systems, 447
4 F.Supp. 978 (E.D. Wisc. 1978). Where an individual upon whom a
5 subpoena is served is unable to determine what documents or
6 materials are subject to production, where the categories of
7 documents requested go beyond the parameters of relevant issue
8 areas, or where the categories in their entirety have no conceiv-
9 able relationship to the nature and conduct of an administrative
10 investigation, then such subpoenas are clearly unenforceable.
11 E.I. duPont de Nemours & Co. v. Finklea, 442 F.Supp. 821 (S.D.
12 W. Va. 1977). There is no better example of a subpoena which
13 fails to comply with the minimal judicial standards for enforce-
14 ability than that subpoena served by the Commission upon CDA.
15 As detailed in the following discussion of each specification,
16 the subpoena at issue herein seeks documents which pertain to
17 virtually every activity conducted by CDA, activities which in
18 almost every instance are entirely irrelevant to the responsibil-
19 ities and duties of the Commission.

20
21 Specification 1

22 This specification purports to seek production of all
23 documents relating to the establishment and history of the state
24 "Dental Political Action Committee," the circumstances leading
25 to its formation and the roles played by various individuals and
26 entities in the foundation of the State PAC. The very nature of
27 this request would require production of every document CDA may
28 possess pertaining to the State PAC since any such documents

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1 would, by definition, involve in some fashion the activities of
2 the State PAC, and, therefore, its history. It is imagined that
3 this specification may seek those few and specific documents, if
4 any, which give some historical perspective and recitation of
5 the background events and development of the State Political
6 Action Committee. However, as presently phrased, the specifi-
7 cation literally calls for every document relating to the history
8 of such developments, which means all documents pertaining to
9 the Political Action Committee without limitation. Clearly,
10 such a request defies definition, is overbroad and seeks the
11 production of irrelevant materials.

12

13 Specification 2

14 This specification seeks production of all articles of
15 incorporation, constitutions, bylaws, procedural manuals, and
16 other rules and regulations of CDA. Articles of incorporation
17 and bylaws are sufficiently defined categories. However, it is
18 impossible to determine what documents fall under the headings
19 "procedural manuals or other rules and regulations." CDA has a
20 myriad of activities for which documents equivalent to pro-
21 cedural manuals or rules and regulations have been promulgated.
22 Such documents include, for example, its peer review manual and
23 its Code of Ethics. It is inconceivable that the Commission
24 seeks production of the manual which guides the operations of
25 voluntary peer review committees throughout California. Not
26 even a strained argument can be stated to show the relevance of
27 such documents. Yet, specification 2 seeks the production of
28 all CDA procedural manuals and rules and regulations, whether

1 or not they are remotely related to activities which are reviewed
2 under the Commission's jurisdiction. This specification, in its
3 broad brush scope, is, in most parts, simply and unequivocally
4 overbroad and calls for production of irrelevant materials.
5

6 Specification 3

7 Specification 3 seeks all CDA documents pertaining to the
8 setting, solicitation and deposit of CDA membership dues. Once
9 again, the Commission's request is so broadly drafted that
10 compliance is impossible. Under this category, CDA would be
11 compelled to produce every piece of documentation pertaining to
12 the general category of membership dues, including bills to
13 members, deposit slips and all other communications regarding
14 each individual member's dues paying status. Clearly, such
15 documentation cannot be desired by the Commission. In a cover
16 letter to CDA, the general counsel to the Commission stated that
17 the Commission is investigating whether the "California Dental
18 Political Action Committee and the American (sic) Political
19 Action Committee are affiliated." CDA submits that the manner
20 by which it establishes the amount of its dues and solicits
21 their collection from its members is entirely irrelevant to the
22 investigation stated by the general counsel.
23

24 Specification 4

25 Specification 4 relates to communications between CDA and
26 various entities (ADPAC, ADA, State Political Action committees)
27 concerning the collection and transmittal of dues. As stated in
28 the response to Specification 3, this highly overbroad inquiry

1 into the manner by which CDA collects and receives its dues can
2 have no bearing upon any investigation conducted by the Commis-
3 sion. This specification not only requires the production of
4 thousands of irrelevant documents pertaining to individual
5 issues of dues collection for many of CDA's 13,000 members, but
6 is also so vague and indefinite that CDA cannot reasonably
7 determine exactly which documents are requested. The specifica-
8 tion seeks materials relating to the transmittal of dues, but it
9 fails to state what types of transmittal transactions are relevant.
10 Certainly, the Commission cannot find as relevant those documents
11 which pertain to a component society's efforts to collect and
12 achieve transmittal of dues from its individual members. Yet,
13 the broad scope of this specification encompasses every single
14 document pertaining to such individualized transactions.
15 Accordingly, this specification is overbroad and calls for the
16 production of irrelevant documents.

17
18 Specification 5

19 This request for production of documents calls for materials
20 relating to the operating expenses of CDA or the State Political
21 Action Committee. The absurdity of this specification is
22 apparent without great analysis. Under the terms of this request,
23 every bill received for office supplies, every check payable for
24 salaries, every document pertaining to CDA's conventions and
25 scientific seminars, from which funds are raised, in fact, every
26 document pertaining to CDA's financial operations are called for
27 in this specification. It escapes all concepts of reason to
28 ascertain how such a massive request for documents can relate in

1 any sense to an investigation regarding the alleged affiliation
2 between the "California Dental Political Action Committee and
3 the American Dental Political Action Committee." Without waiving
4 any objections as to the relevancy of this request in its entirety,
5 CDA submits that this specification could have been drawn with a
6 reasonable particularity to avoid the overwhelming nature of the
7 request as it is presently stated.

8
9 Specification 6

10 Specification 6 seeks the production of documents pertaining
11 to workshops or seminars sponsored by CDA or a number of other
12 entities listed in the request. As stated in the accompanying
13 Affidavit of Dale F. Redig, D.D.S., CDA has ten (10) standing
14 councils through which extensive and highly diversified activi-
15 ties are conducted. Each of these councils conducts workshops
16 and seminars of some nature, and virtually all such conferences
17 have absolutely no relationship to any conceivable object of
18 investigation within the jurisdiction of the Commission. Yet,
19 the specification proceeds on the unfounded assumption that
20 CDA's activities in the area of dental education, public health,
21 scientific affairs, etc. are related to the underlying investi-
22 gation as to which this subpoena was issued. This assumption
23 cannot be supported under any construction of relevancy. The
24 Commission cannot sanction the blatant and ill-conceived attempt
25 to gain access to virtually every CDA document no matter how
26 remote and unattached such documents may be to the issues presently
27 under consideration.

28 //

1 Specification 7

2 In Specification 7 the Commission requests the production
3 of documents between CDA and several different entities concerning
4 various issue areas such as political candidates, contributions,
5 voting records and campaign contribution reporting requirements.
6 Although this request is drafted with a degree of particularity
7 absent from the other specifications, CDA submits that this
8 category of documents is overbroad in scope and coverage. The
9 jurisdiction of the Commission is concerned with violations of
10 and conformity with the Federal Election Campaign Act. That Act
11 addresses, in the main, the issues of campaign contributions to
12 federal elections and the limitations on such contributions.
13 Neither the Act nor the Commission has established authority to
14 go beyond these specific issue areas to investigate the mere
15 exchange of information between entities regarding the qualifi-
16 cations of a candidate for federal public office. Yet, portions
17 of Specification 7 call for production of documents which pertain
18 directly to this exchange of information. Not only does such a
19 request go beyond the scope of relevancy and the Commission's
20 jurisdiction, but the request has the added effect of chilling
21 the channels of exchange and communication otherwise protected
22 under the First Amendment guarantees. CDA submits that the
23 scope of Specification 7 would, if enforcement is permitted,
24 unduly restrict the lawful and protected exchange of political
25 information between individuals and entities.

26
27 Specification 8

28 The scope of Specification 8 best exemplifies the overbroad

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1 nature of this subpoena. Through this request, the Commission
2 seeks all minutes, reports and materials of any meeting of CDA's
3 Board of Trustees. This specification establishes no limitation
4 as to reports or minutes of meetings where issues of concern to
5 the Commission were discussed. Rather, what is sought are all
6 reports and minutes of meetings of the Board of Trustees without
7 regard to whether or not such meetings dealt with issues of
8 relevance to the underlying investigation conducted by the
9 Commission. As stated above and in the accompanying Affidavit
10 of Dale F. Redig, D.D.S., CDA conducts hundreds of activities
11 and has countless responsibilities totally unrelated to the
12 jurisdictional purview of this Commission. These activities are
13 discussed in meetings of CDA's Board of Trustees and reports on
14 such activities are embodied in presentations made to the Board
15 on a regular basis by CDA's ten (10) standing councils. It is
16 abundantly clear, therefore, that the minutes and reports of
17 the meetings of CDA's Board of Trustees have, in virtually every
18 instance, no connection with the Commission's investigation. It
19 is equally apparent that there is no justification to require
20 CDA to produce such documents which are beyond the scope of
21 reasonable and relevant production. Specification 8 is, without
22 question, overbroad and calls for production of irrelevant
23 materials, and upon that basis, is unenforceable.

24 III

25 COMPLIANCE WITH THE SUBPOENA WILL BE

26 UNDULY BURDENSOME AND OPPRESSIVE

27 In addition to the previously stated requirements that an
28 administrative subpoena must not be indefinite, overbroad, or

1 call for production of irrelevant materials, neither may a sub-
2 poena be so all encompassing in scope as to render compliance
3 therewith unduly burdensome and oppressive. Yet, the overbreadth
4 of the subpoena at issue herein is so substantial that in order
5 to achieve compliance CDA will suffer undue burden. As enun-
6 ciated in the accompanying Affidavit of Dale F. Redig, D.D.S.,
7 the review of documents that will be necessitated by this sub-
8 poena will cause CDA to effectively shut down its operation for
9 a significant period of time. The burden created by compliance
10 with the subpoena is compounded by the fact that a substantial
11 portion of the subpoena so clearly calls for the production of
12 unquestionably irrelevant materials. CDA submits that in light
13 of the fact that compliance will cause it substantial and
14 unjustified hardship, and in consideration of the clearly irre-
15 levant and overbroad scope of the subpoena, the Commission quash
16 or significantly modify the subpoena.

17 IV

18 THE SUBPOENA, IF ENFORCED, WILL CHILL
19 THE FIRST AMENDMENT RIGHTS
20 OF CDA AND ITS MEMBERS

21 A further consequence of the subpoena directed to CDA is
22 that its scope is so broad and all encompassing that the enforce-
23 ment thereof will inevitably curtail the lawful rights of CDA
24 and its members to freely exchange information and opinions.
25 For example, as stated above in response to Specification 7, the
26 subpoena calls for the production of documents concerning the
27 exchange of information between CDA and other individuals or
28 entities about political campaigns and candidates. The compulsion

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1 to publicly disclose the views which may be embodied in such
2 documents would clearly chill the exercise of the right to hold
3 and adopt such views guaranteed under the First Amendment.
4 Furthermore, a subpoena of this overbroad nature would inhibit
5 the free expression and exchange of ideas within CDA concerning
6 other areas of activity wholly unconnected to the political
7 sphere, when individual members determine that anything they may
8 do or say is subject to government review regardless of whether
9 their activities are related in any manner to specific govern-
10 mental investigations.

11 V

12 THE SUBPOENA HAS BEEN
13 IMPROPERLY SERVED UPON CDA

14 The subpoena which was received by CDA on August 17, 1979
15 was addressed to Henry L. Ernstthal as the Executive Director of
16 CDA. Such service, however, is improper since Mr. Ernstthal is
17 not the Executive Director of CDA and has not been affiliated
18 with CDA for at least eight months. Although CDA has responded
19 to the subpoena despite improper service in order to preserve
20 its rights, CDA has not waived and does contest the manner of
21 service attempted by the Commission.

22 VI

23 FURTHER OBJECTIONS

24 In addition to those objections raised above, CDA further
25 submits that the Commission, pursuant to the extent of its
26 statutory jurisdiction as stated in the Federal Election Cam-
27 paign Act, 2 U.S.C. §431, et seq., has no jurisdiction over CDA
28 because of CDA's non-profit corporate status. In addition,

1 given the nature and scope of the subpoena, said subpoena will
2 be unenforceable until such time as appropriate protective
3 orders are entered which will acknowledge the attorney-client
4 privilege, and which will ensure that the confidentiality of
5 these documents will be preserved with full regard for the due
6 process rights of CDA.

7 VII

8 CONCLUSION

9 Based upon the foregoing discussion, and in recognition of
10 the facts that the subpoena directed towards CDA is blatantly
11 overbroad in scope and application, calls for production of
12 irrelevant materials, will cause CDA undue burdens to comply
13 therewith, will chill the free exchange of ideas by CDA and its
14 members, and fails to adequately afford CDA its common law
15 rights and privileges, CDA asserts that this subpoena be quashed
16 and/or modified.

17 Respectfully submitted,
18 MILLER & MANDEL
19 A Professional Corporation

20 DATED: August 21, 1979

21 By 
22 S. JEROME MANDEL
23 Attorneys for California
24 Dental Association
25
26
27
28

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1 JESSE D. MILLER
S. JEROME MANDEL
2 PETER H. MASON
Members of the Firm of
3 MILLER & MANDEL
A Professional Corporation
4 555 South Flower Street, Suite 4170
Los Angeles, California 90071
5 Telephone: (213) 485-8771

6 Attorneys for California
Dental Association
7

8 UNITED STATES OF AMERICA
9 FEDERAL ELECTION COMMISSION
10

11 _____)
12 In the Matter of)
13 CALIFORNIA DENTAL ASSOCIATION)
14 _____)

15 AFFIDAVIT OF

16 DALE F. REDIG, D.D.S.

17 I, Dale F. Redig, being first duly sworn, depose and say:

18 1. I am the Executive Director of the California Dental Asso-
19 ciation (hereinafter "CDA"). I have served in that capacity since
20 July of 1978.

21 2. CDA, a nonprofit corporation, is the primary voluntary as-
22 sociation for dentists licensed and practicing in the State of
23 California. Its membership presently exceeds 13,000 members.

24 3. The purposes of CDA are set forth in its Articles of In-
25 corporation and its Bylaws. The purposes, as set forth in the Ar-
26 ticles of Incorporation, are "to promote high professional standards
27 in the practice of dentistry; to encourage and promote the improve-
28 ment of the health of the public; and to promote the art and science

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1 of dentistry as a profession." Furthermore, the Bylaws of CDA state
2 that "the objectives of this Association shall include the improve-
3 ment of the health of the public and promotion of the art and sci-
4 ence of dentistry, and shall otherwise be as specified in the Arti-
5 cles of Incorporation."

6 4. In the furtherance of these general goals and purposes de-
7 scribed above, CDA operates ten (10) councils which are designed to
8 address a variety of issues and activities related to the profes-
9 sion of dentistry. These councils include the Council on Dental
10 Care, Council on Dental Education, Council on Dental Health, Coun-
11 cil on Hospital Affairs, Judicial Council, and Council on Scienti-
12 fic Affairs and Research. Each of these councils, as well as others
13 not listed, makes regular and extensive reports to CDA's Board of
14 Trustees.

15 5. The scope of activities conducted by CDA, as reflected in
16 the nature of its standing councils, is highly diversified and ex-
17 tends to such issues as the general dental health of the public,
18 continuing dental education for practitioners, peer review evalua-
19 tion, and judicial affairs.

20 6. On August 17, 1979, CDA received by certified mail a sub-
21 poena issued by the Federal Election Commission. Said subpoena,
22 directed to Henry Ernstthal, who no longer is associated with CDA,
23 contains eight (8) specifications of documents to be produced at
24 the CDA offices on September 17, 1979.

25 7. Upon receipt of the subpoena I reviewed the specifications
26 contained therein. After completion of this review, I reached the
27 unqualified conclusion that in order to determine which documents
28 are responsive to the specifications enumerated in the subpoena it

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1 will be necessary for me and the staff of CDA to review literally
2 tens of thousands of documents which, in all likelihood, will cons-
3 titute over one-quarter of a million pages. This endeavor will re-
4 quire several weeks of intensive and full-time review by the CDA
5 staff, and will therefore substantially curtail the day-to-day op-
6 erations normally conducted by CDA.

7 8. The specification of documents set forth in the subpoena,
8 if read literally, will require the production of tremendous num-
9 bers of documents which have absolutely nothing to do with any Fed-
10 eral election or political activity of any kind or nature. These
11 would include documents from 1972 dealing with ethical standards of
12 dentists who are members of CDA, massive documents on continuing
13 education programs, on areas dealing exclusively with dentistry or
14 dental oriented problems, all operating expenses of CDA (of any na-
15 ture whatsoever), all banking transactions pertaining to dues, and
16 all materials of any nature whatsoever that pertain to all meetings
17 of the CDA Board of Trustees regardless of the topics discussed.
18 The preponderance of these documents, thousands in number, simply
19 have nothing to do with elections, political activities or politi-
20 cal contributions.

21 9. In addition to the tremendous burden of compliance with
22 the subpoena, as that subpoena is presently structured, CDA's oper-
23 ations will be severely restricted since many of the documents to be
24 reviewed in compliance with the subpoena are also used in CDA's on-
25 going activities.

26 10. The "dental political action committee" as referred to in
27 the definitions contained in the subpoena, is known in the State of
28 California as CAL-D-PAC. CAL-D-PAC is a separate and distinct en-

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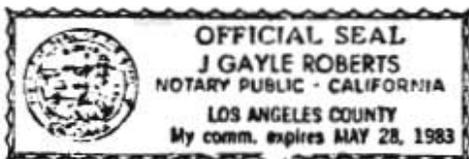
1 tity from CDA, and, as such, any inquiry as to the relationship be-
2 tween CAL-D-PAC and the American Dental Polical Action Committee
3 ("ADPAC") has no bearing upon, and no relevance to, the activities
4 and operations of CDA.

5 11. Compliance with the subpoena served on August 17, 1979,
6 as that subpoena is presently structured, will result in a tremen-
7 dous expenditure of CDA's time and financial resources and will
8 create an undue burden upon CDA's activities. If CDA is compelled
9 to review and produce those documents specified in the subpoena,
10 CDA will incur a substantial and undue hardship which will deplete
11 its fiscal resources and detract from the conduct and achievement
12 of its major activities and goals.

13
14
15 Dale F. Redig, D.D.S.
16 Dale F. Redig, D.D.S.
17 Executive Director,
California Dental Association

18 State of California)
19 County of Los Angeles) ss.

20 On August 21, 1979 before me a Notary Public for the State of
21 California, personally appeared Dale F. Redig, D.D.S., known to me
22 to be the person whose name is subscribed to this instrument, and
23 acknowledged to me that he executed this instrument.



J. Gayle Roberts
Notary Public
In and for said County and State



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

October 16, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Christine W. Fleps
O'Connor and Hannan
1747 Pennsylvania Avenue, N.W.
Suite 600
Washington, D.C. 20006

Re: MUR 769 (78)

Dear Ms. Fleps:

On October 10, 1979, the Commission voted to deny the American Dental Political Action Committee's motion to quash the Commission subpoena issued to the Committee on August 13, 1979, and the Commission has directed the Office of General Counsel to proceed with attaining compliance with the subpoena. (See enclosed Commission order). Therefore, the date for the production of documents originally scheduled for September 10, 1979, has been rescheduled for November 5, 1979.

Should you have any questions or conflicts concerning the production of the requested documents on the rescheduled date, please contact Robert Bogin, the attorney assigned to this matter, at (202) 523-4073.

Sincerely,

Form 3811 April 1979
RETURN RECEIPT REGISTERED, INSURED AND CERTIFIED MAIL

1 The following service is requested (check one)
 Show to whom and date delivered _____ C
 Show to whom, date, and address of delivery _____ C
 RESTRICTED DELIVERY _____ C
 Show to whom and date delivered _____ C
 RESTRICTED DELIVERY _____ C
 Show to whom, date, and address of delivery \$ _____ C
 CONSULT POSTMASTER FOR FEES

2 ARTICLE ADDRESSED TO
 the W. J. G. Co.

3 ARTICLE DESCRIPTION REGISTERED NO. CERTIFIED NO. INSURED NO.

(Always obtain signature of addressee or agent)

I have received the article described above
 SIGNATURE Addressee Authorized agent

4 DATE OF DELIVERY POSTMARK
 10-23-79

5 ADDRESS. Complete only if requested

6 UNABLE TO DELIVER BECAUSE CLERK'S INITIALS

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
American Dental Political)
Committee) MUR 769 (78)
California Dental Political)
Action Committee)

COMMISSION ORDER

3010094341
The application of the American Dental Political Action Committee to quash the Commission subpoena issued on July 19, 1979, and served on August 13, 1979, is in all respects denied. Movants have failed to indicate that the Commission's subpoena is too indefinite, that the information sought is not reasonably relevant, that the inquiry is an infringement of its and its members' First Amendment rights or that the information is privileged from disclosure. The staff of the Office of General Counsel is directed to take all necessary and proper steps to insure that the requests contained in the subpoenas are fully complied with.

10/11/79
Date

Robert O. Tiernan
Robert O. Tiernan, Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons
Marjorie W. Emmons
Secretary to the Commission



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE
FROM: MARJORIE W. EMMONS/MARGARET CHANEY *me*
DATE: OCTOBER 12, 1979
SUBJECT: ORDER IN RELATION TO MUR 769

The attached order, approved by a vote of 4-0
on October 10, 1979, has been signed and sealed.

ATTACHMENT:
Order - American
Dental Political
Action Committee

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	
American Dental Political)	MUR 769
Action Committee)	
California Dental Political)	
Action Committee)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on October 10, 1979, the Commission decided by a vote of 4-0 to take the following actions regarding the above-captioned matter:

1. The motion to quash the subpoena filed by ADA should in all respects be denied. Staff should so notify ADA and advise it to comply on newly scheduled dates with the subpoena. Staff should be permitted to agree to certain general safeguards as to the inspection and copying of documents, provided that such safeguards do not infringe on or interfere with the requests for production.
2. Should ADA fail to comply with the subpoena, authorization is granted to institute a civil action pursuant to 2 U.S.C. § 437(d) (b) to achieve compliance.

Voting for this determination were Commissioners Aikens, Harris, McGarry, and Reiche.

Attest:

10/10/79

Date

Marjorie W. Emmons

Marjorie W. Emmons
 Secretary to the Commission

General Counsel's Report dated:	10-3-79
Received in Office of the Commission Secretary:	10-4-79, 3:56
Circulated on 48 hour vote basis:	10-5-79, 2:00

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October 4, 1979

MEMORANDUM TO: Marge Emmons
FROM: Elissa T. Garr
SUBJECT: MUR 769

Please have the attached General Counsel's Report on
MUR 769 distributed to the Commission on a 48 hour tally
basis .

Thankkyou.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
American Dental Political)
Action Committee)
California Dental Political)
Action Committee)

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MUR 769 (78)

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GENERAL COUNSEL'S REPORT IN OPPOSITION TO
MOTION TO QUASH COMMISSION SUBPOENA

I. Summary of Proceedings

On July 19, 1979, the Commission pursuant to its investigation of possible affiliation between the American Dental Political Action Committee (ADPAC) and the California Dental Political Action Committee (CALDPAC) issued subpoenas for the production of documents to ADPAC, CALDPAC, and their parent organizations, the American Dental Association (ADA), and the California Dental Association (CDA). The subpoena directed the addressee or the person having custody of the respective group's records to produce documents in connection with the Commission's investigation. The subpoena to ADPAC was served on August 13, 1979.

On August 17, 1979, a motion by ADPAC to quash its subpoena was received by the Commission. (See Attachment I). In most respects, it is similar to the motion to quash filed by the American Dental Association on August 6, 1979, and, subsequently denied by the Commission. ADPAC asserts in support of its motion that the Commission's inquiry is authorized by a statutory and regulatory scheme which violates the first amendment rights of ADPAC and its members, compliance will be unduly burdensome, and the information sought is not relevant

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to the scope of the Commission's investigation and is an infringement of its and its members first amendment rights. In addition, ADPAC asserts that compliance with the subpoena would infringe on privileges held by ADPAC.

For the reasons set forth hereinafter, we believe that ADPAC's arguments are without merit. Accordingly, we recommend that the motion to quash be denied.

II. Legal Analysis

A. Introduction

ADPAC's Motion to quash the subpoena should be denied. As required, the Commission's inquiry is within the scope of the agency's authority, compliance with the subpoena is not unduly burdensome, and the information sought is reasonably relevant to the objectives of the investigation. United States v. Morton Salt Co., 338 U.S. 632 (1950); Oklahoma Press Publishing Co. v. Walling, 327 U.S. 186 (1946). The Commission clearly has the statutory authority to subpoena ADPAC's records pertaining to its political activities. The Commission is charged with administering, enforcing and interpreting the Federal Election Campaign Act of 1971, as amended, and chapters 95 and 96 of the Internal Revenue Code of 1954. The Commission has exclusive primary jurisdiction with respect to the civil enforcement of these provisions, 2 U.S.C. § 437c(b), and has the power to require by subpoena the production of all documentary evidence relating to the execution of its duties. 2 U.S.C. § 437d(a)(3).

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B. Relevance

ADPAC objects to this subpoena as seeking documents which are not relevant to the scope of the investigation as defined by the FEC. This objection should be rejected. The information the Commission is seeking is reasonably relevant to the objectives of its investigation into the question of possible affiliation between ADPAC and CALDPAC. The scope of the investigation is to determine whether contributions made by the separate political committees established by a professional association and its related state entities must be subject to a common contribution limitation. See House Conference Report, No. 94-1057, 94th Cong., 2d Sess., p. 58; see also § 110.3(a)(1)(D) of the Commission's Regulations. All of the requested information might reasonably be expected to produce documentation on the question of whether the various pacs of the dental association were established, financed, maintained or controlled by any of the other dental associations. 2 U.S.C. § 441a(a)(5). At the investigative stage, the Commission's requests need not be restricted to a particular theory of a possible violation. FTC v. Texaco, Inc. 555 F.2d 862 (D.C. Cir.) en banc, cert. denied 431 U.S. 974 (1977). The Commission need not specify precisely the subject matter it requires for its inquiry.

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C. Burdensomeness

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In General Objection 4 and in all the specifications, ADPAC objects that compliance with the Commission subpoena would be excessively burdensome and offensive and unreasonable in scope because there is no defined time period for the information requested. These objections are unfounded. In order for the Commission to quash its subpoena, ADPAC must make a showing that compliance with the subpoena is unduly burdensome. The burden of proof lies with ADPAC and a bare assertion of being overburdened on its part is not a sufficient showing. The standard that the courts utilize in determining whether compliance with an administrative subpoena is burdensome is spelled out in FTC v. Texaco, 555 F.2d 862 (D.C. Cir.) en banc, cert. denied, 431 U.S. 974 (1977).

Some burden on subpoenaed parties is to be expected and is necessary in furtherance of the agency's legitimate inquiry and the public interest. The burden of showing that the request is unreasonable is on the subpoenaed party. Further, that burden is not easily met where, as here, the agency inquiry is pursuant to a lawful purpose and the requested documents are relevant to that purpose. Broadness alone is not sufficient justification to refuse enforcement of a subpoena. Thus, courts have refused to modify investigative subpoenas unless compliance threatens to unduly disrupt or seriously hinder normal operations of a business.

FTC v. Texaco, supra, 555 F.2d at 882. Clearly, ADPAC, by making only bare assertions of being overburdened, has not met the standard set by the courts.

ADPAC further objects that there is no defined time period for the requested information. This is erroneous. Except for specification 1, all other specifications are from 1972. The information sought in Specification 1 concerning the establishment of ADPAC makes it necessary to request information prior to 1972. Since the information requested in Specification 1 goes to the establishment of the PAC, establishment being one of the indicia of affiliation, ADPAC cannot successfully allege that production of these documents would in this instance be unduly burdensome.

D. First Amendment

ADPAC objects to this subpoena on the basis that it is authorized by a statutory and regulatory scheme which violates the first amendment rights of ADPAC and ADPAC's members. (General Objection 2 and all Specifications). This broad based objection attacking the constitutionality of the entire Act lacks merit. The Federal Election Campaign Act of 1971, as amended, has successfully withstood constitutional attack on various of its provisions based on first amendment grounds. Federal Election Commission v. Weinstein, 462 F.Supp. 243 (S.D.N.Y. 1978). In 1976, many provisions of the Act were redrafted to bring it into conformity with the Supreme Court's decision of Buckley v. Valeo, 424 U.S. 1 (1976). Since ADPAC has cited no cases or made no argument other than a bare allegation of constitutional infirmity, the Commission should ignore such objection.

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ADPAC further objects to the Commission subpoena in that it seeks materials related to the political activities and thoughts of both ADPAC and its members, thus chilling the exercise of the first amendment rights to freedom of association and expression of ADPAC and ADPAC's members. (General Objection 1). This objection is without merit. ADPAC has made no showing that the requested material would unconstitutionally chill the exercise of its or its members first amendment rights to freedom of association and expression. The Commission is seeking information concerning the relationship and possible affiliation of ADPAC to ADA and state dental associations and their PACs. ADPAC is not an association and even if it were, the Commission is not seeking its membership records. NAACP v. Alabama, 357 U.S. 449, (1958). As for any legitimate concerns, ADPAC may profess about freedom of expression, those concerns are outweighed by the public interest. The Courts have upheld the Act's limitations on contributions and its reporting and disclosure requirements. See generally Buckley v. Valeo, supra, Federal Election Commission v. Weinstein, supra, and SEC v. Wall Street Transit Corp. 422 F.2d 1371 (2d Cir. 1970), cert. denied 398 U.S. 958 (1970), which held that disclosure requirements are not automatically invalidated by a "chilling effect" on speech. Thus, any possible infringement on ADPAC's or its members first amendment rights would be outweighed by the public's right to know.

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E. Privileges

ADPAC objects to the Commission subpoena on the theory that some of the documents might infringe on privileges held by ADPAC such as the attorney-client privilege and the work-product doctrine (General Objection 3). The possibility that some documents might be privileged from disclosure is not sufficient reason for the Commission to quash its subpoena. If an objection to disclose is raised by ADPAC to a particular document during the inspection of ADPAC's records based on privilege, the objection can be considered at a later date by a court without depriving the Commission of the opportunity to inspect the documents not alleged to be privileged. The inspection of the documents should be allowed to go forward without interruption and questions of privilege can be considered in a single proceeding after inspection. See generally, Young v. Motion Picture Association of America, Inc., 28 F.R.D. 2, 5-7 (D.D.C. 1961); Smith v. Crown Publishers, Inc., 14 F.R.D. 514 (S.D.N.Y. 1953).

III. Recommendation

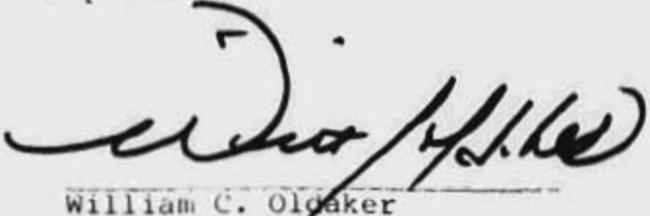
The motion to quash the subpoena filed by ADA should in all respects be denied. Staff should so notify ADA and advise it to comply on newly scheduled dates with the subpoena. Staff should be permitted to agree to certain general safeguards as to the inspection and copying of documents, provided that such safeguards do not infringe on or interfere with the requests for production.

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Should ADA fail to comply with the subpoena, we request authorization to institute a civil action pursuant to 2 U.S.C. § 437(d)(b) to achieve compliance.

Date

10/8/79


William C. Oldaker
General Counsel

Attachments:

- I - Motion to Quash
- II - Order

61000311452

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

TO: Mr. Robert O. Tiernan, Chairman
and the Members of the Federal Election Commission

MOTION OF AMERICAN DENTAL POLITICAL
ACTION COMMITTEE TO QUASH THE
SUBPOENA DUCES TECUM SERVED UPON
IT ON AUGUST 13, 1979

010004445
The AMERICAN DENTAL POLITICAL ACTION COMMITTEE ("ADPAC"),
by its undersigned attorney, hereby respectfully moves, pursuant
to Commission Rule 111.13, to quash the subpoena served upon it
on August 13, 1979. In support hereof, ADPAC sets forth both
general objections directed to the entire subpoena and specific
objections directed to each of the specifications in the subpoena.

GENERAL OBJECTIONS

1. ADPAC objects to this subpoena in that it seeks
materials related to the political activities and thoughts of
both ADPAC and its members, thus chilling the exercise of the
First Amendment rights to freedom of association and expression
of ADPAC and ADPAC's members.

2. ADPAC objects to this subpoena because it is author-
ized by a statutory and regulatory scheme which violates the
First Amendment rights of ADPAC and ADPAC's members.

3. ADPAC objects to this subpoena to the extent that it
infringes on any privileges held by ADPAC, including but not

limited to, the attorney-client privilege and the work-product doctrine.

4. ADPAC objects to all specifications as being burdensome and unreasonable in scope because they define no time period for the information requested.

5. ADPAC objects to this subpoena as being overly broad and seeking documents which are not relevant to the scope of the investigation as defined by the FEC.

OBJECTIONS TO PARTICULAR SPECIFICATIONS

Specification One. ADPAC objects to Specification One because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and because it infringes the First Amendment rights of freedom of association belonging to ADPAC and ADPAC's members.

Specification Two. ADPAC objects to Specification Two because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and because it infringes the First Amendment rights of freedom of association belonging to ADPAC and ADPAC's members.

Specification Three. ADPAC objects to Specification Three because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and

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because it infringes the First Amendment rights of freedom of association belonging to ADPAC and ADPAC's members.

Specification Four. ADPAC objects to Specification Four because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and because it infringes the First Amendment rights of freedom of association belonging to ADPAC and ADPAC's members.

Specification Five. ADPAC objects to Specification Five because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and because it infringes the First Amendment rights of freedom of association belonging to ADPAC and ADPAC's members.

Specification Six. ADPAC objects to Specification Six because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and because it infringes the First Amendment rights of freedom of association belonging to ADPAC and ADPAC's members.

Specification Seven. ADPAC objects to Specification Seven because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and because it infringes the First Amendment rights of freedom and association belonging to ADPAC and ADPAC's members.

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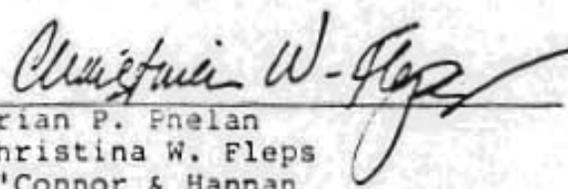
Specification Eight. ADPAC objects to Specification Eight because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and because it infringes the First Amendment rights of freedom of association belonging to ADPAC and ADPAC's members.

Specification Nine. ADPAC objects to Specification Nine because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and because it infringes the First Amendment rights of freedom of association belonging to ADPAC and ADPAC's members.

WHEREFORE, ADPAC respectfully requests that the subpoena be quashed.

AMERICAN DENTAL POLITICAL
ACTION COMMITTEE

By:


Brian P. Fnelan
Christina W. Fleps
O'Connor & Hannan
Attorneys for American Dental
Political Action Committee

O'CONNOR & HANNAN
1747 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
(202) 785-8700

Dated: August 17, 1979

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(1/10/77)
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LAW OFFICES

PETERSON, ROSS, SCHLOERB & SEIDEL

SUITE 7300

200 EAST RANDOLPH DRIVE

CHICAGO 60601

(312) 861-1400

CABLE EPALAW

TELEX NO 25-4161

GERHARD E. SEIDEL
ROBERT G. SCHLOERB
HENRY P. C. W. BARBER
RICHARD V. HENRY, JR.
J. HAYDEN MACDONALD
HERBERT C. LOTH, JR.
ELROY C. SANDQUIST, JR.
IRVING G. SWENSON
THEODORE J. TROUMAN
J. ROBERT GEIMAN
JOHN G. CAMPBELL
PETER M. SFIKAS
LAWRENCE X. PUSATERI
ROBERT SAXON MILNIREL
JOHN P. MOE

RICHARD S. BORLAND
RUSSELL M. PELTON, JR.
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RAYMOND J. JAST
MARK A. LUSCOMBE
F. DENNIS NELSON
MARY ALICE NOONE
CLAY KAINES PHILLIPS
WILLIAM F. RICHARDSON
LOUIS C. ROBERTS
JAMES A. SPANZINGER
JUDSON E. TOMLIN, JR.
MICHAEL P. TONE
JAMES D. WANGELIN
BARBARA L. WILCOX
KENT A. WILSON

ABE R. PETERSON
OWEN BALL
EDWARD D. LAPPERRE
OF COUNSEL

WALTER W. ROSS, JR.
OF COUNSEL

September 12, 1979

Mr. Robert Bogin
Federal Election Commission
1325 K Street NW
Washington, D.C. 20463

Re: MUR 769(78)

Dear Mr. Bogin:

This is to confirm our telephone conference of September 11, 1979 wherein we discussed the present due date, namely, September 17, 1979, for the return of the Federal Election Commission subpoena on the American Dental Association. I informed you that we were persisting in our motion to quash and therefore would not make a return of the subpoena on September 17, 1979.

This is also to confirm our conversation that we do wish to discuss with you generally at some point in time an effort to resolve our differences.

Very truly yours,

Peter M. Sfikas

PMS:kh
40457

PETERSON, ROSS, SCHLOERB & SEIDEL

200 EAST RANDOLPH DRIVE-SUITE 2300

CHICAGO, ILLINOIS 60601

Mr. Robert Bogin
Federal Election Commission
1325 K Street NW
Washington, D.C. 20463



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

September 4, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Peter M. Sfikas
Peterson, Ross, Schloerb & Seidel
200 East Randolph Drive, # 7300
Chicago, Illinois 60601

Re: MUR 769(78)

Dear Mr. Sfikas:

On August 23, 1979, the Commission voted to deny the American Dental Association's motion to quash or modify the Commission subpoena issued to the Association on July 19, 1979, and the Commission has directed the Office of General Counsel to proceed with attaining compliance with the subpoena. (See enclosed Commission order.) Therefore, the date for the production of documents originally scheduled for August 27, 1979, has been rescheduled for September 17, 1979.

Should you have any questions or conflicts concerning the production of the requested documents on the rescheduled date, please contact Robert Bogin, the attorney assigned to this matter, at (202) 523-4073.

Sincerely,

A handwritten signature in cursive script, appearing to read "William C. Oldaker".

William C. Oldaker
General Counsel

Enclosure

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	
American Dental Political)	MUR 769 (78)
Committee)	
California Dental Political)	
Action Committee)	

COMMISSION ORDER

The application of the American Dental Association to quash or modify the Commission subpoena issued on July 19, 1979, and served on August 1, 1979, is in all respects denied. Movants have failed to indicate that the investigation is not within the authority of the Commission, that the Commission's subpoenas are too indefinite, that the information sought is not reasonably relevant, that the inquiry is an infringement of its and its members' First Amendment rights or that the information is privileged from disclosure. The staff of the Office of General Counsel is directed to take all necessary and proper steps to insure that the requests contained in the subpoenas are fully complied with.

6103024460

8/23/79
Date

Robert O. Tiernan
Robert O. Tiernan, Chairman
Federal Election Commission

ATTEST:

for Margaret E. Chaney
Marjorie M. Emmons
Secretary to the Commission

BEFORE THE FEDERAL ELECTION COMMISSION

In the matter of)
)
American Dental Political) MUR 769
Action Committee)
California Dental Political)
Action Committee)

CERTIFICATION

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I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on August 22, 1979, the Commission determined by a vote of 4-1 to adopt the following recommendations, as set forth in the General Counsel's Report in Opposition to Motion to Quash or Modify Commission Subpoena, dated August 15, 1979, regarding the above-captioned matter:

1. The motion to quash or modify the subpoena filed by ADA should in all respects be denied.
2. The Commission should authorize the issuance of the proposed order, attached to the above-named report.
3. The staff should so notify ADA and advise it to comply on newly scheduled dated with the subpoena.
4. Staff should be permitted to agree to certain general safeguards as to the inspection and copying of documents, provided that such safeguards do not infringe on or interfere with the requests for production.

(Continued)

MUR 769
General Counsel's Report
in Opposition to Motion to
Quash or Modify Commission
Subpoena
Dated August 15, 1979
CERTIFICATION

Page 2

5. Should ADA fail to comply with the subpoena, we request authorization to institute a civil action, pursuant to 2 U.S.C. §437d(b), to achieve compliance.

Voting in the affirmative were Commissioners Harris, McGarry, Reiche, and Tiernan.

Commissioner Friedersdorf objected for the record.

Commissioner Aikens abstained on this matter.

Attest:

8-22-79

Date

Margaret E. Chaney
for Marjorie W. Emmons
Secretary to the Commission

Received in Office of Commission Secretary: 8-16-79, 9:55
Circulated on 48 hour vote basis: 8-16-79, 4:00

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RECEIVED
OFFICE OF THE
COMMISSION SECRETARY



FEDERAL ELECTION COMMISSION AUG 17 11:05

1325 K STREET N.W.
WASHINGTON, D.C. 20463

DATE AND TIME TRANSMITTED: 8-16-79, 4:00

COMMISSIONER AIKENS, FRIEDERSDORF, HARRIS, MCGARRY, REICHE, TIETJAN

RETURN TO OFFICE OF COMMISSION SECRETARY BY: AUGUST 20, 1979 - 4:00

MUR NO. 769 - General Counsel's Report in Opposition to Motion to Quash or Modify Commission Subpoena dated 8-15-79

() I approve the recommendation and issuance of ~~subpoena~~/order.

() I object to the recommendation and issuance of ~~subpoena~~/order.

COMMENTS:

Objection for the record only

Date: 8-16-79

Signature: Max L. Friedersdorf

THE OFFICE OF GENERAL COUNSEL WILL TAKE NO ACTION IN THIS MATTER UNTIL THE APPROVAL OF FOUR COMMISSIONERS IS RECEIVED. PLEASE RETURN ALL PAPERS NO LATER THAN THE DATE AND TIME SHOWN ABOVE TO THE OFFICE OF COMMISSION SECRETARY. ONE OBJECTION PLACES THE ITEM ON THE EXECUTIVE SESSION AGENDA.

August 16, 1979

MEMORANDUM TO: Marge Emmons
FROM: Elissa T. Garr
SUBJECT: MUR 769

Please have the attached Opposition to Motion to Quash in MUR 769 distributed to the Commission on a 48 hour tally basis.

Thank you.

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BEFORE THE FEDERAL ELECTION COMMISSION

79 AUG 16 9:55

In the Matter of)	
)	
American Dental Political)	MUR 769 (78)
Action Committee)	
California Dental Political)	
Action Committee)	

General Counsel's Report in Opposition to Motion to Quash or Modify Commission Subpoena

I. Summary of Proceeding

Pursuant to its investigation of possible affiliation between the American Dental Political Action Committee (ADPAC) and the California Dental Political Action Committee (CALDPAC), the Commission on July 19, 1978, issued subpoenas for the production of documents to ADPAC, CALDPAC, and their parent organizations, the American Dental Association (ADA) and the California Dental Association (CDA). The subpoenas directed the addressee or the person having custody of the respective group's records to produce documents in connection with the Commission's investigation. The subpoena to ADA was received on August 1, 1978. ^{1/}

On August 6, 1978, a motion by ADA to quash or modify its subpoena was received by the Commission. (See Attachment). ADA asserts in support of its motion that the Commission's inquiry is beyond its statutory authority, compliance will be unduly burdensome, and the information sought is not relevant to the Commission's duties and is an infringement of its and its members First Amendment rights. In addition, ADA poses

^{1/} The subpoenas to ADPAC, CDA and CALDPAC were either delayed or lost by the post office. CALDPAC has recently received its subpoena and has stated that it will comply with the subpoena. New subpoenas have been sent to ADPAC and CDA.

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certain technical objections based on privilege.

For the reasons set forth hereinafter, we believe that ADA's arguments are without merit. Accordingly, we recommend that the motion to quash or modify be denied.

II. Legal Analysis

A. Statutory Authority, Relevance and Burdensomeness

In General Objection 3, ADA asserts that since it is a non-profit corporation organized to advance the art and science of dentistry, the Commission does not have the statutory authority to subpoena its records. Furthermore, in General Objection 5 and 6 and in all Specific Objections, ADA asserts that the subpoena is unduly burdensome and that the information sought is not relevant to the Commission's duties. These assertions are unfounded. As required, the Commission's inquiry is within the scope of the agency's authority, compliance with the subpoena is not unduly burdensome, and the information sought is reasonably relevant to the objectives of the investigation.

United States v. Morton Salt Co., 338 U.S. 632 (1950); Oklahoma Press Publishing Co. v. Walling, 327 U.S. 186 (1946). The Commission clearly has the statutory authority to subpoena ADA's records pertaining to its political activities. The Commission is charged with administering, enforcing and interpreting the Federal Election Campaign Act of 1971, as amended and chapters 95 and 96 of the Internal Revenue Code of 1954. The Commission has exclusive primary jurisdiction with respect to the civil enforcement of these provisions

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2 U.S.C. § 437c(b), and has the power to require by subpoena the production of all documentary evidence relating to the execution of its duties. 2 U.S.C. § 437d(a)(3).

The information the Commission is seeking is reasonably relevant to the objectives of its investigation into the question of possible affiliation between ADPAC and CALDPAC. Any assertion that the scope of the Commission's inquiry is limited to the political action committee of ADA is an overly restrictive view of the Commission's investigatory powers. The scope of the subpoena involves a concern whether contributions made by the separate political committees established by a professional association and its related state entities must be subject to a common contribution limitation. See House Conference Report, No. 94-1057, 94th Cong., 2nd Sess., p. 58; see also § 110.3(a)(1)(D) of the Commission's Regulations. An investigation of this issue must necessarily focus on the relationship of the professional association to its political committees.

The Commission need not modify the subpoena as requested by ADA so as to provide "a specific subject matter for the subpoena specifications." Such a request overly constricts the Commission's inquiries. At the investigative state, the Commission's requests need not be restricted to a particular theory of a possible violation. FTC v. Texaco, Inc., 555 F.2d 862 (D.C. Cir. 1977) en banc, cert. denied, 431 U.S. 974(1977). Nor would it be appropriate for ADA to determine which

documents might contain relevant evidence for the Commission's investigation. EEOC v. University of New Mexico, 504 F.2d 1296, 1300 (10th Cir. 1974). All the requested documents may contain relevant information about the political activities of ADA and its relationship to other dental associations, ADPAC and other political action committees. The Commission need not specify precisely the subject matter it requires for its inquiry.

Compliance with the Commission's subpoena is not unduly burdensome or unreasonably broad, nor has ADA made any showing that compliance with the Commission's subpoena would disrupt the normal operations of its business.

Some burden on subpoenaed parties is to be expected and is necessary in furtherance of the agency's legitimate inquiry and the public interest. The burden of showing that the request is unreasonable is on the subpoenaed party. Further, that burden is not easily met where, as here, the agency inquiry is pursuant to a lawful purpose and the requested documents are relevant to that purpose. Broadness alone is not sufficient justification to refuse enforcement of a subpoena. Thus courts have refused to modify investigative subpoenas unless compliance threatens to unduly disrupt or seriously hinder normal operations of a business.

FTC v. Texaco, supra, 555 F.2d at 882. Thus, ADA's bare assertions that compliance with the Commission's subpoena would be unduly burdensome is not sufficient to warrant quashing the subpoena in question.

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B. First Amendment

ADA objects to the Commission subpoena as an infringement of its and its members First Amendment rights because the Commission is allegedly seeking materials related to the political activities and thoughts of both ADA and its members. (General Objection 1; Specific Objection 1, 2, 4, 5, 6, 7, 8, 9, and 11). The Commission is not seeking the membership records of ADA, (NAACP v. Alabama 357, U.S. 449 (1958)); or the identity of individual contributors (Pollard v. Roberts, 283 F.Supp. 248 (E.D. Ark. 1968), aff'd., 393 U.S. 14 (1968)), but only seeks information concerning the relationship of ADA to its political action committee, state dental associations and state dental political action committees. The subpoenaing of ADA's documents presents no First Amendment problems. Even assuming that there are legitimate First Amendment concerns, those concerns must be weighed with the public interest. See generally Buckley v. Valeo, 424 U.S. 1 (1976) (which upheld the contributor disclosure requirements of the Act in spite of appellants' First Amendment claims,) and SEC v. Wall Street Transit Corp., 422 F.2d 1371 (2d Cir. 1970), cert. denied, 398 U.S. 958 (1970), (which held that disclosure requirements are not automatically invalidated by a "chilling effect" on speech). Thus, any indirect infringement on ADA's or its members First Amendment rights would be outweighed by the public's right to know.

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C. Privileges

ADA moves to quash the Commission's subpoena on the theory that some of the requested documents are privileged from disclosure. General Objection 2 and 4.

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ADA cites Wearly v. FTC, 462 F.Supp. 589 (D.N.J. 1978) for the proposition that requiring ADA to divulge the subpoenaed material which can then be released to the public via the Freedom of Information Act will be violative of ADA's due process rights. This proposition is unfounded. ADA's due process rights can be violated only if the documents to be subpoenaed contain trade secrets which are subsequently released to the public. There is no claim by ADA that the subpoenaed documents contain trade secrets; however, assuming the requested documents do contain trade secrets, the Freedom of Information Act exempts their disclosure to the public. 5 U.S.C. § 552(b)(4). Without a showing that the requested documents contain trade secrets and the additional showing that the Commission will disregard the statutory mandate of the Freedom of Information Act, there exists no basis to quash the subpoena. Wearly v. FTC, supra, 462 F.Supp. at 604. Should the requested documents contain trade secrets or other privileged information, arrangements can be made to adequately safeguard disclosure.

ADA also objects to the subpoena on the theory that some of the documents might infringe on privileges held by ADA

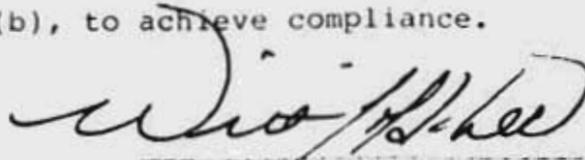
such as the attorney-client privilege and the work-product doctrine. The mere fact that some documents might be privileged from disclosure is not sufficient reason to quash. If an objection to disclose is raised by ADA to a particular document during the inspection of ADA's records based on privilege, the objection can be considered at a later date by a court without depriving the Commission of the opportunity to inspect the documents not alleged to be privileged. The inspection of the documents should be allowed to go forward without interruption and questions of privilege can be considered in a single proceeding after inspection. See generally Young v. Motion Picture Association of America, Inc., 28 F.R.D. 2, 5-7 (D.D.C. 1961); Smith v. Crown Publishers, Inc., 14 F.R.D. 514 (S.D.N.Y. 1953).

III. Recommendation

The motion to quash or modify the subpoena filed by ADA should in all respects be denied and the Commission should authorize the issuance of the attached proposed Order. Staff should so notify ADA and advise it to comply on newly scheduled dates with the subpoena. Staff should be permitted to agree to certain general safeguards as to the inspection and copying of documents, provided that such safeguards do not infringe on or interfere with the requests for production.

Should ADA fail to comply with the subpoena, we request authorization to institute a civil action, pursuant to 2 U.S.C. § 437d(b), to achieve compliance.

8/15/79
Date


William C. Oldaker
General Counsel

Attachments:
Authorization to Issue Order
Proposed Order

61050249473



FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20463

AUTHORIZATION TO ISSUE ORDER

The Commission hereby authorizes the issuance of an order to the following person in connection with MUR 769 (79):

Joseph P. Cappuccio, President
American Dental Association
211 East Chicago Avenue
Chicago, Illinois 60611

Robert O. Tiernan
Chairman

Thomas E. Harris
Commissioner

Max L. Friedersdorf
Vice Chairman

John W. McGarry
Commissioner

Joan D. Aizens
Commissioner

Frank R. Reiche
Commissioner

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LAW OFFICES

MILLER & MANDEL

A PROFESSIONAL CORPORATION

555 SOUTH FLOWER STREET - SUITE 4170
LOS ANGELES, CALIFORNIA 90071
(213) 485-8771

PALM SPRINGS OFFICE

1255 EAST RAMON ROAD
PALM SPRINGS, CALIFORNIA 92262
(714) 320-1145

JESSE D. MILLER
S. JEROME MANDEL
PETER H. MASON
KURT R. BLOEDEL
DOUGLAS W. STERN

August 21, 1979

Mr. Robert O. Tiernan
Chairman, Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: Subpoena Directed to Henry L. Ernstthal,
Executive Director of California Dental
Association

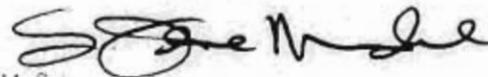
Dear Mr. Tiernan:

This firm is legal counsel to the California Dental Association (hereinafter "CDA"). As I am sure you are aware, on July 19, 1979 a subpoena was issued under your signature directing Henry L. Ernstthal to produce various documents to representatives of the Federal Election Commission on September 17, 1979. The subpoena has been reviewed by our client and referred to our office for reply.

At the onset you should be advised that Mr. Ernstthal is not presently the Executive Director of CDA, and in fact has not held that position for many months. Notwithstanding the fact that your subpoena is erroneously directed to Mr. Ernstthal, we are filing a response on behalf of CDA itself.

Enclosed herewith you will find for filing an original and three copies of an Application to Quash and/or Modify the Subpoena which was received by CDA on August 17, 1979. Would you kindly conform one copy and return it to this office in the envelope provided. As you will see, CDA has requested the opportunity to present oral argument to the Federal Election Commission in regard to this Application.

Very truly yours,



JE : 21d 8290V S. Jerome Mandel

SJM:cr
Enclosures

cc: Dale F. Redig, D.D.S.

510304:47

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8 UNITED STATES OF AMERICA
9 FEDERAL ELECTION COMMISSION
10

11 _____)
12 In the Matter of)
13 CALIFORNIA DENTAL ASSOCIATION)
14 _____)

15
16 APPLICATION OF THE CALIFORNIA DENTAL
17 ASSOCIATION TO QUASH AND/OR MODIFY SUBPOENA;
18 MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT
19 THEREOF; AFFIDAVIT OF DALE F. REDIG, D.D.S.
20

21 Comes now Applicant California Dental Association (hereinafter
22 "CDA") pursuant to Title 11, Section 111.13 of the Code of Federal
23 Regulations, moving that the Federal Election Commission (herein-
24 after the "Commission") quash and/or modify that subpoena osten-
25 sibly served upon CDA on August 17, 1979. This Application is
26 based upon the grounds that said subpoena is indefinite and over-
27 broad, that it calls for the production of wholly irrelevant docu-
28 ments and materials, that compliance with the subpoena will be

1 overly burdensome and oppressive, that the subpoena infringes upon
2 the First Amendment rights of CDA and its members, that the Fed-
3 eral Election Commission has no jurisdiction over CDA because of
4 its nonprofit status, that the absence of any protective orders or
5 provisions deny CDA due process of law, and that production might
6 infringe upon the attorney-client privilege.

7 Notwithstanding the fact that the subpoena is directed to
8 Mr. Henry L. Ernstthal, who is no longer associated with CDA, CDA
9 files this Application on behalf of itself and its present Execu-
10 tive Director.

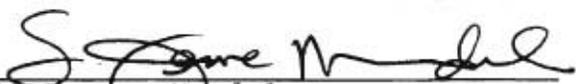
11 Said Application is based upon the accompanying Memorandum of
12 Points and Authorities, the accompanying Affidavit of Dale F. Redig,
13 D.D.S., and upon such further oral or documentary evidence which
14 may be presented by CDA if afforded the opportunity to be heard on
15 this matter.

16 CDA respectfully requests the opportunity to present oral ar-
17 guement in support of this Application.

18 Respectfully submitted,

19 MILLER & MANDEL
20 A Professional Corporation

21 DATED: August 21, 1979

22 By: 
23 S. Jerome Mandel
24 Attorneys for California
25 Dental Association
26
27
28

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16 MEMORANDUM OF POINTS AND AUTHORITIES
17 IN SUPPORT OF APPLICATION TO QUASH
18 AND/OR MODIFY SUBPOENA

19
20 I

21 INTRODUCTION

22 Applicant California Dental Association (hereinafter "CDA")
23 hereby files this Application to Quash and/or Limit Subpoena
24 pursuant to Title 11, Section 111.13 of the Code of Federal
25 Regulations. Said application is necessitated because the sub-
26 poena ostensibly served upon CDA by the Federal Election Commis-
27 sion (hereinafter the "Commission") on August 17, 1979 is
28 objectionable by its very terms, in that it is indefinite and

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1 overbroad, seeks the production of documents and materials
2 wholly irrelevant to any possible investigation being conducted
3 by the Commission, is burdensome and oppressive, infringes upon
4 the First Amendment rights of CDA and its members, that the
5 Commission has no jurisdiction over CDA, a non-profit corporation,
6 that compliance with the subpoena may transgress the attorney-
7 client privilege, and that production of documents, in the
8 absence of appropriate protective orders may deny to CDA due
9 process of law.

10 As stated throughout this memorandum, compliance with this
11 subpoena is not justified in light of the fact that CDA has not
12 been informed of the true nature and scope of the investigation
13 presently being conducted by the Commission. As can be seen
14 from the accompanying Declaration of Dale F. Redig, D.D.S., the
15 failure of the Commission to provide to CDA adequate guidelines
16 from which CDA can determine the relevant scope of the investi-
17 gation is compounded by the fact that CDA will be compelled to
18 review virtually every document in its possession and control in
19 order to sufficiently comply with the subpoena as it is pre-
20 sently stated. As CDA submits in the discussion which follows,
21 the nature of the subpoena served by the Commission requires
22 that the subpoena be quashed and/or modified.

23 II

24 THE SUBPOENA IS NOT ENFORCEABLE

25 SINCE IT IS TOO INDEFINITE, OVERBROAD,

26 AND SEEKS PRODUCTION OF IRRELEVANT DOCUMENTS

27 It is a well established provision in Federal Law that
28 subpoenas issued by administrative agencies and commissions must

1 comply with certain minimal requirements before those subpoenas
2 may be enforced. United States Equal Employment Opportunity
3 Commission v. General Electric Company Medical Systems, 447
4 F.Supp. 978 (E.D. Wisc. 1978). Where an individual upon whom a
5 subpoena is served is unable to determine what documents or
6 materials are subject to production, where the categories of
7 documents requested go beyond the parameters of relevant issue
8 areas, or where the categories in their entirety have no conceiv-
9 able relationship to the nature and conduct of an administrative
10 investigation, then such subpoenas are clearly unenforceable.
11 L.I. duPont de Nemours & Co. v. Finklea, 442 F.Supp. 821 (S.D.
12 W. Va. 1977). There is no better example of a subpoena which
13 fails to comply with the minimal judicial standards for enforce-
14 ability than that subpoena served by the Commission upon CDA.
15 As detailed in the following discussion of each specification,
16 the subpoena at issue herein seeks documents which pertain to
17 virtually every activity conducted by CDA, activities which in
18 almost every instance are entirely irrelevant to the responsibil-
19 ities and duties of the Commission.

20
21 Specification 1

22 This specification purports to seek production of all
23 documents relating to the establishment and history of the state
24 "Dental Political Action Committee," the circumstances leading
25 to its formation and the roles played by various individuals and
26 entities in the foundation of the State PAC. The very nature of
27 this request would require production of every document CDA may
28 possess pertaining to the State PAC since any such documents

1 would, by definition, involve in some fashion the activities of
2 the State PAC, and, therefore, its history. It is imagined that
3 this specification may seek those few and specific documents, if
4 any, which give some historical perspective and recitation of
5 the background events and development of the State Political
6 Action Committee. However, as presently phrased, the specifi-
7 cation literally calls for every document relating to the history
8 of such developments, which means all documents pertaining to
9 the Political Action Committee without limitation. Clearly,
10 such a request defies definition, is overbroad and seeks the
11 production of irrelevant materials.

12
13 Specification 2

14 This specification seeks production of all articles of
15 incorporation, constitutions, bylaws, procedural manuals, and
16 other rules and regulations of CDA. Articles of incorporation
17 and bylaws are sufficiently defined categories. However, it is
18 impossible to determine what documents fall under the headings
19 "procedural manuals or other rules and regulations." CDA has a
20 myriad of activities for which documents equivalent to pro-
21 cedural manuals or rules and regulations have been promulgated.
22 Such documents include, for example, its peer review manual and
23 its Code of Ethics. It is inconceivable that the Commission
24 seeks production of the manual which guides the operations of
25 voluntary peer review committees throughout California. Not
26 even a strained argument can be stated to show the relevance of
27 such documents. Yet, specification 2 seeks the production of
28 all CDA procedural manuals and rules and regulations, whether

1 or not they are remotely related to activities which are reviewed
2 under the Commission's jurisdiction. This specification, in its
3 broad brush scope, is, in most parts, simply and unequivocally
4 overbroad and calls for production of irrelevant materials.
5

6 Specification 3

7 Specification 3 seeks all CDA documents pertaining to the
8 setting, solicitation and deposit of CDA membership dues. Once
9 again, the Commission's request is so broadly drafted that
10 compliance is impossible. Under this category, CDA would be
11 compelled to produce every piece of documentation pertaining to
12 the general category of membership dues, including bills to
13 members, deposit slips and all other communications regarding
14 each individual member's dues paying status. Clearly, such
15 documentation cannot be desired by the Commission. In a cover
16 letter to CDA, the general counsel to the Commission stated that
17 the Commission is investigating whether the "California Dental
18 Political Action Committee and the American (sic) Political
19 Action Committee are affiliated." CDA submits that the manner
20 by which it establishes the amount of its dues and solicits
21 their collection from its members is entirely irrelevant to the
22 investigation stated by the general counsel.
23

24 Specification 4

25 Specification 4 relates to communications between CDA and
26 various entities (ADPAC, ADA, State Political Action committees)
27 concerning the collection and transmittal of dues. As stated in
28 the response to Specification 3, this highly overbroad inquiry

1 into the manner by which CDA collects and receives its dues can
2 have no bearing upon any investigation conducted by the Commis-
3 sion. This specification not only requires the production of
4 thousands of irrelevant documents pertaining to individual
5 issues of dues collection for many of CDA's 13,000 members, but
6 is also so vague and indefinite that CDA cannot reasonably
7 determine exactly which documents are requested. The specifica-
8 tion seeks materials relating to the transmittal of dues, but it
9 fails to state what types of transmittal transactions are relevant.
10 Certainly, the Commission cannot find as relevant those documents
11 which pertain to a component society's efforts to collect and
12 achieve transmittal of dues from its individual members. Yet,
13 the broad scope of this specification encompasses every single
14 document pertaining to such individualized transactions.
15 Accordingly, this specification is overbroad and calls for the
16 production of irrelevant documents.

17
18 Specification 5

19 This request for production of documents calls for materials
20 relating to the operating expenses of CDA or the State Political
21 Action Committee. The absurdity of this specification is
22 apparent without great analysis. Under the terms of this request,
23 every bill received for office supplies, every check payable for
24 salaries, every document pertaining to CDA's conventions and
25 scientific seminars, from which funds are raised, in fact, every
26 document pertaining to CDA's financial operations are called for
27 in this specification. It escapes all concepts of reason to
28 ascertain how such a massive request for documents can relate in

1 any sense to an investigation regarding the alleged affiliation
2 between the "California Dental Political Action Committee and
3 the American Dental Political Action Committee." Without waiving
4 any objections as to the relevancy of this request in its entirety,
5 CDA submits that this specification could have been drawn with a
6 reasonable particularity to avoid the overwhelming nature of the
7 request as it is presently stated.

8
9 Specification 6

10 Specification 6 seeks the production of documents pertaining
11 to workshops or seminars sponsored by CDA or a number of other
12 entities listed in the request. As stated in the accompanying
13 Affidavit of Dale F. Redig, D.D.S., CDA has ten (10) standing
14 councils through which extensive and highly diversified activi-
15 ties are conducted. Each of these councils conducts workshops
16 and seminars of some nature, and virtually all such conferences
17 have absolutely no relationship to any conceivable object of
18 investigation within the jurisdiction of the Commission. Yet,
19 the specification proceeds on the unfounded assumption that
20 CDA's activities in the area of dental education, public health,
21 scientific affairs, etc. are related to the underlying investi-
22 gation as to which this subpoena was issued. This assumption
23 cannot be supported under any construction of relevancy. The
24 Commission cannot sanction the blatant and ill-conceived attempt
25 to gain access to virtually every CDA document no matter how
26 remote and unattached such documents may be to the issues presently
27 under consideration.
28 //

1 Specification 7

2 In Specification 7 the Commission requests the production
3 of documents between CDA and several different entities concerning
4 various issue areas such as political candidates, contributions,
5 voting records and campaign contribution reporting requirements.
6 Although this request is drafted with a degree of particularity
7 absent from the other specifications, CDA submits that this
8 category of documents is overbroad in scope and coverage. The
9 jurisdiction of the Commission is concerned with violations of
10 and conformity with the Federal Election Campaign Act. That Act
11 addresses, in the main, the issues of campaign contributions to
12 federal elections and the limitations on such contributions.
13 Neither the Act nor the Commission has established authority to
14 go beyond these specific issue areas to investigate the mere
15 exchange of information between entities regarding the qualifi-
16 cations of a candidate for federal public office. Yet, portions
17 of Specification 7 call for production of documents which pertain
18 directly to this exchange of information. Not only does such a
19 request go beyond the scope of relevancy and the Commission's
20 jurisdiction, but the request has the added effect of chilling
21 the channels of exchange and communication otherwise protected
22 under the First Amendment guarantees. CDA submits that the
23 scope of Specification 7 would, if enforcement is permitted,
24 unduly restrict the lawful and protected exchange of political
25 information between individuals and entities.

26
27 Specification 8

28 The scope of Specification 8 best exemplifies the overbroad

1 nature of this subpoena. Through this request, the Commission
2 seeks all minutes, reports and materials of any meeting of CDA's
3 Board of Trustees. This specification establishes no limitation
4 as to reports or minutes of meetings where issues of concern to
5 the Commission were discussed. Rather, what is sought are all
6 reports and minutes of meetings of the Board of Trustees without
7 regard to whether or not such meetings dealt with issues of
8 relevance to the underlying investigation conducted by the
9 Commission. As stated above and in the accompanying Affidavit
10 of Dale F. Redig, D.D.S., CDA conducts hundreds of activities
11 and has countless responsibilities totally unrelated to the
12 jurisdictional purview of this Commission. These activities are
13 discussed in meetings of CDA's Board of Trustees and reports on
14 such activities are embodied in presentations made to the Board
15 on a regular basis by CDA's ten (10) standing councils. It is
16 abundantly clear, therefore, that the minutes and reports of
17 the meetings of CDA's Board of Trustees have, in virtually every
18 instance, no connection with the Commission's investigation. It
19 is equally apparent that there is no justification to require
20 CDA to produce such documents which are beyond the scope of
21 reasonable and relevant production. Specification 8 is, without
22 question, overbroad and calls for production of irrelevant
23 materials, and upon that basis, is unenforceable.

24 III

25 COMPLIANCE WITH THE SUBPOENA WILL BE
26 UNDULY BURDENSOME AND OPPRESSIVE

27 In addition to the previously stated requirements that an
28 administrative subpoena must not be indefinite, overbroad, or

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1 call for production of irrelevant materials, neither may a sub-
2 poena be so all encompassing in scope as to render compliance
3 therewith unduly burdensome and oppressive. Yet, the overbreadth
4 of the subpoena at issue herein is so substantial that in order
5 to achieve compliance CDA will suffer undue burden. As enun-
6 ciated in the accompanying Affidavit of Dale F. Redig, D.D.S.,
7 the review of documents that will be necessitated by this sub-
8 poena will cause CDA to effectively shut down its operation for
9 a significant period of time. The burden created by compliance
10 with the subpoena is compounded by the fact that a substantial
11 portion of the subpoena so clearly calls for the production of
12 unquestionably irrelevant materials. CDA submits that in light
13 of the fact that compliance will cause it substantial and
14 unjustified hardship, and in consideration of the clearly irre-
15 levant and overbroad scope of the subpoena, the Commission quash
16 or significantly modify the subpoena.

17 IV

18 THE SUBPOENA, IF ENFORCED, WILL CHILL

19 THE FIRST AMENDMENT RIGHTS

20 OF CDA AND ITS MEMBERS

21 A further consequence of the subpoena directed to CDA is
22 that its scope is so broad and all encompassing that the enforce-
23 ment thereof will inevitably curtail the lawful rights of CDA
24 and its members to freely exchange information and opinions.
25 For example, as stated above in response to Specification 7, the
26 subpoena calls for the production of documents concerning the
27 exchange of information between CDA and other individuals or
28 entities about political campaigns and candidates. The compulsion

1 to publicly disclose the views which may be embodied in such
2 documents would clearly chill the exercise of the right to hold
3 and adopt such views guaranteed under the First Amendment.
4 Furthermore, a subpoena of this overbroad nature would inhibit
5 the free expression and exchange of ideas within CDA concerning
6 other areas of activity wholly unconnected to the political
7 sphere, when individual members determine that anything they may
8 do or say is subject to government review regardless of whether
9 their activities are related in any manner to specific govern-
10 mental investigations.

11 V

12 THE SUBPOENA HAS BEEN

13 IMPROPERLY SERVED UPON CDA

14 The subpoena which was received by CDA on August 17, 1979
15 was addressed to Henry L. Ernstthal as the Executive Director of
16 CDA. Such service, however, is improper since Mr. Ernstthal is
17 not the Executive Director of CDA and has not been affiliated
18 with CDA for at least eight months. Although CDA has responded
19 to the subpoena despite improper service in order to preserve
20 its rights, CDA has not waived and does contest the manner of
21 service attempted by the Commission.

22 VI

23 FURTHER OBJECTIONS

24 In addition to those objections raised above, CDA further
25 submits that the Commission, pursuant to the extent of its
26 statutory jurisdiction as stated in the Federal Election Cam-
27 paign Act, 2 U.S.C. §431, et seq., has no jurisdiction over CDA
28 because of CDA's non-profit corporate status. In addition,

1 given the nature and scope of the subpoena, said subpoena will
2 be unenforceable until such time as appropriate protective
3 orders are entered which will acknowledge the attorney-client
4 privilege, and which will ensure that the confidentiality of
5 these documents will be preserved with full regard for the due
6 process rights of CDA.

7 VII

8 CONCLUSION

9 Based upon the foregoing discussion, and in recognition of
10 the facts that the subpoena directed towards CDA is blatantly
11 overbroad in scope and application, calls for production of
12 irrelevant materials, will cause CDA undue burdens to comply
13 therewith, will chill the free exchange of ideas by CDA and its
14 members, and fails to adequately afford CDA its common law
15 rights and privileges, CDA asserts that this subpoena be quashed
16 and/or modified.

17 Respectfully submitted,

18 MILLER & MANDEL
19 A Professional Corporation

20 DATED: August 21, 1979

21 By 
22 S. JEROME MANDEL
23 Attorneys for California
24 Dental Association
25
26
27
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15 AFFIDAVIT OF

16 DALE F. REDIG, D.D.S.

17 I, Dale F. Redig, being first duly sworn, depose and say:

18 1. I am the Executive Director of the California Dental Asso-
19 ciation (hereinafter "CDA"). I have served in that capacity since
20 July of 1978.

21 2. CDA, a nonprofit corporation, is the primary voluntary as-
22 sociation for dentists licensed and practicing in the State of
23 California. Its membership presently exceeds 13,000 members.

24 3. The purposes of CDA are set forth in its Articles of In-
25 corporation and its Bylaws. The purposes, as set forth in the Ar-
26 ticles of Incorporation, are "to promote high professional standards
27 in the practice of dentistry; to encourage and promote the improve-
28 ment of the health of the public; and to promote the art and science

1 of dentistry as a profession." Furthermore, the Bylaws of CDA state
2 that "the objectives of this Association shall include the improve-
3 ment of the health of the public and promotion of the art and sci-
4 ence of dentistry, and shall otherwise be as specified in the Arti-
5 cles of Incorporation."

6 4. In the furtherance of these general goals and purposes de-
7 scribed above, CDA operates ten (10) councils which are designed to
8 address a variety of issues and activities related to the profes-
9 sion of dentistry. These councils include the Council on Dental
10 Care, Council on Dental Education, Council on Dental Health, Coun-
11 cil on Hospital Affairs, Judicial Council, and Council on Scienti-
12 fic Affairs and Research. Each of these councils, as well as others
13 not listed, makes regular and extensive reports to CDA's Board of
14 Trustees.

15 5. The scope of activities conducted by CDA, as reflected in
16 the nature of its standing councils, is highly diversified and ex-
17 tends to such issues as the general dental health of the public,
18 continuing dental education for practitioners, peer review evalua-
19 tion, and judicial affairs.

20 6. On August 17, 1979, CDA received by certified mail a sub-
21 poena issued by the Federal Election Commission. Said subpoena,
22 directed to Henry Ernstthal, who no longer is associated with CDA,
23 contains eight (8) specifications of documents to be produced at
24 the CDA offices on September 17, 1979.

25 7. Upon receipt of the subpoena I reviewed the specifications
26 contained therein. After completion of this review, I reached the
27 unqualified conclusion that in order to determine which documents
28 are responsive to the specifications enumerated in the subpoena it

1 will be necessary for me and the staff of CDA to review literally
2 tens of thousands of documents which, in all likelihood, will cons-
3 titute over one-quarter of a million pages. This endeavor will re-
4 quire several weeks of intensive and full-time review by the CDA
5 staff, and will therefore substantially curtail the day-to-day op-
6 erations normally conducted by CDA.

7 8. The specification of documents set forth in the subpoena,
8 if read literally, will require the production of tremendous num-
9 bers of documents which have absolutely nothing to do with any Fed-
10 eral election or political activity of any kind or nature. These
11 would include documents from 1972 dealing with ethical standards of
12 dentists who are members of CDA, massive documents on continuing
13 education programs, on areas dealing exclusively with dentistry or
14 dental oriented problems, all operating expenses of CDA (of any na-
15 ture whatsoever), all banking transactions pertaining to dues, and
16 all materials of any nature whatsoever that pertain to all meetings
17 of the CDA Board of Trustees regardless of the topics discussed.
18 The preponderance of these documents, thousands in number, simply
19 have nothing to do with elections, political activities or politi-
20 cal contributions.

21 9. In addition to the tremendous burden of compliance with
22 the subpoena, as that subpoena is presently structured, CDA's oper-
23 ations will be severely restricted since many of the documents to be
24 reviewed in compliance with the subpoena are also used in CDA's on-
25 going activities.

26 10. The "dental political action committee" as referred to in
27 the definitions contained in the subpoena, is known in the State of
28 California as CAL-D-PAC. CAL-D-PAC is a separate and distinct en-

1 tity from CDA, and, as such, any inquiry as to the relationship be-
2 tween CAL-D-PAC and the American Dental Political Action Committee
3 ("ADPAC") has no bearing upon, and no relevance to, the activities
4 and operations of CDA.

5 11. Compliance with the subpoena served on August 17, 1979,
6 as that subpoena is presently structured, will result in a tremen-
7 dous expenditure of CDA's time and financial resources and will
8 create an undue burden upon CDA's activities. If CDA is compelled
9 to review and produce those documents specified in the subpoena,
10 CDA will incur a substantial and undue hardship which will deplete
11 its fiscal resources and detract from the conduct and achievement
12 of its major activities and goals.

13
14
15 Dale F. Redig, D.D.S.
16 Dale F. Redig, D.D.S.
17 Executive Director,
California Dental Association

18 State of California)
19 County of Los Angeles) ss.
20)

21 On August 21, 1979 before me a Notary Public for the State of
22 California, personally appeared Dale F. Redig, D.D.S., known to me
23 to be the person whose name is subscribed to this instrument, and
24 acknowledged to me that he executed this instrument.



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J. Gayle Roberts
Notary Public
In and for said County and State

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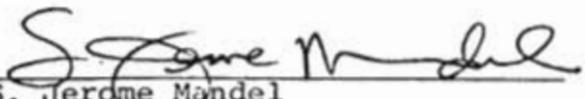
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24 Attorneys for California
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12 been informed of the true nature and scope of the investigation
13 presently being conducted by the Commission. As can be seen
14 from the accompanying Declaration of Dale F. Redig, D.D.S., the
15 failure of the Commission to provide to CDA adequate guidelines
16 from which CDA can determine the relevant scope of the investi-
17 gation is compounded by the fact that CDA will be compelled to
18 review virtually every document in its possession and control in
19 order to sufficiently comply with the subpoena as it is pre-
20 sently stated. As CDA submits in the discussion which follows,
21 the nature of the subpoena served by the Commission requires
22 that the subpoena be quashed and/or modified.

23 II

24 THE SUBPOENA IS NOT ENFORCEABLE

25 SINCE IT IS TOO INDEFINITE, OVERBROAD,

26 AND SEEKS PRODUCTION OF IRRELEVANT DOCUMENTS

27 It is a well established provision in Federal Law that
28 subpoenas issued by administrative agencies and commissions must

1 comply with certain minimal requirements before those subpoenas
2 may be enforced. United States Equal Employment Opportunity
3 Commission v. General Electric Company Medical Systems, 447
4 F.Supp. 978 (E.D. Wisc. 1978). Where an individual upon whom a
5 subpoena is served is unable to determine what documents or
6 materials are subject to production, where the categories of
7 documents requested go beyond the parameters of relevant issue
8 areas, or where the categories in their entirety have no conceiv-
9 able relationship to the nature and conduct of an administrative
10 investigation, then such subpoenas are clearly unenforceable.
11 E.I. duPont de Nemours & Co. v. Finklea, 442 F.Supp. 821 (S.D.
12 W. Va. 1977). There is no better example of a subpoena which
13 fails to comply with the minimal judicial standards for enforce-
14 ability than that subpoena served by the Commission upon CDA.
15 As detailed in the following discussion of each specification,
16 the subpoena at issue herein seeks documents which pertain to
17 virtually every activity conducted by CDA, activities which in
18 almost every instance are entirely irrelevant to the responsibil-
19 ities and duties of the Commission.

20
21 Specification 1

22 This specification purports to seek production of all
23 documents relating to the establishment and history of the state
24 "Dental Political Action Committee," the circumstances leading
25 to its formation and the roles played by various individuals and
26 entities in the foundation of the State PAC. The very nature of
27 this request would require production of every document CDA may
28 possess pertaining to the State PAC since any such documents

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1 would, by definition, involve in some fashion the activities of
2 the State PAC, and, therefore, its history. It is imagined that
3 this specification may seek those few and specific documents, if
4 any, which give some historical perspective and recitation of
5 the background events and development of the State Political
6 Action Committee. However, as presently phrased, the specifi-
7 cation literally calls for every document relating to the history
8 of such developments, which means all documents pertaining to
9 the Political Action Committee without limitation. Clearly,
10 such a request defies definition, is overbroad and seeks the
11 production of irrelevant materials.

12
13 Specification 2

14 This specification seeks production of all articles of
15 incorporation, constitutions, bylaws, procedural manuals, and
16 other rules and regulations of CDA. Articles of incorporation
17 and bylaws are sufficiently defined categories. However, it is
18 impossible to determine what documents fall under the headings
19 "procedural manuals or other rules and regulations." CDA has a
20 myriad of activities for which documents equivalent to pro-
21 cedural manuals or rules and regulations have been promulgated.
22 Such documents include, for example, its peer review manual and
23 its Code of Ethics. It is inconceivable that the Commission
24 seeks production of the manual which guides the operations of
25 voluntary peer review committees throughout California. Not
26 even a strained argument can be stated to show the relevance of
27 such documents. Yet, specification 2 seeks the production of
28 all CDA procedural manuals and rules and regulations, whether

1 or not they are remotely related to activities which are reviewed
2 under the Commission's jurisdiction. This specification, in its
3 broad brush scope, is, in most parts, simply and unequivocally
4 overbroad and calls for production of irrelevant materials.

5
6 Specification 3

7 Specification 3 seeks all CDA documents pertaining to the
8 setting, solicitation and deposit of CDA membership dues. Once
9 again, the Commission's request is so broadly drafted that
10 compliance is impossible. Under this category, CDA would be
11 compelled to produce every piece of documentation pertaining to
12 the general category of membership dues, including bills to
13 members, deposit slips and all other communications regarding
14 each individual member's dues paying status. Clearly, such
15 documentation cannot be desired by the Commission. In a cover
16 letter to CDA, the general counsel to the Commission stated that
17 the Commission is investigating whether the "California Dental
18 Political Action Committee and the American (sic) Political
19 Action Committee are affiliated." CDA submits that the manner
20 by which it establishes the amount of its dues and solicits
21 their collection from its members is entirely irrelevant to the
22 investigation stated by the general counsel.

23
24 Specification 4

25 Specification 4 relates to communications between CDA and
26 various entities (ADPAC, ADA, State Political Action committees)
27 concerning the collection and transmittal of dues. As stated in
28 the response to Specification 3, this highly overbroad inquiry

1 into the manner by which CDA collects and receives its dues can
2 have no bearing upon any investigation conducted by the Commis-
3 sion. This specification not only requires the production of
4 thousands of irrelevant documents pertaining to individual
5 issues of dues collection for many of CDA's 13,000 members, but
6 is also so vague and indefinite that CDA cannot reasonably
7 determine exactly which documents are requested. The specifica-
8 tion seeks materials relating to the transmittal of dues, but it
9 fails to state what types of transmittal transactions are relevant.
10 Certainly, the Commission cannot find as relevant those documents
11 which pertain to a component society's efforts to collect and
12 achieve transmittal of dues from its individual members. Yet,
13 the broad scope of this specification encompasses every single
14 document pertaining to such individualized transactions.
15 Accordingly, this specification is overbroad and calls for the
16 production of irrelevant documents.

17
18 Specification 5

19 This request for production of documents calls for materials
20 relating to the operating expenses of CDA or the State Political
21 Action Committee. The absurdity of this specification is
22 apparent without great analysis. Under the terms of this request,
23 every bill received for office supplies, every check payable for
24 salaries, every document pertaining to CDA's conventions and
25 scientific seminars, from which funds are raised, in fact, every
26 document pertaining to CDA's financial operations are called for
27 in this specification. It escapes all concepts of reason to
28 ascertain how such a massive request for documents can relate in

1 any sense to an investigation regarding the alleged affiliation
2 between the "California Dental Political Action Committee and
3 the American Dental Political Action Committee." Without waiving
4 any objections as to the relevancy of this request in its entirety,
5 CDA submits that this specification could have been drawn with a
6 reasonable particularity to avoid the overwhelming nature of the
7 request as it is presently stated.

8
9 Specification 6

10 Specification 6 seeks the production of documents pertaining
11 to workshops or seminars sponsored by CDA or a number of other
12 entities listed in the request. As stated in the accompanying
13 Affidavit of Dale F. Redig, D.D.S., CDA has ten (10) standing
14 councils through which extensive and highly diversified activi-
15 ties are conducted. Each of these councils conducts workshops
16 and seminars of some nature, and virtually all such conferences
17 have absolutely no relationship to any conceivable object of
18 investigation within the jurisdiction of the Commission. Yet,
19 the specification proceeds on the unfounded assumption that
20 CDA's activities in the area of dental education, public health,
21 scientific affairs, etc. are related to the underlying investi-
22 gation as to which this subpoena was issued. This assumption
23 cannot be supported under any construction of relevancy. The
24 Commission cannot sanction the blatant and ill-conceived attempt
25 to gain access to virtually every CDA document no matter how
26 remote and unattached such documents may be to the issues presently
27 under consideration.

28 //

1 Specification 7

2 In Specification 7 the Commission requests the production
3 of documents between CDA and several different entities concerning
4 various issue areas such as political candidates, contributions,
5 voting records and campaign contribution reporting requirements.
6 Although this request is drafted with a degree of particularity
7 absent from the other specifications, CDA submits that this
8 category of documents is overbroad in scope and coverage. The
9 jurisdiction of the Commission is concerned with violations of
10 and conformity with the Federal Election Campaign Act. That Act
11 addresses, in the main, the issues of campaign contributions to
12 federal elections and the limitations on such contributions.
13 Neither the Act nor the Commission has established authority to
14 go beyond these specific issue areas to investigate the mere
15 exchange of information between entities regarding the qualifi-
16 cations of a candidate for federal public office. Yet, portions
17 of Specification 7 call for production of documents which pertain
18 directly to this exchange of information. Not only does such a
19 request go beyond the scope of relevancy and the Commission's
20 jurisdiction, but the request has the added effect of chilling
21 the channels of exchange and communication otherwise protected
22 under the First Amendment guarantees. CDA submits that the
23 scope of Specification 7 would, if enforcement is permitted,
24 unduly restrict the lawful and protected exchange of political
25 information between individuals and entities.

26
27 Specification 8

28 The scope of Specification 8 best exemplifies the overbroad

1 nature of this subpoena. Through this request, the Commission
2 seeks all minutes, reports and materials of any meeting of CDA's
3 Board of Trustees. This specification establishes no limitation
4 as to reports or minutes of meetings where issues of concern to
5 the Commission were discussed. Rather, what is sought are all
6 reports and minutes of meetings of the Board of Trustees without
7 regard to whether or not such meetings dealt with issues of
8 relevance to the underlying investigation conducted by the
9 Commission. As stated above and in the accompanying Affidavit
10 of Dale F. Redig, D.D.S., CDA conducts hundreds of activities
11 and has countless responsibilities totally unrelated to the
12 jurisdictional purview of this Commission. These activities are
13 discussed in meetings of CDA's Board of Trustees and reports on
14 such activities are embodied in presentations made to the Board
15 on a regular basis by CDA's ten (10) standing councils. It is
16 abundantly clear, therefore, that the minutes and reports of
17 the meetings of CDA's Board of Trustees have, in virtually every
18 instance, no connection with the Commission's investigation. It
19 is equally apparent that there is no justification to require
20 CDA to produce such documents which are beyond the scope of
21 reasonable and relevant production. Specification 8 is, without
22 question, overbroad and calls for production of irrelevant
23 materials, and upon that basis, is unenforceable.

24 III

25 COMPLIANCE WITH THE SUBPOENA WILL BE
26 UNDULY BURDENSOME AND OPPRESSIVE

27 In addition to the previously stated requirements that an
28 administrative subpoena must not be indefinite, overbroad, or

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1 call for production of irrelevant materials, neither may a sub-
2 poena be so all encompassing in scope as to render compliance
3 therewith unduly burdensome and oppressive. Yet, the overbreadth
4 of the subpoena at issue herein is so substantial that in order
5 to achieve compliance CDA will suffer undue burden. As enun-
6 ciated in the accompanying Affidavit of Dale F. Redig, D.D.S.,
7 the review of documents that will be necessitated by this sub-
8 poena will cause CDA to effectively shut down its operation for
9 a significant period of time. The burden created by compliance
10 with the subpoena is compounded by the fact that a substantial
11 portion of the subpoena so clearly calls for the production of
12 unquestionably irrelevant materials. CDA submits that in light
13 of the fact that compliance will cause it substantial and
14 unjustified hardship, and in consideration of the clearly irre-
15 levant and overbroad scope of the subpoena, the Commission quash
16 or significantly modify the subpoena.

17 IV

18 THE SUBPOENA, IF ENFORCED, WILL CHILL

19 THE FIRST AMENDMENT RIGHTS

20 OF CDA AND ITS MEMBERS

21 A further consequence of the subpoena directed to CDA is
22 that its scope is so broad and all encompassing that the enforce-
23 ment thereof will inevitably curtail the lawful rights of CDA
24 and its members to freely exchange information and opinions.
25 For example, as stated above in response to Specification 7, the
26 subpoena calls for the production of documents concerning the
27 exchange of information between CDA and other individuals or
28 entities about political campaigns and candidates. The compulsion

1 to publicly disclose the views which may be embodied in such
2 documents would clearly chill the exercise of the right to hold
3 and adopt such views guaranteed under the First Amendment.
4 Furthermore, a subpoena of this overbroad nature would inhibit
5 the free expression and exchange of ideas within CDA concerning
6 other areas of activity wholly unconnected to the political
7 sphere, when individual members determine that anything they may
8 do or say is subject to government review regardless of whether
9 their activities are related in any manner to specific govern-
10 mental investigations.

11 V

12 THE SUBPOENA HAS BEEN
13 IMPROPERLY SERVED UPON CDA

14 The subpoena which was received by CDA on August 17, 1979
15 was addressed to Henry L. Ernstthal as the Executive Director of
16 CDA. Such service, however, is improper since Mr. Ernstthal is
17 not the Executive Director of CDA and has not been affiliated
18 with CDA for at least eight months. Although CDA has responded
19 to the subpoena despite improper service in order to preserve
20 its rights, CDA has not waived and does contest the manner of
21 service attempted by the Commission.

22 VI

23 FURTHER OBJECTIONS

24 In addition to those objections raised above, CDA further
25 submits that the Commission, pursuant to the extent of its
26 statutory jurisdiction as stated in the Federal Election Cam-
27 paign Act, 2 U.S.C. §431, et seq., has no jurisdiction over CDA
28 because of CDA's non-profit corporate status. In addition,

1 given the nature and scope of the subpoena, said subpoena will
2 be unenforceable until such time as appropriate protective
3 orders are entered which will acknowledge the attorney-client
4 privilege, and which will ensure that the confidentiality of
5 these documents will be preserved with full regard for the due
6 process rights of CDA.

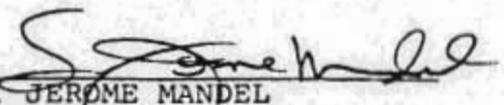
7 VII

8 CONCLUSION

9 Based upon the foregoing discussion, and in recognition of
10 the facts that the subpoena directed towards CDA is blatantly
11 overbroad in scope and application, calls for production of
12 irrelevant materials, will cause CDA undue burdens to comply
13 therewith, will chill the free exchange of ideas by CDA and its
14 members, and fails to adequately afford CDA its common law
15 rights and privileges, CDA asserts that this subpoena be quashed
16 and/or modified.

17 Respectfully submitted,
18 MILLER & MANDEL
19 A Professional Corporation

20 DATED: August 21, 1979

21 By 
22 S. JEROME MANDEL
23 Attorneys for California
24 Dental Association
25
26
27
28

3100047507

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Dental Association
7

8 UNITED STATES OF AMERICA
9 FEDERAL ELECTION COMMISSION

10
11 _____)
12 In the Matter of)
13 CALIFORNIA DENTAL ASSOCIATION)
14 _____)

15 AFFIDAVIT OF

16 DALE F. REDIG, D.D.S.

17 I, Dale F. Redig, being first duly sworn, depose and say:

18 1. I am the Executive Director of the California Dental Asso-
19 ciation (hereinafter "CDA"). I have served in that capacity since
20 July of 1978.

21 2. CDA, a nonprofit corporation, is the primary voluntary as-
22 sociation for dentists licensed and practicing in the State of
23 California. Its membership presently exceeds 13,000 members.

24 3. The purposes of CDA are set forth in its Articles of In-
25 corporation and its Bylaws. The purposes, as set forth in the Ar-
26 ticles of Incorporation, are "to promote high professional standards
27 in the practice of dentistry; to encourage and promote the improve-
28 ment of the health of the public; and to promote the art and science

1 of dentistry as a profession." Furthermore, the Bylaws of CDA state
2 that "the objectives of this Association shall include the improve-
3 ment of the health of the public and promotion of the art and sci-
4 ence of dentistry, and shall otherwise be as specified in the Arti-
5 cles of Incorporation."

6 4. In the furtherance of these general goals and purposes de-
7 scribed above, CDA operates ten (10) councils which are designed to
8 address a variety of issues and activities related to the profes-
9 sion of dentistry. These councils include the Council on Dental
10 Care, Council on Dental Education, Council on Dental Health, Coun-
11 cil on Hospital Affairs, Judicial Council, and Council on Scienti-
12 fic Affairs and Research. Each of these councils, as well as others
13 not listed, makes regular and extensive reports to CDA's Board of
14 Trustees.

15 5. The scope of activities conducted by CDA, as reflected in
16 the nature of its standing councils, is highly diversified and ex-
17 tends to such issues as the general dental health of the public,
18 continuing dental education for practitioners, peer review evalua-
19 tion, and judicial affairs.

20 6. On August 17, 1979, CDA received by certified mail a sub-
21 poena issued by the Federal Election Commission. Said subpoena,
22 directed to Henry Ernstthal, who no longer is associated with CDA,
23 contains eight (8) specifications of documents to be produced at
24 the CDA offices on September 17, 1979.

25 7. Upon receipt of the subpoena I reviewed the specifications
26 contained therein. After completion of this review, I reached the
27 unqualified conclusion that in order to determine which documents
28 are responsive to the specifications enumerated in the subpoena it

1 will be necessary for me and the staff of CDA to review literally
2 tens of thousands of documents which, in all likelihood, will consti-
3 tute over one-quarter of a million pages. This endeavor will re-
4 quire several weeks of intensive and full-time review by the CDA
5 staff, and will therefore substantially curtail the day-to-day op-
6 erations normally conducted by CDA.

7 8. The specification of documents set forth in the subpoena,
8 if read literally, will require the production of tremendous num-
9 bers of documents which have absolutely nothing to do with any Fed-
10 eral election or political activity of any kind or nature. These
11 would include documents from 1972 dealing with ethical standards of
12 dentists who are members of CDA, massive documents on continuing
13 education programs, on areas dealing exclusively with dentistry or
14 dental oriented problems, all operating expenses of CDA (of any na-
15 ture whatsoever), all banking transactions pertaining to dues, and
16 all materials of any nature whatsoever that pertain to all meetings
17 of the CDA Board of Trustees regardless of the topics discussed.
18 The preponderance of these documents, thousands in number, simply
19 have nothing to do with elections, political activities or politi-
20 cal contributions.

21 9. In addition to the tremendous burden of compliance with
22 the subpoena, as that subpoena is presently structured, CDA's oper-
23 ations will be severely restricted since many of the documents to be
24 reviewed in compliance with the subpoena are also used in CDA's on-
25 going activities.

26 10. The "dental political action committee" as referred to in
27 the definitions contained in the subpoena, is known in the State of
28 California as CAL-D-PAC. CAL-D-PAC is a separate and distinct en-

1 tity from CDA, and, as such, any inquiry as to the relationship be-
2 tween CAL-D-PAC and the American Dental Polical Action Committee
3 ("ADPAC") has no bearing upon, and no relevance to, the activities
4 and operations of CDA.

5 11. Compliance with the subpoena served on August 17, 1979,
6 as that subpoena is presently structured, will result in a tremen-
7 dous expenditure of CDA's time and financial resources and will
8 create an undue burden upon CDA's activities. If CDA is compelled
9 to review and produce those documents specified in the subpoena,
10 CDA will incur a substantial and undue hardship which will deplete
11 its fiscal resources and detract from the conduct and achievement
12 of its major activities and goals.

13
14
15 Dale F. Redig, D.D.S.
16 Dale F. Redig, D.D.S.
17 Executive Director,
California Dental Association

18 State of California)
19 County of Los Angeles) ss.

20 On August 21, 1979 before me a Notary Public for the State of
21 California, personally appeared Dale F. Redig, D.D.S., known to me
22 to be the person whose name is subscribed to this instrument, and
23 acknowledged to me that he executed this instrument.



26 J. Gayle Roberts
27 Notary Public
28 In and for said County and State

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BY BOR AIR FREIGHT

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OF COUNSEL:
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JOHN H. HOLLOMAN III

LOCAL COUNSEL:
J. F. JAVIER FABREGAT

August 17, 1979

Mr. Robert Bogan
Office of General Counsel
Federal Election Commission
1325 K. Street, N.W.
Washington, D.C. 20463

Re: MUR 769 (78)

Dear Mr. Bogan:

Enclosed please find the motion of the American Dental Political Action Committee to quash the subpoena served on ADPAC on August 13, 1979. This will also serve to inform you that the firm of O'Connor and Hannan is now representing ADPAC in this matter.

Sincerely,

Christina W. Fleps
Christina W. Fleps

CWF/bab
Enclosure

EX-10903

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

TO: Mr. Robert O. Tiernan, Chairman
and the Members of the Federal Election Commission

MOTION OF AMERICAN DENTAL POLITICAL
ACTION COMMITTEE TO QUASH THE
SUBPOENA DUCES TECUM SERVED UPON
IT ON AUGUST 13, 1979

The AMERICAN DENTAL POLITICAL ACTION COMMITTEE ("ADPAC"), by its undersigned attorney, hereby respectfully moves, pursuant to Commission Rule 111.13, to quash the subpoena served upon it on August 13, 1979. In support hereof, ADPAC sets forth both general objections directed to the entire subpoena and specific objections directed to each of the specifications in the subpoena.

GENERAL OBJECTIONS

1. ADPAC objects to this subpoena in that it seeks materials related to the political activities and thoughts of both ADPAC and its members, thus chilling the exercise of the First Amendment rights to freedom of association and expression of ADPAC and ADPAC's members.

2. ADPAC objects to this subpoena because it is authorized by a statutory and regulatory scheme which violates the First Amendment rights of ADPAC and ADPAC's members.

3. ADPAC objects to this subpoena to the extent that it infringes on any privileges held by ADPAC, including but not

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limited to, the attorney-client privilege and the work-product doctrine.

4. ADPAC objects to all specifications as being burdensome and unreasonable in scope because they define no time period for the information requested.

5. ADPAC objects to this subpoena as being overly broad and seeking documents which are not relevant to the scope of the investigation as defined by the FEC.

OBJECTIONS TO PARTICULAR SPECIFICATIONS

Specification One. ADPAC objects to Specification One because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and because it infringes the First Amendment rights of freedom of association belonging to ADPAC and ADPAC's members.

Specification Two. ADPAC objects to Specification Two because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and because it infringes the First Amendment rights of freedom of association belonging to ADPAC and ADPAC's members.

Specification Three. ADPAC objects to Specification Three because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and

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because it infringes the First Amendment rights of freedom of association belonging to ADPAC and ADPAC's members.

Specification Four. ADPAC objects to Specification Four because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and because it infringes the First Amendment rights of freedom of association belonging to ADPAC and ADPAC's members.

Specification Five. ADPAC objects to Specification Five because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and because it infringes the First Amendment rights of freedom of association belonging to ADPAC and ADPAC's members.

Specification Six. ADPAC objects to Specification Six because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and because it infringes the First Amendment rights of freedom of association belonging to ADPAC and ADPAC's members.

Specification Seven. ADPAC objects to Specification Seven because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and because it infringes the First Amendment rights of freedom and association belonging to ADPAC and ADPAC's members.

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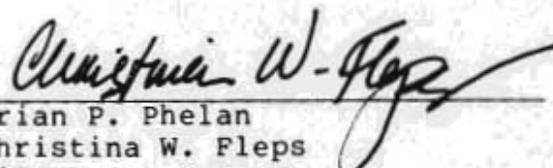
Specification Eight. ADPAC objects to Specification Eight because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and because it infringes the First Amendment rights of freedom of association belonging to ADPAC and ADPAC's members.

Specification Nine. ADPAC objects to Specification Nine because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and because it infringes the First Amendment rights of freedom of association belonging to ADPAC and ADPAC's members.

WHEREFORE, ADPAC respectfully requests that the subpoena be quashed.

AMERICAN DENTAL POLITICAL
ACTION COMMITTEE

By:



Brian P. Phelan
Christina W. Fleps
O'Connor & Hannan
Attorneys for American Dental
Political Action Committee

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(202) 785-8700

Dated: August 17, 1979

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limited to, the attorney-client privilege and the work-product doctrine.

4. ADPAC objects to all specifications as being burdensome and unreasonable in scope because they define no time period for the information requested.

5. ADPAC objects to this subpoena as being overly broad and seeking documents which are not relevant to the scope of the investigation as defined by the FEC.

OBJECTIONS TO PARTICULAR SPECIFICATIONS

Specification One. ADPAC objects to Specification One because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and because it infringes the First Amendment rights of freedom of association belonging to ADPAC and ADPAC's members.

Specification Two. ADPAC objects to Specification Two because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and because it infringes the First Amendment rights of freedom of association belonging to ADPAC and ADPAC's members.

Specification Three. ADPAC objects to Specification Three because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and

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because it infringes the First Amendment rights of freedom of association belonging to ADPAC and ADPAC's members.

Specification Four. ADPAC objects to Specification Four because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and because it infringes the First Amendment rights of freedom of association belonging to ADPAC and ADPAC's members.

Specification Five. ADPAC objects to Specification Five because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and because it infringes the First Amendment rights of freedom of association belonging to ADPAC and ADPAC's members.

Specification Six. ADPAC objects to Specification Six because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and because it infringes the First Amendment rights of freedom of association belonging to ADPAC and ADPAC's members.

Specification Seven. ADPAC objects to Specification Seven because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and because it infringes the First Amendment rights of freedom and association belonging to ADPAC and ADPAC's members.

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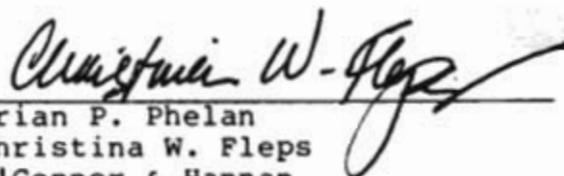
Specification Eight. ADPAC objects to Specification Eight because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and because it infringes the First Amendment rights of freedom of association belonging to ADPAC and ADPAC's members.

Specification Nine. ADPAC objects to Specification Nine because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and because it infringes the First Amendment rights of freedom of association belonging to ADPAC and ADPAC's members.

WHEREFORE, ADPAC respectfully requests that the subpoena be quashed.

AMERICAN DENTAL POLITICAL
ACTION COMMITTEE

By:



Brian P. Phelan
Christina W. Fleps
O'Connor & Hannan
Attorneys for American Dental
Political Action Committee

O'CONNOR & HANNAN
1747 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
(202) 785-8700

Dated: August 17, 1979

01037045591

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

TO: Mr. Robert O. Tiernan, Chairman
and the Members of the Federal Election Commission

MOTION OF AMERICAN DENTAL POLITICAL
ACTION COMMITTEE TO QUASH THE
SUBPOENA DUCES TECUM SERVED UPON
IT ON AUGUST 13, 1979

31030041598
The AMERICAN DENTAL POLITICAL ACTION COMMITTEE ("ADPAC"),
by its undersigned attorney, hereby respectfully moves, pursuant
to Commission Rule 111.13, to quash the subpoena served upon it
on August 13, 1979. In support hereof, ADPAC sets forth both
general objections directed to the entire subpoena and specific
objections directed to each of the specifications in the subpoena.

GENERAL OBJECTIONS

1. ADPAC objects to this subpoena in that it seeks
materials related to the political activities and thoughts of
both ADPAC and its members, thus chilling the exercise of the
First Amendment rights to freedom of association and expression
of ADPAC and ADPAC's members.

2. ADPAC objects to this subpoena because it is author-
ized by a statutory and regulatory scheme which violates the
First Amendment rights of ADPAC and ADPAC's members.

3. ADPAC objects to this subpoena to the extent that it
infringes on any privileges held by ADPAC, including but not

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GENERAL COUNSEL

RECEIVED

limited to, the attorney-client privilege and the work-product doctrine.

4. ADPAC objects to all specifications as being burdensome and unreasonable in scope because they define no time period for the information requested.

5. ADPAC objects to this subpoena as being overly broad and seeking documents which are not relevant to the scope of the investigation as defined by the FEC.

OBJECTIONS TO PARTICULAR SPECIFICATIONS

Specification One. ADPAC objects to Specification One because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and because it infringes the First Amendment rights of freedom of association belonging to ADPAC and ADPAC's members.

Specification Two. ADPAC objects to Specification Two because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and because it infringes the First Amendment rights of freedom of association belonging to ADPAC and ADPAC's members.

Specification Three. ADPAC objects to Specification Three because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and

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because it infringes the First Amendment rights of freedom of association belonging to ADPAC and ADPAC's members.

Specification Four. ADPAC objects to Specification Four because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and because it infringes the First Amendment rights of freedom of association belonging to ADPAC and ADPAC's members.

Specification Five. ADPAC objects to Specification Five because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and because it infringes the First Amendment rights of freedom of association belonging to ADPAC and ADPAC's members.

Specification Six. ADPAC objects to Specification Six because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and because it infringes the First Amendment rights of freedom of association belonging to ADPAC and ADPAC's members.

Specification Seven. ADPAC objects to Specification Seven because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and because it infringes the First Amendment rights of freedom and association belonging to ADPAC and ADPAC's members.

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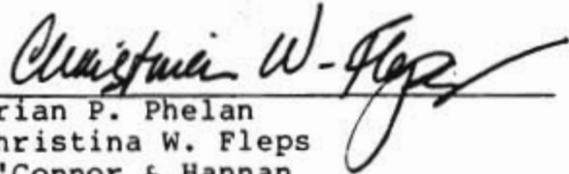
Specification Eight. ADPAC objects to Specification Eight because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and because it infringes the First Amendment rights of freedom of association belonging to ADPAC and ADPAC's members.

Specification Nine. ADPAC objects to Specification Nine because it is overly broad, unduly vague, and calls for information which is not relevant to the stated scope of the investigation; because it is excessively burdensome and oppressive; and because it infringes the First Amendment rights of freedom of association belonging to ADPAC and ADPAC's members.

WHEREFORE, ADPAC respectfully requests that the subpoena be quashed.

AMERICAN DENTAL POLITICAL
ACTION COMMITTEE

By:



Brian P. Phelan
Christina W. Fleps
O'Connor & Hannan
Attorneys for American Dental
Political Action Committee

O'CONNOR & HANNAN
1747 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
(202) 785-8700

Dated: August 17, 1979

310779

DOBBS & NIELSEN

Attorneys and Counselors at Law

SUITE 550, 1225 EIGHTH STREET
SACRAMENTO, CA 95814

(916) 446-6757

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August 9, 1979

Mr. Robert Bogin
FEDERAL ELECTION COMMISSION
1325 K Street N. W.
Washington, D. C. 20463

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Re: MUR 769 (78)

Dear Mr. Bogin:

This letter will confirm our phone conversation of August 8, 1979 wherein I advised you that I will be on vacation the week of September 16-22, 1979. You advised me that you would rearrange the date for the production of documents originally scheduled for September 20, 1979. Please advise me of the date that you select so we may plan accordingly.

Thank you for your courtesy and cooperation in this matter.

Sincerely,

John H. Hodgson II
JOHN H. HODGSON II, ESQ.

JHH:blw

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DOBBS & NIELSEN

Attorneys and Counselors at Law

SUITE 550, 1225 EIGHTH STREET
SACRAMENTO, CA 95814



Mr. Robert Bogin
FEDERAL ELECTION COMMISSION
1325 K Street N. W.
Washington, D. C. 20463

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 13, 1979

HAND DELIVERED

Hal Christianson
American Dental Political
Action Committee
1101 17th Street, N.W.
Washington, D.C. 20036

Re: MUR 769 (78)

Dear Mr. Christianson:

Pursuant to your conversation of August 8, 1979, with Robert Bogin of my staff, please find enclosed a copy of a subpoena for the production of documents which you indicated that you did not receive. It should be noted, however, that production will not take place on August 13, 1979, as originally planned. The new date for production is scheduled to take place on August 27, 1979.

Should you have any questions concerning this matter, please do not hesitate to call Mr. Bogin at (202) 523-4073.

Sincerely,

William C. Oldaker
General Counsel

Enclosure

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FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

July 25, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Edward M. Donelan, Executive Secretary
American Dental Political Action Committee
1101 17th Street, N.W.
Washington, D.C. 20036

Re: MUR 769(78)

Dear Mr. Donelan:

Enclosed please find a subpoena for the production of documents on August 13, 1979, at 10:00 a.m.

The scope of the Commission's investigation is described in a previous letter to The American Dental Political Action Committee dated February 13, 1979.

Should you have any questions concerning this matter, please do not hesitate to call Robert Bogin, the attorney on my staff now handling this case. Mr. Bogin may be reached at (202) 523-4073.

Sincerely yours,

William C. Oldaker
General Counsel

Enclosure

44-529-41529

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

SUBPOENA

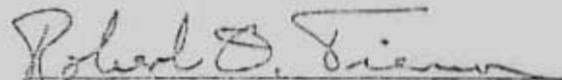
TO: Edward M. Donelan, Executive Secretary
American Dental Political Action Committee
1101 17th Street, N.W.
Washington, D.C. 20036

81030241530

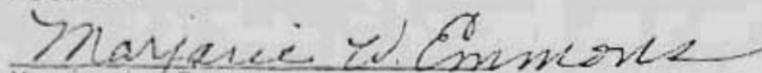
The Federal Election Commission, pursuant to its powers set forth in 2 U.S.C. § 437d, requires that the documents specified on the attached list be delivered for inspection and copying to authorized representatives of the Federal Election Commission at the business office of the American Dental Political Action Committee on August 13, 1979, at 10:00 a.m. and whatever further days are necessary to inspect and copy the aforementioned subpoenaed documents.

The documents should be compiled and delivered by the individual or individuals having knowledge of and, where possible, supervisory responsibility for the documents required.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand at the Office of the Commission, 1325 K Street, N.W., Washington, D.C. 20463, this 19th day of July, 1979.


Robert O. Tiernan
Chairman

ATTEST:


Marjorie Emmons
Secretary to the Commission

Subpoena to: Edward M. Donelan

As used in this subpoena the following terms are defined as follows:

1. The term "documents and materials" refers to all written printed, visual or electronic materials to be produced with respect to each of the requests enumerated herein. In particular, "documents and materials" includes but is not limited to letters, minutes, memoranda, records, reports, procedural manuals, hand-books, notes, agendas, articles, visual aids, electronic recordings, tables, charts, financial statements, account statements, billing forms, receipt, checks and solicitation materials.
2. All references to "your committee" with respect to each of the requests enumerated herein, include all persons, committees, subcommittees, and bodies authorized to conduct business on behalf of your committee.
3. All references to the "American Dental Association" (hereinafter "ADA") with respect to each of the requests enumerated herein, include all persons, committees, subcommittees and bodies authorized to conduct business on behalf of ADA.
4. All references to the "California Dental Political Action Committee" (hereinafter "CAL-D-PAC") with respect to each of the requests enumerated herein, include all persons, committees, subcommittees and bodies authorized to conduct business on behalf of CAL-D-PAC.
5. All references to any "other dental association political action committee" (hereinafter "dental PAC") other than CAL-D-PAC or your committee with respect to each of the requests enumerated herein, include all persons, committees, subcommittees and bodies authorized to conduct business on behalf of such dental PAC.
6. All references to any "state dental association" with respect to each of the requests enumerated herein, include all persons, committees, subcommittees and bodies authorized to conduct business on behalf of such dental association.
7. All references to any "component society" of any state dental association with respect to each of the requests enumerated herein, include all persons, committees, subcommittees and bodies authorized to conduct business on behalf of such component society.
8. Each request enumerated herein, with the exception of request #1, covers the time period from January 1, 1972 through the date of production.

Please produce for inspection and copying the entire document that contains in whole or in part the following:

1. All documents and materials relating to the establishment of your committee or referring to or involving the history and circumstances leading to its foundation and the names and roles of the individuals, groups, associations, and/or committees participating in its foundation, including but not limited to

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the roles of CAL-D-PAC and ADA in the foundation of your committee.

2. Copies of all articles of incorporation, constitutions, bylaws, procedural manuals, and any other rules or regulations of your committee including changed or superceded versions.
3. All documents and materials which relate, refer, or pertain to the setting, solicitation, and deposit of your committee's contribution "dues."
4. All documents and materials which relate, refer, or pertain to payment for the operating costs of your committee, including but not limited to payment for salaries, office space, supplies, and fundraising costs.
5. All documents and materials related or pertaining to communications between your committee and any of the following:

- (a) CAL-D-PAC,
- (b) ADA,
- (c) any state dental association,
- (d) component societies of any state dental association,
- (e) any other dental association, or
- (f) any other dental PAC

which relate, refer or pertain to workshops or seminars sponsored by your committee or any of the groups named above. This should further include all documents and materials which relate, refer, or pertain to the financing of these workshops or seminars and the payment of costs or expenses for persons attending.

6. All documents and materials which relate, refer or pertain to meetings of the Board of Directors of your committee, or any committee or subcommittee of your committee concerned with federal candidate selection, and which contain information relating to:

- (a) candidates for federal office,
- (b) contributions to candidates for federal office from your committee, CAL-D-PAC, or any other dental PAC, and
- (c) general policies concerning the making of contributions to federal candidates by your committee, CAL-D-PAC or any other dental PAC.

This should further include all documents and materials referred to or utilized by any person or persons attending such meetings or prepared for reference or use at such meetings.

7. All documents and materials related to communications between your committee and CAL-D-PAC which relate, refer or pertain to:

- (a) contributions to or on behalf of the Hayakawa for U.S. Senate Committee.

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- (b) notification that CAL-D-PAC has contributed, intends to contribute, or recommends contributing to a federal candidate,
- (c) notification that your committee has contributed, intends to contribute, or recommends contributing to a federal candidate,
- (d) notification that any other dental PAC has contributed, intends to contribute, or recommends contributing to a federal candidate,
- (e) demands, requests or recommendations that CAL-D-PAC make a contribution to a federal candidate,
- (f) demands, requests or recommendations that your committee make a contribution to a federal candidate,
- (g) demands, requests or recommendations that any other dental PAC make a contribution to a federal candidate,
- (h) background information on candidates for federal office, including but not limited to voting records,
- (i) summaries of federal political contributions by your committee, CAL-D-PAC, or any other dental PAC, or
- (j) information concerning the reporting requirements or contribution limitations of the Federal Election Campaign Act of 1971, as amended.

8. All documents and materials related or pertaining to communications between your committee and any other dental PAC with respect to request #8 (a), (b), (c), (g), (i) and (j).

9. All minutes, reports or materials of any meeting of your Board of Trustees and/or Directors.

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FEDERAL ELECTION COMMISSION

125 K STREET N.W.
WASHINGTON, D.C. 20463

August 13, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Executive Director
California Dental Association
Tishman Airport Center
Suite 900
6151 West Century Boulevard
Los Angeles, California 90045

Dear Sir:

Enclosed please find a copy of a subpoena for the production of documents on September 17, 1979, at 10:00 a.m. The original subpoena has apparently been lost in the mail.

The scope of the Commission's investigation is to determine whether the California Dental Political Action Committee and the American Political Action Committee are affiliated.

Should you have any questions concerning the subpoena, please do not hesitate to call Robert Bogin, an attorney on my staff. Mr. Bogin may be reached at (202) 523-4073.

Sincerely,

William C. Oldaker
General Counsel

4030241536

SENDER: Complete items 1, 2, and 3. Add your address for RETURN TO space on reverse. 769 Bogin	
1. The following service is requested (check one). <input type="checkbox"/> Show to whom and date delivered <input type="checkbox"/> Show to whom, date, and address of delivery. <input type="checkbox"/> RESTRICTED DELIVERY <input type="checkbox"/> Show to whom and date delivered. <input type="checkbox"/> RESTRICTED DELIVERY. Show to whom, date, and address of delivery. \$ (CONSULT POSTMASTER FOR FEES)	
2. ARTICLE ADDRESSED TO: EX Dir, CA Dental Assoc.	
3. ARTICLE DESCRIPTION: REGISTERED NO. 943438	INSURED NO.
(Always obtain signature of addressee or agent) I have received the article described above. SIGNATURE <input type="checkbox"/> Address <input type="checkbox"/> Authorized agent 	
4. DATE OF DELIVERY AUG 21 1979	
5. ADDRESS (Complete only if requested)	
6. UNABLE TO DELIVER BECAUSE:	

★ 090-187-O-234-317

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

SUBPOENA

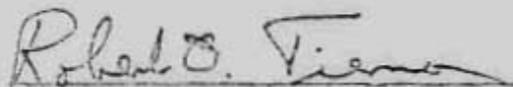
TO: Henry L. Ernstthal
Executive Director
California Dental Association
Tishman Airport Center
6161 West Century Boulevard
Los Angeles, California 90045

81030241535

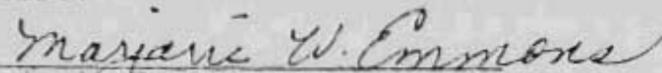
The Federal Election Commission, pursuant to its powers set forth in 2 U.S.C. § 437d, requires that the documents specified on the attached list be delivered for inspection and copying to authorized representatives of the Federal Election Commission at the business office of the California Dental Association on September 17, 1979, at 10:00 a.m. , and whatever further days are necessary to inspect and copy the aforementioned subpoenaed documents.

The documents should be compiled and delivered by the individual or individuals having knowledge of and, where possible, supervisory responsibility for the documents required.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand at the Office of the Commission, 1325 K Street, N.W., Washington, D.C. 20463, this 19th day of July , 1979.


Robert O. Tiernan
Chairman

ATTEST:


Marjorie Emmons
Secretary to the Commission

As used in this subpoena the following terms are defined as follows:

1. The term "documents and materials" refers to all written, printed, visual or electronic materials to be produced with respect to each of the requests enumerated herein. In particular, "documents and materials" includes but is not limited to letters, minutes, memoranda, records, reports, procedural manuals, handbooks, notes, agendas, articles, visual aids, electronic recordings, tables, charts, financial statements, account statements, billing forms, receipts, checks and solicitation materials.
2. All references to "your association" with respect to each of the requests enumerated herein, include all persons, committees, subcommittees, and bodies authorized to conduct business on behalf of your association.
3. All references to the "dental political action committee of your state" (hereinafter "the state PAC") with respect to each of the requests enumerated herein, include all persons, committees, subcommittees, and bodies authorized to conduct business on behalf of the state PAC.
4. All references to any "component society" of your association with respect to each of the requests enumerated herein, include all persons, committees, subcommittees and bodies authorized to conduct business on behalf of such component society.
5. All references to the "American Dental Association" (hereinafter "ADA") with respect to each of the requests enumerated herein, include all persons, committees, subcommittees, and bodies authorized to conduct business on behalf of ADA.
6. All references to the "American Dental Political Action Committee" (hereinafter "ADPAC") with respect to each of the requests enumerated herein, include all persons, committees, subcommittees and bodies authorized to conduct business on behalf of ADPAC.
7. All references to any "other dental association political action committee" (hereinafter "dental PAC") other than ADPAC or the state PAC with respect to each of the requests enumerated herein, include all persons, committees, subcommittees and bodies authorized to conduct business on behalf of such dental PAC.

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8. All references to any "other state dental association" with respect to each of the requests enumerated herein, include all persons, committees, subcommittees and bodies authorized to conduct business on behalf of such dental association.

9. Each request enumerated herein, with the exception of request #1, covers the time period from January 1, 1972, through the date of production.

Please produce in their entirety for inspection and copying:

1. All documents and materials relating to the establishment of the state PAC or referring to or involving the history and circumstances leading to its foundation and the names and roles of the individuals, groups, associations, and/or committees participating in its foundation, including but not limited to the roles of ADPAC and ADA in the foundation of the state PAC.

2. Copies of all articles of incorporation, constitutions, bylaws, procedural manuals, and any other rules or regulations of your association including changed or superceded versions, but excluding copies of all such documents and materials previously submitted to the Office of the General Counsel of the Federal Election Commission.

3. All documents and materials which relate, refer or pertain to the setting, solicitation and deposit of your association's dues.

4. All documents and materials which relate, refer or pertain to communication between your association and any of the following:

- (a) ADPAC,
 - (b) ADA,
 - (c) the state PAC, or
 - (d) component societies of your association
- concerning dues collection and transmittal, including but not limited to payment for the costs of dues billing.

5. All documents and materials which relate, refer, or pertain to payment for the operating costs of your association or the state PAC, including but not limited to payment for salaries, office space, supplies and fundraising costs.

6. All documents and materials related or pertaining to communications between your association and any of the following:

- (a) ADPAC,
- (b) ADA,
- (c) the state PAC,

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- (d) component societies of your association
 - (e) any other state dental association, or
 - (f) any other dental PAC
- which relate, refer or pertain to workshops or seminars sponsored by your association or any of the groups named above. This should further include all documents and materials which relate, refer, or pertain to the financing of these workshops or seminars and the payment of costs or expenses for persons attending.

7. All documents and materials related or pertaining to communications between your association and any of the following:

- (a) ADPAC,
 - (b) ADA,
 - (c) the state PAC,
 - (d) component societies of your association,
 - (e) any other state dental association, or
 - (f) any other dental PAC
- which relate, refer or pertain to:
- (1) candidates for federal office,
 - (2) contributions to candidates for federal office,
 - (3) general policies concerning the making of contributions to candidates for federal office,
 - (4) background information on candidates for federal office, including but not limited to voting records, or
 - (5) information concerning the reporting requirements or contribution limitations of the Federal Election Campaign Act of 1971, as amended.

8. All minutes, reports or materials of any meeting of your Board of Trustees and/or Directors.

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FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20463

July 25, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Edward M. Donelan, Executive Secretary
American Dental Political Action Committee
1101 17th Street, N.W.
Washington, D.C. 20036

Re: MUR 769 (78)

Dear Mr. Donelan:

Enclosed please find a subpoena for the production of documents on August 13, 1979, at 10:00 a.m.

The scope of the Commission's investigation is described in a previous letter to The American Dental Political Action Committee dated February 13, 1979.

Should you have any questions concerning this matter, please do not hesitate to call Robert Bogin, the attorney on my staff now handling this case. Mr. Bogin may be reached at (202) 523-4073.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "W. C. Oldaker".

William C. Oldaker
General Counsel

Enclosure

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Edward M. Donelan, Executive Secretary
American Dental Political Action Committee
1101117th Street, N.W. .
Washington, D.C. 20036 .

Re: MUR 769 (79)

Dear Mr. Donelan:

Enclosed please find a subpoena for the production of documents on June , 1979.

The scope of the Commission's investigation is described in a previous letter to The American Dental Political Action Committee dated February 13, 1979.

Should you have any questions concerning this matter, please do not hesitate to call Robert Bogin, the attorney on my staff now handling this case. Mr. Bogin may be reached at (202 523-4073).

Sincerely yours,

William C. Oldaker
General Counsel

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UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

SUBPOENA

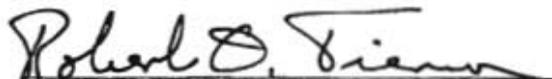
TO: Edward M. Donelan, Executive Secretary
American Dental Political Action Committee
1101 17th Street, N.W.
Washington, D.C. 20036

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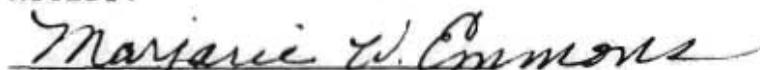
The Federal Election Commission, pursuant to its powers set forth in 2 U.S.C. § 437d, requires that the documents specified on the attached list be delivered for inspection and copying to authorized representatives of the Federal Election Commission at the business office of the American Dental Political Action Committee on August 13, 1979, at 10:00 a.m. and whatever further days are necessary to inspect and copy the aforementioned subpoenaed documents.

The documents should be compiled and delivered by the individual or individuals having knowledge of and, where possible, supervisory responsibility for the documents required.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand at the Office of the Commission, 1325 K Street, N.W., Washington, D.C. 20463, this 19th day of July, 1979.


Robert O. Tiernan
Chairman

ATTEST:


Marjorie Emmons
Secretary to the Commission

Subpoena to: Edwa M. Donelan

As used in this subpoena the following terms are defined as follows:

1. The term "documents and materials" refers to all written printed, visual or electronic materials to be produced with respect to each of the requests enumerated herein. In particular, "documents and materials" includes but is not limited to letters, minutes, memoranda, records, reports, procedural manuals, hand-books, notes, agendas, articles, visual aids, electronic recordings, tables, charts, financial statements, account statements, billing forms, receipt, checks and solicitation materials.
2. All references to "your committee" with respect to each of the requests enumerated herein, include all persons, committees, subcommittees, and bodies authorized to conduct business on behalf of your committee.
3. All references to the "American Dental Association" (hereinafter "ADA") with respect to each of the requests enumerated herein, include all persons, committees, subcommittees and bodies authorized to conduct business on behalf of ADA.
4. All references to the "California Dental Political Action Committee" (hereinafter "CAL-D-PAC") with respect to each of the requests enumerated herein, include all persons, committees, subcommittees and bodies authorized to conduct business on behalf of CAL-D-PAC.
5. All references to any "other dental association political action committee" (hereinafter "dental PAC") other than CAL-D-PAC or your committee with respect to each of the requests enumerated herein, include all persons, committees, subcommittees and bodies authorized to conduct business on behalf of such dental PAC.
6. All references to any "state dental association" with respect to each of the requests enumerated herein, include all persons, committees, subcommittees and bodies authorized to conduct business on behalf of such dental association.
7. All references to any "component society" of any state dental association with respect to each of the requests enumerated herein, include all persons, committees, subcommittees and bodies authorized to conduct business on behalf of such component society.
8. Each request enumerated herein, with the exception of request #1, covers the time period from January 1, 1972 through the date of production.

Please produce for inspection and copying the entire document that contains in whole or in part the following:

1. All documents and materials relating to the establishment of your committee or referring to or involving the history and circumstances leading to its foundation and the names and roles of the individuals, groups, associations, and/or committees participating in its foundation, including but not limited to

the roles of CAL-D-PAC and ADA in the foundation of your committee.

2. Copies of all articles of incorporation, constitutions, bylaws, procedural manuals, and any other rules or regulations of your committee including changed or superceded versions.
3. All documents and materials which relate, refer, or pertain to the setting, solicitation, and deposit of your committee's contribution "dues."
4. All documents and materials which relate, refer, or pertain to payment for the operating costs of your committee, including but not limited to payment for salaries, office space, supplies, and fundraising costs.
5. All documents and materials related or pertaining to communications between your committee and any of the following:

- (a) CAL-D-PAC,
- (b) ADA,
- (c) any state dental association,
- (d) component societies of any state dental association,
- (e) any other dental association, or
- (f) any other dental PAC

which relate, refer or pertain to workshops or seminars sponsored by your committee or any of the groups named above. This should further include all documents and materials which relate, refer, or pertain to the financing of these workshops or seminars and the payment of costs or expenses for persons attending.

6. All documents and materials which relate, refer or pertain to meetings of the Board of Directors of your committee, or any committee or subcommittee of your committee concerned with federal candidate selection, and which contain information relating to:

- (a) candidates for federal office,
- (b) contributions to candidates for federal office from your committee, CAL-D-PAC, or any other dental PAC, and
- (c) general policies concerning the making of contributions to federal candidates by your committee, CAL-D-PAC or any other dental PAC.

This should further include all documents and materials referred to or utilized by any person or persons attending such meetings or prepared for reference or use at such meetings.

7. All documents and materials related to communications between your committee and CAL-D-PAC which relate, refer or pertain to:

- (a) contributions to or on behalf of the Hayakawa for U.S. Senate Committee.

- (b) notification that CAL-D-PAC has contributed, intends to contribute, or recommends contributing to a federal candidate,
- (c) notification that your committee has contributed, intends to contribute, or recommends contributing to a federal candidate,
- (d) notification that any other dental PAC has contributed, intends to contribute, or recommends contributing to a federal candidate,
- (e) demands, requests or recommendations that CAL-D-PAC make a contribution to a federal candidate,
- (f) demands, requests or recommendations that your committee make a contribution to a federal candidate,
- (g) demands, requests or recommendations that any other dental PAC make a contribution to a federal candidate,
- (h) background information on candidates for federal office, including but not limited to voting records,
- (i) summaries of federal political contributions by your committee, CAL-D-PAC, or any other dental PAC, or
- (j) information concerning the reporting requirements or contribution limitations of the Federal Election Campaign Act of 1971, as amended.

8. All documents and materials related or pertaining to communications between your committee and any other dental PAC with respect to request #8 (a), (b), (c), (g), (i) and (j).

9. All minutes, reports or materials of any meeting of your Board of Trustees and/or Directors.

610304546



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

July 25, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John H. Hodgson, II, Treasurer
California Dental Political
Action Committee
1127 11th Street Suite 544
Sacramento, California 95841

Re: MUR 769 (78)

Dear Mr. Hodgson:

Enclosed please find a subpoena for the production of documents on September 20, 1979, at 10:00 a.m.

The scope of the Commission's investigation is described in a previous letter to the California Dental Political Action Committee dated February 13, 1979.

Should you have any questions concerning this matter, please do not hesitate to call Robert Bogin the attorney on my staff now handling this case. Mr. Bogin may be reached at (202) 523-4073.

Sincerely yours,

ker

M769 RB

1	The following service is requested: Show to whom and date of delivery RESTRICTED DELIVERY Show to whom and date of delivery RESTRICTED DELIVERY Show to whom and date of delivery (CONSULT POSTMASTER FOR FEES)	2	ARTICLE ADDRESSED TO: <i>John H. Hodgson, II</i>	3	ARTICLE DESCRIPTION REGISTERED NO. CERTIFIED NO. INSURED NO.	(Always obtain signature of addressee or agent) I have received the article described above: SIGNATURE _____ Addressee <input type="checkbox"/> Authorized agent	4	DATE OF DELIVERY <i>8/2/79</i>	POSTMARK <i>AUG 3 1979</i>	5	ADDRESS (Complete only if requested)	6	UNABLE TO DELIVER BECAUSE OF _____ CLERK'S INITIALS _____
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U.S. POSTAL SERVICE
\$0.00 1977-0-249-595

RETURN RECEIPT REGISTERED, INSURED AND CERTIFIED MAIL

1000041545

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John H. Hodgson, II, Treasurer
California Dental Political
Action Committee
1127 11th Street Suite 544
Sacramento, California 95841

Re: MUR 769 (78)

Dear Mr. Hodgson:

Enclosed please find a subpoena for the production
of documents on June , 1979.

The scope of the Commission's investigation is de-
scribed in a previous letter to the California Dental
Political Action Committee dated February 13, 1979.

Should you have any questions concerning this matter,
please do not hesitate to call Robert Bogin the attorney
on my staff now handling this case. Mr. Bogin may be
reached at (202) 523-4073.

Sincerely, yours,

William C. Oldaker
General Counsel

Enclosure

RB
7/20

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UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

SUBPOENA

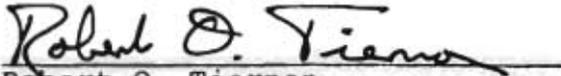
TO: John H. Hodgson, II
Treasurer
California Dental Political Action Committee
1127 11th Street, Suite 544
Sacramento, California 95841

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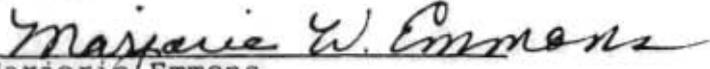
The Federal Election Commission, pursuant to its powers set forth in 2 U.S.C. § 437d, requires that the documents specified on the attached list be delivered for inspection and copying to authorized representatives of the Federal Election Commission at the business office of the California Dental Political Action Committee on September 20, 1979, at 10:00 a.m. and whatever further days are necessary to inspect and copy the aforementioned subpoenaed documents.

The documents should be compiled and delivered by the individual or individuals having knowledge of and, where possible, supervisory responsibility for the documents required.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand at the Office of the Commission, 1325 K Street, N.W., Washington, D.C. 20463, this 19th day of July, 1979.


Robert O. Tiernan
Chairman

ATTEST:


Marjorie Emmons
Secretary to the Commission

As used in this subpoena the following terms are defined as follows:

1. The term "documents and materials" refers to all written, printed, visual or electronic materials to be produced with respect to each of the requests enumerated herein. In particular, "documents and materials" includes but is not limited to letters, minutes, memoranda, records, reports, procedural manuals, handbooks, notes, agendas, articles, visual aids, electronic recordings, tables, charts, financial statements, account statements, billing forms, receipts, checks and solicitation materials.

2. All references to "your committee" with respect to each of the requests enumerated herein, include all persons, committees, subcommittees, and bodies authorized to conduct business on behalf of your committee.

3. All references to the "American Dental Association" (hereinafter "ADA") with respect to each of the requests enumerated herein, include all persons, committees, subcommittees, and bodies authorized to conduct business on behalf of ADA.

4. All references to the "American Dental Political Action Committee" (hereinafter "ADPAC") with respect to each of the requests enumerated herein, include all persons, committees, subcommittees and bodies authorized to conduct business on behalf of ADPAC.

5. All references to any "other dental association political action committee" (hereinafter "dental PAC") other than ADPAC or your committee with respect to each of the requests enumerated herein, include all persons, committees, subcommittees and bodies authorized to conduct business on behalf of such dental PAC.

6. All references to any "state dental association" with respect to each of the requests enumerated herein, include all persons, committees, subcommittees and bodies authorized to conduct business on behalf of such dental association.

7. All references to any "component society" of any state dental association with respect to each of the requests enumerated herein, include all persons, committees, subcommittees and bodies authorized to conduct business on behalf of such component society.

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8. Each request enumerated herein, with the exception of request #1, covers the time period from January 1, 1972, through the date of production.

Please produce for inspection and copying the entire document that contains in whole or in part the following:

- U I O : 7 4 : 5 4 5
1. All documents and materials relating to the establishment of your committee or referring to or involving the history and circumstances leading to its foundation and the names and roles of the individuals, groups, associations, and/or committees participating in its foundation, including but not limited to the roles of ADPAC and ADA in the foundation of your committee.
 2. Copies of all articles of incorporation, constitutions, bylaws, procedural manuals, and any other rules or regulations of your committee including changed or superceded versions.
 3. All documents and materials which relate, refer or pertain to the setting, solicitation and deposit of your committee's contribution "dues."
 4. All documents and materials which relate, refer or pertain to communications between your committee and ADPAC concerning:
 - (a) the setting or amount of ADPAC "dues";
 - (b) transmittal of ADPAC "dues";
 - (c) information or recommendations as to the conduct of "dues" solicitation.
 5. All documents and materials which relate, refer, or pertain to payment for the operating costs of your committee, including but not limited to payment for salaries, office space, supplies and fundraising costs.
 6. All documents and materials related or pertaining to communications between your committee and any of the following:
 - (a) ADPAC,
 - (b) ADA,
 - (c) your state dental association
 - (d) component societies of your state dental association,
 - (e) any other dental association, or
 - (f) any other dental PACwhich relate, refer or pertain to workshops or seminars sponsored by your committee or any of the groups named above. This should further include all documents and materials which relate, refer, or pertain to the financing of these workshops or seminars and the payment of costs or expenses for persons attending.

7. All documents and materials which relate, refer or pertain to meetings of the Board of Directors of your committee, or any committee or subcommittee of your committee concerned with federal candidate selection, and which contain information relating to:

- (a) candidates for federal office,
- (b) contributions to candidates for federal office from your committee, ADPAC or any other dental PAC, and
- (c) general policies concerning the making of contributions to federal candidates by your committee, ADPAC or any other dental PAC.

This should further include all documents and materials referred to or utilized by any person or persons attending such meetings or prepared for reference or use at such meetings.

8. All documents and materials related to communications between your committee and ADPAC which relate, refer or pertain to:

- (a) contributions to or on behalf of the Hayakawa for Senate Committee.
- (b) notification that ADPAC has contributed, intends to contribute, or recommends contributing to a federal candidate,
- (c) notification that your committee has contributed, intends to contribute, or recommends contributing to a federal candidate,
- (d) notification that any other dental PAC has contributed, intends to contribute, or recommends contributing to a federal candidate,
- (e) demands, requests or recommendations that ADPAC make a contribution to a federal candidate,
- (f) demands, requests or recommendations that your committee make a contribution to a federal candidate,
- (g) demands, requests or recommendations that any other dental PAC make a contribution to a federal candidate,
- (h) background information on candidates for federal office, including but not limited to voting records,
- (i) summaries of federal political contributions by your committee, ADPAC or any other dental PAC, or
- (j) information concerning the reporting requirements or contribution limitations of the Federal Election Campaign Act of 1971, as amended.

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9. All documents and materials related or pertaining to communications between your committee and any other dental PAC with respect to request #8 (a), (b), (c), (g), (i) and (j).

10. All documents and materials related to communications between your committee and the ADA Division of Public Affairs, or persons or bodies authorized to conduct business on its behalf, which relate, refer or pertain to the following:

- (a) candidates for federal office,
- (b) contributions to candidates for federal office,
- (c) general policies concerning the making of contributions to candidates for federal office,
- (d) background information on candidates for federal office, including but not limited to voting records, and
- (e) information concerning the reporting requirements or contribution limitations of the Federal Election Campaign Act of 1971, as amended.

11. All documents and materials which relate, refer or pertain to communications or meetings between your committee and ADA field representatives or ADPAC political education coordinators and which relate, refer, or pertain to the following:

- (a) candidates for federal office,
- (b) contributions to candidates for federal office,
- (c) general policies concerning the making of contributions to candidates for federal office,
- (d) background information on candidates for federal office, including but not limited to voting records, and
- (e) information concerning the reporting requirements or contribution limitations of the Federal Election Campaign Act of 1971, as amended.

12. All minutes, reports or materials of any meeting of your Board of Trustees and/or Directors.

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FEDERAL ELECTION COMMISSION

1125 K STREET NW
WASHINGTON, D.C. 20463

July 25, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Henry L. Ernstthal, Executive Director
California Dental Association
Tishman Airport Center
6161 West Century Boulevard
Los Angeles, California 90045

Dear Mr. Ernstthal:

Enclosed please find a subpoena for the production of documents on September 17, 1979, at 10:00 a.m.

The scope of the Commission's investigation is to determine whether the California Dental Political Action Committee and the American Dental Political Action Committee are affiliated.

Should you have any questions concerning the subpoena, please do not hesitate to call Robert Bogin, an attorney on my staff. Mr. Bogin may be reached at (202) 523-4073.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "W. C. Oldaker".

William C. Oldaker
General Counsel

Enclosure:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Henry L. Ernstthal, Executive Director
California Dental Association
Tishman Airport Center
6161 West Century Boulevard
Los Angeles, California 90045

Dear Mr. Ernstthal:

Enclosed please find a subpoena for the production of documents on June , 1979.

The scope of the Commission's investigation is to determine whether the California Dental Political Action Committee and the American Dental Political Action Committee are affiliated.

Should you have any questions concerning the subpoena, please do not hesitate to call Robert Bogin, an attorney on my staff. Mr. Bogin may be reached at (202) 523-4072.

Sincerely yours,

William C. Oldaker
General Counsel

Enclosure;

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As used in this subpoena the following terms are defined as follows:

1. The term "documents and materials" refers to all written, printed, visual or electronic materials to be produced with respect to each of the requests enumerated herein. In particular, "documents and materials" includes but is not limited to letters, minutes, memoranda, records, reports, procedural manuals, handbooks, notes, agendas, articles, visual aids, electronic recordings, tables, charts, financial statements, account statements, billing forms, receipts, checks and solicitation materials.

2. All references to "your association" with respect to each of the requests enumerated herein, include all persons, committees, subcommittees, and bodies authorized to conduct business on behalf of your association.

3. All references to the "dental political action committee of your state" (hereinafter "the state PAC") with respect to each of the requests enumerated herein, include all persons, committees, subcommittees, and bodies authorized to conduct business on behalf of the state PAC.

4. All references to any "component society" of your association with respect to each of the requests enumerated herein, include all persons, committees, subcommittees and bodies authorized to conduct business on behalf of such component society.

5. All references to the "American Dental Association" (hereinafter "ADA") with respect to each of the requests enumerated herein, include all persons, committees, subcommittees, and bodies authorized to conduct business on behalf of ADA.

6. All references to the "American Dental Political Action Committee" (hereinafter "ADPAC") with respect to each of the requests enumerated herein, include all persons, committees, subcommittees and bodies authorized to conduct business on behalf of ADPAC.

7. All references to any "other dental association political action committee" (hereinafter "dental PAC") other than ADPAC or the state PAC with respect to each of the requests enumerated herein, include all persons, committees, subcommittees and bodies authorized to conduct business on behalf of such dental PAC.

- (d) component societies of your association
 - (e) any other state dental association, or
 - (f) any other dental PAC
- which relate, refer or pertain to workshops or seminars sponsored by your association or any of the groups named above. This should further include all documents and materials which relate, refer, or pertain to the financing of these workshops or seminars and the payment of costs or expenses for persons attending.

7. All documents and materials related or pertaining to communications between your association and any of the following:

- (a) ADPAC,
 - (b) ADA,
 - (c) the state PAC,
 - (d) component societies of your association,
 - (e) any other state dental association, or
 - (f) any other dental PAC
- which relate, refer or pertain to:
- (1) candidates for federal office,
 - (2) contributions to candidates for federal office,
 - (3) general policies concerning the making of contributions to candidates for federal office,
 - (4) background information on candidates for federal office, including but not limited to voting records, or
 - (5) information concerning the reporting requirements or contribution limitations of the Federal Election Campaign Act of 1971, as amended.

8. All minutes, reports or materials of any meeting of your Board of Trustees and/or Directors.

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FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20463

July 25, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Joseph P. Cappuccio, President
American Dental Association
211 East Chicago Avenue
Chicago, Illinois 60611

Dear Mr. Cappuccio:

Enclosed please find a subpoena for the production of documents on August 27, 1979, at 10:00 a.m.

The scope of the Commission's investigation is to determine whether the California Dental Political Action Committee and the American Dental Political Action Committee are affiliated.

Should you have any questions concerning the subpoena, please do not hesitate to call Robert Bogin, an attorney on my staff. Mr. Bogin may be reached at (202) 523-4073.

Sincerely yours,

1. The following service is requested (check one): <input type="checkbox"/> Show to whom and date delivered <input type="checkbox"/> Show to whom, date, and address of delivery <input checked="" type="checkbox"/> RESTRICTED DELIVERY <input type="checkbox"/> Show to whom and date delivered <input type="checkbox"/> RESTRICTED DELIVERY <input type="checkbox"/> Show to whom, date, and address of delivery (CONSULT POSTMASTER FOR FEES)		2. ARTICLE ADDRESSED TO <i>Joseph P. Cappuccio</i>	
3. ARTICLE DESCRIPTION REGISTERED NO. <i>943274</i>	CERTIFIED NO.	INSURED NO.	(Always obtain signature of addressee or agent)
I have received the article described above SIGNATURE <i>Robert Bogin</i>		DATE OF DELIVERY <i>7-25-79</i>	POSTMARK
5. ADDRESS (Completely if requested)		6. UNABLE TO DELIVER BECAUSE:	
7. UNABLE TO DELIVER BECAUSE:		CLERK'S INITIALS	

☆GPO 1977-0-249-595

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CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Joseph P. Cappuccio, President
American Dental Association
211 East Chicago Avenue
Chicago, Illinois 60611

Dear Mr. Cappuccio:

Enclosed please find a subpoena for the production of documents on , 1999.

The scope of the Commission's investigation is to determine whether the California Dental Political Action Committee and the American Dental Political Action Committee are affiliated.

Should you have any questions concerning the subpoena, please do not hesitate to call Robert Bogin, an attorney on my staff. Mr. Bogin may be reached at (202) 523-4073..

Sincerely yours,

William C. Oldaker
General Counsel

Enclosure

RB
7/20

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UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

SUBPOENA

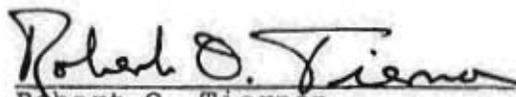
TO: Joseph P. Cappuccio, President
American Dental Association
211 East Chicago Avenue
Chicago, Illinois 60611

100-1560

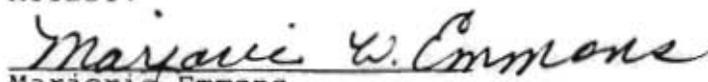
The Federal Election Commission, pursuant to its powers set forth in 2 U.S.C. § 437d, requires that the documents specified on the attached list be delivered for inspection and copying to authorized representatives of the Federal Election Commission at the business office of the American Dental Association on August 27, 1979, at 10:00 a.m., and whatever further days are necessary to inspect and copy the aforementioned subpoenaed documents.

The documents should be compiled and delivered by the individual or individuals having knowledge of and, where possible, supervisory responsibility for the documents required.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand at the Office of the Commission, 1325 K Street, N.W., Washington, D.C. 20463, this 19th day of July, 1979.


Robert O. Tiernan
Chairman

ATTEST:


Marjorie Emmons
Secretary to the Commission

Subpoena to: Jose P. Cappuccio

As used in this subpoena the following terms are defined as follows:

1. The term "documents and materials" refers to all written, printed, visual or electronic materials to be produced with respect to each of the requests enumerated herein. In particular "documents and materials" includes but is not limited to letters, minutes, memoranda, records, reports, procedural manuals, handbooks, notes, agendas, articles, visual aids, account statement, billing forms, receipts, checks and solicitation materials.
2. All references to "your association" or the "American Dental Association" (hereinafter "ADA") with respect to each of the requests enumerated herein, include all persons, committees, subcommittees, and bodies authorized to conduct business on behalf of your committee.
3. All references to the "American Dental Political Action Committee" (hereinafter "ADPAC") with respect to each of the requests enumerated herein, include all persons, committees, subcommittees and bodies authorized to conduct business on behalf of ADPAC.
4. All references to any "state dental association political action committee" (hereinafter "PAC") with respect to each of the requests enumerated herein, include all persons, committees, subcommittees and bodies authorized to conduct business on behalf of such dental PAC.
5. All references to any "state dental association" with respect to each of the requests enumerated herein, include all persons, committees, subcommittees and bodies authorized to conduct business on behalf of such dental association.
6. All references to any "component society" of any state dental association with respect to each of the requests enumerated herein, include all persons, committees, subcommittees and bodies authorized to conduct business on behalf of such component society.
7. Each request enumerated herein, with the exception of requests #'s 1, 2, and 10, covers the time period from January 1, 1972, through the date of production.

Please produce in their entirety for inspection and copying:

1. All documents and materials which relate, refer or pertain to the establishment of ADPAC or the history and circum-

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stances leading to its foundation, and the names and roles of the individuals, groups, associations, and/or committees participating in its foundation.

2. All documents and materials which relate, refer or pertain to the role of ADA in the formation of any other dental PAC.

3. Copies of all procedural manuals of your association including changed or superceded versions.

4. All documents and materials which relate, refer or pertain to the setting, solicitation and deposit of your association's dues.

5. All documents and materials which relate, refer or pertain to communications between your association and any of the following:

- (a) ADPAC,
- (b) state dental associations,
- (c) component societies of state dental associations, and
- (d) dental PACs

concerning dues collection and transmittal, including but not limited to payment for the costs of dues billing.

6. All documents and materials which relate, refer, or pertain to payment for the operating costs of ADPAC, including but not limited to payment for salaries, office space, supplies and fundraising costs.

7. All documents and materials which relate, refer, or pertain to payment, by your association for the operating costs of state dental associations or dental PACs including but not limited to payment for salaries, office space, supplies and fundraising costs.

8. All documents and materials related or pertaining to communications between your association and any of the following:

- (a) ADPAC,
- (b) state dental associations,
- (c) component societies of state dental associations, and
- (d) dental PACs

which relate, refer or pertain to workshops or seminars sponsored by your association or any of the groups named above. This should further include all documents and materials which relate, refer, or pertain to the financing of these workshops or seminars and the payment of costs or expenses for persons attending.

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9. All documents and materials related or pertaining to communication between your association, or persons or bodies authorized to conduct business on its behalf (e.g., ADA field representatives, the Division of Public Affairs and the Council on Legislation), and any of the following:

- (a) ADPAC,
- (b) state dental associations,
- (c) component societies of state dental associations, and
- (d) dental PACs

and which relate, refer or pertain to:

- (a) candidates for federal office,
- (b) contributions to candidates for federal office,
- (c) general policies concerning the making of contributions to candidates for federal office,
- (d) background information on candidates for federal office, including but not limited to voting records, and
- (e) information concerning the reporting requirements or contribution limitations of the Federal Election Campaign Act of 1971, as amended.

10. All documents and materials which relate, refer or pertain to unified membership in your association and any state dental association including but not limited to the names of each state dental association which has/had unified membership with your association and the inclusive dates of such unified membership.

11. All minutes, reports or materials of any meeting of your Board of Trustees and/or Directors.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE
FROM: MARTORIE W. EMMONS *MWE*
DATE: JULY 19, 1979
SUBJECT: SUBPOENAS IN RELATION TO MUR 769

The attached subpoenas have been signed and sealed this date.

These subpoenas included the following language omitted from the subpoenas signed by the Chairman on July 16: Paragraph 1, ... 1979, "at , and whatever further days are necessary to inspect and copy the aforementioned subpoenaed documents."

The originals of the July 16th subpoenas have been shredded.

ATTACHMENTS:

- Subpoenas (4)
1. Donelan
 2. Hodgson, II
 3. Ernstthal
 4. Cappuccio



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

MEMORANDUM TO: CHARLES STEELE
FROM: MARJORIE W. EMMONS *MWE*
DATE: JULY 16, 1979
SUBJECT: SUBPOENAS IN RELATION TO MUR 769

The attached subpoenas, approved July 11, 1979, have been signed and sealed this date.

ATTACHMENTS:
Subpoenas (4)
1. Donelan
2. Hodgson, II
3. Ernstthal
4. Cappuccio

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
California Dental Political)
Action Committee and the)
American Dental Political Action)
Committee)

MUR 769

CERTIFICATION

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I, Marjorie W. Emmons, Secretary to the Federal Election Commission, certify that on July 11, 1979, the Commission, meeting in an executive session at which a quorum was present, determined by a vote of 4-1 to approve the sending of the letters and subpoenas attached to the General Counsel's June 25, 1979 memorandum on MUR 769, to the following: Edward M. Donelan; John H. Hodgson, II; Henry L. Ernstthal; and Joseph P. Cappuccio.

Commissioners Harris, McGarry, Thomson, and Tiernan voted affirmatively for the above determination; Commissioner Friedersdorf dissented; Commissioner Aikens abstained on the vote.

Attest:

7/12/79

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
California Dental Political)
Action Committee and the)
American Dental Political Action)
Committee)

MUR 769

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, certify that on July 11, 1979, the Commission, meeting in an executive session at which a quorum was present, determined by a vote of 4-1 to approve the sending of the letters and subpoenas attached to the General Counsel's June 25, 1979 memorandum on MUR 769, to the following: Edward M. Donelan; John H. Hodgson, II; Henry L. Ernstthal; and Joseph P. Cappuccio.

Commissioners Harris, McGarry, Thomson, and Tiernan voted affirmatively for the above determination; Commissioner Friedersdorf dissented; Commissioner Aikens abstained on the vote.

Attest:

7/12/79
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary to the Commission

61010041567



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20543

MEMORANDUM TO: CHARLES STEELE
FROM: MARJORIE W. EMMONS *mwe*
DATE: JUNE 28, 1979
SUBJECT: OBJECTION - MUR 769 - Memorandum from OGC
dated 6-25-79, with Subpoenas
and Letters; Received in OCS
6-26-79, 9:52

The above-named document was circulated on a 48 hour
vote basis at 4:00, June 26, 1979.

Commissioner Thomson submitted an objection at 3:38,
June 27, 1979, thereby placing MUR 769 on the Executive
Session Agenda for Tuesday, July 10, 1979.

June 26, 1979

MEMORANDUM TO: Marge Emmons
FROM: Elissa T. Garr
SUBJECT: MUR 769

Please have the attached Memo distributed to the
Commission on a 48 hour tally basis.

Thank you.

81030244569



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

June 25, 1979

MEMORANDUM

TO: The Commission

FROM: William C. Oldaker
General Counsel *WCO*

SUBJECT: Issuance of Subpoenas (MUR 769)
California Dental PAC, American Dental PAC

On February 8, 1979, the Commission found reason to believe that California Dental PAC and American Dental PAC violated various provisions of the Act, and authorized the sending of notification letters. Both PACs have responded to the notification letter. There is, however, a need for further investigation into these matters. Therefore, the Office of General Counsel recommends that the attached subpoenas be issued to the appropriate individuals in order to bring this matter to a conclusion as soon as possible.

Recommendation

Approve the sending of the attached letters and subpoenas.

ATTACHMENTS:

Letters to Edward Donelan (ADPAC), John H. Hodgson (CDPAC), Henry L. Ernstthal (CDA), and Joseph P. Cappuccio (ADA).
Subpoenas with Attachment (Definition of Terms) to:
Edward Donelan, John H. Hodgson, Henry L. Ernstthal, and Joseph P. Cappuccio
Authorization of Issuance of Subpoenas to: Edward Donelan, John H. Hodgson, Henry L. Ernstthal, and Joseph P. Cappuccio





FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

AUTHORIZATION TO ISSUE SUBPOENA TO FACILITATE
THE INVESTIGATION OF THE CALIFORNIA DENTAL
POLITICAL ACTION COMMITTEE AND THE
AMERICAN DENTAL POLITICAL ACTION COMMITTEE .

The Commission hereby authorizes this subpoena to be
issued to Edward M. Donelan, Executive Secretary, American
Dental Political Action Committee

ADDRESS: Edward M. Donelan, Executive Secretary
American Dental Political Action Committee
1101 17th Street, N.W.
Washington, D.C. 20036

Robert C. Tiernan
Chairman

Joan D. Aikens
Commissioner

Max L. Friedersdorf
Vice Chairman

John W. McGarry
Commissioner

Thomas E. Harris
Commissioner

Vernon W. Thomson
Commissioner





FEDERAL ELECTION COMMISSION

1354 STREET, N.W.
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Edward M. Donelan, Executive Secretary
American Dental Political Action Committee
1101 17th Street, N.W.
Washington, D.C. 20036

Re: MUR 769 (78)

Dear Mr. Donelan:

Enclosed please find a subpoena for the production of documents on June , 1979.

The scope of the Commission's investigation is described in a previous letter to The American Dental Political Action Committee dated February 13, 1979.

Should you have any questions concerning this matter, please do not hesitate to call Robert Bogin, the attorney on my staff now handling this case. Mr. Bogin may be reached at (202) 523-4073.

Sincerely yours,

William C. Oldaker
General Counsel

Enclosure

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FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

AUTHORIZATION TO ISSUE SUBPOENA TO FACILITATE
THE INVESTIGATION OF THE CALIFORNIA DENTAL
POLITICAL ACTION COMMITTEE AND THE
AMERICAN DENTAL POLITICAL ACTION COMMITTEE

The Commission hereby authorizes this subpoena to be
issued to John H. Hodgson, II, Treasurer, California Dental
Political Action Committee.

ADDRESS: John H. Hodgson, II
Treasurer
California Dental Political
Action Committee
1127 11th Street, Suite 544
Sacramento, California 95841

Robert O. Tiernan
Chairman

Joan D. Aikens
Commissioner

Max L. Friedersdorf
Vice Chairman

John W. McGarry
Commissioner

Thomas E. Harris
Commissioner

Vernon W. Thomson
Commissioner

610 220 1457





FEDERAL ELECTION COMMISSION

1125 J STREET N.W.
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John H. Hodgson, II, Treasurer
California Dental Political
Action Committee
1127 11th Street Suite 544
Sacramento, California 95841

Re: MUR 769(78)

Dear Mr. Hodgson:

Enclosed please find a subpoena for the production of documents on June , 1979.

The scope of the Commission's investigation is described in a previous letter to the California Dental Political Action Committee dated February 13, 1979.

Should you have any questions concerning this matter, please do not hesitate to call Robert Bogin the attorney on my staff now handling this case. Mr. Bogin may be reached at (202) 523-4073.

Sincerely yours,

William C. Oldaker
General Counsel

Enclosure

81030241574



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

AUTHORIZATION TO ISSUE SUBPOENA TO FACILITATE
THE INVESTIGATION OF THE CALIFORNIA DENTAL
POLITICAL ACTION COMMITTEE AND THE
AMERICAN DENTAL POLITICAL ACTION COMMITTEE

The Commission hereby authorizes this subpoena to be issued to Henry L. Ernstthal, Executive Director, California Dental Association.

ADDRESS: Henry L. Ernstthal, Executive Director
California Dental Association
Tishman Airport Center
6161 West Century Boulevard
Los Angeles, California 90045

Robert O. Tiernan
Chairman

Joan D. Aikens
Commissioner

Max L. Friedersdorf
vice Chairman

John W. McGarry
Commissioner

Thomas E. Harris
Commissioner

Vernon W. Thomson
Commissioner



8103794575



FEDERAL ELECTION COMMISSION

1025 K STREET N.W.
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Henry L. Ernstthal, Executive Director
California Dental Association
Tishman Airport Center
6161 West Century Boulevard
Los Angeles, California 90045

Dear Mr. Ernstthal:

Enclosed please find a subpoena for the production of documents on June , 1979.

The scope of the Commission's investigation is to determine whether the California Dental Political Action Committee and the American Dental Political Action Committee are affiliated.

Should you have any questions concerning the subpoena, please do not hesitate to call Robert Bogin, an attorney on my staff. Mr. Bogin may be reached at (202) 523-4073.

Sincerely yours,

William C. Oldaker
General Counsel

Enclosure:

81030244576



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

AUTHORIZATION TO ISSUE SUBPOENA TO FACILITATE THE INVESTIGATION OF THE CALIFORNIA DENTAL POLITICAL ACTION COMMITTEE AND THE AMERICAN DENTAL POLITICAL ACTION COMMITTEE .

The Commission hereby authorizes this subpoena to be issued to Joseph P. Cappuccio, President, American Dental Association.

ADDRESS :

Joseph P. Cappuccio, President
American Dental Association
211 East Chicago Avenue
Chicago, Illinois 60611

Robert O. Tiernan
Chairman

Joan D. Aikens
Commissioner

Max L. Friedersdorf
Vice Chairman

John W. McGarry
Commissioner

Thomas E. Harris
Commissioner

Vernon W. Thomson
Commissioner





FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Joseph P. Cappuccio, President
American Dental Association
211 East Chicago Avenue
Chicago, Illinois 60611

Dear Mr. Cappuccio:

Enclosed please find a subpoena for the production of documents on 1979.

The scope of the Commission's investigation is to determine whether the California Dental Political Action Committee and the American Dental Political Action Committee are affiliated.

Should you have any questions concerning the subpoena, please do not hesitate to call Robert Bogin, an attorney on my staff. Mr. Bogin may be reached at (202) 523-4073.

Sincerely yours,

William C. Oldaker
General Counsel

Enclosure



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769
Begin
10/17

FEDERAL ELECTION COMMISSION

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

04

TO: Mr. Robert O. Tiernan, Chairman
and the Members of the Federal Election Commission

MOTION OF AMERICAN DENTAL ASSOCIATION
TO QUASH, OR IN THE ALTERNATIVE, MODIFY
THE SUBPOENA DUCES TECUM SERVED UPON IT
ON AUGUST 1, 1979

The AMERICAN DENTAL ASSOCIATION (ADA), by its undersigned attorneys, hereby respectfully moves, pursuant to Commission Rule 111.13, to quash, or in the alternative, modify the subpoena served upon it on August 1, 1979. In support hereof, ADA sets forth both general objections directed to the entire subpoena and specific objections directed to each of the specifications in the subpoena.

GENERAL OBJECTIONS

1. ADA objects to this subpoena in that it seeks materials related to the political activities and thoughts of both ADA and its members, thus chilling the exercise of ADA members' First Amendment rights as well as the First Amendment rights of the ADA.

2. Due to the disclosure requirements pursuant to the Freedom of Information Act, requiring ADA to divulge this subpoenaed material to the Commission will violate ADA's due process rights. See, Wearly v. FTC, 462 F.Supp. 589 (D.N.J. 1978).

3. Since ADA is a non-profit corporation organized

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to advance the art and science of dentistry, the functions of the Federal Election Commission, as applied to it, are unconstitutional.

4. ADA objects to this subpoena to the extent that it infringes on any privileges held by ADA, including but not limited to, the attorney-client privilege and the work-product doctrine.

5. ADA objects to this subpoena as being unduly burdensome and oppressive in that any materials possibly relevant to any permissible Commission investigation would be in the possession, custody and control of ADPAC, an organization wholly separate from ADA.

6. ADA objects to all specifications as being unreasonable in scope which define no time period.

OBJECTIONS TO PARTICULAR SPECIFICATIONS

Specification One. ADA objects to Specification One because it calls for information not possibly relevant to the duties of the Commission, because it is unreasonable in scope and thus unduly burdensome and because it violates the First Amendment rights of the ADA and its members.

Specification Two. ADA objects to Specification Two because it calls for information not relevant to the duties of the Commission, because it is unreasonable in scope and unduly burdensome and because it violates the First Amendment rights of the ADA and its members.

Specification Three. ADA objects to Specification Three in that ADA's "procedural manuals" are in no way relevant to any investigative duties of the Commission.

Moreover, the request is unreasonable in scope and unduly burdensome and oppressive.

Specification Four. ADA objects to Specification Four because it calls for materials which are not relevant to the Commission's investigative duties, it is unreasonable in scope, vague, burdensome and it infringes on the First Amendment rights of ADA's members and the ADA.

Specification Five. ADA objects to Specification Five because it calls for materials which are not relevant to the Commission's investigative duties, it is wholly unreasonable in scope, it is burdensome and oppressive and it violates the First Amendment rights of ADA's members and the ADA.

Specification Six. ADA objects to Specification Six because it calls for materials which are not relevant to the Commission's investigative duties, it is unreasonable in scope, it is burdensome and oppressive and it infringes upon the First Amendment rights of ADA's members and the ADA.

Specification Seven. ADA objects to Specification Seven because it calls for material which is not relevant to the Commission's investigative duties, it is unreasonable in scope, it is burdensome and oppressive and it infringes on the First Amendment rights of ADA's members and the ADA.

Specification Eight. ADA objects to Specification Eight because it calls for materials which are irrelevant to the Commission's investigative duties, it is unreasonable in scope, it is oppressive and burdensome and it infringes upon

the First Amendment rights of ADA's members and the ADA.

Specification Nine. ADA objects to Specification Nine, (a) - (e), in that it calls for materials not relevant to the Commission's investigative duties, it is totally unreasonable in scope, it is burdensome and oppressive and it is in flagrant violation of the First Amendment rights of ADA's members and the ADA.

Specification Ten. ADA objects to Specification Ten because it calls for information not relevant to the investigative duties of the Commission, it is unreasonable in scope and it is burdensome and oppressive.

Specification Eleven. ADA objects to Specification Eleven because it calls for materials which are absolutely irrelevant to any of the investigative duties of the Commission, it is grossly unreasonable in scope, it is burdensome and oppressive and it infringes upon the First Amendment rights of ADA's members. This Specification would require the ADA to turn over the reports and minutes of the meetings requested for over 100 years and not limited by subject matter.

MOTION TO MODIFY*

It is highly doubtful that the District Court would sustain the extremely broad and oppressive subpoena served

* Should the Commission choose to modify this subpoena, in order to require the production of any documents, the production of those documents should be subject to an appropriate protective order.

upon the ADA in the instant proceeding. The ADA therefore respectfully requests, without waiving any of its objections herein, that the Commission modify the subpoena so as to provide a reasonable time limit for Specification Ten for, among other reasons, any historical information allegedly relevant would already be required under Specifications One and Two.

In addition, the ADA respectfully requests that the Commission modify the subpoena so as to provide a specific subject matter for the subpoena specifications. In this connection, Specification Eleven would permit the turning over of all of the ADA's minutes, reports or materials of its Board of Trustees and/or Directors from the beginning of the organization to the present with no subject matter limitation whatsoever. In view of the ADA's First Amendment rights and the disclosure requirements pursuant to the Freedom of Information Act, Specification Eleven is constitutionally objectionable. So, also, Specifications Three, Four, Five, Seven, Eight, Nine and Ten are unconstitutional as applied to the ADA because they are not limited as to any relevant subject matter.

WHEREFORE, ADA respectfully requests that the subpoena be quashed, or in the alternative, modified.

AMERICAN DENTAL ASSOCIATION

By: 

PETER M. SFIKAS,
One of Its Attorneys

PETER M. SFIKAS
CLAY H. PHILLIPS
PETERSON, ROSS, SCHLOERB & SEIDEL
200 East Randolph Drive, #7300
Chicago, IL 60601
(312) 861-1400

DATED: AUGUST 3, 1979

100 EAST RANDOLPH DRIVE - SUITE 7300

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BOR-AIR FREIGHT CO., INC.
GETS IT THERE EVERYWHERE BY AIR

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PCS. | BORAIR-NO.

DESTINATION

PCS. | BORAIR-NO.

DL

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FIRST CLASS MAIL

— FROM —

PETERSON, ROSS, SCHLOERB & SEIDEL
200 EAST RANDOLPH DRIVE - SUITE 7300
CHICAGO, ILLINOIS 60601

Do

Federal Election Commission
1325 K Street NW
Washington, D.C. 20463

Attn: Mr. Robert O. Tiernan
Chairman



FEDERAL ELECTION COMMISSION

1125 K STREET NW
WASHINGTON, DC 20463

June 8, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John H. Hodgson II, Esquire
Dobbs and Neilsen
Suite 550
1225 Eighth Street
Sacramento, California 20463

Re: MUR 769 (78)

Dear Mr. Hodgson:

We are in receipt of your letter of March 15, 1979, in which you raise questions concerning the Commission's findings of reason to believe that the California Dental Political Action Committee ("CAL-D-PAC") has violated the Federal Election Campaign Act of 1971, as amended.

With regard to the Commission's findings of an apparent violation of 2 U.S.C. § 441a(a)(2)(A) in connection with contributions made to the Hayakawa for U.S. Senate Committee, you write that it has been CAL-D-PAC's position that it has never been affiliated with the American Dental Political Action Committee ("ADPAC"). We draw your attention to the amendment to CAL-D-PAC's statement of organization submitted on April 10, 1978, which cites ADPAC as an affiliated committee.

The letter from this Office, dated February 13, 1979, spelled out the bases for the Commission's finding of reason to believe that CAL-D-PAC has violated 2 U.S.C. § 441b(a). To reiterate, the Commission has found an apparent violation of this provision in the fact that CAL-D-PAC has deposited into its federal account amounts equal to contributions from non-corporate members which have been previously commingled with contributions from corporate members in an account of the California Dental Association ("CDA"). The Commission has also found



apparent violations of Section 441b(a) in CAL-D-PAC's policy prior to July 1, 1977, of placing all monies, both corporate and non-corporate, received from CDA into the CAL-D-PAC federal account prior to the transfer of an amount equal to corporate contributions to the CAL-D-PAC state account, and in CAL-D-PAC's acceptance into its federal savings and checking accounts of \$138,387.48 in transfers from its state savings and checking accounts, and from its administrative account, all of which contain corporate monies.

In your letter, you also request a copy of the audit report for CAL-D-PAC. This report has not yet been completed, pending resolution of the issues involved in MUR 769.

Sincerely,

William C. Oldaker
William C. Oldaker
General Counsel

AW M167

RETURN RECEIPT FOR REGISTERED, INSURED AND CERTIFIED MAIL

1. The following service is requested (check one):
 Show to whom and date delivered
 Show to whom, date, and address of delivery
 RESTRICTED DELIVERY Show to whom and date delivered
 RESTRICTED DELIVERY Show to whom, date, and address of delivery
 CONSULT POSTMASTER FOR FEES

2. ARTICLE ADDRESSED TO
John Holgren

3. ARTICLE DESCRIPTION
 REGISTERED NO. CERTIFIED NO. INSURED NO.

(Always obtain signature of addressee or agent)

I have received the article described above:
 SIGNATURE Addressee Authorized agent

Aracido Wise

4. DATE OF DELIVERY *6-19-79* POSTMARK

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE CLERK'S INITIALS

6107041596

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John H. Hodgson II, Esquire
Dobbs and Neilsen
Suite 550
1225 Eighth Street
Sacramento, California 20463

Re: MUR 769 (78)

Dear Mr. Hodgson:

We are in receipt of your letter of March 15, 1979, in which you raise questions concerning the Commission's findings of reason to believe that the California Dental Political Action Committee ("CAL-D-PAC") has violated the Federal Election Campaign Act of 1971, as amended.

With regard to the Commission's findings of an apparent violation of 2 U.S.C. § 441a(a)(2)(A) in connection with contributions made to the Hayakawa for U.S. Senate Committee, you write that it has been CAL-D-PAC's position that it has never been affiliated with the American Dental Political Action Committee ("ADPAC"). We draw your attention to the amendment to CAL-D-PAC's statement of organization submitted on April 1, 1978, which cites ADPAC as an affiliated committee.

The letter from this Office, dated February 13, 1979, spelled out the bases for the Commission's finding of reason to believe that CAL-D-PAC has violated 2 U.S.C. § 441b(a). To reiterate, the Commission has found an apparent violation of this provision in the fact that CAL-D-PAC has deposited into its federal account amounts equal to contributions from non-corporate members which have been previously commingled with contributions from corporate members in an account of the California Dental Association ("CDA"). The Commission has also found

81030244587

apparent violations of Section 441b(a) in CAL-D-PAC's policy prior to July 1, 1977, of placing all monies, both corporate and non-corporate, received from CDA into the CAL-D-PAC federal account prior to the transfer of an amount equal to corporate contributions to the CAL-D-PAC state account, and in CAL-D-PAC's acceptance into its federal savings and checking accounts of \$138,387.48 in transfers from its state savings and checking accounts, and from its administrative account, all of which contain corporate monies.

In your letter, you also request a copy of the audit report for CAL-D-PAC. This report has not yet been completed, pending resolution of the issues involved in MUR 769.

Sincerely,

William C. Oldaker
General Counsel

81030244588



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

MEMORANDUM TO CHARLES STEELE
FROM: MARJORIE W. EMMONS *mwe*
DATE: MAY 8, 1979
SUBJECT: MUR 769 - Interim Investigative Report
dated 5-4-79; Received in OCS 5-4-79,
2:48

The above-named document was circulated on a 24
hour no-objection basis at 12:00, Monday, May 7, 1979.

The Commission Secretary's Office has received
no objections to the Interim Investigative Report as of
1:00 this date.

81010041589

May 4, 1979

MEMORANDUM TO: Marge Emmons
FROM: Elissa T. Garr
SUBJECT: MUR 769

Please have the attached Interim Invest Report on
MUR 769 distributed to the Commission.

Thank you.

81030241590

BEFORE THE FEDERAL ELECTION COMMISSION

79 MAY 4 A 2: 48

In the Matter of)
)
California Dental Political)
Action Committee)
)
American Dental Political)
Action Committee)

MUR 769(78)

INTERIM INVESTIGATIVE REPORT

On February 8, 1979, the Commission found reason to believe that the California Dental Political Action Committee ("CAL-D-PAC") had violated 2 U.S.C. § 441a(a)(1)(A) by making an excessive contribution to a candidate and his authorized committee, and 2 U.S.C. § 441b(a) by accepting transfers of contributions from members of the California Dental Association ("CDA") which had been commingled with corporate monies in the CDA account, by commingling corporate and non-corporate contributions in its own federal savings account prior to July 1, 1977, and by transferring funds from its state account and its administrative accounts to its federal accounts. The Commission also found reason to believe that the American Dental Political Action Committee ("ADPAC") had violated 2 U.S.C. § 433(b)(2) by failing to register CAL-D-PAC as an affiliated committee and 2 U.S.C. § 441a(a)(1)(A) by making an excessive contribution to a candidate and his authorized committee.

Responses have been received from the treasurer/legal counsel of CAL-D-PAC and the executive secretary of ADPAC. They both deny affiliation of the two committees and thus any violation of 2 U.S.C. § 441a(a)(1)(A) or 2 U.S.C. § 433(b)(2). 1/ ADPAC's

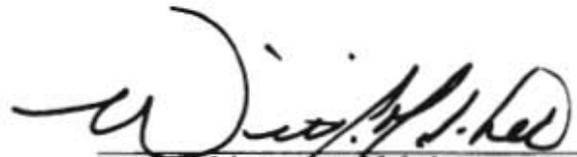
1/ On April 10, 1978 CAL-D-PAC amended its statement of organization to reflect affiliation with ADPAC.

6103041591

representative states that ADPAC participates with CAL-D-PAC in "joint fundraising efforts"; CAL-D-PAC's treasurer does not mention this. The latter representative indicates that his organization finds the Commission's findings of apparent violations of 2 U.S.C. § 441b(a) "puzzling".

Having received these responses, the Office of General Counsel is now in the process of determining the appropriate next steps to take in investigating the issues involved in this matter, particularly the question of affiliation.

5/4/79
Date



William C. Oldaker
General Counsel

5101004:592

DOBBS & NIELSEN

Attorneys and Counselors at Law

SUITE 550, 1225 EIGHTH STREET
SACRAMENTO, CA 95814

(916) 446-6752

RECEIVED
FEDERAL ELECTION
COMMISSION

'79 MAR 19 AM 9:42

COO -
9034

March 15, 1979

901611

~~981584~~

Anne A. Weissenborn, Esquire
FEDERAL ELECTION COMMISSION
1325 K Street, N. W.
Washington, D. C. 20463

Re: California Dental Political Action Committee

Dear Ms. Weissenborn:

This office has served as legal counsel and treasurer to the California Dental Political Action Committee (CAL-D-PAC) since June, 1977. For your records, please note that our current address is 1225 Eighth Street, Suite 550, Sacramento, California 95814.

This letter will serve as an initial response to your letter of February 13, 1979 which was received by this office on February 26, 1979 regarding MUR 769 (78).

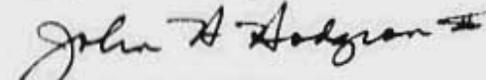
Your letter indicates that there is a violation of 2 U.S.C. § 441a(a)(2)(A) because of an "apparent although unreported affiliation between ADPAC and CAL-D-PAC". Would you please provide your reasons for coming to this conclusion because it has been CAL-D-PAC's position that it has never been affiliated with American Dental Political Action Committee.

You further indicate that there are violations of 2 U.S.C. § 441b(a). These violations are also puzzling, and it would be appreciated if you could specifically explain the reasons for these particular alleged violations as set forth in your letter of February 13, 1979.

I would also like to request a copy of the CAL-D-PAC audit report prepared by the FEC auditors who were here in California last year for the CAL-D-PAC audit. I was advised by Mr. Jan Barrans, the Executive Assistant to Chairman Joan Aikens, that this information was available upon request. This audit report may assist us in being able to respond adequately to your "reason to believe" letter which you recently sent.

I would be pleased to discuss this matter by telephone if that would expedite any questions or comments you may have. It is our intention to resolve this matter with your office as expeditiously as possible.

Very sincerely,



JOHN H. HODGSON II

JHH:bw

61010141594

DOBBS & NIELSEN

Attorneys and Counselors at Law

SUITE 550, 1225 EIGHTH STREET
SACRAMENTO, CA 95814



Anne A. Weissenborn, Esquire
FEDERAL ELECTION COMMISSION
1325 K Street, N.W.
Washington, D. C. 20463





FEDERAL ELECTION COMMISSION

1125 K STREET NW
WASHINGTON, D.C. 20463

MEMORANDUM TO CHARLES STEELE
FROM: MARJORIE W. EMMONS *MJE by jc*
DATE: MARCH 21, 1979
SUBJECT: MUR 769 (78) - Interim Investigative
Report dated 3-16-79: Received in
OCS 3-19-79, 11:34

The above-named document was circulated on a 24
hour no-objection basis at 12:00, March 20, 1979.

The Commission Secretary's Office has received
no objections to the Interim Investigative Report as of
1:00 this date.

61017044598

March 19, 1979

MEMORANDUM TO: Marge Emmons
FROM: Elissa T. Garr
SUBJECT: MUR 769

Please have the attached Interim Invest Report
on MUR 769 distributed to the Commission.

Thank you.

81030244597

BEFORE THE FEDERAL ELECTION COMMISSION

79 MAR 19 11: 34

In the Matter of)
California Dental Political)
Action Commission)
American Dental Political)
Action Commission)

MUR 769(78)

INTERIM INVESTIGATIVE REPORT

On February 8, 1979, the Commission found reason to believe that the California Dental Political Action Committee ("CAL-D-PAC") had violated 2 U.S.C. § 441a(a)(1)(A) by making an excessive contribution to a candidate and his authorized committee and 2 U.S.C. § 441b(a) by accepting transfers of contributions from members of the California Dental Association ("CDA") which have been commingled with corporate monies in the CDA account, by commingling corporate and non-corporate contributions in its own federal savings account prior to July 1, 1977, and by transferring funds from its state accounts and its administrative accounts to its federal accounts. The Commission also found reason to believe that the American Dental Political Action Committee ("ADPAC") had violated 2 U.S.C. § 433(b)(2) by failing to register CAL-D-PAC as an affiliated committee and 2 U.S.C. § 441a(a)(1)(A) by making an excessive contribution to a candidate and his authorized committee.

A response has been received from ADPAC but not yet from CAL-D-PAC. The ten-day response period has just expired and we will be contacting CAL-D-PAC shortly.

3/16/79
Date


William C. Olaker
General Counsel

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Executive Committee:

Chairman
William M. Creason, DDS
Grand Haven, Michigan

Vice-Chairman
Jack T. Scott, DMD
Tacoma, Washington

Treasurer
Dudley S. Miller, DDS
Santa Rosa, California

John J. Houston, DDS
Clemont, New Hampshire

H. Franklin Miller, DDS
Memphis, Tennessee

Directors:

Mrs. Roland M. Adams
Bakersfield, California

Edward U. Austel, DDS
Charlotte, North Carolina

Mr. E. J. Caplan, DDS
Larchmont, New York

William J. Calkins, DDS
Salt Lake City, Utah

Robert B. Dean, DDS
Austin, Texas

William G. Gentry, DDS
Cincinnati, Indiana

Dr. J. A. G. Hill, DDS
New York, New York

Arthur E. Kohn, DDS
White Plains, New York

Arthur A. Lerner, DDS
Brooklyn, New York

Dr. J. H. Lerner, DDS
Brooklyn, New York

Dr. J. H. Lerner, DDS
Brooklyn, New York

George M. L. Lerner, DDS
Brooklyn, New York

Dr. M. K. Lerner, DDS
Brooklyn, New York

Dr. J. Lerner, DDS
Brooklyn, New York

Consultant
John B. W. Lerner, DDS
Berkeley, California

Dr. J. Lerner, DDS
Brooklyn, New York

SUITE 1006 / 1101 17th STREET, NORTHWEST, WASHINGTON, D.C. 20036 / 202 • 833-3059

February 23, 1979

Mr. William C. Oldaker
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463

Re MUR 769 (78)

Dear Mr. Oldaker:

This will serve to acknowledge receipt of your letter of February 13, 1979. It will also serve to advise that ADPAC has not violated the Federal Election Campaign Act of 1971 as intimated in your letter.

A review of ADPAC's original Registration and Statement of Organization does not reflect any omission. ADPAC is an independent political action committee legally established and maintained by the American Dental Association. It is also a multicandidate political committee having fulfilled all the requirements of such a committee as set forth in the Act.

ADPAC is not and has not been "affiliated" with any other political committee. ADPAC has no control whatsoever over the make-up and affairs of any other political committee which includes CAL-D-PAC. If my memory is correct, CAL-D-PAC was in existence before ADPAC was established.

ADPAC and CAL-D-PAC participate in joint fund raising efforts (2 USC 441 a (a) (5) (A)). These efforts are wholly voluntary and may be terminated at any time by either Committee.

Because ADPAC is a multicandidate committee, it made the maximum contribution to Mr. Hayakawa allowed by the Act. At no time did ADPAC have any knowledge of any other contribution to Mr. Hayakawa nor did it concern itself with any. Your information is the first knowledge of such a contribution.

If you would describe the basis of your conclusion that there is an "apparent affiliation" between CAL-D-PAC and ADPAC, perhaps I can provide you with additional information to clear up the situation.

Sincerely,

Edward M. Donelan

Edward M. Donelan
Executive Secretary

EMD:lch

cc: Dr. William M. Creason
Chairman, ADPAC

81011-500

SUITE, 1006
1101 17th STREET, N.W.
WASHINGTON, D.C. 20036



Mr. William C. Oldaker
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463

CERTIFIED

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MAIL

15 PM
2:



FEDERAL ELECTION COMMISSION

1155 K STREET NW
WASHINGTON, DC 20543

February 13, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Edward M. Donelan
Secretary-Treasurer
American Dental Political Action Committee
1101 Seventeenth Street, N.W.
Suite 1006
Washington, D.C. 20036

Re: MUR 769(78)

Dear Mr. Donelan:

This letter is to inform you that the Federal Election Commission has found reason to believe that the American Dental Political Action Committee ("ADPAC") has violated the Federal Election Campaign Act of 1971, as amended. Specifically, the Commission has found reason to believe that the Committee has violated 2 U.S.C. § 433(b)(2) and 2 U.S.C. § 441a(a)(2)(A).

The violation of 2 U.S.C. § 443(b)(2) is the result of the failure by ADPAC to include the California Dental Political Action Committee ("CAL-D-PAC") as an affiliated organization on ADPAC's statement of organization. The violation of 2 U.S.C. § 441a(a)(2)(A) stems from the facts that on August 18, 1976, ADPAC made a \$5,000 contribution to the Hayakawa for U.S. Senate Committee and on January 14, 1977, CAL-D-PAC made a \$1,000 contribution to the same committee. Given the apparent although unreported affiliation between ADPAC and CAL-D-PAC, these contributions exceeded the \$5,000 per election contribution limitation for multicandidate committees set forth in Section 441 a(a)(2)(A).

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Under the Act you have an opportunity to demonstrate that no action should be taken against the Committee. 2 U.S.C. § 437g(a) (4). Please submit any factual or legal materials which you believe are relevant to the Commission's consideration of these matters.

The Commission is under a duty to investigate this matter expeditiously. Therefore, your response should be submitted within ten days after your receipt of this notification. If you have any questions, please contact Anne A. Weissenborn, the attorney assigned to this matter, at (202) 523-4178.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a) (3) (B) unless you notify the Commission in writing that you wish the investigation to be made public. If you intend to be represented by counsel in this matter, please have such counsel so notify us in writing.

Sincerely,

William C. O'Keefe
General Counsel

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1. The following service is requested. Check one: <input type="checkbox"/> Show to whom and date delivered. <input checked="" type="checkbox"/> Show to whom, date, and address of delivery. <input type="checkbox"/> RESTRICTED DELIVERY <input type="checkbox"/> Show to whom and date delivered. <input type="checkbox"/> RESTRICTED DELIVERY <input type="checkbox"/> Show to whom, date, and address of delivery. (CONSULT POSTMASTER FOR FEES)	
2. ARTICLE ADDRESSED TO <i>Eward Donlan</i>	
3. ARTICLE DESCRIPTION REGISTERED NO. <i>943998</i>	INSURED NO.
(Always obtain signature of addressee or agent)	
I have received this article from the post office. SIGNATURE: <i>Richard M. Joy</i> Address: _____ Authorized agent	
DATE OF DELIVERY: <i>11-16-74</i> POSTMARK: _____	
5. ADDRESS: Complete only if different from address on article. <i>1101-1724</i>	
6. UNABLE TO DELIVER BECAUSE _____ CLERK'S INITIALS _____	

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Edward M. Donelan
Secretary-Treasurer
American Dental Political Action Committee
1101 Seventeenth Street, N.W.
Suite 1006
Washington, D.C. 20036

Re: MUR 769(78)

Dear Mr. Donelan:

This letter is to inform you that the Federal Election Commission has found reason to believe that the American Dental Political Action Committee ("ADPAC") has violated the Federal Election Campaign Act of 1971, as amended. Specifically, the Commission has found reason to believe that the Committee has violated 2 U.S.C. § 433(b)(2) and 2 U.S.C. § 441a(a)(2)(A).

The violation of 2 U.S.C. § 433(b)(2) is the result of the failure by ADPAC to include the California Dental Political Action Committee ("CAL-D-PAC") as an affiliated organization in ADPAC's statement of organization. The violation of 2 U.S.C. § 441a(a)(2)(A) stems from the facts that on August 18, 1976, ADPAC made a \$5,000 contribution to the Hayakawa for U.S. Senate Committee and on January 14, 1977, CAL-D-PAC made a \$1,000 contribution to the same committee. Given the apparent although unreported affiliation between ADPAC and CAL-D-PAC, these contributions exceeded the \$5,000 per election contribution limitation for multicandidate committees set forth in Section 441a(a)(2)(A).

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13/79

Under the Act you have an opportunity to demonstrate that no action should be taken against the Committee. 2 U.S.C. § 437g(a)(4). Please submit any factual or legal materials which you believe are relevant to the Commission's consideration of these matters.

The Commission is under a duty to investigate this matter expeditiously. Therefore, your response should be submitted within ten days after your receipt of this notification. If within ten days after your receipt of this notification. If you have any questions, please contact Anne A. Weissenborn, the attorney assigned to this matter, at (202) 523-4178.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(3)(B) unless you notify the Commission in writing that you wish the investigation to be made public. If you intend to be represented by counsel in this matter, please have such counsel so notify us in writing.

Sincerely,

William C. Oldaker
General Counsel

81030241605



FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20463

February 13, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. John H. Hodgson, II, Esquire
Treasurer
California Dental Political
Action Committee
1127 11th Street, Suite 544
Sacramento, California 95814

Re: MUR 769 (78)

Dear Mr. Hodgson:

This letter is to inform you that the Federal Election Commission has found reason to believe that the California Dental Political Action Committee ("CAL-D-PAC") has violated the Federal Election Campaign Act of 1971, as amended. Specifically, the Commission has found reason to believe that CAL-D-PAC has violated 2 U.S.C. § 441a(a)(2)(A), and 2 U.S.C. § 441b(a).

The violation of 2 U.S.C. § 441a(a)(2)(A) is the result of the facts that on August 18, 1976, the American Dental Political Action Committee ("ADPAC") made a \$5,000 contribution to the Hayakawa for U.S. Senate Committee and on January 14, 1977, CAL-D-PAC made a \$1,000 contribution to the same committee. Given the apparent although then unreported affiliation between ADPAC and CAL-D-PAC, these two contributions exceed the \$5,000 per election contribution limitation for multi-candidate committees set forth in Section 441a(a)(2)(A).

The violations of 2 U.S.C. § 441b(a) result: (1) from CAL-D-PAC's continuing deposits into its state/federal savings account of contributions solicited by the California Dental Association from its non-corporate members but commingled with contributions from corporate members in an Association account prior to transfer to CAL-D-PAC; (2) from CAL-D-PAC's pre-July 1, 1977, policy of accepting transfers of both corporate and non-corporate contributions from the Association which were deposited into CAL-D-PAC's state/federal savings

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account prior to transfers of the corporate portions being made to its state savings account; (3) from CAL-D-PAC's deposits into its state/federal savings and checking accounts between February 26, 1976, and February 3, 1978, of \$138,387.48 in transfers from its own state savings and checking accounts and from its administrative account.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the Committee. 2 U.S.C. § 437g(a)(4). Please submit any factual or legal materials which you believe are relevant to the Commission's consideration of these matters.

The Commission is under a duty to investigate this matter expeditiously. Therefore, your response should be submitted within ten days after your receipt of this notification. If you have any questions, please contact Anne A. Weissenborn, the attorney assigned to this matter, at (202) 523-4178.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(3)(B) unless you notify the Commission in writing that you wish the investigation to be made public. If you intend to be represented by outside counsel in this matter, please have such counsel so notify us in writing.

Sincerely,

William C. Oldaker
General Counsel

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SENDER Complete items 1, 2, and 3 Add your address in the reverse		RETURN TO space on reverse	
1. The following service is requested (check one) <input type="checkbox"/> Show to whom and date delivered _____ C <input checked="" type="checkbox"/> Show to whom, date, and address of delivery _____ C <input type="checkbox"/> RESTRICTED DELIVERY Show to whom and date delivered _____ C <input type="checkbox"/> RESTRICTED DELIVERY Show to whom, date, and address of delivery \$ _____ (CONSULT POSTMASTER FOR FEES)			
2. ARTICLE ADDRESSED TO: <i>William C. Oldaker</i> <i>1225 - 8th St - San Francisco</i>			
3. ARTICLE DESCRIPTION REGISTERED NO CERTIFIED NO INSURED NO 943997		(Always obtain signature of addressee or agent) I have received this article described above. SIGNATURE <input type="checkbox"/> Addressee <input checked="" type="checkbox"/> Authorized agent <i>William C. Oldaker</i> DATE OF DELIVERY FEB 28 1979 1225-8th St San Francisco CA 94103	
5. ADDRESS: Complete only if restricted delivery service is requested 1225-8th St San Francisco CA 94103			
6. UNABLE TO DELIVER BECAUSE _____ REASON _____ ADDRESSEE'S INITIALS _____			

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. John H. Hodgson, II, Esquire
Treasurer
California Dental Political
Action Committee
1127 11th Street, Suite 544
Sacramento, California 95814

Re: MUR 769 (78)

Dear Mr. Hodgson:

This letter is to inform you that the Federal Election Commission has found reason to believe that the California Dental Political Action Committee ("CAL-D-PAC") has violated the Federal Election Campaign Act of 1971, as amended. Specifically, the Commission has found reason to believe that CAL-D-PAC has violated 2 U.S.C. § 441a(a)(2)(A), and 2 U.S.C. § 441b(a).

The violation of 2 U.S.C. § 441a(a)(2)(A) is the result of the facts that on August 18, 1976, the American Dental Political Action Committee ("ADPAC") made a \$5,000 contribution to the Hayakawa for U.S. Senate Committee and on January 14, 1977, CAL-D-PAC made a \$1,000 contribution to the same committee. Given the apparent although then unreported affiliation between ADPAC and CAL-D-PAC, these two contributions exceed the \$5,000 per election contribution limitation for multi-candidate committees set forth in Section 441a(a)(2)(A).

The violations of 2 U.S.C. § 441b(a) result: (1) from CAL-D-PAC's continuing deposits into its state/federal savings account of contributions solicited by the California Dental Association from its non-corporate members but commingled with contributions from corporate members in an Association account prior to transfer to CAL-D-PAC; (2) from CAL-D-PAC's pre-July 1, 1977, policy of accepting transfers of both corporate and non-corporate contributions from the Association which were deposited into CAL-D-PAC's state/federal savings

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account prior to transfers of the corporate portions being made to its state savings account; (3) from CAL-D-PAC's deposits into its state/federal savings and checking accounts between February 26, 1976, and February 3, 1978, of \$138,387.48 in transfers from its own state savings and checking accounts and from its administrative account; and ~~(4) from CAL-D-PAC's acceptance of administrative grants from the Association which apparently were composed in part of corporate dues monies.~~

Under the Act, you have an opportunity to demonstrate that no action should be taken against the Committee. 2 U.S.C. § 437g(a)(4). Please submit any factual or legal materials which you believe are relevant to the Commission's consideration of these matters.

The Commission is under a duty to investigate this matter expeditiously. Therefore, your response should be submitted within ten days after your receipt of this notification. If you have any questions, please contact Anne A. Weissenborn, the attorney assigned to this matter, at (202) 523-4178.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(3)(B) unless you notify the Commission in writing that you wish the investigation to be made public. If you intend to be represented by outside counsel in this matter, please have such counsel so notify us in writing.

Sincerely,

William C. Oldaker
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
California Dental Political)
Action Committee)
American Dental Political)
Action Committee)

MUR 769

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, certify that on February 8, 1979, the Commission, meeting in an executive session at which a quorum was present, took the following actions in MUR 769:

1. Determined by a vote of 5-0 to find reason to believe that the California Dental Political Action Committee has violated 2 U.S.C. §441a(a) (2) (A) by making an excessive contribution to a candidate and his authorized committee; and 2 U.S.C. §441b(a) by accepting transfers of contributions from members of CDA which have been commingled with corporate monies in a CDA account, by commingling corporate and non-corporate contributions in its own state/federal savings account prior to July 1, 1977, and by transferring funds from its state accounts and its administrative account, all of which contained corporate monies, to its state/federal accounts.
2. Determined by a vote of 5-0 to find reason to believe that the American Dental Political Action Committee has violated 2 U.S.C. §433(b) (2) by failing to register the California Dental Political Action Committee as an affiliated organization, and 2 U.S.C. 441a(a) (2) (A) by making an excessive contribution to a candidate's authorized political committee.

Commissioners Aikens, Harris, McGarry, Thomson, and Tiernan voted affirmatively for the above determinations. Commissioner Springer was not present at the time of the vote.

Date

2/9/79

Marjorie W. Emmons
Marjorie W. Emmons
Secretary to the Commission



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE
FROM: MARJORIE W. EMMONS *MWE*
DATE: JANUARY 25, 1979
SUBJECT: MUR 769 - General Counsel's Report
dated 1-19-79; Received in OCS
1-19-79, 3:43
OBJECTION

The above-named document was circulated on a
48 hour vote basis at 11:30, January 22, 1979.

Commissioner Aikens has submitted an objection
thereby placing MUR 769 on the Executive Session
Agenda for January 31, 1979.

61017341611

January 19, 1979

MEMORANDUM TO: Marge Emmons
FROM: Elissa T. Garr
SUBJECT: MUR 769

Please have the attached General Counsel's Report on MUR 769 distributed to the Commission on a 48 hour tally basis.

Thank you.

81030244612

BEFORE THE FEDERAL ELECTION COMMISSION

25 JAN 19 P 3: 43

In the Matter of)
)
California Dental Political)
Action Committee)
American Dental Political)
Action Committee)

MUR 769

GENERAL COUNSEL'S REPORT

INTRODUCTION

During their review of the records and reports of the California Dental Political Action Committee, members of the Audit Division staff found evidence of apparent violations by that committee of 2 U.S.C. §§ 433, 434, 441a(a)(2)(A), 441a(f), and 441b(a); evidence of apparent violations by the California Dental Association of 2 U.S.C. §§ 433, 434, 441a(a)(1)(C) and 441b(a); and evidence of apparent violations by the American Dental Political Action Committee of 2 U.S.C. §§ 433(b)(2), 441a(a)(2)(A), and 441b(a). (See Attachment I).

LEGAL ANALYSIS

I. Commingling

A. Receipt and Transfer of Contributions

The California Dental Association ("CDA") is an incorporated membership organization which in 1968 established the California Dental Political Action Committee ("CAL-D-PAC"). CAL-D-PAC makes contributions to both federal and state candidates and has registered with the Commission with regard to its federal activities.

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According to information obtained by the Audit Division, the contribution collection system in force before July 1, 1977, involved CDA's collection of the voluntary contributions made to CAL-D-PAC by CDA members by means of joint solicitations for dues and contributions. Members paid both dues and political contributions on one check which was initially deposited into a CDA account. Later, generally within 2-3 weeks of receipt, amounts equal to all political contributions, including those received from both corporate and non-corporate contributors, were transferred to CAL-D-PAC's state/federal savings account from which an amount equal to corporate contributions was in turn transferred to CAL-D-PAC's state savings account. As needed, further transfers were made to CAL-D-PAC's respective checking accounts. (See Attachment II). CAL-D-PAC used its state/federal accounts to make contributions to state and federal candidates, while the state accounts were used only to make contributions to state candidates. The final transfer to the state savings account made under this system took place on July 8, 1976. 1/

1/ The Audit Division cites an apparent violation of 11 CFR 103.3(a) by the CAL-D-PAC for initially depositing contributions into a savings rather than a checking account. AO 1975-41 states that "(a)ll contributions to or receipts of a political committee must first be deposited in a checking account or an appropriate campaign depository. 2 U.S.C. § 437b(a)." AO 1976-24 states that "(c)ontributions received by a candidate or his authorized political committees and expenditures made by a candidate or his authorized political committees must pass through checking accounts maintained in... designated campaign depositories." Here the contributions were not initially deposited into a checking account but did pass through that account prior to the making of expenditures. CAL-D-PAC's system appears to place it in violation of 2 U.S.C. § 437b(a); however, given the extent of other violations covered by this matter, we recommend that this particular violation be deemed de minimus and not be pursued.

According to Commission AO 1978-42, corporate and union organizations may collect dues and political contributions in the same transaction and may deposit these monies into a single account, provided that transmittal of political contributions into a separate, segregated fund takes place within 10 days of receipt. A footnote to the advisory opinion sets forth the Commission's understanding that the checks accepted by such corporate and union organizations would be personal in nature.

Because CDA accepts checks written on corporate accounts, its role as a transmitting agent for CAL-D-PAC appears not to come within the type of factual situation outlined in AO 1978-42. Therefore, during the pre-July 1, 1977, period, CAL-D-PAC apparently violated 2 U.S.C. § 441b(a) in two respects: first, by accepting commingled funds from CDA, and, secondly, by further commingling funds in its own state/federal savings account.

Since July 1, 1977, CDA has continued to commingle corporate and non-corporate monies in its account prior to the transfer of political contributions to CAL-D-PAC. The transfer process has, however, been changed to involve the use of separate checks, one containing non-corporate contributions which goes to CAL-D-PAC's state/federal savings account and the second containing corporate contributions which goes to its state savings account. (See Attachment III). As a result of this change in procedure, commingling takes place at only one stage, that of deposits into the CDA account. Therefore, CAL-D-PAC has remained in

apparent violation of 2 U.S.C. § 441b(a) by receiving commingled funds from CDA. 2/

It has also been standard procedure for \$10 of each \$35 contribution received from non-corporate CDA members to be forwarded to the American Dental Political Action Committee ("ADPAC") from CAL-D-PAC's state/federal account. (See Attachments II and III). Since July 1, 1977, commingling has continued to take place in the CDA account. Therefore, the monies transferred to ADPAC during both periods have come from accounts containing commingled funds, placing ADPAC in apparent violation of 2 U.S.C. § 441b(a).

2/ The invoice sent to members of CDA contains the following notice:

If a non-corporate check is used, this is a tax deductible political contribution, with \$25 forwarded to the joint CAL-D-PAC (State/Federal) for use in either state or federal campaigns and \$10 forwarded to Ad-Pac; for corporations \$35 is forwarded to CAL-D-PAC (State). (See Attachment I, p. 10).

Because of this notice, we do not find an appearance of intent on the part of corporate contributors to contribute to federal candidates and thus no violation of 2 U.S.C. § 441b(a) on the part of the contributors.

CDA appears to be in technical violation of 2 U.S.C. § 441b(a) as to both its pre- and post-July 1, 1977, procedures. We do not, however, recommend pursuit of CDA concerning this particular violation.

B. Intra-Account Transfers

The Audit Division discovered that between February 26, 1976, and February 3, 1978, \$138,387.48 was transferred from CAL-D-PAC's state savings and checking accounts and from its administrative account to its state/federal checking and saving accounts. (See Attachment I, p.8). These transfers were made from accounts which apparently contained corporate funds by virtue of the transfers by CDA of corporate contributions to CAL-D-PAC's state accounts and of the probable presence of corporate dues monies in CAL-D-PAC's administrative account. These transfers, therefore, place CAL-D-PAC in further violation of 2 U.S.C. § 441b(a) for having commingled corporate monies in its state/federal accounts. 3/

II. Affiliation of Committee with the American Dental Political Action Committee (ADPAC); Excessive Contribution

In April, 1978, the Committee filed an amended statement of organization disclosing ADPAC as an affiliated organization. Before that date, CAL-D-PAC had identified only CDA as an affiliate. ADPAC has not filed a parallel amendment showing CAL-D-PAC as an affiliate. On August 18, 1976, ADPAC made a \$5,000 contribution to the Hayakawa for U.S. Senate Committee and on January 14, 1977, the CAL-D-PAC made a \$1,000 contribution to the same committee. If

3/ We believe that it is unnecessary to find that CAL-D-PAC's state account has become a political committee for registration and reporting purposes as a result of these transfers.

ADPAC and CAL-D-PAC were in fact affiliated as early as August 18, 1976, each would be in violation of 2 U.S.C. § 441a(a)(2)(A) for having made excessive contributions to a single candidate committee.

Information presently in hand provides considerable evidence of affiliation since the 1968 formation of both CAL-D-PAC and ADPAC, such evidence including a common founder, common officers, unified membership, shared contribution collection, and shared publicity. Therefore, CAL-D-PAC and ADPAC apparently have violated 2 U.S.C. § 441a(a)(2)(A). In addition, it appears that ADPAC is in violation of 2 U.S.C. § 433(b)(2) for failing to register CAL-D-PAC as an affiliated organization. 4/

4/ The auditors have also determined that ADPAC has never reimbursed either CDA or CAL-D-PAC for the costs of soliciting and transmitting its share of contributions received from CDA members. The value of these services have not been calculated or disclosed by either CAL-D-PAC or ADPAC. Prior to July 1, 1977, CDA paid these costs for CAL-D-PAC and thus for ADPAC. Since July 1, 1977, CAL-D-PAC has met all costs.

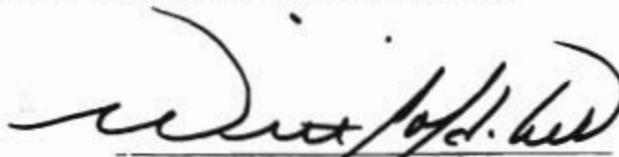
According to CAL-D-PAC's treasurer, approximately 9,000 dentists are members of CDA. Since July 1, 1977, CAL-D-PAC has been reimbursing CDA at the rate of about 1 cent per individual billing. Assuming one billing per year, an application of this rate to the pre-July, 1977, period produces a yearly cost to CDA of \$90 for soliciting contributions for both CAL-D-PAC and ADPAC. ADPAC received two-sevenths of each non-corporate \$35 contribution and thus should be considered the beneficiary of less than \$25.70 worth of CDA's services per year. These services represented in-kind contributions from CDA to ADPAC which should have been reported by ADPAC; however, given the small amount involved, we do not recommend pursuit of this issue. After July 1, 1977, CAL-D-PAC assumed these costs. If CAL-D-PAC and ADPAC were in fact affiliated as of that date, no in-kind contribution to ADPAC would be involved.

RECOMMENDATIONS

1. Find reason to believe that the California Dental Political Action Committee has violated 2 U.S.C. § 441a(a)(2)(A) by making an excessive contribution to a candidate and his authorized committee; and 2 U.S.C. § 441b(a) by accepting transfers of contributions from members of CDA which have been commingled with corporate monies in a CDA account, by commingling corporate and non-corporate contributions in its own state/federal savings account prior to July 1, 1977, and by transferring funds from its state accounts and its administrative account, all of which contained corporate monies, to its state/federal accounts.

2. Find reason to believe that the American Dental Political Action Committee has violated 2 U.S.C. § 433(b)(2) by failing to register the California Dental Political Action Committee as an affiliated organization; 2 U.S.C. § 441a(a)(2)(A) by making an excessive contribution to a candidate's authorized political committee; and 2 U.S.C. § 441b(a) by accepting contributions collected by the California Dental Association which have been commingled with corporate funds in a CDA account and, before July 1, 1977, also in the state/federal savings account of the California Dental Political Action Committee.

1/19/79
Date


William C. Oldaker
General Counsel

Attachments:

Audit Report
Diagrams of Cash Flow
Letters

Hand
rec'd 10-16-78
WOGC
A-345

ATTACHMENT I
MUR 769



FEDERAL ELECTION COMMISSION

1125 K STREET NW
WASHINGTON, D.C. 20463

October 12, 1978

MEMORANDUM

TO: BILL OLDAKER

THROUGH: ORLANDO B. POTTER
STAFF DIRECTOR *OB.P.*

FROM: *RC* BOB COSTA/RICK HALTER/DAN BOYLE *JB*

SUBJECT: CALIFORNIA DENTAL POLITICAL ACTION
COMMITTEE-QUESTIONS CONCERNING AFFILIATION
AND POSSIBLE 2 U.S.C. 441b VIOLATION

During the period from June 5, 1978 to June 14, 1978, the Audit staff performed the fieldwork of an audit of the California Dental Political Action Committee (Cal-D-PAC). The fieldwork has uncovered the following matters which warrant further consideration by the Office of General Counsel.

A. The first matter involves the problem of intermingling of corporate and non-corporate funds. Under California state law, candidates for state office and their committees may receive and accept contributions from corporate sources. Cal-D-PAC supports both Federal and state candidates and maintains separate checking and savings accounts for each.

The system of receiving contributions by Cal-D-PAC requires an explanation. The initial recipient of contributions to Cal-D-PAC is the California Dental Association (CDA). CDA mails an invoice for dues to each of its members in or around October of each year, which includes a bill for the CDA member's dues to the American Dental Association (ADA), the local components dues (i.e., San Francisco Dental Society), as well as the dues to CDA, and a subscription fee to the "Journal", an ADA publication. Printed on the bottom and reverse side (see Attachment I) of each invoice is a solicitation for a voluntary contribution of \$35.00 to Cal-D-PAC. If the member wishes to make a voluntary contribution, he includes the \$35.00 with the total amount of dues and the subscription fee. CDA receives payment from the member dentist and deposits the total amount received into one account. CDA then transfers, by check, the amounts (as indicated in the invoice) to



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the various accounts (i.e., ADA dues, CDA dues, local component dues, the subscription fee, and voluntary contributions). A determination of corporate/non-corporate status is made by a review of the contributor check. (According to the treasurer, California state law requires a corporation to identify itself as such on its checks, literature, letterhead, etc). After determining the corporate/non-corporate status of each dentist, the total amounts of corporate and non-corporate contributions are calculated and two CDA checks from the one account, to Cal-D-PAC are prepared; one representing the amount of non-corporate contributions to be deposited into Cal-D-PAC's Federal savings account ^{1/}, the other representing the amount of corporate contributions to be deposited into Cal-D-PAC's state savings account. This practice has been in effect since 7/1/77. Prior to 7/1/77, the transfer from CDA was made by one check which was deposited into the Federal savings account and the corporate amount was calculated and transferred at intervals to the state savings account. However, the final transfer of this nature was made on 7/8/76.

Therefore, since CDA deposits all voluntary contributions (corporate and non-corporate) into one account prior to the transfer to Cal-D-PAC, it is obvious that corporate and non-corporate contributions are intermingled. It was explained to the treasurer that, to avoid such intermingling of the contributions, it would be necessary for CDA to set up separate corporate and non-corporate accounts. The treasurer responded that to do so would result in doubling the number of checks written by CDA to the various accounts and that this seemed to be unreasonable.

However, the procedure in effect since 7/1/77 does not appear to be substantially dissimilar to the cases of the United Steelworkers of America PAC (see Attachment III - excerpt from the public audit report) and the AFL-CIO COPE PCC (see Attachment IV - excerpt from the recent Commission letter to the PCC) in which the Commission instructed the labor organizations to establish separate transmittal accounts through which contributions to their separate segregated funds may be forwarded. Further, this procedure appears parallel to that of the Empire Dental Political Action Committee (EDPAC) to which AO 1978-42 is directed. This AO was approved by the Commission on September 14, 1978 (see Attachment #V).

^{1/} This is an apparent violation of Section 103.3(a) of the Commission's Regulations which requires that all contributions received by a political committee shall be deposited in a checking account in the appropriate campaign depository.

1) It is our opinion that the procedure utilized by Cal-D-PAC since 7/1/77 (e.g. transmittal of corporate and non-corporate funds by separate check from CDA to Cal-D-PAC for deposit into the state (corporate) or Federal (non-corporate) accounts as appropriate) conforms with the procedure approved by the Commission in AO 1978-42.

2) With respect to the procedures used by Cal-D-PAC prior to 7/1/77, whereby, CDA transmitted both corporate and non-corporate funds with one check to Cal-D-PAC for deposit into the Federal savings account*, with the corporate portion later transferred to the State (corporate) savings account, the Audit staff notes that, with this type of transmittal, corporate and non-corporate funds are intermingled in Cal-D-PAC's Federal account.

However, it should be noted that the corporate portion (\$) was ultimately transferred to the state savings account not later than 93 days after deposit into the Federal savings account. It is felt that the fact that an amount of corporate monies were deposited into the Federal savings account constitutes a violation of 2 U.S.C. 441b on the part of Cal-D-PAC.

With respect to the status of CDA in this matter, we are, at present, attempting to obtain the exact terms of the transmittal agreement, i.e., whether or not Cal-D-PAC was required to remit the corporate portion immediately upon receipt. We will transmit this information upon receipt accompanied by our recommendation as to the status of CDA with respect to this transmittal procedure.

3) Intermingling of corporate and non-corporate funds in Cal-D-PAC's Federal savings account, which directly funds Cal-D-PAC's Federal checking account as needed, did not only occur by virtue of the transmittal described above.

During our review of Cal-D-PAC's bank records, we noted \$138,387.48 in intra-account transfers from accounts either totally or partially comprised of corporate monies to Cal-D-PAC's Federal savings or checking accounts. These intra-account transfers are enumerated on Exhibit A.

* See Footnote 1 on page 2.

Based on the transfer activity from the state accounts noted above, it is the opinion of the Audit staff that (a) the state account(s) transfer of funds in excess of \$1,000.00 to Cal-D-PAC's Federal savings and/or checking accounts should trigger the registration and reporting requirements of the Act with respect to the account(s), i.e., the California Dental Association's organization which primarily supports State and local candidates is a political committee, (b) since, in our opinion, the state account(s) taken together are a political committee, there appears to be a violation of 441b regarding acceptance of corporate contributions by said political committee, (c) in addition, given the relationship between the Federal accounts and the state accounts, we also feel that Cal-D-PAC has apparently violated Section 441b by accepting contributions from an account(s) and/or committee known to have accepted corporate contributions. This apparent violation of 2 U.S.C. 441b is in addition to the apparent 441b violation cited in item A(2) above.

Finally, the Audit staff is currently in the process of assembling information in order to perform a cash flow analysis regarding all the affected accounts mentioned above. The results of this analysis will be forwarded upon request.

B. The second matter uncovered by the fieldwork involves a question of affiliation and transfers of funds between Cal-D-PAC and the American Dental Political Action Committee (ADPAC). The treasurer of Cal-D-PAC has recently disclosed ADPAC as an affiliated committee of Cal-D-PAC in an amended statement of organization dated April 10, 1978. The treasurer of Cal-D-PAC explained that he did this because Cal-D-PAC was transferring sizeable sums of money (greater than \$5,000) to ADPAC. In an arrangement between Cal-D-PAC and ADPAC, Cal-D-PAC transmits \$10.00 of each non-corporate contribution to ADPAC. This arrangement is described in the solicitation printed on the reverse side of each dues invoice (see Attachment I). This \$10.00 represents a "minimum membership" to ADPAC, according to a letter to the Commission from Mr. Edward M. Donelan, Executive Secretary of ADPAC dated May 12, 1977 (Attachment II). Mr. Donelan further states in this letter that "ADPAC funds usually are collected through joint fundraising with the various state PAC's."

However, the treasurer of Cal-D-PAC stated in the entrance conference that Cal-D-PAC was not involved in any fundraising activity with any other political committee. Further, in separate telephone conversations with the former treasurer and former chairman (officers of Cal-D-PAC through June 30, 1977), both stated that Cal-D-PAC was not involved in any joint fundraising activity with any other political committees. It was the opinion of the former chairman that Cal-D-PAC was acting as a conduit between CDA and ADPAC in collecting and transmitting these funds to ADPAC. Also, according to both former officers and the current treasurer, Cal-D-PAC has never received any compensation from ADPAC for collecting and transmitting these funds, thereby resulting in a possible contribution in-kind to ADPAC from both Cal-D-PAC and CDA, the latter of which may not be allowed under the provisions of 2 U.S.C. 441b(a) since CDA is not the connected organization of ADPAC. The value of such services has not been calculated, nor have they been disclosed.

Since Cal-D-PAC has disclosed ADPAC as an affiliate, it was explained to the current treasurer that Cal-D-PAC, ADPAC and all other affiliates would be considered as a single committee for contribution limitation purposes under the provisions of Section 110.3(a)(1)(ii)(D) of the Regulations. The treasurer responded that he was under the impression that this was the point in dispute between AMPAC and the Commission, and therefore, was not a matter of policy until this point was resolved.

A review of a 'D' index dated 5/15/78 (Committee index of candidates supported) indicated that Cal-D-PAC made contributions to Federal candidates from the state of California only, except for one contribution of \$5,000 to President Ford. A further review of a 'D' index dated 7/5/78 for ADPAC and its registered affiliates, other than Cal-D-PAC, indicated that these committees made 27 contributions to Federal candidates from California during the period January 1, 1975 to May 31, 1978, the most current input date of the computer data base. A comparison of the two (2) indices showed that on August 18, 1976, ADPAC reported making a \$5,000 transfer to the Hayakawa for U.S. Senate Committee. On January 14, 1977, Cal-D-PAC reported making a transfer of \$1,000 to the Hayakawa for U.S. Senate Committee. The date of the primary election was June 8, 1976. Therefore, if the effective date of the affiliation between Cal-D-PAC and ADPAC is retroactively considered to be 5/11/76, the effective date of FECA, as amended, then jointly they have made contributions to the Hayakawa for U.S. Senate Committee during the 1976 general election period in excess of the \$5,000 limitation imposed by 2 U.S.C. 441a(a)(2)(A).

However, if Cal-D-PAC and ADPAC are not affiliated, Cal-D-PAC would be in apparent violation of 2 U.S.C. 441a(a)(2)(C) by contributing in excess of \$5,000 to ADPAC during a calendar year, unless the transfers to ADPAC represent funds raised jointly (which ADPAC advocates but the treasurer of Cal-D-PAC disavows).

Therefore, in view of: (1) the continuing transfers from Cal-D-PAC to ADPAC in excess of \$5,000 (as allowed only in the case of affiliated committee or committees involved in joint fundraising efforts), (2) differences in views expressed by Cal-D-PAC and ADPAC officials as to the nature of funds transferred, and (3) the future possibility of contributions being made by Cal-D-PAC and its actual affiliates (if any), it should be determined whether an affiliation exists between Cal-D-PAC, ADPAC and other committees. If so, the committees should be advised of their joint limit on contributions to candidates.

Further, if Cal-D-PAC is affiliated with ADPAC only as of 4/10/78 as disclosed by Cal-D-PAC in its amended statement of organization, then all transfers prior to 4/10/78 to ADPAC, which in aggregate value are greater than \$5,000 in any calendar year, are in apparent violation of Section 441a(a)(2)(C) of the Act. However, if the effective date of the affiliation is retroactively presumed to be 5/11/76, the effective date of the FECA as amended, then all transfers made by Cal-D-PAC to ADPAC are allowable under Section 110.3 of the Regulations.

If no affiliation is determined to exist, Cal-D-PAC should be advised to discontinue transferring funds to ADPAC in excess of \$5,000 per calendar year, unless the funds are the result of joint fundraising.

The final determination required regarding this matter is whether a portion of CDA's costs of soliciting funds (a portion of such funds is transmitted to ADPAC) should be considered a contribution-in-kind to ADPAC which would be required to be disclosed. If an in-kind contribution does exist, is it allowable since CDA is the connected organization of Cal-D-PAC rather than ADPAC which is receiving the in-kind contribution, or would it represent an apparent violation of 2 U.S.C. 441b(a)?

C. An additional matter was noted during the audit fieldwork which is submitted for your review and comment. Prior to 7/1/77, Cal-D-PAC received an annual administrative grant of approximately \$25,000 from the general account of CDA (which apparently included corporate funds). Cal-D-PAC maintained a separate segregated

account into which the grants were deposited. All administrative expenses of Cal-D-PAC were paid out of this account. Further, this administrative activity was not reported. After 7/1/77, when the current treasurer took office, this practice was discontinued. The current practice (7/1/77 to present) is for CDA to pay the administrative expenses of Cal-D-PAC and for Cal-D-PAC to reimburse CDA the full amount of administrative expenses attributable to Cal-D-PAC. Cal-D-PAC reports the reimbursement to CDA as an operating expenditure.

There appears to be a question as to the acceptability of the former procedure and the Audit staff requests legal guidance on whether the Committee should be required to file amended reports to disclose this activity. If CDA paid the expenses directly, there would have been no need to report this administrative activity under the provisions of 2 U.S.C. 441b(b)(2)(C). On the other hand, if Cal-D-PAC paid the administrative expenses out of its own account with no financial grant from CDA, then this activity would be required to be reported as operating expenditures. In this case, however, CDA was indirectly paying the administrative expense through an administrative account in the name of Cal-D-PAC. Does this method of paying administrative expenses necessitate the reporting requirements of 2 U.S.C. 434, or could these expenditures be considered exempt from reporting under 2 U.S.C. 441b(b)(2)(C)?

These matters are being referred to your office for guidance and possible consideration as a MUR. If you have any questions regarding the matters in this memorandum, please call either Rick Halter or Dan Boyle at extension 3-4155.

Attachments as stated

	<p>California Dental Association P.O. Box 91258, Tishman Airport Center Los Angeles, California 90009 Telephone: (213) 776-4292</p>
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Both sides.

Make all checks payable to the California Dental Association and mail to:
P.O. BOX 44239, SAN FRANCISCO, CA 94144

\$10.00 of your ADA dues provides you with an annual subscription to *The Journal of the American Dental Association* and the *ADA News*.

Copies of the reports of the California Dental Political Action Committee (Cal-D-Pac Federal) and the American Dental Political Action Committee (Ad-Pac) are filed with the Federal Election Commission and are available for purchase from the Federal Election Commission, Washington, D.C. Copies of the reports of Cal-D-Pac (State) are filed with the California Secretary of State in Sacramento. For further information see reverse side.

PLEASE RETURN THIS COPY WITH YOUR CHECK

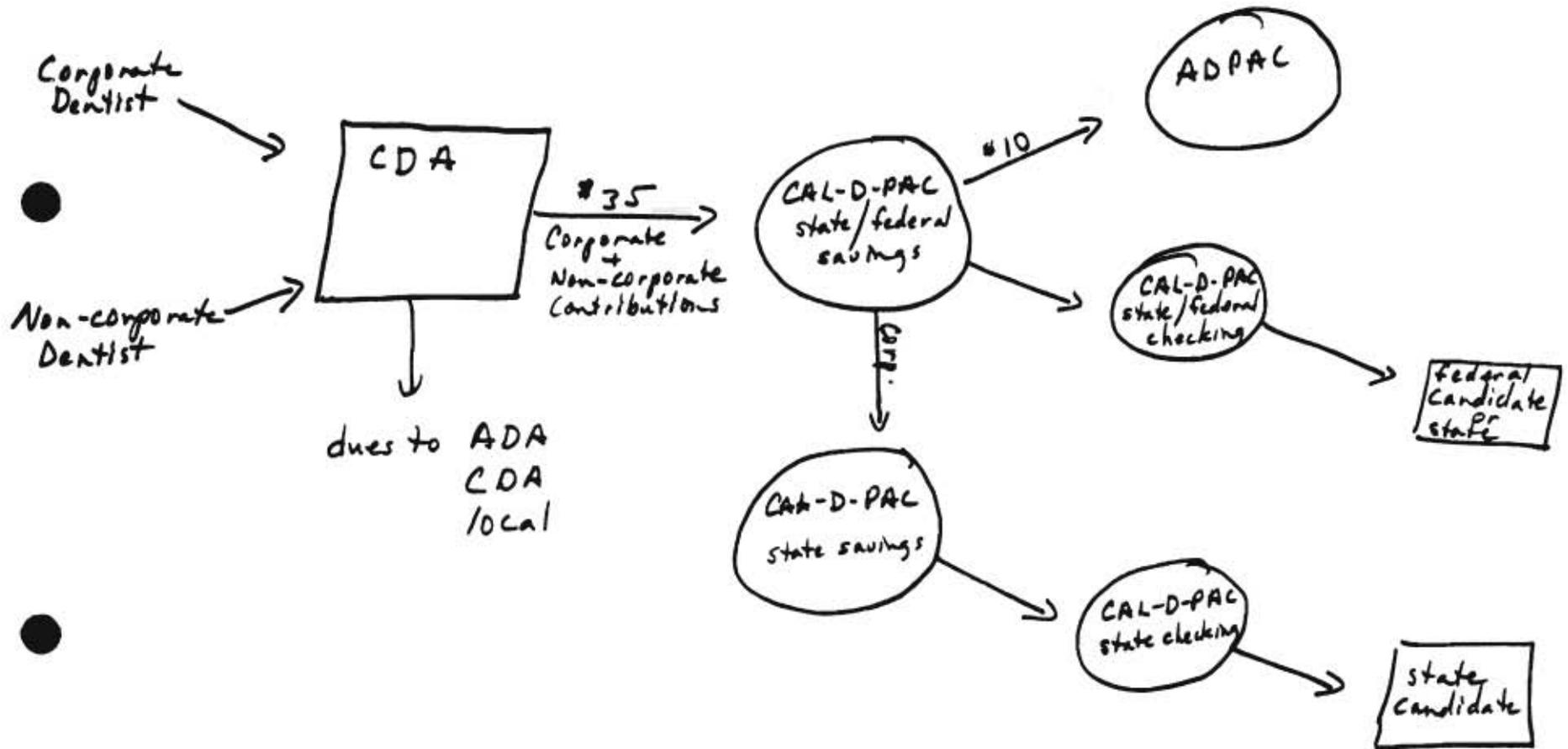
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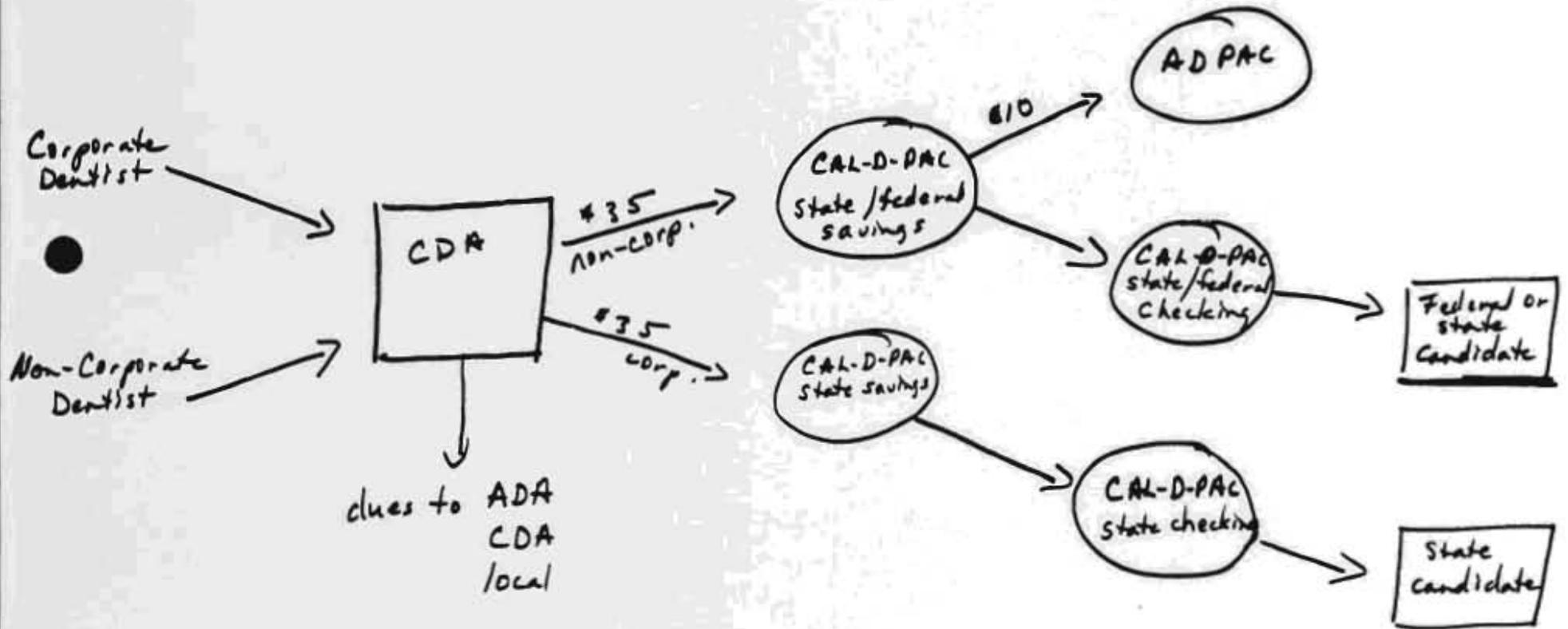
CAL-D-PAC

If a non-corporate check is used this is a tax deductible political contribution, with \$25 forwarded to the joint Cal-D Pac (State/Federal) for use in either state or federal campaigns and \$10 forwarded to Ad-Pac; for corporations \$35 is forwarded to Cal-D Pac (State). Contributions are not limited to the suggested amount. Neither the ADA nor the California Dental Association will favor or disadvantage anyone based upon the amounts of or failure to make PAC contributions.

Pre-July 1, 1977



Post - July 1, 1977



BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 769
California Dental Association)
Political Action Committee)
California Dental Association)
American Dental Association)

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on November 24, 1978, the Commission approved by a vote of 5-0 the General Counsel's recommendation, as set forth in the First General Counsel's Report dated November 21, 1978, to defer action for two weeks regarding the above-captioned matter.

Voting for this determination were Commissioners Aikens, Tiernan, McGarry, Thomson, and Harris.

Attest:

11-24-78

Date

Margaret E. Chaney
for Marjorie W. Emmons
Secretary to the Commission

Received in Office of Commission Secretary: 11-21-78, 10:08
Circulated on 48 hour vote basis: 11-21-78, 3:30



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. John H. Hodgson, II, Esquire
Treasurer
California Dental Political
Action Committee
1127 11th Street, Suite 544
Sacramento, California 95814

Re: MUR 769 (78)

Dear Mr. Hodgson:

This letter is to inform you that the Federal Election Commission has found reason to believe that the California Dental Political Action Committee ("CAL-D-PAC") has violated the Federal Election Campaign Act of 1971, as amended. Specifically, the Commission has found reason to believe that CAL-D-PAC has violated 2 U.S.C. § 441a(a)(2)(A), and 2 U.S.C. § 441b(a).

The violation of 2 U.S.C. § 441a(a)(2)(A) is the result of the facts that on August 18, 1976, the American Dental Political Action Committee ("ADPAC") made a \$5,000 contribution to the Hayakawa for U.S. Senate Committee and on January 14, 1977, CAL-D-PAC made a \$1,000 contribution to the same committee. Given the apparent although then unreported affiliation between ADPAC and CAL-D-PAC, these two contributions exceed the \$5,000 per election contribution limitation for multi-candidate committees set forth in Section 441a(a)(2)(A).

The violations of 2 U.S.C. § 441b(a) result: (1) from CAL-D-PAC's continuing deposits into its state/federal savings account of contributions solicited by the California Dental Association from its non-corporate members but commingled with contributions from corporate members in an Association account prior to transfer to CAL-D-PAC; (2) from CAL-D-PAC's pre-July 1, 1977, policy of accepting transfers of both corporate and non-corporate contributions from the Association which were deposited into CAL-D-PAC's state/federal savings

account prior to transfers of the corporate portions being made to its state savings account; (3) from CAL-D-PAC's deposits into its state/federal savings and checking accounts between February 26, 1976, and February 3, 1978, of \$138,387.48 in transfers from its own state savings and checking accounts and from its administrative account.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the Committee. 2 U.S.C. § 437g(a)(4). Please submit any factual or legal materials which you believe are relevant to the Commission's consideration of these matters.

The Commission is under a duty to investigate this matter expeditiously. Therefore, your response should be submitted within ten days after your receipt of this notification. If you have any questions, please contact Anne A. Weissenborn, the attorney assigned to this matter, at (202) 523-4178.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(3)(B) unless you notify the Commission in writing that you wish the investigation to be made public. If you intend to be represented by outside counsel in this matter, please have such counsel so notify us in writing.

Sincerely,

William C. Oldaker
General Counsel



FEDERAL ELECTION COMMISSION

1125 K STREET NW
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Edward M. Donelan
Secretary-Treasurer
American Dental Political Action Committee
1101 Seventeenth Street, N.W.
Suite 1006
Washington, D.C. 20036

Re: MUR 769 (78)

Dear Mr. Donelan:

This letter is to inform you that the Federal Election Commission has found reason to believe that the American Dental Political Action Committee ("ADPAC") has violated the Federal Election Campaign Act of 1971, as amended. Specifically, the Commission has found reason to believe that the Committee has violated 2 U.S.C. § 433(b)(2), 2 U.S.C. § 441a(a)(2)(A), and 2 U.S.C. § 441b(a).

The violation of 2 U.S.C. § 433(b)(2) is the result of the failure by ADPAC to include the California Dental Political Action Committee ("CAL-D-PAC") as an affiliated organization on ADPAC's statement of organization. The violation of 2 U.S.C. § 441a(a)(2)(A) stems from the facts that on August 18, 1976, ADPAC made a \$5,000 contribution to the Hayakawa for U.S. Senate Committee and on January 14, 1977, CAL-D-PAC made a \$1,000 contribution to the same committee. Given the apparent although unreported affiliation between ADPAC and CAL-D-PAC, these contributions exceeded the \$5,000 per election contribution limitation for multi-candidate committees set forth in Section 441a(a)(2)(A).

ADPAC's violation of 2 U.S.C. § 441b(a) is found in its receipt of contributions solicited by the California Dental Association ("CDA") from CDA's non-corporate members which have been commingled with monies received from corporate contributors in a CDA account, and, before July 1, 1977, also in the state/federal savings account of CAL-D-PAC.

Under the Act you have an opportunity to demonstrate that no action should be taken against the Committee. 2 U.S.C. § 437g(a)(4). Please submit any factual or legal materials which you believe are relevant to the Commission's consideration of these matters.

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Sincerely,

William C. Oldaker
General Counsel

810001636

November 21, 1978

MEMORANDUM TO: Marge Emmons
FROM: Elissa T. Garr
SUBJECT: MUR 769

Please have the attached First General Counsel's Report distributed to the Commission on a 24 hour no-objection basis.

Thank you.

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FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL NOV 21 1978
 BY OGC TO COMMISSION _____

MUR NO. 78 NOV 769 A10: 08
 STAFF MEMBER(S) Weissenborn

SOURCE OF MUR: INTERNALLY GENERATED (Audit)

RESPONDENT'S NAME: California Dental Association Political Action Committee
 California Dental Association
 American Dental Association

RELEVANT STATUTE: 2 U.S.C. § 433(b)(2)
 2 U.S.C. § 441a(a)(2)(A) and (C)
 2 U.S.C. § 441b(a)
 2 U.S.C. § 441a(f)

INTERNAL REPORTS CHECKED: Audit records

FEDERAL AGENCIES CHECKED: None

This matter stems from a random audit of the California Dental Association Political Action Committee. (See attached materials).

SUMMARY OF STATUS

This matter presents a number of complicated issues, including one before the Commission on November 15, 1978, with regard to MUR 369. The Office of General Counsel therefore recommends that further action by the Commission be deferred until such time as a full analysis of all issues can be made.

RECOMMENDATION

Defer action for two weeks.

Handwritten: Gross rec'd 10-16-78 WOGC A. 345

Handwritten: MUR 769



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

October 12, 1978

MEMORANDUM

TO: BILL OLDAKER

THROUGH: ORLANDO B. POTTER *O.B.P.*
STAFF DIRECTOR

FROM: *AC* BOB COSTA/RICK HALTER/DAN BOYLE *WJH*

SUBJECT: CALIFORNIA DENTAL POLITICAL ACTION
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* See Footnote 1 on page 2.

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Based on the transfer activity from the state accounts noted above, it is the opinion of the Audit staff that (a) the state account(s) transfer of funds in excess of \$1,000.00 to Cal-D-PAC's Federal savings and/or checking accounts should trigger the registration and reporting requirements of the Act with respect to the account(s), i.e., the California Dental Association's organization which primarily supports State and local candidates is a political committee, (b) since, in our opinion, the state account(s) taken together are a political committee, there appears to be a violation of 441b regarding acceptance of corporate contributions by said political committee, (c) in addition, given the relationship between the Federal accounts and the state accounts, we also feel that Cal-D-PAC has apparently violated Section 441b by accepting contributions from an account(s) and/or committee known to have accepted corporate contributions. This apparent violation of 2 U.S.C. 441b is in addition to the apparent 441b violation cited in item A(2) above.

Finally, the Audit staff is currently in the process of assembling information in order to perform a cash flow analysis regarding all the affected accounts mentioned above. The results of this analysis will be forwarded upon request.

B. The second matter uncovered by the fieldwork involves a question of affiliation and transfers of funds between Cal-D-PAC and the American Dental Political Action Committee (ADPAC). The treasurer of Cal-D-PAC has recently disclosed ADPAC as an affiliated committee of Cal-D-PAC in an amended statement of organization dated April 10, 1978. The treasurer of Cal-D-PAC explained that he did this because Cal-D-PAC was transferring sizeable sums of money (greater than \$5,000) to ADPAC. In an arrangement between Cal-D-PAC and ADPAC, Cal-D-PAC transmits \$10.00 of each non-corporate contribution to ADPAC. This arrangement is described in the solicitation printed on the reverse side of each dues invoice (see Attachment I). This \$10.00 represents a "minimum membership" to ADPAC, according to a letter to the Commission from Mr. Edward M. Donelan, Executive Secretary of ADPAC dated May 12, 1977 (Attachment II). Mr. Donelan further states in this letter that "ADPAC funds usually are collected through joint fundraising with the various state PAC's."

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However, the treasurer of Cal-D-PAC stated in the entrance conference that Cal-D-PAC was not involved in any fundraising activity with any other political committee. Further, in separate telephone conversations with the former treasurer and former chairman (officers of Cal-D-PAC through June 30, 1977), both stated that Cal-D-PAC was not involved in any joint fundraising activity with any other political committees. It was the opinion of the former chairman that Cal-D-PAC was acting as a conduit between CDA and ADPAC in collecting and transmitting these funds to ADPAC. Also, according to both former officers and the current treasurer, Cal-D-PAC has never received any compensation from ADPAC for collecting and transmitting these funds, thereby resulting in a possible contribution in-kind to ADPAC from both Cal-D-PAC and CDA, the latter of which may not be allowed under the provisions of 2 U.S.C. 441b(a) since CDA is not the connected organization of ADPAC. The value of such services has not been calculated, nor have they been disclosed.

Since Cal-D-PAC has disclosed ADPAC as an affiliate, it was explained to the current treasurer that Cal-D-PAC, ADPAC and all other affiliates would be considered as a single committee for contribution limitation purposes under the provisions of Section 110.3(a)(1)(ii)(D) of the Regulations. The treasurer responded that he was under the impression that this was the point in dispute between AMPAC and the Commission, and therefore, was not a matter of policy until this point was resolved.

A review of a 'D' index dated 5/15/78 (Committee index of candidates supported) indicated that Cal-D-PAC made contributions to Federal candidates from the state of California only, except for one contribution of \$5,000 to President Ford. A further review of a 'D' index dated 7/5/78 for ADPAC and its registered affiliates, other than Cal-D-PAC, indicated that these committees made 27 contributions to Federal candidates from California during the period January 1, 1975 to May 31, 1978, the most current input date of the computer data base. A comparison of the two (2) indices showed that on August 18, 1976, ADPAC reported making a \$5,000 transfer to the Hayakawa for U.S. Senate Committee. On January 14, 1977, Cal-D-PAC reported making a transfer of \$1,000 to the Hayakawa for U.S. Senate Committee. The date of the primary election was June 8, 1976. Therefore, if the effective date of the affiliation between Cal-D-PAC and ADPAC is retroactively considered to be 5/11/76, the effective date of FECA, as amended, then jointly they have made contributions to the Hayakawa for U.S. Senate Committee during the 1976 general election period in excess of the \$5,000 limitation imposed by 2 U.S.C. 441a(a)(2)(A).

However, if Cal-D-PAC and ADPAC are not affiliated, Cal-D-PAC would be in apparent violation of 2 U.S.C. 441a(a)(2)(C) by contributing in excess of \$5,000 to ADPAC during a calendar year, unless the transfers to ADPAC represent funds raised jointly (which ADPAC advocates but the treasurer of Cal-D-PAC disavows).

Therefore, in view of: (1) the continuing transfers from Cal-D-PAC to ADPAC in excess of \$5,000 (as allowed only in the case of affiliated committee or committees involved in joint fundraising efforts), (2) differences in views expressed by Cal-D-PAC and ADPAC officials as to the nature of funds transferred, and (3) the future possibility of contributions being made by Cal-D-PAC and its actual affiliates (if any), it should be determined whether an affiliation exists between Cal-D-PAC, ADPAC and other committees. If so, the committees should be advised of their joint limit on contributions to candidates.

Further, if Cal-D-PAC is affiliated with ADPAC only as of 4/10/78 as disclosed by Cal-D-PAC in its amended statement of organization, then all transfers prior to 4/10/78 to ADPAC, which in aggregate value are greater than \$5,000 in any calendar year, are in apparent violation of Section 441a(a)(2)(C) of the Act. However, if the effective date of the affiliation is retroactively presumed to be 5/11/76, the effective date of the FECA as amended, then all transfers made by Cal-D-PAC to ADPAC are allowable under Section 110.3 of the Regulations.

If no affiliation is determined to exist, Cal-D-PAC should be advised to discontinue transferring funds to ADPAC in excess of \$5,000 per calendar year, unless the funds are the result of joint fundraising.

The final determination required regarding this matter is whether a portion of CDA's costs of soliciting funds (a portion of such funds is transmitted to ADPAC) should be considered a contribution-in-kind to ADPAC which would be required to be disclosed. If an in-kind contribution does exist, is it allowable since CDA is the connected organization of Cal-D-PAC rather than ADPAC which is receiving the in-kind contribution, or would it represent an apparent violation of 2 U.S.C. 441b(a)?

C. An additional matter was noted during the audit fieldwork which is submitted for your review and comment. Prior to 7/1/77, Cal-D-PAC received an annual administrative grant of approximately \$25,000 from the general account of CDA (which apparently included corporate funds). Cal-D-PAC maintained a separate segregated

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account into which the grants were deposited. All administrative expenses of Cal-D-PAC were paid out of this account. Further, this administrative activity was not reported. After 7/1/77, when the current treasurer took office, this practice was discontinued. The current practice (7/1/77 to present) is for CDA to pay the administrative expenses of Cal-D-PAC and for Cal-D-PAC to reimburse CDA the full amount of administrative expenses attributable to Cal-D-PAC. Cal-D-PAC reports the reimbursement to CDA as an operating expenditure.

There appears to be a question as to the acceptability of the former procedure and the Audit staff requests legal guidance on whether the Committee should be required to file amended reports to disclose this activity. If CDA paid the expenses directly, there would have been no need to report this administrative activity under the provisions of 2 U.S.C. 441b(b)(2)(C). On the other hand, if Cal-D-PAC paid the administrative expenses out of its own account with no financial grant from CDA, then this activity would be required to be reported as operating expenditures. In this case, however, CDA was indirectly paying the administrative expense through an administrative account in the name of Cal-D-PAC. Does this method of paying administrative expenses necessitate the reporting requirements of 2 U.S.C. 434, or could these expenditures be considered exempt from reporting under 2 U.S.C. 441b(b)(2)(C)?

These matters are being referred to your office for guidance and possible consideration as a MUR. If you have any questions regarding the matters in this memorandum, please call either Rick Halter or Dan Boyle at extension 3-4155.

Attachments as stated

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EXHIBIT A

Intra-account transfers to Cal-D-PAC's Federal savings and checking accounts from accounts apparently containing corporate funds.

<u>DATE</u>	<u>AMOUNT</u>	<u>ACCOUNT TRANSFERRING FUNDS</u>	<u>ACCOUNT RECEIVING FUNDS</u>
2/26/76	\$ 1,500.23	Security Pacific National* Bank-checking account	Wells Fargo checking account (Federal)
2/27/76	52,683.51	Security Pacific National* Bank-savings account	Wells Fargo savings account (Federal)
3/19/76	75,000.00	Wells Fargo savings account (corporate)	Wells Fargo savings account (Federal)
5/14/76	203.74	Security Pacific National* Bank-savings account	Wells Fargo savings account (Federal)
6/30/77	2,000.00	American National Bank - administrative account*	Wells Fargo savings account (Federal)
2/3/78	7,000.00	Wells Fargo savings** account (corporate)	Wells Fargo savings account (Federal)
	<hr/>		
	\$138,387.48		

* Apparently these accounts are partially comprised of corporate funds.

** Correcting entry to reverse funds originally transferred in error to State account from Federal savings.

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ATTACHMENT I



California Dental Association
P.O. Box 91258, Tishman Airport Center
Los Angeles, California 90009
Telephone: (213) 776-4292

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BOTH SIDES

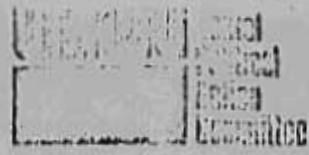
Both sides.

Make all checks payable to the California Dental Association and mail to:
P.O. BOX 44239, SAN FRANCISCO, CA 94144

\$10.00 of your ADA dues provides you with an annual subscription to *The Journal of the American Dental Association* and the *ADA News*.

Copies of the reports of the California Dental Political Action Committee (Cal-D-Pac Federal) and the American Dental Political Action Committee (Ad-Pac) are filed with the Federal Election Commission and are available for purchase from the Federal Election Commission, Washington, D.C. Copies of the reports of Cal-D-Pac (State) are filed with the California Secretary of State in Sacramento. For further information see reverse side.

PLEASE RETURN THIS COPY WITH YOUR CHECK



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ATTACHMENT II
MAY 10 1977

SUITE 1000 / 1101 17th STREET, NORTHWEST, WASHINGTON, D.C. 20005 / 202 • 633-3000

May 12, 1977

- Executive Committee
- Chairman
John M. Carlson, DDS
Ann Arbor, Michigan
- Vice Chairman
L. T. Ford, DMD
Colum, Washington
- Members
Dudley S. Moore, DDS
New York, California
- John J. Manning, DDS
Newport News, Virginia
- Franklin Miller, DDS
Memphis, Tennessee
- Directors
Riley D. Brown, DDS
Omaha, Washington
- Robert C. Crockett, DDS
Tampa City, Utah
- Ben B. Dixon, DDS
San, Texas
- Wesley W. Thompson, DMD
Boston, Massachusetts
- William G. Moore, DDS
Indianapolis, Indiana
- Dr. S. J. Judson, DDS
Rochester, New York
- Dr. Bruce Kay, DDS
Spartanburg, New York
- Dr. A. L. Levin, DDS
New York, New York
- Dr. J. S. Sweeney, DDS
New York, New Jersey
- Dr. J. McClellan, DDS
New York, Missouri
- Dr. J. McKechnie, Jr., DDS
Pittsburgh, Pennsylvania
- Dr. A. S. Saville, DDS
Phoenix, Arizona
- Dr. L. Schwartz, DDS
Miami, Florida
- Dr. M. Scripps, DDS
Austin, Texas
- Dr. T. Teague, Jr., DDS
Atlanta, Georgia
- Dr. R. T. Thibault
San Francisco, California
- Dr. W. Tower, DDS
St. Louis, Missouri
- Secretary
W. H. Wilson, DDS
Los Angeles, California
- Public Secretary
David M. Decker

Mr. Steve Mims
Federal Election Commission
1325 K Street
Washington, D. C. 20463

Dear Mr. Mims:

The letter of April 25, 1977 from the Federal Election Commission to our Treasurer, Dr. Dudley S. Moore has been received and noted.

As you will recall, we conferred on the item of funds from the Florida and California Dental PACs which your addendum to the above mentioned letter pointed out "must be reported on line 24(a) or (b) as appropriate."

I respectfully would like to differ in that the funds you mentioned coming from Florida and California were contributions to ADPAC and not expenditures, to which line 24(a) or (b) refer.

I agree that an "audit trail" should be established. ADPAC funds usually are collected through joint fund raising with the various state PACs. We have requested that each State Dental PAC collect ADPAC funds at the same time it collects its own. Not all State PACs cooperate with us in this endeavor. ADPAC has a minimum membership of \$10.00. As required by law, we ask the State PACs to send names of those person contributing to ADPAC when our funds are transmitted.

Heretofore, based on the fact that ADPAC was receiving a series of \$10.00 contributions and not a lump sum, we reported the overall amount on line 15(b) because none of the individual contributions exceed \$100.00. We would of course, itemize if the individual contribution did exceed \$100.00.

Attachment II

Mr. Steve Mims
May 12, 1977
Page 2

We have, on occasion, received a lump sum from a State PAC and it was listed as a transfer. It of course, is subject to the limitation that goes along with transfers. We respectfully submit that the series of \$10.00 individual contributions is not the same.

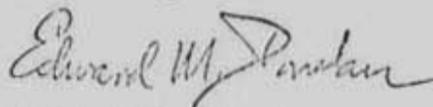
We will be happy to fill out Schedule A reflecting the amounts transmitted to ADPAC by the various State PACs that cooperate in the joint fund raising. We will show the amounts and the dates involved. This should establish the audit trail.

A review of our records reflect that the California Dental Political Action Committee transmitted \$42,000 on which ADPAC received on May 11, 1976, and deposited on that date.

Florida Dental Political Committee transmitted \$12,100 on August 20, 1976 which was deposited on that date. Your figure of \$22,870 is the compilation of the years 1976 and 1975.

If additional information is required, we will be happy to cooperate.

Sincerely,



Edward M. Donelan
Executive Secretary

EMD:mfd

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V - J

ATTACHMENT III

local unions maintain transmittal accounts into which political contributions are deposited and from which transfers are made to the depository reflected on the Statement of Organization.

Title 2, U.S.C. Section 4375(a)(2) requires that all contributions received by a political committee be deposited in designated depositories, and all expenditures, except for petty cash, be made by check drawn on such account. Section 433(b)(9) requires that all banks, safety deposit boxes, and other depositories used by the committee be recorded on the Statement of Organization.

All expenditures made by a political committee must be made from a campaign depository unless the expenditure is made from treasury funds. If the local unions make expenditures (other than expenditures from treasury funds), either before or after the contributions are deposited in the "transmittal account," the account should be considered a campaign depository. The national union can either pay the local expenses from its designated campaign depository or designate the "transmittal account" a campaign depository and allow the local to pay for expenses from contributions received.

B. Committee records indicate that many local unions receive political contributions which are deposited in personal checking accounts, local union accounts, and in accounts of employer organizations, some of which are incorporated, and subsequently transferred to the Committee. Title 2, U.S.C. 432(b) states in part that funds of a political committee shall be segregated from and may not be commingled with the personal funds of any officers, members or associates of such committee. Members of local unions should be instructed not to deposit political contributions received in personal, union or corporate accounts for subsequent transfer to the Committee depository.

The Committee has advised their collectors at the local level that the USWA Political Action Fund will not accept any checks drawn on their personal accounts or union or corporate accounts.

C. Committee records indicate that the Committee is not consistent in reporting political contributions received from the voluntary payroll check-off program. Itemized contributions are reported in the time period during which the funds are withheld from the contributor's salary, but not yet received by the Committee. The unitemized contribution figure represents total receipts for the period less the amount of the itemized contributions. All contributions should be reported during the period received by the Committee (2 U.S.C. 434(b)(3)).

The Committee has advised that they are now reporting all contributions received by the Fund on a cash reporting basis.

D. Committee records indicate that political contributions received by the local and district unions are not transferred and reported to the Committee promptly. Title 2 U.S.C. 432(b) requires that any person

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ATTACHMENT IV

The Audit Division further recommends that the Committee implement the procedures outlined in (2), (3) and (4) above within 60 days of receipt of this report. Further, we recommend that the Committee amend its reports filed from January 1, 1975 through the present, to itemize all transfers including those which are the result of joint fundraising efforts within 30 days of receipt of this report.

B. Receipt of Funds on Union Accounts

Section 441b of Title 2 of the United States Code provides for the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a labor organization. Section 437b(a)(2) requires, in part, that the treasurer of each political committee designate one or more national or State banks as campaign depositories of such committee, while Section 433(b)(9) of Title 2 of the United States Code requires that a listing of all banks and repositories used by the Committee must be disclosed.

Our review of Committee's records indicated that a substantial number of the voluntary contributions received by various labor organizations for the benefit of the PCC apparently were being deposited in union accounts and subsequently transferred to the PCC. It should be noted that due to the type of documentation maintained by the Committee for receipts, it was not always possible to determine the source of funds as either a political contribution fund or union treasury fund. However, at least 140 items of this nature ranging in dollar amount from \$2.00 to \$15,000.00 were noted during the period audited.

Recommendation

It is our recommendation that the Committee be requested to advise local labor organizations to 1) forward the funds immediately (by means other than through a personal, union or other prohibited account) to the AFL-CIO COPE PCC which must deposit the funds within 10 days or 2) within 10 days deposit voluntary contributions in "transmittal" accounts which shall be used solely for the purpose of transmitting voluntary contributions to the AFL-CIO COPE PCC. Accounts from which expenditures are made for any purpose other than the transfer of funds to the PCC cannot be transmittal accounts. Further, the PCC is required to include these receipts on its next disclosure report.



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C., 20463

September 19, 1978

AO 1978-42

John M. Power, Esq.
POLEY, HICKEY, GILBERT AND POWER
70 Pine Street
New York, New York 10005

Dear Mr. Power:

This responds to your letter of June 29, 1978, in which you request an Advisory Opinion on behalf of the Empire Dental Political Action Committee ("EDPAC") concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act").

Specifically, you asked two questions:

1. May the Dental Society of the State of New York and its district dental societies solicit voluntary contributions to the Empire Dental Political Action Committee by the inclusion of a suggested political contribution on the membership dues statements of the societies?
2. May the Dental Society of the State of New York and its district dental societies deposit into their corporate bank accounts checks from their members in payment of the dues statements; portions of these checks may represent contributions to EDPAC, and such portion would then be transferred to EDPAC by separate check?

Regarding your first question, the solicitation of contributions to EDPAC by the Dental Society of the State of New York, a nonprofit corporation, and its district dental societies is permitted by 2 U.S.C. §441b(b)(4)(C). The solicitation may be conducted in conjunction with the

mailing of dues statements to members of the Dental Society. See 11 CFR 114.7(f).

As to your second question, 2 U.S.C. §441b(a) prohibits any corporation from contributing to a candidate for Federal office or to a political committee established for the purpose of making contributions to candidates for Federal office. However, a separate segregated fund may be established under §441b(b)(2) and may accept voluntary contributions from individual members of the Society or any district dental society; that fund, in turn, may make contributions to candidates for Federal office and political committees subject, of course, to the contribution limits and other requirements of the Act and Commission regulations. EDPAC is regarded as the separate segregated fund of the Dental Society whose members may be solicited and make contributions to EDPAC. Such contributions may be included with the annual membership dues of the member and transmitted by a single check payable to the district dental society.^{1/} This check may be deposited in a bank account of the State or district dental society. The dental societies may then remit the political contribution portion to EDPAC by separate check drawn on that same society bank account.

In concluding that the described procedure may be used, the Commission makes several assumptions on which it conditions its approval. First, the checks representing a combined dues and political contribution from a Society member are regarded as contributions received by the treasurer of EDPAC and his/her agent at the time the checks are received by any employee or representative of the State Society, or the district society in cases where it mails dues statements and receives combined dues and contribution checks directly. Thus, the political contribution portion of each member's check must be deposited into a checking account of a duly

^{1/}The Commission understands, and assumes for purposes of this Opinion, that combined dues and political contributions will be made by Society members as individuals on individual checks drawn on personal bank accounts, not corporate accounts including professional corporation accounts. Combined dues and political contributions drawn on a corporate account which is a non-repayable drawing account of an individual Society member are not considered prohibited corporate contributions. (See the Commission's recent Notice on this subject, copy enclosed.)

designated bank depository of EDPAC within 10 days after the check is received by the State or district society. See §103.3(a) of the Commission's regulations which implement 2 U.S.C. §437b(a).

Secondly, all records of society bank accounts in which combined dues and contributions are deposited must be made available upon Commission request pursuant to its audit authority and other general powers. 2 U.S.C. §§437d, 438(a)(8). Finally, the State and district societies must maintain and make available on Commission request usual and customary accounting records of members' dues payments and other appropriate records indicating those members who make political contributions in combination with dues payments. These records must be maintained for at least 3 years from the end of the year in which EDPAC reported a contribution from a member to whom the records relate. See 11 CFR 104.12(b).

This response constitutes an advisory opinion concerning the application of a general rule of law stated in the Act, or prescribed as a Commission regulation, to the specific factual situation set forth in your request. See 2 U.S.C. §437f.

Sincerely yours,



Joan D. Aikens
Chairman for the
Federal Election Commission

Enclosure



FEDERAL ELECTION COMMISSION

1325 K STREET NW
WASHINGTON, D.C. 20463

October 12, 1978

MEMORANDUM

TO: BILL OLDAKER

THROUGH: ORLANDO B. POTTER *OB.P.*
STAFF DIRECTOR

FROM: *RC* BOB COSTA/RICK HALTER/DAN BOYLE *JB*

SUBJECT: CALIFORNIA DENTAL POLITICAL ACTION
COMMITTEE-QUESTIONS CONCERNING AFFILIATION
AND POSSIBLE 2 U.S.C. 441b VIOLATION

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During the period from June 5, 1978 to June 14, 1978, the Audit staff performed the fieldwork of an audit of the California Dental Political Action Committee (Cal-D-PAC). The fieldwork has uncovered the following matters which warrant further consideration by the Office of General Counsel.

A. The first matter involves the problem of intermingling of corporate and non-corporate funds. Under California state law, candidates for state office and their committees may receive and accept contributions from corporate sources. Cal-D-PAC supports both Federal and state candidates and maintains separate checking and savings accounts for each.

The system of receiving contributions by Cal-D-PAC requires an explanation. The initial recipient of contributions to Cal-D-PAC is the California Dental Association (CDA). CDA mails an invoice for dues to each of its members in or around October of each year, which includes a bill for the CDA member's dues to the American Dental Association (ADA), the local components dues (i.e., San Francisco Dental Society), as well as the dues to CDA, and a subscription fee to the "Journal", an ADA publication. Printed on the bottom and reverse side (see Attachment I) of each invoice is a solicitation for a voluntary contribution of \$35.00 to Cal-D-PAC. If the member wishes to make a voluntary contribution, he includes the \$35.00 with the total amount of dues and the subscription fee. CDA receives payment from the member dentist and deposits the total amount received into one account. CDA then transfers, by check, the amounts (as indicated in the invoice) to



the various accounts (i.e., ADA dues, CDA dues, local component dues, the subscription fee, and voluntary contributions). A determination of corporate/non-corporate status is made by a review of the contributor check. (According to the treasurer, California state law requires a corporation to identify itself as such on its checks, literature, letterhead, etc). After determining the corporate/non-corporate status of each dentist, the total amounts of corporate and non-corporate contributions are calculated and two CDA checks from the one account, to Cal-D-PAC are prepared; one representing the amount of non-corporate contributions to be deposited into Cal-D-PAC's Federal savings account ^{1/}, the other representing the amount of corporate contributions to be deposited into Cal-D-PAC's state savings account. This practice has been in effect since 7/1/77. Prior to 7/1/77, the transfer from CDA was made by one check which was deposited into the Federal savings account and the corporate amount was calculated and transferred at intervals to the state savings account. However, the final transfer of this nature was made on 7/8/76.

Therefore, since CDA deposits all voluntary contributions (corporate and non-corporate) into one account prior to the transfer to Cal-D-PAC, it is obvious that corporate and non-corporate contributions are intermingled. It was explained to the treasurer that, to avoid such intermingling of the contributions, it would be necessary for CDA to set up separate corporate and non-corporate accounts. The treasurer responded that to do so would result in doubling the number of checks written by CDA to the various accounts and that this seemed to be unreasonable.

However, the procedure in effect since 7/1/77 does not appear to be substantially dissimilar to the cases of the United Steelworkers of America PAC (see Attachment III - excerpt from the public audit report) and the AFL-CIO COPE PCC (see Attachment IV - excerpt from the recent Commission letter to the PCC) in which the Commission instructed the labor organizations to establish separate transmittal accounts through which contributions to their separate segregated funds may be forwarded. Further, this procedure appears parallel to that of the Empire Dental Political Action Committee (EDPAC) to which AO 1978-42 is directed. This AO was approved by the Commission on September 14, 1978 (see Attachment #V).

^{1/} This is an apparent violation of Section 103.3(a) of the Commission's Regulations which requires that all contributions received by a political committee shall be deposited in a checking account in the appropriate campaign depository.

1) It is our opinion that the procedure utilized by Cal-D-PAC since 7/1/77 (e.g. transmittal of corporate and non-corporate funds by separate check from CDA to Cal-D-PAC for deposit into the state (corporate) or Federal (non-corporate) accounts as appropriate) conforms with the procedure approved by the Commission in AO 1978-42.

2) With respect to the procedures used by Cal-D-PAC prior to 7/1/77, whereby, CDA transmitted both corporate and non-corporate funds with one check to Cal-D-PAC for deposit into the Federal savings account*, with the corporate portion later transferred to the State (corporate) savings account, the Audit staff notes that, with this type of transmittal, corporate and non-corporate funds are intermingled in Cal-D-PAC's Federal account.

However, it should be noted that the corporate portion (\$) was ultimately transferred to the state savings account not later than 93 days after deposit into the Federal savings account. It is felt that the fact that an amount of corporate monies were deposited into the Federal savings account constitutes a violation of 2 U.S.C. 441b on the part of Cal-D-PAC.

With respect to the status of CDA in this matter, we are, at present, attempting to obtain the exact terms of the transmittal agreement, i.e., whether or not Cal-D-PAC was required to remit the corporate portion immediately upon receipt. We will transmit this information upon receipt accompanied by our recommendation as to the status of CDA with respect to this transmittal procedure.

3) Intermingling of corporate and non-corporate funds in Cal-D-PAC's Federal savings account, which directly funds Cal-D-PAC's Federal checking account as needed, did not only occur by virtue of the transmittal described above.

During our review of Cal-D-PAC's bank records, we noted \$138,387.48 in intra-account transfers from accounts either totally or partially comprised of corporate monies to Cal-D-PAC's Federal savings or checking accounts. These intra-account transfers are enumerated on Exhibit A.

* See Footnote 1 on page 2.

Based on the transfer activity from the state accounts noted above, it is the opinion of the Audit staff that (a) the state account(s) transfer of funds in excess of \$1,000.00 to Cal-D-PAC's Federal savings and/or checking accounts should trigger the registration and reporting requirements of the Act with respect to the account(s), i.e., the California Dental Association's organization which primarily supports State and local candidates is a political committee, (b) since, in our opinion, the state account(s) taken together are a political committee, there appears to be a violation of 441b regarding acceptance of corporate contributions by said political committee, (c) in addition, given the relationship between the Federal accounts and the state accounts, we also feel that Cal-D-PAC has apparently violated Section 441b by accepting contributions from an account(s) and/or committee known to have accepted corporate contributions. This apparent violation of 2 U.S.C. 441b is in addition to the apparent 441b violation cited in item A(2) above.

Finally, the Audit staff is currently in the process of assembling information in order to perform a cash flow analysis regarding all the affected accounts mentioned above. The results of this analysis will be forwarded upon request.

B. The second matter uncovered by the fieldwork involves a question of affiliation and transfers of funds between Cal-D-PAC and the American Dental Political Action Committee (ADPAC). The treasurer of Cal-D-PAC has recently disclosed ADPAC as an affiliated committee of Cal-D-PAC in an amended statement of organization dated April 10, 1978. The treasurer of Cal-D-PAC explained that he did this because Cal-D-PAC was transferring sizeable sums of money (greater than \$5,000) to ADPAC. In an arrangement between Cal-D-PAC and ADPAC, Cal-D-PAC transmits \$10.00 of each non-corporate contribution to ADPAC. This arrangement is described in the solicitation printed on the reverse side of each dues invoice (see Attachment I). This \$10.00 represents a "minimum membership" to ADPAC, according to a letter to the Commission from Mr. Edward M. Donelan, Executive Secretary of ADPAC dated May 12, 1977 (Attachment II). Mr. Donelan further states in this letter that "ADPAC funds usually are collected through joint fundraising with the various state PAC's."

However, the treasurer of Cal-D-PAC stated in the entrance conference that Cal-D-PAC was not involved in any fundraising activity with any other political committee. Further, in separate telephone conversations with the former treasurer and former chairman (officers of Cal-D-PAC through June 30, 1977), both stated that Cal-D-PAC was not involved in any joint fundraising activity with any other political committees. It was the opinion of the former chairman that Cal-D-PAC was acting as a conduit between CDA and ADPAC in collecting and transmitting these funds to ADPAC. Also, according to both former officers and the current treasurer, Cal-D-PAC has never received any compensation from ADPAC for collecting and transmitting these funds, thereby resulting in a possible contribution in-kind to ADPAC from both Cal-D-PAC and CDA, the latter of which may not be allowed under the provisions of 2 U.S.C. 441b(a) since CDA is not the connected organization of ADPAC. The value of such services has not been calculated, nor have they been disclosed.

Since Cal-D-PAC has disclosed ADPAC as an affiliate, it was explained to the current treasurer that Cal-D-PAC, ADPAC and all other affiliates would be considered as a single committee for contribution limitation purposes under the provisions of Section 110.3(a)(1)(ii)(D) of the Regulations. The treasurer responded that he was under the impression that this was the point in dispute between AMPAC and the Commission, and therefore, was not a matter of policy until this point was resolved.

A review of a 'D' index dated 5/15/78 (Committee index of candidates supported) indicated that Cal-D-PAC made contributions to Federal candidates from the state of California only, except for one contribution of \$5,000 to President Ford. A further review of a 'D' index dated 7/5/78 for ADPAC and its registered affiliates, other than Cal-D-PAC, indicated that these committees made 27 contributions to Federal candidates from California during the period January 1, 1975 to May 31, 1978, the most current input date of the computer data base. A comparison of the two (2) indices showed that on August 18, 1976, ADPAC reported making a \$5,000 transfer to the Hayakawa for U.S. Senate Committee. On January 14, 1977, Cal-D-PAC reported making a transfer of \$1,000 to the Hayakawa for U.S. Senate Committee. The date of the primary election was June 8, 1976. Therefore, if the effective date of the affiliation between Cal-D-PAC and ADPAC is retroactively considered to be 5/11/76, the effective date of FECA, as amended, then jointly they have made contributions to the Hayakawa for U.S. Senate Committee during the 1976 general election period in excess of the \$5,000 limitation imposed by 2 U.S.C. 441a(a)(2)(A).

However, if Cal-D-PAC and ADPAC are not affiliated, Cal-D-PAC would be in apparent violation of 2 U.S.C. 441a(a)(2)(C) by contributing in excess of \$5,000 to ADPAC during a calendar year, unless the transfers to ADPAC represent funds raised jointly (which ADPAC advocates but the treasurer of Cal-D-PAC disavows).

Therefore, in view of: (1) the continuing transfers from Cal-D-PAC to ADPAC in excess of \$5,000 (as allowed only in the case of affiliated committee or committees involved in joint fundraising efforts), (2) differences in views expressed by Cal-D-PAC and ADPAC officials as to the nature of funds transferred, and (3) the future possibility of contributions being made by Cal-D-PAC and its actual affiliates (if any), it should be determined whether an affiliation exists between Cal-D-PAC, ADPAC and other committees. If so, the committees should be advised of their joint limit on contributions to candidates.

Further, if Cal-D-PAC is affiliated with ADPAC only as of 4/10/78 as disclosed by Cal-D-PAC in its amended statement of organization, then all transfers prior to 4/10/78 to ADPAC, which in aggregate value are greater than \$5,000 in any calendar year, are in apparent violation of Section 441a(a)(2)(C) of the Act. However, if the effective date of the affiliation is retroactively presumed to be 5/11/76, the effective date of the FECA as amended, then all transfers made by Cal-D-PAC to ADPAC are allowable under Section 110.3 of the Regulations.

If no affiliation is determined to exist, Cal-D-PAC should be advised to discontinue transferring funds to ADPAC in excess of \$5,000 per calendar year, unless the funds are the result of joint fundraising.

The final determination required regarding this matter is whether a portion of CDA's costs of soliciting funds (a portion of such funds is transmitted to ADPAC) should be considered a contribution-in-kind to ADPAC which would be required to be disclosed. If an in-kind contribution does exist, is it allowable since CDA is the connected organization of Cal-D-PAC rather than ADPAC which is receiving the in-kind contribution, or would it represent an apparent violation of 2 U.S.C. 441b(a)?

C. An additional matter was noted during the audit fieldwork which is submitted for your review and comment. Prior to 7/1/77, Cal-D-PAC received an annual administrative grant of approximately \$25,000 from the general account of CDA (which apparently included corporate funds). Cal-D-PAC maintained a separate segregated

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account into which the grants were deposited. All administrative expenses of Cal-D-PAC were paid out of this account. Further, this administrative activity was not reported. After 7/1/77, when the current treasurer took office, this practice was discontinued. The current practice (7/1/77 to present) is for CDA to pay the administrative expenses of Cal-D-PAC and for Cal-D-PAC to reimburse CDA the full amount of administrative expenses attributable to Cal-D-PAC. Cal-D-PAC reports the reimbursement to CDA as an operating expenditure.

There appears to be a question as to the acceptability of the former procedure and the Audit staff requests legal guidance on whether the Committee should be required to file amended reports to disclose this activity. If CDA paid the expenses directly, there would have been no need to report this administrative activity under the provisions of 2 U.S.C. 441b(b)(2)(C). On the other hand, if Cal-D-PAC paid the administrative expenses out of its own account with no financial grant from CDA, then this activity would be required to be reported as operating expenditures. In this case, however, CDA was indirectly paying the administrative expense through an administrative account in the name of Cal-D-PAC. Does this method of paying administrative expenses necessitate the reporting requirements of 2 U.S.C. 434, or could these expenditures be considered exempt from reporting under 2 U.S.C. 441b(b)(2)(C)?

These matters are being referred to your office for guidance and possible consideration as a MUR. If you have any questions regarding the matters in this memorandum, please call either Rick Halter or Dan Boyle at extension 3-4155.

Attachments as stated

EXHIBIT A

Intra-account transfers to Cal-D-PAC's Federal savings and checking accounts from accounts apparently containing corporate funds.

<u>DATE</u>	<u>AMOUNT</u>	<u>ACCOUNT TRANSFERRING FUNDS</u>	<u>ACCOUNT RECEIVING FUNDS</u>
2/26/76	\$ 1,500.23	Security Pacific National* Bank-checking account	Wells Fargo checking account (Federal)
2/27/76	52,683.51	Security Pacific National* Bank-savings account	Wells Fargo savings account (Federal)
3/19/76	75,000.00	Wells Fargo savings account (corporate)	Wells Fargo savings account (Federal)
5/14/76	203.74	Security Pacific National* Bank-savings account	Wells Fargo savings account (Federal)
6/30/77	2,000.00	American National Bank - administrative account*	Wells Fargo savings account (Federal)
2/3/78	7,000.00	Wells Fargo savings** account (corporate)	Wells Fargo savings account (Federal)
	<hr/>		
	\$138,387.48		

* Apparently these accounts are partially comprised of corporate funds.

** Correcting entry to reverse funds originally transferred in error to State account from Federal savings.

ATTACHMENT I



California Dental Association
P.O. Box 91258, Tishman Airport Center
Los Angeles, California 90009
Telephone: (213) 776-4292

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BOTH SIDES

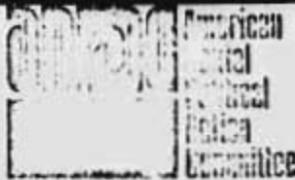
Both sides

Make all checks payable to the California Dental Association and mail to:
P.O. BOX 44239, SAN FRANCISCO, CA 94144

\$10.00 of your ADA dues provides you with an annual subscription to *The Journal of the American Dental Association* and the *ADA News*.

Copies of the reports of the California Dental Political Action Committee (Cal-D-Pac Federal) and the American Dental Political Action Committee (Ad-Pac) are filed with the Federal Election Commission and are available for purchase from the Federal Election Commission, Washington, D.C. Copies of the reports of Cal-D-Pac (State) are filed with the California Secretary of State in Sacramento. For further information see reverse side.

PLEASE RETURN THIS COPY WITH YOUR CHECK



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ATTACHMENT II

SUITE 1006/1101 17TH STREET, NORTHWEST, WASHINGTON, D.C. 20036/202 • 833-3063

May 12, 1977

- Federal Chairman**
 William D. Crutcher, DDS
 Grand Haven, Michigan
- Vice Chairman**
 Mark T. Scott, DMD
 Tacoma, Washington
- President**
 Dudley S. Moore, DDS
 Santa Fe, N.M.
- Vice President**
 John J. Bushman, DDS
 Lawrence, New Hampshire
- Executive Secretary**
 Frank M. Moore, DDS
 Memphis, Tennessee
- Directors**
- Wesley D. Brown, DDS
Tacoma, Washington
 - Walter C. Caplan, DDS
Salt Lake City, Utah
 - Robert B. Dixon, DDS
Dallas, Texas
 - James W. Fitzhugh, DMD
Boston, Massachusetts
 - William G. Greer, DDS
Chicago, Illinois
 - James X. Judge, DDS
New Rochelle, New York
 - Lawrence Kay, DDS
New York, New York
 - Alfred A. Laska, DDS
New York, New York
 - Harold L. Swoyer, DDS
Westfield, New Jersey
 - Jeffrey J. McCullin, DDS
Birmingham, Alabama
 - James McKeechie, Jr., DDS
Camp Hill, Pennsylvania
 - James A. Savine, DDS
Tucson, Arizona
 - Leon Schwartz, DDS
New York, New York
 - Henry M. Severts, DDS
Houston, Texas
 - James A. Tatum, Jr., DDS
Atlanta, Georgia
 - Dr. A. J. Thibodeau
Sacramento, California
 - W. Turner, DDS
Spring, Illinois
 - John B. Wilson, DDS
San Diego, California
- Executive Secretary**
 Richard M. DeWitt

Mr. Steve Mims
Federal Election Commission
1325 K Street
Washington, D. C. 20463

Dear Mr. Mims:

The letter of April 25, 1977 from the Federal Election Commission to our Treasurer, Dr. Dudley S. Moore has been received and noted.

As you will recall, we conferred on the item of funds from the Florida and California Dental PACs which your addendum to the above mentioned letter pointed out "must be reported on line 24(a) or (b) as appropriate."

I respectfully would like to differ in that the funds you mentioned coming from Florida and California were contributions to ADPAC and not expenditures, to which line 24(a) or (b) refer.

I agree that an "audit trail" should be established. ADPAC funds usually are collected through joint fund raising with the various state PACs. We have requested that each State Dental PAC collect ADPAC funds at the same time it collects its own. Not all State PACs cooperate with us in this endeavor. ADPAC has a minimum membership of \$10.00. As required by law, we ask the State PACs to send names of those person contributing to ADPAC when our funds are transmitted.

Heretofore, based on the fact that ADPAC was receiving a series of \$10.00 contributions and not a lump sum, we reported the overall amount on line 15(b) because none of the individual contributions exceed \$100.00. We would of course, itemize if the individual contribution did exceed \$100.00.

Attachment II

Mr. Steve Mims
May 12, 1977
Page 2

We have, on occasion, received a lump sum from a State PAC and it was listed as a transfer. It of course, is subject to the limitation that goes along with transfers. We respectfully submit that the series of \$10.00 individual contributions is not the same.

We will be happy to fill out Schedule A reflecting the amounts transmitted to ADPAC by the various State PACs that cooperate in the joint fund raising. We will show the amounts and the dates involved. This should establish the audit trail.

A review of our records reflect that the California Dental Political Action Committee transmitted \$42,000 on which ADPAC received on May 11, 1976, and deposited on that date.

Florida Dental Political Committee transmitted \$12,100 on August 20, 1976 which was deposited on that date. Your figure of \$22,870 is the compilation of the years 1976 and 1975.

If additional information is required, we will be happy to cooperate.

Sincerely,

Edward M. Donelan

Edward M. Donelan
Executive Secretary

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local unions maintain transmittal accounts into which political contributions are deposited and from which transfers are made to the depository reflected on the Statement of Organization.

Title 2, U.S.C. Section 437b(a)(2) requires that all contributions received by a political committee be deposited in designated depositories, and all expenditures, except for petty cash, be made by check drawn on such account. Section 433(b)(9) requires that all banks, safety deposit boxes, and other depositories used by the committee be recorded on the Statement of Organization.

All expenditures made by a political committee must be made from a campaign depository unless the expenditure is made from treasury funds. If the local unions make expenditures (other than expenditures from treasury funds), either before or after the contributions are deposited in the "transmittal account," the account should be considered a campaign depository. The national union can either pay the local expenses from its designated campaign depository or designate the "transmittal account" a campaign depository and allow the local to pay for expenses from contributions received.

B. Committee records indicate that many local unions receive political contributions which are deposited in personal checking accounts, local union accounts, and in accounts of employer organizations, some of which are incorporated, and subsequently transferred to the Committee. Title 2, U.S.C. 432(b) states in part that funds of a political committee shall be segregated from and may not be commingled with the personal funds of any officers, members or associates of such committee. Members of local unions should be instructed not to deposit political contributions received in personal, union or corporate accounts for subsequent transfer to the Committee depository.

The Committee has advised their collectors at the local level that the USWA Political Action Fund will not accept any checks drawn on their personal accounts or union or corporate accounts.

C. Committee records indicate that the Committee is not consistent in reporting political contributions received from the voluntary payroll check-off program. Itemized contributions are reported in the time period during which the funds are withheld from the contributor's salary, but not yet received by the Committee. The unitemized contribution figure represents total receipts for the period less the amount of the itemized contributions. All contributions should be reported during the period received by the Committee (2 U.S.C. 434(b)(2)).

The Committee has advised that they are now reporting all contributions received by the Fund on a cash reporting basis.

D. Committee records indicate that political contributions received by the local and district unions are not transferred and reported to the Committee promptly. Title 2 U.S.C. 432(b) requires that any person

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ATTACHMENT IV

The Audit Division further recommends that the Committee implement the procedures outlined in (2), (3) and (4) above within 60 days of receipt of this report. Further, we recommend that the Committee amend its reports filed from January 1, 1975 through the present to itemize all transfers including those which are the result of joint fundraising efforts within 30 days of receipt of this report.

B. Receipt of Funds on Union Accounts

Section 441b of Title 2 of the United States Code provides for the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a labor organization. Section 437b(a)(2) requires, in part, that the treasurer of each political committee designate one or more national or State banks as campaign depositories of such committee, while Section 433(b)(9) of Title 2 of the United States Code requires that a listing of all banks and repositories used by the Committee must be disclosed.

Our review of Committee's records indicated that a substantial number of the voluntary contributions received by various labor organizations for the benefit of the PCC apparently were being deposited in union accounts and subsequently transferred to the PCC. It should be noted that due to the type of documentation maintained by the Committee for receipts, it was not always possible to determine the source of funds as either a political contribution fund or union treasury fund. However, at least 140 items of this nature ranging in dollar amount from \$2.00 to \$15,000.00 were noted during the period audited.

Recommendation

It is our recommendation that the Committee be requested to advise local labor organizations to 1) forward the funds immediately (by means other than through a personal, union or other prohibited account) to the AFL-CIO COPE PCC which must deposit the funds within 10 days or 2) within 10 days deposit voluntary contributions in "transmittal" accounts which shall be used solely for the purpose of transmitting voluntary contributions to the AFL-CIO COPE PCC. Accounts from which expenditures are made for any purpose other than the transfer of funds to the PCC cannot be transmittal accounts. Further, the PCC is required to include these receipts on its next disclosure report.



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C., 20463

September 19, 1978

AO 1978-42

John M. Power, Esq.
FOLEY, HICKEY, GILBERT AND POWER
70 Pine Street
New York, New York 10005

Dear Mr. Power:

This responds to your letter of June 29, 1978, in which you request an Advisory Opinion on behalf of the Empire Dental Political Action Committee ("EDPAC") concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act").

Specifically, you asked two questions:

1. May the Dental Society of the State of New York and its district dental societies solicit voluntary contributions to the Empire Dental Political Action Committee by the inclusion of a suggested political contribution on the membership dues statements of the societies?
2. May the Dental Society of the State of New York and its district dental societies deposit into their corporate bank accounts checks from their members in payment of the dues statements; portions of these checks may represent contributions to EDPAC, and such portion would then be transferred to EDPAC by separate check?

Regarding your first question, the solicitation of contributions to EDPAC by the Dental Society of the State of New York, a nonprofit corporation, and its district dental societies is permitted by 2 U.S.C. §441b(b)(4)(C). The solicitation may be conducted in conjunction with the

mailing of dues statements to members of the Dental Society. See 11 CFR 114.7(f).

As to your second question, 2 U.S.C. §441b(a) prohibits any corporation from contributing to a candidate for Federal office or to a political committee established for the purpose of making contributions to candidates for Federal office. However, a separate segregated fund may be established under §441b(b)(2) and may accept voluntary contributions from individual members of the Society or any district dental society; that fund, in turn, may make contributions to candidates for Federal office and political committees subject, of course, to the contribution limits and other requirements of the Act and Commission regulations. EDPAC is regarded as the separate segregated fund of the Dental Society whose members may be solicited and make contributions to EDPAC. Such contributions may be included with the annual membership dues of the member and transmitted by a single check payable to the district dental society.^{1/} This check may be deposited in a bank account of the State or district dental society. The dental societies may then remit the political contribution portion to EDPAC by separate check drawn on that same society bank account.

In concluding that the described procedure may be used, the Commission makes several assumptions on which it conditions its approval. First, the checks representing a combined dues and political contribution from a Society member are regarded as contributions received by the treasurer of EDPAC and his/her agent at the time the checks are received by any employee or representative of the State Society, or the district society in cases where it mails dues statements and receives combined dues and contribution checks directly. Thus, the political contribution portion of each member's check must be deposited into a checking account of a duly

^{1/}The Commission understands, and assumes for purposes of this Opinion, that combined dues and political contributions will be made by Society members as individuals on individual checks drawn on personal bank accounts, not corporate accounts including professional corporation accounts. Combined dues and political contributions drawn on a corporate account which is a non-repayable drawing account of an individual Society member are not considered prohibited corporate contributions. (See the Commission's recent Notice on this subject, copy enclosed.)

designated bank depository of EDPAC within 10 days after the check is received by the State or district society. See §103.3(a) of the Commission's regulations which implement 2 U.S.C. §437b(a).

Secondly, all records of society bank accounts in which combined dues and contributions are deposited must be made available upon Commission request pursuant to its audit authority and other general powers. 2 U.S.C. §§437d, 438(a)(8). Finally, the State and district societies must maintain and make available on Commission request usual and customary accounting records of members' dues payments and other appropriate records indicating those members who make political contributions in combination with dues payments. These records must be maintained for at least 3 years from the end of the year in which EDPAC reported a contribution from a member to whom the records relate. See 11 CFR 104.12(b).

This response constitutes an advisory opinion concerning the application of a general rule of law stated in the Act, or prescribed as a Commission regulation, to the specific factual situation set forth in your request. See 2 U.S.C. §437f.

Sincerely yours,

Joan Aikens

Joan D. Aikens
Chairman for the
Federal Election Commission

Enclosure

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FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20461

THIS IS THE BEGINNING OF MUR # 769

Date Filmed May 12, 1981 Camera No. --- 2

Cameraman K.S.R.

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Reel of video tape of the hearing of the House of Representatives on the impeachment of President Richard M. Nixon, May 12, 1974.