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July 28, 2003

Benjamin L. Ginsberg
(202) 457-6405
bginsberg@pattonboggs.com

COURIER

Mr. Jeff S. Jordan
Supervisory Attorney
Central Enforcement Docket
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 5368

Dear Mr. Jordan:

On behalf of Rep. John Sullivan, John Sullivan for Congress and Gregory Colpitts, as Treasurer (collectively the "Committee"), this letter is in response to the Complaint filed by David Pearson, President of Pearson Communication Group, Inc., a former campaign consultant. This is about a disputed debt. The Commission has consistently refused to allow the FEC's complaint system, rather than the competent state court, to resolve a disputed debt with a candidate committee. This Complaint should be dismissed. Further Commission involvement with this matter is a waste of resources, as the Commission recognized in discussing previous complaints from disgruntled vendors. See MURs 4792 (Mueller); 4724 (Feinberg); 4639 (Larson); 4637 (Dettman) 4612 (Doggett); 4069 (Davis); 3736 (Brown). Attachment 1.

Complainant alleges that the Committee knowingly and intentionally filed several false FEC reports, which did not accurately state the Committee's debts. However, this is the same time period for which the Commission conducted an audit of the Committee. See Final Audit Rep. Attachment 2. Conspicuously missing from that thorough Audit Report, notwithstanding several amended reports correcting the debt totals, is any finding concerning misstated debts.

Complainant also misstates the publicly verifiable facts. He alleges, for instance, that Sullivan for Congress filed a false Pre-General Election Report on December 27, 2001 (listing \$0 debt) that sought to deceive the FEC, the media and the public. In reality, That report showed committee debts of \$141,911.25. Attachment 3.

Since converting to new compliance software (Aristotle) in March 2002, the Committee's debts have been reported accurately, though not without some initial inaccuracies that lingered

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STENOGRAPHER

Mr. Jeff S. Jordan

July 28, 2003

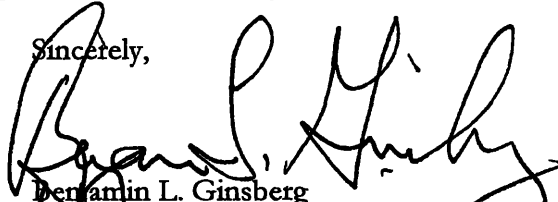
Page 2

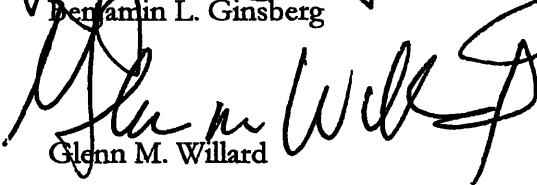
from the use of Front Runner. *Id.* at ¶5¹. The Committee has made every effort to comply with the reporting requirements of the FECA. At no time did the Committee's treasurer intentionally file false reports. *Id.* at ¶3. Inaccurate debt totals were caused by the Committee's reliance on Complainant's recommended use of Front Runner. *Id.* at ¶4. Complainant also misstates the interest due him as the contract between him and the Committee contained no such provision. Attachment 4.

The Committee disputes that it owes the Complainant the amounts he alleges. Moreover, the amount Complainant alleges to be in dispute at this point is relatively small and his own figures demonstrate that Complainant has received substantial payment. Out of an initial debt of \$51,469.73 allegedly owed to Complainant, he now contends he is owed \$15,042.58 instead of the \$12,277.64 reported on the Committee's April 2003 Quarterly Report, a difference of only \$2,764.94. Obviously, by the Complainant's own figures, the dispute is of small proportion.

The Commission should, therefore, dismiss this matter and not permit itself to be used as Complainant's collection agency.

Sincerely,


Benjamin L. Ginsberg


Glenn M. Willard

Attachments

¹ The Committee did have to file several amendments to correct erroneous debt totals that were mis-generated by Front Runner, the initial compliance software used by the Committee. *Colpitts Aff* ¶4. While the Committee originally planned to use the FEC's compliance software, Complainant, who was hired as a consultant by the campaign, recommended using Front Runner, which consistently generated inaccurate debt totals. *Id.*

MUR 4792
GARY S. MUELLER FOR CONGRESS

Don Millar, a partner in The Conover Millar Group (the "Group"), alleges that Gary S. Mueller for Congress (the "Committee") failed to itemize outstanding debts on its July 15 Quarterly Report. Millar claims that during that reporting period, the Committee owed the Group \$6,444.13 for consulting services and related expenses which should have been disclosed in that report. Mr. Mueller lost the 1998 General election in Illinois' 11th congressional district with 41% of the vote to Gerald Weller's 59%.

In its response, the Committee denies that the claimed debt should have been reported because it does not recognize that a valid contract existed between it and the Group. While the Committee acknowledges that its campaign manager signed an agreement with the Group, it claims that neither it nor the candidate authorized the transaction. The Committee characterizes the complaint as an attempt to "strong arm" the Committee into a relationship that had not previously existed either in law or in fact.

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

MUR 4724
FEINBERG FOR CONGRESS

Mr. Sam McIntosh, Managing Partner of MC Squared Consulting, alleges that Feinberg for Congress improperly reported only \$5,000 of a \$25,000 debt owed to his company. Mr. McIntosh also alleges several other reporting problems, including: the improper reporting of two debts to his company totaling \$14,000 in 1997; failure to report fundraising expenses and debts for two fund-raisers held in the home of Mr. Bruce Leslie; and failure to report the salaries for two former employees, Mr. Allen and Mr. Caudill. Complainant further alleges that the campaign owes Mr. Caudill \$1,722 for unreimbursed expenses, which had also not been reported by the Committee.

Feinberg for Congress denies that any funds are due to MG Squared. They dispute the claimed debt of \$25,000, asserting that only \$5,000 was due and that this amount was paid as agreed between the parties in January 1998. The Committee asserts that the two fund-raisers were conducted by volunteers and that expenses for them did not exceed \$1,000. The Committee denies that any funds are due to either Mr. Allen or Mr. Caudill, since all amounts due were previously paid in full.

There appears to be no serious intent to violate FECA and the matter does not warrant the significant resources necessary to establish what appear to be minor reporting violations. This matter is less significant relative to other matters pending before the Commission.

**MUR 4639
LARSON FOR CONGRESS**

Robert Ferderer alleges that Andy Larson, who lost the 1996 General Election with 24% of the vote in Minnesota's 8th Congressional District, and Andy Larson for Congress (the "Committee") denied him payment for services rendered under a written agreement, the copy of which included in the complaint was unsigned by the Committee. Mr. Ferderer alleges that the Committee did not report any debt owed to him or make any payments to him. Mr. Ferderer acknowledges that his lawsuit filed against the committee was dismissed with prejudice by the court

Respondent Andy Larson states that he understood Mr. Ferderer was a volunteer to help with fundraising. When Mr. Ferderer later asked Mr. Larson to draw up a contract based on a reported conversation with the Committee chair, George Cable, Mr. Larson agreed, writing in what he would expect of a campaign employee though he still viewed Mr. Ferderer as a volunteer. The contract was never signed by Mr. Larson or the Committee. Respondent George Cable states in his response that he never agreed to or committed the campaign to hiring or paying Mr. Ferderer. Mr. Larson further asserts that the treasurer received no claims for payment from the complainant, and that the Committee has not reported this as a debt because it does not acknowledge this as a debt reportable to the FEC.

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

MUR 4637
DETTMAN FOR CONGRESS

Michael P. Maxwell and Mark Gungor of The Merit Group, Inc., and Gungor Productions, Inc., respectively, allege that Charles Dettman, Jr., and Dettman for Congress (the "Committee") failed to disclose debts owed them on FEC reports and failed to pay said debts. The complainants allege that the Committee still owes \$3,555.81 to The Merit Group and \$8386.88 to Gungor Productions, Inc.

Douglas R. Dahl, Treasurer, states in his response that he did not include this information in the Committee's FEC reports upon advice of an unidentified FEC representative because the invoices were "questionable." Mr. Dahl states that, according to Mr. Dettman, Mark Gungor has been paid the "appropriate amount pertaining to the invoices" and Mr. Maxwell's claims are being handled through the judicial system.

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 7, 1996

James M. Johnson, Esquire
Bryan, Jones, Johnson & Snow
P.O. Box 397
Dunn, NC 28335

RE: MUR 4069
Donald S. Davis

Dear Mr. Johnson:

On October 4, 1994, the Federal Election Commission notified your client, Donald S. Davis, of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action against Donald S. Davis. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on March 5, 1996.

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

If you have any questions, please contact the Central Enforcement Docket at (202) 219-3400.

Sincerely,

Mary L. Taksar (SBA)
Mary L. Taksar, Attorney
Central Enforcement Docket

Celebrating the Commission's 20th Anniversary
YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

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II. MUR SUMMARIES

a. MUR 3507

At issue is the allegation that the Brown Committee received an excessive contribution from Thomas Lingenfelter, a Brown for President volunteer, in the form of unreimbursed shipping and utility charges that Lingenfelter indicated were expenses incurred on behalf of the Brown Committee. The Committee argues that it had no ties to Lingenfelter after an initial reimbursement and letter asking the volunteer to either comply with the Committee's reporting requirements or sever any official relationship. Lingenfelter has failed to provide evidence of his attempts to be paid, providing only a copy of a billing statement addressed to Brown for President. Without investigating whether or not Lingenfelter made additional requests for reimbursement to the Brown Committee, it can not be shown that the Brown Committee accepted the excessive in-kind contribution in violation of 2 U.S.C. § 441a(f), or that the Brown Committee had knowledge of any disputed debt to be reported.

b. MUR 3632

The issues in this MUR are a \$28,493 disputed debt between the Committee and a vendor and the disbursement of cash in excess of \$100, both of which were apparently initiated by a volunteer campaign worker using his personal funds. Further complicating this matter during negotiations is the fact that the Committee's responsibility for the disputed debt with the vendor remains the subject of civil litigation.

c. MUR 3736

The disputed debt in this matter again involves reimbursements to a volunteer. The Brown Committee contends that it never agreed to reimburse its volunteer Larry Kaplan for his travel expenses as he has alleged, except for specific expenses consistent with its policy applied to all other volunteers and agreed to in advance. The amount of money in dispute between the Brown Committee and Mr. Kaplan is \$2,950.

The Brown Committee has little current activity and appears to be removed from the electoral process. Their 1995 Year End Report discloses \$1,078 cash on hand at the beginning of the period; \$0 receipts; \$3 total reimbursements; \$1,074 cash on hand at the end of the period. Given the amount of time spent thus far on a small amount of money relative to other matters before the Commission, and the amount of time an investigation would involve to establish what appear to be reporting violations from the 1992 election cycle, the Office of General Counsel recommends that the Commission expend no further resources and close these matters.

III. RECOMMENDATIONS

1. Take no further action against Brown for President and Blaine Quick, as treasurer.
2. Close the files in MURs 3507, 3632 and 3736.
3. Approve the appropriate letters.

Lawrence M. Noble
General Counsel

BY: 
Lois G. Lerner
Associate General Counsel

Date 2/22/96

Staff Assigned: Jeffrey Long

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FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

January 24, 2003

Mr. Gregory T. Colpitts, Treasurer
John Sullivan for Congress
6130 S. Maplewood, Suite B
Tulsa, OK 74136

Dear Mr. Colpitts:


This report is to formally advise you of the findings and recommendations of the Audit staff resulting from the audit of John Sullivan for Congress.

You are requested to comply with the recommendations by February 26, 2003. After expiration of the response period and receipt of your response, the Audit staff will present a final audit report to the Commission for approval and subsequent public release. If the recommendations contained in this report are followed, such efforts will be noted in the final audit report. However, adherence to the recommendations will not necessarily preclude the institution of enforcement proceedings with regard to apparent violations of the Federal Election Campaign Act of 1971, as amended.

The Commission will not grant extensions of time to respond to audit reports as a matter of routine. Rather, upon a showing of good cause, the Commission may consider granting one extension of time to respond to the interim report, but in no instance will the extension exceed 15 calendar days.

If you have any questions concerning this report, please contact Rickida Skinner or Marty Favin at (202) 694-1200 or toll free at (800) 424-9530.

Sincerely,


Joseph F. Stoltz
Assistant Staff Director
Audit Division

cc: Benjamin L. Ginsberg/William J. McGinley, Counsel

Attachment as stated

Attachment 2



Interim Report of the Audit Division on

John Sullivan for Congress

April 13, 2001 – March 31, 2002

Why the Audit Was Done

Federal law permits the Commission to conduct an audit and field investigation of any political committee that is required to file reports under the Federal Election Campaign Act (the Act). The Commission generally conducts such audits when a committee appears not to have met the threshold requirements for substantial compliance with the Act.¹ The audit determines whether the committee complied with the limitations, prohibitions and disclosure requirements of the Act.

Future Action

The Commission may initiate an enforcement action, at a later time, with respect to any of the matters discussed in this report.

About the Committee (p. 2)

John Sullivan for Congress (JSFC) is the principal campaign committee for John Sullivan, Republican candidate for the U.S. House of Representatives from the state of Oklahoma, First District. JSFC is headquartered in Tulsa, Oklahoma. The Candidate participated in a special election held on January 8, 2002. For more information, see chart on the Committee Organization, p. 2.

Financial Activity (p. 3)

| | |
|-----------------------------------|------------------|
| • Receipts | |
| o From Individuals | \$405,454 |
| o From Political Committees | 210,951 |
| o From Unregistered Organizations | 4,919 |
| o Candidate Loans | 10,000 |
| o In-kind Contributions | 16,779 |
| o Other Receipts | 1,625 |
| o Total Receipts | \$649,728 |
| • Disbursements | |
| o Operating Disbursements | \$611,896 |
| o Other Disbursements | 12,000 |
| o Total Disbursements | \$623,896 |

Findings and Recommendations (p. 4)

- Receipt of Contributions from an Unregistered Organization (Finding 1)
- Misstatement of Financial Activity (Finding 2)

¹ 2 U.S.C §438(b).

Interim Report of the Audit Division on John Sullivan for Congress

April 13, 2002 – March 31, 2002



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Part I

Background

Authority for Audit

This report is based on an audit of John Sullivan for Congress (JSFC), undertaken by the Audit Division of the Federal Election Commission (the Commission) in accordance with the Federal Election Campaign Act of 1971, as amended (the Act). The Audit Division conducted the audit pursuant to 2 U.S.C. §438(b), which permits the Commission to conduct audits and field investigations of any political committee that is required to file a report under 2 U.S.C. §434. Prior to conducting any audit under this subsection, the Commission must perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act. 2 U.S.C. §438(b).

Scope of Audit

Following Commission approved procedures, the Audit staff evaluated various risk factors and as a result this audit examined:

1. The receipt of excessive contributions and loans.
2. The receipt of contributions from prohibited sources.
3. The disclosure of contributions received.
4. The consistency between reported figures and bank records.
5. The completeness of records.
6. Other committee operations necessary to the review.

Part II

Overview of Campaign

Committee Organization

| John Sullivan for Congress | |
|-------------------------------------------------------------------------------|----------------------------------------------------------------------------|
| Important Dates | |
| • Date of Registration | June 4, 2001 |
| • Audit Coverage | April 13, 2001 (the date of JSFC's initial deposit) through March 31, 2002 |
| • Special Elections | December 11, 2001 (primary) January 8, 2002 (general) |
| Headquarters | |
| Tulsa, Oklahoma | |
| Bank Information | |
| • Bank Depositories | 1 |
| • Bank Accounts | 1 Checking Account |
| Treasurers | |
| • Treasurer When Audit Was Conducted | Greggory T. Colpitts |
| • Treasurer During Period Covered by Audit | Greggory T. Colpitts |
| Management Information | |
| • Attended FEC Campaign Finance Seminar | No |
| • Used Commonly Available Campaign Management Software Package | Yes |
| • Filed Reports Electronically | Yes |
| • Who Handled Accounting, Recordkeeping Tasks and Other Day-to-Day Operations | Volunteer Staff |
| • Staff Has Previous Campaign Finance And Accounting Experience | No Previous Campaign Finance Experience and Moderate Accounting Experience |

SULLIVAN FOR CONGRESS

Part III Summaries

Findings and Recommendations

Finding 1. Receipt of Contributions from Unregistered Organizations

A review of all contributions from unregistered organizations indicated that JSFC received \$4,500 in excessive contributions from the Miami Tribe of Oklahoma Business Development Fund. JSFC refunded the excessive amount on February 19, 2002. The Audit staff recommends that no further action be taken. (For more detail, see p. 5)

Finding 2. Misstatement of Financial Activity

A comparison of JSFC's reported financial activity with its bank activity indicated that receipts were understated by \$19,144. The Audit staff recommends that JSFC file amendments to the applicable reports to correct the misstatements. (For more detail, see p. 7)

Part IV

Findings and Recommendations

Finding 1. Receipt of Contributions from an Unregistered Organization

Summary

A review of all contributions from unregistered organizations indicated that JSFC received \$4,500 in excessive contributions from the Miami Tribe of Oklahoma Business Development Fund. JSFC refunded the excessive amount on February 19, 2002. The Audit staff recommends that no further action be taken.

Legal Standard

Contribution Limits. No individual or group (other than a multicandidate committee) may contribute more than a total of \$1,000, per election, to a federal candidate's² campaign (the campaign includes the candidate and his or her agents and authorized committees). 2 U.S.C. §441a (a)(1)(A).

Definition of Election. Each of the following is considered a separate election, with a separate limit:

- Primary election or a caucus or convention with authority to nominate the candidate for the general election.
- General election.
- Runoff.
- Special election.

2 U.S.C. §431(1) and 11 CFR §§100.2, 110.1(j)(1), and 110.2(i)(1).

Handling Contributions That Appear Excessive. If a committee receives a contribution that appears to be excessive, the committee must either:

1. Return the questionable check to the donor; or
2. Deposit the check into its federal account and
 - Keep enough money in the account to cover all potential refunds;
 - Keep a written record explaining why the contribution may be illegal;
 - Include this explanation on schedule A if the contribution has to be itemized before its legality is established;
 - Seek a redesignation of the excessive portion, following the instructions provided in FEC regulations; and

²A federal candidate is one who runs for the U S Presidency or for a seat in the U S. Senate or the U S House of Representatives.

- If the committee does not receive a proper redesignation within 60 days after receiving the excessive contribution, refund the excessive portion to the donor. 11 CFR §§103.3(b)(3), (4) and (5) and 110.1(k)(3)(ii)(B).

Unregistered Organizations Financing Federal Political Activity. When any organization makes a contribution but does not qualify as a political committee³, it must either:

1. Establish a separate account for permissible funds to make contributions and keep records of deposits (records must be kept and made available for examination by the Commission upon request); or
2. Demonstrate through a reasonable accounting method that it has received sufficient permissible funds to make contributions (records must be kept and made available for examination by the Commission upon request). 11 CFR §102.5(b)

Facts and Analysis

JSFC received \$4,500 in excessive contributions from the Miami Tribe of Oklahoma Business Development Fund (\$3,000 Primary; \$1,500 General). This unregistered organization gave JSFC a total of \$6,500 as follows:

- \$2,500 on September 25, 2001 for the Primary election;
- \$1,500 on November 19, 2001 for the Primary election; and
- \$2,500 on December 31, 2001 for the General election.

The date of the Primary election was December 11, 2001. The date of the General election was January 8, 2002.

Under the Act, an unregistered organization (one that has not become a political committee) may not contribute more than \$1,000 per candidate, per election. JSFC refunded the excessive portion of the contributions in one check (\$4,500) on February 19, 2002. This action occurred too late to cure the two excessive Primary contributions⁴ but it met the 60-day requirement for refunds with regard to the December 31, 2001 contribution. JSFC also consistently maintained a sufficient balance to cover the amounts deposited in excess of the limitation until just prior to the General election, January 8, 2002. It appears that the Miami Tribe of Oklahoma Business Development Fund thought that it was a multicandidate committee and therefore eligible to contribute up to \$5,000 per election to JSFC.

At the exit conference the Audit staff presented this matter to JSFC officials.. JSFC gave no response.

³ Political committee means any committee, club, association, or other group of persons which receives contributions in excess of \$1,000 or which makes expenditures in excess of \$1,000 during a calendar year 11 CFR §100.5

⁴ Based on an analysis of the contribution and disbursement databases provided by JSFC, the Primary activity was not funded by contributions designated for the General

Interim Audit Report Recommendations

The Audit staff recommends that, within 30 calendar days of service of this report, JSFC provide evidence that the excessive contributions were refunded timely or any additional information or explanation it believes relevant.

Finding 2. Misstatement of Financial Activity

Summary

A comparison of JSFC's reported financial activity with its bank activity indicated that JSFC had understated its receipts by \$19,144. The Audit staff recommends that JSFC file amendments to the applicable reports to correct the misstatements.

Legal Standard

Each report must disclose:

- The amount of cash on hand at the beginning and end of the reporting period;
- The total amount of receipts for the reporting period and for the calendar year; and
- The total amount of disbursements for the reporting period and for the calendar year. 2 U.S.C. §434(b)(1), (2) and (4)

Facts and Analysis

A comparison between JSFC's reported financial activity and its bank records indicated that JSFC's reports understated receipts by \$19,144. Disbursements were understated by \$7,308, not considered significant. The Ending Cash Balance was understated by \$11,836 as a result of the discrepancies in receipts and disbursements.

| | Reported | Bank Records | Discrepancy |
|----------------------|-----------|--------------|----------------------|
| Opening Cash Balance | \$ 0 | \$ 0 | \$ 0 |
| Receipts | 630,584 | 649,728 | 19,144 understated |
| Disbursements | 616,588 | 623,896 | 7,308 understated |
| Ending Cash Balance | \$ 13,996 | \$ 25,833 | \$11,836 understated |

Explanation of Receipts Discrepancy

The understatement of receipts was the result of the following:

- | | |
|-------------------------------------------------|-----------------|
| • Unreported in-kind contributions | \$ 1,694 |
| • Unreported individual contributions | 14,800 |
| • Unreported political committee contribution | 100 |
| • Uncorrected math error on detail summary page | 250 |
| • Unexplained difference | <u>2,300</u> |
| | <u>\$19,144</u> |

At the exit conference the Audit staff informed JSFC officials of these misstatements and provided them relevant work papers. JSFC stated that they understood the finding.

Interim Audit Report Recommendations

The Audit staff recommends that, within 30 calendar days of service of this report, JSFC file complete amended electronic reports for each reporting period to correct the misstatements noted above.