FEDERAL ELECTION COMMISSION

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

THIS IS THE END OF MUR # 1036

Date Filmed 6/17/83 Camera No. --- 2

Cameraman SPC

FEDERAL ELECTION COMMISSION

Conciliation Proposal Papers

Inter-Office 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):

___	(1) Classified Information	___	(6) Personal privacy
X	(2) Internal rules and practices	___	(7) Investigatory files
___	(3) Exempted by other statute	___	(8) Banking Information
___	(4) Trade secrets and commercial or financial information	___	(9) Well Information (geographic or geophysical)
✓	(5) Internal Documents		

Signed [signature]

date 4/1/83

FEC 9-21-77

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 1, 1983

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ben Green, Treasurer
Hall-Tyner Flory Campaign '76
407 South Dearborn Street
Room 1600
Chicago, Illinois 60605

Re: MUR 1036

Dear Mr. Green:

Previously, the Commission notified you of a complaint alleging that your Committee may have violated certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission on March 30, 1983, determined to terminate its inquiry into MUR 1036. This matter will become part of the public record within 30 days.

If you have any questions, please contact Duane A. Brown, the attorney assigned this matter, at (202)523-5071.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

830404006[illegible]

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 1, 1983

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John Abt, Esquire
299 Broadway
New York, New York 10007

Re: MUR 1036

Dear Mr. Abt:

Previously, the Commission notified you of a complaint alleging that your clients Hall-Tyner Aptheker Committee and Hall-Tyner Election Campaign Committee may have violated certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission on March 30, 1983, determined to terminate its inquiry into MUR 1036. This matter will become part of the public record within 30 days.

If you have any questions, please contact Duane A. Brown, the attorney assigned this matter, at (202)523-5071.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

33040400653

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 1036
Hall-Tyner Aptheker Committee	)	
Hall-Tyner-Flory Campaign '76 Committee	)	
Hall-Tyner Election Campaign Committee	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on March 30, 1983, the Commission decided by a vote of 6-0 to take the following actions in MUR 1036:

1. Take no further action.
2. Close the file.
3. Approve the sending of the closing letters to the respondents.

Commissioners Aikens, Elliott, Harris, McDonald, McGarry, and Reiche voted affirmatively for the decision.

Attest:

3-30-83 — Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

Received in Office of Commission Secretary: 3-28-83, 12:10
Circulated on 48 hour tally basis: 3-28-83, 4:00

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary

FROM: Office of General Counsel

DATE: March 28, 1983

SUBJECT: MUR 1036 - GC Rpt

The attached is submitted as an Agenda document for the Commission Meeting of ______________

Open Session ______________

Closed Session ______________

CIRCULATIONS		DISTRIBUTION	
48 Hour Tally Vote	[✓]	Compliance	[✓]
Sensitive	[✓]		
Non-Sensitive	[ ]	Audit Matters	[ ]
24 Hour No Objection	[ ]	Litigation	[ ]
Sensitive	[ ]		
Non-Sensitive	[ ]	Closed MUR Letters	[ ]
Information	[ ]	Status Sheets	[ ]
Sensitive	[ ]		
Non-Sensitive	[ ]	Advisory Opinions	[ ]
Other	[ ]	Other (see distribution below)	[ ]

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

BEFORE THE FEDERAL ELECTION COMMISSION

83 MAR 28 P12: 10

In the Matter of	)	
	)	
Hall-Tyner Aptheker Committee	)	MUR 1036
Hall-Tyner-Flory Campaign '76 Committee	)	
Hall Tyner Election Campaign Committee	)	

SENSITIVE

GENERAL COUNSEL'S REPORT

BACKGROUND

On May 27, 1981, the Commission found probable cause to believe that the New York Hall-Tyner Aptheker Campaign Committee violated 2 U.S.C. § 432(c)(2) for failure to keep records of contributors' names, addresses occupations and principal places of business and violated 2 U.S.C. § 434(b)(2) by failing to report contributor information on reports filed with the Commission. */ On that same date the Commission found probable cause to believe that the Hall-Tyner-Flory Campaign '76 Committee violated 2 U.S.C. § 432(c)(2) for failure to keep records of contributors' names, addresses, occupations and principal places of business. The Commission also found probable cause that the Hall-Tyner-Flory Campaign '76 Committee violated 2 U.S.C. §§ 434(b)(2), 432(c)(3) and (4) and 432(d) by failing to keep a

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*/ As the violations occurred before the Act was amended on January 8, 1980, by Pub. Law 96-187, all citations to the Act are as they existed before amendment.

detailed and exact account of all expenditures made by or for such committee including the identification of every person to whom any expenditure was made, the date, and the amount of the expenditure, and by failing to obtain and keep a receipted bill, stating the particulars, for every expenditure made in excess of $100 in amount, and for any expenditure in a lesser amount, if the aggregate amount of such expenditures to the same person during a calendar year exceeded $100. Finally, the Commission found probable cause that the Hall-Tyner-Flory-Campaign '76 Committee violated 2 U.S.C. § 434(b)(9) by failing to report the particulars for each expenditure made.

On July 13, 1981, the Office of General Counsel recommended the Commission find probable cause to believe the Hall-Tyner Election Campaign Committee violated 2 U.S.C. §§ 437b(a)(1), 437b(2)(b) and 437b(b) for the Committee's failure to deposit contributions into a campaign depository and for its failure to use checks drawn on the depository to make expenditures, or, if the expenditures were considered to have been made from petty cash, for making petty cash expenditures in excess of $100. In addition, the General Counsel recommended that the Commission find probable cause to believe that the Hall-Tyner Election Campaign Committee violated 2 U.S.C. § 434(b)(9) by not providing the identification of each person to whom expenditures were made within the calendar year in an aggregate amount of value in excess of $100.

Although representatives of each committee responded to the letters attached with the Commission's Briefs, each took the position of waiting for the decision in the then on-going District Court litigation (FEC v. Hall-Tyner Election Campaign Committee, et al.,) before formally responding to the Brief. On September 22, 1981, District Court Judge Gagliardi ruled that the relevant provisions of 2 U.S.C. §§ 432(c) and 434(b)(2) as applied to the respondents violated the First Amendment. On November 10, 1981, the Commission voted to appeal the District Court ruling. As a result, the Commission decided, on March 24, 1981 to hold in abeyance any further action on this MUR until a decision was rendered by the Court of Appeals. On May 6, 1982, the Court of Appeals affirmed the judgment of the District Court. On May 25, 1982, the Commission authorized the General Counsel to petition the U.S. Supreme Court for a writ of certiorari to review the adverse lower court decision. On January 17, 1983, the Supreme Court denied the petition.

Because of the court determination which ruled that as to the 1976 election the respondents were not required to file records of contributors with the Commission, the Office of General Counsel recommends that the Commission close the file in this matter.

Recommendations:

1. Take no further action.

2. Close the file.

3. Approve the sending of the closing letters to the respondents.

Charles N. Steele
General Counsel

3/25/83 BY: Kenneth A. Gross

Date

Kenneth A. Gross
Associate General Counsel

Attachments:
Letters to Respondents

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John Abt, Esquire
299 Broadway
New York, New York 10007

Re: MUR 1036

Dear Mr. Abt:

Previously, the Commission notified you of a complaint alleging that your clients Hall-Tyner Aptheker Committee and Hall-Tyner Election Campaign Committee may have violated certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission on March , 1983, determined to terminate its inquiry into MUR 1036. This matter will become part of the public record within 30 days.

If you have any questions, please contact Duane A. Brown, the attorney assigned this matter, at (202)523-5071.

Sincerely,

Charles N. Steele
General Counsel

BY:
Kenneth A. Gross
Associate General Counsel

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ben Green, Treasurer
Hall-Tyner Flory Campaign '76
407 South Dearborn Street
Room 1600
Chicago, Illinois 60605

Re: MUR 1036

Dear Mr. Green:

Previously, the Commission notified you of a complaint alleging that your Committee may have violated certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission on March , 1983, determined to terminate its inquiry into MUR 1036. This matter will become part of the public record within 30 days.

If you have any questions, please contact Duane A. Brown, the attorney assigned this matter, at (202)523-5071.

Sincerely,

Charles N. Steele
General Counsel

BY:
Kenneth A. Gross
Associate General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 1036
Hall-Tyner Aptheker Committee	)	
Hall-Tyner-Flory Campaign Committee	)	
Hall-Tyner Election Campaign Committee	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on March 24, 1982, the Commission decided by a vote of 5-0 to hold in abeyance any further action this MUR until a decision has been rendered by the Court of Appeals.

Commissioners Aikens, Elliott, Harris, McGarry and Reiche voted affirmatively; Commissioner McDonald did not cast a vote in this matter.

Attest:

3/25/82
Date

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

Received in Office of the Commission Secretary: 3-22-82, 11:17
Circulated on 48 hour vote basis: 3-22-82, 4:00

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March 22, 1982

MEMORANDUM TO: Marjorie W. Emmons

FROM: Phyllis A. Kayson

SUBJECT: MUR 1036

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

Attachment

cc: Brown

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BEFORE THE FEDERAL ELECTION COMMISSION

March 19, 1982

SENSITIVE

In the Matter of	)	
	)	
Hall-Tyner Aptheker Committee	)	MUR 1036
Hall-Tyner-Flory Campaign Committee	)	
Hall-Tyner Election Campaign Committee	)	

GENERAL COUNSEL'S REPORT

By letter dated March 12, 1981, the New York Hall-Tyner Aptheker Committee and Abigail Colman, its treasurer, and the Hall-Tyner-Flory Campaign Committee and its Treasurer, Ben Green were informed that the Office of General Counsel was prepared to recommend that the Commission find probable cause to believe that numerous violations of the Act had occurred. Ben Green responded on behalf of the Flory Committee by letter dated March 25, 1981, and asserted, inter alia, his refusal to respond formally to the Brief since the constitutionality of § 432(c)(2) and § 434(b)(2) as applied to candidates of the Communist Party and their campaign committees was before the U.S. District Court in the Southern District of New York (FEC v. Hall-Tyner Election Campaign Committee, et al.,) Attorney John Abt responded on behalf of the Aptheker Committee and reiterated the same argument and stated further that the decision in that case would determine whether the provisions of the Act were enforceable against the Hall-Tyner Committees.

On May 27, 1981, the Commission found probable cause to believe that the Flory Committee violated 2 U.S.C. §§ 432(c)(2), 434(b)(2), 432(c)(3) and (4), 432(d) and 434(b)(9) in connection with the 1976 U.S. Presidential election. On that same date, the Commission found probable cause to believe the Aptheker Committee violated 2 U.S.C. §§ 432(c)(2) and 434(b)(2) in connection with the 1976 U.S. Presidential Election. Letters with conciliation agreements were mailed to John Abt and Ben Green on May 29.

On July 14, 1981, a letter and brief were mailed to the third respondent, Hall-Tyner Election Campaign Committee setting forth the Commission's position regarding that committees' violation of 2 U.S.C. §§ 437b(a)(1), 437b(2)(b), 437b(b) and 434(b)(9). Attorney John Abt responded on behalf of the Election Committee and categorically denied the allegations of the Commission's Brief.

On September 22, 1981, District Court Judge Gagliardi ruled that the relevant provisions of 432(c) and 434(b)(2) as applied to the defendants violated the First Amendment.1/ Accordingly, the Commission's motion for Summary Judgment was denied, defendants motion for the same was granted and the complaint was dismissed. On November 10, 1981 and by a vote of 5-0, the Commission decided to appeal the District Court ruling. The

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1/ Because of the September 22, 1981 ruling of Judge Gagliardi no action has been taken with respect to the probable cause brief served on the Hall-Tyner Election Campaign Committee.

appeal was filed by the Office of General Counsel in the U.S. Court of Appeals for the second circuit on February 3, 1982.

As such, the Office of General Counsel recommends that the Commission hold in abeyance any further action on this MUR until a decision has been rendered by the Court of Appeals.

Recommendation

That the Commission hold in abeyance any further action on this MUR until a decision has been rendered by the Court of Appeals.

March 19, 1982
Date

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: The File

FROM: Charles N. Steele
General Counsel CNS by KH

SUBJECT: MUR 1036 - Hall-Tyner-Flory Campaign '76

DATE: June 1, 1981

On May 27, 1981, the Commission adopted the recommendation contained in the General Counsel's Report dated May 8, 1981, and found probable cause to believe that the Hall-Tyner-Flory Campaign '76 Committee violated, among other provisions of the Federal Election Campaign Act, as amended, 2 U.S.C. § 437b(a)(1) and § 437b(b) by failing to deposit contributions into a campaign depository and by making expenditures in cash rather than with checks drawn from deposited funds. In fact, these violations are not attributable to the respondent committee.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
New York Hall-Tyner Aptheker	)	MUR 1036
Committee and	)	
Hall-Tyner-Flory Campaign '76	)	

CERTIFICATION

I, Lena L. Stafford, Recording Secretary for the Federal Election Commission's Executive Session on May 27, 1981, do hereby certify that the Commission decided in a vote of 6-0 to take the the following actions with regard to MUR 1036:

1. Find probable cause to believe that the Hall-Tyner-Flory Campaign '76 Committee violated:

   a. 2 U.S.C. § 432(c)(2)

   b. 2 U.S.C. § 434(b)(2)

   c. 2 U.S.C. § 437(b)(a)(1) and § 437b(b)

   d. 2 U.S.C. § 432(c)(3) and (4)

   e. 2 U.S.C. § 432(d)

   f. 2 U.S.C. § 434(b)(9)

2. Find probable cause to believe that the New York Hall-Tyner Aptheker Campaign Committee violated:

   a. 2 U.S.C. § 432(c)(2)

   b. 2 U.S.C. § 434(b)(2)

(continued)

3. Approve the letters and conciliation agreement attached to the General Counsel's Report dated May 8, 1981.

Commissioners Aikens, Harris, McGarry, Reiche, Thomson, and Tiernan voted affirmatively for these actions.

Attest:

5-28-81
Date

Lena L. Stafford
Recording Secretary

May 18, 1981

MEMORANDUM TO: Marjorie W. Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 1036

Please have the attached General Counsel's Report distributed to the Commission for the executive session of May 27, 1981. It must be distributed by May 20, 1981

SENSITIVE

EXECUTIVE SESSION

27 MAY 1981

BEFORE THE FEDERAL ELECTION COMMISSION

May 8, 1981

81 MAY 18 A10: 23

In the Matter of)
)
New York Hall-Tyner Aptheker) MUR 1036
Committee and)
Hall-Tyner-Flory Campaign '76)

GENERAL COUNSEL'S REPORT

I. Background

On March 22, 1979, the Audit Division requested that the Office of General Counsel review and analyze the interim audit reports on the Hall-Tyner-Flory Campaign '76 ("Campaign '76 Committee") and New York Hall-Tyner Aptheker Campaign Committee ("New York Campaign Committee"). On October 2, 1979, the Office of General Counsel merged both matters into a MUR. On September 3, 1980, the Commission found reason to believe that the Campaign '76 Committee and the New York Campaign Committee violated certain sections of the Federal Election Campaign Act of 1971.

On March 12, 1981, the Office of General Counsel sent briefs to both respondents recommending probable cause to believe that the New York Campaign Committee violated 2 U.S.C. §§ 434(b)(2) and 432(c)(2) and that the Campaign '76 Committee violated 2 U.S.C. §§ 432(c)(2), 434(b)(2), 437b(a)(1), 437b(b), 432(c)(3) and (4), 432(d) and 434(b)(9) (Attachments 1 and 2).

II. Legal Analysis

The legal analysis of this matter is set forth in the General Counsel Briefs dated March 12, 1981. Ben Green, Treasurer of the

Campaign '76 Committee and John Abt, Esquire, attorney for the New York Campaign Committee responded to the briefs (Attachments 1 and 2). Both argue in their letters that the constitutionality of several of the provisions of the Act believed to have been violated by the Respondents is before the United States District Court for the Southern District of New York in the case of F.E.C. v. Hall-Tyner Election Campaign Committee where it is pending on cross-motions for summary judgment. The respondents argue that the decision in that case will determine whether the cited provisions of the Act are enforceable against the Hall-Tyner Committees.

III. Discussion of Conciliation and Civil Penalty

The Office of General Counsel recommends that both respondents each pay the U.S. Treasurer a civil penalty of $5,000 in view of the seriousness of the violations.

IV. Recommendations

It is recommended that the Commission -

1. find probable cause to believe that the Hall-Tyner-Flory Campaign '76 Committee violated:

a. 2 U.S.C. § 432(c)(2);

b. 2 U.S.C. § 434(b)(2);

c. 2 U.S.C. § 437(b)(a)(1) and § 437b(b);

d. 2 U.S.C. § 432(c)(3) and (4);

e. 2 U.S.C. § 432(d);

f. 2 U.S.C. § 434(b)(9);

2. find probable cause to believe that the New York Hall-Tyner Aptheker Campaign Committee violated -

a. 2 U.S.C. § 432(c)(2);

b. 2 U.S.C. § 434(b)(2); and,

3. approve the attached letters and conciliation agreement.

15 May 1981
Date

Charles N. Steele
General Counsel

Attachments

1. Hall-Tyner-Flory Brief
2. Hall-Tyner-Aptheker Brief
3. John Abt Letter in Reply
4. Ben Green Letter in Reply
5. Letter to John Abt
6. Letter to Ben Green
7. Proposed Conciliation Agreement (Flory)
8. Proposed Conciliation Agreement (Aptheker)

ATTACHMENT I

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Hall-Tyner-Flory) MUR 1036
Campaign '76)

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On March 22, 1979, the Audit Division requested that the Office of General Counsel review and analyze the interim audit report on Hall-Tyner-Flory Campaign '76 ("Campaign '76 Committee"). On October 2, 1979, the Office of General Counsel made this matter into a MUR. The Commission, on September 3, 1980, found reason to believe Hall-Tyner-Flory Campaign "76 violated certain sections of the Federal Election Campaign Act, as amended, and on September 12, 1980, a letter and a notification of reason to believe finding were sent to Ben Green, Treasurer of Hall-Tyner-Flory Campaign '76. Mr. Green received the letter and notification on October 10, 1980, however, he has not submitted a response to the Commission.

II. Legal Analysis

1. Through the audit of the Hall-Tyner-Flory Campaign '76 Committee, the Auditors determined that anonymous contributions totalling $6,699.17 were accepted and reported by the Campaign '76 Committee. This is 28.99% of the total amount of individual contributions. Because of the recordkeeping system of the Campaign '76 Committee, the Auditors could not determine the

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amount of anonymous cash contributions per contributor received in excess of $50.

A schedule of all contributions in excess of $100 was filed by the Campaign '76 Committee on November 29, 1978 for the period of the audit. Ten additional anonymous contributions were itemized totalling $1,262.00. 1/ These additional contributions increase the total of anonymous contributions to $7,961.17, 34.45% of the total amount of individual contributions. The Commission found reason to believe that Ben Green, Treasurer, and Hall-Tyner-Flory Campaign '76 violated 2 U.S.C. §§ 432(c)(2) and 434(b)(2) respectively (now 2 U.S.C. §§ 432(c)(2) and 434(b)(3)).

Section 441g prohibits a person from making contributions in cash to any candidate's campaign which, in the aggregate, exceed $100. In this case, Campaign '76 Committee's records do include the identity of seven out of the ten "anonymous" contributors disclosed on the report schedule. However, the Auditors could not determine the amount of anonymous cash contributions per contributor in excess of $50. The Commission has not obtained the names and addresses of the seven "anonymous"

1/ Of the ten (10) anonymous contributions disclosed on this schedule, seven (7) were found to be identified on the contributor records during the audit fieldwork.

contributors, and even if we were to obtain this information, we would probably not be able to determine which contributors, if any, contributed cash in excess of $100. The Office of General Counsel recommends that the Commission take no further action regarding any possible violations of 2 U.S.C. § 441g.

2. Several violations of 2 U.S.C. § 437b (presently 2 U.S.C. § 432(h)), appear to have been committed by Hall-Tyner-Flory Campaign '76. The Campaign '76 Committee failed to deposit contributions received into the campaign depository. Also, expenditures were made in cash from contributions received rather than by a check drawn from deposited funds and these cash expenditures exceed the $100 limit on expenditures from petty cash funds. The Commission found reason to believe that Hall-Tyner-Flory Campaign '76 violated 2 U.S.C. §§ 437b(a)(1) and 437b(b).

The treasurer of a political committee is required, under 2 U.S.C. § 432(c)(3) and (4) (presently 2 U.S.C. § 432(c)(5)), to keep a detailed and exact account of all expenditures made by or for such committee and the identification of every person to whom any expenditure is made, including the date and amount of the expenditure. In addition, 2 U.S.C. § 432(d) (presently 2 U.S.C. § 432(e)(5)), requires that the treasurer obtain and keep a receipted bill, stating the particulars, for every expenditure made in excess of $100 in amount, and for any expenditure made in a lesser amount, if the aggregate amount of such expenditures to the same person during a calendar year exceeds $100.

It was the opinion of the Auditors that the Campaign '76 Committee's recordkeeping system of folders containing haphazardly filed invoices, receipted bills and contemporaneous memoranda and not comply with the requirements of 2 U.S.C. §§ 432(c)(3) and (4) and 432(d). The Commission found reason to believe that Ben Green, Treasurer, and Hall-Tyner-Flory Campaign '76 violated 2 U.S.C. §§ 432(c)(3) and (4) and 432(d).

Under 2 U.S.C. § 434(b)(9) (presently 2 U.S.C. § 434(b)(5)), a committee must report the identification of each person to whom an expenditure is made in an aggregate amount in excess of $100 along with the amount, date, and purpose of each expenditure and the name and address of and the office sought by, each candidate on whose behalf an expenditure is made. The Campaign '76 Committee's practice of combining all expenditures to one payee and reporting one total along with several dates rather than individually reporting each contribution constitutes a violation of 2 U.S.C. § 434(b)(9).

Ben Green, Treasurer of Hall-Tyner-Flory Campaign '76, has not submitted any additional information nor has he reported any of the Commission's findings, therefore, the Office of General Counsel recommends that the Commission find probable cause to believe violation of the FECA has occurred.

III. Recommendation

A. The Office of General Counsel recommends that the Commission find probable cause to believe that:

1. Ben Green, Treasurer, has violated 2 U.S.C. § 432(c)(2) by failing to keep records of contributors' names, addresses, occupations and principal places of business and that Hall-Tyner-Flory Campaign '76 has violated 2 U.S.C. § 434(b)(2) by failing to report this information.

2. Hall-Tyner-Flory Campaign '76 has violated 2 U.S.C. §§ 437b(a)(1) and 437b(b):

a. by failing to deposit contributions into a campaign depository;

b. by making expenditures in cash rather than with checks drawn form deposited funds; and,

c. by making petty cash expenditures in excess $100.

3. Ben Green, Treasurer, and Hall-Tyner-Flory Campaign '76 have violated 2 U.S.C. §§ 432(c)(3) and (4) and 432(d):

a. by failing to keep a detailed and exact account of all expenditures made by or for such committee and the identification of every person to whom any expenditure is made, including the date and amount of the expenditure; and,

b. by failing to obtain and keep a receipted bill, stating the particulars, for every expenditure made in excess of $100 in amount, and for any expenditure in a lesser amount, if the aggregate amount of such expenditures to the same person during a calendar year exceeds $100.

4. Hall-Tyner-Flory Campaign '76 has violated 2 U.S.C. § 434(b)(9) by failing to report the particulars for each expenditure made.

b. The Office of General Counsel recommends that the Commission:

1. Take no further action regarding Hall-Tyner-Flory Campaign '76's contributors' possible violations of 2 U.S.C. §441g.

11 March 1981
Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 12, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Ben Green, Treasurer
Hall-Tyner-Flory Campaign '76
407 South Dearborn
Chicago, Illinois 60605

Re: MUR 1036

Dear Mr. Green:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 3, 1980, found reason to believe that you and your committee had violated sections of the U.S. Code and instituted an investigation in this matter.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of probable cause to believe a violation has occurred.

A finding of probable cause to believe requires that the Office of General Counsel attempt for a period of not less than thirty, but not more than ninety days to settle this matter

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through a conciliation agreement. This does not preclude settlement of this matter through conciliation prior to a finding of probable cause to believe, if you so desire.

Sincerely,

Charles N. Steele
General Counsel

Enclosure

Brief

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 12, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Ben Green, Treasurer
Hall-Tyner-Flory Campaign '76
407 South Dearborn
Chicago, Illinois 60605

Re: MUR 1036

Dear Mr. Green:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 3, 1980, found reason to believe that you and your committee had violated sections of the U.S. Code and instituted an investigation in this matter.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of probable cause to believe a violation has occurred.

A finding of probable cause to believe requires that the Office of General Counsel attempt for a period of not less than thirty, but not more than ninety days to settle this matter

ATTACHMENT 2

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
New York Hall-Tyner Aptheker	)	MUR 1036
Committee and	)	
Abigail Colman	)	

GENERAL COUNSEL'S BRIEF

I. Background

On March 22, 1979, the Audit Division requested that the Office of General Counsel review and analyze the interim audit report on the New York Hall-Tyner Aptheker Campaign Committee. On October 2, 1979, the Office of General Counsel made this matter into a MUR. The Commission, on September 3, 1980, determined that there was reason to believe the New York Hall-Tyner Aptheker Campaign Committee and Abigail Colman, its Treasurer, violated certain sections of the Federal Election Campaign Act. A letter and notification of reason to believe finding were sent to Ms. Colman on September 12, 1980; however, she has not submitted a response.

II. Legal Analysis

Through the audit of the New York Hall-Tyner Aptheker Campaign Committee, the Auditors determined that 18 anonymous cash contributions in excess of $50 were accepted by the Committee. These contributions total $7,900 and

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represent 21.80% of the total amount of individual contributions received by the Committee. Further, 14 anonymous cash contributions in excess of $100 were received, of which 13 were itemized as anonymous. The Committee filed a report amendment on December 18, 1978, in which the one previously unreported contribution of $100 was itemized as being anonymous; however, it was not reported as a cash contribution. No further action was taken regarding the $100 previously unreported contribution because the Committee filed a report amendment in which the contribution was itemized as an anonymous contribution. It is recommended that the Commission find probable cause to believe that Abigail Colman, Treasurer of the Committee, violated 2 U.S.C. § 432(c)(2) by her apparent failure to keep records of contributors' names, addresses, occupations and principal places of business, and that the Committee violated 2 U.S.C. § 434(b)(2) by failing to report contributor information on reports filed with the Commission.

Section 441g prohibits a person from making contributions to any candidate's campaign in cash which, in the aggregate, exceed $100. This section does not prohibit a committee from receiving a cash contribution, therefore, the only possible respondents in violation of this section would be the anonymous contributors. In this case, however, the Commission has not been able to determine the identities of the contributors and therefore, cannot enforce Section 441g against them. The Office of General Counsel recommends that the Commission allow its previous determination to take no further action regarding the Committee's contributors' possible violations of 2 U.S.C. § 441g to stand.

III. Recommendations

The Office of General Counsel recommends that the Commission find probable cause to believe Abigail Colman, Treasurer of the New York Hall-Tyner Aptheker Campaign Committee, violated 2 U.S.C. § 432(c)(2) and the New York Hall-Tyner Aptheker Campaign Committee violated 2 U.S.C. § 434(b)(2). It is recommended that the Commission still take no further action with regard to the New York Hall-Tyner Aptheker Campaign Committee's contributors' possible violations of 2 U.S.C § 441g.

11 March 1981
Date

Charles N. Steele
General Counsel

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

March 12, 1981

Ms. Abigail Colman, Treasurer
New York Hall-Tyner Aptheker
Campaign Committee
235 West 23rd Street
New York, New York 10011

re: MUR 1036

Dear Ms. Colman:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 3, 1980, found reason to believe that you and your committee had violated Sections 432(c)(2) and 434(b)(2) of the Federal Election Campaign Act of 1971, as amended, and instituted an investigation in this matter.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of probable cause to believe a violation has occurred.

Letter to Abigail Coleman
Page Two
MUR 1036

A finding of probable cause to believe requires that the Office of General Counsel attempt for a period of not less than thirty, but not more than ninety days to settle this matter through a conciliation agreement. This does not preclude settlement of this matter through conciliation prior to a finding of probable cause to believe, if you so desire.

Sincerely,

Charles N. Steele
General Counsel

Enclosure

Brief

83040400679

MUR 1036 - Rondos

PS Form 3811, Jan. 1979 — RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

● SENDER: Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one.)
- ☐ Show to whom and date delivered .... ¢
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- ☐ 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:
Abigal Colman

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	948393	

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐Addressee ☐Authorized agent

4. DATE OF DELIVERY | POSTMARK

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE: | CLERK'S INITIALS

8-12-81

☆GPO : 1979-288-848

ATTACHMENT 3 D. Brown 704 OCC

JOHN J. ABT
ATTORNEY AT LAW

299 BROADWAY
NEW YORK, N. Y. 10007
CORTLANDT 7-3110

March 23, 1981

81 MAR 25 P12: 30

Charles N. Steele, Esq.
General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1036

Dear Mr. Steele,

The New York Hall-Tyner Aptheker Campaign Committee has referred your letter to it and the accompanying General Counsel's Brief to me for reply.

The brief fails to call the Commission's attention to the fact that the constitutionality of §§432(c)(2) and 434(b)(2) of the Act, as applied to candidates of the Communist Party and their campaign committees, is before the United States District Court for the Southern District of New York in the case of F.E.C. v. Hall-Tyner Election Campaign Committee where it is pending on cross-motions for summary judgment.

Obviously, the decision in that case will determine whether or not these provisions of the Act are enforceable against the Hall-Tyner Aptheker Campaign Committee. Further proceedings against it should therefore be held in abeyance until the constitutional question has been decided in the pending action.

Very truly yours,

John J. Abt

81 MAR 25 P2: 02

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ATTACHMENT 4 D. Brown

GCC #4356

Room 1600
407 South Dearborn St.
Chicago, Illinois 60605

March 25, 1981

Mr. Charles N. Steele
General Counsel
Federal Election Commission
Washington, D.C. 20463

Dear Mr. Steele:

This is in reply to your letter and brief dated March 12, 1981.

1. Regarding the recommendation of the General Counsel that the Commission find probable cause to believe that I, serving as Treasurer of the Hall-Tyner-Flory Campaign '76, violated 2 USC, Sec. 432(c)(2), and USC, Sec. 434(b)(2), I would like to remind you that the constitutionality of these requirements as they apply to committees supporting candidates of the Communist Party is currently being litigated in F.E.C. v. Hall-Tyner Election Campaign Committee, and that I will respond to this recommendation of yours following resolution of that case.

2. Lacking particular details of the charges that the Hall-Tyner-Flory Campaign '76 has violated 2 USC SS 437b(a)(1) and 437b(b), I cannot respond to them. In addition, you will observe that my office has moved since 1976. I regret that all records of the Hall-Tyner-Flory Campaign '76 (which were audited in detail by the FEC) were lost in the move, and I would remind you that Paragraph 102.9(c) of the FEC Regulations require a committee to maintain such records for only three years following the date of its last report, and that your notification of September 12, 1980, received by me on October 10, 1980, was well after these three years had passed. Further, you will find that the records of our bank show that all funds received and spent by our committee were deposited in our account, with no exceptions.

3. and 4. Again, lacking particular details of these charges that I violated 2 USC SS 432(c)(3) and 432(d), it is impossible to respond to these charges except to say that in general, no expenditures were made that were not duly accounted for, and reported to the FEC where appropriate.

Lastly, I would be happy to consider any proposal you may have for settling these matters through conciliation.

Sincerely,

Ben Green

Ben Green, Treasurer
Hall-Tyner-Flory Campaign '76

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ATTACHMENT 5

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John Abt, Esquire
299 Broadway
New York, New York 10007

Re: MUR 1036

Dear Mr. Abt:

On , 1981, the Commission determined there is probable cause to believe that your clients committed a violation of the Federal Election Campaign Act of 1971, as amended, §§ 432(c)(2) and 434(b)(2) in connection with the 1976 U.S. Presidential election.

The Commission has a duty to attempt to correct such violations for a period of thirty to ninety days by informal methods of conference, conciliation and persuasion, and by entering into a conciliation agreement. If we are unable to reach an agreement during that period, the Commission may institute civil suit in United States District Court and seek payment of a civil penalty.

We enclose a conciliation agreement that this office is prepared to recommend to the Commission in settlement of this matter. If you agree with the provisions of the enclosed agreement, please sign and return it along with the civil penalty to the Commission within ten days. I will then recommend that the Commission approve the agreement. Please make your check for the civil penalty payable to the U.S. Treasurer.

If you have any questions or suggestions for changes in the enclosed conciliation agreement, please contact Duane A. Brown, the attorney assigned this matter, at (202)523-4057.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Conciliation Agreement

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July 14, 1981

MEMORANDUM TO: Marjorie W. Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 1036

Please have the attached Memo and Brief distributed to the Commission on an informational basis. Thank you.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

81 JUL 14 P5: 03

July 14, 1981

MEMORANDUM TO: The Commission

FROM: Charles N. Steele
General Counsel

SUBJECT: MUR 1036

Attached for the Commission's review is a brief stating the position of the General Counsel on the legal and factual issues of the above-captioned matter. A copy of this brief and a letter notifying the respondent of the General Counsel's intent to recommend to the Commission a finding of probable cause to believe was mailed on July 14, 1981. Following receipt of the Respondent's reply to this notice, this office will make a further report to the Commission.

Attachments

1. Brief
2. Letter to Respondent

BEFORE THE FEDERAL ELECTION COMMISSION

July 1, 1981

In the Matter of Hall-Tyner Election Campaign Committee	))))	MUR 1036

GENERAL COUNSEL'S BRIEF

I. Statement of the Case.

On March 22, 1979, the Audit Division requested that the Office of General Counsel review and analyze the interim audit report regarding the Hall-Tyner Election Campaign Committee ("Respondent").[1/] On October 2, 1979, the Office of General Counsel made this matter into a MUR. On September 3, 1980, the Commission found reason to believe that the respondent violated 2 U.S.C. §§ 437b(a)(1), 437b(2)(b) and 437b(b)[2/] by 1) failing to deposit contributions into a campaign depository; 2) making expenditures in cash rather than with checks drawn from deposited funds; and, 3) making petty cash expenditures in excess of $100. In addition, the Commission found reason to believe that the respondent violated 2 U.S.C. § 434(b)(9) by not providing the identification of each person to whom expenditures were made within the calendar year in an aggregate amount of value in excess of $100. On September 12, 1980, a letter and notification of reason to believe finding were sent to Frances Bordofsky, Treasurer of the respondent committee.

1/ The Hall-Tyner Election Campaign Committee is the Committee involved in the pending lawsuit, FEC v. Hall-Tyner Election Campaign Committee, Civ. No. 78-3508 (S.D.N.Y.), filed August 1, 1978.

2/ Citations in this report are to the Federal Election Campaign Act as it existed prior to the 1971 amendments which became effective January 8, 1980.

II. Legal Analysis

1. Through the audit of the Hall-Tyner Election Campaign Committee, the auditors determined that cash contributions totaling $27,600 were not deposited into a campaign depository. $26,130.20 of these contributions were used for wire transfers and postal money orders which were sent to state agents. The difference of $1,469.80 has not been accounted for by the treasurer. The receipts and expenditures were disclosed in reports filed by the respondent committee.

Any contributions received by a principal campaign committee are required to be deposited into a campaign depository in accordance with 2 U.S.C. § 437b(a)(1). Also, expenditures made by a committee, except petty cash expenditures, shall, according to § 437b(a)(1), be made only by checks drawn from the depository. Section 437b(b) goes on to state that petty cash expenditures may not exceed $100 to any person in connection with a single purchase or transaction.

The Election Committee wrote eight checks in excess of $100, payable to cash. These checks totaled $6,671.87 and were not used to replenish petty cash. The money was used to reimburse expenses, for a transfer to a state committee and for travel advances for the vice presidential candidate.

Because a committee can make expenditures only by a check drawn on the campaign depository, except for prtty cash expenditures, the Hall-Tyner Election Campaign Committee's actions constitute a violation of 2 U.S.C. § 437b(a)(1).

Even if these expenditures are considered to have been made from petty cash, § 437b(b) prohibits petty cash expenditures in excess of $100. The Election Committee violated this section of the Act by making four petty cash expenditures in excess of $100. The expenditures were for a payroll expense and for money orders to state agents, ranging from $109.20 to $180.90.

2. The respondent failed to itemize 32 of 635 expenditures totaling $7,236.69 and comprising 5% of the reported expenditures which aggregate in excess of $100. This inaction by the respondent constitutes a violation of 2 U.S.C. § 434(b)(9).

III. Recommendation

The Office of General Counsel recommends that the Commission find probable cause to believe that:

1. The Hall-Tyner Election Campaign Committee violated 2 U.S.C. § 437b(a)(1), 437b(2)(b) and 437b(b) for the Committee's failure to deposit contributions into a campaign depository and for its failure to use checks drawn on the depository to make expenditures, or, if the expenditures are considered to have been made from petty cash, for making petty cash expenditures in excess of $100.

2. The Hall-Tyner Election Campaign Committee violated 2 U.S.C. § 434(b)(9) by not providing the identification of

each person to whom expenditures have been made within the calendar year in an aggregate amount or value in excess of $100.

Date July 13, 1981

Charles N. Steele
General Counsel

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 14, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Frances Bordofsky, Treasurer
Hall-Tyner Election Campaign
Committee
235 West 23rd Street
New York, New York 10011

Re: MUR 1036

Dear Ms. Bordofsky:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 3, 1980, found reason to believe that your committee had violated 2 U.S.C. §§ 437b(a)(1), 437b(b); 437b(2)(b) and 434(b)(9) and instituted an investigation in this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief shold also be forwarded to the Office of General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of probable cause to believe a violation has occurred.

A finding of probable cause to believe requires that the Office of General Counsel attempt for a period of not less than thirty, but not more than ninety days to settle

Frances Bordofsky
Page Two

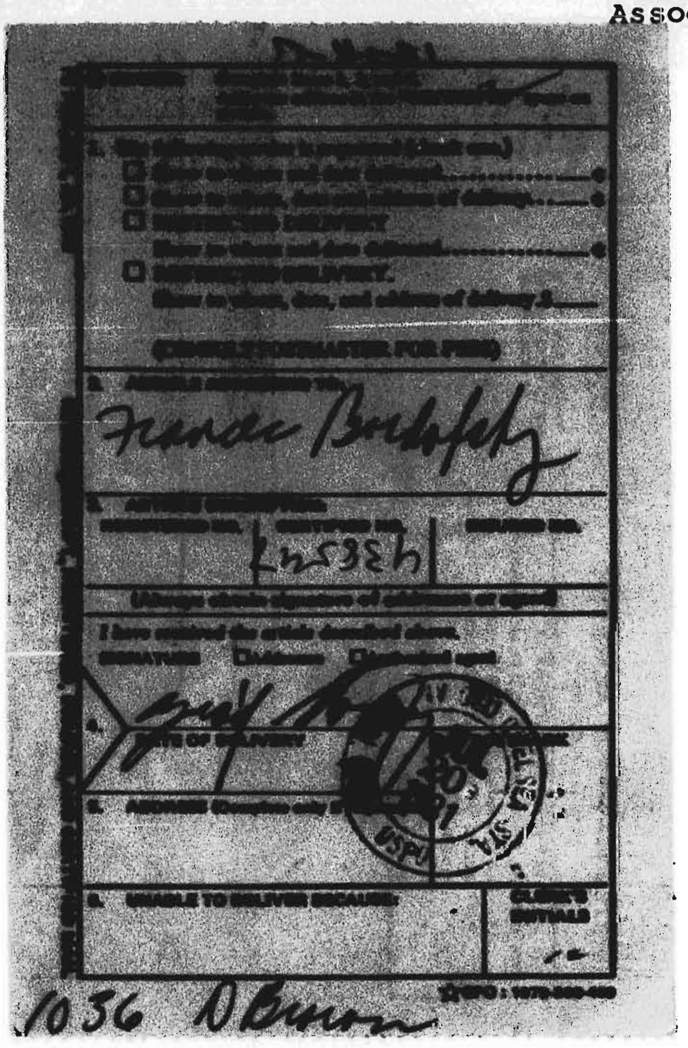
this matter through a conciliation agreement. This does not preclude settlement of this matter through conciliation prior to a finding of probable cause to believe, if you so desire.

Should you have any questions, please contact Duane A. Brown at (202)523-4057.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel


3. ARTICLE ADDRESSED TO:
Frances Bordofsky

6. UNABLE TO DELIVER BECAUSE: | CLERK'S INITIALS

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of New York Hall-Tyner Aptheker Committee and Abigail Colman	)))))	MUR 1036

GENERAL COUNSEL'S BRIEF

I. Background

On March 22, 1979, the Audit Division requested that the Office of General Counsel review and analyze the interim audit report on the New York Hall-Tyner Aptheker Campaign Committee. On October 2, 1979, the Office of General Counsel made this matter into a MUR. The Commission, on September 3, 1980, determined that there was reason to believe the New York Hall-Tyner Aptheker Campaign Committee and Abigail Colman, its Treasurer, violated certain sections of the Federal Election Campaign Act. A letter and notification of reason to believe finding were sent to Ms. Colman on September 12, 1980; however, she has not submitted a response.

II. Legal Analysis

Through the audit of the New York Hall-Tyner Aptheker Campaign Committee, the Auditors determined that 18 anonymous cash contributions in excess of $50 were accepted by the Committee. These contributions total $7,900 and represent 21.80% of the total amount of individual contributions received by the Committee. Further, 14 anonymous cash contributions in excess of $100 were received, of which 13 were itemized as anonymous. The Committee filed a report amendment on December 18, 1978, in which the one previously unreported contribution of $100 was itemized as being anonymous; however, it was not reported as a cash contribution. No further action was taken regarding the $100 previously unreported contribution because the Committee filed a report amendment in which the contribution was itemized as an anonymous contribution. It is recommended that the Commission find probable cause to believe that Abigail Colman, Treasurer of the Committee, violated 2 U.S.C. § 432(c)(2) by her apparent failure to keep records of contributors' names, addresses, occupations and principal places of business, and that the Committee violated 2 U.S.C. § 434(b)(2) by failing to report contributor information on reports filed with the Commission.

Section 441g prohibits a person from making contributions to any candidate's campaign in cash which, in the aggregate, exceed $100. This section does not prohibit a committee from receiving a cash contribution, therefore, the only possible respondents in violation of this section would be the anonymous contributors. In this case, however, the Commission has not been able to determine the identities of the contributors and therefore, cannot enforce Section 441g against them. The Office of General Counsel recommends that the Commission allow its previous determination to take no further action regarding the Committee's contributors' possible violations of 2 U.S.C. § 441g to stand.

III. Recommendations

The Office of General Counsel recommends that the Commission find probable cause to believe Abigail Colman, Treasurer of the New York Hall-Tyner Aptheker Campaign Committee, violated 2 U.S.C. § 432(c)(2) and the New York Hall-Tyner Aptheker Campaign Committee violated 2 U.S.C. § 434(b)(2). It is recommended that the Commission still take no further action with regard to the New York Hall-Tyner Aptheker Campaign Committee's contributors' possible violations of 2 U.S.C § 441g.

11 March 1981
Date

Charles N. Steele
General Counsel

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

March 12, 1981

Ms. Abigail Colman, Treasurer
New York Hall-Tyner Aptheker
Campaign Committee
235 West 23rd Street
New York, New York 10011

re: MUR 1036

Dear Ms. Colman:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 3, 1980, found reason to believe that you and your committee had violated Sections 432(c)(2) and 434(b)(2) of the Federal Election Campaign Act of 1971, as amended, and instituted an investigation in this matter.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of probable cause to believe a violation has occurred.

Letter to Abigail Coleman
Page Two
MUR 1036

A finding of probable cause to believe requires that the Office of General Counsel attempt for a period of not less than thirty, but not more than ninety days to settle this matter through a conciliation agreement. This does not preclude settlement of this matter through conciliation prior to a finding of probable cause to believe, if you so desire.

Sincerely,

Charles N. Steele
General Counsel

Enclosure

Brief

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MUR 1036 – Ponder

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  Show to whom and date delivered .... ¢
- [ ] RESTRICTED DELIVERY.
  Show to whom, date, and address of delivery.$____

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2. ARTICLE ADDRESSED TO:

Abigal Coleman

3. ARTICLE DESCRIPTION:

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5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE: | CLERK'S INITIALS

8-12-81

☆GPO : 1979-288-848

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 12, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Ben Green, Treasurer
Hall-Tyner-Flory Campaign '76
407 South Dearborn
Chicago, Illinois 60605

Re: MUR 1036

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Dear Mr. Green:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 3, 1980, found reason to believe that you and your committee had violated sections of the U.S. Code and instituted an investigation in this matter.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of probable cause to believe a violation has occurred.

A finding of probable cause to believe requires that the Office of General Counsel attempt for a period of not less than thirty, but not more than ninety days to settle this matter

through a conciliation agreement. This does not preclude settlement of this matter through conciliation prior to a finding of probable cause to believe, if you so desire.

Sincerely,

Charles N. Steele
General Counsel

Enclosure

Brief

March 12, 1981

MEMORANDUM TO: Marjorie W. Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 1036

Please have the attached Memos and Briefs distributed to the Commission on an informational basis. Thank you.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

81 MAR 12 P12: 38

March 12, 1981

MEMORANDUM

TO: The Commission

FROM: Charles N. Steele
General Counsel

SUBJECT: MUR #1036

Attached for the Commission's review is a brief stating the position of the General Counsel on the legal and factual issues of the above-captioned matter. A copy of this brief and a letter notifying the respondents of the General Counsel's intent to recommend to the Commission a finding of probable cause to believe was mailed on March 12, 1981. Following receipt of the Respondents' replies to these notices, this Office will make a further report to the Commission.

Attachments
1. Brief
2. Letter to Respondents

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

March 12, 1981

Ms. Abigail Colman, Treasurer
New York Hall-Tyner Aptheker
  Campaign Committee
235 West 23rd Street
New York, New York 10011

re: MUR 1036

Dear Ms. Colman:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 3, 1980, found reason to believe that you and your committee had violated Sections 432(c)(2) and 434(b)(2) of the Federal Election Campaign Act of 1971, as amended, and instituted an investigation in this matter.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of probable cause to believe a violation has occurred.

Letter to Abigail Coleman
Page Two
MUR 1036

A finding of probable cause to believe requires that the Office of General Counsel attempt for a period of not less than thirty, but not more than ninety days to settle this matter through a conciliation agreement. This does not preclude settlement of this matter through conciliation prior to a finding of probable cause to believe, if you so desire.

Sincerely,

Charles N. Steele
General Counsel

Enclosure

Brief

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 12, 1981

MEMORANDUM

TO: The Commission

FROM: Charles N. Steele
General Counsel

SUBJECT: MUR # 1036 - Hall - Tyner - Flory Campaign '76

Attached for the Commission's review is a brief stating the positon of the General Counsel on the legal and factual issues of the above-captioned matter. A copy of this brief and a letter notifying the respondent of the General Counsel's intent to recommend to the Commission a finding of probable cause to believe was mailed on March 12 , 1981. Following receipt of the Respondent's reply to this notice, this Office will make a further report to the Commission.

Attachments

1. Brief
2. Letter to Respondent

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Hall-Tyner-Flory Campaign '76	)	MUR 1036
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On March 22, 1979, the Audit Division requested that the Office of General Counsel review and analyze the interim audit report on Hall-Tyner-Flory Campaign '76 ("Campaign '76 Committee"). On October 2, 1979, the Office of General Counsel made this matter into a MUR. The Commission, on September 3, 1980, found reason to believe Hall-Tyner-Flory Campaign "76 violated certain sections of the Federal Election Campaign Act, as amended, and on September 12, 1980, a letter and a notification of reason to believe finding were sent to Ben Green, Treasurer of Hall-Tyner-Flory Campaign '76. Mr. Green received the letter and notification on October 10, 1980, however, he has not submitted a response to the Commission.

II. Legal Analysis

1. Through the audit of the Hall-Tyner-Flory Campaign '76 Committee, the Auditors determined that anonymous contributions totalling $6,699.17 were accepted and reported by the Campaign '76 Committee. This is 28.99% of the total amount of individual contributions. Because of the recordkeeping system of the Campaign '76 Committee, the Auditors could not determine the

amount of anonymous cash contributions per contributor received in excess of $50.

A schedule of all contributions in excess of $100 was filed by the Campaign '76 Committee on November 29, 1978 for the period of the audit. Ten additional anonymous contributions were itemized totalling $1,262.00. 1/ These additional contributions increase the total of anonymous contributions to $7,961.17, 34.45% of the total amount of individual contributions. The Commission found reason to believe that Ben Green, Treasurer, and Hall-Tyner-Flory Campaign '76 violated 2 U.S.C. §§ 432(c)(2) and 434(b)(2) respectively (now 2 U.S.C. §§ 432(c)(2) and 434(b)(3)).

Section 441g prohibits a person from making contributions in cash to any candidate's campaign which, in the aggregate, exceed $100. In this case, Campaign '76 Committee's records do include the identity of seven out of the ten "anonymous" contributors disclosed on the report schedule. However, the Auditors could not determine the amount of anonymous cash contributions per contributor in excess of $50. The Commission has not obtained the names and addresses of the seven "anonymous"

1/ Of the ten (10) anonymous contributions disclosed on this schedule, seven (7) were found to be identified on the contributor records during the audit fieldwork.

contributors, and even if we were to obtain this information, we would probably not be able to determine which contributors, if any, contributed cash in excess of $100. The Office of General Counsel recommends that the Commission take no further action regarding any possible violations of 2 U.S.C. § 441g.

2. Several violations of 2 U.S.C. § 437b (presently 2 U.S.C § 432(h)), appear to have been committed by Hall-Tyner-Flory Campaign '76. The Campaign '76 Committee failed to deposit contributions received into the campaign depository. Also, expenditures were made in cash from contributions received rather than by a check drawn from deposited funds and these cash expenditures exceed the $100 limit on expenditures from petty cash funds. The Commission found reason to believe that Hall-Tyner-Flory Campaign '76 violated 2 U.S.C. §§ 437b(a)(1) and 437b(b).

The treasurer of a political committee is required, under 2 U.S.C. § 432(c)(3) and (4) (presently 2 U.S.C. § 432(c)(5)), to keep a detailed and exact account of all expenditures made by or for such committee and the identification of every person to whom any expenditure is made, including the date and amount of the expenditure. In addition, 2 U.S.C § 432(d) (presently 2 U.S.C. § 432(e)(5)), requires that the treasurer obtain and keep a receipted bill, stating the particulars, for every expenditure made in excess of $100 in amount, and for any expenditure made in a lesser amount, if the aggregate amount of such expenditures to the same person during a calendar year exceeds $100.

It was the opinion of the Auditors that the Campaign '76 Committee's recordkeeping system of folders containing haphazardly filed invoices, receipted bills and contemporaneous memoranda and not comply with the requirements of 2 U.S.C. §§ 432(c)(3) and (4) and 432(d). The Commission found reason to believe that Ben Green, Treasurer, and Hall-Tyner-Flory Campaign '76 violated 2 U.S.C. §§ 432(c)(3) and (4) and 432(d).

Under 2 U.S.C. § 434(b)(9) (presently 2 U.S.C. § 434(b)(5)), a committee must report the identification of each person to whom an expenditure is made in an aggregate amount in excess of $100 along with the amount, date, and purpose of each expenditure and the name and address of and the office sought by, each candidate on whose behalf an expenditure is made. The Campaign '76 Committee's practice of combining all expenditures to one payee and reporting one total along with several dates rather than individually reporting each contribution constitutes a violation of 2 U.S.C. § 434(b)(9).

Ben Green, Treasurer of Hall-Tyner-Flory Campaign '76, has not submitted any additional information nor has he reported any of the Commission's findings, therefore, the Office of General Counsel recommends that the Commission find probable cause to believe violation of the FECA has occurred.

III. Recommendation

A. The Office of General Counsel recommends that the Commission find probable cause to believe that:

1. Ben Green, Treasurer, has violated 2 U.S.C. § 432(c)(2) by failing to keep records of contributors' names, addresses, occupations and principal places of business and that Hall-Tyner-Flory Campaign '76 has violated 2 U.S.C. § 434(b)(2) by failing to report this information.

2. Hall-Tyner-Flory Campaign '76 has violated 2 U.S.C. §§ 437b(a)(1) and 437b(b):

a. by failing to deposit contributions into a campaign depository;

b. by making expenditures in cash rather than with checks drawn form deposited funds; and,

c. by making petty cash expenditures in excess $100.

3. Ben Green, Treasurer, and Hall-Tyner-Flory Campaign '76 have violated 2 U.S.C. §§ 432(c)(3) and (4) and 432(d):

a. by failing to keep a detailed and exact account of all expenditures made by or for such committee and the identification of every person to whom any expenditure is made, including the date and amount of the expenditure; and,

b. by failing to obtain and keep a receipted bill, stating the particulars, for every expenditure made in excess of $100 in amount, and for any expenditure in a lesser amount, if the aggregate amount of such expenditures to the same person during a calendar year exceeds $100.

4. Hall-Tyner-Flory Campaign '76 has violated 2 U.S.C. § 434(b)(9) by failing to report the particulars for each expenditure made.

b. The Office of General Counsel recommends that the Commission:

1. Take no further action regarding Hall-Tyner-Flory Campaign '76's contributors' possible violations of 2 U.S.C. §441g.

11 March 1981
Date

Charles N. Steele
General Counsel

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 12, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Ben Green, Treasurer
Hall-Tyner-Flory Campaign '76
407 South Dearborn
Chicago, Illinois 60605

Re: MUR 1036

Dear Mr. Green:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 3, 1980, found reason to believe that you and your committee had violated sections of the U.S. Code and instituted an investigation in this matter.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of probable cause to believe a violation has occurred.

A finding of probable cause to believe requires that the Office of General Counsel attempt for a period of not less than thirty, but not more than ninety days to settle this matter

through a conciliation agreement. This does not preclude settlement of this matter through conciliation prior to a finding of probable cause to believe, if you so desire.

Sincerely,

Charles N. Steele
General Counsel

Enclosure

Brief

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OGC #5202

181258

JOHN J. ABT
ATTORNEY AT LAW

299 BROADWAY
NEW YORK, N. Y. 10007
CORTLANDT 7-3110

July 30, 1981

Office of General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1036

Sirs:

Enclosed please find 3 copies of a brief that has been submitted to the Secretary of the Commission on behalf of the Hall-Tyner Election Campaign Committee.

Very truly yours,

John J. Abt

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Hall-Tyner Election Campaign Committee	)	MUR 1036
	)	

BRIEF FOR HALL-TYNER ELECTION CAMPAIGN COMMITTEE

I Statement of the Case

The Hall-Tyner Election Campaign Committee ("the Committee") was the principal campaign committee in 1976 for the election of Gus Hall, Presidential candidate of the Communist Party, U.S.A. The Committee was duly registered with the Federal Election Commission ("the Commission").

In May, 1977 the Audit Division of the Commission conducted an audit of the Committee's records to determine if the Committee had complied with the provisions of the Federal Election Campaign Act of 1971, as amended ("the Act").

The Audit Division found a number of apparent violations of the Act. In addition to the allegation of failure to properly identify and disclose the source of specified contributions, which is the subject of the lawsuit cited in footnote 1 of the General Counsel's brief, four alleged violations of the Act were found. The first, involving failure to deposit contributions into a campaign depository, was referred to the Office of General Counsel for consideration as a MUR. As to the latter three, however, the Audit staff recommended that no additional action was necessary.1/ All four are now the subject of the pending recommendation by the Office of General Counsel that the Commission find probable cause to believe that a violation of the Act has occurred.

In response to the Commission's Notification of Reason to Believe Findings dated September 12, 1980, the Committee submitted an affidavit by its treasurer, Frances Bordofsky ("Bordofsky affidavit"), a copy of which is annexed hereto.

The Bordofsky affidavit addresses each of the alleged violations noted in the Reason to Believe Findings. The General Counsel's Brief does not dispute the truth of the statements of fact made in the affidavit or deny their materiality, but simply disregards them entirely. Moreover, the General Counsel ignored the suggestion of counsel to the Committee in his letter of January 6, 1981 that his clients were prepared to "consider any proposal that you may have for the disposition of this matter by informal conciliation."

We discuss each of the alleged violations seriatim.

II Argument

A. Failure to Deposit Contributions Into a Campaign Depository

The General Counsel erroneously states that $1,469.80 of the

1/ The three, briefly summarized, were as follows: the issuance of 8 checks in excess of $100. payable to cash; 4 petty cash expenditures in excess of $100.; and failure to itemize 32 out of 635 expenditures.

$27,600.00 not deposited into a campaign depository "has not been accounted for by the treasurer." Brief, at 2. As appears from the Bordofsky affidavit, however, the Committee filed an amended and adjusted report on November 11, 1978 which accounts for the expenditure of all but $4.82 of this amount. The General Counsel's Brief ignores the amended report. All of the undeposited funds were used for wire transfers or postal money orders.

As the Bordofsky affidavit states, the failure to initially deposit the funds in a campaign depository was due to the need to meet emergency demands for funds which arose after banking hours. Records were kept of all of the receipts and expenditures involved in these transfers and, contrary to the implication of the General Counsel's Brief (at 2) that these transactions first came to light in the audit, they were fully disclosed in reports to the Commission.

While a technical violation of the Act may have occurred, it is clear that the purpose and spirit of the Act were fully complied with.

B. Expenditures Made by Checks Payable to Cash

The General Counsel notes that 8 checks were drawn in excess of $100. each, payable to cash and totaling $6,671.87. As stated in the Bordofsky affidavit, each was issued to meet emergency demands of the campaign which could not have been timely satisfied by checks made payable to the recipients. As in the case of the undeposited funds, complete records were made of these transactions and they were reported to the Commission. That this was at most a technical violation of the Act is evident from the recommendation of the Audit Division that no action on it was necessary. The General Counsel's Brief does not mention this recommendation and no reasons are advanced for not accepting it.

C. Petty Cash Expenditures in Excess of $100.

This finding involves 4 petty cash expenditures ranging from $109.20 to $180.90. These expenditures, made in the very first days of the Committee's existence for a payroll expense and for money orders to state agents, are obviously <u>de minimis</u>, as the Audit Division considered them to be.

D. Failure to Identify Persons to Whom Expenditures in Excess of $100. Were Made

The report of the Audit Division and the Commission's Reason to Believe Findings allege that the Committee failed to itemize 32 expenditures totaling $7,236.69, but neither identifies the transactions in question. As the Bordofsky affidavit notes, the auditors did not point out these items at the time of the audit, nor was the Committee asked to make them the subject of an amended report.

There was no occasion for the Committee to request that the transactions be further identified as the Audit Division recommended that no further action be taken on the matter. The Bordofsky affidavit stated that if the Commission would inform the affiant of the identity of the transactions, the affiant would attempt to supply any information that proves to be lacking. No information has been forthcoming in response to this proposal which counsel for the Committee now formally renew on its behalf.

CONCLUSION

The Committee's activities were in compliance with the purpose and spirit of the Act, notwithstanding any technical violation thereof. Full records were kept of each of the receipts and expenditures at issue herein, and they were disclosed in reports filed with the Commission.

Based upon the foregoing, no further action should be taken by the Commission with respect to this matter.

July 30, 1981

Respectfully submitted,

John J. Abt

Jeffrey Schwartz

Attorneys for Hall-Tyner Election Campaign Committee

STATE OF NEW YORK)
: SS.:
COUNTY OF NEW YORK)

FRANCES BORDOFSKY, being duly sworn, deposes and says as follows:

1. I was the treasurer of the Hall-Tyner Election Campaign Committee throughout the period of its existence and make this affidavit in response to the Federal Election Commission's Notification of Reason to Believe Finding dated September 12, 1980, MUR No. 1036.

2. In my capacity as treasurer, I personally did all of the bookeeping and recordkeeping of the Committee, make most of the Committee's bank deposits and withdrawals and prepared all of its reports to the Commission without any assistance other than semi-occasional volunteer help. Any errors of commission or omission on my part were neither willful nor deliberate but were caused by my being overworked and understaffed to meet the exigencies of the election campaign and the requirements of the Federal Election Campaign Act. It is against this background that I submit the following comments on the specifics of the Commission's reason to believe findings.

3. Failure to deposit contributions into a campaign depository. The Commission is in error in finding that I failed to account for $1,469.80 of the $27,600 not deposited. Under date of November 11, 1978, I submitted an amended and adjusted report which accounted for all but $4.82 of the $1,469.80 as having been used for wire transfers or postal money orders. I do not deny

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that my failure to deposit the $27,600 in a campaign depository in the first instance was contrary to the technical requirements of the Act. I failed to do so because I was required to meet emergency demands for funds which did not come to me until after banking hours, making it impossible for me to secure certified checks until the following day, which would have been too late. Full records were kept of the receipts and expenditures involved in these transfers and, as the Commission finds, they were disclosed in a report to the Commission. Hence my actions did not violate the purpose or spirit of the Act.

4. Expenditures by checks payable to cash. The 8 checks in excess of $100 each, payable to cash and aggregating $6,671.87, were drawn to meet emergency demands which could not have been timely satisfied by checks made payable to the recipients. Again, however, I kept complete records of these transactions and reported them to the Commission. That this was at most a technical violation of the Act is evident from the recommendation of the Audit Division that no action on it is necessary.

5. Petty cash expenditures in excess of $100. This finding involves 4 expenditures ranging from $109.20 to $180.90 made in the very first days of the Committee's existence and are obviously de minimis as the Audit Division considered them to be.

6. Failure to identify persons to whom expenditures in excess of $100 were made. The report of the Audit Division and the Commission's findings allege that I failed to itemize 32 expenditures totalling $7,236.69, but neither of them identifies the

transactions in question. To the best of my recollection, the auditors did not point them out to me at the time of the audit, nor was I asked to make them the subject of an amended report. And since the Audit Division recommended that no further action be taken on the matter, there was no occasion for me to request it to identify the transactions. I do not know whether it would be possible for me at this late date to supply the information which is said to be missing from these items. But if the Commission will inform me of the identity of the transactions, I will attempt to do so.

7. For all of the foregoing reasons, I request that the Commission take no further action in this matter.

s/ ______________________
Frances Bordofsky

Subscribed and sworn to
before me, this 6th day
of January, 1981.

s/ ______________________
Notary Public

[illegible] M. FREED[illegible]
Notary Public, State of New [illegible]
No. 31-[illegible]
Qualified in New York County
Commission Expires March 30, 19[illegible]

Broadway
NY 10007

8 3 0 4 0 4 0 0

NEW YORK, NY CHURCH ST. STA. 10007
JUL 30 PM
1981

NEW YORK, NY CHURCH ST. STA. 10007
JUL 30 PM
1981

TO CAST A FREE BALLOT A ROOT OF DEMOCRACY USA 3c

TO CAST A FREE BALLOT A ROOT OF DEMOCRACY USA 3c

FROM

John J. Abt
299 Broadway
New York, N.Y.
10007

RETURN REQUESTED

To

Office of General Counsel
Federal Election Commissi
Washington, D.C. 20463

FIRST CLASS

GCC# 4342

704

JOHN J. ABT
ATTORNEY AT LAW

299 BROADWAY
NEW YORK, N. Y. 10007
CORTLANDT 7-3110

March 23, 1981

81 MAR 25 P12:30

Charles N. Steele, Esq.
General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1036

Dear Mr. Steele,

The New York Hall-Tyner Aptheker Campaign Committee has referred your letter to it and the accompanying General Counsel's Brief to me for reply.

The brief fails to call the Commission's attention to the fact that the constitutionality of §§432(c)(2) and 434(b)(2) of the Act, as applied to candidates of the Communist Party and their campaign committees, is before the United States District Court for the Southern District of New York in the case of F.E.C. v. Hall-Tyner Election Campaign Committee where it is pending on cross-motions for summary judgment.

Obviously, the decision in that case will determine whether or not these provisions of the Act are enforceable against the Hall-Tyner Aptheker Campaign Committee. Further proceedings against it should therefore be held in abeyance until the constitutional question has been decided in the pending action.

Very truly yours,

John J. Abt

81 MAR 25 P2:02

8 3 0 4 0 4 0 0 7 3

JOHN J. ABT
299 BROADWAY
NEW YORK, N. Y. 10007

NEW YORK, NY 100
PM
23 MAR
1981

Charles N. Steele, Esq.
General Counsel
Federal Election Commission
Washington, D.C. 20463

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS MWE / JODY CUSTER JC

DATE: APRIL 28, 1981

SUBJECT: MUR 1036 - Interim Investigative Report, dated 4-22-81; Signed 4-24-81; Received in OCS 4-24-81, 1:12

The above-named document was circulated to the Commission on a 24 hour no-objection basis at 11:00, April 27, 1981.

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

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April 24, 1981

MEMORANDUM TO: Marjorie W. Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 1036

Please have the attached Interim Invest Report distributed to the Commission on PINK PAPER. Thank you.

BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED OFFICE OF THE COMMISSION SECRETARY

April 22, 1981

SENSITIVE

81 APR 24 P1:12

In the Matter of	)	
	)	
Hall-Tyner-Flory Campaign '76	)	MUR 1036
New York Hall-Tyner Aptheker Committee	)	

INTERIM INVESTIGATIVE REPORT #2

On March 12, 1981, the Office of General Counsel forwarded to each respondent a brief stating the position of the General Counsel on the legal and factual issues in the above-captioned matter. Copies of the brief were also made available to the Commission for review.

Responses were received from John Abt, Esquire on behalf of the New York Hall-Tyner Aptheker Campaign Committee on March 25, and from Ben Green on March 27, on behalf of the Hall-Tyner-Flory Campaign Committee.

Each response essentially states that since the issues related to this MUR are also intertwined with the issues found in the case of F.E.C. v. Hall-Tyner Election Campaign Committee, et al., now in litigation before the United States District Court for the Southern District of New York, no substantive response would be made by any of the respondents until the District Court case has been decided.

Substantially all of the issues involved in the MUR are also involved in the litigation. A Motion for Summary Judgment submitted by the Office of General Counsel is now pending before the court. A probable cause recommendation will be circulated to the Commission within a week.

24 April 1981
Date

Charles N. Steele
General Counsel

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS/MARGARET CHANEY mc

DATE: OCTOBER 21, 1980

SUBJECT: MUR 1036 - Interim Investigative Report #1, dated 10-16-80; Received in OCS 10-17-80, 12:24

The above-named document was circulated to the Commission on a no-objection basis at 11:00, October 20, 1980.

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

October 17, 1980

MEMORANDUM TO: Marjorie W. Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 1036

Please have the attached Interim Report distributed to the Commission. hhank you.

BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

80 OCT 17 P12: 24

In the Matter of)
)
Hall-Tyner Election Campaign) MUR 1036
Committee, et. al.)

INTERIM INVESTIGATIVE REPORT #1

Reason to believe letters and notifications were mailed to the Hall-Tyner Election Campaign Committee, the New York Hall-Tyner-Aptheker Committee and the Hall-Tyner-Flory Campaign '76 Committee on September 12, 1980. The treasurer of the Hall-Tyner Election Campaign Committee has requested copies of the audit report because she had misplaced the copies she had received from the Audit Division. The Hall-Tyner-Flory Campaign '76 Committee had moved and did not leave a forwarding address. A new address has just been obtained and the letter and notification were re-mailed on October 9, 1980.

16 October 1980
Date

Charles N. Steele
General Counsel

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81 MAR 27 A11:54

Room 1600
407 South Dearborn St.
Chicago, Illinois 60605

81 MAR 27 P2:32

GENERAL COUNSEL

March 25, 1981

Mr. Charles N. Steele
General Counsel
Federal Election Commission
Washington, D.C. 20463

Dear Mr. Steele:

This is in reply to your letter and brief dated March 12, 1981.

1. Regarding the recommendation of the General Counsel that the Commission find probable cause to believe that I, serving as Treasurer of the Hall-Tyner-Flory Campaign '76, violated 2 USC, Sec. 432(c)(2), and USC, Sec. 434(b)(2), I would like to remind you that the constitutionality of these requirements as they apply to committees supporting candidates of the Communist Party is currently being litigated in F.E.C. v. Hall-Tyner Election Campaign Committee, and that I will respond to this recommendation of yours following resolution of that case.

2. Lacking particular details of the charges that the Hall-Tyner-Flory Campaign '76 has violated 2 USC SS 437b(a)(1) and 437b(b), I cannot respond to them. In addition, you will observe that my office has moved since 1976. I regret that all records of the Hall-Tyner-Flory Campaign '76 (which were audited in detail by the FEC) were lost in the move, and I would remind you that Paragraph 102.9(c) of the FEC Regulations require a committee to maintain such records for only three years following the date of its last report, and that your notification of September 12, 1980, received by me on October 10, 1980, was well after these three years had passed. Further, you will find that the records of our bank show that all funds received and spent by our committee were deposited in our account, with no exceptions.

3. and 4. Again, lacking particular details of these charges that I violated 2 USC SS 432(c)(3) and 432(d), it is impossible to respond to these charges except to say that in general, no expenditures were made that were not duly accounted for, and reported to the FEC where appropriate.

Lastly, I would be happy to consider any proposal you may have for settling these matters through conciliation.

Sincerely,

Ben Green

Ben Green, Treasurer
Hall-Tyner-Flory Campaign '76

:ce

8304007141

Room 1600
407 South Dearborn St.
Chicago, Illinois 60605

March 25, 1981

Mr. Charles N. Steele
General Counsel
Federal Election Commission
Washington, D.C. 20463

Dear Mr. Steele:

This is in reply to your letter and brief dated March 12, 1981.

1. Regarding the recommendation of the General Counsel that the Commission find probable cause to believe that I, serving as Treasurer of the Hall-Tyner-Flory Campaign '76, violated 2 USC, Sec. 432(c)(2), and USC, Sec. 434(b)(2), I would like to remind you that the constitutionality of these requirements as they apply to committees supporting candidates of the Communist Party is currently being litigated in F.E.C. v. Hall-Tyner Election Campaign Committee, and that I will respond to this recommendation of yours following resolution of that case.

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Lastly, I would be happy to consider any proposal you may have for settling these matters through conciliation.

Sincerely,

Ben Green

Ben Green, Treasurer
Hall-Tyner-Flory Campaign '76

:ce

ROOM 1600
407 S. DEARBORN ST.
CHICAGO, IL 60605

CHICAGO, IL 606
PM
25 MAR
1981

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Mr. Charles N. Steele
General Counsel
Federal Election Commission
Washington, D.C. 20463

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81 JAN 8 P12:22

JOHN J. ABT
ATTORNEY AT LAW

299 BROADWAY
NEW YORK, N. Y. 10007
CORTLANDT 7-3110

January 6, 1981

Charles,N. Steele, Esq.
General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1036

Dear Mr. Steele,

Enclosed is the affidavit of Frances Bordofsky in response to the Commission's Reason to Believe Finding and your letter to me of December 22, 1980, which I received on December 31.

My clients are prepared to consider any proposal that you may have for the disposition of this matter by informal conciliation.

Very truly yours,

John J. Abt

enc.

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RECEIVED

81 JAN 8 P12:22

STATE OF NEW YORK)
: SS:
COUNTY OF NEW YORK)

FRANCES BORDOFSKY, being duly sworn, deposes and says as follows:

1. I was the treasurer of the Hall-Tyner Election Campaign Committee throughout the period of its existence and make this affidavit in response to the Federal Election Commission's Notification of Reason to Believe Finding dated September 12, 1980, MUR No. 1036.

2. In my capacity as treasurer, I personally did all of the bookeeping and recordkeeping of the Committee, made most of the Committee's bank deposits and withdrawals and prepared all of its reports to the Commission without any assistance other than occasional volunteer help. Any errors of commission or omission on my part were neither willful nor deliberate but were caused by my being overworked and understaffed to meet the exigencies of the election campaign and the requirements of the Federal Election Campaign Act. It is against this background that I submit the following comments on the specifics of the Commission's reason to believe findings.

3. Failure to deposit contributions into a campaign depository. The Commission is in error in finding that I failed to account for $1,469.80 of the $27,600 not deposited. Under date of November 11, 1978, I submitted an amended and adjusted report which accounted for all but $4.82 of the $1,469.80 as having been used for wire transfers or postal money orders. I do not deny

that my failure to deposit the $27,600 in a campaign depository in the first instance was contrary to the technical requirements of the Act. I failed to do so because I was required to meet emergency demands for funds which did not come to me until after banking hours, making it impossible for me to secure certified checks until the following day, which would have been too late. Full records were kept of the receipts and expenditures involved in these transfers and, as the Commission finds, they were disclosed in a report to the Commission. Hence my actions did not violate the purpose or spirit of the Act.

4. Expenditures by checks payable to cash. The 8 checks in excess of $100 each, payable to cash and aggregating $6,671.87, were drawn to meet emergency demands which could not have been timely satisfied by checks made payable to the recipients. Again, however, I kept complete records of these transactions and reported them to the Commission. That this was at most a technical violation of the Act is evident from the recommendation of the Audit Division that no action on it is necessary.

5. Petty cash expenditures in excess of $100. This finding involves 4 expenditures ranging from $109.20 to $180.90 made in the very first days of the Committee's existence and are obviously de minimis as the Audit Division considered them to be.

6. Failure to identify persons to whom expenditures in excess of $100 were made. The report of the Audit Division and the Commission's findings allege that I failed to itemize 32 expenditures totalling $7,236.69, but neither of them identifies the

transactions in question. To the best of my rôcollection, the auditors did not point them out to me at the time of the audit, nor was I asked to make them the subject of an amended report. And since the Audit Division recommended that no further action be taken on the matter, there was no occasion for me to request it to identify the transactions. I do not know whether it would be possible for me at this late date to supply the information which is said to be missing from these items. But if the Commission will inform me of the identity of the transactions, I will attempt to do so.

7. For all of the foregoing reasons, I request that the Commission take no further action in this matter.

Frances Bordofsky

Frances Bordofsky

Subscribed and sworn to
before me, this 6th day
of January, 1981.

David M. Freedman

Notary Public

DAVID M. FREEDMAN
Notary Public, State of New York
No. [illegible]-1-10151
Qualified in New York County
Commission Expires March 30, 1981

JOHN J. ABT
299 BROADWAY
NEW YORK, N. Y. 10007

NEW YORK, NY
PM
31 JAN

Charles N. Steele, Esq.
General Counsel
Federal Election Commission
Washington, D.C. 20463

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 22, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. John J. Abt
Attorney at Law
299 Broadway
New York, New York 10007

Re: MUR 1036

Dear Mr. Abt:

In reference to your letter of October 28, 1980, the findings of the Commission are as stated in our letter of September 12, 1980. The Office of General Counsel reviews and comments on the reports of the Audit Division. This office decided which violations it felt warranted inclusion in this matter under review amd made recommendations to the Commission. The Commission in the actions taken on September 3, 1980, approved the recommendations of the Office of General Counsel and Ms. Bordofsky was informed of this in the letter dated September 12, 1980. It is the Commission which determines when there appears to be a violation of the Federal Election Campaign Act, as amended. In doing this, it takes into consideration the analyses of the Audit Division and the Office of General Counsel which may sometimes differ. Thus, the "conflict" which you note is, in actuality, a part of the review process.

If a response is not received from Ms. Bordofsky within ten days of your receipt of this letter, the Office of General Counsel will recommend that the Commission find probable cause to believe violations of the Federal Election Campaign Act of 1971, as amended, have occurred.

Sincerely,

Charles N. Steele
General Counsel

910992

Rec'd 3171

80 OCT 30 P2: 36

JOHN J. ABT
ATTORNEY AT LAW

299 BROADWAY
NEW YORK, N. Y. 10007
CORTLANDT 7-3110

October 28, 1980

80 OCT 30 P3: 15

Charles N. Steele, Esq.
General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1036

Dear Mr. Steele,

Reference is made to your letter of September 12, 1980, to Ms. Bordofsky enclosing a copy of the Commission's notification of reason to believe finding for the Hall-Tyner Election Campaign Committee.

Ms. Bordofsky has now shown me the copy of the undated interim report of the Audit Division which she requested and received from Ms. Brown.

It appears from this report that the only alleged violation which the Division recommended be referred to the Office of General Counsel was the matter of undeposited contributions. As to the other alleged violations set forth in items 2(b), 2(c) and 3 on page 3 of the reason to believe finding, the interim report states that "the Audit staff feels that no additional action is necessary."

Ms. Bordofsky was also in receipt of a copy of the final report of the Audit Division, approved by the Commission on June 27, 1980, which states: "Certain matters noted during the audit were referred to the Commission's Office of General Counsel for consideration on March 22, 1979." So far as Ms. Bordofsky is informed, the recommendations of the interim report have never been overruled.

The reason to believe finding of the Commission therefore appears to be in conflict with its action in approving the final audit report insofar as the former finds violations in addition to the matter of undeposited contributions.

Before addressing the merits of the reason to believe finding, I should appreciate an explanation of this apparent conflict and being supplied with the documents, if any, overruling the recommendations of the interim audit report and stating the grouhds therefore.

Very truly yours,

John J. Abt

JOHN J. ABT
299 BROADWAY
NEW YORK, N. Y. 10007

NEW YORK, NY 102
PM
28 OCT
1980

Charles N. Steele, Esq.
General Counsel
Federal Election Commission
Washington, D.C. 20463

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Frances Bordofsky
235 West 23rd Street
Third Floor
New York, New York 10011

RE: MUR 1036

Dear Ms. Bordofsky:

Enclosed are replacement copies of the interim and final audit reports which you requested from Michele Brown of my staff. We will expect your response to the Commission's letter dated September 12, 1980 shortly.

Sincerely,

Charles N. Steele
General Counsel

Enclosures

Interim Report of the Audit Division
Final Report of the Audit Division

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

REPORT OF THE AUDIT DIVISION ON THE HALL TYNER ELECTION CAMPAIGN COMMITTEE

I. Background

A. Overview

This report is based upon an audit of the Hall Tyner Election Campaign Committee ("the Committee"), undertaken by the Audit Division of the Federal Election Commission in accordance with the Commission's audit policy to determine whether there has been compliance with the provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The audit was conducted pursuant to Section 438(a)(8) of Title 2 of the United States Code which directs the Commission to make from time to time audits and field investigations with respect to reports and statements filed under the provisions of the Act.

The Committee registered with the Federal Election Commission on March 1, 1976 as the principal campaign committee of Mr. Gus Hall, Presidential candidate of the Communist Party. The Committee maintains its headquarters in New York City.

The audit covered the period from January 1, 1976 to March 31, 1977. During this period the Committee reported an opening cash balance of $845.35, total receipts of $424,657.04, total expenditures of $422,595.22 and a closing cash balance of $2,907.17.

This audit report is based on documents and working papers supporting each of its factual statements. They form part of the record upon which the Commission based its decisions on the matters in this report, and were available to Commissioners and appropriate staff for review.

B. Key Personnel

The principal officers of the Committee for the period covered by the audit were Mr. Henry Winston, Chairman, and Mrs. Frances Bordofsky, Treasurer.

C. Scope

The audit included such tests as verification of total reported receipts and expenditures and individual transactions; review of required supporting documentation; analysis of Committee debts and obligations; and, such other audit procedures as deemed necessary under the circumstances.

II. Findings and Recommendations

A. Matters Referred to the Office of General Counsel

Presented below are matters noted during the audit which were referred to the Commission's Office of General Counsel for consideration.

1. Activity relating to the Committee's processing and reporting of contributions; and,

2. Activity relating to expenditures made by the Committee.

FEDERAL ELECTION COMMISSION

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

INTERIM REPORT OF THE AUDIT DIVISION ON THE HALL TYNER ELECTION CAMPAIGN COMMITTEE

I. Background

A. Overview

This interim report is based upon an audit of the Hall Tyner Election Campaign Committee ("the Committee"), undertaken by the Audit Division of the Federal Election Commission in accordance with the Commission's audit policy to determine whether there has been compliance with the provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The audit was conducted pursuant to Section 438(a)(8) of Title 2 of the United States Code which directs the Commission to make from time to time audits and field investigations with respect to reports and statements filed under the provisions of the Act.

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This audit report is based on documents and working papers supporting each of its factual statements. They form part of the record upon which the Commission based its decisions on the matters in this report, and were available to Commissioners and appropriate staff for review.

B. Key Personnel

The principal officers of the Committee for the period covered by the audit were Mr. Henry Winston, Chairman, and Mrs. Frances Bordofsky, Treasurer.

C. Scope

The audit included such tests as verification of total reported receipts and expenditures and individual transactions; review of required supporting documentation; analysis of Committee debts and obligations; and, such other audit procedures as deemed necessary under the circumstances.

II. Auditor's Statement and Description of Findings

It is the opinion of the Audit staff, based upon examination of the reports and statements filed and the records presented, that the Hall Tyner Election Campaign Committee has not conducted its activities in compliance with the Federal Election Campaign Act and that the reports and statements filed by the Committee do not fairly present the financial activities of the Committee for the period covered by the audit.

Audit Findings and Recommendations

A. Anonymous Contributions

Section 432(c)(2) of Title 2 of the United States Code states, in part, that the treasurer of a political committee keep a detailed and exact account of the identification of every person making a contribution in excess of $50.00 and the date and amount thereof, and the occupation and the principal place of business if the person's contribution(s) aggregate more than $100.

Also, Section 434(b)(2) of Title 2 of the United States Code states that each report under this section shall disclose the full name and mailing address (occupation and principal place of business, if any) of each person who has made one or more contributions to or for such committee or candidate within the calendar year in an aggregate amount or value in excess of $100, together with the amount and date of such contributions.

Further, Section 110.4(c)(2) of the Commission's Regulations requires that a candidate or committee, receiving cash contributions in excess of $100.00, promptly return to the contributor the amount in excess of $100.00.

Finally, Section 110.4(c)(3) of the Commission's Regulations requires that a candidate or committee, receiving an anonymous cash contribution in excess of $50.00, promptly dispose of the amount in excess of $50.00 in any lawful manner unrelated to any Federal election, campaign, or candidate.

During the course of the audit, it was determined that the Committee accepted 468 anonymous cash contributions in excess of $50.00, totaling $257.521.30. This represents 36.53% of the total number and 67.53% of the total amount of individual contributions accepted by the Committee. Also, it was determined that the Committee accepted eight (8) contributions of cash from identifiable contributors, in excess of $100 totaling $2,762.00, which is .62% of the total number and .72% of the total amount of individual contributions accepted by the Committee.

On November 13, 1978, the Committee filed an amendment which itemized 15 additional contributions totaling $9,000 as anonymous (see Finding C). This amendment increases the total number and dollar value of anonymous cash contributions to 483 (37.70%) and $266,521.30 (69.89%), respectively.

Recommendation

This matter is currently being handled as MUR 358(77) in the Office of General Counsel.

B. Undeposited Contributions

Section 437b(a)(1) of Title 2 of the United States Code states, in part, that all contributions received by a committee shall be deposited into the campaign depository of the committee and that all expenditures, other than those of petty cash, shall be made by check drawn on an account of this campaign depository.

Section 434(b)(8) and (11) of Title 2 of the United States Code requires that each report shall disclose the total sum of all receipts and expenditures of such committee during the reporting period.

During the course of the audit, it was determined that the Committee accepted cash contributions totaling $27,600.00, which were not deposited into a Committee depository. These contributions were used for wire transfers and postal money orders, totaling $26,130.20, which were sent to various state agents acting on behalf of the Committee in their respective state(s). This activity occurred during the period May 10, 1976

to October 27, 1976. The Committee disclosed both the receipt and expenditure of these funds on their 30 day post election report filed on December 10, 1976. The Committee treasurer has been unable to account for the difference of $1,469.80 between the contributions and expenditures.

Recommendation

It is the recommendation of the Audit staff that this matter be referred to the Office of General Counsel for consideration as a MUR.

C. Disclosure of Contributions

Section 434(b)(2) of Title 2 of the United States Code states that each report under this section shall disclose the full name and mailing address (occupation and principal place of business, if any) of each person who has made one or more contributions to or for such committee or candidate within the calendar year in an aggregate amount or value in excess of $100, together with the amount and date of such contributions. Also, Section 434(b)(6)(B) states, in part, that each report under this section shall disclose the total amount of proceeds from mass collections.

During the course of the audit, it was determined that the Committee did not itemize 23 contributions from various sources, including mass collections, totaling $10,053.00 for the period covered by the audit. This represents 2.67% of the total dollar value of contributions required to be itemized during the period covered by the audit.

On November 13, 1978, the Committee filed an amended report itemizing 15 contributions totaling $9,000 as anonymous.

Recommendation

Since the Committee has filed the amendment disclosing these contributions, it is the recommendation of the Audit staff that no further action is necessary in this matter. However, the 15 contributions itemized as anonymous are included with Finding A of this report which indicates the prohibition on anonymous contributions.

Other Matters

Presented below are other matters noted during the audit for which the Audit staff feels that no additional action is necessary.

1) During the audit, it was determined that the Committee wrote eight (8) checks totaling $6,671.87, payable to cash, in excess of $100 for purposes other than replenishing the petty cash fund. The purposes of these payments were for reimbursed expenses, a transfer to a state committee, and travel advances for the vice presidential candidate.

2) It was determined that the Committee made four (4) petty cash expenditures in excess of $100, ranging from $109.20 to $180.90. These expenditures were for a payroll expense and money orders to state agents.

3) It was determined that the Committee did not itemize 32 of the 635 expeditures, representing 5% of the reported expenditures which aggregate in excess of $100, totaling $7,236.69.

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JOHN J. ABT
ATTORNEY AT LAW

299 BROADWAY
NEW YORK, N. Y. 10007
CORTLANDT 7-3110

October 6, 1980

80 OCT 8 P1:57

Charles N. Steele, Esq.
General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1036

Dear Mr. Steele,

On October 2, 1980, I received your letter of September 29, 1980, enclosing copies of the Commission's reason to believe findings concerning the Hall-Tyner-Flory Campaign '76 Committee and the New York Hall-Tyner Aptheker Committee. You mailed them to me pursuant to my telephonic request to Ms. Brown some two weeks earlier when I informed her that they were omitted from the papers you sent me with the copy of your September 12, 1980 letter to Mr, Hall.

Hall-Tyner-Flory Committee. Early last week, I checked with the former director of the Committee and was informed that Mr. Green has never received your letter of September 12, 1980, or the findings but had received a July 1, 1980, letter from the Audit Division enclosing its report. I note that both communications were addressed to Mr. Green at 27 East Monroe Street. This is the address of the former office of the Communist Party of Illinois which the Committee shared. Many months, ago, however, the Party moved to 407 South Dearborn, Chicago, Illinois 60605. While I am not presently authorized to represent the Committee or Mr. Green, I suggest that you mail your letter and the findings to him at that address.

Hall-Tyner Aptheker Committee. The Commission has found alleged violations of §§432(c)(2) and 434(b)(2) because of the Committee's failure to record and report the names of contributors and other identifying information. As you are aware, the constitutionality of these requirements as applied to candidates of the Communist Party is being litigated in F.E.C. v. Hall-Tyner Election Campaign Committee. It would therefore be inappropriate for the Commission to pursue this finding pending the outcome of that litigation.

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Hall-Tyner Election Campaign Committee. As Ms. Borofsky has informed Ms. Brown, the Committee's response to the Commission's findings will be submitted after receipt and consideration of the papers which she has requested the Commission to furnish.

Very truly yours,

John J. Abt

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JOHN J. ABT
299 BROADWAY
NEW YORK, N. Y. 10007

83040400756

NEW YORK, N.Y.
PM
1980

Charles, N. Steele, Esq.
General Counsel
Federal Election Commission
Washington, D.C. 20463

RECEIVED
80 OCT 8 P12:51

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS *MWE*

DATE: MARCH 21, 1980

SUBJECT: OBJECTION - MUR 1036 - First General Counsel's Report dated 3-19-80; Received in OCS 3-19-80, 10:19

The above-named document was circulated to the commission on a 48 hour vote basis at 4:00, March 19, 1980.

Commissioner Aikens submitted an objection at 3:42, March 21, 1980 thereby placing MUR 1036 on the agenda for March 25, 1980.

There were no comments made on the vote sheet.

March 19, 1980

MEMORANDUM TO: Marjorie W. Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 1036

Please have the attached First GC Report on MUR 1036 distributed to the Commission on a 48 hourrtally basis.

Thank you.

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

MAR 19 A10: 19

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL BY OGC TO THE COMMISSION 3-19-80

MUR # 1036
STAFF MEMBERS(S) M. Brown

SOURCE OF MUR: INTERNALLY GENERATED

RESPONDENT'S NAME: Hall-Tyner Election Campaign Committee; New York Hall-Tyner Aptheker Campaign Committee; Hall-Tyner-Flory Campaign '76; Hall-Tyner Election Campaign Committee of California

RELEVANT STATUTE: 2 U.S.C. §§ 432(c)(2), (3), and (4); 432(d); 434(b)(2) and (9); 437b(a)(1) and (b); 441g
11 C.F.R. §§ 102.9(a), (b) and (c); 103.3(a); 104.2(b)(2) and (9); 110.4(c)(1), (2) and (3)

INTERNAL REPORTS CHECKED: Audit Report

FEDERAL AGENCIES CHECKED: none

BACKGROUND

On March 22, 1979, the Audit Division requested that the Office of General Counsel review and analyze the interim audit reports regarding the Hall-Tyner Election Campaign Committee, the New York Hall-Tyner Aptheker Campaign Committee, the Hall-Tyner-Flory Campaign '76 Committee, and the Hall-Tyner Election Campaign Committee of California 1/. On October 2, 1979, the Office of General Counsel made these matters into a MUR. The analysis below will deal with each of the committees in turn.

Audit Findings and Analysis

A. Hall-Tyner Election Campaign Committee ("Election Committee")

1. Through the audit of the Hall-Tyner Election Campaign Committee, the Auditors determined that 468 anonymous cash contributions in excess of $50 were accepted by the Election Committee. These contributions total $257,521.30 or 67.53% of the total amount of indi-

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1/ The Hall-Tyner Election Campaign Committee is the only committee involved in the pending lawsuit, FEC v. Hall-Tyner Election Campaign Committee, Civ. No. 78-3508 (S.D.N.Y.), filed August 1, 1978.

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vidual contributions received by the Election Committee. Further, eight cash contributions in excess of $100 from contributors (who could be identified) were accepted by the Election Committee. The total amount of these contributions was $2,762. The Committee did file an amended report on November 13, 1978 which itemized 15 anonymous contributions totalling $9,000. These contributions, when added to the 468 anonymous contributions cited above, add up to 483 anonymous cash contributions, totalling $266,521.30, which comprise 69.89% of the total amount of individual contributions.

The Office of General Counsel is currently involved in litigation with the Hall-Tyner Election Campaign Committee for its failure to obtain the name, address, occupation and principal place of business information from those individuals contributing $50 or more (2 U.S.C. § 432(c)) and for its failure to submit in its disclosure reports this information for those individuals who, in the aggregate, contributed $100 or more (2 U.S.C. § 434(b)). Therefore, the aspect of anonymous contributions with regard to reporting is already being pursued. However, until the completion of the audit the extent of the anonymous contributions (70% of the total amount of $424,657) was unknown. Also, the Audit Division's study was completed in March 1977. Cash and/or anonymous contributions relating to the 1976 election may have been contributed since that time, thus upping the total amount.

Violations of other sections of the FECA and sections of the regulations are raised by the Audit referral. Section 441g of the Act and Section 110.4(c)(1) of the regulations prohibit contributions in currency to exceed, in the aggregate, $100. If a committee receives anonymous cash contributions in excess of $50, it must dispose of the amount over $50. It may use the excess amount in any lawful purpose unrelated to any federal election, campaign, or candidate. 11 C.F.R. § 110.4(c)(3). However, for cash contributions in excess of $100, the committee should, according to § 110.4(c)(2), return to the contributor the amount over $100. Thus, for example, if a committee received $150 in cash from an anonymous contributor, $50 could be used for political purposes, $50 for office expenses, and technically $50 should be returned to the contributor. If the contributor is truly anonymous, that is, not an identifiable contributor whose identity the committee has agreed not to report, then the committee would not be able to return the excess of $100. Should this be the case, the Commission could require that the amount of money improperly held by the committee be turned over to the U.S. Treasury.

These violations are not addressed directly by the pending litigation, therefore, we recommend that the Commission find reason to believe that the Hall-Tyner Election Campaign Committee violated 2 U.S.C. § 441g.

2. The Auditors determined that cash contributions totalling $27,600 were not deposited into a campaign depository. $26,130.20 of these contributions were used for wire transfers and postal money orders which were sent to state agents. The difference of $1,469.80 has not been accounted for by the treasurer. The receipts and expenditures were disclosed in a report filed by the Election Committee.

Any contributions received by a principal campaign committee are required to be deposited into a campaign depository in accordance with 2 U.S.C. § 437b(a)(1) and 11 C.F.R. § 103.3(a). Also, expenditures made by a committee, except petty cash expenditures, shall, according to § 437b(a)(1) and § 103.3(a), be made only by checks drawn from the depository. Section 103.3(a) and Section 437b(b) go on to state that petty cash expenditures may not exceed $100 to any person in connection with a single purchase of transaction.

The Election Committee wrote eight checks in excess of $100, payable to cash. These checks totalled $6,671.87 and were not used to replenish petty cash. The money was used to reimburse expenses, for a transfer to a state committee and for travel advances for the vice presidential candidate.

Because expenditures can be made by a committee only by a check drawn on the campaign depository, the Hall-Tyner Election Campaign Committee's actions constitute a violation of 2 U.S.C. § 437b(a)(1) and 11 C.F.R. § 103.3(a).

Even if these expenditures are considered to have been made from petty cash, § 437b(b) and § 103.3(a) prohibit petty cash expenditures in excess of $100. The Election Committee violated these sections of the Act and the regulations by making four petty cash expenditures in excess of $100. The expenditures were for a payroll expense and for money orders to state agents, ranging from $109.20 to $180.90. It is recommended that the Commission find reason to believe that the Hall-Tyner Election Campaign Committee violated 2 U.S.C. §§ 437b(a)(1) and 437b(b) and 11 C.F.R. § 103.3(a) for the Committee's failure to deposit contributions into a campaign depository and by not using checks drawn on the depository to make expenditures or, if the expenditures are considered to have been made from petty cash, by making petty cash expenditures in excess of $100.

3. The Election Committee failed to itemize 32 of 635 expenditures totalling $7,236.69, comprising 5% of the reported expenditures which aggregate in excess of $100. It is recommended that the Commission find reason to believe that the Hall-Tyner Election Campaign Committee violated 2 U.S.C. § 434(b)(9) and 11 C.F.R. § 104.6 by not providing the identification of each person to whom expenditures have been made within the calendar year in an aggregate amount or value in excess of $100.

b. New York Hall-Tyner Aptheker Campaign Committee (the "New York Committee")

Through the audit of the New York Hall-Tyner Aptheker Campaign Committee, the Auditors determined that 18 anonymous cash contributions in excess of $50 were accepted by the New York Committee. These contributions total $7,900 and represent 21.80% of the total amount of individual contributions received by the Committee. Further, 14 anonymous cash contributions in excess of $100 were received, of which 13 were itemized as anonymous. The New York Committee filed an amended report on December 18, 1978 in which the one previously unreported contribution of $100 was itemized as being anonymous; however, it was not reported as a cash contribution. With regard to the fact that the $100 contribution had not been reported, it is recommended that no further action be taken because the New York Committee filed an amended report in which the contribution was itemized as an anonymous contribution. It is recommended that the Commission find reason to believe that the New York Hall-Tyner Aptheker Campaign Committee treasurer's apparent failure to keep records of contributors' names, addresses, occupations and principal places of business and the failure to report this information on reports filed with the Commission constitute violations of 2 U.S.C. §§ 432(c)(2) and 434(b)(2) and 11 C.F.R. §§ 102.9(a) and 104.2(b)(2).

Violations of 2 U.S.C. § 441g and 11 C.F.R. § 110.4(c)(1) appear to have occurred since the New York Committee accepted cash contributions in excess of $100. Also, violations of §§ 110.4(c)(2) and 110.4(c)(3) could have occurred if the Committee did not return the amount in excess of $100, or if the Committee, upon receiving anonymous cash contributions in excess of $50, did not dispose of the amount over $50. The Office of General Counsel recommends that the Commission find reason to believe that violations of 2 U.S.C. § 441g and 11 C.F.R. § 110.4(c)(1), (2), and (3) have been committed by the New York Hall-Tyner Aptheker Campaign Committee.

c. Hall-Tyner-Flory Campaign '76 ("Campaign '76 Committee")

1. Through the audit of the Hall-Tyner-Flory Campaign '76 Committee, the Auditors determined that anonymous contributions totalling $6,699.17 were accepted and reported by the Campaign '76 Committee. This is 28.99% of the total amount of individual contributions. Because of the recordkeeping system of the Campaign '76 Committee, the Auditors could not determine the amount of anonymous cash contributions per contributor received in excess of $50.

A schedule of all contributions in excess of $100 was filed by the Campaign '76 Committee on November 29, 1978 for the period of the audit. Ten additional anonymous contributions were itemized totalling $1,262.00.2/ These additional contributions increase the total of anonymous contributions to $7,961.17, 34.45% of the total amount of individual contributions. It is recommended that the Commission find reason to believe that the Hall-Tyner-Flory Campaign '76 Committee violated 2 U.S.C. §§ 432(c)(2) and 434(b)(2) and 11 C.F.R §§ 102.9(a) and 104.2(b)(2).

It appears that violations of 2 U.S.C. § 441g and 11 C.F.R. §§ 110.4(c)(1), (2), and (3) have occurred because cash contributions were received by the Campaign '76 Committee, although the Auditors were not able to determine the amount of anonymous cash contributions per contributor. It is recommended that the Commission find reason to believe that the Hall-Tyner-Flory Campaign '76 Committee has violated 2 U.S.C. § 441g and 11 C.F.R. §§ 110.4(c)(1), (2), and (3).

2. Twenty-five contributions were not itemized on reports filed by the Campaign '76 Committee. The total of these contributions was $3,264.15, 10.86% of the total amount of contributions received by the Committee during the period focused on by the audit. The Campaign '76 Committee filed an amended report on November 29, 1978 in which ten of the 25 contributions were itemized as anonymous. The remaining eight contributions, which aggregate in excess of $100, were not itemized on the amended report. These total $536.04 and represent 1.78% of the total amount of contributions received by the Campaign '76 Committee during the period of the audit.

Because the Hall-Tyner-Flory Campaign '76 Committee filed an amended report, the Office of General Counsel recommends that no further action be taken against the Committee with respect to these violations.

3. Several violations of 2 U.S.C. § 437b appear to have been committed by the Hall-Tyner-Flory Campaign '76 Committee. The Campaign '76 Committee failed to deposit contributions received into the campaign depository. Also, expenditures were made in cash from contributions received rather than by a check drawn from deposited funds and these cash expenditures exceed the $100 limit on expenditures from the petty cash fund. It is recommended that the Commission find reason to believe that the Hall-Tyner-Flory Campaign '76 Committee violated 2 U.S.C. § 437b and 11 C.F.R. § 103.3(a).

2/ Of the ten (10) anonymous contributions disclosed on this schedule, seven (7) were found to be identified on the contributor records during the audit fieldwork.

The treasurer of a political committee is required, under 2 U.S.C. § 432(c)(3) and (4) and 11 C.F.R. § 102.9(b) and (c), to keep a detailed and exact account of all expenditures made by or for such committee and the identification of every person to whom any expenditure is made, including the date and amount of the expenditure. In addition, 2 U.S.C. § 432(d) requires that the treasurer obtain and keep a receipted bill, stating the particulars, for every expenditure made in excess of $100 in amount, and for any expenditure made in a lesser amount, if the aggregate amount of such expenditures to the same person during a calendar year exceeds $100.

It is the opinion of the Auditors that the Campaign '76 Committee's recordkeeping system of folders containing haphazardly filed invoices, receipted bills and contemporaneous memoranda does not comply with the requirements of 2 U.S.C. §§ 432(c)(3) and (4) and 432(d). It is recommended that the Commission find reason to believe that the Hall-Tyner-Flory Campaign '76 Committee violated 2 U.S.C. § 432(c)(3) and (4) and 432(d) and 11 C.F.R. §§ 102.9(b) and (c).

Under 2 U.S.C. § 434(b)(9), a committee must report the identification of each person to whom an expenditure is made in an aggregate amount in excess of $100 along with the amount, date, and purpose of each expenditure and the name and address of, and the office sought by, each candidate on whose behalf an expenditure is made. The Campaign '76 Committee's practice of combining all expenditures to one payee and reporting one total along with several dates rather than individually reporting each contribution would constitute a violation of 2 U.S.C. § 434(b)(9).

D. Hall-Tyner Election Campaign Committee of California (the "California Committee")

The Auditors, in reviewing the reports and statements filed with the Commission and the California Committee's records, did not find any "material problems in complying with the Federal Election Campaign Act." Therefore, it is recommended that the Commission take no further action with respect to the Hall-Tyner Election Campaign Committee of California.

<u>Recommendations</u>

A. Hall-Tyner Election Campaign Committee

1. Find reason to believe that the Committee has violated 2 U.S.C. § 441g and 11 C.F.R. §§ 110.4(c)(1), (2), and (3):

a) by accepting cash contributions in excess of $100;
b) by not returning the cash in excess of $100 to the contributor, and;
c) by not disposing of any amount over $50 received as an anonymous cash contribution.

2. Find reason to believe that the Committee has violated 2 U.S.C. § 437b(a)(1) and 437b(b) and 11 C.F.R. § 103.3(a):

a) by failing to deposit contributions into a campaign depository;
b) by making expenditures in cash rather than with checks drawn from deposited funds, and;
c) by making petty cash expenditures in excess of $100.

3. Find reason to believe that the Committee has violated 2 U.S.C. § 434(b)(9) and 11 C.F.R. § 104.6 by not providing the identification of each person to whom expenditures were made within the calendar year in an aggregate amount or value in excess of $100.

B. New York Hall-Tyner Aptheker Campaign Committee

1. Find reason to believe that the Committee has violated 2 U.S.C. §§ 432(c)(2) and 434(b)(2) and 11 C.F.R. §§ 102.9(a) and 104.2(b)(2) by failing to keep records of and report name, address, occupation and principal place of business information on contributors.

2. Find reason to believe that the Committee has violated 2 U.S.C. § 441g and 11 C.F.R. §§ 110.4(c)(1), (2) and (3):

a) by accepting cash contributions in excess of $100;
b) by not returning the cash in excess of $100 to the contributor, and;
c) by not disposing of any amount over $50 received as an anonymous cash contribution.

C. Hall-Tyner-Flory Campaign '76

1. Find reason to believe that the Committee has violated 2 U.S.C. §§ 432(c)(2) and 434(b)(2) and 11 C.F.R. §§ 102.9(a) and 104.2(b)(2) by failing to keep records of and report name, address, occupation and principal place of business information on contributors.

2. Find reason to believe that the Committee has violated 2 U.S.C. § 441g and 11 C.F.R. §§ 110.4(c)(1), (2) and (3):

a) by accepting cash contributions in excess of $100;
b) by not returning the cash in excess of $100 to the contributor, and;
c) by not disposing of any amount over $50 received as an anonymous cash contribution.

3. Take no further action with regard to the Committee's failure to itemize 25 contributions on its reports because of the filing of an amended report by the Committee.

4. Find reason to believe that the Committee has violated 2 U.S.C. § 437b(a)(1) and 437b(b) and 11 C.F.R. § 103.3(a):

a) by failing to deposit contributions into a campaign depository;
b) by making expenditures in cash rather than with checks drawn from deposited funds, and;
c) by making petty cash expenditures in excess of $100.

5. Find reason to believe that the Committee has violated 2 U.S.C. §§ 432(c)(3) and (4) and 432(d) and 11 C.F.R. §§ 102.9(b) and (c):

a) by failing to keep a detailed and exact account of all expenditures made by or for such committee and the identification of every person to whom any expenditure is made, including the date and amount of the expenditure, and;
b) by the treasurer's failure to obtain and keep a receipted bill, stating the particulars, for every expenditure made in excess of $100 in amount, and for any expenditure in a lesser amount, if the aggregate amount of such expenditures to the same person during a calendar year exceeds $100.

6. Find reason to believe that the Committee has violated 2 U.S.C. § 434(b)(9) and 11 C.F.R. § 104.2(b)(9) by failing to report the particulars for each expenditure made.

D. Hall-Tyner Election Campaign Committee of California

Take no further action with respect to this Committee.

E. The attached letters should be sent.

Attachments

Audit Referral
Letters to respondent committees (6)

A.434

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

March 22, 1979

MEMORANDUM

TO : BILL OLDAKER

THROUGH : ORLANDO B. POTTER
STAFF DIRECTOR O.B.P.

FROM : BOB COSTA RC

SUBJECT : REQUEST FOR REVIEW & LEGAL ANALYSIS

Attached for your review and legal analysis are copies of the following audit reports:

1. Hall Tyner Election Campaign Committee of California

2. New York Hall Tyner Aptheker Campaign Committee

3. Hall Tyner Election Campaign Committee

4. Hall Tyner Flory Campaign '76

Please note that audit reports ~~(1)~~, (2), (3) and (4) above contain recommendations for possible MUR action regarding anonymous contributions and/or undeposited cash contributions received by these Committees.

Should you have any questions please contact either Russ Bruner or Dan Boyle at extension 3-4155.

Attachment as stated

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

REPORT OF THE AUDIT DIVISION ON THE HALL-TYNER ELECTION CAMPAIGN COMMITTEE OF CALIFORNIA

I. Background

A. Overview

This report is based upon an audit of the Hall-Tyner Election Campaign Committee of California ("the Committee"), undertaken by the Audit Division of the Federal Election Commission in accordance with the Commission's audit policy to determine whether there has been compliance with the provisions of the Federal Election Campaign Act, as amended ("the Act"). The audit was conducted pursuant to Section 438(a)(8) of Title 2, United States Code, which directs the Commission to make from time to time audits and field investigations with respect to reports and statements filed under the provisions of the Act.

The Committee registered with the Federal Election Commission on July 3, 1976, as a committee authorized by Mr. Gus Hall, Presidential candidate of the Communist Party. The Committee maintained its headquarters in San Francisco, California.

The audit covered the period from June 10, 1976, the inception date of the Committee, through March 31, 1977. During this period the Committee reported an opening cash balance of $-0-, total receipts of $58,774.10, total expenditures of $58,203.23, and a closing cash balance at December 31, 1976 of $570.87. 1/

This audit report is based on documents and working papers supporting each of its factual statements. They form part of the record upon which the Commission based its decisions on the matters in this report, and were available to Commissioners and appropriate staff for review.

1/ The Committee had not filed the April 10, 1977 report covering the period January 1, 1977 to March 31, 1977 at the time of the audit. However, the audit did include a review of the Committee records for the period 1/1/77 to 3/31/77.

B. Key Personnel

The principal officers of the Committee during the period of the audit were Ms. Angela Davis, Chairman, and Mr. David Englestein, Treasurer.

C. Scope

The audit included such tests as verification of total reported receipts and expenditures and individual transactions; review of required supporting documentation; analysis of Committee debts and obligations; and, such other audit procedures as deemed necessary under the circumstances.

II. Auditor's Statement

It is the opinion of the Audit staff, based upon examination of the reports and statements filed and the records presented, that the reports and statements of the Hall-Tyner Election Campaign Committee of California fairly present the financial activities of the Committee for the period covered by the audit. No material problems in complying with the Federal Election Campaign Act were discovered during the course of the audit.

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

INTERIM REPORT OF THE AUDIT DIVISION ON THE NEW YORK HALL-TYNER APTHEKER CAMPAIGN COMMITTEE

I. Background

A. Overview

This interim report is based on an audit of the New York Hall-Tyner-Aptheker Campaign Committee ("the Committee"), undertaken by the Audit Division of the Federal Election Commission to determine whether there has been compliance with the provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The audit was conducted pursuant to Section 438(a)(8) of Title 2 of the United States Code which directs the Commission to make from time to time audits and field investigations with respect to reports and statements filed under the provisions of the Act.

The Committee registered with the Federal Election Commission on July 7, 1976, as a committee authorized by Mr. Gus Hall, Presidential candidate of the Communist Party. The Committee maintained its headquarters in New York City.

The audit covered the period from June 14, 1976 through March 31, 1977. During this period the Committee reported an opening cash balance of $-0-, total receipts of $38,664.12, total expenditures of $38,178.75, and a closing cash balance of $465.37.

This audit report is based on documents and working papers supporting each of its factual statements. They form part of the record upon which the Commission based its decisions on the matters in this report, and were available to Commissioners and appropriate staff for review.

B. Key Personnel

The principal officers of the Committee during the period of the audit were Mr. Jose Ristorucci, Chairman, and Ms. Abigail Colman, Treasurer.

C. Scope

The audit included such tests as verification of total reported receipts and expenditures and individual transactions; review of required supporting documentation; analysis of Committee debts and obligations; and such other audit procedures as deemed necessary under the circumstances.

II. Auditor's Statement and Description of Findings

It is the opinion of the Audit staff, based upon examination of the reports and statements filed and the records presented, that the New York Hall-Tyner-Aptheker Campaign Committee has not conducted its activities in compliance with the Federal Election Campaign Act and that the reports and statements filed by the Committee do not fairly present the financial activities of the Committee for the period covered by the audit.

Audit Findings and Recommendations

A. Anonymous Contributions

Section 432(c)(2) of Title 2 of the United States Code states, in part, that the treasurer of a political committee keep a detailed and exact account of the identification of every person making a contribution in excess of $50 and the date and amount thereof, and the occupation and the principal place of business if the contribution(s) aggregate more than $100.

Also, Section 434(b)(2) of Title 2 of the United States Code states, in part, that each report shall disclose the full name and mailing address (occupation and principal place of business, if any) of each person who has made one or more contribution(s) to or for such committee or candidate within the calendar year in an aggregate amount or value in excess of $100, together with the amount and date of such contributions.

Further, Section 110.4(c)(2) of the Commission's Regulations requires that a candidate or committee receiving cash contributions in excess of $100.00, promptly return to the contributor the amount in excess of $100.00.

Finally, Section 110.4(c)(3) of the Commission's Regulations requires that a candidate or committee, receiving an anonymous cash contribution in excess of $50, promptly dispose of the amount in excess of $50 in any lawful manner unrelated to any Federal election, campaign, or candidate.

During the course of the audit, it was determined that the Committee accepted 18 anonymous cash contributions in excess of $50 totaling $7,900.00. This represents 4.40% of the total number and 21.80% of the total dollar value of total individual contributions accepted by the Committee. In addition 14 of the anonymous cash contributions were in excess of $100, of which 13 were itemized as anonymous on the Committee's disclosure reports.

On December 18, 1978, the Committee filed an amended report itemizing the one (1) previously unreported contribution of $1,000 as anonymous (see Finding B). The amended report did not identify this $1,000 anonymous contribution as an anonymous cash contribution.

<u>Recommendation</u>

The Audit staff recommends that this matter be referred to the Office of General Counsel for consideration as a MUR.

B. <u>Disclosure of Contributions</u>

Section 434(b)(2) of Title 2 of the United States Code requires that each report disclose the full name and mailing address (occupation and the principal place of business, if any) of each person who has made one or more contributions to or for such committee or candidate within the calendar year in an aggregate amount or value in excess of $100, together with the date and amount of such contributions.

During the course of the audit, it was determined that the Committee did not report one (1) contribution of $1,000, and reported incorrect aggregate totals for 14 itemized contributions (22.95% of the total number of contributions to be

itemized). Also, the Committee did not disclose the full mailing address for 13 itemized contributors (21.31%), and the occupation and principal place of business for 29 itemized contributors (47.54%) and for 14 individuals who made loans to the Committee (22.95%).

On December 18, 1978, the Committee filed an amended report which itemized one (1) contribution of $1,000 as anonymous, corrected the aggregate totals for eight (8) contributions and disclosed the occupation and principal place of business of 11 contributors and 14 individuals who made loans to the Committee.

Recommendation

Since the Committee has filed an amended report substantially disclosing the contributor information, other than that for anonymous contributors, the Audit staff recommends no further action in this matter.

C. Supporting Documentation for Expenditures

Section 432(d)of Title 2 of the United States Code requires that a treasurer of a political committee obtain and keep a receipted bill, stating the particulars, for every expenditure made by or on behalf of a political committee in excess of $100 in amount, and for any such expenditure in a lesser amount, if the aggregate amount of such expenditures to the same person during the calendar year exceeds $100.

Section 102.9(c)(4) of the Commission's Regulations states, in part, that when a receipted bill is not available, the treasurer may keep the cancelled check(s) showing payment of the bill, and the bill, invoice or other contemporaneous memorandum of the transaction supplied to the committee by the payee containing the necessary information.

During the course of the audit, it was determined that the Committee did not retain appropriate documentation to support nine (9) expenditures, totaling $2,675.02. This represents 18.37% of the total number and 9.41% of the dollar amount of itemized expenditures. In each case, a cancelled check was available for inspection.

On December 18, 1978, the Committee submitted documentation for three (3) expenditures totaling $492.28. For the remaining six (6) expenditures, the Committee submitted copies of the letters sent to the payees in an effort to obtain the necessary documentation.

Recommendation

Since the Committee has either submitted the necessary documentation or demonstrated their best efforts to do so, the Audit staff recommends no further action in this matter.

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

INTERIM REPORT OF THE AUDIT DIVISION ON THE HALL TYNER ELECTION CAMPAIGN COMMITTEE

I. Background

A. Overview

This interim report is based upon an audit of the Hall Tyner Election Campaign Committee ("the Committee"), undertaken by the Audit Division of the Federal Election Commission in accordance with the Commission's audit policy to determine whether there has been compliance with the provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The audit was conducted pursuant to Section 438(a)(8) of Title 2 of the United States Code which directs the Commission to make from time to time audits and field investigations with respect to reports and statements filed under the provisions of the Act.

The Committee registered with the Federal Election Commission on March 1, 1976 as the principal campaign committee of Mr. Gus Hall, Presidential candidate of the Communist Party. The Committee maintains its headquarters in New York City.

The audit covered the period from January 1, 1976 to March 31, 1977. During this period the Committee reported an opening cash balance of $845.35, total receipts of $424,657.04, total expenditures of $422,595.22 and a closing cash balance of $2,907.17.

This audit report is based on documents and working papers supporting each of its factual statements. They form part of the record upon which the Commission based its decisions on the matters in this report, and were available to Commissioners and appropriate staff for review.

B. Key Personnel

The principal officers of the Committee for the period covered by the audit were Mr. Henry Winston, Chairman, and Mrs. Frances Bordofsky, Treasurer.

C. Scope

The audit included such tests as verification of total reported receipts and expenditures and individual transactions; review of required supporting documentation; analysis of Committee debts and obligations; and, such other audit procedures as deemed necessary under the circumstances.

II. Auditor's Statement and Description of Findings

It is the opinion of the Audit staff, based upon examination of the reports and statements filed and the records presented, that the Hall Tyner Election Campaign Committee has not conducted its activities in compliance with the Federal Election Campaign Act and that the reports and statements filed by the Committee do not fairly present the financial activities of the Committee for the period covered by the audit.

Audit Findings and Recommendations

A. Anonymous Contributions

Section 432(c)(2) of Title 2 of the United States Code states, in part, that the treasurer of a political committee keep a detailed and exact account of the identification of every person making a contribution in excess of $50.00 and the date and amount thereof, and the occupation and the principal place of business if the person's contribution(s) aggregate more than $100.

Also, Section 434(b)(2) of Title 2 of the United States Code states that each report under this section shall disclose the full name and mailing address (occupation and principal place of business, if any) of each person who has made one or more contributions to or for such committee or candidate within the calendar year in an aggregate amount or value in excess of $100, together with the amount and date of such contributions.

Further, Section 110.4(c)(2) of the Commission's Regulations requires that a candidate or committee, receiving cash contributions in excess of $100.00, promptly return to the contributor the amount in excess of $100.00.

Finally, Section 110.4(c)(3) of the Commission's Regulations requires that a candidate or committee, receiving an anonymous cash contribution in excess of $50.00, promptly dispose of the amount in excess of $50.00 in any lawful manner unrelated to any Federal election, campaign, or candidate.

During the course of the audit, it was determined that the Committee accepted 468 anonymous cash contributions in excess of $50.00, totaling $257,521.30. This represents 36.53% of the total number and 67.53% of the total amount of individual contributions accepted by the Committee. Also, it was determined that the Committee accepted eight (8) contributions of cash from identifiable contributors, in excess of $100 totaling $2,762.00, which is .62% of the total number and .72% of the total amount of individual contributions accepted by the Committee.

On November 13, 1978, the Committee filed an amendment which itemized 15 additional contributions totaling $9,000 as anonymous (see Finding C). This amendment increases the total number and dollar value of anonymous cash contributions to 483 (37.70%) and $266,521.30 (69.89%), respectively.

Recommendation

This matter is currently being handled as MUR 358(77) in the Office of General Counsel.

B. Undeposited Contributions

Section 437b(a)(1) of Title 2 of the United States Code states, in part, that all contributions received by a committee shall be deposited into the campaign depository of the committee and that all expenditures, other than those of petty cash, shall be made by check drawn on an account of this campaign depository.

Section 434(b)(8) and (11) of Title 2 of the United States Code requires that each report shall disclose the total sum of all receipts and expenditures of such committee during the reporting period.

During the course of the audit, it was determined that the Committee accepted cash contributions totaling $27,600.00, which were not deposited into a Committee depository. These contributions were used for wire transfers and postal money orders, totaling $26,130.20, which were sent to various state agents acting on behalf of the Committee in their respective state(s). This activity occurred during the period May 10, 1976

to October 27, 1976. The Committee disclosed both the receipt and expenditure of these funds on their 30 day post election report filed on December 10, 1976. The Committee treasurer has been unable to account for the difference of $1,469.80 between the contributions and expenditures.

Recommendation

It is the recommendation of the Audit staff that this matter be referred to the Office of General Counsel for consideration as a MUR.

C. Disclosure of Contributions

Section 434(b)(2) of Title 2 of the United States Code states that each report under this section shall disclose the full name and mailing address (occupation and principal place of business, if any) of each person who has made one or more contributions to or for such committee or candidate within the calendar year in an aggregate amount or value in excess of $100, together with the amount and date of such contributions. Also, Section 434(b)(6)(B) states, in part, that each report under this section shall disclose the total amount of proceeds from mass collections.

During the course of the audit, it was determined that the Committee did not itemize 23 contributions from various sources, including mass collections, totaling $10,053.00 for the period covered by the audit. This represents 2.67% of the total dollar value of contributions required to be itemized during the period covered by the audit.

On November 13, 1978, the Committee filed an amended report itemizing 15 contributions totaling $9,000 as anonymous.

Recommendation

Since the Committee has filed the amendment disclosing these contributions, it is the recommendation of the Audit staff that no further action is necessary in this matter. However, the 15 contributions itemized as anonymous are included with Finding A of this report which indicates the prohibition on anonymous contributions.

Other Matters

Presented below are other matters noted during the audit for which the Audit staff feels that no additional action is necessary.

1) During the audit, it was determined that the Committee wrote eight (8) checks totaling $6,671.87, payable to cash, in excess of $100 for purposes other than replenishing the petty cash fund. The purposes of these payments were for reimbursed expenses, a transfer to a state committee, and travel advances for the vice presidential candidate.

2) It was determined that the Committee made four (4) petty cash expenditures in excess of $100, ranging from $109.20 to $180.90. These expenditures were for a payroll expense and money orders to state agents.

3) It was determined that the Committee did not itemize 32 of the 635 expeditures, representing 5% of the reported expenditures which aggregate in excess of $100, totaling $7,236.69.

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

REPORT OF THE AUDIT DIVISION ON THE HALL-TYNER-FLORY CAMPAIGN '76

I. Background

A. Overview

This interim report is based upon an audit of the Hall-Tyner-Flory Campaign '76 ("the Committee"), undertaken by the Audit Division of the Federal Election Commission in accordance with the Commission's audit policy to determine whether there has been compliance with the provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The audit was conducted pursuant to Section 438(a)(8) of Title 2 of the United States Code which directs the Commission to make from time to time audits and field investigations with respect to reports and statements filed under the provisions of the Act.

The Committee registered with the Federal Election Commission on March 22, 1976 as a committee authorized by Mr. Gus Hall, Presidential candidate of the Communist Party. The Committee maintained its headquarters in Chicago, Illinois.

The audit covered the period from March 9, 1976 through December 31, 1976 the closing date of the last report filed by the Committee at the time of the audit. During this period the Committee reported an opening cash balance of $-0-, total receipts of $30,035.45, total expenditures of $30,027.47, and a closing cash balance of $25.98.

This audit report is based on documents and working papers supporting each of its factual statements. They form part of the record upon which the Commission based its decisions on the matters in the report and were available to Commissioners and appropriate staff for review.

B. Key Personnel

The principal officers of the Committee for the period covered by the audit were Mr. Jack Kling and Mr. Nathan Sharpe, Co-Chairmen, Mr. Ben Green, Treasurer, and Mr. Ted Pearson, Secretary.

C. Scope

The audit included such tests as verification of total receipts and expenditures and individual transactions; review of required supporting documentation; review of Committee debts and obligations; and such other audit procedures as deemed necessary under the circumstances.

II. Auditor's Statement and Description of Findings

It is the opinion of the Audit staff, based upon examination of the reports and statements filed and records presented, that the Hall-Tyner-Flory Campaign '76 has not conducted its activities in compliance with the Federal Election Campaign Act and that the reports and statements filed by the Committee do not fairly present the financial activites of the Committee for the period covered by the audit.

A. Anonymous Contributions

Section 432(c)(2) of Title 2 of the United States Code states, in part, that the treasurer of a political committee keep a detailed and exact account of the identification of every person making a contribution in excess of $50 and the date and amount thereof, and the contributor's occupation and the principal place of business if the contribution(s) aggregate more than $100.

Also, Section 434(b)(2) of Title 2 of the United States Code states that each report under this section shall disclose the full name and mailing address (occupation and principal place of business, if any) of each person who mas made one or more contribution(s) to or for such committee or candidate within the calendar year in an aggregate amount or value in excess of $100, together with the amount and date of such contributions.

Finally, Section 110.4(c)(3) of the Commission's Regulations requires that a candidate or committee, receiving an anonymous cash contribution in excess of $50, promptly dispose of the amount in excess of $50 in any lawful manner unrelated to any Federal election, campaign, or candidate.

During the course of the audit, it was determined that the Committee accepted and reported anonymous contributions totaling $6,699.17, which is 28.99% of the total amount of individual contributions. It is not possible to determine the amount of anonymous cash contributions (per contributor) received in excess of $50 with the recordkeeping system maintained by the Committee.

On November 29, 1978, the Committee filed a schedule of all contributions in excess of $100 for the audit period. This schedule itemized ten (10) additional anonymous contributions totaling $1,262.00 1/ (see Finding B). This increases the dollar value of anonymous contributions reported by the Committee to $7,961.17 (34.45%). According to the Committee legal counsel, Mr. John Abt, the Committee accepted these anonymous contributions based upon an opinion in the Supreme Court case entitled Buckley vs. Valeo (424 U.S. 1, 74(1976). This opinion refers to the compelled disclosure of the identification of contributors, subjecting them to threats, harassment, or reprisals from either government officials or private parties.

Recommendation

The Audit staff recommends that this matter be referred to the Office of General Counsel for consideration as a MUR.

B. Itemization of Contributions

Section 434(b)(2) of Title 2 of the United States Code states that each report under this section shall disclose the full name and mailing address (occupation and principal place of business, if any) of each person who has made one or more contributions to or for such committee or candidate within the calendar year in an aggregate amount of value in excess of $100, together with the amount and ate of such contributions.

During the course of the audit, it was determined that the Committee did not itemize 25 contributions each aggregating in excess of $100 and totaling $3,264.15. This represents 10.86% of the total amount of contributions received by the Committee for the audit period.

1/ Of the ten (10) anonymous contributions disclosed on this schedule, seven (7) were found to be identified on the contributor records during the audit fieldwork.

On November 29, 1978, the Committee filed a schedule itemizing 17 contributions totaling $2,728.11. Ten (10) of these contributions were itemized as anonymous (see Finding A). The remaining eight (8) contributions, totaling $536.04 (1.78%), which aggregate in excess of $100 were not itemized on the amendment.

Recommendation

Since the Committee has filed the amendment substantially itemizing these contributions, no further action on this matter is recommended.

C. Recordkeeping of Expenditures

Section 432(c)(3) and (4) requires the treasurer of a political committee to keep a detailed and exact account of all expenditures made by or for such committee and the identification of every person to whom any expenditure is made and the date and amount thereof.

Section 432(d) of Title 2 of the United States Code requires that the treasurer obtain and keep a receipted bill, stating the particulars, for every expenditure made by or on behalf of a political committee in excess of $100 in amount, and for any such expenditure in a lesser amount, if the aggregate amount of such expenditures to the same person during a calendar year exceeds $100.

During the course of the audit, it was determined that the Committee did not maintain an adequate recordkeeping system for expenditures. The Committee's recordkeeping system for expenditures was comprised of several folders of haphazardly filed invoices, receipted bills, and contemporaneous memorada supposedly supporting reported expenditures. Also, in several cases, the Committee did not report individual expenditures, when more than one expenditure was made to a payee during a reporting period. Rather, the Committee combined all expenditures to one payee for a given reporting period and reported them as a combined total with a range of dates between which the expenditures were made. Further, the Committee, in several cases, would make cash payments for their expenditures with cash which the Committee received as contributions. The cash was never deposited into the campaign depository. However, in an attempt to get the expenditure through the campaign depository, the Committee would make a check payable to (petty) cash and deposit it into the campaign depository. Given this recordkeeping system and this method of reporting expenditures, the Audit staff was unable to trace the expenditures from the supporting documentation and cancelled checks to the disclosure reports.

In subsequent telephone conversations with the Campaign Manager of the Committee, the Audit staff attempted to arrange additional fieldwork in order to review the expenditures recordkeeping system and supporting documentation. The Campaign Manager stated that the records are in the same order as when the Audit staff reviewed them during the original fieldwork. Consequently, the Audit staff did not conduct the additional fieldwork due to the fact that the Committee made no attempt to arrange the supporting documentation in an orderly manner, as was recommended in the letter of audit findings which was received by the Committee on September 23, 1978.

Recommendation

The Audit staff recommends that this matter be referred to the Office of General Cousel for consideration as a MUR.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Frances Bordofsky, Treasurer
Hall-Tyner Election Campaign Committee
235 West 23rd Street
Room 502
New York, New York 10011

RE: MUR 1036

Dear Ms. Bordofsky:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission has found reason to believe that the Hall-Tyner Election Campaign Committee has violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). Enclosed is a Notification of Reason to Believe Findings for your committee.

We have numbered this matter MUR 1036. Please refer to this number in all future correspondence.

Under the Act, you have an opportunity to demonstrate that no action should be taken against your committee. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

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. In the absence of any information which demonstrates that no further action should be taken against your committee, the Commission may find probable cause to believe that violations have occurred, and proceed with formal conciliation. Of course, this does not preclude the settlement of this matter through informal conciliation prior to a finding of probable cause to believe if you so desire.

Ms. Frances Bordofsky, Treasurer
Page 2

This matter will remain confidential in accordance with 2 U.S.C. Sections 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the investigation to be made public.

If you have any questions, please contact Michele Brown, the staff member assigned to this matter, at 202/523-4175. For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations.

Sincerely,

Enclosures

Notification of Reason to Believe Findings
Procedures

cc: Mr. John J. Abt, Esquire

FEDERAL ELECTION COMMISSION

NOTIFICATION OF REASON TO BELIEVE FINDING

DATE ______________________ MUR NO. 1036

STAFF MEMBER(S) & TEL. NO.

Michele Brown 202/523-4175

RESPONDENT Hall-Tyner Election Campaign Committee

SOURCE OF MUR: I N T E R N A L L Y G E N E R A T E D

BACKGROUND

On March 22, 1979, the Audit Division requested that the Office of General Counsel review and analyze the interim reports of the Audit Division regarding the Hall-Tyner Election Campaign Committee, the New York Hall-Tyner Aptheker Campaign Committee, the Hall-Tyner-Flory Campaign '76 Committee, and the Hall-Tyner Election Campaign Committee of California.1/ On October 2, 1979, the Office of General Counsel made these matters into a MUR.

Audit Findings and Analysis

Hall-Tyner Election Campaign Committee

1. Through the audit of the Hall-Tyner Election Campaign Committee, the Auditors determined that 468 anonymous cash contributions in excess of $50 were accepted by the Committee. These contributions total $257,521.30 or 67.53% of the total

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1/ The Hall-Tyner Election Campaign Committee is the only committee involved in the pending lawsuit, FEC v. Hall-Tyner Election Campaign Committee, Civ. No. 78-3508 (S.D.N.Y.), filed August 1, 1978.

amount of individual contributions received by the Committee. Further, eight cash contributions in excess of $100 from contributors (who could be identified) were accepted by the Committee. The total amount of these contributions was $2,762. The Committee did file an amended report on November 13, 1978 which itemized 15 anonymous contributions totalling $9,000. These contributions, when added to the 468 anonymous contributions cited above, add up to 483 anonymous cash contributions, totalling $266,521.30, which comprise 69.89% of the total amount of individual contributions.

The Office of General Counsel is currently involved in litigation with the Hall-Tyner Election Campaign Committee for its failure to obtain the name, address, occupation and principal place of business information from those individuals contributing $50 or more (2 U.S.C. § 432(c)) and for its failure to submit in its disclosure reports this information for those individuals who, in the aggregate, contributed $100 or more (2 U.S.C. § 434(b)). Therefore, the aspect of anonymous contributions with regard to reporting is already being pursued. However, until the completion of the audit the extent of the anonymous contributions (70% of the total amount of $424,657) was unknown. Also, the Audit Division's study was completed in March 1977. Cash and/or anonymous contributions relating to the 1976 election may have been contributed since that time, thus upping the total amount.

Violations of other sections of the FECA and sections of the regulations are raised by the Audit referral. Section 441g of the Act and Section 110.4(c)(1) of the regulations prohibit contributions in currency to exceed, in the aggregate, $100. If a committee receives anonymous cash contributions in excess of $50, it must dispose of the amount over $50. It may use the excess amount in any lawful purpose unrelated to any federal election, campaign, or candidate. 11 C.F.R. §110.4(c)(3). However, for cash contributions in excess of $100, the committee should, according to § 110.4(c)(2), return to the contributor the amount over $100. Thus, for example, if a committee received $150 in cash from an anonymous contributor, $50 could be used for political purposes, $50 for office expenses, and technically $50 should be returned to the contributor. If the contributor is truly anonymous, that is, not an identifiable contributor whose identity the committee has agreed not to report, then the committee would not be able to return the excess of $100. Should this be the case, the Commission could require that the amount of money improperly held by the committee be turned over to the U.S. Treasury.

These violations are not addressed directly by the pending litigation, therefore, we are recommending that the Commission find reason to believe that the Committee violated 2 U.S.C. §441g.

2. The Auditors determined that cash contributions totalling $27,600 were not deposited into a campaign depository. $26,130.20 of these contributions were used for wire transfers and postal money orders which were sent to state agents. The difference of $1,469.80 has not been accounted for by the treasurer. The receipts and expenditures were disclosed in a report filed by the Committee.

Any contributions received by a principal campaign committee are required to be deposited into a campaign depository in accordance with 2 U.S.C. § 437b(a)(1) and 11 C.F.R. § 103.3(a). Also, expenditures made by a committee, except petty cash expenditures, shall, according to § 437b(a)(1) and § 103.3(a), be made only by checks drawn from the depository. Section 103.3(a) and Section 437b(b) go on to state that petty cash expenditures may not exceed $100 to any person in connection with a single purchase or transaction.

The Committee wrote eight checks in excess of $100, payable to cash. These checks totalled $6,671.87 and were not used to replenish petty cash. The money was used to reimburse expenses, for a transfer to a state committee and for travel advances for the vice presidential candidate.

Because expenditures can be made by a committee only by a check drawn on the campaign depository, the Committee's actions constitute a violation of 2 U.S.C. § 437b(a)(1) and 11 C.F.R. § 103.3(a).

Even if these expenditures are considered to have been made from petty cash, § 437b(b) and § 103.3(a) prohibit petty cash expenditures in excess of $100. The Committee violated these sections of the Act and the regulations by making four petty cash expenditures in excess of $100. The expenditures were for a payroll expense and for money orders to state agents, ranging from $109.20 to $180.90. It is recommended that the Commission find reason to believe that the Committee violated 2 U.S.C. §§ 437b(a)(1) and 437b(b) and 11 C.F.R. § 103.3(a) for the Committee's failure to deposit contributions into a campaign depository and by not using checks drawn on the depository to make expenditures or, if the expenditures are considered to have been made from petty cash, by making petty cash expenditures made in excess of $100.

3. The Committee failed to itemize 32 of 635 expenditures totalling $7,236.69, comprising 5% of the reported expenditures which aggregate in excess of $100. It is recommended that the Commission find reason to believe that the Committee violated 2 U.S.C. § 434(b)(9) and 11 C.F.R. § 104.6 by not providing the identification of each person to whom expenditures were made within the calendar year in an aggregate amount or value in excess of $100.

Based on the foregoing analysis, the Federal Election Commission has made the following findings:

Hall-Tyner Election Campaign Committee

1. That the Committee has violated 2 U.S.C. §441g and 11 C.F.R. §§110.4(c) (1), (2), and (3):

a) by accepting cash contributions in excess of $100;
b) by not returning the cash in excess of $100 to the contributor, and;
c) by not disposing of any amount over $50 received as an anonymous cash contribution.

2. That the Committee has violated 2 U.S.C. §437b(a)(1) and 437b(b) and 11 C.F.R. §103.3(a):

a) by failing to deposit contributions into a campaign depository;
b) by making expenditures in cash rather than with checks drawn from deposited funds, and;
c) by making petty cash expenditures in excess of $100.

3. That the Committee has violated 2 U.S.C. §434(b)(9) and 11 C.F.R. §104.6 by not providing the identification of each person to whom expenditures were made within the calendar year in an aggregate amount or value in excess of $100.

FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Gus Hall
230 Van Courtland Park Avenue
Yonkers, New York 10705

RE: MUR 1036

Dear Mr. Hall:

This is to advise you that on , 1980, the Federal Election Commission found reason to believe that your committees, the Hall-Tyner Election Campaign Committee, the New York Hall-Tyner Aptheker Campaign Committee and the Hall-Tyner-Flory Campaign '76 Committee have violated certain sections of the Federal Election Campaign Act of 1971, as amended. Enclosed is a Notification of Reason to Believe Findings for each committee.

While the Committee Treasurer is responsible for the recordkeeping and filing of reports for a committee, we believe that you, as the candidate, should be made aware of this development. A copy of our letter to your Committee Treasurer is enclosed.

Under 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A), this matter will remain confidential unless the Committee notifies the Commission in writing that it wishes the investigation to be made public.

If you have any questions, please contact Michele D. Brown, the staff member assigned to this matter at 202/523-4175. We have numbered this matter MUR 1036. For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations.

Sincerely,

Charles N. Steele
General Counsel

Enclosures

Letters to Committee Treasurers
Notifications of Reason to Believe Findings
Procedures

cc: Mr. John J. Abt, Esquire

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Jarvis Tyner
2130-4 First Avenue
New York, New York 10029

RE: MUR 1036

Dear Mr. Tyner:

This is to advise you that on , 1980, the Federal Election Commission found reason to believe that your committees, the Hall-Tyner Election Campaign Committee, the New York Hall-Tyner Aptheker Campaign Committee and the Hall-Tyner-Flory Campaign '76 Committee have violated certain sections of the Federal Election Campaign Act of 1971, as amended. Enclosed is a Notification of Reason to Believe Findings for each committee.

While the Committee Treasurer is responsible for the recordkeeping and filing of reports for a committee, we believe that you, as the candidate, should be made aware of this development. A copy of our letter to your Committee Treasurer is enclosed.

Under 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A), this matter will remain confidential unless the Committee notifies the Commission in writing that it wishes the investigation to be made public.

If you have any questions, please contact Michele D. Brown, the staff member assigned to this matter at 202/523-4175. We have numbered this matter MUR 1036. For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations.

Sincerely,

Charles N. Steele
General Counsel

Enclosures

Letters to Committee Treasurers
Notifications of Reason to Believe Findings
Procedures

cc: Mr. John J. Abt, Esquire

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Abigail Coleman, Treasurer
New York Hall-Tyner Aptneker Campaign Committee
235 West 23rd Street
Sixth Floor
New York, New York 10011

RE: MUR 1036

Dear Ms. Coleman:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission has found reason to believe that the New York Hall-Tyner Aptheker Campaign Committee has violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). Enclosed is a Notification of Reason to Believe Findings for your committee.

We have numbered this matter MUR 1036. Please refer to this number in all future correspondence.

Under the Act, you have an opportunity to demonstrate that no action should be taken against your committee. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

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. In the absence of any information which demonstrates that no further action should be taken against your committee, the Commission may find probable cause to believe that violations have occurred, and proceed with formal conciliation. Of course, this does not preclude the settlement of this matter through informal conciliation prior to a finding of probable cause to believe if you so desire.

This matter will remain confidential in accordance with 2 U.S.C. Sections 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the investigation to be made public.

If you intend to be represented by counsel in this matter, please advise the Commission by sending a letter of representation stating the name, address, and telephone number of such counsel and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

If you have any questions, please contact Michele Brown, the staff member assigned to this matter, at 202/523-4175. For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations.

Sincerely,

Enclosures

Notification of Reason to Believe Findings
Procedures

FEDERAL ELECTION COMMISSION

NOTIFICATION OF REASON TO BELIEVE FINDING

DATE ____________________

MUR NO. 1036

STAFF MEMBER(S) & TEL. NO.
Michele Brown 202/523-4175

RESPONDENT New York Hall-Tyner Aptheker Campaign Committee

SOURCE OF MUR: I N T E R N A L L Y   G E N E R A T E D

BACKGROUND

On March 22, 1979, the Audit Division requested that the Office of General Counsel review and analyze the interim reports of the Audit Division regarding the Hall-Tyner Election Campaign Committee, the New York Hall-Tyner Aptheker Campaign Committee, the Hall-Tyner-Flory Campaign '76 Committee, and the Hall-Tyner Election Campaign Committee of California. On October 2, 1979, the Office of General Counsel made the matters in to a MUR.

Audit Findings and Analysis

New York Hall-Tyner Aptheker Campaign Committee

Through the audit of the New York Hall-Tyner Aptheker Campaign Committee, the Auditors determined that 18 anonymous cash contributions in excess of $50 were accepted by the Committee. These contributions total $7,900 and represent 21.80% of the total amount of individual contributions received by the Committee. Further, 14 anonymous cash contributions in excess of $100 were received, of which 13 were itemized as anonymous. The Committee filed an amended report on December 18, 1978 in which the one previously unreported contribution of $100 was itemized as being anonymous; however, it was not reported as a cash contribution. With regard to the fact that the $100 contribution had not been reported, it is recommended that no further action be taken because the Committee filed an amended report in which the contribution was itemized as an anonymous contribution. It is recommended that the Commission find reason to believe that the New York Hall-Tyner Aptheker Campaign Committee treasurer's apparent failure to keep records of contributor's names, addresses, occupations and principal places of business and the failure to report this information of reports filed with the Commission constitute violations of 2 U.S.C. §§ 432(c)(2) and 434(b)(2) and 11 C.F.R. §§ 102.9(a) and 104.2(b)(2).

Violations of 2 U.S.C. § 441g and 11 C.F.R. § 110.4(c)(1) appear to have occurred since the Committee accepted cash contributions in excess of $100. Also, violations of §§ 110.4(c)(2) and 110.4(c)(3) could have occurred if the Committee did not return the amount in excess of $100, or if the Committee, upon receiving anonymous cash contributions in excess of $50, did not dispose of the amount over $50. The Office of General Counsel recommends that the Commission find reason to believe that violations of 2 U.S.C. § 441g and 11 C.F.R. § 110.4(c)(1), (2), and (3) have been committed by the New York Hall-Tyner Aptheker Campaign Committee.

Based on the foregoing analysis, the Federal Election Commission has made the following findings;

New York Hall-Tyner Aptheker Campaign Committee

1. That the Committee may have violated 2 U.S.C. §§ 432(c)(2) and 434(b)(2) and 11 C.F.R. §§ 102.9(a) and 104.2(b)(2) by failing to keep records of and report name, address, occupation and principal place of business information on contributors.

2. That the Committee may have violated 2 U.S.C. § 441g and 11 C.F.R. §§ 110.4(c)(1), (2) and (3):

a) by accepting cash contributions in excess of $100;
b) by not returning the cash in excess of $100 to the contributor, and;
c) by not disposing of any amount over $50 received as an anonymous cash contribution.

FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Herbert Aptheker
32 Ludlum Place
Brooklyn, New York 11225

RE: MUR 1036

Dear Mr. Aptheker:

This is to advise you that on , 1980, the Federal Election Commission found reason to believe that your committee, the New York Hall-Tyner Aptheker Campaign Committee, has violated certain sections of the Federal Election Campaign Act of 1971, as amended. Enclosed is a Notification of Reason to Believe Findings.

While the Committee Treasurer is responsible for the recordkeeping and filing of reports for a committee, we believe that you, as the candidate, should be made aware of this development. A copy of our letter to your Committee Treasurer is enclosed.

Under 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A), this matter will remain confidential unless the Committee notifies the Commission in writing that it wishes the investigation to be made public.

If you have any questions, please contact Michele D. Brown, the staff member assigned to this matter at 202/523-4175. We have numbered this matter MUR 1036. For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations.

Sincerely,

Charles N. Steele
General Counsel

Enclosures

Letter to Committee Treasurer
Notification of Reason to Believe Findings
Procedures

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Ben Green, Treasurer
Hall-Tyner-Flory Campaign '76 Committee
27 E. Monroe Street
Chicago, Illinois 60603

RE: MUR 1036

Dear Mr. Green:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission has found reason to believe that the Hall-Tyner-Flory Campaign '76 Committee has violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). Enclosed is a Notification of Reason to Believe Findings for your committee.

We have numbered this matter MUR 1036. Please refer to this number in all future correspondence.

Under the Act, you have an opportunity to demonstrate that no action should be taken against your committee. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

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. In the absence of any information which demonstrates that no further action should be taken against your committee, the Commission may find probable cause to believe that violations have occurred, and proceed with formal conciliation. Of course, this does not preclude the settlement of this matter through informal conciliation prior to a finding of probable cause to believe if you so desire.

Mr. Ben Green, Treasurer
Page 2

This matter will remain confidential in accordance with 2 U.S.C. Sections 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the investigation to be made public.

If you intend to be represented by counsel in this matter, please advise the Commission by sending a letter of representation stating the name, address, and telephone number of such counsel and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

If you have any questions, please contact Michele Brown, the staff member assigned to this matter, at 202/523-4175. For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations.

Sincerely,

Enclosures

Notification of Reason to Believe Findings
Procedures

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FEDERAL ELECTION COMMISSION

NOTIFICATION OF REASON TO BELIEVE FINDING

DATE ____________________

MUR NO. 1036

STAFF MEMBER(S) & TEL. NO.

Michele Brown 202/523-4175

RESPONDENT Hall-Tyner-Flory Campaign '76

SOURCE OF MUR: I N T E R N A L L Y G E N E R A T E D

BACKGROUND

On March 22, 1979, the Audit Division requested that the Office of General Counsel review and analyze the interim reports of the Audit Division regarding the Hall-Tyner Election Campaign Committee, the New York Hall-Tyner Aptheker Campaign Committee, the Hall-Tyner-Flory Campaign '76 Committee, and the Hall-Tyner Election Campaign Committee of California. On October 2, 1979, the Office of General Counsel made these matters into a MUR.

Audit Findings and Analysis

Hall-Tyner-Flory Campaign '76

1. Through the audit of the Hall-Tyner-Flory Campaign '76 Committee, the Auditors determined that anonymous contributions totalling $6,699.17 were accepted and reported by the Campaign '76 Committee. This is 28.99% of the total amount of individual contributions. Because of the recordkeeping system of the Campaign Committee, the Auditors could not determine the amount of anonymous cash contributions per contributor received in excess of $50.

A schedule of all contributions in excess of $100 was filed by the Campaign '76 Committee on November 29, 1978 for the period of the audit. Ten additional anonymous contributions were itemized totalling $1,262.00.1/ These additional contributions increase the total of anonymous contributions to $7,961.17, 34.45% of the total

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1/ Of the ten (10) anonymous contributions disclosed on this schedule, seven (7) were found to be identified on the contributor records during the audit fieldwork.

amount of individual contributions. It is recommended that the Commission find reason to believe that the Hall-Tyner-Flory Campaign '76 Committee violated 2 U.S.C. §§ 432(c)(2) and 434(b)(2) and 11 C.F.R §§ 102.9(a) and 104.2(b)(2).

It appears that violations of 2 U.S.C. § 441g and 11 C.F.R. §§ 110.4(c)(1), (2), and (3) have occurred because cash contributions were received by the Campaign '76 Committee, although the Auditors were not able to determine the amount of anonymous cash contributions per contributor. It is recommended that the Commission find reason to believe that the Hall-Tyner-Flory Campaign '76 Committee has violated 2 U.S.C. § 441g and 11 C.F.R. §§ 110.4(c)(1), (2), and (3).

2. Twenty-five contributions were not itemized on reports filed by the Campaign '76 Committee. The total of these contributions was $3,264.15, 10.86% of the total amount of contributions received by the Committee during the period focused on by the audit. The Campaign '76 Committee filed an amended report on November 29, 1978 in which ten of the 25 contributions were itemized as anonymous. The remaining eight contributions, which aggregate in excess of $100, were not itemized on the amended report. These total $536.04 and represent 1.78% of the total amount of contributions received by the Campaign '76 Committee during the period of the audit.

Because the Hall-Tyner-Flory Campaign '76 Committee filed an amended report, the Office of General Counsel recommends that no further action be taken against the Committee with respect to these violations.

3. Several violations of 2 U.S.C. § 437b appear to have been committed by the Hall-Tyner-Flory Campaign '76 Committee. The Campaign '76 Committee failed to deposit contributions received into the campaign depository. Also, expenditures were made in cash from contributions received rather than by a check drawn from deposited funds and these cash expenditures exceed the $100 limit on expenditures from the petty cash fund. It is recommended that the Commission find reason to believe that the Hall-Tyner-Flory Campaign '76 Committee violated 2 U.S.C. § 437b and 11 C.F.R. § 103.3(a).

The treasurer of a political committee is required, under 2 U.S.C. § 432(c)(3) and (4) and 11 C.F.R. § 102.9(b) and (c), to keep a detailed and exact account of all expenditures made by or for such committee and the identification of every person to whom any expenditure is made, including the date and amount of the expenditure. In addition, 2 U.S.C. § 432(d) requires that the treasurer obtain and keep a receipted bill, stating the particulars, for every expenditure made in excess of $100 in amount, and for any expenditure made in a lesser amount, if the aggregate amount of such expenditures to the same person during a calendar year exceeds $100.

It is the opinion of the Auditors that the Campaign '76 Committee's recordkeeping system of folders containing haphazardly filed invoices, receipted bills and contemporaneous memoranda does not comply with the requirements of 2 U.S.C. §§ 432(c)(3) and (4) and 432(d). It is recommended that the Commission find reason to believe that the Hall-Tyner-Flory Campaign '76 Committee violated 2 U.S.C. § 432(c)(3) and (4) and 432(d) and 11 C.F.R. §§ 102.9(b) and (c).

Under 2 U.S.C. § 434(b)(9), a committee must report the identification of each person to whom an expenditure is made in an aggregate amount in excess of $100 along with the amount, date, and purpose of each expenditure and the name and address of, and the office sought by, each candidate on whose behalf an expenditure is made. The Campaign '76 Committee's practice of combining all expenditures to one payee and reporting one total along with several dates rather than individually reporting each contribution would constitute a violation of 2 U.S.C. § 434(b)(9).

Based on the foregoing analysis, the Federal Election Commission has made the following findings:

Hall-Tyner-Flory Campaign '76

1. That the Committee has violated 2 U.S.C. §§ 432(c)(2) and 434(b)(2) and 11 C.F.R. §§ 102.9(a) and 104.2(b)(2) by failing to keep records of and report name, address, occupation and principal place of business information on contributors.

2. That the Committee has violated 2 U.S.C. § 441g and 11 C.F.R. §§ 110.4(c)(1), (2) and (3):

a) by accepting cash contributions in excess of $100;
b) by not returning the cash in excess of $100 to the contributor, and;
c) by not disposing of any amount over $50 received as an anonymous cash contribution.

3. That no further action be taken with regard to the Committee's failure to itemize 25 contributions on its reports because of the filing of an amended report by the Committee.

4. That the Committee has violated 2 U.S.C. § 437b(a)(1) and 437b(b) and 11 C.F.R. § 103.3(a):

- a) by failing to deposit contributions into a campaign depository;
- b) by making expenditures in cash rather than with checks drawn from deposited funds, and;
- c) by making petty cash expenditures in excess of $100.

5. That the Committee has violated 2 U.S.C. §§ 432(c)(3) and (4) and 432(d) and 11 C.F.R. §§ 102.9(b) and (c):

- a) by failing to keep a detailed and exact account of all expenditures made by or for such committee and the identification of every person to whom any expenditure is made, including the date and amount of the expenditure, and;
- b) by the treasurer's failure to obtain and keep a receipted bill, stating the particulars, for every expenditure made in excess of $100 in amount, and for any expenditure in a lesser amount, if the aggregate amount of such expenditures to the same person during a calendar year exceeds $100.

6. That the Committee has violated 2 U.S.C. § 434(b)(9) and 11 C.F.R. § 104.2(b)(9) by failing to report the particulars for each expenditure made.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 2046 [redacted]

Official Business
Penalty for Private Use $300 [redacted]

YN, NY
OCT 17
1980

LEFFERTS STA

Mr. Herbert Aptheker
32 Ludlam Place
Brooklyn, N.Y. 11225

UNCLAIMED

CERTIFIED

946346

Received 10-20-80

21 October 1980

Memorandum

To: The File

From: Michele Brown

We sent a letter to Herbert Aptheker enclosing a copy of the Commission's reason to believe notification to the New York Hall-Tyner Aptheker Campaign Committee. Mr. Aptheker's letter has been returned to the Commission because it was not claimed. The New York Committee has received its letter. We will re-send this letter to Mr. Aptheker by regular mail.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 29, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John J. Abt
Attorney at Law
299 Broadway
New York, New York 10007

RE: MUR 1036

Dear Mr. Abt:

Copies of the Commission's reason to believe notifications for the authorized committees of Gus Hall and Jarvis Tyner, the New York Hall-Tyner Aptheker Campaign Committee and the Hall-Tyner-Flory Campaign '76 Committee are enclosed. We understand that you, as counsel for the principal campaign committee, Hall-Tyner Election Campaign Committee, are requesting these and that you will be representing all of the authorized committees.

Sincerely,

Charles N. Steele

SENDER: Complete items 1, 2, and 3. Add your address in the "RETURN TO" space on reverse.

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 J. Abt

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

5. ADDRESS (Complete only if requested)

RECEIVED

PS Form 3811, Aug. 1978

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

8304040817

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 12, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Frances Bordofsky, Treasurer
Hall-Tyner Election Campaign Committee
235 West 23rd Street
Room 502
New York, New York 10011

RE: MUR 1036

Dear Ms. Bordofsky:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission has found reason to believe that the Hall-Tyner Election Campaign Committee has violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). Enclosed is a Notification of Reason to Believe Findings for your committee.

We have numbered this matter MUR 1036. Please refer to this number in all future correspondence.

Under the Act, you have an opportunity to demonstrate that no action should be taken against your committee. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

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. In the absence of any information which demonstrates that no further action should be taken against your committee, the Commission may find probable cause to believe that violations have occurred, and proceed with formal conciliation. Of course, this does not preclude the settlement of this matter through informal conciliation prior to a finding of probable cause to believe if you so desire.

Ms. Frances Bordofsky, Treasurer
Page 2

This matter will remain confidential in accordance with 2 U.S.C. Sections 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the investigation to be made public.

If you have any questions, please contact Michele Brown, the staff member assigned to this matter, at 202/523-4175. For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations.

Sincerely,

Max L. Friedersdorf

Max L. Friedersdorf
Chairman

Enclosures

Notification of Reason to Believe Findings
Procedures

cc: Mr. John J. Abt, Esquire


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:
Frances Bordofsky
3. ARTICLE DESCRIPTION:
REGISTERED NO. CERTIFIED NO. 976342 INSURED NO.
(Always obtain signature of addressee or agent)
I have received the article described above.
SIGNATURE □ Addressee □ Authorized agent
4. DATE OF DELIVERY
5. ADDRESS (Complete only if requested)
6. UNABLE TO DELIVER BECAUSE:
CLERK'S INITIALS
RECEIVED
SEP 22 P3:5
NEW YORK
RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

33040400819

33040400810

PS Form 3811, Aug. 1978

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

● SENDER: Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).

- ☐ Show to whom and date delivered .... ¢
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  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 J. Abt,
299 Broadway
New York, New York 10007

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	946343	

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent

4. DATE OF DELIVERY [illegible]

POSTMARK: CHURCH ST. STA. SEP 16 1980 10007

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIALS

☆ GPO: 1978-272-382

MUR 1036 - M. Brown

FEDERAL ELECTION COMMISSION

NOTIFICATION OF REASON TO BELIEVE FINDING

DATE September 12, 1980 MUR NO. 1036

RESPONDENT Hall-Tyner Election Campaign Committee

STAFF MEMBER(S) & TEL. NO. Michele Brown 202/523-4175

SOURCE OF MUR: I N T E R N A L L Y G E N E R A T E D

BACKGROUND

On March 22, 1979, the Audit Division requested that the Office of General Counsel review and analyze the interim reports of the Audit Division regarding the Hall-Tyner Election Campaign Committee, the New York Hall-Tyner Aptheker Campaign Committee, the Hall-Tyner-Flory Campaign '76 Committee, and the Hall-Tyner Election Campaign Committee of California.1/ On October 2, 1979, the Office of General Counsel made these matters into a MUR.

Audit Findings and Analysis

Hall-Tyner Election Campaign Committee

1. Through the audit of the Hall-Tyner Election Campaign Committee, the Auditors determined that 468 anonymous cash contributions in excess of $50 were accepted by the Committee. These contributions total $257,521.30 or 67.53% of the total amount of individual contributions received by the Committee. Further, eight cash contributions in excess of $100 from contributors (who could be identified) were accepted by the Committee. The total amount of these contributions was $2,762. The Committee filed an amendment to its reports on November 13, 1978 which itemized 15 anonymous contributions totalling $9,000. These contributions when added to the 468 anonymous contributions cited above, add up to 483 anonymous cash contributions, totalling $266,521.30, and comprise 69.89% of the total amount of individual contributions.

The Office of General Counsel is currently involved in litigation with the Hall-Tyner Election Campaign Committee for its failure to obtain name, address, occupation and principal place of business information from those individuals contributing

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1/ The Hall-Tyner Election Campaign Committee is the only committee involved in the pending lawsuit, FEC v. Hall-Tyner Election Campaign Committee, Civ. No. 78-3508 (S.D.N.Y.), filed August 1, 1978.

$50 or more (2 U.S.C. § 432(c)) and for its failure to submit in disclosure reports this information for those individuals who, in the aggregate, contributed $100 or more (2 U.S.C. § 434(b)). Therefore, the aspect of anonymous contributions with regard to reporting is already being pursued. However, until the completion of the audit the extent of the anonymous contributions (70% of the total amount of $424,657) was unknown. Also, the Audit Division's study was completed in March 1977. Cash and/or anonymous contributions relating to the 1976 election may have been contributed since that time, thus upping the total amount.

Section 441g prohibits a person from making contributions in cash to any candidate's campaign which, in the aggregate, exceed $100. In this case, however, if the contributor is truly anonymous, that is, not an identifiable contributor whose identity the Committee has agreed not to report, the Commission cannot enforce section 441g against the contributor because we do not know their identities. This section does not prohibit a committee from receiving a cash contribution in excess of $100; therefore, the only possible respondents in violation of this section would be the anonymous contributors. Again, the issue of anonymous contributions with regard to reporting is being addressed in the current litigation. We recommend that the Commission take no further action at this time regarding the cash contributions.

2. The Auditors determined that cash contributions totalling $27,600 were not deposited into a campaign depository. $26,130.20 of these contributions were used for wire transfers and postal money orders which were sent to state agents. The difference of $1,469.80 has not been accounted for by the treasurer. The receipts and expenditures were disclosed in a report filed by the Committee.

Any contributions received by a principal campaign committee are required to be deposited into a campaign depository in accordance with 2 U.S.C. § 437b(a)(1). Also, expenditures made by a committee, except petty cash expenditures, shall, according to § 437b(a)(1), be made only by checks drawn from the depository. Section 437b(b) goes on to state that petty cash expenditures may not exceed $100 to any person in connection with a single purchase or transaction.

The Committee wrote eight checks in excess of $100, payable to cash. These checks totalled $6,671.87 and were not used to reimburse petty cash. The money was used to reimburse expenses, for a transfer to a state committee and for travel advances for the vice presidential candidate.

Because expenditures can be made by a committee only by a check drawn on the campaign depository, the Committee's actions constitute a violation of 2 U.S.C. § 437b(a)(1).

Even if these expenditures are considered to have been made from petty cash, § 437b(b) prohibits petty cash expenditures in excess of $100. The Committee violated this section of the Act by making four petty cash expenditures in excess of $100. The expenditures were for a payroll expense and for money orders to state agents, ranging from $109.20 to $180.90. It is recommended that the Commission find reason to believe that the Committee violated 2 U.S.C. §§ 437b(a)(1) and 437b(b) for the Committee's failure to deposit contributions into a campaign depository and for its failure to use checks drawn on the depository to make expenditures, or, if the expenditures are considered to have been made from petty cash, for making petty cash expenditures in excess of $100.

3. The Committee failed to itemize 32 of 635 expenditures totalling $7,236.69, comprising 5% of the reported expenditures which aggregate in excess of $100. It is recommended that the Commission find reason to believe that the Committee violated 2 U.S.C. § 434(b)(9) by not providing the identification of each person to whom expenditures were made within the calendar year in an aggregate amount or value in excess of $100.

Based on the foregoing analysis, the Federal Election Commission has made the following findings:

1. That no further action be taken at this time regarding the Committee's contributors' possible violations of 2 U.S.C. § 441g.

2. That the Committee has violated 2 U.S.C. § 437b(a)(1) and § 437b(b):

a) by failing to deposit contributions into a campaign depository;
b) by making expenditures in cash rather than with checks drawn from deposited funds; and,
c) by making petty cash expenditures in excess of $100.

3. That the Committee has violated 2 U.S.C. § 434(b)(9) by not providing the identification of each person to whom expenditures were made within the calendar year in an aggregate amount or value in excess of $100.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 12, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Gus Hall
230 Van Courtlandt Park Avenue
Yonkers, New York 10705

RE: MUR 1036

Dear Mr. Hall:

This is to advise you that on September 3, 1980, the Federal Election Commission found reason to believe that your committees, the Hall-Tyner Election Campaign Committee, the New York Hall-Tyner Aptheker Campaign Committee and the Hall-Tyner-Flory Campaign '76 Committee have violated certain sections of the Federal Election Campaign Act of 1971, as amended. Enclosed is a Notification of Reason to Believe Findings for each committee.

While the Committee Treasurer is responsible for the recordkeeping and filing of reports for a committee, we believe that you, as the candidate, should be made aware of this development. A copy of our letter to your Committee Treasurer is enclosed.

Under 2 U.S.C. §437g(a)(4)(B) and §437g(a)(12)(A), this matter will remain confidential unless the Committee notifies the Commission in writing that it wishes the investigation to be made public.

If you have any questions, please contact Michele D. Brown, the staff member assigned to this matter at 202/523-4175. We have numbered this matter MUR 1036. For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations.

Sincerely,

Charles N. Steele
General Counsel

Enclosures
Letter to Committee Treasurer
Notification of Reason to Believe Findings
Procedures

cc: Mr. John J. Abt, Esquire

83040408

PS Form 3811, Aug. 1978

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

● SENDER: Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).
   - [ ] Show to whom and date delivered .... ¢
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     Show to whom and date delivered .... ¢
   - [ ] RESTRICTED DELIVERY.
     Show to whom, date, and address of delivery . $

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:

Gus Hall

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	9465340	

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE [x] Addressee [ ] Authorized agent

X Gus Hall

4. DATE OF DELIVERY 9-16-80 POSTMARK

YONKERS, NY SOUTH STA. SEP 16 1980 USPO

CLERK'S INITIALS

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

GPO: 1979-272-382

NUK 1036 - M. Brown

33040008

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Gus Hall
230 Van Courtlandt Park Avenue
Yonkers, New York 10705

RE: MUR 1036

Dear Mr. Hall:

This is to advise you that on September 3, 1980, the Federal Election Commission found reason to believe that your committees, the Hall-Tyner Election Campaign Committee, the New York Hall-Tyner Aptheker Campaign Committee and the Hall-Tyner-Flory Campaign '76 Committee have violated certain sections of the Federal Election Campaign Act of 1971, as amended. Enclosed is a Notification of Reason to Believe Findings for each committee.

While the Committee Treasurer is responsible for the recordkeeping and filing of reports for a committee, we believe that you, as the candidate, should be made aware of this development. A copy of our letter to your Committee Treasurer is enclosed.

Under 2 U.S.C. §437g(a)(4)(B) and §437g(a)(12)(A), this matter will remain confidential unless the Committee notifies the Commission in writing that it wishes the investigation to be made public.

If you have any questions, please contact Michele D. Brown, the staff member assigned to this matter at 202/523-4175. We have numbered this matter MUR 1036. For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations.

Sincerely,

Charles N. Steele
General Counsel

Enclosures
- Letter to Committee Treasurer
- Notification of Reason to Believe Findings
- Procedures

cc: Mr. John J. Abt, Esquire

nb 9/11/80

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 12, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Jarvis Tyner
2130-4 First Avenue
New York, New York 10029

RE: MUR 1036

Dear Mr. Tyner:

This is to advise you that on September 3, 1980, the Federal Election Commission found reason to believe that your committees, the Hall-Tyner Election Campaign Committee, the New York Hall-Tyner Aptheker Campaign Committee and the Hall-Tyner-Flory Campaign '76 Committee have violated certain sections of the Federal Election Campaign Act of 1971, as amended. Enclosed is a Notification of Reason to Believe Findings for each committee.

While the Committee Treasurer is responsible for the recordkeeping and filing of reports for a committee, we believe that you, as the candidate, should be made aware of this development. A copy of our letter to your Committee Treasurer is enclosed.

Under 2 U.S.C. §437g(a)(4)(B) and §437g(a)(12)(A), this matter will remain confidential unless the Committee notifies the Commission in writing that it wishes the investigation to be made public.

If you have any questions, please contact Michele D. Brown, the staff member assigned to this matter at 202/523-4175. We have numbered this matter MUR 1036. For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations.

Sincerely,

Charles N. Steele
General Counsel

Enclosures
Letter to Committee Treasurer
Notification of Reason to Believe Findings
Procedures

cc: Mr. John J. Abt, Esquire

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

RETURN TO SENDER

☐ Moved, left no address
☐ No such number
☐ Moved, not forwardable
☐ Address unknown

NEW YORK, N.Y. 100[illegible]

POSTAGE AND FEES PAID

Ja[illegible] Tyner
2130-[illegible] First Avenue
New York, N.Y. 10029

Moved not forwardable

Received 9-24-80

AMERICAN REVOLUTION BICENTENNIAL 1776-1976

CERTIFIED

945341

8304040

33J 040008 9

(CONSULT

4.

DATE OF DELIVERY

POSTMARK

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIALS

AND CERTIFIED MAIL

☆ GPO: 1976-272-382

Jerri T

Mtlz 1036 - M. Brown

9/25/80

Memorandum

To: The File

From: Michele Brown

The letter to Jarvis Tyner, the Vice Presidential candidate of the Communist Party in 1976, was returned to the Commission because Mr. Tyner moved and the post office was not able to forward the letter. It is not necessary to re-mail the letter because we were just sending copies to the candidate of the reason to believe letters to the treasurers of the authorized committees of Gus Hall and Jarvis Tyner.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Jarvis Tyner
2130-4 First Avenue
New York, New York 10029

RE: MUR 1036

Dear Mr. Tyner:

This is to advise you that on September 3, 1980, the Federal Election Commission found reason to believe that your committees, the Hall-Tyner Election Campaign Committee, the New York Hall-Tyner Aptheker Campaign Committee and the Hall-Tyner-Flory Campaign '76 Committee have violated certain sections of the Federal Election Campaign Act of 1971, as amended. Enclosed is a Notification of Reason to Believe Findings for each committee.

While the Committee Treasurer is responsible for the recordkeeping and filing of reports for a committee, we believe that you, as the candidate, should be made aware of this development. A copy of our letter to your Committee Treasurer is enclosed.

Under 2 U.S.C. §437g(a)(4)(B) and §437g(a)(12)(A), this matter will remain confidential unless the Committee notifies the Commission in writing that it wishes the investigation to be made public.

If you have any questions, please contact Michele D. Brown, the staff member assigned to this matter at 202/523-4175. We have numbered this matter MUR 1036. For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations.

Sincerely,

Charles N. Steele
General Counsel

Enclosures
Letter to Committee Treasurer
Notification of Reason to Believe Findings
Procedures

cc: Mr. John J. Abt, Esquire

wf 9/11/80

8304040831

83040400832

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Official Business
Penalty for Private Use $300

RETURNED TO SENDER
ATTEMPTED - NOT KNOWN

POSTAGE AND FEES PAID
U.S. MAIL

Mr. Ben Green, Treasurer
Hall-Tyler-Flory Campaign '76
27 E. Monroe Street
Chicago, Illinois 60603

Received 9-24-80

CERTIFIED
946344

83040400835

[redacted]

Memorandum

To: The File

From: Michele Brown

The reason to believe letter and notification for the Hall-Tyner-Flory Campaign '76 Committee were returned to the Commission. because the committee had moved. I have obtained a new address for the treasurer and the letter and notification will be re-mailed.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 12, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Ben Green, Treasurer
Hall-Tyner-Flory Campaign '76 Committee
27 E. Monroe Street
Chicago, Illinois 60603

RE: MUR 1036

Dear Mr. Green:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission has found reason to believe that the Hall-Tyner-Flory Campaign '76 Committee has violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). Enclosed is a Notification of Reason to Believe Findings for your committee.

We have numbered this matter MUR 1036. Please refer to this number in all future correspondence.

Under the Act, you have an opportunity to demonstrate that no action should be taken against your committee. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

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. In the absence of any information which demonstrates that no further action should be taken against your committee, the Commission may find probable cause to believe that violations have occurred, and proceed with formal conciliation. Of course, this does not preclude the settlement of this matter through informal conciliation prior to a finding of probable cause to believe if you so desire.

8304040083

Mr. Ben Green, Treasurer
Page 2

This matter will remain confidential in accordance with 2 U.S.C. Sections 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the investigation to be made public.

If you intend to be represented by counsel in this matter, please advise the Commission by sending a letter of representation stating the name, address, and telephone number of such counsel and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

If you have any questions, please contact Michele Brown, the staff member assigned to this matter, at 202/523-4175. For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations.

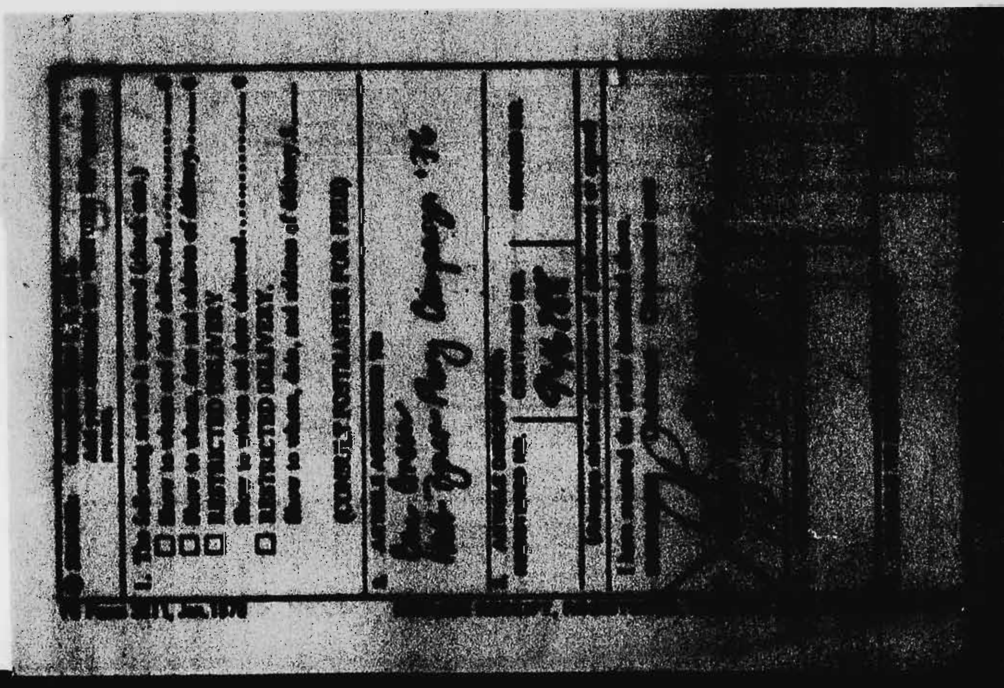
Sincerely,

Max L. Friedersdorf

Max L. Friedersdorf
Chairman

Enclosures

Notification of Reason to Believe Findings
Procedures



PS Form 3811, Jan. 1979 RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

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Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one.)
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- ☐ 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:
Ben Green

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	438417	

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐Addressee ☐Authorized agent

4. [illegible signature]
DATE OF DELIVERY JUN 23 1981 6-22 POSTMARK
[stamp: ... LOOP STA. JUN 23 ... USPO]

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE: CLERK'S INITIALS

★GPO : 1979-[illegible]

1036 Brown

330400337

FEDERAL ELECTION COMMISSION

NOTIFICATION OF REASON TO BELIEVE FINDING

DATE September 12, 1980 MUR NO. 1036

RESPONDENT Hall-Tyner-Flory Campaign '76

STAFF MEMBER(S) & TEL. NO. Michele Brown 202/523-4175

SOURCE OF MUR: I N T E R N A L L Y G E N E R A T E D

BACKGROUND

On March 22, 1979, the Audit Division requested that the Office of General Counsel review and analyze the interim reports of the Audit Division regarding the Hall-Tyner Election Campaign Committee, the New York Hall-Tyner Aptheker Campaign Committee, the Hall-Tyner-Flory Campaign '76 Committee, and the Hall-Tyner Election Campaign Committee of California. On October 2, 1979, the Office of General Counsel made these matters into a MUR.

Audit Findings and Analysis

Hall-Tyner-Flory Campaign '76

1. Through the audit of the Hall-Tyner-Flory Campaign '76 Committee, the Auditors determined that anonymous contributions totalling $6,699.71 were accepted and reported by the Campaign '76 Committee. This is 28.99% of the total amount of individual contributions. Because of the recordkeeping system of the Campaign '76 Committee, the Auditors could not determine the amount of anonymous cash contributions per contributor received in excess of $50.

A schedule of all contributions in excess of $100 was filed by the Campaign '76 Committee on November 29, 1978 for the period of the audit. Ten additional anonymous contributions were itemized totalling $1,262.00.1/ These additional contributions increase the total amount of individual contributions to $7,961.17, 34.45% of the total amount of individual contributions. It is recommended that the Commission find reason to believe that Ben Green, treasurer of the Committee, violated 2 U.S.C. § 432(c)(2) by his apparent failure to keep records of contributors' names, addresses, occupations and principal places of business, and that the Hall-Tyner-

1/ Of the ten (10) anonymous contributions disclosed on this schedule, seven (7) were found to be identified on the contributor records during the audit fieldwork.

Flory Campaign '76 Committee violated 2 U.S.C. § 434(b)(2) by failing to report contributor information on reports filed with the Commission.

Section 441g prohibits a person from making contributions in cash to any candidate's campaign which, in the aggregate, exceed $100. In this case, Campaign '76 Committee's records do identify the identity of seven out of the ten "anonymous" contributions disclosed on the report schedule. However, the Auditors could not determine the amount of anonymous cash contributions per contributor in excess of $50. Therefore, even if the Commission could obtain the names and addresses of the seven "anonymous" contributors, we would probably not be able to determine which contributors, if any, contributed cash in excess of $100. The Office of General Counsel recommends that the Commission take no further action at this time regarding any possible violations of 2 U.S.C. § 441g.

2. Twenty-five contributions were not itemized on reports filed by the Campaign '76 Committee. The total of these contributions was $3,264.15, 10.86% of the total amount of contributions received by the Committee focused on by the audit. The Campaign '76 Committee filed a report amendment on November 29, 1978 in which ten of the 25 contributions were itemized an anonymous. The remaining eight contributions, which aggregate in excess of $100, were not itemized on the amended report. These total $536.04 and represent 1.78% of the total amount of contributions received by the Campaign '76 Committee during the period of the audit.

Because the Hall-Tyner-Flory Campaign '76 Committee filed a report amendment, the Office of General Counsel recommends that no further action be taken against the Committee with respect to these violations.

3. Several violations of 2 U.S.C § 437b appear to have been committed by the Hall-Tyner-Flory Campaign '76 Committee. The Campaign '76 Committee failed to deposit contributions received into a campaign depository. Also, expenditures were made in cash from contributions received rather than by a check drawn from deposited funds and these cash expenditures exceed the $100 limit on expenditures from the petty cash fund. It is recommended that the Commission find reason to believe that the Hall-Tyner-Flory Campaign '76 Committee violated 2 U.S.C. §§ 437b(a)(1) and 437b(b).

The treasurer of a political committee is required, under 2 U.S.C. § 432(c)(3) and (4), to keep a detailed and exact account of all expenditures made by or for such committee and the identification of every person to whom any expenditure is made, including the date and amount of the expenditure. In addition, 2 U.S.C. § 432(d) requires that the treasurer obtain and keep a receipted bill, stating the particulars, for every expenditure made in excess of $100 in amount, and for any expenditure made in a lesser amount, if the aggregate amount of such expenditures to the same person during a calendar year exceeds $100.

It is the opinion of the Auditors that the Campaign '76 Committee's recordkeeping system of folders containing haphazardly filed invoices, receipted bills and contemporaneous memoranda does not comply with the requirements of 2 U.S.C. §§ 432(c)(3) and (4) and 432(d). It is recommended that the Commission find reason to believe that Ben Green, Treasurer, and Hall-Tyner-Flory Campaign '76 violated 2 U.S.C. §§ 432(c)(3) and (4) and 432(d).

Under 2 U.S.C. § 434(b)(9), a committee must report the identification of each person to whom an expenditure is made in an aggregate amount in excess of $100 along with the amount, date, and purpose of each expenditure and the name and address of, and office sought by, each candidate on whose behalf an expenditure is made. The Campaign '76 Committee's practice of combining all expenditures to one payee and reporting one total along with several dates rather than individually reporting each contribution would constitute a violation of 2 U.S.C. § 434(b)(9).

Based on the foregoing analysis, the Federal Election Commission has made the following findings:

Hall-Tyner-Flory Campaign '76

1. That Ben Green, Treasurer, has violated 2 U.S.C. § 432(c)(2) by failing to keep records of contributors' names, addresses, occupations and principal places of business and that Hall-Tyner-Flory Campaign '76 violated 2 U.S.C. § 434(b)(2) by failing to report this information.

2. That no further action be taken at this time regarding the Committee's contributors' possible violations of 2 U.S.C. § 441g.

3. That no further action be taken with regard to the Committee's failure to itemize 25 contributions on its reports because of the filing of a report amendment by the Committee.

4. That the Committee has violated 2 U.S.C. §§ 437b(a)(1) and 437b(b):

- a) by failing to deposit contributions into a campaign depository;
- b) by making expenditures in cash rather than with checks drawn from deposited funds; and,
- c) by making petty cash expenditures in excess of $100.

5. That Ben Green, Treasurer, and the Committee violated 2 U.S.C. §§ 432(c)(3) and (4) and 432(d):

- a) by failing to keep detailed and exact account of all expenditures made by or for such committee and the identification of every person to whom any expenditure is made, including the date and amount of the expenditure; and,

b) by the treasurer's failure to obtain and keep a receipted bill, stating the particulars, for every expenditure made in excess of $100 in amount, and for any expenditure in a lesser amount, if the aggregate amount of such expenditures to the same person during a calendar year exceeds $100.

6. That the Committee has violated 2 U.S.C. § 434(b)(9) by failing to report the particulars for each expenditure made.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 12, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Abigail Coleman, Treasurer
New York Hall-Tyner Aptheker Campaign Committee
235 West 23rd Street
Sixth Floor
New York, New York 10011

RE: MUR 1036

Dear Ms. Coleman:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission has found reason to believe that the New York Hall-Tyner Aptheker Campaign Committee has violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). Enclosed is a Notification of Reason to Believe Findings for your committee.

We have numbered this matter MUR 1036. Please refer to this number in all future correspondence.

Under the Act, you have an opportunity to demonstrate that no action should be taken against your committee. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

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. In the absence of any information which demonstrates that no further action should be taken against your committee, the Commission may find probable cause to believe that violations have occurred, and proceed with formal conciliation. Of course, this does not preclude the settlement of this matter through informal conciliation prior to a finding of probable cause to believe if you so desire.

Ms. Abigail Coleman, Treasurer
Page 2

This matter will remain confidential in accordance with 2 U.S.C. Sections 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the investigation to be made public.

If you intend to be represented by counsel in this matter, please advise the Commission by sending a letter of representation stating the name, address, and telephone number of such counsel and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

If you have any questions, please contact Michele Brown, the staff member assigned to this matter, at 202/523-4175. For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations.

Sincerely,

Max L. Friedersdorf
Chairman

Enclosures

Notification of Reason to Believe Findings
Procedures

8304040084

FEDERAL ELECTION COMMISSION

NOTIFICATION OF REASON TO BELIEVE FINDING

DATE September 12, 1980 MUR NO. 1036

RESPONDENT New York Hall-Tyner Aptheker Campaign Committee

STAFF MEMBER(S) & TEL. NO. Michele Brown 202/523-4175

SOURCE OF MUR: INTERNALLY GENERATED

BACKGROUND

On March 22, 1979, the Audit Division requested that the Office of General Counsel review and analyze the interim reports of the Audit Division regarding the Hall-Tyner Election Campaign Committee, the New York Hall-Tyner Aptheker Campaign Committee, the Hall-Tyner-Flory Campaign '76 Committee, and the Hall-Tyner Election Campaign Committee of California. On October 2, 1979, the Office of General Counsel made these matters into a MUR.

Audit Findings and Analysis

New York Hall-Tyner Aptheker Campaign Committee

Through the audit of the New York Hall-Tyner Aptheker Campaign Committee, the Auditors determined that 18 anonymous cash contributions in excess of $50 were accepted by the Committee. These contributions total $7,900 and represent 21.80% of the total amount of individual contributions received by the Committee. Further, 14 anonymous cash contributions in excess of $100 were received, of which 13 were itemized as anonymous. The Committee filed a report amendment on December 18, 1978 in which the one previously unreported contribution of $100 was itemized as being anonymous; however, it was not reported as a cash contribution. With regard to the fact that the $100 contribution had not been reported, it is recommended that no further action be taken because the Committee filed a report amendment in which the contribution was itemized as an anonymous contribution. It is recommended that the Commission find reason to believe that Abigail Colman, treasurer of the Committee, violated 2 U.S.C. § 432(c)(2) by her apparent failure to keep records of contributors' names, addresses, occupations and principal places of business, and that the Committee violated 2 U.S.C. § 434(b)(2) by failing to report contributor information on reports filed with the Commission.

Section 441g prohibits a person from making contributions to any candidate's campaign in cash which, in the aggregate, exceed $100. In this case, however, if the contributors are truly anonymous, the Commission cannot enforce section 441g against them. This section does not prohibit a committee from receiving a cash contribution, therefore, the only possible respondents in violation of this section would be the anonymous contributors. The Office of General Counsel recommends that the Commission take no further action at this time regarding the issue of cash contributions.

Based on the foregoing analysis, the Federal Election Commission has made the following findings:

1. That Abigail Colman, Treasurer, has violated 2 U.S.C § 432 (c)(2) by failing to keep records of contributors' names, addresses, occupations and principal places of business and that the Committee violated 2 U.S.C. § 434(b)(2) by failing to report this information.

2. That no further action be taken at this time regarding the Committee's contributors' possible violations of 2 U.S.C. § 441g.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 12, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Herbert Aptheker
32 Ludlum Place
Brooklyn, New York 11225

RE: MUR 1036

Dear Mr. Aptheker:

This is to advise you that on September 3, 1980, the Federal Election Commission found reason to believe that your committee, the New York Hall-Tyner Aptheker Campaign Committee, has violated certain sections of the Federal Election Campaign Act of 1971, as amended. Enclosed is a Notification of Reason to Believe Findings.

While the Committee Treasurer is responsible for the recordkeeping and filing of reports for the committee, we believe that you, as the candidate, should be made aware of this development. A copy of our letter to your Committee Treasurer is enclosed.

Under 2 U.S.C. §437g(a)(4)(B) and §437g(a)(12)(A), this matter will remain confidential unless the Committee notifies the Commission in writing that it wishes the investigation to be made public.

If you have any questions, please contact Michele D. Brown, the staff member assigned to this matter at 202/523-4175. We have numbered this matter MUR 1036. For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations.

Sincerely,

Charles N. Steele
General Counsel

Enclosures

Letter to Committee Treasurer
Notification of Reason to Believe Findings
Procedures

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	MUR 1036
	)	
Hall-Tyner Election Campaign Committee	)	
New York Hall-Tyner Aptheker Campaign Committee	)	
Hall-Tyner-Flory Campaign '76	)	
Hall-Tyner Election Campaign Committee of California	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on September 3, 1980, the Commission decided by a vote of 6-0 to take the following actions regarding MUR 1036:

A. Hall-Tyner Election Campaign Committee

1. Take no further action at this time regarding the Committee's contributors' possible violations of 2 U.S.C. §441g.

2. Find REASON TO BELIEVE that the Committee has violated 2 U.S.C. §§437b(a)(1) and 437b(b):

   a) by failing to deposit contributions into a campaign depository;
   b) by making expenditures in cash rather than with checks drawn from deposited funds; and,
   c) by making petty cash expenditures in excess of $100.

3. Find REASON TO BELIEVE that the Committee has violated 2 U.S.C. §434(b)(9) by not providing the identification of each person to whom expenditures were made within the calendar year in an aggregate amount or value in excess of $100.

(Continued)

B. New York Hall-Tyner Aptheker Campaign Committee

1. Find REASON TO BELIEVE that Abigail Colman, Treasurer, has violated 2 U.S.C. §432(c)(2) by failing to keep records of contributors' names, addresses, occupations and principal places of business and that the Committee has violated 2 U.S.C. §434(b)(2) by failing to report this information.

2. Take no further action at this time regarding the Committee's contributors' possible violations of 2 U.S.C. §441g.

C. Hall-Tyner-Flory Campaign '76

1. Find REASON TO BELIEVE that Ben Green, Treasurer, has violated 2 U.S.C. §432(c)(2) by failing to keep records of contributors' names, addresses, occupations and principal places of business and that the Committee has violated 2 U.S.C. §434(b)(2) by failing to report this information.

2. Take no further action at this time regarding the Committee's contributors' possible violations of 2 U.S.C. §441g.

3. Because of the filing of a report amendment by the Committee, take no further action with regard to the Committee's failure to itemize 25 contributions on its reports.

4. Find REASON TO BELIEVE that the Committee has violated 2 U.S.C. §§437b(a)(1) and 437b(b):

   a) by failing to deposit contributions into a campaign depository;

(Continued)

b) by making expenditures in cash rather than with checks drawn from deposited funds; and,
c) by making petty cash expenditures in excess of $100.

5. Find REASON TO BELIEVE that Ben Green, Treasurer, and the Committee have violated 2 U.S.C. §§432(c)(3) and (4) and 432(d):

a) by failing to keep a detailed and exact account of all expenditures made by or for such committee and the identification of every person to whom any expenditure is made, including the date and amount of the expenditure; and,
b) by failing to obtain and keep a receipted bill, stating the particular, for every expenditure made in excess of $100 in amount, and for any expenditure in a lesser amount, if the aggregate amount of such expenditures to the same person during a calendar year exceeds $100.

6. Find REASON TO BELIEVE that the Committee has violated 2 U.S.C. §434(b)(9) by failing to report the particulars for each expenditure made.

D. Hall-Tyner Campaign Committee of California

Take no further action with respect to this Committee.

E. Approve and authorize the sending of the letters and notifications as attached to the above-named report.

Attest:

9/5/80
Date

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

Received in Office of the Commission Secretary: 8-25-80, 12:27
Circulated on 48 hour vote basis: 8-25-80, 4:00

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FEDERAL ELECTION COMMISSION

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

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS/MARGARET CHANEY

DATE: AUGUST 28, 1980

SUBJECT: OBJECTION - MUR 1036 - Memorandum to the Commission dated 8-25-80 with 1st GC Report dated 8-25-80

The above-named document was circulated on a 48 hour vote basis at 4:00, August 25, 1980.

Commissioner Aikens submitted an objection at 4:34, August 27, 1980.

This matter will be placed on the Executive Session Agenda for Wednesday, September 3, 1980.

August 25, 1980

MEMORANDUM TO: Marjorie W. Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 1036

Please have the attached Memo and First GC Report distributed to the Commission on a 48 hour tally basis. Thank you.

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

80 AUG 25 P12: 27

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 25, 1980

MEMORANDUM

TO: THE COMMISSION

FROM: CHARLES N. STEELE
GENERAL COUNSEL

SUBJECT: MUR 1036

Attached is a First General Counsel's Report on MUR 1036 which has been amended as a result of the Commission discussion in the executive session on March 25, 1980. Please note that the sentence, "Should this be the case, the Commission could require that the amount of money improperly held by the committee be turned over to the U.S. Treasury," has been deleted from the second full paragraph on page 2 of the report and the notification of reason to believe findings for the Hall-Tyner Election Campaign Committee.

Because the audits of the four committees were completed before the regulations went into effect in 1977, all references to the regulations were removed from the report also.

Please distribute the attached First General Counsel's Report to the Commission on a 48-hour tally basis.

Thank you.

Attachment
First General Counsel's Report

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

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL
BY OGC TO THE COMMISSION 8-25-80

MUR NO. 1036
STAFF MEMBER(S) M. Brown

SOURCE OF MUR: INTERNALLY GENERATED

RESPONDENT'S NAME: Hall-Tyner Election Campaign Committee; New York Hall-Tyner Aptheker Campaign Committee; Hall-Tyner-Flory Campaign '76; Hall-Tyner Election Campaign Committee of California

RELEVANT STATUTE: 2 U.S.C. §§ 432(c)(2), (3), and (4); 432(d); 434(b)(2) and (9); 437b(a)(1) and (b); 441g

INTERNAL REPORTS CHECKED: Audit Report

FEDERAL AGENCIES CHECKED: None

BACKGROUND

On March 22, 1979, the Audit Division requested that the Office of General Counsel review and analyze the interim audit reports regarding the Hall-Tyner Election Campaign Committee, the New York Hall-Tyner Aptheker Campaign Committee, Hall-Tyner-Flory Campaign '76, and the Hall-Tyner Election Campaign Committee of California.1/ On October 2, 1979, the Office of General Counsel made these matters into a MUR. The analysis below will deal with each of the committees in turn.2/

Audit Findings and Analysis

A. Hall-Tyner Election Campaign Committee ("Election Committee")

1. Through the audit of the Hall-Tyner Election Campaign Committee, the Auditors determined that 468 anonymous cash

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1/ The Hall-Tyner Election Campaign Committee is the only committee involved in the pending lawsuit, FEC V. Hall-Tyner Election Campaign Committee, Civ. No. 78-3508 (S.D.N.Y.), filed August 1, 1978.

2/ As the alleged violations occurred before the Act was amended on January 8, 1980, by Pub. Law 96-187, all citations to the Act are to the Act as it existed before amendment.

contributions in excess of $50 were accepted by the Election Committee. These contributions total $257,521.30 or 67.53% of the total amount of individual contributions received by the Election Committee. Further, eight cash contributions in excess of $100 from contributors (who could be identified) were accepted by the Election Committee. The total amount of these contributions was $2,762. The Committee did file a report amendment on November 13, 1978 which itemized 15 anonymous contributions totalling $9,000. These contributions, when added to the 468 anonymous contributions cited above, add up to 483 anonymous cash contributions, totalling $266,521.30, and comprise 69.89% of the total amount of individual contributions.

The Office of General Counsel is currently involved in litigation with the Hall-Tyner Election Campaign Committee for its failure to obtain name, address, occupation and principal place of business information from those individuals contributing $50 or more (2 U.S.C. § 432(c)) and for its failure to submit in its disclosure reports this information for those individuals who, in the aggregate, contributed $100 or more (2 U.S.C. § 434(b)). Therefore, the aspect of anonymous contributions with regard to reporting is already being pursued. However, until the completion of the audit the extent of the anonymous contributions (70% of the total amount of $424,657) was unknown. Also, the Audit Division's study was completed in March 1977. Cash and/or anonymous contributions relating to the 1976 election may have been contributed since that time, thus upping the total amount.

Section 441g prohibits a person from making contributions in cash to any candidate's campaign which, in the aggregate, exceed $100. In this case, however, if the contributor is truly anonymous, that is, not an identifiable contributor whose identity the committee has agreed not to report, the Commission cannot enforce section 441g against the contributor because we do not know their identities. This section does not prohibit a committee from receiving a cash contribution in excess of $100; therefore, the only possible respondents in violation of this section would be the anonymous contributors. Again, the issue of anonymous contributions with regard to reporting is being addressed in the current litigation. We recommend that the Commission take no further action at this time regarding the cash contributions.

2. The Auditors determined that cash contributions totalling $27,600 were not deposited into a campaign depository. $26,130.20 of these contributions were used for wire transfers and postal money orders which were sent to state agents. The difference of $1,469.80 has not been accounted for by the treasurer. The receipts and expenditures were disclosed in a report filed by the Election Committee.

Any contributions received by a principal campaign committee are required to be deposited into a campaign depository in accordance with 2 U.S.C. § 437b(a)(1). Also, expenditures made by a committee, except petty cash expenditures, shall, according to § 437b(a)(1), be made only by checks drawn from the depository. Section 437b(b) goes on to state that petty cash expenditures may not exceed $100 to any person in connection with a single purchase or transaction.

The Election Committee wrote eight checks in excess of $100, payable to cash. These checks totalled $6,671.87 and were not used to replenish petty cash. The money was used to reimburse expenses, for a transfer to a state committee and for travel advances for the vice presidential candidate.

Because a committee can make expenditures only by a check drawn on the campaign depository, the Hall-Tyner Election Campaign Committee's actions constitute a violation of 2 U.S.C. § 437b(a)(1).

Even if these expenditures are considered to have been made from petty cash, § 437b(b) prohibits petty cash expenditures in excess of $100. The Election Committee violated this section of the Act by making four petty cash expenditures in excess of $100. The expenditures were for a payroll expense and for money orders to state agents, ranging from $109.20 to $180.90. It is recommended that the Commission find reason to believe that the Hall-Tyner Election Campaign Committee violated 2 U.S.C. §§ 437b(a)(1) and 437b(b) for the Committee's failure to deposit contributions into a campaign depository and for its failure to use checks drawn on the depository to make expenditures, or, if the expenditures are considered to have been made from petty cash, for making petty cash expenditures in excess of $100.

3. The Election Committee failed to itemize 32 of 635 expenditures totalling $7,236.69, comprising 5% of the reported expenditures which aggregate in excess of $100. It is recommended that the Commission find reason to believe that the Hall-Tyner Election Campaign Committee violated 2 U.S.C. § 434(b)(9) by not providing the identification of each person to whom expenditures have been made within the calendar year in an aggregate amount or value in excess of $100.

B. New York Hall-Tyner Aptheker Campaign Committee (the "New York Committee")

Through the audit of the New York Hall-Tyner Aptheker Campaign Committee, the Auditors determined that 18 anonymous cash contributions in excess of $50 were accepted by the New York Committee. These contributions total $7,900 and represent 21.80% of the total amount of individual contributions received by the Committee. Further, 14 anonymous cash contributions in excess of $100 were received, of which 13 were itemized as anonymous. The New York Committee filed a report amendment on December 18, 1979 in which the one previously unreported contribution of $100 was itemized as being anonymous; however, it was not reported as a cash contribution. With regard to the fact that the $100 contribution had not been reported, it is recommended that no further action be taken because the Committee filed a report amendment in which the contribution was itemized as an anonymous contribution. It is recommended that the Commission find reason to believe that Abigail Colman, the treasurer of the New York Committee, violated 2 U.S.C. § 432(c)(2) by her apparent failure to keep records of contributors names, addresses, occupations and principal places of business and that the New York Hall-Tyner Aptheker Campaign Committee violated 2 U.S.C. § 434(b)(2) by failing to report contributor information on reports filed with the Commission.

Section 441g prohibits a person from making expenditures to any candidate's campaign in cash which, in the aggregate, exceed $100. In this case, however, if the contributors are truly anonymous, the Commission cannot enforce section 441g against them. This section does not prohibit a committee from receiving a cash contribution, therefore, the only possible respondents in violation of this section would be the anonymous contributors. The Committee's response to the reason to believe findings may provide information as to the identity of contributors, therefore, the Office of General Counsel recommends that the Commission take no further action at this time regarding the issue of cash contributions.

C. Hall-Tyner-Flory Campaign '76 ("Campaign '76 Committee")

1. Through the audit of the Hall-Tyner-Flory Campaign '76 Committee, the Auditors determined that anonymous contributions totalling $6,699.17 were accepted and reported by the Campaign '76 Committee. This is 28.99% of the total amount of individual contributions. Because of the recordkeeping system of the Campaign '76 Committee, the Auditors could not determine the amount of anonymous cash contributions per contributor received in excess of $50.

A schedule of all contributions in excess of $100 was filed by the Campaign '76 Committee on November 29, 1978 for the period of the audit. Ten additional anonymous contributions were itemized totalling $1,262.00.3/ These additional contributions increase the total of anonymous contributions to $7,961.17, 34.45% of the total amount of individual contributions. It is recommended that the Commission find reason to believe that Ben Green, Treasurer, and Hall-Tyner-Flory Campaign '76 violated 2 U.S.C. §§ 432(c)(2) and 434(b)(2) respectively.

3/ Of the ten (10) anonymous contributions disclosed on this schedule, seven (7) were found to be identified on the contributor records during the audit fieldwork.

Section 441g prohibits a person from making contributions in cash to any candidate's campaign which, in the aggregate, exceed $100. In this case, Campaign '76 Committee's records do include the identity of seven out of the ten "anonymous" contributors disclosed on the report schedule. However, the Auditors could not determine the amount of anonymous cash contributions per contributor in excess of $50. Therefore, even if the Commission could obtain the names and addresses of the seven "anonymous" contributors, we would probably not be able to determine which contributors, if any, contributed cash in excess of $100. The Office of General Counsel recommends that the Commission take no further action at this time regarding any possible violations of 2 U.S.C. § 441g.

2 Twenty-five contributions were not itemized on reports filed by the Campaign '76 Committee. The total of these contributions was $3,264.15, 10.86% of the total amount of contributions received by the Committee during the period focused on by the audit. The Campaign '76 Committee filed a report amendment on November 29, 1978 in which ten of the 25 contributors were itemized as anonymous. The remaining eight contributions, which aggregate in excess of $100, were not itemized on the report amendment. These total $536.04 and represent 1.78% of the total amount of contributions received by the Campaign '76 Committee during the period of the audit.

Because the Hall-Tyner-Flory Campaign '76 Committee filed an amendment to its report, the Office of General Counsel recommends that no further action be taken against the Committee with respect to these violations.

3. Several violations of 2 U.S.C. § 437b appear to have been committed by Hall-Tyner-Flory Campaign '76. The Campaign '76 Committee failed to deposit contributions received into the campaign depository. Also, expenditures were made in cash from contributions received rather than by a check drawn from deposited funds and these cash expenditures exceed the $100 limit on expenditures from petty cash funds. It is recommended that the Commission find reason to believe that Hall-Tyner-Flory Campaign '76 violated 2 U.S.C. §§ 437b(a)(1) and 437b(b).

The treasurer of a political committee is required, under 2 U.S.C. § 432(c)(3) and (4), to keep a detailed and exact account of all expenditures made by or for such committee and the identification of every person to whom any expenditure is made, including the date and amount of the expenditure. In addition, 2 U.S.C. § 432(d) requires that the treasurer obtain and keep a receipted bill, stating the particulars, for every expenditure made in excess of $100 in amount, and for any expenditure made in a lesser amount, if the aggregate amount of such expenditures to the same person during a calendar year exceeds $100.

It is the opinion of the Auditors that the Campaign '76 Committee's recordkeeping system of folders containing haphazardly filed invoices, receipted bills and contemporaneous memoranda does not comply with the requirements of 2 U.S.C. §§ 432(c)(3) and (4) and 432(d). It is recommended that the Commission find reason to believe that Ben Green, Treasurer, and Hall-Tyner-Flory Campaign '76 violated 2 U.S.C. §§ 432(c)(3) and (4) and 432(d).

Under 2 U.S.C. § 434(b)(9), a committee must report the identification of each person to whom an expenditure is made in an aggregate amount in excess of $100 along with the amount, date, and purpose of each expenditure and the name and address of, and the office sought by, each candidate on whose behalf an expenditure is made. The Campaign '76 Committee's practice of combining all expenditures to one payee and reporting one total along with several dates rather than individually reporting each contribution would constitute a violation of 2 U.S.C. § 434(b)(9).

D. Hall-Tyner Election Campaign Committee of California (the "California Committee")

The Auditors, in reviewing the California Committee's reports and statements filed with the Commission and the Committee's records, did not find any "material problems in complying with the Federal Election Campaign Act." Therefore, it is recommended that the Commission take no further action with respect to the Hall-Tyner Election Campaign Committee of California.

Recommendations

A. Hall-Tyner Election Campaign Committee

1. Take no further action at this time regarding the Committee's contributors' possible violations of 2 U.S.C. § 441g.

2. Find reason to believe that the Committee has violated 2 U.S.C. §§ 437b(a)(1) and 437b(b):

- a) by failing to deposit contributions into a campaign depository;
- b) by making expenditures in cash rather than with checks drawn from deposited funds; and,
- c) by making petty cash expenditures in excess of $100.

3. Find reason to believe that the Committee has violated 2 U.S.C. § 434(b)(9) by not providing the identification of each person to whom expenditures were made within the calendar year in an aggregate amount or value in excess of $100.

B. New York Hall-Tyner Aptheker Campaign Committee

1. Find reason to believe that Abigail Colman, Treasurer, has violated 2 U.S.C. § 432(c)(2) by failing to keep records of contributors' names, addresses, occupations and principal places of business and that the Committee has violated 2 U.S.C. § 434(b)(2) by failing to report this information.

2. Take no further action at this time regarding the Committee's contributors' possible violations of 2 U.S.C § 441g.

C. Hall-Tyner-Flory Campaign '76

1. Find reason to believe that Ben Green, Treasurer, has violated 2 U.S.C. § 432(c)(2) by failing to keep records of contributors' names, addresses, occupations and principal places of business and that the Committee has violated 2 U.S.C § 434(b)(2) by failing to report this information.

2. Take no further action at this time regarding the Committee's contributors' possible violations of 2 U.S.C § 441g.

3. Because of the filing of a report amendment by the Committee, take no further action with regard to the Committee's failure to itemize 25 contributions on its reports.

4. Find reason to believe that the Committee has violated 2 U.S.C. §§ 437b(a)(1) and 437b(b):

a) by failing to deposit contributions into a campaign depository;
b) by making expenditures in cash rather than with checks drawn from deposited funds; and,
c) by making petty cash expenditures in excess $100.

5. Find reason to believe that Ben Green, Treasurer, and the Committee have violated 2 U.S.C. §§ 432(c)(3) and (4) and 432(d):

a) by failing to keep a detailed and exact account of all expenditures made by or for such committee and the identification of every person to whom any expenditure is made, including the date and amount of the expenditure; and,
b) by failing to obtain and keep a receipted bill, stating the particulars, for every expenditure made in excess of $100 in amount, and for any expenditure in a lesser amount, if the aggregate amount of such expenditures to the same person during a calendar year exceeds $100.

6. Find reason to believe that the Committee has violated 2 U.S.C. § 434(b)(9) by failing to report the particulars for each expenditure made.

D. Hall-Tyner Campaign Committee of California

Take no further action with respect to this Committee.

E. Approve and authorize the sending of the attached letters and notifications.

Attachments

Audit Referral
Letters and notifications to respondent committees (6)

A.434

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

March 22, 1979

MEMORANDUM

TO : BILL OLDAKER

THROUGH : ORLANDO B. POTTER O.B.P.
STAFF DIRECTOR

FROM : BOB COSTA

SUBJECT : REQUEST FOR REVIEW & LEGAL ANALYSIS

Attached for your review and legal analysis are copies of the following audit reports:

1. Hall Tyner Election Campaign Committee of California

2. New York Hall Tyner Aptheker Campaign Committee

3. Hall Tyner Election Campaign Committee

4. Hall Tyner Flory Campaign '76

Please note that audit reports ~~(1)~~, (2), (3), and (4) above contain recommendations for possible MUR action regarding anonymous contributions and/or undeposited cash contributions received by these Committees.

Should you have any questions please contact either Russ Bruner or Dan Boyle at extension 3-4155.

Attachment as stated

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

REPORT OF THE AUDIT DIVISION ON THE HALL-TYNER ELECTION CAMPAIGN COMMITTEE OF CALIFORNIA

I. Background

A. Overview

This report is based upon an audit of the Hall-Tyner Election Campaign Committee of California ("the Committee"), undertaken by the Audit Division of the Federal Election Commission in accordance with the Commission's audit policy to determine whether there has been compliance with the provisions of the Federal Election Campaign Act, as amended ("the Act"). The audit was conducted pursuant to Section 438(a)(8) of Title 2, United States Code, which directs the Commission to make from time to time audits and field investigations with respect to reports and statements filed under the provisions of the Act.

The Committee registered with the Federal Election Commission on July 3, 1976, as a committee authorized by Mr. Gus Hall, Presidential candidate of the Communist Party. The Committee maintained its headquarters in San Francisco, California.

The audit covered the period from June 10, 1976, the inception date of the Committee, through March 31, 1977. During this period the Committee reported an opening cash balance of $-0-, total receipts of $58,774.10, total expenditures of $58,203.23, and a closing cash balance at December 31, 1976 of $570.87. 1/

This audit report is based on documents and working papers supporting each of its factual statements. They form part of the record upon which the Commission based its decisions on the matters in this report, and were available to Commissioners and appropriate staff for review.

1/ The Committee had not filed the April 10, 1977 report covering the period January 1, 1977 to March 31, 1977 at the time of the audit. However, the audit did include a review of the Committee records for the period 1/1/77 to 3/31/77.

B. Key Personnel

The principal officers of the Committee during the period of the audit were Ms. Angela Davis, Chairman, and Mr. David Englestein, Treasurer.

C. Scope

The audit included such tests as verification of total reported receipts and expenditures and individual transactions; review of required supporting documentation; analysis of Committee debts and obligations; and, such other audit procedures as deemed necessary under the circumstances.

II. Auditor's Statement

It is the opinion of the Audit staff, based upon examination of the reports and statements filed and the records presented, that the reports and statements of the Hall-Tyner Election Campaign Committee of California fairly present the financial activities of the Committee for the period covered by the audit. No material problems in complying with the Federal Election Campaign Act were discovered during the course of the audit.

FEDERAL ELECTION COMMISSION

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

INTERIM REPORT OF THE AUDIT DIVISION
ON THE
NEW YORK HALL-TYNER APTHEKER CAMPAIGN COMMITTEE

I. Background

A. Overview

This interim report is based on an audit of the New York Hall-Tyner-Aptheker Campaign Committee ("the Committee"), undertaken by the Audit Division of the Federal Election Commission to determine whether there has been compliance with the provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The audit was conducted pursuant to Section 438(a)(8) of Title 2 of the United States Code which directs the Commission to make from time to time audits and field investigations with respect to reports and statements filed under the provisions of the Act.

The Committee registered with the Federal Election Commission on July 7, 1976, as a committee authorized by Mr. Gus Hall, Presidential candidate of the Communist Party. The Committee maintained its headquarters in New York City.

The audit covered the period from June 14, 1976 through March 31, 1977. During this period the Committee reported an opening cash balance of $-0-, total receipts of $38,664.12, total expenditures of $38,178.75, and a closing cash balance of $465.37.

This audit report is based on documents and working papers supporting each of its factual statements. They form part of the record upon which the Commission based its decisions on the matters in this report, and were available to Commissioners and appropriate staff for review.

B. Key Personnel

The principal officers of the Committee during the period of the audit were Mr. Jose Ristorucci, Chairman, and Ms. Abigail Colman, Treasurer.

C. Scope

The audit included such tests as verification of total reported receipts and expenditures and individual transactions; review of required supporting documentation; analysis of Committee debts and obligations; and such other audit procedures as deemed necessary under the circumstances.

II. Auditor's Statement and Description of Findings

It is the opinion of the Audit staff, based upon examination of the reports and statements filed and the records presented, that the New York Hall-Tyner-Aptheker Campaign Committee has not conducted its activities in compliance with the Federal Election Campaign Act and that the reports and statements filed by the Committee do not fairly present the financial activities of the Committee for the period covered by the audit.

Audit Findings and Recommendations

A. Anonymous Contributions

Section 432(c)(2) of Title 2 of the United States Code states, in part, that the treasurer of a political committee keep a detailed and exact account of the identification of every person making a contribution in excess of $50 and the date and amount thereof, and the occupation and the principal place of business if the contribution(s) aggregate more than $100.

Also, Section 434(b)(2) of Title 2 of the United States Code states, in part, that each report shall disclose the full name and mailing address (occupation and principal place of business, if any) of each person who has made one or more contribution(s) to or for such committee or candidate within the calendar year in an aggregate amount or value in excess of $100, together with the amount and date of such contributions.

Further, Section 110.4(c)(2) of the Commission's Regulations requires that a candidate or committee receiving cash contributions in excess of $100.00, promptly return to the contributor the amount in excess of $100.00.

Finally, Section 110.4(c)(3) of the Commission's Regulations requires that a candidate or committee, receiving an anonymous cash contribution in excess of $50, promptly dispose of the amount in excess of $50 in any lawful manner unrelated to any Federal election, campaign, or candidate.

During the course of the audit, it was determined that the Committee accepted 18 anonymous cash contributions in excess of $50 totaling $7,900.00. This represents 4.40% of the total number and 21.80% of the total dollar value of total individual contributions accepted by the Committee. In addition 14 of the anonymous cash contributions were in excess of $100, of which 13 were itemized as anonymous on the Committee's disclosure reports.

On December 18, 1978, the Committee filed an amended report itemizing the one (1) previously unreported contribution of $1,000 as anonymous (see Finding B). The amended report did not identify this $1,000 anonymous contribution as an anonymous cash contribution.

Recommendation

The Audit staff recommends that this matter be referred to the Office of General Counsel for consideration as a MUR.

B. Disclosure of Contributions

Section 434(b)(2) of Title 2 of the United States Code requires that each report disclose the full name and mailing address (occupation and the principal place of business, if any) of each person who has made one or more contributions to or for such committee or candidate within the calendar year in an aggregate amount or value in excess of $100, together with the date and amount of such contributions.

During the course of the audit, it was determined that the Committee did not report one (1) contribution of $1,000, and reported incorrect aggregate totals for 14 itemized contributions (22.95% of the total number of contributions to be

itemized). Also, the Committee did not disclose the full mailing address for 13 itemized contributors (21.31%), and the occupation and principal place of business for 29 itemized contributors (47.54%) and for 14 individuals who made loans to the Committee (22.95%).

On December 18, 1978, the Committee filed an amended report which itemized one (1) contribution of $1,000 as anonymous, corrected the aggregate totals for eight (8) contributions and disclosed the occupation and principal place of business of 11 contributors and 14 individuals who made loans to the Committee.

Recommendation

Since the Committee has filed an amended report substantially disclosing the contributor information, other than that for anonymous contributors, the Audit staff recommends no further action in this matter.

C. Supporting Documentation for Expenditures

Section 432(d)of Title 2 of the United States Code requires that a treasurer of a political committee obtain and keep a receipted bill, stating the particulars, for every expenditure made by or on behalf of a political committee in excess of $100 in amount, and for any such expenditure in a lesser amount, if the aggregate amount of such expenditures to the same person during the calendar year exceeds $100.

Section 102.9(c)(4) of the Commission's Regulations states, in part, that when a receipted bill is not available, the treasurer may keep the cancelled check(s) showing payment of the bill, and the bill, invoice or other contemporaneous memorandum of the transaction supplied to the committee by the payee containing the necessary information.

During the course of the audit, it was determined that the Committee did not retain appropriate documentation to support nine (9) expenditures, totaling $2,675.02. This represents 18.37% of the total number and 9.41% of the dollar amount of itemized expenditures. In each case, a cancelled check was available for inspection.

On December 18, 1978, the Committee submitted documentation for three (3) expenditures totaling $492.28. For the remaining six (6) expenditures, the Committee submitted copies of the letters sent to the payees in an effort to obtain the necessary documentation.

Recommendation

Since the Committee has either submitted the necessary documentation or demonstrated their best efforts to do so, the Audit staff recommends no further action in this matter.

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

INTERIM REPORT OF THE AUDIT DIVISION ON THE HALL TYNER ELECTION CAMPAIGN COMMITTEE

I. Background

A. Overview

This interim report is based upon an audit of the Hall Tyner Election Campaign Committee ("the Committee"), undertaken by the Audit Division of the Federal Election Commission in accordance with the Commission's audit policy to determine whether there has been compliance with the provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The audit was conducted pursuant to Section 438(a)(8) of Title 2 of the United States Code which directs the Commission to make from time to time audits and field investigations with respect to reports and statements filed under the provisions of the Act.

The Committee registered with the Federal Election Commission on March 1, 1976 as the principal campaign committee of Mr. Gus Hall, Presidential candidate of the Communist Party. The Committee maintains its headquarters in New York City.

The audit covered the period from January 1, 1976 to March 31, 1977. During this period the Committee reported an opening cash balance of $845.35, total receipts of $424,657.04, total expenditures of $422,595.22 and a closing cash balance of $2,907.17.

This audit report is based on documents and working papers supporting each of its factual statements. They form part of the record upon which the Commission based its decisions on the matters in this report, and were available to Commissioners and appropriate staff for review.

B. Key Personnel

The principal officers of the Committee for the period covered by the audit were Mr. Henry Winston, Chairman, and Mrs. Frances Bordofsky, Treasurer.

C. Scope

The audit included such tests as verification of total reported receipts and expenditures and individual transactions; review of required supporting documentation; analysis of Committee debts and obligations; and, such other audit procedures as deemed necessary under the circumstances.

II. Auditor's Statement and Description of Findings

It is the opinion of the Audit staff, based upon examination of the reports and statements filed and the records presented, that the Hall Tyner Election Campaign Committee has not conducted its activities in compliance with the Federal Election Campaign Act and that the reports and statements filed by the Committee do not fairly present the financial activities of the Committee for the period covered by the audit.

Audit Findings and Recommendations

A. Anonymous Contributions

Section 432(c)(2) of Title 2 of the United States Code states, in part, that the treasurer of a political committee keep a detailed and exact account of the identification of every person making a contribution in excess of $50.00 and the date and amount thereof, and the occupation and the principal place of business if the person's contribution(s) aggregate more than $100.

Also, Section 434(b)(2) of Title 2 of the United States Code states that each report under this section shall disclose the full name and mailing address (occupation and principal place of business, if any) of each person who has made one or more contributions to or for such committee or candidate within the calendar year in an aggregate amount or value in excess of $100, together with the amount and date of such contributions.

Further, Section 110.4(c)(2) of the Commission's Regulations requires that a candidate or committee, receiving cash contributions in excess of $100.00, promptly return to the contributor the amount in excess of $100.00.

Finally, Section 110.4(c)(3) of the Commission's Regulations requires that a candidate or committee, receiving an anonymous cash contribution in excess of $50.00, promptly dispose of the amount in excess of $50.00 in any lawful manner unrelated to any Federal election, campaign, or candidate.

During the course of the audit, it was determined that the Committee accepted 468 anonymous cash contributions in excess of $50.00, totaling $257,521.30. This represents 36.53% of the total number and 67.53% of the total amount of individual contributions accepted by the Committee. Also, it was determined that the Committee accepted eight (8) contributions of cash from identifiable contributors, in excess of $100 totaling $2,762.00, which is .62% of the total number and .72% of the total amount of individual contributions accepted by the Committee.

On November 13, 1978, the Committee filed an amendment which itemized 15 additional contributions totaling $9,000 as anonymous (see Finding C). This amendment increases the total number and dollar value of anonymous cash contributions to 483 (37.70%) and $266,521.30 (69.89%), respectively.

Recommendation

This matter is currently being handled as MUR 358(77) in the Office of General Counsel.

B. Undeposited Contributions

Section 437b(a)(1) of Title 2 of the United States Code states, in part, that all contributions received by a committee shall be deposited into the campaign depository of the committee and that all expenditures, other than those of petty cash, shall be made by check drawn on an account of this campaign depository.

Section 434(b)(8) and (11) of Title 2 of the United States Code requires that each report shall disclose the total sum of all receipts and expenditures of such committee during the reporting period.

During the course of the audit, it was determined that the Committee accepted cash contributions totaling $27,600.00, which were not deposited into a Committee depository. These contributions were used for wire transfers and postal money orders, totaling $26,130.20, which were sent to various state agents acting on behalf of the Committee in their respective state(s). This activity occurred during the period May 10, 1976

to October 27, 1976. The Committee disclosed both the receipt and expenditure of these funds on their 30 day post election report filed on December 10, 1976. The Committee treasurer has been unable to account for the difference of $1,469.80 between the contributions and expenditures.

Recommendation

It is the recommendation of the Audit staff that this matter be referred to the Office of General Counsel for consideration as a MUR.

C. Disclosure of Contributions

Section 434(b)(2) of Title 2 of the United States Code states that each report under this section shall disclose the full name and mailing address (occupation and principal place of business, if any) of each person who has made one or more contributions to or for such committee or candidate within the calendar year in an aggregate amount or value in excess of $100, together with the amount and date of such contributions. Also, Section 434(b)(6)(B) states, in part, that each report under this section shall disclose the total amount of proceeds from mass collections.

During the course of the audit, it was determined that the Committee did not itemize 23 contributions from various sources, including mass collections, totaling $10,053.00 for the period covered by the audit. This represents 2.67% of the total dollar value of contributions required to be itemized during the period covered by the audit.

On November 13, 1978, the Committee filed an amended report itemizing 15 contributions totaling $9,000 as anonymous.

Recommendation

Since the Committee has filed the amendment disclosing these contributions, it is the recommendation of the Audit staff that no further action is necessary in this matter. However, the 15 contributions itemized as anonymous are included with Finding A of this report which indicates the prohibition on anonymous contributions.

Other Matters

Presented below are other matters noted during the audit for which the Audit staff feels that no additional action is necessary.

1) During the audit, it was determined that the Committee wrote eight (8) checks totaling $6,671.87, payable to cash, in excess of $100 for purposes other than replenishing the petty cash fund. The purposes of these payments were for reimbursed expenses, a transfer to a state committee, and travel advances for the vice presidential candidate.

2) It was determined that the Committee made four (4) petty cash expenditures in excess of $100, ranging from $109.20 to $180.90. These expenditures were for a payroll expense and money orders to state agents.

3) It was determined that the Committee did not itemize 32 of the 635 expeditures, representing 5% of the reported expenditures which aggregate in excess of $100, totaling $7,236.69.

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

REPORT OF THE AUDIT DIVISION ON THE HALL-TYNER-FLORY CAMPAIGN '76

I. Background

A. Overview

This interim report is based upon an audit of the Hall-Tyner-Flory Campaign '76 ("the Committee"), undertaken by the Audit Division of the Federal Election Commission in accordance with the Commission's audit policy to determine whether there has been compliance with the provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The audit was conducted pursuant to Section 438(a)(8) of Title 2 of the United States Code which directs the Commission to make from time to time audits and field investigations with respect to reports and statements filed under the provisions of the Act.

The Committee registered with the Federal Election Commission on March 22, 1976 as a committee authorized by Mr. Gus Hall, Presidential candidate of the Communist Party. The Committee maintained its headquarters in Chicago, Illinois.

The audit covered the period from March 9, 1976 through December 31, 1976 the closing date of the last report filed by the Committee at the time of the audit. During this period the Committee reported an opening cash balance of $-0-, total receipts of $30,035.45, total expenditures of $30,027.47, and a closing cash balance of $25.98.

This audit report is based on documents and working papers supporting each of its factual statements. They form part of the record upon which the Commission based its decisions on the matters in the report and were available to Commissioners and appropriate staff for review.

B. Key Personnel

The principal officers of the Committee for the period covered by the audit were Mr. Jack Kling and Mr. Nathan Sharpe, Co-Chairmen, Mr. Ben Green, Treasurer, and Mr. Ted Pearson, Secretary.

C. Scope

The audit included such tests as verification of total receipts and expenditures and individual transactions; review of required supporting documentation; review of Committee debts and obligations; and such other audit procedures as deemed necessary under the circumstances.

II. Auditor's Statement and Description of Findings

It is the opinion of the Audit staff, based upon examination of the reports and statements filed and records presented, that the Hall-Tyner-Flory Campaign '76 has not conducted its activities in compliance with the Federal Election Campaign Act and that the reports and statements filed by the Committee do not fairly present the financial activites of the Committee for the period covered by the audit.

A. Anonymous Contributions

Section 432(c)(2) of Title 2 of the United States Code states, in part, that the treasurer of a political committee keep a detailed and exact account of the identification of every person making a contribution in excess of $50 and the date and amount thereof, and the contributor's occupation and the principal place of business if the contribution(s) aggregate more than $100.

Also, Section 434(b)(2) of Title 2 of the United States Code states that each report under this section shall disclose the full name and mailing address (occupation and principal place of business, if any) of each person who mas made one or more contribution(s) to or for such committee or candidate within the calendar year in an aggregate amount or value in excess of $100, together with the amount and date of such contributions.

Finally, Section 110.4(c)(3) of the Commission's Regulations requires that a candidate or committee, receiving an anonymous cash contribution in excess of $50, promptly dispose of the amount in excess of $50 in any lawful manner unrelated to any Federal election, campaign, or candidate.

During the course of the audit, it was determined that the Committee accepted and reported anonymous contributions totaling $6,699.17, which is 28.99% of the total amount of individual contributions. It is not possible to determine the amount of anonymous cash contributions (per contributor) received in excess of $50 with the recordkeeping system maintained by the Committee.

On November 29, 1978, the Committee filed a schedule of all contributions in excess of $100 for the audit period. This schedule itemized ten (10) additional anonymous contributions totaling $1,262.00 1/ (see Finding B). This increases the dollar value of anonymous contributions reported by the Committee to $7,961.17 (34.45%). According to the Committee legal counsel, Mr. John Abt, the Committee accepted these anonymous contributions based upon an opinion in the Supreme Court case entitled Buckley vs. Valeo (424 U.S. 1, 74(1976). This opinion refers to the compelled disclosure of the identification of contributors, subjecting them to threats, harassment, or reprisals from either government officials or private parties.

Recommendation

The Audit staff recommends that this matter be referred to the Office of General Counsel for consideration as a MUR.

B. Itemization of Contributions

Section 434(b)(2) of Title 2 of the United States Code states that each report under this section shall disclose the full name and mailing address (occupation and principal place of business, if any) of each person who has made one or more contributions to or for such committee or candidate within the calendar year in an aggregate amount of value in excess of $100, together with the amount and ate of such contributions.

During the course of the audit, it was determined that the Committee did not itemize 25 contributions each aggregating in excess of $100 and totaling $3,264.15. This represents 10.86% of the total amount of contributions received by the Committee for the audit period.

1/ Of the ten (10) anonymous contributions disclosed on this schedule, seven (7) were found to be identified on the contributor records during the audit fieldwork.

On November 29, 1978, the Committee filed a schedule itemizing 17 contributions totaling $2,728.11. Ten (10) of these contributions were itemized as anonymous (see Finding A). The remaining eight (8) contributions, totaling $536.04 (1.78%), which aggregate in excess of $100 were not itemized on the amendment.

Recommendation

Since the Committee has filed the amendment substantially itemizing these contributions, no further action on this matter is recommended.

C. Recordkeeping of Expenditures

Section 432(c)(3) and (4) requires the treasurer of a political committee to keep a detailed and exact account of all expenditures made by or for such committee and the identification of every person to whom any expenditure is made and the date and amount thereof.

Section 432(d) of Title 2 of the United States Code requires that the treasurer obtain and keep a receipted bill, stating the particulars, for every expenditure made by or on behalf of a political committee in excess of $100 in amount, and for any such expenditure in a lesser amount, if the aggregate amount of such expenditures to the same person during a calendar year exceeds $100.

During the course of the audit, it was determined that the Committee did not maintain an adequate recordkeeping system for expenditures. The Committee's recordkeeping system for expenditures was comprised of several folders of haphazardly filed invoices, receipted bills, and contemporaneous memorada supposedly supporting reported expenditures. Also, in several cases, the Committee did not report individual expenditures, when more than one expenditure was made to a payee during a reporting period. Rather, the Committee combined all expenditures to one payee for a given reporting period and reported them as a combined total with a range of dates between which the expenditures were made. Further, the Committee, in several cases, would make cash payments for their expenditures with cash which the Committee received as contributions. The cash was never deposited into the campaign depository. However, in an attempt to get the expenditure through the campaign depository, the Committee would make a check payable to (petty) cash and deposit it into the campaign depository. Given this recordkeeping system and this method of reporting expenditures, the Audit staff was unable to trace the expenditures from the supporting documentation and cancelled checks to the disclosure reports.

In subsequent telephone conversations with the Campaign Manager of the Committee, the Audit staff attempted to arrange additional fieldwork in order to review the expenditures recordkeeping system and supporting documentation. The Campaign Manager stated that the records are in the same order as when the Audit staff reviewed them during the original fieldwork. Consequently, the Audit staff did not conduct the additional fieldwork due to the fact that the Committee made no attempt to arrange the supporting documentation in an orderly manner, as was recommended in the letter of audit findings which was received by the Committee on September 23, 1978.

Recommendation

The Audit staff recommends that this matter be referred to the Office of General Cousel for consideration as a MUR.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

<u>CERTIFIED MAIL</u>
<u>RETURN RECEIPT REQUESTED</u>

Ms. Frances Bordofsky, Treasurer
Hall-Tyner Election Campaign Committee
235 West 23rd Street
Room 502
New York, New York 10011

RE: MUR 1036

Dear Ms. Bordofsky:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission has found reason to believe that the Hall-Tyner Election Campaign Committee has violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). Enclosed is a Notification of Reason to Believe Findings for your committee.

We have numbered this matter MUR 1036. Please refer to this number in all future correspondence.

Under the Act, you have an opportunity to demonstrate that no action should be taken against your committee. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

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. In the absence of any information which demonstrates that no further action should be taken against your committee, the Commission may find probable cause to believe that violations have occurred, and proceed with formal conciliation. Of course, this does not preclude the settlement of this matter through informal conciliation prior to a finding of probable cause to believe if you so desire.

This matter will remain confidential in accordance with 2 U.S.C. Sections 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the investigation to be made public.

If you have any questions, please contact Michele Brown, the staff member assigned to this matter, at 202/523-4175. For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations.

Sincerely,

Enclosures

Notification of Reason to Believe Findings
Procedures

cc: Mr. John J. Abt, Esquire

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Gus Hall
230 Van Courtland Park Avenue
Yonkers, New York 10705

RE: MUR 1036

Dear Mr. Hall:

This is to advise you that on , 1980, the Federal Election Commission found reason to believe that your committees, the Hall-Tyner Election Campaign Committee, the New York Hall-Tyner Aptheker Campaign Committee and the Hall-Tyner-Flory Campaign '76 Committee have violated certain sections of the Federal Election Campaign Act of 1971, as amended. Enclosed is a Notification of Reason to Believe Findings for each committee.

While the Committee Treasurer is responsible for the recordkeeping and filing of reports for a committee, we believe that you, as the candidate, should be made aware of this development. A copy of our letter to your Committee Treasurer is enclosed.

Under 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A), this matter will remain confidential unless the Committee notifies the Commission in writing that it wishes the investigation to be made public.

If you have any questions, please contact Michele D. Brown, the staff member assigned to this matter at 202/523-4175. We have numbered this matter MUR 1036. For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations.

Sincerely,

Charles N. Steele
General Counsel

Enclosures

Letters to Committee Treasurers
Notifications of Reason to Believe Findings
Procedures

cc: Mr. John J. Abt, Esquire

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

<u>CERTIFIED MAIL</u>
<u>RETURN RECEIPT REQUESTED</u>

Mr. Jarvis Tyner
2130-4 First Avenue
New York, New York 10029

RE: MUR 1036

Dear Mr. Tyner:

This is to advise you that on , 1980, the Federal Election Commission found reason to believe that your committees, the Hall-Tyner Election Campaign Committee, the New York Hall-Tyner Aptheker Campaign Committee and the Hall-Tyner-Flory Campaign '76 Committee have violated certain sections of the Federal Election Campaign Act of 1971, as amended. Enclosed is a Notification of Reason to Believe Findings for each committee.

While the Committee Treasurer is responsible for the recordkeeping and filing of reports for a committee, we believe that you, as the candidate, should be made aware of this development. A copy of our letter to your Committee Treasurer is enclosed.

Under 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A), this matter will remain confidential unless the Committee notifies the Commission in writing that it wishes the investigation to be made public.

If you have any questions, please contact Michele D. Brown, the staff member assigned to this matter at 202/523-4175. We have numbered this matter MUR 1036. For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations.

Sincerely,

Charles N. Steele
General Counsel

Enclosures

Letters to Committee Treasurers
Notifications of Reason to Believe Findings
Procedures

cc: Mr. John J. Abt, Esquire

FEDERAL ELECTION COMMISSION

NOTIFICATION OF REASON TO BELIEVE FINDING

DATE ______________________ MUR NO. 1036

RESPONDENT Hall-Tyner Election Campaign Committee

STAFF MEMBER(S) & TEL. NO. Michele Brown 202/523-4175

SOURCE OF MUR: INTERNALLY GENERATED

BACKGROUND

On March 22, 1979, the Audit Division requested that the Office of General Counsel review and analyze the interim reports of the Audit Division regarding the Hall-Tyner Election Campaign Committee, the New York Hall-Tyner Aptheker Campaign Committee, the Hall-Tyner-Flory Campaign '76 Committee, and the Hall-Tyner Election Campaign Committee of California.1/ On October 2, 1979, the Office of General Counsel made these matters into a MUR.

Audit Findings and Analysis

Hall-Tyner Election Campaign Committee

1. Through the audit of the Hall-Tyner Election Campaign Committee, the Auditors determined that 468 anonymous cash contributions in excess of $50 were accepted by the Committee. These contributions total $257,521.30 or 67.53% of the total amount of individual contributions received by the Committee. Further, eight cash contributions in excess of $100 from contributors (who could be identified) were accepted by the Committee. The total amount of these contributions was $2,762. The Committee filed an amendment to its reports on November 13, 1978 which itemized 15 anonymous contributions totalling $9,000. These contributions when added to the 468 anonymous contributions cited above, add up to 483 anonymous cash contributions, totalling $266,521.30, and comprise 69.89% of the total amount of individual contributions.

The Office of General Counsel is currently involved in litigation with the Hall-Tyner Election Campaign Committee for its failure to obtain name, address, occupation and principal place of business information from those individuals contributing

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1/ The Hall-Tyner Election Campaign Committee is the only committee involved in the pending lawsuit, FEC v. Hall-Tyner Election Campaign Committee, Civ. No. 78-3508 (S.D.N.Y.), filed August 1, 1978.

$50 or more (2 U.S.C. § 432(c)) and for its failure to submit in disclosure reports this information for those individuals who, in the aggregate, contributed $100 or more (2 U.S.C. § 434(b)). Therefore, the aspect of anonymous contributions with regard to reporting is already being pursued. However, until the completion of the audit the extent of the anonymous contributions (70% of the total amount of $424,657) was unknown. Also, the Audit Division's study was completed in March 1977. Cash and/or anonymous contributions relating to the 1976 election may have been contributed since that time, thus upping the total amount.

Section 441g prohibits a person from making contributions in cash to any candidate's campaign which, in the aggregate, exceed $100. In this case, however, if the contributor is truly anonymous, that is, not an identifiable contributor whose identity the Committee has agreed not to report, the Commission cannot enforce section 441g against the contributor because we do not know their identities. This section does not prohibit a committee from receiving a cash contribution in excess of $100; therefore, the only possible respondents in violation of this section would be the anonymous contributors. Again, the issue of anonymous contributions with regard to reporting is being addressed in the current litigation. We recommend that the Commission take no further action at this time regarding the cash contributions.

2. The Auditors determined that cash contributions totalling $27,600 were not deposited into a campaign depository. $26,130.20 of these contributions were used for wire transfers and postal money orders which were sent to state agents. The difference of $1,469.80 has not been accounted for by the treasurer. The receipts and expenditures were disclosed in a report filed by the Committee.

Any contributions received by a principal campaign committee are required to be deposited into a campaign depository in accordance with 2 U.S.C. § 437b(a)(1). Also, expenditures made by a committee, except petty cash expenditures, shall, according to § 437b(a)(1), be made only by checks drawn from the depository. Section 437b(b) goes on to state that petty cash expenditures may not exceed $100 to any person in connection with a single purchase or transaction.

The Committee wrote eight checks in excess of $100, payable to cash. These checks totalled $6,671.87 and were not used to reimburse petty cash. The money was used to reimburse expenses, for a transfer to a state committee and for travel advances for the vice presidential candidate.

Because expenditures can be made by a committee only by a check drawn on the campaign depository, the Committee's actions constitute a violation of 2 U.S.C. § 437b(a)(1).

Even if these expenditures are considered to have been made from petty cash, § 437b(b) prohibits petty cash expenditures in excess of $100. The Committee violated this section of the Act by making four petty cash expenditures in excess of $100. The expenditures were for a payroll expense and for money orders to state agents, ranging from $109.20 to $180.90. It is recommended that the Commission find reason to believe that the Committee violated 2 U.S.C. §§ 437b(a)(1) and 437b(b) for the Committee's failure to deposit contributions into a campaign depository and for its failure to use checks drawn on the depository to make expenditures, or, if the expenditures are considered to have been made from petty cash, for making petty cash expenditures in excess of $100.

3. The Committee failed to itemize 32 of 635 expenditures totalling $7,236.69, comprising 5% of the reported expenditures which aggregate in excess of $100. It is recommended that the Commission find reason to believe that the Committee violated 2 U.S.C. § 434(b)(9) by not providing the identification of each person to whom expenditures were made within the calendar year in an aggregate amount or value in excess of $100.

Based on the foregoing analysis, the Federal Election Commission has made the following findings:

1. That no further action be taken at this time regarding the Committee's contributors' possible violations of 2 U.S.C. § 441g.

2. That the Committee has violated 2 U.S.C. § 437b(a)(1) and § 437b(b):

a) by failing to deposit contributions into a campaign depository;
b) by making expenditures in cash rather than with checks drawn from deposited funds; and,
c) by making petty cash expenditures in excess of $100.

3. That the Committee has violated 2 U.S.C. § 434(b)(9) by not providing the identification of each person to whom expenditures were made within the calendar year in an aggregate amount or value in excess of $100.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Abigail Coleman, Treasurer
New York Hall-Tyner Aptheker Campaign Committee
235 West 23rd Street
Sixth Floor
New York, New York 10011

RE: MUR 1036

Dear Ms. Coleman:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission has found reason to believe that the New York Hall-Tyner Aptheker Campaign Committee has violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). Enclosed is a Notification of Reason to Believe Findings for your committee.

We have numbered this matter MUR 1036. Please refer to this number in all future correspondence.

Under the Act, you have an opportunity to demonstrate that no action should be taken against your committee. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

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. In the absence of any information which demonstrates that no further action should be taken against your committee, the Commission may find probable cause to believe that violations have occurred, and proceed with formal conciliation. Of course, this does not preclude the settlement of this matter through informal conciliation prior to a finding of probable cause to believe if you so desire.

Ms. Abigail Coleman, Treasurer
Page 2

This matter will remain confidential in accordance with 2 U.S.C. Sections 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the investigation to be made public.

If you intend to be represented by counsel in this matter, please advise the Commission by sending a letter of representation stating the name, address, and telephone number of such counsel and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

If you have any questions, please contact Michele Brown, the staff member assigned to this matter, at 202/523-4175. For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations.

Sincerely,

Enclosures

Notification of Reason to Believe Findings
Procedures

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

83040400335

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Herbert Aptheker
32 Ludlum Place
Brooklyn, New York 11225

RE: MUR 1036

Dear Mr. Aptheker:

This is to advise you that on , 1980, the Federal Election Commission found reason to believe that your committee, the New York Hall-Tyner Aptheker Campaign Committee, has violated certain sections of the Federal Election Campaign Act of 1971, as amended. Enclosed is a Notification of Reason to Believe Findings.

While the Committee Treasurer is responsible for the recordkeeping and filing of reports for a committee, we believe that you, as the candidate, should be made aware of this development. A copy of our letter to your Committee Treasurer is enclosed.

Under 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A), this matter will remain confidential unless the Committee notifies the Commission in writing that it wishes the investigation to be made public.

If you have any questions, please contact Michele D. Brown, the staff member assigned to this matter at 202/523-4175. We have numbered this matter MUR 1036. For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations.

Sincerely,

Charles N. Steele
General Counsel

Enclosures

Letter to Committee Treasurer
Notification of Reason to Believe Findings
Procedures

FEDERAL ELECTION COMMISSION

NOTIFICATION OF REASON TO BELIEVE FINDING

DATE__________________ MUR NO. 1036

RESPONDENT New York Hall-Tyner Aptheker Campaign Committee

STAFF MEMBER(S) & TEL. NO. Michele Brown 202/523-4175

SOURCE OF MUR: INTERNALLY GENERATED

BACKGROUND

On March 22, 1979, the Audit Division requested that the Office of General Counsel review and analyze the interim reports of the Audit Division regarding the Hall-Tyner Election Campaign Committee, the New York Hall-Tyner Aptheker Campaign Committee, the Hall-Tyner-Flory Campaign '76 Committee, and the Hall-Tyner Election Campaign Committee of California. On October 2, 1979, the Office of General Counsel made these matters into a MUR.

Audit Findings and Analysis

New York Hall-Tyner Aptheker Campaign Committee

Through the audit of the New York Hall-Tyner Aptheker Campaign Committee, the Auditors determined that 18 anonymous cash contributions in excess of $50 were accepted by the Committee. These contributions total $7,900 and represent 21.80% of the total amount of individual contributions received by the Committee. Further, 14 anonymous cash contributions in excess of $100 were received, of which 13 were itemized as anonymous. The Committee filed a report amendment on December 18, 1978 in which the one previously unreported contribution of $100 was itemized as being anonymous; however, it was not reported as a cash contribution. With regard to the fact that the $100 contribution had not been reported, it is recommended that no further action be taken because the Committee filed a report amendment in which the contribution was itemized as an anonymous contribution. It is recommended that the Commission find reason to believe that Abigail Colman, treasurer of the Committee, violated 2 U.S.C. § 432(c)(2) by her apparent failure to keep records of contributors' names, addresses, occupations and principal places of business, and that the Committee violated 2 U.S.C. § 434(b)(2) by failing to report contributor information on reports filed with the Commission.

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Section 441g prohibits a person from making contributions to any candidate's campaign in cash which, in the aggregate, exceed $100. In this case, however, if the contributors are truly anonymous, the Commission cannot enforce section 441g against them. This section does not prohibit a committee from receiving a cash contribution, therefore, the only possible respondents in violation of this section would be the anonymous contributors. The Office of General Counsel recommends that the Commission take no further action at this time regarding the issue of cash contributions.

Based on the foregoing analysis, the Federal Election Commission has made the following findings:

1. That Abigail Colman, Treasurer, has violated 2 U.S.C § 432 (c)(2) by failing to keep records of contributors' names, addresses, occupations and principal places of business and that the Committee violated 2 U.S.C. § 434(b)(2) by failing to report this information.

2. That no further action be taken at this time regarding the Committee's contributors' possible violations of 2 U.S.C. § 441g.

FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Ben Green, Treasurer
Hall-Tyner-Flory Campaign '76 Committee
27 E. Monroe Street
Chicago, Illinois 60603

RE: MUR 1036

Dear Mr. Green:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission has found reason to believe that the Hall-Tyner-Flory Campaign '76 Committee has violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). Enclosed is a Notification of Reason to Believe Findings for your committee.

We have numbered this matter MUR 1036. Please refer to this number in all future correspondence.

Under the Act, you have an opportunity to demonstrate that no action should be taken against your committee. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

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. In the absence of any information which demonstrates that no further action should be taken against your committee, the Commission may find probable cause to believe that violations have occurred, and proceed with formal conciliation. Of course, this does not preclude the settlement of this matter through informal conciliation prior to a finding of probable cause to believe if you so desire.

Mr. Ben Green, Treasurer
Page 2

This matter will remain confidential in accordance with 2 U.S.C. Sections 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the investigation to be made public.

If you intend to be represented by counsel in this matter, please advise the Commission by sending a letter of representation stating the name, address, and telephone number of such counsel and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

If you have any questions, please contact Michele Brown, the staff member assigned to this matter, at 202/523-4175. For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations.

Sincerely,

Enclosures

Notification of Reason to Believe Findings
Procedures

FEDERAL ELECTION COMMISSION

NOTIFICATION OF REASON TO BELIEVE FINDING

DATE ______________________ MUR NO. 1036

RESPONDENT Hall-Tyner-Flory Campaign '76

STAFF MEMBER(S) & TEL. NO. Michele Brown 202/523-4175

SOURCE OF MUR: I N T E R N A L L Y G E N E R A T E D

BACKGROUND

On March 22, 1979, the Audit Division requested that the Office of General Counsel review and analyze the interim reports of the Audit Division regarding the Hall-Tyner Election Campaign Committee, the New York Hall-Tyner Aptheker Campaign Committee, the Hall-Tyner-Flory Campaign '76 Committee, and the Hall-Tyner Election Campaign Committee of California. On October 2, 1979, the Office of General Counsel made these matters into a MUR.

Audit Findings and Analysis

Hall-Tyner-Flory Campaign '76

1. Through the audit of the Hall-Tyner-Flory Campaign '76 Committee, the Auditors determined that anonymous contributions totalling $6,699.71 were accepted and reported by the Campaign '76 Committee. This is 28.99% of the total amount of individual contributions. Because of the recordkeeping system of the Campaign '76 Committee, the Auditors could not determine the amount of anonymous cash contributions per contributor received in excess of $50.

A schedule of all contributions in excess of $100 was filed by the Campaign '76 Committee on November 29, 1978 for the period of the audit. Ten additional anonymous contributions were itemized totalling $1,262.00.1/ These additional contributions increase the total amount of individual contributions to $7,961.17, 34.45% of the total amount of individual contributions. It is recommended that the Commission find reason to believe that Ben Green, treasurer of the Committee, violated 2 U.S.C. § 432(c)(2) by his apparent failure to keep records of contributors' names, addresses, occupations and principal places of business, and that the Hall-Tyner-

1/ Of the ten (10) anonymous contributions disclosed on this schedule, seven (7) were found to be identified on the contributor records during the audit fieldwork.

Flory Campaign '76 Committee violated 2 U.S.C. § 434(b)(2) by failing to report contributor information on reports filed with the Commission.

Section 441g prohibits a person from making contributions in cash to any candidate's campaign which, in the aggregate, exceed $100. In this case, Campaign '76 Committee's records do identify the identity of seven out of the ten "anonymous" contributions disclosed on the report schedule. However, the Auditors could not determine the amount of anonymous cash contributions per contributor in excess of $50. Therefore, even if the Commission could obtain the names and addresses of the seven "anonymous" contributors, we would probably not be able to determine which contributors, if any, contributed cash in excess of $100. The Office of General Counsel recommends that the Commission take no further action at this time regarding any possible violations of 2 U.S.C. § 441g.

2. Twenty-five contributions were not itemized on reports filed by the Campaign '76 Committee. The total of these contributions was $3,264.15, 10.86% of the total amount of contributions received by the Committee focused on by the audit. The Campaign '76 Committee filed a report amendment on November 29, 1978 in which ten of the 25 contributions were itemized an anonymous. The remaining eight contributions, which aggregate in excess of $100, were not itemized on the amended report. These total $536.04 and represent 1.78% of the total amount of contributions received by the Campaign '76 Committee during the period of the audit.

Because the Hall-Tyner-Flory Campaign '76 Committee filed a report amendment, the Office of General Counsel recommends that no further action be taken against the Committee with respect to these violations.

3. Several violations of 2 U.S.C § 437b appear to have been committed by the Hall-Tyner-Flory Campaign '76 Committee. The Campaign '76 Committee failed to deposit contributions received into a campaign depository. Also, expenditures were made in cash from contributions received rather than by a check drawn from deposited funds and these cash expenditures exceed the $100 limit on expenditures from the petty cash fund. It is recommended that the Commission find reason to believe that the Hall-Tyner-Flory Campaign '76 Committee violated 2 U.S.C. §§ 437b(a)(1) and 437b(b).

The treasurer of a political committee is required, under 2 U.S.C. § 432(c)(3) and (4), to keep a detailed and exact account of all expenditures made by or for such committee and the identification of every person to whom any expenditure is made, including the date and amount of the expenditure. In addition, 2 U.S.C. § 432(d) requires that the treasurer obtain and keep a receipted bill, stating the particulars, for every expenditure made in excess of $100 in amount, and for any expenditure made in a lesser amount, if the aggregate amount of such expenditures to the same person during a calendar year exceeds $100.

It is the opinion of the Auditors that the Campaign '76 Committee's recordkeeping system of folders containing haphazardly filed invoices, receipted bills and contemporaneous memoranda does not comply with the requirements of 2 U.S.C. §§ 432(c)(3) and (4) and 432(d). It is recommended that the Commission find reason to believe that Ben Green, Treasurer, and Hall-Tyner-Flory Campaign '76 violated 2 U.S.C. §§ 432(c)(3) and (4) and 432(d).

Under 2 U.S.C. § 434(b)(9), a committee must report the identification of each person to whom an expenditure is made in an aggregate amount in excess of $100 along with the amount, date, and purpose of each expenditure and the name and address of, and office sought by, each candidate on whose behalf an expenditure is made. The Campaign '76 Committee's practice of combining all expenditures to one payee and reporting one total along with several dates rather than individually reporting each contribution would constitute a violation of 2 U.S.C. § 434(b)(9).

Based on the foregoing analysis, the Federal Election Commission has made the following findings:

Hall-Tyner-Flory Campaign '76

1. That Ben Green, Treasurer, has violated 2 U.S.C. § 432(c)(2) by failing to keep records of contributors' names, addresses, occupations and principal places of business and that Hall-Tyner-Flory Campaign '76 violated 2 U.S.C. § 434(b)(2) by failing to report this information.

2. That no further action be taken at this time regarding the Committee's contributors' possible violations of 2 U.S.C. § 441g.

3. That no further action be taken with regard to the Committee's failure to itemize 25 contributions on its reports because of the filing of a report amendment by the Committee.

4. That the Committee has violated 2 U.S.C. §§ 437b(a)(1) and 437b(b):

   a) by failing to deposit contributions into a campaign depository;
   b) by making expenditures in cash rather than with checks drawn from deposited funds; and,
   c) by making petty cash expenditures in excess of $100.

5. That Ben Green, Treasurer, and the Committee violated 2 U.S.C. §§ 432(c)(3) and (4) and 432(d):

   a) by failing to keep detailed and exact account of all expenditures made by or for such committee and the identification of every person to whom any expenditure is made, including the date and amount of the expenditure; and,

b) by the treasurer's failure to obtain and keep a receipted bill, stating the particulars, for every expenditure made in excess of $100 in amount, and for any expenditure in a lesser amount, if the aggregate amount of such expenditures to the same person during a calendar year exceeds $100.

6. That the Committee has violated 2 U.S.C. § 434(b)(9) by failing to report the particulars for each expenditure made.

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

INTERIM REPORT OF THE AUDIT DIVISION ON THE NEW YORK HALL-TYNER APTHEKER CAMPAIGN COMMITTEE

I. Background

A. Overview

This interim report is based on an audit of the New York Hall-Tyner-Aptheker Campaign Committee ("the Committee"), undertaken by the Audit Division of the Federal Election Commission to determine whether there has been compliance with the provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The audit was conducted pursuant to Section 438(a)(8) of Title 2 of the United States Code which directs the Commission to make from time to time audits and field investigations with respect to reports and statements filed under the provisions of the Act.

The Committee registered with the Federal Election Commission on July 7, 1976, as a committee authorized by Mr. Gus Hall, Presidential candidate of the Communist Party. The Committee maintained its headquarters in New York City.

The audit covered the period from June 14, 1976 through March 31, 1977. During this period the Committee reported an opening cash balance of $-0-, total receipts of $38,664.12, total expenditures of $38,178.75, and a closing cash balance of $465.37.

This audit report is based on documents and working papers supporting each of its factual statements. They form part of the record upon which the Commission based its decisions on the matters in this report, and were available to Commissioners and appropriate staff for review.

B. Key Personnel

The principal officers of the Committee during the period of the audit were Mr. Jose Ristorucci, Chairman, and Ms. Abigail Colman, Treasurer.

C. Scope

The audit included such tests as verification of total reported receipts and expenditures and individual transactions; review of required supporting documentation; analysis of Committee debts and obligations; and such other audit procedures as deemed necessary under the circumstances.

II. Auditor's Statement and Description of Findings

It is the opinion of the Audit staff, based upon examination of the reports and statements filed and the records presented, that the New York Hall-Tyner-Aptheker Campaign Committee has not conducted its activities in compliance with the Federal Election Campaign Act and that the reports and statements filed by the Committee do not fairly present the financial activities of the Committee for the period covered by the audit.

Audit Findings and Recommendations

A. Anonymous Contributions

Section 432(c)(2) of Title 2 of the United States Code states, in part, that the treasurer of a political committee keep a detailed and exact account of the identification of every person making a contribution in excess of $50 and the date and amount thereof, and the occupation and the principal place of business if the contribution(s) aggregate more than $100.

Also, Section 434(b)(2) of Title 2 of the United States Code states, in part, that each report shall disclose the full name and mailing address (occupation and principal place of business, if any) of each person who has made one or more contribution(s) to or for such committee or candidate within the calendar year in an aggregate amount or value in excess of $100, together with the amount and date of such contributions.

Further, Section 110.4(c)(2) of the Commission's Regulations requires that a candidate or committee receiving cash contributions in excess of $100.00, promptly return to the contributor the amount in excess of $100.00.

Finally, Section 110.4(c)(3) of the Commission's Regulations requires that a candidate or committee, receiving an anonymous cash contribution in excess of $50, promptly dispose of the amount in excess of $50 in any lawful manner unrelated to any Federal election, campaign, or candidate.

During the course of the audit, it was determined that the Committee accepted 18 anonymous cash contributions in excess of $50 totaling $7,900.00. This represents 4.40% of the total number and 21.80% of the total dollar value of total individual contributions accepted by the Committee. In addition 14 of the anonymous cash contributions were in excess of $100, of which 13 were itemized as anonymous on the Committee's disclosure reports.

On December 18, 1978, the Committee filed an amended report itemizing the one (1) previously unreported contribution of $1,000 as anonymous (see Finding B). The amended report did not identify this $1,000 anonymous contribution as an anonymous cash contribution.

Recommendation

The Audit staff recommends that this matter be referred to the Office of General Counsel for consideration as a MUR.

B. Disclosure of Contributions

Section 434(b)(2) of Title 2 of the United States Code requires that each report disclose the full name and mailing address (occupation and the principal place of business, if any) of each person who has made one or more contributions to or for such committee or candidate within the calendar year in an aggregate amount or value in excess of $100, together with the date and amount of such contributions.

During the course of the audit, it was determined that the Committee did not report one (1) contribution of $1,000, and reported incorrect aggregate totals for 14 itemized contributions (22.95% of the total number of contributions to be

itemized). Also, the Committee did not disclose the full mailing address for 13 itemized contributors (21.31%), and the occupation and principal place of business for 29 itemized contributors (47.54%) and for 14 individuals who made loans to the Committee (22.95%).

On December 18, 1978, the Committee filed an amended report which itemized one (1) contribution of $1,000 as anonymous, corrected the aggregate totals for eight (8) contributions and disclosed the occupation and principal place of business of 11 contributors and 14 individuals who made loans to the Committee.

Recommendation

Since the Committee has filed an amended report substantially disclosing the contributor information, other than that for anonymous contributors, the Audit staff recommends no further action in this matter.

C. Supporting Documentation for Expenditures

Section 432(d)of Title 2 of the United States Code requires that a treasurer of a political committee obtain and keep a receipted bill, stating the particulars, for every expenditure made by or on behalf of a political committee in excess of $100 in amount, and for any such expenditure in a lesser amount, if the aggregate amount of such expenditures to the same person during the calendar year exceeds $100.

Section 102.9(c)(4) of the Commission's Regulations states, in part, that when a receipted bill is not available, the treasurer may keep the cancelled check(s) showing payment of the bill, and the bill, invoice or other contemporaneous memorandum of the transaction supplied to the committee by the payee containing the necessary information.

During the course of the audit, it was determined that the Committee did not retain appropriate documentation to support nine (9) expenditures, totaling $2,675.02. This represents 18.37% of the total number and 9.41% of the dollar amount of itemized expenditures. In each case, a cancelled check was available for inspection.

On December 18, 1978, the Committee submitted documentation for three (3) expenditures totaling $492.28. For the remaining six (6) expenditures, the Committee submitted copies of the letters sent to the payees in an effort to obtain the necessary documentation.

Recommendation

Since the Committee has either submitted the necessary documentation or demonstrated their best efforts to do so, the Audit staff recommends no further action in this matter.

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

INTERIM REPORT OF THE AUDIT DIVISION ON THE HALL TYNER ELECTION CAMPAIGN COMMITTEE

I. Background

A. Overview

This interim report is based upon an audit of the Hall Tyner Election Campaign Committee ("the Committee"), undertaken by the Audit Division of the Federal Election Commission in accordance with the Commission's audit policy to determine whether there has been compliance with the provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The audit was conducted pursuant to Section 438(a)(8) of Title 2 of the United States Code which directs the Commission to make from time to time audits and field investigations with respect to reports and statements filed under the provisions of the Act.

The Committee registered with the Federal Election Commission on March 1, 1976 as the principal campaign committee of Mr. Gus Hall, Presidential candidate of the Communist Party. The Committee maintains its headquarters in New York City.

The audit covered the period from January 1, 1976 to March 31, 1977. During this period the Committee reported an opening cash balance of $845.35, total receipts of $424,657.04, total expenditures of $422,595.22 and a closing cash balance of $2,907.17.

This audit report is based on documents and working papers supporting each of its factual statements. They form part of the record upon which the Commission based its decisions on the matters in this report, and were available to Commissioners and appropriate staff for review.

B. Key Personnel

The principal officers of the Committee for the period covered by the audit were Mr. Henry Winston, Chairman, and Mrs. Frances Bordofsky, Treasurer.

C. Scope

The audit included such tests as verification of total reported receipts and expenditures and individual transactions; review of required supporting documentation; analysis of Committee debts and obligations; and, such other audit procedures as deemed necessary under the circumstances.

II. Auditor's Statement and Description of Findings

It is the opinion of the Audit staff, based upon examination of the reports and statements filed and the records presented, that the Hall Tyner Election Campaign Committee has not conducted its activities in compliance with the Federal Election Campaign Act and that the reports and statements filed by the Committee do not fairly present the financial activities of the Committee for the period covered by the audit.

Audit Findings and Recommendations

A. Anonymous Contributions

Section 432(c)(2) of Title 2 of the United States Code states, in part, that the treasurer of a political committee keep a detailed and exact account of the identification of every person making a contribution in excess of $50.00 and the date and amount thereof, and the occupation and the principal place of business if the person's contribution(s) aggregate more than $100.

Also, Section 434(b)(2) of Title 2 of the United States Code states that each report under this section shall disclose the full name and mailing address (occupation and principal place of business, if any) of each person who has made one or more contributions to or for such committee or candidate within the calendar year in an aggregate amount or value in excess of $100, together with the amount and date of such contributions.

Further, Section 110.4(c)(2) of the Commission's Regulations requires that a candidate or committee, receiving cash contributions in excess of $100.00, promptly return to the contributor the amount in excess of $100.00.

Finally, Section 110.4(c)(3) of the Commission's Regulations requires that a candidate or committee, receiving an anonymous cash contribution in excess of $50.00, promptly dispose of the amount in excess of $50.00 in any lawful manner unrelated to any Federal election, campaign, or candidate.

During the course of the audit, it was determined that the Committee accepted 468 anonymous cash contributions in excess of $50.00, totaling $257,521.30. This represents 36.53% of the total number and 67.53% of the total amount of individual contributions accepted by the Committee. Also, it was determined that the Committee accepted eight (8) contributions of cash from identifiable contributors, in excess of $100 totaling $2,762.00, which is .62% of the total number and .72% of the total amount of individual contributions accepted by the Committee.

On November 13, 1978, the Committee filed an amendment which itemized 15 additional contributions totaling $9,000 as anonymous (see Finding C). This amendment increases the total number and dollar value of anonymous cash contributions to 483 (37.70%) and $266,521.30 (69.89%), respectively.

Recommendation

This matter is currently being handled as MUR 358(77) in the Office of General Counsel.

B. Undeposited Contributions

Section 437b(a)(1) of Title 2 of the United States Code states, in part, that all contributions received by a committee shall be deposited into the campaign depository of the committee and that all expenditures, other than those of petty cash, shall be made by check drawn on an account of this campaign depository.

Section 434(b)(8) and (11) of Title 2 of the United States Code requires that each report shall disclose the total sum of all receipts and expenditures of such committee during the reporting period.

During the course of the audit, it was determined that the Committee accepted cash contributions totaling $27,600.00, which were not deposited into a Committee depository. These contributions were used for wire transfers and postal money orders, totaling $26,130.20, which were sent to various state agents acting on behalf of the Committee in their respective state(s). This activity occurred during the period May 10, 1976

to October 27, 1976. The Committee disclosed both the receipt and expenditure of these funds on their 30 day post election report filed on December 10, 1976. The Committee treasurer has been unable to account for the difference of $1,469.80 between the contributions and expenditures.

Recommendation

It is the recommendation of the Audit staff that this matter be referred to the Office of General Counsel for consideration as a MUR.

C. Disclosure of Contributions

Section 434(b)(2) of Title 2 of the United States Code states that each report under this section shall disclose the full name and mailing address (occupation and principal place of business, if any) of each person who has made one or more contributions to or for such committee or candidate within the calendar year in an aggregate amount or value in excess of $100, together with the amount and date of such contributions. Also, Section 434(b)(6)(B) states, in part, that each report under this section shall disclose the total amount of proceeds from mass collections.

During the course of the audit, it was determined that the Committee did not itemize 23 contributions from various sources, including mass collections, totaling $10,053.00 for the period covered by the audit. This represents 2.67% of the total dollar value of contributions required to be itemized during the period covered by the audit.

On November 13, 1978, the Committee filed an amended report itemizing 15 contributions totaling $9,000 as anonymous.

Recommendation

Since the Committee has filed the amendment disclosing these contributions, it is the recommendation of the Audit staff that no further action is necessary in this matter. However, the 15 contributions itemized as anonymous are included with Finding A of this report which indicates the prohibition on anonymous contributions.

Other Matters

Presented below are other matters noted during the audit for which the Audit staff feels that no additional action is necessary.

1) During the audit, it was determined that the Committee wrote eight (8) checks totaling $6,671.87, payable to cash, in excess of $100 for purposes other than replenishing the petty cash fund. The purposes of these payments were for reimbursed expenses, a transfer to a state committee, and travel advances for the vice presidential candidate.

2) It was determined that the Committee made four (4) petty cash expenditures in excess of $100, ranging from $109.20 to $180.90. These expenditures were for a payroll expense and money orders to state agents.

3) It was determined that the Committee did not itemize 32 of the 635 expeditures, representing 5% of the reported expenditures which aggregate in excess of $100, totaling $7,236.69.

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

REPORT OF THE AUDIT DIVISION ON THE HALL-TYNER-FLORY CAMPAIGN '76

I. Background

A. Overview

This interim report is based upon an audit of the Hall-Tyner-Flory Campaign '76 ("the Committee"), undertaken by the Audit Division of the Federal Election Commission in accordance with the Commission's audit policy to determine whether there has been compliance with the provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The audit was conducted pursuant to Section 438(a)(8) of Title 2 of the United States Code which directs the Commission to make from time to time audits and field investigations with respect to reports and statements filed under the provisions of the Act.

The Committee registered with the Federal Election Commission on March 22, 1976 as a committee authorized by Mr. Gus Hall, Presidential candidate of the Communist Party. The Committee maintained its headquarters in Chicago, Illinois.

The audit covered the period from March 9, 1976 through December 31, 1976 the closing date of the last report filed by the Committee at the time of the audit. During this period the Committee reported an opening cash balance of $-0-, total receipts of $30,035.45, total expenditures of $30,027.47, and a closing cash balance of $25.98.

This audit report is based on documents and working papers supporting each of its factual statements. They form part of the record upon which the Commission based its decisions on the matters in the report and were available to Commissioners and appropriate staff for review.

B. Key Personnel

The principal officers of the Committee for the period covered by the audit were Mr. Jack Kling and Mr. Nathan Sharpe, Co-Chairmen, Mr. Ben Green, Treasurer, and Mr. Ted Pearson, Secretary.

C. Scope

The audit included such tests as verification of total receipts and expenditures and individual transactions; review of required supporting documentation; review of Committee debts and obligations; and such other audit procedures as deemed necessary under the circumstances.

II. Auditor's Statement and Description of Findings

It is the opinion of the Audit staff, based upon examination of the reports and statements filed and records presented, that the Hall-Tyner-Flory Campaign '76 has not conducted its activities in compliance with the Federal Election Campaign Act and that the reports and statements filed by the Committee do not fairly present the financial activites of the Committee for the period covered by the audit.

A. Anonymous Contributions

Section 432(c)(2) of Title 2 of the United States Code states, in part, that the treasurer of a political committee keep a detailed and exact account of the identification of every person making a contribution in excess of $50 and the date and amount thereof, and the contributor's occupation and the principal place of business if the contribution(s) aggregate more than $100.

Also, Section 434(b)(2) of Title 2 of the United States Code states that each report under this section shall disclose the full name and mailing address (occupation and principal place of business, if any) of each person who mas made one or more contribution(s) to or for such committee or candidate within the calendar year in an aggregate amount or value in excess of $100, together with the amount and date of such contributions.

Finally, Section 110.4(c)(3) of the Commission's Regulations requires that a candidate or committee, receiving an anonymous cash contribution in excess of $50, promptly dispose of the amount in excess of $50 in any lawful manner unrelated to any Federal election, campaign, or candidate.

During the course of the audit, it was determined that the Committee accepted and reported anonymous contributions totaling $6,699.17, which is 28.99% of the total amount of individual contributions. It is not possible to determine the amount of anonymous cash contributions (per contributor) received in excess of $50 with the recordkeeping system maintained by the Committee.

On November 29, 1978, the Committee filed a schedule of all contributions in excess of $100 for the audit period. This schedule itemized ten (10) additional anonymous contributions totaling $1,262.00 1/ (see Finding B). This increases the dollar value of anonymous contributions reported by the Committee to $7,961.17 (34.45%). According to the Committee legal counsel, Mr. John Abt, the Committee accepted these anonymous contributions based upon an opinion in the Supreme Court case entitled Buckley vs. Valeo (424 U.S. 1, 74(1976). This opinion refers to the compelled disclosure of the identification of contributors, subjecting them to threats, harassment, or reprisals from either government officials or private parties.

Recommendation

The Audit staff recommends that this matter be referred to the Office of General Counsel for consideration as a MUR.

B. Itemization of Contributions

Section 434(b)(2) of Title 2 of the United States Code states that each report under this section shall disclose the full name and mailing address (occupation and principal place of business, if any) of each person who has made one or more contributions to or for such committee or candidate within the calendar year in an aggregate amount of value in excess of $100, together with the amount and ate of such contributions.

During the course of the audit, it was determined that the Committee did not itemize 25 contributions each aggregating in excess of $100 and totaling $3,264.15. This represents 10.86% of the total amount of contributions received by the Committee for the audit period.

1/ Of the ten (10) anonymous contributions disclosed on this schedule, seven (7) were found to be identified on the contributor records during the audit fieldwork.

On November 29, 1978, the Committee filed a schedule itemizing 17 contributions totaling \$2,728.11. Ten (10) of these contributions were itemized as anonymous (see Finding A). The remaining eight (8) contributions, totaling \$536.04 (1.78%), which aggregate in excess of \$100 were not itemized on the amendment.

Recommendation

Since the Committee has filed the amendment substantially itemizing these contributions, no further action on this matter is recommended.

C. Recordkeeping of Expenditures

Section 432(c)(3) and (4) requires the treasurer of a political committee to keep a detailed and exact account of all expenditures made by or for such committee and the identification of every person to whom any expenditure is made and the date and amount thereof.

Section 432(d) of Title 2 of the United States Code requires that the treasurer obtain and keep a receipted bill, stating the particulars, for every expenditure made by or on behalf of a political committee in excess of \$100 in amount, and for any such expenditure in a lesser amount, if the aggregate amount of such expenditures to the same person during a calendar year exceeds \$100.

During the course of the audit, it was determined that the Committee did not maintain an adequate recordkeeping system for expenditures. The Committee's recordkeeping system for expenditures was comprised of several folders of haphazardly filed invoices, receipted bills, and contemporaneous memorada supposedly supporting reported expenditures. Also, in several cases, the Committee did not report individual expenditures, when more than one expenditure was made to a payee during a reporting period. Rather, the Committee combined all expenditures to one payee for a given reporting period and reported them as a combined total with a range of dates between which the expenditures were made. Further, the Committee, in several cases, would make cash payments for their expenditures with cash which the Committee received as contributions. The cash was never deposited into the campaign depository. However, in an attempt to get the expenditure through the campaign depository, the Committee would make a check payable to (petty) cash and deposit it into the campaign depository. Given this recordkeeping system and this method of reporting expenditures, the Audit staff was unable to trace the expenditures from the supporting documentation and cancelled checks to the disclosure reports.

In subsequent telephone conversations with the Campaign Manager of the Committee, the Audit staff attempted to arrange additional fieldwork in order to review the expenditures recordkeeping system and supporting documentation. The Campaign Manager stated that the records are in the same order as when the Audit staff reviewed them during the original fieldwork. Consequently, the Audit staff did not conduct the additional fieldwork due to the fact that the Committee made no attempt to arrange the supporting documentation in an orderly manner, as was recommended in the letter of audit findings which was received by the Committee on September 23, 1978.

Recommendation

The Audit staff recommends that this matter be referred to the Office of General Cousel for consideration as a MUR.

A. 434

FEDERAL ELECTION COMMISSION

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

March 22, 1979

MEMORANDUM

TO : BILL OLDAKER

THROUGH : ORLANDO B. POTTER
STAFF DIRECTOR

FROM : BOB COSTA

SUBJECT : REQUEST FOR REVIEW & LEGAL ANALYSIS

Attached for your review and legal analysis are copies of the following audit reports:

1. Hall Tyner Election Campaign Committee of California

2. New York Hall Tyner Aptheker Campaign Committee

3. Hall Tyner Election Campaign Committee

4. Hall Tyner Flory Campaign '76

Please note that audit reports ~~(1)~~, (2), (3) and (4) above contain recommendations for possible MUR action regarding anonymous contributions and/or undeposited cash contributions received by these Committees.

Should you have any questions please contact either Russ Bruner or Dan Boyle at extension 3-4155.

Attachment as stated

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

REPORT OF THE AUDIT DIVISION ON THE HALL-TYNER ELECTION CAMPAIGN COMMITTEE OF CALIFORNIA

I. Background

A. Overview

This report is based upon an audit of the Hall-Tyner Election Campaign Committee of California ("the Committee"), undertaken by the Audit Division of the Federal Election Commission in accordance with the Commission's audit policy to determine whether there has been compliance with the provisions of the Federal Election Campaign Act, as amended ("the Act"). The audit was conducted pursuant to Section 438(a)(8) of Title 2, United States Code, which directs the Commission to make from time to time audits and field investigations with respect to reports and statements filed under the provisions of the Act.

The Committee registered with the Federal Election Commission on July 3, 1976, as a committee authorized by Mr. Gus Hall, Presidential candidate of the Communist Party. The Committee maintained its headquarters in San Francisco, California.

The audit covered the period from June 10, 1976, the inception date of the Committee, through March 31, 1977. During this period the Committee reported an opening cash balance of \$-0-, total receipts of \$58,774.10, total expenditures of \$58,203.23, and a closing cash balance at December 31, 1976 of \$570.87. 1/

This audit report is based on documents and working papers supporting each of its factual statements. They form part of the record upon which the Commission based its decisions on the matters in this report, and were available to Commissioners and appropriate staff for review.

1/ The Committee had not filed the April 10, 1977 report covering the period January 1, 1977 to March 31, 1977 at the time of the audit. However, the audit did include a review of the Committee records for the period 1/1/77 to 3/31/77.

B. Key Personnel

The principal officers of the Committee during the period of the audit were Ms. Angela Davis, Chairman, and Mr. David Englestein, Treasurer.

C. Scope

The audit included such tests as verification of total reported receipts and expenditures and individual transactions; review of required supporting documentation; analysis of Committee debts and obligations; and, such other audit procedures as deemed necessary under the circumstances.

II. Auditor's Statement

It is the opinion of the Audit staff, based upon examination of the reports and statements filed and the records presented, that the reports and statements of the Hall-Tyner Election Campaign Committee of California fairly present the financial activities of the Committee for the period covered by the audit. No material problems in complying with the Federal Election Campaign Act were discovered during the course of the audit.

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 1036

Date Filmed 6/17/83 Camera No. --- 2

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