



FEDERAL ELECTION COMMISSION

1125 A STREET N.W.
WASHINGTON, D.C. 20461

THIS IS THE END OF MUR # 1075

Date Filmed 2-23-81 Camera No. --- 2

Cameraman bpc

31010231253

CALLAHAN M.R. 107

Form 3811, Jan. 1978

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

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:
Bob Bauer
DC 20034

3. ARTICLE DESCRIPTION:
REGISTERED NO. CERTIFIED NO. REGISTERED NO.
E06L60

(Always obtain signature of addressee or agent)

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

4. DATE OF DELIVERY
1/22/81

5. ADDRESS (Complete only if required)

6. UNABLE TO DELIVER BECAUSE:

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N.W.
MUSP
INITIALS

☆GPO : 1978-355-045

FEDERAL ELECTION COMMISSION

Documents removed
pursuant to § 4379 (a)(4)(B)(i)

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 |
| ☐ (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

date

Agnes M. Lallaha
4/22/81



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

January 16, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert F. Bauer
1920 N. Street, N.W.
Suite 403
Washington, D.C. 20036

Re: MUR 1075

Dear Mr. Bauer:

On January 15, 1981, the Commission accepted the conciliation agreement signed by your client in settlement of a violation of 2 U.S.C. § 441a(f), a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter, and it will become a part of the public record within thirty days. However, 2 U.S.C. § 437g (a)(4)(B) prohibits any information derived in connection with any conciliation attempt from becoming public without the written consent of the respondent and the Commission. Should you wish any such information to become part of the public record, please advise us in writing.

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

Sincerely,

A handwritten signature in dark ink, appearing to read "Charles N. Steele".

Charles N. Steele
General Counsel

Enclosure
Conciliation agreement

91040231265

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert F. Bauer
1920 N. Street, N.W.
Suite 403
Washington, D.C. 20036

Re: MUR 1075

Dear Mr. Bauer:

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

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

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Conciliation Agreement

Prepared by E. Callahan, Jr. 1-9-81
Checked by Tom Whitehead.

94749 RECEIVED
81 JAN 5 P12:34
CCC # 3689
BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Miller for Senate Committee)

MUR 1075

Callahan

CONCILIATION AGREEMENT

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This matter having been initiated by the Federal Election Commission (hereinafter "the Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities, and after probable cause to believe having been found that Smith's Transfer Corporation PAC violated 2 U.S.C. § 441a(f).

NOW, THEREFORE, the Commission and Respondent, having duly entered into conciliation pursuant to 2 U.S.C. § 437g do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding.

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

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

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

1. Respondent, Miller for Senate Committee, is the principal campaign committee for Andrew Miller.

2. Respondent received \$5,000 from Smith's Transfer Corporation PAC ("Smith PAC") on September 11, 1978.

21:28 JAN 5 1979

3. Smith PAC did not attain multicandidate committee status until January 12, 1979.

4. At the time Smith PAC contributed \$5,000 to the Miller for Senate Committee, it was limited to contributions of \$1,000 per candidate, per election.

WHEREFORE, Respondent agrees:

V. Respondent's acceptance of \$5,000 from Smith PAC on September 11, 1978, exceeded the limitations of § 441a(a)(1)(A) placing respondent in violation of 2 U.S.C. § 441a(f).

VI. Respondent agrees that it shall not undertake any activity which is in violation of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431, et seq.

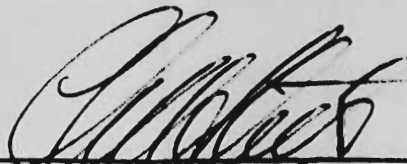
GENERAL CONDITIONS

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

VIII. It is mutually agreed that this agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. It is agreed that respondent shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirement contained in this agreement or so notify the Commission.

16 January 1981
Date



Charles W. Steele
General Counsel
Federal Election Commission

12/24/80
Date

Miller for Senate Committee

BY: McLain T. O'Ferrall, Jr.
McLain T. O'Ferrall, Jr.

ITS: _____
Treasurer

31010231233

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Miller for Senate Committee)

MUR 1075

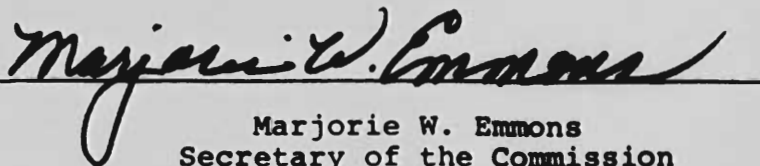
CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on January 15, 1981, the Commission decided by a vote of 6-0 to accept the conciliation agreement, as attached to the General Counsel's January 13, 1981 memorandum, and close the file.

Commissioners Aikens, Harris, McGarry, Reiche, Thomson, and Tiernan voted affirmatively in this matter.

Attest:

1/15/81
Date


Marjorie W. Emmons
Secretary of the Commission

Received in Office of the Commission Secretary: 1-13-81, 12:32
Circulated on 48 hour vote basis: 1-13-81, 4:00



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE *MWE*
FROM: MARJORIE W. EMMONS/MARGARET CHANEY *mc*
DATE: JANUARY 16, 1981
SUBJECT: MUR 1075 - Comments Regarding Penalty
Memorandum to the Commission dated 1-13-81

Attached is a copy of Commissioner Reiche's
vote sheet with comments regarding MUR 1075.

ATTACHMENT:
Copy of Vote Sheet

31040231271

January 13, 1981

MEMORANDUM TO: Marjorie W. Emmons
FROM: Elissa T. Garr
SUBJECT: MUR 1075

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

31040231273



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

81 JAN 13 PM 2:32

January 13, 1981

MEMORANDUM TO: The Commission
FROM: Charles N. Steele
General Counsel *[Signature]*
SUBJECT: MUR 1075 Conciliation Agreement

Attached is a conciliation agreement which has been signed by McLain T. O'Ferral, Jr., Treasurer of the Miller for Senate Committee.

The attached agreement includes all the provisions which the Commission determined should be included during executive session on December 5, 1980.

The Office of General Counsel recommends the acceptance of this agreement and the closing of the file.

Attachment

Conciliation Agreement - one
Notification Letter - one
(4 total pages)

81040231273

Collahan

911/44

BEFORE THE FEDERAL ELECTION COMMISSION

31 JAN 5

PI2: 34

600 # 3689

In the Matter of .
Miller for Senate Committee

MUR 1075

CONCILIATION AGREEMENT

This matter having been initiated by the Federal Election Commission (hereinafter "the Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities, and after probable cause to believe having been found that Smith's Transfer Corporation PAC violated 2 U.S.C. § 441a(f).

NOW, THEREFORE, the Commission and Respondent, having duly entered into conciliation pursuant to 2 U.S.C. § 437g do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding.

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

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

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

1. Respondent, Miller for Senate Committee, is the principal campaign committee for Andrew Miller.

2. Respondent received \$5,000 from Smith's Transfer Corporation PAC ("Smith PAC") on September 11, 1978.

21:2d SAV 10

RECEIVED

GEN. SEC.

3. Smith PAC did not attain multicandidate committee status until January 12, 1979.

4. At the time Smith PAC contributed \$5,000 to the Miller for Senate Committee, it was limited to contributions of \$1,000 per candidate, per election.

WHEREFORE, Respondent agrees:

V. Respondent's acceptance of \$5,000 from Smith PAC on September 11, 1978, exceeded the limitations of § 441a(a)(1)(A) placing respondent in violation of 2 U.S.C. § 441a(f).

VI. Respondent agrees that it shall not undertake any activity which is in violation of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431, et seq.

GENERAL CONDITIONS

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

VIII. It is mutually agreed that this agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

2

IX. It is agreed that respondent shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirement contained in this agreement or so notify the Commission.

Date

Charles N. Steele
General Counsel
Federal Election Commission

12/24/80

Date

Miller for Senate Committee

BY: McLain T. O'Ferrall, Jr.
McLain T. O'Ferrall, Jr.

ITS: _____
Treasurer

31040231275

3



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert F. Bauer
1920 N. Street, N.W.
Suite 403
Washington, D.C. 20036

Re: MUR 1075

Dear Mr. Bauer:

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

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

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Conciliation agreement

4



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 8, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

R.R. Smith
Chairman of the Board
Smith's Transfer Corporation
P.O. Box 1000
Staunton, VA 24401

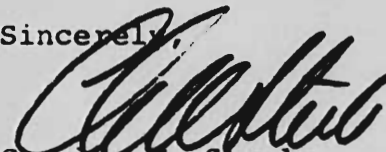
Re: MUR 1075

Dear Mr. Smith:

On September 2, 1980, the Commission accepted the conciliation agreement signed by you and a civil penalty of \$250 in settlement of a violation of 2 U.S.C. § 441a(1)(A). Accordingly, the file has been closed in this matter, and will become a part of the public record. However, 2 U.S.C. § 437g(a)(4)(B) prohibits any information derived in connection with any conciliation attempt from becoming public without the written consent of the respondent and the Commission. Should you wish any such information to become part of the public record, please advise us in writing.

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

Sincerely,


Charles N. Steele
General Counsel

Enclosure

Conciliation Agreement

81040231278

626136016

MUR-1075 Callahan

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:
**R.R. Smith
Smith's Transfer Corporation
P.O. Box 100
Stamilton, VA 24401**

3. REGISTERED NO. CERTIFIED NO. INSURED NO.
502940

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent

4. DATE OF DELIVERY
SEP 12 1980

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIALS

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

R.R. Smith
Chairman of the Board
Smith's Transfer Corporation
P.O. Box 1000
Staunton, VA 24401

Re: MUR 1075

Dear Mr. Smith:

On , 1980, the Commission accepted the conciliation agreement signed by you and a civil penalty of \$250 in settlement of a violation of 2 U.S.C. § 441a(1)(A). Accordingly, the file has been closed in this matter, and will become a part of the public record. However, 2 U.S.C. § 437g(a)(4)(B) prohibits any information derived in connection with any conciliation attempt from becoming public without the written consent of the respondent and the Commission. Should you wish any such information to become part of the public record, please advise us in writing.

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

Sincerely,

Sm
9/8/80

Charles N. Steele
General Counsel

Enclosure

Conciliation Agreement

81040231230

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Smith's Transfer Corporation PAC

MUR 1075

CONCILIATION AGREEMENT

This matter having been initiated by the Federal Election Commission (hereinafter "the Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities, and after probable cause to believe having been found that Smith's Transfer Corporation PAC violated 2 U.S.C. § 441a(1)(A) by exceeding its contribution limitations.

NOW, THEREFORE, the Commission and Respondent, having duly entered into conciliation pursuant to 2 U.S.C. § 437g do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding.

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

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

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

1. Respondent, Smith's Transfer Corporation PAC, is a political committee.

2. Respondent contributed \$5,000 to the Miller for Senate Committee on September 11, 1978.

3. Respondent attained multicandidate committee status on January 12, 1979.

4. At the time respondent contributed \$5,000 to the Miller for Senate Committee, it was limited to contributions of \$1,000 per candidate, per election.

WHEREFORE, Respondent agrees:

V. Respondent's contribution of \$5,000 to the Miller for Senate Committee on September 11, 1978, exceeded the limitations of § 441a(a)(1)(A) placing respondent in violation of that section.

VI. Respondent will pay a civil penalty to the Treasurer of the United States in the amount of two hundred and fifty dollars pursuant to 2 U.S.C. § 437g(a)(6)(B).

VII. Respondent agrees that it shall not undertake any activity which is in violation of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431, et seq.

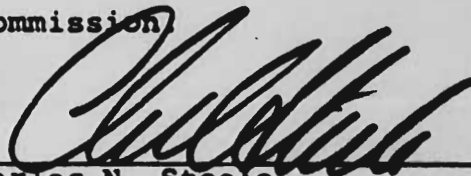
GENERAL CONDITIONS

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

IX. It is mutually agreed that this agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

X. It is agreed that respondent shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirement contained in this agreement and to so notify the Commission.

31749011233
8 Sept. 1980
Date



Charles N. Steele
General Counsel
Federal Election Commission

8/14/80
Date

Smith's Transfer Corporation PAC

BY: 

R. R. Smith
ITS: Chairman of the Board

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Smith's Transfer)
Corporation PAC)

MUR 1075

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on September 2, 1980, the Commission decided by a vote of 6-0 to take the following actions regarding MUR 1075:

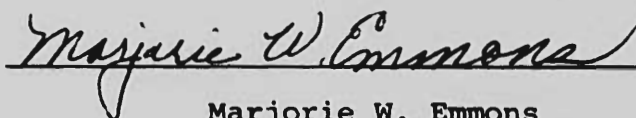
1. Accept the conciliation agreement which has been signed by R. R. Smith, Chairman of the Board of Smith's Transfer Corporation, Attachment 1 to the General Counsel's August 27, 1980 memorandum.
2. Close the file as it pertains to the above-named respondent.

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

Attest:

9/2/80

Date



Marjorie W. Emmons
Secretary to the Commission

Received in Office of the Commission Secretary: 8-27-80, 4:31
Circulated on 48 hour vote basis: 8-28-80, 11:00

31740231234



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 27, 1980

MEMORANDUM

TO: The Commission

FROM: Charles N. Steele *CS*
General Counsel

SUBJECT: MUR 1075 Conciliation Agreement

Attached is a conciliation agreement which has been signed by R.R. Smith, Chairman of the Board of Smith's Transfer Corporation.

The attached agreement includes all the provisions which the Commission determined should be included and the civil penalty imposed by the Commission has been submitted.

The Office of General Counsel recommends the acceptance of this agreement and the closing of the file as it pertains to the above-named respondent.

Attachment

Conciliation Agreement (1)
Notification Letter (1)

80 AUG 27 P 4: 31

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARY

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August 27, 1980

MEMORANDUM TO: Marjorie W. Emmons
FROM: Elissa T. Garr
SUBJECT: MUR 1075

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

31040231235

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Smith's Transfer Corporation PAC

)
)
)

MUR 1075

CONCILIATION AGREEMENT

This matter having been initiated by the Federal Election Commission (hereinafter "the Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities, and after probable cause to believe having been found that Smith's Transfer Corporation PAC violated 2 U.S.C. § 441a(1)(A) by exceeding its contribution limitations.

NOW, THEREFORE, the Commission and Respondent, having duly entered into conciliation pursuant to 2 U.S.C. § 437g do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding.

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

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

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

1. Respondent, Smith's Transfer Corporation PAC, is a political committee.

2. Respondent contributed \$5,000 to the Miller for Senate Committee on September 11, 1978.

81040231237

3. Respondent attained multicandidate committee status on January 12, 1979.

4. At the time respondent contributed \$5,000 to the Miller for Senate Committee, it was limited to contributions of \$1,000 per candidate, per election.

WHEREFORE, Respondent agrees:

V. Respondent's contribution of \$5,000 to the Miller for Senate Committee on September 11, 1978, exceeded the limitations of § 441a(a)(1)(A) placing respondent in violation of that section.

VI. Respondent will pay a civil penalty to the Treasurer of the United States in the amount of two hundred and fifty dollars pursuant to 2 U.S.C. § 437g(a)(6)(B).

VII. Respondent agrees that it shall not undertake any activity which is in violation of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431, et seq.

GENERAL CONDITIONS

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

IX. It is mutually agreed that this agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

X. It is agreed that respondent shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirement contained in this agreement and to so notify the Commission.

317740231287
Date _____

Date 8/1/80

Charles N. Steele
General Counsel
Federal Election Commission

Smith's Transfer Corporation PAC

BY: *R. R. Smith*

R. R. Smith

ITS: Chairman of the Board

**SMITH'S TRANSFER CORPORATION**

General Office: P.O. Box 1000 Staunton, Virginia 24401 Area Code 703 886-6231

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7862

3.50
310

The sum of \$250.00

PAY

DATE
8/12/80AMOUNT
\$250.00TO THE
ORDER
OF

• U. S. Treasurer

*R. S. Clavin*THE FIDELITY BANK
PHILADELPHIA, PA.

⑆031000503⑆ 00 62 37 2⑈

PLEASE DETACH BEFORE DEPOSITING

SMITH'S TRANSFER CORPORATION

DESCRIPTION	DATE	AMOUNT	DEDUCTIONS	TOTAL	
Re: MUR 1075 Penalty	8/12			\$250.00	
ACCOUNT NO.	DEBIT		CREDIT		
8429-02	250.00				

78623

0 6 2 1 2 0 4 0 1 8



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

R.R. Smith
Chairman of the Board
Smith's Transfer Corporation
P.O. Box 1000
Staunton, VA 24401

Re: MUR 1075

Dear Mr. Smith:

On , 1980, the Commission accepted the conciliation agreement signed by you and a civil penalty of \$250 in settlement of a violation of 2 U.S.C. § 441a(1)(A). Accordingly, the file has been closed in this matter, and will become a part of the public record. However, 2 U.S.C. § 437g(a)(4)(B) prohibits any information derived in connection with any conciliation attempt from becoming public without the written consent of the respondent and the Commission. Should you wish any such information to become part of the public record, please advise us in writing.

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

Sincerely,

Charles N. Steele
General Counsel

Enclosure

Conciliation Agreement

81040231291



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 15, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert F. Bauer
Dechert, Price & Rhodes
888 17th Street, N.W.
Washington, D.C. 20006

Re: MUR 1075

Dear Mr. Bauer:

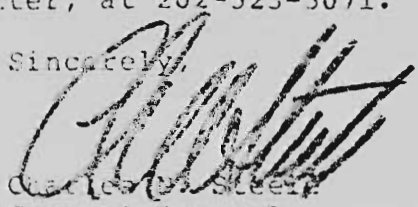
On July 8, 1980, the Commission determined there was probable cause to believe that your client committed a violation of 2 U.S.C. § 441a(f) of the Federal Election Campaign Act of 1971, as amended, in connection with its receipt of \$5,000 from Smith's Transfer PAC.

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 have it signed 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 have the check for the civil penalty made payable to the U.S. Treasurer.

If you have any questions or suggestions for changes in the enclosed conciliation agreement, please contact Suzanne Callahan, the staff member assigned to this matter, at 202-523-5071.

Sincerely,


Charles W. Steer
General Counsel

Enclosure
Conciliation Agreement

PS Form 3811, Aug. 1978

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:
Robert F. Cover

3. ARTICLE DESCRIPTION:
REGISTERED NO. CERTIFIED NO. INSURED NO.
445654

(Always obtain signature of addressee or agent)

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

4. DATE OF DELIVERY

5. ADDRESS (Complete only if requested)

UNDELIVERABLE RETURN TO SENDER

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

RECEIVED
MUR 12-18-81
Callahan



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert F. Bauer
Dechert, Price & Rhodes
888 17th Street, N.W.
Washington, D.C. 20006

Re: MUR 1075

Dear Mr. Bauer:

On ~~June~~ ^{July}, 1980, the Commission determined there was probable cause to believe that your client committed a violation of 2 U.S.C. § 441a(f) of the Federal Election Campaign Act of 1971, as amended, in connection with its receipt of \$5,000 from Smith's Transfer PAC.

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.

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If you have any questions or suggestions for changes in the enclosed conciliation agreement, please contact Suzanne Callahan, the staff member assigned to this matter, at 202-523-5071.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Conciliation Agreement



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

July 15, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

W. C. Lescure, Treasurer
Smith's Transfer Corporation PAC
Post Office Box 1000
Stanton, VA 24401

Re: MUR 1075.

Dear Mr. Lescure:

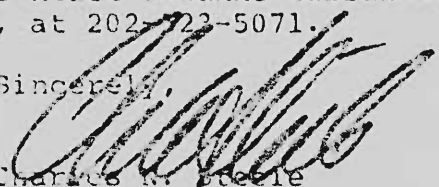
On July 8, 1980, the Commission determined there was probable cause to believe that your committee committed a violation of 2 U.S.C. § 441a(a)(1)(A) of the Federal Election Campaign Act of 1971, as amended, in connection with its contribution of \$5,000 to the Miller for Senate Committee.

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 Suzanne Callahan, the staff member assigned to this matter, at 202-223-5071.

Sincerely,


Charles W. Steele
General Counsel

Enclosure
Conciliation Agreement

31040231273

31040231295

75 FORM 3811, Nov. 1958

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

RECEIVED

1. The following service is requested (check one):
☐ Show to whom and date delivered
☐ Show to whom, date, and address of delivery
☒ RESTRICTED DELIVERY JUL 21 AM
Show to whom and date delivered:
☐ RESTRICTED DELIVERY
Show to whom, date, and address of delivery:
(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
W.C. Leasure, Treas.

3. ARTICLE DESCRIPTION:
REGISTERED NO. **552549** | CERTIFIED NO. | INSURED NO.
(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE: ☒ Addressee ☐ Authorized agent
W.A. Hauler

4. DATE OF DELIVERY: **JUL 17 1960** | POSTMARK: **08**

5. ADDRESS (Complete only if requested):

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

MUR-1075 Callahan

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

W. C. Lescure, Treasurer
Smith's Transfer Corporation PAC
Post Office Box 1000
Stanton, VA 24401

Re: MUR 1075

Dear Mr. Lescure: *CL*

On June *July*, 1980, the Commission determined there was probable cause to believe that your committee committed a violation of 2 U.S.C. § 441a(a)(1)(A) of the Federal Election Campaign Act of 1971, as amended, in connection with its contribution of \$5,000 to the Miller for Senate Committee.

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.

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If you have any questions or suggestions for changes in the enclosed conciliation agreement, please contact Suzanne Callahan, the staff member assigned to this matter, at 202-523-5071.

Sincerely,

SM
7/14
Charles N. Steele
General Counsel

Enclosure
Conciliation Agreement

81040231297

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Smith's Transfer Corporation PAC)

Miller for Senate Committee)

MUR 1075

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission's executive session on July 8, 1980, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in MUR 1075:

1. Find probable cause to believe that the Miller Committee has violated 2 U.S.C. §441a(f);
2. Find probable cause to believe that the Smith PAC has violated 2 U.S.C. §441a(a) (1) (A);
3. Approve the conciliation agreement for Smith PAC attached to the General Counsel's June 9, 1980 report in this matter;
4. Approve the conciliation agreement for the Miller Committee as attached to the General Counsel's June 9, 1980 report in this matter;
5. Approve the notification letters attached to the General Counsel's June 9, 1980 report;
6. Approve the General Counsel's report as amended to substitute the word "excessive" for the word "prohibited" in line ten on page two of the report.

Commissioners Aikens, Friedersodrf, Harris, Reiche, and Tiernan voted affirmatively for the decision; Commissioner McGarry dissented.

Attest:

7/11/80

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

BEFORE THE FEDERAL ELECTION COMMISSION
June 9, 1980

In the Matter of)
)
Smith's Transfer Corporation PAC) MUR 1075
Miller for Senate Committee)

GENERAL COUNSEL'S REPORT

I. BACKGROUND

During the normal course of reports review, the Reports Analysis Division (RAD) discovered that Smith's Transfer Corporation PAC ("Smith PAC"), a political committee supporting more than one federal candidate, had contributed \$5,000 to the Miller for Senate Committee ("Miller Committee") in violation of 2 U.S.C. § 441a. This matter was referred to the Office of General Counsel on October 30, 1979. On December 21, 1979, the Commission found reason to believe that Smith PAC may have violated 2 U.S.C. § 441a(a)(1)(A) and found reason to believe that the Miller Committee may have violated 2 U.S.C. § 441a(f).

On March 19, 1980, the General Counsel's Brief recommending probable cause to believe was mailed to Smith PAC; no responsive brief was filed by the PAC.

The Miller Committee was sent the General Counsel's Brief recommending probable cause to believe on May 27, 1980; a responsive brief was filed on June 6th.

II. LEGAL ANALYSIS

(See OGC Briefs of March 19 and May 27, 1980).

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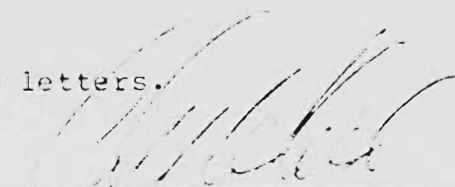
III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

IV. RECOMMENDATIONS

It is recommended that the Commission:

1. Find probable cause to believe that the Miller Committee has violated 2 U.S.C. § 441a(f);
2. Find probable cause to believe that Smith PAC has violated 2 U.S.C. § 441a(a)(1)(A);
3. Approve the attached conciliation agreement for Smith PAC;
4. Approve the attached conciliation agreement for the Miller Committee; and
5. Approve the attached notification letters.

21 June 1980
Date


Charles N. Steele
General Counsel

Attachments

1. Proposed Conciliation Agreements (6 pages)
2. Letters to Respondents (2 pages)
3. Briefs of OGC (6 pages)
4. Brief of Respondent (13 pages)



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

W. C. Lescure, Treasurer
 Smith's Transfer Corporation PAC
 Post Office Box 1000
 Stanton, VA 24401

Re: MUR 1075

Dear Mr. Lescure:

On June , 1980, the Commission determined there was probable cause to believe that your committee committed a violation of 2 U.S.C. § 441a(a)(1)(A) of the Federal Election Campaign Act of 1971, as amended, in connection with its contribution of \$5,000 to the Miller for Senate Committee.

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 Suzanne Callahan, the staff member assigned to this matter, at 202-523-5071.

Sincerely,

Charles N. Steele
 General Counsel

Enclosure
 Conciliation Agreement

81040231301



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert F. Bauer
Dechert, Price & Rhodes
888 17th Street, N.W.
Washington, D.C. 20006

Re: MUR 1075

Dear Mr. Bauer:

On June , 1980, the Commission determined there was probable cause to believe that your client committed a violation of 2 U.S.C. § 441a(f) of the Federal Election Campaign Act of 1971, as amended, in connection with its receipt of \$5,000 from Smith's Transfer PAC.

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.

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If you have any questions or suggestions for changes in the enclosed conciliation agreement, please contact Suzanne Callahan, the staff member assigned to this matter, at 202-523-5071.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Conciliation Agreement

BEFORE THE FEDERAL ELECTION COMMISSION
March 31, 1980

In the Matter of	)	
	)	
Smith's Transfer Corporation PAC	)	MUR 1075
Miller for Senate Committee	)	

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

During the normal course of reports review, the Reports Analysis Division (RAD) discovered that Smith's Transfer Corporation PAC ("Smith PAC"), a political committee supporting more than one federal candidate, had contributed \$5,000 to the Miller for Senate Committee ("Miller Committee") in violation of 2 U.S.C. § 441a. This matter was referred to the Office of General Counsel on October 30, 1979. On December 21, 1979, the Commission found reason to believe that Smith PAC may have violated 2 U.S.C. § 441a(a)(1)(A) and found reason to believe that the Miller Committee may have violated 2 U.S.C. § 441a(f).

II. EVIDENCE AND ANALYSIS

As set forth in 2 U.S.C. § 441a(a)(1)(A), political committees, other than multicandidate committees, are prohibited from contributing in excess of \$1,000 per election to any candidate and his authorized political committees. Since Smith PAC made the subject contribution on September 11, 1978, but did not attain multicandidate committee status until January 12, 1979, Smith PAC exceeded the contribution limitation of § 441a at the time the contribution was made.

81740231303

Smith PAC was initially notified of the excessive contribution via a surface violation letter from RAD on March 8, 1979. Smith PAC responded to the Commission's notification by stating that they "unknowingly" violated § 441a and had taken immediate action to secure a refund of \$3,000 from the Miller Committee. On May 9, 1979, the Miller Committee refunded \$3,000 to Smith PAC; the Miller Committee retained \$2,000 attributing \$1,000 to the primary election account and \$1,000 to the general election account pursuant to § 441a.

On January 31, 1980, the Miller Committee, by counsel, responded to the Commission's reason to believe notification by stating that it accepted the Smith PAC contribution in good faith in light of the fact that the check indicated that the funds were drawn from the PAC account, not general treasury funds; Counsel further stated that "Committee staff thus were satisfied that the contribution was from a PAC and not a corporation, and also believed that as a duly organized and registered PAC, Smith Transfer PAC would be fully aware of the qualifications required for multicandidate political committees and would only contribute the higher \$5,000 amount after it had satisfied those requirements. Upon notification of the excessive contribution, the Miller Committee promptly refunded the excessive amount."

Counsel contends that since the committee accepted the contribution because it appeared legal on its face, it has not violated any provision of the Act. Counsel states "[i]n instituting this

31040231304

action, the FEC has manufactured--and then charged the Committee with violating--a completely new legal obligation under the Act, namely, the duty to investigate all PAC contributions in excess of \$1,000 whether or not questionable on their face, to determine whether they have been issued by duly qualified "multicandidate" political committees.

Nevertheless, it is the recipient committee's responsibility to verify the multicandidate committee status of donors prior to the acceptance of contributions exceeding \$1,000; the Miller Committee should have contacted the FEC to ascertain Smith PAC's status under 2 U.S.C. §441a.

Therefore, the Miller Committee violated 2 U.S.C. §441a at the time the contribution was accepted, even though it refunded the money as soon as it discovered the Smith PAC was not qualified.

III. GENERAL COUNSEL'S RECOMMENDATION

Find probable cause to believe that the Miller Committee has violated 2 U.S.C. §441a(f).

23 May 1980

Date



Charles N. Steele
General Counsel

31040231305

BEFORE THE FEDERAL ELECTION COMMISSION
February 22, 1980

In the Matter of)

Smith's Transfer Corporation PAC)

Miller for Senate Committee)

MUR 1075

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

During the normal course of reports review, the Reports Analysis Division (RAD) discovered that Smith's Transfer Corporation PAC ("Smith PAC"), a political committee supporting more than one federal candidate, had contributed \$5,000 to the Miller for Senate Committee ("Miller Committee") in violation of 2 U.S.C. § 441a. This matter was referred to the Office of General Counsel on October 30, 1979. On December 21, 1979, the Commission found reason to believe that Smith PAC may have violated 2 U.S.C. § 441a(a)(1)(A) and found reason to believe that the Miller Committee may have violated 2 U.S.C. § 441a(f).

II. EVIDENCE AND ANALYSIS

As set forth in 2 U.S.C. § 441a(a)(1)(A), political committees, other than multicandidate committees, are prohibited from contributing in excess of \$1,000 per election to any candidate and his authorized political committees. Since Smith PAC made the subject contribution on September 11, 1978, but did not attain multicandidate committee status until January 12, 1979, Smith PAC exceeded the contribution limitation of § 441a at the time the contribution was made.

Smith PAC was initially notified of the excessive contribution via a surface violation letter from RAD on March 8, 1979. Smith PAC responded to the Commission's notification by stating that they "unknowingly" violated § 441a and had taken immediate action to secure a refund of \$3,000 from the Miller Committee. On May 9, 1979, the Miller Committee refunded \$3,000 to Smith PAC; the Miller Committee retained \$2,000 attributing \$1,000 to the primary election account and \$1,000 to the general election account pursuant to § 441a.

On January 31, 1980, the Miller Committee, by counsel, responded to the Commission's reason to believe notification by stating that it accepted the Smith PAC contribution in good faith in light of the fact that the check indicated that the funds were drawn from the PAC account, not general treasury funds; Counsel further stated that "Committee staff thus were satisfied that the contribution was from a PAC and not a corporation and also believed that as a duly organized and registered PAC, Smith Transfer PAC would be fully aware of the qualifications required for multicandidate political committees and would only contribute the higher \$5,000 amount after it had satisfied those requirements. Upon notification of the excessive contribution, the Miller Committee promptly refunded the excessive amount."

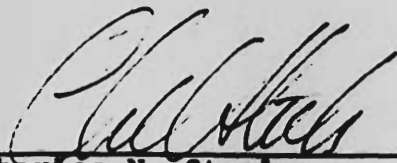
Even though a refund of the excessive portion of the contribution has been made, a violation of § 441a was committed at the time the contribution was made.

Smith PAC did not respond to the Commission's reason to believe notification and has not provided any information in addition to that contained in their letter of March 23, 1979, responding to RAD's surface violation letter. Therefore, in the absence of any additional information from the respondent which would refute the Commission's previous finding, the Office of General Counsel recommends that the Commission proceed in this matter.

III. GENERAL COUNSEL'S RECOMMENDATION

Find probable cause to believe that Smith's Transfer Corporation PAC has violated 2 U.S.C. § 441a(a)(1)(A).

31049231308
17 March 1980
Date


Charles N. Steele
General Counsel

3400 CENTRE SQUARE WEST
1800 MARKET STREET
PHILADELPHIA, PA. 19103
(215) 572-1400

50 SQUARE DE MEUSE, STE 1
1040 BRUSSELS, BELGIUM
(02) 511 00 40

PRINCES HOUSE
88 GRESHAM STREET
LONDON, EC2V 7NA, ENGLAND
01. 500. 5590

RT 5D
LAW OFFICES OF
J. DECHERT PRICE & RHODS
GENERAL
555 17th STREET, N. W.
WASHINGTON, D. C. 20006
24 5524 • BARDEP
(202) 572-8600

on JUN 6

A 9740

Attadment 4 (13p)

ELEVEN BROADWAY
NEW YORK, N. Y. 10004
(212) 452-2510

SUITE 1700
ENERGY CENTER ONE
117 SEVENTEENTH STREET
DENVER, COLORADO 80202
(303) 622-1777

800 NORTH THIRD STREET
HARRISBURG, PA. 17102
(717) 233-7047

June 6, 1980

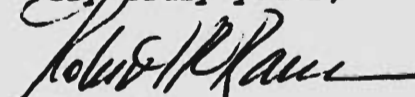
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20006

Re: MUR 1075

Dear Sir:

Pursuant to §111.16(c) of the FEC Regulations,
I have enclosed three copies of a brief filed today
with the Secretary of the Federal Election Commission
in response to your brief of May 23, 1980 in the above-
captioned matter.

Very truly yours,


Robert F. Bauer

RFB:ps

Enclosures

31240231302

3400 CENTRE SQUARE WEST
1500 MARKET STREET
PHILADELPHIA, PA. 19102
(215) 572-2400

30 SQUARE DE MEUSE, STE 1
1040 BRUSSELS, BELGIUM
(32) 511 00 40

PRINCES HOUSE
85 GRESHAM STREET
LONDON, EC2V 7NA, ENGLAND
01. 606. 0800

LAW OFFICES OF
DECHERT PRICE & RHODES

800 17th STREET, N. W.
WASHINGTON, D. C. 20006
TELEX 84 8884 • BARDEP

(202) 672-2600

ELEVEN BROADWAY
NEW YORK, N. Y. 10004
(212) 455-5512

SUITE 1700
STANLEY CENTER ONE
717 SEVENTEENTH STREET
DENVER, COLORADO 80202
(303) 533-1777

800 NORTH THIRD STREET
HARRISBURG, PA. 17102
(717) 232-7047

June 5, 1980

Ms. Marjorie W. Emmons
Secretary
Federal Election Commission
1325 K Street, N.W.
Washington, D.C.

Re: MUR 1075

Dear Ms. Emmons:

The Miller for Senate Committee (the "Committee") hereby responds to the General Counsel's letter of May 27, 1980, accompanied by a brief dated May 23, 1980, notifying the Committee that he will recommend to the Commission a finding of "probable cause to believe" in the above-captioned matter. This matter arose out of the Committee's acceptance of a \$5000 contribution from the Smith-Transfer Political Action Committee, which made its contribution in this amount on the mistaken assumption that it qualified at the time for "multi-candidate committee" status. The Committee, upon learning that the PAC was not "multi-candidate", promptly refunded the unlawful portion of its contribution. It is the General Counsel's contention, however, that the Committee violated the Act by accepting this contribution without first verifying, through the Commission, the PAC's multi-candidate status -- notwithstanding the fact that nothing on the face of the \$5000 check gave rise to any reasonable concern that it was illegal.

As the Committee has maintained in an earlier letter to the General Counsel, dated January 31, 1980, there is no basis whatsoever in the Act or regulations for holding a Committee liable for failing to investigate the source of a contribution which is not questionable on its face and which a Committee otherwise has no reasonable grounds for suspecting to be unlawful. The Committee stands by, and urges the Commission to adopt, the position taken in this January 31 letter. Accordingly, the Committee has attached that letter for the Commission's review, and requests that it constitute the Committee's "brief" in response to the General Counsel for the purposes of §111.16(c) of the regulations.

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3

Nevertheless, it is the recipient Committee's responsibility to verify the multi-candidate Committee status of donors prior to the acceptance of contributions exceeding \$1000; the Miller Committee should have contacted the FEC to ascertain Smith PAC's status under 2 U.S.C. §441a.

3177031312

Very truly yours,

Robert F. Bauer
Robert F. Bauer

RFB/kjb

30 SQUARE DE MEUSE, STE 1
1000 BRUSSELS, BELGIUM
(32) 51 50 40

PRINCES HOUSE
80 GRESHAM STREET
LONDON, EC2V 7NA, ENGLAND
01 606 6000

LAW OFFICES OF
DECHERT PRICE & RHODES

808 17TH STREET, N.W.
WASHINGTON, D. C. 20006
TELEX 84 5324 • BARDEF

(202) 672-8800

800 CENTRE SQUARE WEST
1000 MARKET STREET
PHILADELPHIA, PA. 19103
(215) 572-3400

SUITE 1700
ENERGY CENTER ONE
117 SEVENTEENTH STREET
DENVER, COLORADO 80202
(303) 623-1777

800 NORTH THIRD STREET
HARRISBURG, PA. 17102
(717) 532-7047

January 31, 1980

General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20006

Re: MUR 1075

Dear Sir:

On December 28, 1979, the Federal Election Commission ("FEC") notified the Andy Miller for Senate Committee (the "Committee") that it had found "reason to believe" that the Committee violated section 441a(a) of the Federal Election Campaign Act of 1971 (the "Act"). The FEC alleged that a violation occurred when the Committee accepted a contribution in excess of the lawful limits from the Smith Transfer Corporation political action committee ("Smith Transfer PAC"). More specifically, Smith PAC apparently contributed \$5,000, rather than \$1,000, to the general election campaign of the Committee on the mistaken assumption that it qualified for the higher limits afforded qualified "multicandidate" committees.

For the reasons set forth below, the Committee must reject the legal theories underlying the FEC's action in this matter. The Committee takes this position for the simple reason that these theories have absolutely no basis in the Act or FEC Regulations. In instituting this action, the FEC has manufactured -- and then charged the Committee with violating -- a completely new legal obligation under the Act, namely, the duty to investigate all PAC contributions in excess of \$1,000, whether or not questionable on their face, to determine whether they have been issued by duly qualified "multicandidate" political committees. The Committee does not dispute the FEC's authority to consider such a rule, or to promulgate one after appropriate notice and period for comment in accordance with the requirements of the Administrative Procedure Act. Yet no such rule is now in effect, and the FEC may not use a compliance proceeding against the Committee for rulemaking purposes.

I. BACKGROUND

The contribution in question in this proceeding has a long history, and a review of this history is in order here.

In September 1978, the Committee received from Smith Transfer PAC a \$5,000 contribution. The check indicated clearly on its face that it was drawn on Smith Transfer PAC funds, and not on general treasury funds. Committee staff thus were satisfied that the contribution was from a PAC and not a corporation, and also believed that as a duly organized and registered PAC, Smith Transfer PAC would be fully aware of the qualification requirements for multicandidate political committees and would only contribute the higher \$5,000 amount after it had satisfied those requirements.

On March 12, 1979, the FEC notified the Committee that at least as of September, 1978, Smith Transfer PAC had not yet qualified as a multicandidate committee, and that its \$5,000 contribution therefore exceeded the lawful limits. The FEC "recommended" that if the unlawful nature of the contribution was confirmed, the Committee should return the amount in excess of the proper limit.

The Smith Transfer PAC and the Committee acted promptly to rectify the error. At all times the FEC was kept informed by both the PAC and the Committee of their efforts to achieve voluntary compliance. On March 23, 1979, eleven days after the original FEC notification was received, Smith Transfer PAC informed the FEC that it had requested the Committee to refund the excess amount. In that letter Smith Transfer PAC stated that it had "unknowingly" misconstrued the applicable requirements.

Three days later, on March 26, 1979, the Committee also wrote to the FEC to affirm its desire to do all that was necessary to achieve full compliance. The Committee stated that it had not known of the unlawful nature of the contribution at the time of receipt, and that it was now working with Smith Transfer PAC to resolve the matter speedily. The Committee assured the FEC that it would keep in close contact with Bill Coppel, the staff person assigned to the matter, "to ensure that we properly handle the resolution of this problem."

Despite a post-election deficit in excess of \$30,000, the Committee made every effort to locate the funds necessary for a refund. The refund was forwarded to Smith Transfer on May

9, 1979. Smith Transfer PAC notified the FEC of receipt of the refund by letter dated May 10, 1979. At that time, Smith Transfer PAC spoke for itself and the Committee in stating: "... we trust this clears up the matter."

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Six months passed, and both Smith PAC and the Committee assumed that the matter, having been handled in the manner "recommended" by the FEC, had been laid to rest. No further communication from the FEC was received during this time.

On December 28, 1979, the FEC notified the Committee of its belated finding that there was "reason to believe" that acceptance by the Committee of the Smith Transfer PAC contribution in the first instance constituted a violation of the Act.

II. THE COMMITTEE FULLY SATISFIED ALL OF ITS LEGAL OBLIGATIONS IN ITS HANDLING OF THE SMITH TRANSFER PAC CONTRIBUTION, AND THE FEC SHOULD NOT IMPOSE ADDITIONAL OBLIGATIONS AFTER-THE-FACT THROUGH THIS COMPLIANCE ACTION.

A. Neither The Act Nor FEC Regulations Impose A Duty On Political Committees To Investigate Each And Every PAC Contribution To Determine Whether Multicandidate Committee Limits Apply

Neither the Act nor FEC Regulations address in great detail the liability of political committees for the receipt of unlawful contributions. Yet there is clear law on this subject, and it is clear on this point: a political committee is not liable for unknowingly receiving and depositing an unlawful contribution which is not questionable on its face and which the Committee otherwise has no reasonable grounds for suspecting to be unlawful. It is certainly appropriate that, where such contributions are later discovered to be unlawful, the recipient committee is requested to refund the amount in question. No provision of the Act or Regulations, however, suggests that such innocent mistakes be converted into "violations" for which the Committee will be held fully responsible in agency or even judicial proceedings.

In the Act itself, the liability question is addressed in ambiguous terms. Section 441a(f) establishes liability for the receipt of contributions in excess of the applicable limits and this liability is stated as follows: "No candidate or political committee shall knowingly accept any contribution or make any

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expenditure in violation of the provisions of this section." (emphasis supplied). The term "knowingly" is not defined elsewhere in the Act, or in the FEC Regulations. ^{1/} It is not, certainly, the equivalent of mens rea in the criminal context, for the Act addresses this area separately in §441j, and employs instead the more stringent standard of "knowing and wilfull". (emphasis supplied)

It is also certain that mere receipt, without more, is not sufficient to result in liability to the recipient committee. Instead the FEC has required committees to review contributions to determine whether anything questionable on their face suggests that they may be unlawful. This requirement appears in the first instance in Section 103.3(b)(2) of the Regulations, which alone treats the issue of committee responsibility in handling questionable contributions. That Section states that:

Contributions which appear to be illegal shall be, within 10 days --

(2) deposited into the campaign depository, and reported in which case the Treasurer shall make and retain a written record noting the basis for the appearance of illegality. The Treasury shall make his or her best efforts to determine the legality of the contribution. Refunds should be made when a contribution cannot be determined to be legal within a reasonable time. ..." (emphasis supplied)

The obligations imposed by Section 103.3(b)(2) are triggered only by the appearance of illegality. Only when a contribution presents such an appearance, is the treasurer of the committee required to employ "best efforts" in investigating its source. The provision does not state that upon receipt of each and every contribution, the treasurer has the obligation to satisfy himself, through the exercise of his "best efforts", that the contribution was in no way unlawful.

^{1/} The prohibition on "knowing" acceptance also appears in §441b, which sets forth the ban on the use of corporate and union treasury funds in connection with any federal election.

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This focus on the appearance of illegality is not limited to §103.3(b)(2). It has also been central to FEC efforts to handle the special problem of illegal corporate and union contributions. In the fall of 1978, the FEC issued a Notice advising candidates and political committees of a new policy applicable to the receipt of corporate or union contributions. The FEC announced that, although in the past, refund of any unlawful contributions was deemed sufficient, a more rigorous enforcement policy was now required. Specifically, the FEC Notice states, Committee staffs must now be instructed "to immediately return all contributions which indicate on their face that they are written on corporate or labor union accounts." (emphasis supplied) Moreover, apart from contributions questionable on their face, there should be review of all contributions "not written on personal accounts or clearly identified as political action committee funds." (emphasis supplied) In short, the FEC did not hold committees to a strict standard of liability for all contributions received. Instead, as Section 103.3(b)(2) would suggest, liability would be extended only to these contributions questionable on their face, or to those not clearly identified as personal or PAC contributions. Thus, if a check appeared with the designation "Williams Construction Company Political Action Committee Fund," but it was discovered at a later date that no separate segregated fund had, in fact, been established by the Williams Construction Company, the Committee was not liable beyond its obligation to refund the unlawful sum.

Committees are not, therefore, liable for the mere receipt, without more, of contributions later discovered to be unlawful. This rule emerges even more clearly from the FEC's consideration last year of the problem of transfers to political committees from unregistered organizations. See Agenda Document #79-30, dated February 1, 1979, with attached memorandum from the Audit Division, Reports Analysis Division, and the Office of General Counsel. Here, the FEC sought to determine the compliance procedures which would be applicable when unregistered organizations contributed either \$1,000 or less, or more than \$1,000, to political committees. In the first instance, where the contribution was \$1,000 or less, the FEC determined that no action should be taken against either the unregistered organization or the political committee, provided that the committee, once notified, investigated the source of the contribution and refunded any unlawful portion, i.e., portions from prohibited labor or corporate sources. In other words, the FEC undertook the responsibility to investigate in the first instance, and to then notify the committee in question that an unregistered organization was the source of certain funds. If the committee determined, upon

investigation, that a portion of the monies received was unlawful, only a refund was required in the way of remedial action. In the second case, where the unregistered organization contributed more than \$1,000 to the committee, the FEC determined that the organization in question had the option of either registering and reporting, or seeking a refund of amounts in excess of \$1,000 or their transfer to a non-Federal account. Once again, no liability was imposed upon the recipient committee.

It must be concluded, then, that the existing law does not justify an action against the Committee for failing to investigate the Smith Transfer PAC contribution, where, as here, the Committee did not know, and the check itself gave the Committee no reason to suspect, that the contribution was not lawful in all respects. 2/ The Committee has made every effort to comply with its clear obligations under the Act. During the campaign, the Committee retained on a full-time basis a substantial staff, including persons charged with ensuring that the Committee's activities were at all times conducted within the confines of the law. Campaign contributions were screened by at least one member of the senior staff, such as the Finance Director or campaign manager, who reviewed each check received for indications that it came from illegal sources. As a committee which reported total receipts for the election year in excess of \$800,000, it has a record of compliance of which it is proud. That record should not now be sullied by the FEC's imposition of after-the-fact obligations which are nowhere set forth in the Act or Regulations.

2/ It should be noted that the Act does contain a provision requiring the FEC to compile, and make publicly available, lists of multicandidate political committees. See, §311(6) (B)&(C) of the Act, as amended by the recently enacted P.L. 96-187. This provision does not, however, include in any way the very different requirement that political committees consult the lists as part of a defined duty to verify the source of multicandidate committee contributions. Moreover, no suggestion that such a requirement be imposed on committees appears anywhere in the legislative history of this provision. See the Senate Report and the Conference Report accompanying passage of P.L. 94-283 (the 1976 amendments), 1976 Congressional and Administrative News, pp. 936-937, 966-967. In fact, the Senate Report, which contained a provision very similar to the version passed by the House and adopted by the Conference, states that its purpose is "to enable the public", not political committees, to determine which political committees are qualified multicandidate committees. 1976 Congressional and Administrative News, pp. 936-937.

- B. Where A Committee's Legal Obligations Have Been Satisfied, But An Illegal Contribution Has Been Received, Only A Refund Should Be Required.

The only action justified in these circumstances is that action taken in all cases of good faith committee "error" -- refund of the unlawful contribution. This is all that the FEC has required when illegal corporate contributions, which were not illegal on their face, have been received and deposited. See Notice discussed above at p. 5. Moreover, as noted previously, it is also the only remedial action necessary when unregistered organizations make contributions which are not derived from lawful sources.

The same remedy, i.e., refund of the contribution in question, is appropriate here. The Committee has, of course, speedily refunded the amounts in excess of the lawful limit. This action is sufficient and should close the matter.

III. FEC USE OF THIS COMPLIANCE PROCEEDING TO FORMULATE NEW LEGAL RULES IS NOT CONSISTENT WITH THE ADMINISTRATIVE PROCEDURE ACT.

The Administrative Procedure Act, 5 U.S.C. A. §551 (1977) (originally enacted as Act of June 11, 1946, c.646, 60 Stat. 237), provides for notice and comment in the formulation of rules by administrative agencies.^{3/} Under that Act, a "rule" is defined as:

"the whole or a part of any agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure or requirements of an agency"

The Act furthermore defines 'rulemaking' as follows:

"'rulemaking' means agency process for formulating, amending, or repealing a rule;"

As set forth at length in this presentation, the FEC Regulations do not currently contain a provision requiring Committees to

^{3/} FEC rulemaking is explicitly made subject to the requirements of the APA. See §307(8) of the Act, as amended by P.L. 96-187.

investigate each and every apparent "multi-candidate" PAC contribution. In fact, an examination of current regulations establishes that no such investigatory duty applies to any contribution not otherwise questionable on its face. An FEC attempt to modify its current regulations, or to promulgate new ones, must be achieved through a formal rulemaking with notice and appropriate opportunity for comment. Certainly, the FEC cannot maintain that the result it seeks here does not qualify as a "rule", since such a major expansion of committee legal duties in handling contributions can only be viewed as an attempt "to implement, interpret, or prescribe law or policy."

The questions presented by the FEC's position in this proceeding are highly significant to all Committees, and should be addressed and resolved in a manner consistent with the APA. These are questions with implications for contributions other than those from multi-candidate committees. For example, is a committee liable for receipt of an apparently lawful contribution which, however, has been given by a foreign national, e.g., a "John Smith" who is, in fact, an Englishman? Is a committee also liable for the receipt of a contribution drawn on the personal account of an individual who, unknown to the committee, is a sole proprietor Federal Contractor within the meaning of Part 115, and therefore prohibited from contributing to a federal election? In short, must all contributions which appear lawful on their face nonetheless be investigated to ensure that they are not derived from any unlawful source, or made in any unlawful amount? These questions are merely suggestive; others could be cited to further establish the importance of the issue, and the necessity of resolving it through appropriate rulemaking procedures rather than through an enforcement action commenced almost 18 months after the occurrence of the alleged violation.

If the FEC seeks to act on these issues, and to promulgate what would unquestionably be new "rules", it must do so in full compliance with the notice and comment rulemaking provisions of the APA. It should not seek to make ad hoc rules through the compliance process.

IV. CONCLUSION

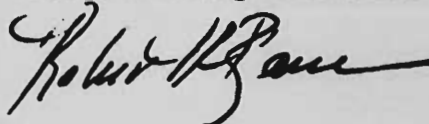
The Committee requests that this MUR 1075 be closed, and that no further action be taken against it in connection with the receipt of the Smith Transfer PAC contribution. As the foregoing establishes, no liability may be imposed on the Committee for unknowingly receiving and depositing a contribution which was not questionable on its face, but which did not, in fact, come from a duly qualified multicandidate political committee. If the FEC seeks to impose a duty to

General Counsel, FEC
January 31, 1980
Page Nine

investigate all such contributions, it should do so through the notice and comment rulemaking procedures prescribed by the Administrative Procedure Act.

Refund of the unlawful sums should, therefore, be all that is required in this matter. The Committee tendered this refund to the Smith Transfer PAC some months ago, at the request of the FEC. The Committee acted in all respects in conformity with FEC directives in making this refund, and since over six months then passed without any further word from the Commission, it had every reason to believe that its good faith efforts to achieve voluntary compliance would settle the matter once and for all.

Respectfully submitted,



Robert F. Bauer
Attorney to the Andy Miller
for Senate Committee

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GENERAL COUNSEL

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on JUN 6 1980

June 6, 1980

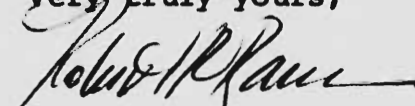
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20006

Re: MUR 1075

Dear Sir:

Pursuant to §111.16(c) of the FEC Regulations,
I have enclosed three copies of a brief filed today
with the Secretary of the Federal Election Commission
in response to your brief of May 23, 1980 in the above-
captioned matter.

Very truly yours,


Robert F. Bauer

RFB: ps

Enclosures

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June 5, 1980

Ms. Marjorie W. Emmons
Secretary
Federal Election Commission
1325 K Street, N.W.
Washington, D.C.

Re: MUR 1075

Dear Ms. Emmons:

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The Miller for Senate Committee (the "Committee") hereby responds to the General Counsel's letter of May 27, 1980, accompanied by a brief dated May 23, 1980, notifying the Committee that he will recommend to the Commission a finding of "probable cause to believe" in the above-captioned matter. This matter arose out of the Committee's acceptance of a \$5000 contribution from the Smith-Transfer Political Action Committee, which made its contribution in this amount on the mistaken assumption that it qualified at the time for "multi-candidate committee" status. The Committee, upon learning that the PAC was not "multi-candidate", promptly refunded the unlawful portion of its contribution. It is the General Counsel's contention, however, that the Committee violated the Act by accepting this contribution without first verifying, through the Commission, the PAC's multi-candidate status -- notwithstanding the fact that nothing on the face of the \$5000 check gave rise to any reasonable concern that it was illegal.

As the Committee has maintained in an earlier letter to the General Counsel, dated January 31, 1980, there is no basis whatsoever in the Act or regulations for holding a Committee liable for failing to investigate the source of a contribution which is not questionable on its face and which a Committee otherwise has no reasonable grounds for suspecting to be unlawful. The Committee stands by, and urges the Commission to adopt, the position taken in this January 31 letter. Accordingly, the Committee has attached that letter for the Commission's review, and requests that it constitute the Committee's "brief" in response to the General Counsel for the purposes of §111.16(c) of the regulations.

The Secretary
June 5, 1980
Page Two

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The Committee firmly believes that the legal argument set forth in this January 31 letter fully answers the General Counsel's contentions. Without rearguing the points made in that letter, the Committee wishes to emphasize here again that the General Counsel's position involves a wholly new rule of liability, one which is not reflected in any current statutory or regulatory language, or in any Commission advisory opinions or policy statements. For that reason, the establishment of such a rule through this proceeding, rather than through a rule-making proceeding complying in all respects with the Administrative Procedure Act, is wholly inappropriate. Furthermore, the Commission should not adopt the rule articulated by the General Counsel without considering carefully its impact on political committees generally, and its implications for other unlawful contributions which are not questionable on their face and which are accepted in good faith by a Committee. For example, as the Committee states on page 8 of its January 31 letter, the General Counsel's position would appear to suggest that a Committee is liable for receiving a contribution from a "John Smith", who turns out, at a later date, to be an Englishman, and therefore a "foreign national" within the meaning of the Act. A similar result would have to be reached if the Committee accepted a contribution from a person who, upon investigation, was discovered to be a sole proprietor federal contractor and thus prohibited from making contributions in federal elections. Neither of these results are justified by a fair reading of the Act or regulations, and yet they represent a logical extension of the rule which the General Counsel has formulated in this matter, namely, that a Committee is legally obligated to investigate the source of a contribution which is in no way questionable on its face.

Finally, the Committee notes that it has considerable difficulty in responding to the General Counsel's brief, for that document presents its case in a wholly ex cathedra, conclusory fashion. On page 3 of that brief (which runs only three pages), the General Counsel merely states, without more, that:

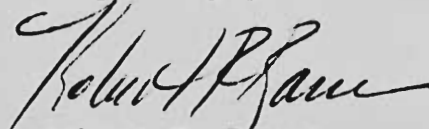
Nevertheless, it is the recipient Committee's responsibility to verify the multi-candidate Committee status of donors prior to the acceptance of contributions exceeding \$1000; the Miller Committee should have contacted the FEC to ascertain Smith PAC's status under 2 U.S.C. §441a.

The Secretary
June 5, 1980
Page Three

The absence of any citation to supporting authority, or of any substantial argument on policy or other grounds, simply corroborates the Committee's view that this position is without precedent or support under the Act. Under these circumstances, it would be entirely inappropriate for the Commission to proceed to hold the Committee liable in this matter.

As we have stated in our earlier January 31 letter, and in numerous conversations with staff in The Office of General Counsel, this matter has been pending since March 1979. The Committee requests, therefore, that the Commission proceed to consider the General Counsel's findings, and this Committee's response, at the earliest possible opportunity.

Very truly yours,



Robert F. Bauer

RFB/kjb

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January 31, 1980

General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20006

Re: MUR 1075

Dear Sir:

On December 28, 1979, the Federal Election Commission ("FEC") notified the Andy Miller for Senate Committee (the "Committee") that it had found "reason to believe" that the Committee violated section 441a(a) of the Federal Election Campaign Act of 1971 (the "Act"). The FEC alleged that a violation occurred when the Committee accepted a contribution in excess of the lawful limits from the Smith Transfer Corporation political action committee ("Smith Transfer PAC"). More specifically, Smith PAC apparently contributed \$5,000, rather than \$1,000, to the general election campaign of the Committee on the mistaken assumption that it qualified for the higher limits afforded qualified "multicandidate" committees.

For the reasons set forth below, the Committee must reject the legal theories underlying the FEC's action in this matter. The Committee takes this position for the simple reason that these theories have absolutely no basis in the Act or FEC Regulations. In instituting this action, the FEC has manufactured -- and then charged the Committee with violating -- a completely new legal obligation under the Act, namely, the duty to investigate all PAC contributions in excess of \$1,000, whether or not questionable on their face, to determine whether they have been issued by duly qualified "multicandidate" political committees. The Committee does not dispute the FEC's authority to consider such a rule, or to promulgate one after appropriate notice and period for comment in accordance with the requirements of the Administrative Procedure Act. Yet no such rule is now in effect, and the FEC may not use a compliance proceeding against the Committee for rulemaking purposes.

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I. BACKGROUND

The contribution in question in this proceeding has a long history, and a review of this history is in order here.

In September 1978, the Committee received from Smith Transfer PAC a \$5,000 contribution. The check indicated clearly on its face that it was drawn on Smith Transfer PAC funds, and not on general treasury funds. Committee staff thus were satisfied that the contribution was from a PAC and not a corporation, and also believed that as a duly organized and registered PAC, Smith Transfer PAC would be fully aware of the qualification requirements for multicandidate political committees and would only contribute the higher \$5,000 amount after it had satisfied those requirements.

On March 12, 1979, the FEC notified the Committee that at least as of September, 1978, Smith Transfer PAC had not yet qualified as a multicandidate committee, and that its \$5,000 contribution therefore exceeded the lawful limits. The FEC "recommended" that if the unlawful nature of the contribution was confirmed, the Committee should return the amount in excess of the proper limit.

The Smith Transfer PAC and the Committee acted promptly to rectify the error. At all times the FEC was kept informed by both the PAC and the Committee of their efforts to achieve voluntary compliance. On March 23, 1979, eleven days after the original FEC notification was received, Smith Transfer PAC informed the FEC that it had requested the Committee to refund the excess amount. In that letter Smith Transfer PAC stated that it had "unknowingly" misconstrued the applicable requirements.

Three days later, on March 26, 1979, the Committee also wrote to the FEC to affirm its desire to do all that was necessary to achieve full compliance. The Committee stated that it had not known of the unlawful nature of the contribution at the time of receipt, and that it was now working with Smith Transfer PAC to resolve the matter speedily. The Committee assured the FEC that it would keep in close contact with Bill Coppel, the staff person assigned to the matter, "to ensure that we properly handle the resolution of this problem."

Despite a post-election deficit in excess of \$30,000, the Committee made every effort to locate the funds necessary for a refund. The refund was forwarded to Smith Transfer on May

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II. THE COMMITTEE FULLY SATISFIED ALL OF ITS LEGAL OBLIGATIONS IN ITS HANDLING OF THE SMITH TRANSFER PAC CONTRIBUTION, AND THE FEC SHOULD NOT IMPOSE ADDITIONAL OBLIGATIONS AFTER-THE-FACT THROUGH THIS COMPLIANCE ACTION.

A. Neither The Act Nor FEC Regulations Impose A Duty On Political Committees To Investigate Each And Every PAC Contribution To Determine Whether Multicandidate Committee Limits Apply

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Committees are not, therefore, liable for the mere receipt, without more, of contributions later discovered to be unlawful. This rule emerges even more clearly from the FEC's consideration last year of the problem of transfers to political committees from unregistered organizations. See Agenda Document #79-30, dated February 1, 1979, with attached memorandum from the Audit Division, Reports Analysis Division, and the Office of General Counsel. Here, the FEC sought to determine the compliance procedures which would be applicable when unregistered organizations contributed either \$1,000 or less, or more than \$1,000, to political committees. In the first instance, where the contribution was \$1,000 or less, the FEC determined that no action should be taken against either the unregistered organization or the political committee, provided that the committee, once notified, investigated the source of the contribution and refunded any unlawful portion, i.e., portions from prohibited labor or corporate sources. In other words, the FEC undertook the responsibility to investigate in the first instance, and to then notify the committee in question that an unregistered organization was the source of certain funds. If the committee determined, upon

investigation, that a portion of the monies received was unlawful, only a refund was required in the way of remedial action. In the second case, where the unregistered organization contributed more than \$1,000 to the committee, the FEC determined that the organization in question had the option of either registering and reporting, or seeking a refund of amounts in excess of \$1,000 or their transfer to a non-Federal account. Once again, no liability was imposed upon the recipient committee.

It must be concluded, then, that the existing law does not justify an action against the Committee for failing to investigate the Smith Transfer PAC contribution, where, as here, the Committee did not know, and the check itself gave the Committee no reason to suspect, that the contribution was not lawful in all respects. 2/ The Committee has made every effort to comply with its clear obligations under the Act. During the campaign, the Committee retained on a full-time basis a substantial staff, including persons charged with ensuring that the Committee's activities were at all times conducted within the confines of the law. Campaign contributions were screened by at least one member of the senior staff, such as the Finance Director or campaign manager, who reviewed each check received for indications that it came from illegal sources. As a committee which reported total receipts for the election year in excess of \$800,000, it has a record of compliance of which it is proud. That record should not now be sullied by the FEC's imposition of after-the-fact obligations which are nowhere set forth in the Act or Regulations.

2/ It should be noted that the Act does contain a provision requiring the FEC to compile, and make publicly available, lists of multicandidate political committees. See, §311(6) (B)&(C) of the Act, as amended by the recently enacted P.L. 96-187. This provision does not, however, include in any way the very different requirement that political committees consult the lists as part of a defined duty to verify the source of multicandidate committee contributions. Moreover, no suggestion that such a requirement be imposed on committees appears anywhere in the legislative history of this provision. See the Senate Report and the Conference Report accompanying passage of P.L. 94-283 (the 1976 amendments), 1976 Congressional and Administrative News, pp. 936-937, 966-967. In fact, the Senate Report, which contained a provision very similar to the version passed by the House and adopted by the Conference, states that its purpose is "to enable the public", not political committees, to determine which political committees are qualified multicandidate committees. 1976 Congressional and Administrative News, pp. 936-937.

B. Where A Committee's Legal Obligations
Have Been Satisfied, But An Illegal
Contribution Has Been Received, Only
A Refund Should Be Required.

The only action justified in these circumstances is that action taken in all cases of good faith committee "error" -- refund of the unlawful contribution. This is all that the FEC has required when illegal corporate contributions, which were not illegal on their face, have been received and deposited. See Notice discussed above at p. 5. Moreover, as noted previously, it is also the only remedial action necessary when unregistered organizations make contributions which are not derived from lawful sources.

The same remedy, i.e., refund of the contribution in question, is appropriate here. The Committee has, of course, speedily refunded the amounts in excess of the lawful limit. This action is sufficient and should close the matter.

III. FEC USE OF THIS COMPLIANCE PROCEEDING TO FORMULATE
NEW LEGAL RULES IS NOT CONSISTENT WITH THE ADMINISTRA-
TIVE PROCEDURE ACT.

The Administrative Procedure Act, 5 U.S.C. A. §551 (1977) (originally enacted as Act of June 11, 1946, c.646, 60 Stat. 237), provides for notice and comment in the formulation of rules by administrative agencies.^{3/} Under that Act, a "rule" is defined as:

"the whole or a part of any agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure or requirements of an agency"

The Act furthermore defines 'rulemaking' as follows:

"'rulemaking' means agency process for formulating, amending, or repealing a rule;"

As set forth at length in this presentation, the FEC Regulations do not currently contain a provision requiring Committees to

^{3/} FEC rulemaking is explicitly made subject to the requirements of the APA. See §307(8) of the Act, as amended by P.L. 96-187.

investigate each and every apparent "multi-candidate" PAC contribution. In fact, an examination of current regulations establishes that no such investigatory duty applies to any contribution not otherwise questionable on its face. An FEC attempt to modify its current regulations, or to promulgate new ones, must be achieved through a formal rulemaking with notice and appropriate opportunity for comment. Certainly, the FEC cannot maintain that the result it seeks here does not qualify as a "rule", since such a major expansion of committee legal duties in handling contributions can only be viewed as an attempt "to implement, interpret, or prescribe law or policy."

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The questions presented by the FEC's position in this proceeding are highly significant to all Committees, and should be addressed and resolved in a manner consistent with the APA. These are questions with implications for contributions other than those from multi-candidate committees. For example, is a committee liable for receipt of an apparently lawful contribution which, however, has been given by a foreign national, e.g., a "John Smith" who is, in fact, an Englishman? Is a committee also liable for the receipt of a contribution drawn on the personal account of an individual who, unknown to the committee, is a sole proprietor Federal Contractor within the meaning of Part 115, and therefore prohibited from contributing to a federal election? In short, must all contributions which appear lawful on their face nonetheless be investigated to ensure that they are not derived from any unlawful source, or made in any unlawful amount? These questions are merely suggestive; others could be cited to further establish the importance of the issue, and the necessity of resolving it through appropriate rulemaking procedures rather than through an enforcement action commenced almost 18 months after the occurrence of the alleged violation.

If the FEC seeks to act on these issues, and to promulgate what would unquestionably be new "rules", it must do so in full compliance with the notice and comment rulemaking provisions of the APA. It should not seek to make ad hoc rules through the compliance process.

IV. CONCLUSION

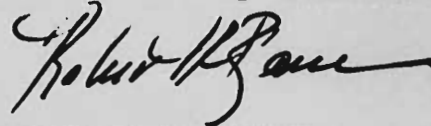
The Committee requests that this MUR 1075 be closed, and that no further action be taken against it in connection with the receipt of the Smith Transfer PAC contribution. As the foregoing establishes, no liability may be imposed on the Committee for unknowingly receiving and depositing a contribution which was not questionable on its face, but which did not, in fact, come from a duly qualified multicandidate political committee. If the FEC seeks to impose a duty to

General Counsel, FEC
January 31, 1980
Page Nine

investigate all such contributions, it should do so through the notice and comment rulemaking procedures prescribed by the Administrative Procedure Act.

Refund of the unlawful sums should, therefore, be all that is required in this matter. The Committee tendered this refund to the Smith Transfer PAC some months ago, at the request of the FEC. The Committee acted in all respects in conformity with FEC directives in making this refund, and since over six months then passed without any further word from the Commission, it had every reason to believe that its good faith efforts to achieve voluntary compliance would settle the matter once and for all.

Respectfully submitted,



Robert F. Bauer
Attorney to the Andy Miller
for Senate Committee

Dechert Price & Rhoads
888 17th Street, N.W.
Suite 800
Washington, D.C. 20006
(202) 872-8600

31040231334



FEDERAL ELECTION COMMISSION

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

MEMORANDUM TO: THE COMMISSION

FROM: MARJORIE W. EMMONS/MARGARET CHANEY

DATE: MAY 27, 1980

SUBJECT: Memorandum to the Commission dated
5-27-80 - General Counsel's Brief -
MUR 1075

The attached documents are circulated for your
information.

ATTACHMENTS:

1) Memo: 2) Brief: 3) Letter

31040231335



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

May 27, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert F. Bauer, Esquire
Dechert Price & Rhodes
888 17th Street, N.W.
Suite 800
Washington, D.C. 20006

Re: MUR 1075

Dear Mr. Bauer:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities the Federal Election Commission, on December 21, 1979, found reason to believe that your client may have violated section 441a of the Federal Election Campaign Act of 1971, as amended, and instituted an investigation of 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) 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.) 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 informal conciliation prior to a finding of probable cause to believe, if your client so desires.

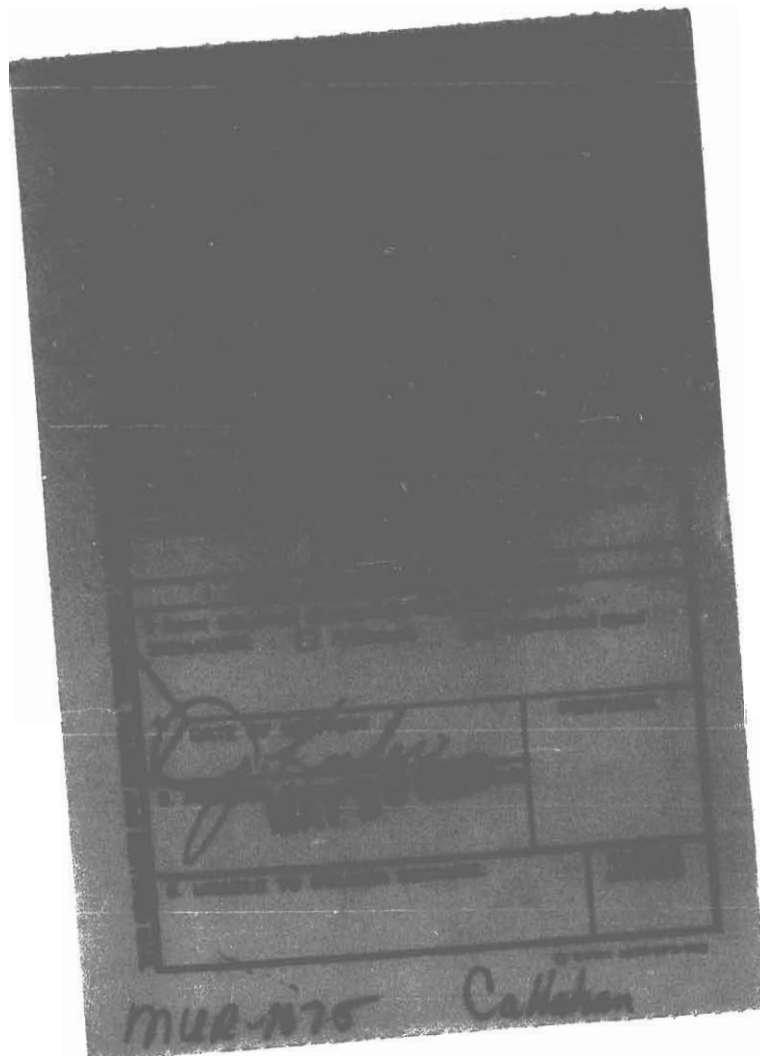
Robert F. Bauer, Esquire
Page 2

Should you have any questions, please contact Suzanne
Callahan at (202) 523-5071.

Sincerely,

Charles N. Steele
Charles N. Steele
General Counsel

Enclosure
Brief



3101011337

May 27, 1980

MEMORANDUM TO: Marjorie W. Emmons
FROM: Elissa T. Garr
SUBJECT: MUR 1075

Please have the attached Memo and brief distributed to the Commission on an informational basis. Thankyou.

31740231339



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

80 MAY 27 PI2: 30

May 27, 1980

MEMORANDUM TO: The Commission

FROM: Charles N. Steele
General Counsel *CNS*

SUBJECT: MUR 1075

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 May 27, 1980. 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

31747231339

BEFORE THE FEDERAL ELECTION COMMISSION
March 31, 1980

In the Matter of)

Smith's Transfer Corporation PAC)
Miller for Senate Committee)

MUR 1075

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

During the normal course of reports review, the Reports Analysis Division (RAD) discovered that Smith's Transfer Corporation PAC ("Smith PAC"), a political committee supporting more than one federal candidate, had contributed \$5,000 to the Miller for Senate Committee ("Miller Committee") in violation of 2 U.S.C. § 441a. This matter was referred to the Office of General Counsel on October 30, 1979. On December 21, 1979, the Commission found reason to believe that Smith PAC may have violated 2 U.S.C. § 441a(a)(1)(A) and found reason to believe that the Miller Committee may have violated 2 U.S.C. § 441a(f).

II. EVIDENCE AND ANALYSIS

As set forth in 2 U.S.C. § 441a(a)(1)(A), political committees, other than multicandidate committees, are prohibited from contributing in excess of \$1,000 per election to any candidate and his authorized political committees. Since Smith PAC made the subject contribution on September 11, 1978, but did not attain multicandidate committee status until January 12, 1979, Smith PAC exceeded the contribution limitation of § 441a at the time the contribution was made.

Smith PAC was initially notified of the excessive contribution via a surface violation letter from RAD on March 8, 1979. Smith PAC responded to the Commission's notification by stating that they "unknowingly" violated § 441a and had taken immediate action to secure a refund of \$3,000 from the Miller Committee. On May 9, 1979, the Miller Committee refunded \$3,000 to Smith PAC; the Miller Committee retained \$2,000 attributing \$1,000 to the primary election account and \$1,000 to the general election account pursuant to § 441a.

On January 31, 1980, the Miller Committee, by counsel, responded to the Commission's reason to believe notification by stating that it accepted the Smith PAC contribution in good faith in light of the fact that the check indicated that the funds were drawn from the PAC account, not general treasury funds; Counsel further stated that "Committee staff thus were satisfied that the contribution was from a PAC and not a corporation, and also believed that as a duly organized and registered PAC, Smith Transfer PAC would be fully aware of the qualifications required for multicandidate political committees and would only contribute the higher \$5,000 amount after it had satisfied those requirements. Upon notification of the excessive contribution, the Miller Committee promptly refunded the excessive amount."

Counsel contends that since the committee accepted the contribution because it appeared legal on its face, it has not violated any provision of the Act. Counsel states "[i]n instituting this

action, the FEC has manufactured--and then charged the Committee with violating--a completely new legal obligation under the Act, namely, the duty to investigate all PAC contributions in excess of \$1,000 whether or not questionable on their face, to determine whether they have been issued by duly qualified "multicandidate" political committees.

Nevertheless, it is the recipient committee's responsibility to verify the multicandidate committee status of donors prior to the acceptance of contributions exceeding \$1,000; the Miller Committee should have contacted the FEC to ascertain Smith PAC's status under 2 U.S.C. §441a.

Therefore, the Miller Committee violated 2 U.S.C. §441a at the time the contribution was accepted, even though it refunded the money as soon as it discovered the Smith PAC was not qualified.

III. GENERAL COUNSEL'S RECOMMENDATION

Find probable cause to believe that the Miller Committee has violated 2 U.S.C. §441a(f).

23 May 1980
Date



Charles N. Steele
General Counsel

31040231312



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 27, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert F. Bauer, Esquire
Dechert Price & Rhodes
888 17th Street, N.W.
Suite 800
Washington, D.C. 20006

Re: MUR 1075

Dear Mr. Bauer:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities the Federal Election Commission, on December 21, 1979, found reason to believe that your client may have violated section 441a of the Federal Election Campaign Act of 1971, as amended, and instituted an investigation of 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) 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.) 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.

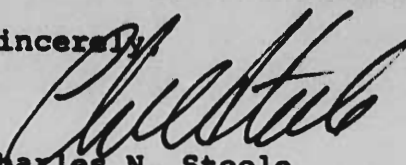
A finding of probable cause to believe requires that the Office of General Counsel attempt for a period of not less than thirty, but not more than ninety days to settle this matter through a conciliation agreement. This does not preclude settlement of this matter through informal conciliation prior to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

8170031343

Robert F. Bauer, Esquire
Page 2

Should you have any questions, please contact Suzanne
Callahan at (202) 523-5071.

Sincerely,


Charles N. Steele
General Counsel

Enclosure
Brief

31040231341

PRINCES HOUSE
88 GRESHAM STREET
LONDON, EC2V 7NA, ENGLAND
01. 808. 8888

888 17TH STREET, N. W.
WASHINGTON, D. C. 20006

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717 SEVENTEENTH STREET
DENVER, COLORADO 80202
(303) 623-1771

800 NORTH THIRD STREET
HARRISBURG, PA. 17102
(717) 233-7047

March 28, 1980

Charles Steele
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20006

Dear Mr. Steele:

On March 1979, the Commission raised a question about a \$5,000 contribution to my client, the ~~Miller~~ for Senate Committee (Committee), from Smith Transfer PAC. The contribution was received in September, 1978.

At the Commission's request, the Committee investigated the matter, and found that Smith Transfer PAC was not a multi-candidate committee at the time the contribution was made and received. In accordance with Commission instructions, the Committee refunded that portion of the contribution in excess of the lawful limits in May, 1979.

In December, 1979 the Commission found "reason to believe" that the Committee had violated the Act in connection with its receipt of this Smith Transfer PAC contribution. The Committee responded to this allegation on January 31, 1980. We have argued that there was no violation of the Act for the reason, among others, that the Committee had no reason to know or believe that the Smith Transfer PAC was not a multi-candidate committee, and that under these circumstances, the Act imposes no liability on the Committee for unknowingly receiving a contribution later discovered to be in excess of the lawful limits.

The Committee has now been informed that the FEC will not dispose of the merits of any charges against the Committee until all claims brought by the FEC against the Smith Transfer PAC are also resolved. This approach appears extremely unfair to the Committee, and our inquiries to your staff about it have yielded no satisfactory explanation or justification. The legal issues raised by the Committee's conduct, on the one hand, and by the Smith Transfer PAC, on the other, are entirely separate and independent. Separate and independent resolutions of these issues would, therefore, be appropriate. Since the basic issue involving my client has been pending since early 1979 (with the Commission acting

at an extremely late date to bring this matter to the forefront) and since the Committee is now seeking to wind up its affairs and close its books, we ask that you sever the two questions concerning the Committee and the Smith Transfer PAC, and that you deal with them separately.

In light of the foregoing, we respectfully request that the Commission reach a final decision at the earliest possible opportunity.

Very truly yours,

Robert F. Bauer/ps
Robert F. Bauer

RFB:ps

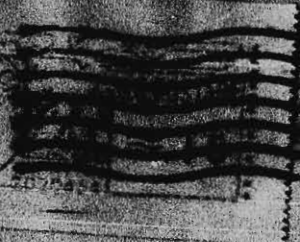
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DECHERT PRICE & RHOADS

666 17TH STREET, N. W.

WASHINGTON, D. C. 20006



Charles W. Steele
General Counsel
Federal Election Commission
1325 K Street, N.W.,
Washington, D.C. 20006



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 19, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

W. C. Lescure, Treasurer
Smith's Transfer Corporation PAC
Post Office Box 1000
Staunton, Virginia 24401

Re: MUR 1075

Dear Mr. Lescure:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities and information supplied by you, the Federal Election Commission, on December 21, 1979, found reason to believe that your committee may have violated section 441a of the Federal Election Campaign Act of 1971, as amended, and instituted an investigation of 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) 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.) 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 informal conciliation prior to a finding of probable cause to believe, if you so desire.

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W. C. Lescure, Treasurer
Page 2

Should you have any questions, please contact Suzanne
Callahan at (202) 523-5071.

Sincerely,


Charles N. Steele
General Counsel

Enclosure
Brief

81040231349





FEDERAL ELECTION COMMISSION

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

MEMORANDUM TO : THE COMMISSION

FROM: MARJORIE W. EMMONS/MARGARET CHANEY

DATE: March 19, 1980

SUBJECT: MUR 1075

The attached documents are circulated for your information.

ATTACHMENTS:

1) Memo; 2) Brief; 3) Letter

March 19, 1980

MEMORANDUM TO: Marjorie W. Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 1075

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

31749231351



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

80 MAR 19 P 1: 10

March 19, 1980

MEMORANDUM TO: The Commission

FROM: Charles N. Steele
General Counsel

SUBJECT: MUR 1075

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 March 19, 1980. 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

81040231352

BEFORE THE FEDERAL ELECTION COMMISSION
February 22, 1980

In the Matter of)

Smith's Transfer Corporation PAC)

Miller for Senate Committee)

MUR 1075

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

During the normal course of reports review, the Reports Analysis Division (RAD) discovered that Smith's Transfer Corporation PAC ("Smith PAC"), a political committee supporting more than one federal candidate, had contributed \$5,000 to the Miller for Senate Committee ("Miller Committee") in violation of 2 U.S.C. § 441a. This matter was referred to the Office of General Counsel on October 30, 1979. On December 21, 1979, the Commission found reason to believe that Smith PAC may have violated 2 U.S.C. § 441a(a)(1)(A) and found reason to believe that the Miller Committee may have violated 2 U.S.C. § 441a(f).

II. EVIDENCE AND ANALYSIS

As set forth in 2 U.S.C. § 441a(a)(1)(A), political committees, other than multicandidate committees, are prohibited from contributing in excess of \$1,000 per election to any candidate and his authorized political committees. Since Smith PAC made the subject contribution on September 11, 1978, but did not attain multicandidate committee status until January 12, 1979, Smith PAC exceeded the contribution limitation of § 441a at the time the contribution was made.

Smith PAC was initially notified of the excessive contribution via a surface violation letter from RAD on March 8, 1979. Smith PAC responded to the Commission's notification by stating that they "unknowingly" violated § 441a and had taken immediate action to secure a refund of \$3,000 from the Miller Committee. On May 9, 1979, the Miller Committee refunded \$3,000 to Smith PAC; the Miller Committee retained \$2,000 attributing \$1,000 to the primary election account and \$1,000 to the general election account pursuant to § 441a.

On January 31, 1980, the Miller Committee, by counsel, responded to the Commission's reason to believe notification by stating that it accepted the Smith PAC contribution in good faith in light of the fact that the check indicated that the funds were drawn from the PAC account, not general treasury funds; Counsel further stated that "Committee staff thus were satisfied that the contribution was from a PAC and not a corporation and also believed that as a duly organized and registered PAC, Smith Transfer PAC would be fully aware of the qualifications required for multicandidate political committees and would only contribute the higher \$5,000 amount after it had satisfied those requirements. Upon notification of the excessive contribution, the Miller Committee promptly refunded the excessive amount."

Even though a refund of the excessive portion of the contribution has been made, a violation of § 441a was committed at the time the contribution was made.

Smith PAC did not respond to the Commission's reason to believe notification and has not provided any information in addition to that contained in their letter of March 23, 1979, responding to RAD's surface violation letter. Therefore, in the absence of any additional information from the respondent which would refute the Commission's previous finding, the Office of General Counsel recommends that the Commission proceed in this matter.

III. GENERAL COUNSEL'S RECOMMENDATION

Find probable cause to believe that Smith's Transfer Corporation PAC has violated 2 U.S.C. § 441a(a)(1)(A).

17 March 1980
Date


Charles N. Steele
General Counsel

8104021355



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 19, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

W. C. Lescure, Treasurer
Smith's Transfer Corporation PAC
Post Office Box 1000
Staunton, Virginia 24401

Re: MUR 1075

Dear Mr. Lescure:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities and information supplied by you, the Federal Election Commission, on December 21, 1979, found reason to believe that your committee may have violated section 441a of the Federal Election Campaign Act of 1971, as amended, and instituted an investigation of 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) 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.) 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 informal conciliation prior to a finding of probable cause to believe, if you so desire.

W. C. Lescure, Treasurer
Page 2

Should you have any questions, please contact Suzanne
Callahan at (202) 523-5071.

Sincerely,


Charles N. Steele
General Counsel

Enclosure
Brief

31040231357



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS/MARGARET CHANEY *mc*

DATE: FEBRUARY 20, 1980

SUBJECT: MUR 1075 - Interim Investigative
Report dated 2-13-80; Signed
2-15-80; Received in OCS 2-15-80,
1:43

The above-named document was circulated to
the Commission on a 24-hour no-objection basis
at 11:00, February 19, 1980.

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

81040271338

February 15, 1980

MEMORANDUM TO: Marjorie E. Emmons
FROM: Elissa T. Garr
SUBJECT: MUR 1075

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

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RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

BEFORE THE FEDERAL ELECTION COMMISSION

February 13, 1980

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY
FEB 15 1980 P 1:48

In the Matter of

Smith's Transfer Corporation PAC
Miller for Senate Committee

)
)
)
)

MUR 1075

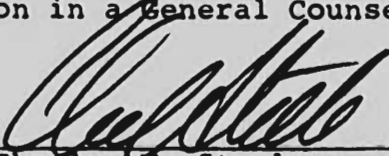
Interim Investigative Report #2

On December 21, 1979, the Commission found reason to believe that the Smith's Transfer Corporation PAC ("Smith PAC") and the Miller for Senate Committee ("Miller Committee") violated 2 U.S.C. § 441a in connection with the making and acceptance of an excessive contribution. In letters dated December 28, 1979, the respondent committees were notified of the Commission's determination.

On January 31, 1980, Robert Bauer, counsel to the Miller Committee, responded to the Commission's reason to believe notification. Mr. Bauer has requested a meeting with this office which because of scheduling difficulties cannot be had before the week of February 17, 1980.

After we meet with Mr. Bauer, we will be in a position to submit our recommendations to the Commission in a General Counsel's Brief.

Date: 15 February 1980



Charles N. Steele
General Counsel

28 SQUARE DE MEUSE, BTE 1
1040 BRUSSELS, BELGIUM
(02) 811 8040

PRINCES HOUSE
95 GRESHAM STREET
LONDON, EC2V 7NA, ENGLAND
01. 606. 8588

LAW OFFICES OF
DECHERT PRICE & RHOADS

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WASHINGTON, D. C. 20006

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ENERGY CENTER ONE
717 SEVENTEENTH STREET
DENVER, COLORADO 80202
(303) 622-1777

800 NORTH THIRD STREET
HARRISBURG, PA. 17102
(717) 233-7847

January 31, 1980

General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20006

Re: MUR 1075

Dear Sir:

On December 28, 1979, the Federal Election Commission ("FEC") notified the Andy Miller for Senate Committee (the "Committee") that it had found "reason to believe" that the Committee violated section 441a(a) of the Federal Election Campaign Act of 1971 (the "Act"). The FEC alleged that a violation occurred when the Committee accepted a contribution in excess of the lawful limits from the Smith Transfer Corporation political action committee ("Smith Transfer PAC"). More specifically, Smith PAC apparently contributed \$5,000, rather than \$1,000, to the general election campaign of the Committee on the mistaken assumption that it qualified for the higher limits afforded qualified "multicandidate" committees.

For the reasons set forth below, the Committee must reject the legal theories underlying the FEC's action in this matter. The Committee takes this position for the simple reason that these theories have absolutely no basis in the Act or FEC Regulations. In instituting this action, the FEC has manufactured -- and then charged the Committee with violating -- a completely new legal obligation under the Act, namely, the duty to investigate all PAC contributions in excess of \$1,000, whether or not questionable on their face, to determine whether they have been issued by duly qualified "multicandidate" political committees. The Committee does not dispute the FEC's authority to consider such a rule, or to promulgate one after appropriate notice and period for comment in accordance with the requirements of the Administrative Procedure Act. Yet no such rule is now in effect, and the FEC may not use a compliance proceeding against the Committee for rulemaking purposes.

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I. BACKGROUND

The contribution in question in this proceeding has a long history, and a review of this history is in order here.

In September 1978, the Committee received from Smith Transfer PAC a \$5,000 contribution. The check indicated clearly on its face that it was drawn on Smith Transfer PAC funds, and not on general treasury funds. Committee staff thus were satisfied that the contribution was from a PAC and not a corporation, and also believed that as a duly organized and registered PAC, Smith Transfer PAC would be fully aware of the qualification requirements for multicandidate political committees and would only contribute the higher \$5,000 amount after it had satisfied those requirements.

On March 12, 1979, the FEC notified the Committee that at least as of September, 1978, Smith Transfer PAC had not yet qualified as a multicandidate committee, and that its \$5,000 contribution therefore exceeded the lawful limits. The FEC "recommended" that if the unlawful nature of the contribution was confirmed, the Committee should return the amount in excess of the proper limit.

The Smith Transfer PAC and the Committee acted promptly to rectify the error. At all times the FEC was kept informed by both the PAC and the Committee of their efforts to achieve voluntary compliance. On March 23, 1979, eleven days after the original FEC notification was received, Smith Transfer PAC informed the FEC that it had requested the Committee to refund the excess amount. In that letter Smith Transfer PAC stated that it had "unknowingly" misconstrued the applicable requirements.

Three days later, on March 26, 1979, the Committee also wrote to the FEC to affirm its desire to do all that was necessary to achieve full compliance. The Committee stated that it had not known of the unlawful nature of the contribution at the time of receipt, and that it was now working with Smith Transfer PAC to resolve the matter speedily. The Committee assured the FEC that it would keep in close contact with Bill Coppel, the staff person assigned to the matter, "to ensure that we properly handle the resolution of this problem."

Despite a post-election deficit in excess of \$30,000, the Committee made every effort to locate the funds necessary for a refund. The refund was forwarded to Smith Transfer on May

9, 1979. Smith Transfer PAC notified the FEC of receipt of the refund by letter dated May 10, 1979. At that time, Smith Transfer PAC spoke for itself and the Committee in stating: "... we trust this clears up the matter."

On June 15, 1979, the Committee forwarded to the FEC, for the record, a copy of the cancelled refund check.

Six months passed, and both Smith PAC and the Committee assumed that the matter, having been handled in the manner "recommended" by the FEC, had been laid to rest. No further communication from the FEC was received during this time.

On December 28, 1979, the FEC notified the Committee of its belated finding that there was "reason to believe" that acceptance by the Committee of the Smith Transfer PAC contribution in the first instance constituted a violation of the Act.

II. THE COMMITTEE FULLY SATISFIED ALL OF ITS LEGAL OBLIGATIONS IN ITS HANDLING OF THE SMITH TRANSFER PAC CONTRIBUTION, AND THE FEC SHOULD NOT IMPOSE ADDITIONAL OBLIGATIONS AFTER-THE-FACT THROUGH THIS COMPLIANCE ACTION.

- A. Neither The Act Nor FEC Regulations Impose A Duty On Political Committees To Investigate Each And Every PAC Contribution To Determine Whether Multicandidate Committee Limits Apply

Neither the Act nor FEC Regulations address in great detail the liability of political committees for the receipt of unlawful contributions. Yet there is clear law on this subject, and it is clear on this point: a political committee is not liable for unknowingly receiving and depositing an unlawful contribution which is not questionable on its face and which the Committee otherwise has no reasonable grounds for suspecting to be unlawful. It is certainly appropriate that, where such contributions are later discovered to be unlawful, the recipient committee is requested to refund the amount in question. No provision of the Act or Regulations, however, suggests that such innocent mistakes be converted into "violations" for which the Committee will be held fully responsible in agency or even judicial proceedings.

In the Act itself, the liability question is addressed in ambiguous terms. Section 441a(f) establishes liability for the receipt of contributions in excess of the applicable limits and this liability is stated as follows: "No candidate or political committee shall knowingly accept any contribution or make any

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This focus on the appearance of illegality is not limited to §103.3(b)(2). It has also been central to FEC efforts to handle the special problem of illegal corporate and union contributions. In the fall of 1978, the FEC issued a Notice advising candidates and political committees of a new policy applicable to the receipt of corporate or union contributions. The FEC announced that, although in the past, refund of any unlawful contributions was deemed sufficient, a more rigorous enforcement policy was now required. Specifically, the FEC Notice states, Committee staffs must now be instructed "to immediately return all contributions which indicate on their face that they are written on corporate or labor union accounts." (emphasis supplied) Moreover, apart from contributions questionable on their face, there should be review of all contributions "not written on personal accounts or clearly identified as political action committee funds." (emphasis supplied) In short, the FEC did not hold committees to a strict standard of liability for all contributions received. Instead, as Section 103.3(b)(2) would suggest, liability would be extended only to these contributions questionable on their face, or to those not clearly identified as personal or PAC contributions. Thus, if a check appeared with the designation "Williams Construction Company Political Action Committee Fund," but it was discovered at a later date that no separate segregated fund had, in fact, been established by the Williams Construction Company, the Committee was not liable beyond its obligation to refund the unlawful sum.

Committees are not, therefore, liable for the mere receipt, without more, of contributions later discovered to be unlawful. This rule emerges even more clearly from the FEC's consideration last year of the problem of transfers to political committees from unregistered organizations. See Agenda Document #79-30, dated February 1, 1979, with attached memorandum from the Audit Division, Reports Analysis Division, and the Office of General Counsel. Here, the FEC sought to determine the compliance procedures which would be applicable when unregistered organizations contributed either \$1,000 or less, or more than \$1,000, to political committees. In the first instance, where the contribution was \$1,000 or less, the FEC determined that no action should be taken against either the unregistered organization or the political committee, provided that the committee, once notified, investigated the source of the contribution and refunded any unlawful portion, i.e., portions from prohibited labor or corporate sources. In other words, the FEC undertook the responsibility to investigate in the first instance, and to then notify the committee in question that an unregistered organization was the source of certain funds. If the committee determined, upon

expenditure in violation of the provisions of this section." (emphasis supplied). The term "knowingly" is not defined elsewhere in the Act, or in the FEC Regulations. ^{1/} It is not, certainly, the equivalent of mens rea in the criminal context, for the Act addresses this area separately in §441j, and employs instead the more stringent standard of "knowing and wilfull". (emphasis supplied)

It is also certain that mere receipt, without more, is not sufficient to result in liability to the recipient committee. Instead the FEC has required committees to review contributions to determine whether anything questionable on their face suggests that they may be unlawful. This requirement appears in the first instance in Section 103.3(b)(2) of the Regulations, which alone treats the issue of committee responsibility in handling questionable contributions. That Section states that:

Contributions which appear to be illegal shall be, within 10 days --

(2) deposited into the campaign depository, and reported in which case the Treasurer shall make and retain a written record noting the basis for the appearance of illegality. The Treasury shall make his or her best efforts to determine the legality of the contribution. Refunds should be made when a contribution cannot be determined to be legal within a reasonable time. ..." (emphasis supplied)

The obligations imposed by Section 103.3(b)(2) are triggered only by the appearance of illegality. Only when a contribution presents such an appearance, is the treasurer of the committee required to employ "best efforts" in investigating its source. The provision does not state that upon receipt of each and every contribution, the treasurer has the obligation to satisfy himself, through the exercise of his "best efforts", that the contribution was in no way unlawful.

^{1/} The prohibition on "knowing" acceptance also appears in §441b, which sets forth the ban on the use of corporate and union treasury funds in connection with any federal election.

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investigation, that a portion of the monies received was unlawful, only a refund was required in the way of remedial action. In the second case, where the unregistered organization contributed more than \$1,000 to the committee, the FEC determined that the organization in question had the option of either registering and reporting, or seeking a refund of amounts in excess of \$1,000 or their transfer to a non-Federal account. Once again, no liability was imposed upon the recipient committee.

It must be concluded, then, that the existing law does not justify an action against the Committee for failing to investigate the Smith Transfer PAC contribution, where, as here, the Committee did not know, and the check itself gave the Committee no reason to suspect, that the contribution was not lawful in all respects. 2/ The Committee has made every effort to comply with its clear obligations under the Act. During the campaign, the Committee retained on a full-time basis a substantial staff, including persons charged with ensuring that the Committee's activities were at all times conducted within the confines of the law. Campaign contributions were screened by at least one member of the senior staff, such as the Finance Director or campaign manager, who reviewed each check received for indications that it came from illegal sources. As a committee which reported total receipts for the election year in excess of \$800,000, it has a record of compliance of which it is proud. That record should not now be sullied by the FEC's imposition of after-the-fact obligations which are nowhere set forth in the Act or Regulations.

2/ It should be noted that the Act does contain a provision requiring the FEC to compile, and make publicly available, lists of multicandidate political committees. See, §311(6) (B)&(C) of the Act, as amended by the recently enacted P.L. 96-187. This provision does not, however, include in any way the very different requirement that political committees consult the lists as part of a defined duty to verify the source of multicandidate committee contributions. Moreover, no suggestion that such a requirement be imposed on committees appears anywhere in the legislative history of this provision. See the Senate Report and the Conference Report accompanying passage of P.L. 94-283 (the 1976 amendments), 1976 Congressional and Administrative News, pp. 936-937, 966-967. In fact, the Senate Report, which contained a provision very similar to the version passed by the House and adopted by the Conference, states that its purpose is "to enable the public", not political committees, to determine which political committees are qualified multicandidate committees. 1976 Congressional and Administrative News, pp. 936-937.

B. Where A Committee's Legal Obligations
Have Been Satisfied, But An Illegal
Contribution Has Been Received, Only
A Refund Should Be Required.

The only action justified in these circumstances is that action taken in all cases of good faith committee "error" -- refund of the unlawful contribution. This is all that the FEC has required when illegal corporate contributions, which were not illegal on their face, have been received and deposited. See Notice discussed above at p. 5. Moreover, as noted previously, it is also the only remedial action necessary when unregistered organizations make contributions which are not derived from lawful sources.

The same remedy, i.e., refund of the contribution in question, is appropriate here. The Committee has, of course, speedily refunded the amounts in excess of the lawful limit. This action is sufficient and should close the matter.

III. FEC USE OF THIS COMPLIANCE PROCEEDING TO FORMULATE
NEW LEGAL RULES IS NOT CONSISTENT WITH THE ADMINISTRATIVE
PROCEDURE ACT.

The Administrative Procedure Act, 5 U.S.C. A. §551 (1977) (originally enacted as Act of June 11, 1946, c.646, 60 Stat. 237), provides for notice and comment in the formulation of rules by administrative agencies.^{3/} Under that Act, a "rule" is defined as:

"the whole or a part of any agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure or requirements of an agency"

The Act furthermore defines 'rulemaking' as follows:

"'rulemaking' means agency process for formulating, amending, or repealing a rule;"

As set forth at length in this presentation, the FEC Regulations do not currently contain a provision requiring Committees to

^{3/} FEC rulemaking is explicitly made subject to the requirements of the APA. See §307(8) of the Act, as amended by P.L. 96-187.

investigate each and every apparent "multi-candidate" PAC contribution. In fact, an examination of current regulations establishes that no such investigatory duty applies to any contribution not otherwise questionable on its face. An FEC attempt to modify its current regulations, or to promulgate new ones, must be achieved through a formal rulemaking with notice and appropriate opportunity for comment. Certainly, the FEC cannot maintain that the result it seeks here does not qualify as a "rule", since such a major expansion of committee legal duties in handling contributions can only be viewed as an attempt "to implement, interpret, or prescribe law or policy."

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The questions presented by the FEC's position in this proceeding are highly significant to all Committees, and should be addressed and resolved in a manner consistent with the APA. These are questions with implications for contributions other than those from multi-candidate committees. For example, is a committee liable for receipt of an apparently lawful contribution which, however, has been given by a foreign national, e.g., a "John Smith" who is, in fact, an Englishman? Is a committee also liable for the receipt of a contribution drawn on the personal account of an individual who, unknown to the committee, is a sole proprietor Federal Contractor within the meaning of Part 115, and therefore prohibited from contributing to a federal election? In short, must all contributions which appear lawful on their face nonetheless be investigated to ensure that they are not derived from any unlawful source, or made in any unlawful amount? These questions are merely suggestive; others could be cited to further establish the importance of the issue, and the necessity of resolving it through appropriate rulemaking procedures rather than through an enforcement action commenced almost 18 months after the occurrence of the alleged violation.

If the FEC seeks to act on these issues, and to promulgate what would unquestionably be new "rules", it must do so in full compliance with the notice and comment rulemaking provisions of the APA. It should not seek to make ad hoc rules through the compliance process.

IV. CONCLUSION

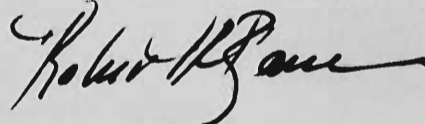
The Committee requests that this MUR 1075 be closed, and that no further action be taken against it in connection with the receipt of the Smith Transfer PAC contribution. As the foregoing establishes, no liability may be imposed on the Committee for unknowingly receiving and depositing a contribution which was not questionable on its face, but which did not, in fact, come from a duly qualified multicandidate political committee. If the FEC seeks to impose a duty to

General Counsel, FEC
January 31, 1980
Page Nine

investigate all such contributions, it should do so through the notice and comment rulemaking procedures prescribed by the Administrative Procedure Act.

Refund of the unlawful sums should, therefore, be all that is required in this matter. The Committee tendered this refund to the Smith Transfer PAC some months ago, at the request of the FEC. The Committee acted in all respects in conformity with FEC directives in making this refund, and since over six months then passed without any further word from the Commission, it had every reason to believe that its good faith efforts to achieve voluntary compliance would settle the matter once and for all.

Respectfully submitted,



Robert F. Bauer
Attorney to the Andy Miller
for Senate Committee

Dechert Price & Rhoads
888 17th Street, N.W.
Suite 800
Washington, D.C. 20006
(202) 872-8600

65313204018

DECHERT PRICE & RHOADS

**800 17th STREET, N. W.
WASHINGTON, D. C. 20006**

**General Counsel
Federal Election Commission
1325 K Street, N. W.
Washington, D. C. 20006**

Attn: Susan Donaldson

04515204010

PRINCES HOUSE
95 GRESHAM STREET
LONDON, EC2V 7NA, ENGLAND
OI. 606. 8898

38 SQUARE DE MEEUS, STE 1
1040 BRUSSELS, BELGIUM
(02) 511 80 40

LAW OFFICES OF
DECHERT PRICE & RHODES

888 17TH STREET, N.W.

WASHINGTON, D.C. 20005

TELEX 84 8324 • BARDEP

(202) 672-8600

3400 CENTRE SQUARE WEST
1800 MARKET STREET
PHILADELPHIA, PA. 19103
(215) 575-3400

500 NORTH THIRD STREET
HARRISBURG, PA. 17101
(717) 233-7849

January 22, 1980

Ms. Susan Donaldson
Office of General Counsel
Federal Election Commission
1325 K Street
Washington, D.C.

Re: MUR 1075

Dear Ms. Donaldson:

This letter serves to confirm our conversation today, in which you agreed to my request for an extension until Thursday, January 31, 1980, for the submission of factual and legal materials by the Andy Miller for Senate Committee in the above-captioned matter.

As I informed you, I will be representing the Miller for Senate Committee in this matter.

I appreciate your cooperation.

Very truly yours,

Robert F. Bauer
Robert F. Bauer

RFB:dka

cc: Andrew Miller, Esq.

20:019 82NVP 01

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DECHERT PRICE & RHOADS

665 17TH STREET, N. W.
WASHINGTON, D. C. 20006



Ms. Susan Donaldson
Office of General Counsel
Federal Election Commission
1325 K Street
Washington, D. C.

RECEIVED
FEDERAL ELECTION
COMMISSION
JAN 28 1972
OH: 8



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE ✓
FROM: MARJORIE W. EMMONS/MARGARET CHANEY *me*
DATE: JANUARY 17, 1980
SUBJECT: MUR 1075 - Interim Investigative
Report dated 1-15-80; Received
in OCS 1-15-80, 5:19

The above-named document was circulated to the Commission on a 24-hour no-objection basis at 11:00, January 16, 1980.

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

81040231373

January 15, 1980

MEMORANDUM TO: Marjorie W. Emons

FROM: Elissa T. Garr

SUBJECT: MUR 1075

Please have the attached Interim Invest Report on
MUR 1075 distributed to the Commission.

Thankyyou.

3 1 7 4 7 2 3 1 3 7 4

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

80 JAN 15 P 5: 10

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Smith's Transfer Corporation PAC
Miller for Senate Committee

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)
)
)

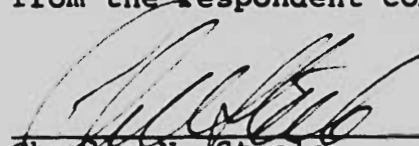
MUR 1075

Interim Investigative Report

On December 21, 1979, the Commission found reason to believe the Smith's Transfer Corporation PAC ("Smith PAC") and the Miller for Senate Committee ("Miller Committee") violated 2 U.S.C. § 441a in connection with the making and acceptance of an excessive contribution. In letters dated December 28, 1979, the respondent committees were notified of the Commission's determination.

The notification letter to the treasurer of the Miller Committee was returned to the Commission and will be remailed to a new address. The Smith PAC has not yet responded to the notification letter; however, it has not been ten days since they received our letter. A further report will be made to the Commission upon response from the respondent committees.

15 January 1980
Date


Charles N. Steele
General Counsel

81040231375

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463



POSTAGE AND FEES PAID



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JAN 11 11:05

McLain T. O'Ferrall, Jr., Treasurer
Miller for Senate
2501 West Broad Street
Richmond, Virginia 23220

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

CERTIFIED
943585

NO LONGER AT
THIS ADDRESS
— RETURN TO SENDER —

UNITED STATES POSTAL SERVICE

Mail sent subject to the "Domestic Mail Manual" and "International Mail Manual"

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. Mailing addressed to:

John F. O'Ferrall, Jr.

3. ARTICLE DESCRIPTION:

REGISTERED NO. CERTIFIED NO. INSURED NO.

8 5435 25

4. (Check one) (For use by addressee only)

I have received the article described above

☐ Address ☐ Addressed only

5. NAME OF BUSINESS

6. BUSINESS ADDRESS AND CITY

7. BUSINESS IS BEING RUN BY

NOV 1978

January 11, 1980

MEMORANDUM

To: (The File) Jamie Shurtack
From: Susan Donaldson
Re: MUR 1075

Please remit the letter addressed
to McLain T. O'Herrall, Jr., which was
returned to the Commission, to the
new address:

McLain T. O'Herrall, Jr., Treasurer
Miller for Senate Committee
c/o Joy Ranney
2318 Tanglevale Drive
Vienna, Virginia 22180

Thank you,

SD

8104031378



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 28, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

W. C. Lescure, Treasurer
Smith's Transfer Corporation PAC
Post Office Box 1000
Staunton, Virginia 24401

Re: MUR 1075

Dear Mr. Lescure:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on December 21, 1979, found reason to believe that your committee may have violated section 441a of the Federal Election Campaign Act of 1971, as amended ("the Act"). This section of the Act makes it unlawful for an unqualified political committee to contribute more than \$1,000 per election to a Federal candidate. Specifically, it appears that your committee contributed \$5,000 to the Miller for Senate Committee in September 1978. According to our records, your committee did not become a qualified multicandidate committee until January 12, 1979. Although the excessive amount of the contribution in question was reported as returned, the Act may have been violated when the contribution was made and accepted.

We have numbered this matter MUR 1075. 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.

W. C. Lescure
Page 2

If you have any questions, please contact Susan Donaldson,
the staff member assigned to this matter, at (202) 523-4057.

This matter will remain confidential in accordance with
2 U.S.C. Section 437g(a)(3)(B) unless you notify the Commission
in writing that you wish the investigation to be made public.

Sincerely,

Charles N. Steele
Charles N. Steele
General Counsel

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SEARCHED		SERIALIZED	
INDEXED		FILED	
JUN 2 1990			
FBI - NEW YORK			
RECEIVED			
NUR 1075			

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

W. C. Lescure, Treasurer
Smith's Transfer Corporation PAC
Post Office Box 1000
Staunton, Virginia 24401

12/28/79

Re: MUR 1075

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Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on , 1979, found reason to believe that your committee may have violated section 441a of the Federal Election Campaign Act of 1971, as amended ("the Act"). This section of the Act makes it unlawful for an unqualified political committee to contribute more than \$1,000 per election to a Federal candidate. Specifically, it appears that your committee contributed \$5,000 to the Miller for Senate Committee in September 1978. According to our records, your committee did not become a qualified multicandidate committee until January 12, 1979. Although the excessive amount of the contribution in question was reported as returned, the Act may have been violated when the contribution was made and accepted.

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60
12-21-79

W. C. Lescure, Treasurer
Page 2

If you have any questions, please contact Susan Donaldson,
the staff member assigned to this matter, at (202) 523-4057.

This matter will remain confidential in accordance with
2 U.S.C. Section 437g(a)(3)(B) unless you notify the Commission
in writing that you wish the investigation to be made public.

Sincerely,

151

Charles M. Steele
~~Acting~~ General Counsel

81040231332



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 28, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

McLain T. O'Ferrall, Jr., Treasurer
Miller for Senate
2501 West Broad Street
Richmond, Virginia 23220

Re: MUR 1075

Dear Mr. O'Ferrall:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission has found reason to believe that your committee may have violated section 441a of the Federal Election Campaign Act of 1971, as amended ("the Act"). This section of the Act makes it unlawful for a political committee to accept a contribution in excess of \$1,000 from an unqualified political committee. Specifically, it appears that your committee accepted a \$5000 contribution from the Smith's Transfer Corporation PAC in September, 1978. Although the excessive amount of the contribution in question was reported as returned, the Act may have been violated when the contribution was made and accepted.

We have numbered this matter MUR 1075. Please refer to this number in all future correspondence.

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McLain T. O'Ferrall, Jr.
Page 2

If you have any questions, please contact Susan Donaldson,
the staff member assigned to this matter, at (202) 523-4057.

This matter will remain confidential in accordance with
2 U.S.C. Section 437g(a)(3)(B) unless you notify the Commission
in writing that you wish the investigation to be made public.

Sincerely,


Charles N. Steele
General Counsel

81777:31334

The following information is being furnished to you for your information. It is requested that you keep this information confidential and not disseminate it to the public.	
☐ RESTRICTED INFORMATION	(CONSULT POSTMASTER FOR INFORMATION)
1. ARTICLE ASSIGNED TO: <i>McLain T. O'Ferrall</i>	
2. ARTICLE DESCRIPTION: <i>McLain T. O'Ferrall</i>	
3. ARTICLE NUMBER: <i>11/22/1077</i>	

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

McLain T. O'Ferrall, Jr., Treasurer
Miller for Senate
2501 West Broad Street
Richmond, Virginia 23220

12/28/79

Re: MUR 1075

Dear Mr. O'Ferrall:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission has found reason to believe that your committee may have violated ~~Section 2524222~~ the Federal Election Campaign Act of 1971, as amended ("the Act"). This section of the Act makes it unlawful for a political committee to accept a contribution in excess of \$1,000 from an unqualified political committee. Specifically, it appears that your committee accepted a \$5000 contribution from the Smith's Transfer Corporation PAC in September, 1978. Although the excessive amount of the contribution in question was reported as returned, the Act may have been violated when the contribution was made and accepted.

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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.

50
12-27-79

McLain T. O'Ferrall, Jr.
Page 2

If you have any questions, please contact Susan Donaldson,
the staff member assigned to this matter, at (202) 521-4037.

This matter will remain confidential in accordance with
2 U.S.C. Section 437g(a)(3)(B) unless you notify the Commission
in writing that you wish the investigation to be made public.

Sincerely,

13/

Charles N. Steele
~~Acting~~ General Counsel

81040231395

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Smith's Transfer Corporation)
Political Action Committee)
Miller for Senate (Va.))

MUR 1075

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on December 21, 1979, the Commission decided by a vote of 4-0 to take the following actions regarding the above-captioned matter:

1. Find REASON TO BELIEVE that the Smith's Transfer Corporation PAC violated 2 U.S.C. § 441a(a)(1)(A).
2. Find REASON TO BELIEVE that the Miller for Senate Committee violated 2 U.S.C. § 441a(f).
3. Send the letters attached to the First General Counsel's Report dated December 18, 1979.

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

Attest:

12/21/79

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Received in Office of the Commission Secretary: 12-18-79, 2:22
Circulated on 48 hour vote basis: 12-19-79, 11:00

81040231397

December 18, 1979

MEMORANDUM TO: Marjorie W. Emons
FROM: Elissa T. Garr
SUBJECT: MUR 1075

Please have the attached First GC Report on MUR 1075 distributed to the Commission on a 48 hour tally basis.

Thank you.

3 1 0 0 0 1 1 3 3

FEDERAL ELECTION COMMISSION RECEIVED
1325 K Street, N.W. OFFICE OF THE
Washington, D.C. 20463 COMMISSION SECRETARY

FIRST GENERAL COUNSEL'S REPORT DEC 18 P 2: 22

DATE AND TIME OF TRANSMITTAL
BY OGC TO THE COMMISSION 12-18-79

MUR NO. 1075

STAFF
MEMBER Donaldson

SOURCE: INTERNALLY GENERATED

RESPONDENT'S NAME: Smith's Transfer Corporation Political Action
Committee
Miller for Senate (Va.)

RELEVANT STATUTE: 2 U.S.C. § 441a; 2 U.S.C. § 441a(f)
11 C.F.R. § 110.1(a)(1)

INTERNAL REPORTS CHECKED: Smith's Transfer Corporation PAC
Miller for Senate

FEDERAL AGENCIES CHECKED: N/A

During a normal review of the reports filed by the Smith's Transfer Corporation PAC ("Smith PAC"), the Reports Analysis Division discovered that the Smith PAC, a non-qualified multicandidate committee, had contributed \$5,000 to the Miller for Senate Committee ("Miller Committee") in violation of 2 U.S.C. § 441a. A surface violation letter was sent to both committees in March 1979, notifying the committees of the excessive contribution. After correspondence with both committees, \$3,000 of the \$5,000 contribution was refunded by the Miller Committee to the Smith PAC. The Smith PAC specifically designated \$1,000 of their contribution to the primary election and \$1,000 to the general election. This matter was referred to the Office of General Counsel on October 30, 1979 (Attachment I).

ANALYSIS

2 U.S.C. § 441a(a)(1)(A) prohibits political committees, other than multicandidate committees, from making political contributions to a candidate for Federal office in excess of \$1,000 per election. 2 U.S.C. § 441a(f) prohibits a political committee from knowingly accepting any contribution in violation of 2 U.S.C. § 441a(a)(1)(A).

The Smith PAC was not a qualified multicandidate committee on September 11, 1978, when it made the \$5,000 contribution; the PAC became a qualified multicandidate committee in January, 1979. After Commission notification of the violation in March, 1979, the excessive amount of the contribution was refunded by the Miller Committee. However, this money was available to the Miller Committee at a crucial time in the campaign.

Although the excessive amount of the contribution was refunded, it appears that the law may have been violated when the contribution was initially made and accepted, and the Commission should proceed further against the two committees.

RECOMMENDATION

1. Find reason to believe that the Smith's Transfer Corporation PAC violated 2 U.S.C. § 441a(a)(1)(A). Send the attached letter.

2. Find reason to believe that the Miller for Senate Committee violated 2 U.S.C. § 441a(f). Send the attached letter.

Attachments

1. Referral from RAD
2. Proposed letter to Smith
3. Proposed letter to Miller

81040231390

D
RAD

573
96-204

REFER TO INSTRUCTIONS ON REVERSE SIDE BEFORE COMPLETING

ATTACHMENT I

REPORTS ANALYSIS REFERRAL SHEET

DATE October 30, 1979

ANALYST ROBERTO GARCIA *RG*

TO: WILLIAM C. OLDAKER

TEAM CHIEF STEVE MIMS *SM*

THROUGH: STAFF DIRECTOR *W.C.*

COMPLIANCE REVIEW CARROLL BOWEN *CB*

FROM: ASSISTANT STAFF DIRECTOR FOR REPORTS ANALYSIS *W.H.*

CANDIDATE/COMMITTEE: SMITH'S TRANSFER CORPORATION POLITICAL ACTION COMMITTEE

TREASURER: W.C. Lescure

ADDRESS: P.O. Box 1000
Staunton, VA 24401

MUR 1075

AFFILIATE(S): Smith's Transfer Corporation

ALLEGATION(S):

CITE:

ATTACHMENT(S)

excessive contribution
to candidate from
non-qualified committee

2 USC 441a
11 CFR 110.1(a)(1)

#2

MANNER IN WHICH REVIEW WAS INITIATED if other than normal review, AND DATE:

ATTACHMENT

normal course of review; surface violation sent 3/8/79

#3

8104031391

REPORTS: All reports within the dates listed below have received initial basic review. For all reports reviewed, see Attachment 1.

PERIOD COVERED FROM 7/13/78 TO 9/30/78

TOTAL RECEIPTS \$ 8152 TOTAL EXPENDITURES \$ 5000

CASH ON HAND \$ 3152 DEBTS \$ 0

HISTORY:

RESULTS OF REVIEW:

surface violation sent 3/8/79

responses received 3/23/79

response received 5/15/79

ATTACHMENT

#3

#4

#6

COMMUNICATIONS WITH CANDIDATE/COMMITTEE:

telecon - 5/9/79

ATTACHMENT

#5

REASON(S) FOR REFERRAL:

Meets Division threshold for referral.

ATTACHMENT

OTHER PENDING ACTIONS INITIATED BY RAD:

ATTACHMENT

OTHER RELEVANT INFORMATION:

On their April 10 Quarterly report, the Smith Transfer Corporation Political Action Committee discloses Line 12 debt owed to them for \$3000, and itemize on Schedule C.

#7

Qualification Date: January 12, 1979

Non-filer since Q2-Report

See referral for 'Miller for Senate'.

RAD Form 1
August 1978

81040231393

FEDERAL ELECTION COMMISSION
COMMITTEE INDEX OF DISCLOSURE DOCUMENTS - (C)DATE 23MAY79
PAGE 1

NON-PARTY RELATED

COMMITTEE	DOCUMENT	RECEIPTS		EXPENDITURES		COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
		PRIMARY	GENERAL	PRIMARY	GENERAL			
SMITH'S TRANSFER CORPORATION POLITICAL ACTION COMMITTEE								
CONNECTED ORGANIZATION: SMITH'S TRANSFER CORPORATION								
	1978 STATEMENT OF ORGANIZATION					12JUL78	5	78FEC/077/4411
	1979 MISCELLANEOUS TRANSACTION TO F.E.C.					26MAR79	3	79FEC/122/2935
	MISCELLANEOUS TRANSACTION TO F.E.C.					14MAY79	2	79FEC/127/1046
1978	OCTOBER 10 QUARTERLY	8,152		5,000		13JUL78 - 30SEP78	7	78FEC/008/0053
	OCTOBER 10 QUARTERLY - AMENDMENT					1JUL78 - 30SEP78	2	79FEC/127/2240
	REQUEST FOR ADDITIONAL INFO 2ND					1JUL78 - 30SEP78	2	79FEC/121/3107
	10 DAY PRE-GENERAL	1,256		1,850		1OCT78 - 23OCT78	5	78FEC/095/2574
	30 DAY POST-GENERAL	773		400		24OCT78 - 27NOV78	5	78FEC/097/5233
	YEAR END REPORT	2,516		400		28NOV78 - 31DEC78	6	79FEC/124/4505
1979	APRIL 10 QUARTERLY	947		1,000		1JAN79 - 31MAR79	5	79FEC/126/4511
	TOTAL	13,644	0	8,650	0		42	TOTAL PAGES

ID# C00099408

Commission
N.W.
D.C. 20463

(Operating Transfers Out, Contributions in Kind,
Loans, and Repayments and Refunds Made)
Supporting Lines 20a, 21a, and 22a, 22b, and 22c
of FEC FORM 3

(Use Separate Schedules for
each numbered line)

Q3

Name of Candidate or Committee in Full

SMITH'S TRANSFER CORPORATION POLITICAL ACTION COMMITTEE

Full Name, Mailing Address and ZIP Code

MILLER FOR SENATE COMMITTEE
P.O. Box 5454
RICHMOND, VA. 23220

Particulars of Expenditure

ANDREW J. MILLER
U. S. SENATE - VIRGINIA
CONTRIBUTION TO INTERFUSED

Date (month,
day, year)

9/11/78

Amount of each expendi-
ture this period

\$ 5,000.00

Expenditure for:

☐ Primary ☐ General ☐ Other

Full Name, Mailing Address and ZIP Code

Particulars of Expenditure

Date (month,
day, year)

Amount of each expendi-
ture this period

Expenditure for:

☐ Primary ☐ General ☐ Other

Full Name, Mailing Address and ZIP Code

Particulars of Expenditure

Date (month,
day, year)

Amount of each expendi-
ture this period

Expenditure for:

☐ Primary ☐ General ☐ Other

Full Name, Mailing Address and ZIP Code

Particulars of Expenditure

Date (month,
day, year)

Amount of each expendi-
ture this period

Expenditure for:

☐ Primary ☐ General ☐ Other

Full Name, Mailing Address and ZIP Code

Particulars of Expenditure

Date (month,
day, year)

Amount of each expendi-
ture this period

Expenditure for:

☐ Primary ☐ General ☐ Other

Full Name, Mailing Address and ZIP Code

Particulars of Expenditure

Date (month,
day, year)

Amount of each expendi-
ture this period

Expenditure for:

☐ Primary ☐ General ☐ Other

Full Name, Mailing Address and ZIP Code

Particulars of Expenditure

Date (month,
day, year)

Amount of each expendi-
ture this period

Expenditure for:

☐ Primary ☐ General ☐ Other

Full Name, Mailing Address and ZIP Code

Particulars of Expenditure

Date (month,
day, year)

Amount of each expendi-
ture this period

Expenditure for:

☐ Primary ☐ General ☐ Other

SUBTOTAL of expenditures this page (optional).

\$ 5,000.00

TOTAL this period (last page this line number only).

\$ 5,000.00

ITEMIZED RECEIPTS

(Contributions, Transfers, Contribution in Kind,
Other Income, Loans, Refunds)

Supplement Lines 14a, 15a, 15b, 15c, 16a, 17a and 18a
of FEC FORM 3

Name of Candidate or Committee on Full

Miller for Senate

Direct Action Fund - LTV
PO Box 225003
Dallas, TX 75265

PAC

9/14/78

\$500.00

Smith's PAC Fund
Staunton, VA

PAC

9/14/78

\$500.00

Hughes Active Citizenship Fund
BLDG. 100 PO Box 10515
Los Angeles, CA 90006

PAC

7/31/78

\$250.00

American Otolaryngologic Assn.
1700 M St. NW #205
Washington DC 20036

PAC

11/31/78

\$250.00

District 2 Neba Voluntary
PAC

pre-convention

650 4th Ave.
Brooklyn, NY 11249

PAC

9-1 78

\$500.00

SUBTOTAL

TOTAL

\$1,750.00

In reply please refer to: 2SV1/78-195



FEDERAL ELECTION COMMISSION

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

March 8, 1979

W. C. Lescure, Treasurer
Smith's Transfer Corporation Political Action Committee
P. O. Box 1000
Staunton, VA 24401

Dear Mr. Lescure:

This letter is prompted by the Commission's interest in assisting candidates and committees who wish to comply with the Federal Election Campaign Act, as amended. During review of the October 10 Quarterly Report of Receipts and Expenditures, we noticed an entry indicating that you have made a contribution which exceeds the limits set forth in the Act. A copy of that portion of your report is attached so that a review of your records can be made.

The Act precludes individuals and political committees, other than multicandidate political committees, from making political contributions to a candidate for Federal office in excess of \$1,000 per election. The Act defines a multicandidate committee as one which has been registered with the Commission for a period of not less than six months; has received contributions from more than fifty persons; and has made contributions to five or more candidates for Federal office.

The Commission recommends that if you have made a contribution in excess of the limits set forth in the Act that you notify the recipient and request a refund of the amount in excess of \$1,000. By separate letter to the recipient we have recommended that such a refund be made upon confirmation from you that the contribution was in excess of the limits. This return should be reported immediately by letter and should be reflected as a refund on your next report of receipts and expenditures. If you find that the entry in question is incomplete or incorrect, please submit a statement which would clarify this particular matter for the public record. You may do so by amending your original report of receipts and expenditures.

Please notify the Commission within fifteen (15) days from the date of this letter of the determination made on this matter. If you have any questions concerning this matter, please do not hesitate to contact Roberto Garcia (800)424-9530, our Reports Analyst assigned to you. Our local telephone number is 523-4048.

Sincerely,

Orlando B. Potter

Orlando B. Potter
Staff Director



SMITH'S TRANSFER CORPORATION

General Office: P. O. Box 1000 Staunton, Virginia 24401 Area Code 703 886-6231

RECEIVED
FEDERAL ELECTION
COMMISSION

78 MAR 26 PM 1:09

March 23, 1979

Mr. Orlando B. Potter, Staff Director
Federal Election Commission
1325 K Street, N. W.
Washington, D. C. 20463

Re: 2SV1/78-195

Dear Mr. Potter:

In reply to your letter of March 8, you are correct in that we did make a \$5,000 contribution to Andrew J. Miller, U. S. Senate Campaign. We were at that time unknowingly in violation inasmuch as the PAC had not been in effect for six months and we had not made contributions to five or more candidates for Federal office. We are, however, now in full compliance and have been since October of last year.

Enclosed find copy of letter to Andrew J. Miller requesting that he return to the Smith's PAC the sum of \$3,000. The reason for the \$3,000 request rather than \$4,000, as I interpret the regulations, we can give \$1,000 to the Primary and \$1,000 to the General Election.

As soon as we receive this payment from the Miller Campaign, we will so advise.

Very truly yours,

W. C. Lescure
Senior Vice President-Finance
and Treasurer of Smith's PAC

cc: Mr. McLain T. O'Ferrall
Alex. Brown & Sons
One James River Plaza
7th & Cary Streets
Richmond, Virginia 23219

REGISTERED MAIL



SMITH'S TRANSFER CORPORATION

General Office: P. O. Box 1000 Staunton, Virginia 24401 Area Code 703 885-0001

March 23, 1979

Mr. McLain T. O'Ferrall
Alex. Brown & Sons
One James River Plaza
7th & Cary Streets
Richmond, Virginia 23219

Dear Mr. O'Ferrall:

In regard to the letter that we received from the Federal Election Commission dated March 8, inasmuch as we did not qualify for the \$5,000 contribution at that time, I regret that we must request that you return to us the sum of \$3,000. The way I arrived at the \$3,000, you should assign \$1,000 to the Primary and \$1,000 to the General Election.

Thanking you for your immediate response to this request.

Very truly yours,

W. C. Lescure
Senior Vice President-Finance
and Treasurer of Smith's PAC

cc: Mr. Orlando B. Potter, Staff Director
Federal Election Commission
1325 K Street, N. W.
Washington, D. C. 20463

3719243123456789
COPY

TELECON FOR THE FILE

CMTE. NAME: SMITH TRANSFER CO. PAC CMTE. ID# C00099408
CMTE. CONTACT: Mr. R.R.SMITH
DATE/TIME: 5/9/79 11:50 am RE: 2SV1/78-195
ANALYST NAME: Roberto Garcia

REMARKS;

Returned telephone call which Mr. Smith initiated. He had called me to inform me that the 'Miller for Senate' staff had just informed him that the \$3000 debt/obligation was on its way to the Smith Pac.

He told me that immediately after receiving the money that the PAC would send us a letter informing and disclosing that fact and that it would be disclosed in their Second-Quarterly Report. .

310040231400



SMITH'S TRANSFER CORPORATION

General Office: P. O. Box 1000 Staunton, Virginia 24401 Area Code 703-886-2551

RECEIVED
FEDERAL ELECTION
COMMISSION

'79 MAY 15 12:39

May 10, 1979

Mr. Orlando B. Potter
Staff Director
Federal Election Commission
1325 K Street NW
Washington, D. C. 20463

Re: 2SV1/78-195

Dear Mr. Potter:

This will acknowledge that we have today received a check in the amount of Three Thousand Dollars (\$3,000) from the "Miller for Senate Committee" as a refund of our contribution to that committee on September 11, 1978.

By a copy of this letter we are acknowledging receipt of the check to the "Miller for Senate Committee". The check was drawn to Smith's Transfer Corporation Political Action Committee and we trust this clears up the matter.

Very truly yours,

W. C. Lescure
Senior Vice President, Finance
and Treasurer of Smith's PAC

cc: Roberto Garcia
Linda O. Hennessee
McLain T. O'Ferrall, Jr.

7120312722418
312040231471

REPORT OF RECEIPTS AND EXPENDITURES
FOR A CANDIDATE OR COMMITTEE
SUPPORTING CANDIDATE(S) FOR
NOMINATION OR ELECTION TO FEDERAL OFFICE

(Except for Candidates or Committees Receiving Federal Matching Funds)

21

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

1 **Smith's Transfer Corporation
Political Action Committee**

2 I.D. No. **C 00099408**

Candidate/Committee

Name of Candidate or Committee (in full)

P. O. Box 1000

Address (number and street)

Staunton, Virginia 24401

City, State and ZIP Code

☐ Check if address is different than previously reported.

3 **NA**

Office Sought, State/District (if applicable)

Year of Election **NA**

4 Type of Report (check appropriate boxes)

☒ April 10 Quarterly Report

☐ Tenth day report preceding _____ election
(primary, general or convention)

☐ Termination Report

☐ July 10 Quarterly Report

on _____ in the State of _____
(date)

☐ Amendment for:

☐ October 10 Quarterly Report

☐ Thirtieth day report following _____ election
(primary, general or convention)

(which report)

☐ January 31 Annual Report

☐ Monthly Report

on _____ in the State of _____
(month) (date)

This is a report for

☐ Primary Election

☐ General Election

☐ Primary and General

☒ Other (special, runoff, etc.)

SUMMARY OF RECEIPTS AND EXPENDITURES

(Figures may be rounded to nearest dollar.)

5 Covering Period	Column A This Period	Column B Calendar Year-To-Date
<u>1/1/79</u> Through <u>3/31/79</u>		
6 Cash on hand January 1, 1979		\$ 5,047.90
7 Cash on hand at beginning of reporting period	\$ 5,047.90	
8 Total receipts (from line 19)	\$ 947.50	\$ 947.50
(a) Subtotal (Add lines 7 and 8 for Column A and lines 6 and 8 for Column B)	\$ 5,995.40	\$ 5,995.40
9 Total expenditures (from line 25)	\$ 1,000.00	\$ 1,000.00
10 Cash on hand at close of reporting period (Subtract line 9 from line 8a)	\$ 4,995.40	\$ 4,995.40
11 Value of contributed items on hand to be liquidated (Attach itemized list) \$ _____		
12 Debts and obligations owed to the Committee/Candidate (itemize all on Schedule C)	\$ 3,000.00	
13 Debts and obligations owed by the Committee/Candidate (itemize all on Schedule C)	\$ _____	

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

5/4/79

(Date)

W. C. Lescure

(Typed Name of Treasurer or Candidate)

(Signature of Treasurer or Candidate)

Note: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. Section 437g, or Section 441j (see reverse side of form).

For further
information,
Contact:

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

or call 800/424-9530

Approved by GAO
B-187620 (R0506)
Expires 3-31-81

All previous versions of FEC FORM 3 are obsolete and should no longer be used.

Any information reported herein may not be copied for sale or use by any person for purposes of soliciting contributions or for any commercial purpose.

13456789

REFER TO INSTRUCTIONS ON REVERSE SIDE BEFORE COMPLETING

REPORTS ANALYSIS REFERRAL SHEET

DATE October 30, 1979

ANALYST Theresa Harley JH

TO: Office of General Counsel

TEAM CHIEF Suzanne Wilson SW

THROUGH: STAFF DIRECTOR CRP.

COMPLIANCE REVIEW Carroll Bowen/ps CB

FROM: ASSISTANT STAFF DIRECTOR FOR REPORTS ANALYSIS JH

CANDIDATE/COMMITTEE: Miller For Senate VA C00085175

TREASURER: McLain T. O'Ferrall, Jr.

ADDRESS: 2501 West Broad St.
Richmond, VA 23220

AFFILIATE(S): None

ALLEGATION(S): Contribution made to a Federal candidate prior to qualification as a multicandidate committee. (\$3000 in excess of the \$1000 per election limit)

CITE: 2 U.S.C. 441a

ATTACHMENT(S)

#II

MANNER IN WHICH REVIEW WAS INITIATED if other than normal review, AND DATE:

Normal Review 3/2/79

ATTACHMENT

MUR 1075

REPORTS: All reports within the dates listed below have received initial basic review. For all reports reviewed, see Attachment 1.

PERIOD COVERED FROM 7-1-78 TO 9-30-78

TOTAL RECEIPTS \$ 228,011.00 TOTAL EXPENDITURES \$ 204,412.00

CASH ON HAND \$ 27,549.00 DEBTS \$ 56,993.00

HISTORY:

RESULTS OF REVIEW:

ATTACHMENT

Surface Violation Sent 3/12/79 for October 10 Quarterly
Adequate response received 5/9/79.

#III

#VI

COMMUNICATIONS WITH CANDIDATE/COMMITTEE:

ATTACHMENT

Telecon 4/6/79
Telecon 4/17/79

#IV

#V

REASON(S) FOR REFERRAL:

ATTACHMENT

Meets Commission threshold for referral

OTHER PENDING ACTIONS INITIATED BY RAD:

ATTACHMENT

None

OTHER RELEVANT INFORMATION:

Refund disclosed on July 10 Report.

#VII

See referral for Smith's Transfer Corporation PAC

31040231406

FEDERAL ELECTION COMMISSION
COMMITTEE INDEX OF DISCLOSURE DOCUMENTS - (C)

DATE 120CT79

PAGE 1

SENATE

COMMITTEE	DOCUMENT	RECEIPTS		EXPENDITURES		COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
		PRIMARY	GENERAL	PRIMARY	GENERAL			
MILLER FOR SENATE COMMITTEE								ID# C00035175
✓ 1979 APRIL 10 QUARTERLY			7,454	18,634	1JAN79 -31MAR79		24	79SEN/002/3220 ✓
✓ APRIL 10 QUARTERLY	- AMENDMENT		7,454	18,634	1JAN79 -31MAR79		25	79SEN/003/2203 ✓
JULY 10 QUARTERLY			46,766	48,248	1APR79 -30JUN79		21	79SEN/004/2272
	TOTAL	0	54,220	0	66,882		70	TOTAL PAGES

Reviewed

31040231407

FEDERAL ELECTION COMMISSION
COMMITTEE INDEX OF DISCLOSURE DOCUMENTS - (C)

DATE 120CT79

PAGE 1

SENATE

COMMITTEE	DOCUMENT	RECEIPTS		EXPENDITURES		COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
		PRIMARY	GENERAL	PRIMARY	GENERAL			
MILLER FOR SENATE COMMITTEE								ID# C00085175
	1978 STATEMENT OF ORGANIZATION					16JAN78	4	78SEN/001/0451 ✓
	STATEMENT OF ORGANIZATION- AMENDMENT					3MAR78	6	78SEN/002/1963 ✓
	48 HOUR CONTRIBUTION NOTICE					2JUN78	2	78SEN/006/1558 ✓
	48 HOUR CONTRIBUTION NOTICE					9JUN78	3	78SEN/006/2967 ✓
	48 HOUR CONTRIBUTION NOTICE					1NOV78	4	78SEN/017/0105 ✓
	48 HOUR CONTRIBUTION NOTICE					3NOV78	6	78SEN/017/0178 ✓
	48 HOUR CONTRIBUTION NOTICE					3NOV78	3	78SEN/017/0194 ✓
	48 HOUR CONTRIBUTION NOTICE					4NOV78	3	78SEN/017/0340 ✓
	48 HOUR CONTRIBUTION NOTICE					7NOV78	4	78SEN/017/4297 ✓
	APRIL 10 QUARTERLY	49,432		43,671		1JAN78 -31MAR78	25	78SEN/003/3504 ✓
	REQUEST FOR ADDITIONAL INFORMATION					1JAN78 -31MAR78	4	78FEC/073/2253 ✓
	APRIL 10 QUARTERLY - AMENDMENT	49,432		43,671		1JAN78 -31MAR78	26	78SEN/005/2535 ✓
	10 DAY PRE-PRIMARY	60,098		62,125		1APR78 -26MAY78	39	78SEN/006/0876 ✓
	REQUEST FOR ADDITIONAL INFO 2ND					1APR78 -26MAY78	1	78FEC/085/3539 ✓
	REQUEST FOR ADDITIONAL INFORMATION					1APR78 -26MAY78	4	78FEC/076/3830 ✓
	10 DAY PRE-PRIMARY - AMENDMENT	60,098		62,125		1APR78 -26MAY78	42	78SEN/010/3349 ✓
	30 DAY POST-PRIMARY					27MAY78 -30JUN78	3	78SEN/009/0653 ✓
	JULY 10 QUARTERLY	30,828		34,561		27MAY78 -30JUN78	42	78SEN/009/0605 ✓
	JULY 10 QUARTERLY					11JUN78 -30JUN78	8	78SEN/009/0647 ✓
	REQUEST FOR ADDITIONAL INFORMATION					27MAY78 -30JUN78	4	78FEC/084/3504 ✓
	JULY 10 QUARTERLY - AMENDMENT	42,271		42,864		27MAY78 -30JUN78	5	78SEN/013/2517 ✓
	REQUEST FOR ADDITIONAL INFORMATION					27MAY78 -30JUN78	1	79SEN/005/3501 ✓
	OCTOBER 10 QUARTERLY		228,011		204,412	1JUL78 -30SEP78	87	78SEN/013/2522 ✓
	OCTOBER 10 QUARTERLY - AMENDMENT		238,611		218,012	1JUL78 -30SEP78	8	78SEN/015/1800 ✓
	OCTOBER 10 QUARTERLY - AMENDMENT					1JUL78 -30SEP78	11	78SEN/015/1142 ✓
	REQUEST FOR ADDITIONAL INFORMATION					1JUL78 -30SEP78	1	79FEC/121/3977 ✓
	OCTOBER 10 QUARTERLY - AMENDMENT					1FEB78 -30SEP78	3	79SEN/002/2528 ✓
	OCTOBER 10 QUARTERLY - AMENDMENT					1JUL78 -30SEP78	3	79SEN/003/3887 ✓
	OCTOBER 10 QUARTERLY - AMENDMENT					1JUL78 -30SEP78	4	79SEN/003/4598 ✓
	10 DAY PRE-GENERAL		198,897		160,783	30SEP78 -23OCT78	93	78SEN/014/1318 ✓
	30 DAY POST-GENERAL		229,591		271,470	24OCT78 -27NOV78	127	78SEN/017/3852 ✓
	REQUEST FOR ADDITIONAL INFORMATION					24OCT78 -27NOV78	1	79SEN/005/3583 ✓
	YEAR END REPORT		31,413		33,848	27NOV78 -31DEC78	40	79SEN/001/3153 ✓
	REQUEST FOR ADDITIONAL INFORMATION					27NOV78 -31DEC78	1	79SEN/005/3582 ✓
	TOTAL	151,801	698,512	148,660	684,113		618	TOTAL PAGES

ITEMIZED RECEIPTS

(Contributions, Transfers, Contribution in Kind,
Other Income, Loans, Refunds)

Supplement, Lines 13a, 13b, 14a, 15a, 16a, 17a and 18a
of FTC FORM 3

Name of Contributor or Contributor in Full

Direct Action Fund - LTV
PO Box 225003
Dallas, TX 75265

Miller for Senate

18K C00008953

PAC

9/14/78

\$500

Smith's PAC Fund
Staunton, VA

18K C00099408

PAC

9/14/78

\$500

Hughes Active Citizenship Fund
Bldg. 100 Po Box 90515
Los Angeles, CA 90009

18K C00002162

PAC

7/11/78

\$250

American Osteometric Assn.
1750 M St. NW #205
Washington DC 20036

18K C00024968

PAC

9/1/78

\$250

District 2 Neba Voluntary
PAC
650 4th Ave.
Brooklyn, NY 11232

pre-convention
18K C00027532

PAC

9-1-78

\$500.00

SUBTOTAL

TOTAL

\$1162.00

In reply please refer to 85VI/76-28



FEDERAL ELECTION COMMISSION

1125 K STREET NW
WASHINGTON, DC 20463

March 12, 1979

McLain T. O'Ferral, Jr., Treasurer
Miller for Senate Committee
P.O. Box 5454
Richmond, VA 23220

Dear Mr. O'Ferral:

This letter is prompted by the Commission's interest in assisting candidates and committees who wish to comply with the Federal Election Campaign Act, as amended. During review of the October 10 Quarterly/Amended Report of Receipts and Expenditures, we noticed an entry indicating that you may have received a contribution which exceeds the limits set forth in the Act. A copy of that portion of your report is attached so that a review of your records can be made.

The Act precludes individuals and political committees, other than multicandidate committees, from making political contributions to a candidate for Federal election in excess of \$1,000 per election. The Act defines a multicandidate committee as one which has been registered for a period of not less than six months; has received contributions from more than fifty persons; and has made contributions to five or more candidates for Federal office. The committee listed as the source of the contribution in question does not presently qualify as a multicandidate committee and we have notified them accordingly. We have recommended that the source committee notify you if it is confirmed that the contribution was in excess of the limits.

The Commission recommends that if you find the contribution you received was in excess of the limits set forth in the Act you return the amount in excess of \$1,000 to the donor. This return should be reported immediately by letter and should be reflected as a contribution refund on your next report of receipts and expenditures. If you find that the entry in question is incomplete or incorrect, please submit a statement which would clarify this particular matter for the public record. You may do so by amending your original report by letter.

Please notify the Commission within fifteen (15) days from the date of this letter of the determination made on this matter. If you have any questions concerning this matter, please do not hesitate to contact Bill Coppel (800)424-9530, our Reports Analyst assigned to you. Our local telephone number is 523-4048.

Sincerely,

Orlando B. Potter
Orlando B. Potter
Staff Director

MEMORANDUM: FOR FILES

AN COPPEL

RE: TELECON

FROM: Linda Hennessey

DATE: 4/6/79

NAME OF COMMITTEE: Andy Miller for U.S. Senate/Va.

Ms. Hennessey was concerned about the status of the compliance generated dealing w/ the excessive contribution the Miller Cmttee had accepted. She, upon receiving a letter from the Smith Transfer PAC was advised that the PAC had since fulfilled the necessary requirements to become qualified. This lead Ms Hennessey to conclude that the Miller Cmttee was under no obligation to give back the money. She felt that since the PAC had allegedly come into compliance. There would be no need to transfer the funds back.

I advised Ms Hennessey that she should not regard anything that PAC has told her to be the Commission decision. As far as the Commission is concerned, the violation has been discovered and until the money is transferred back, the Miller Cmttee was still in the wrong. I advised her to list the \$2000.00 as on outstanding obtained by the Cmttee to the Smith PAC. I further advised her that whether the Smith PAC is qualified or not, the Miller Cmttee would make every attempt to return the contribution. She said she understood and asked me to keep her up to date on its status.

MEMORANDUM: FOR FILE

AND BILL COPPEL

RE: TELECON

FROM: TO: Linda HENNESSY

DATE: 4/17/79

NAME OF COMMITTEE: Andy MILLER For SENATE/VA.

I called Ms. Hennessy to advise her to file an amendment to the Q1 report of 79 indicating an additional debt owed to the Smith transistor PAC of \$ 3000.00. Since the Committee doesn't have the funds available to re-pay the excessive contribution, it should be listed as an outstanding debt. Ms. Hennessy agreed to this and indicated she would send it in.

I further advised her that the Ctr. should continue to disclose this debt until it is paid back.

Andy Miller

U.S. SENATE

SECRETARY OF THE SENATE

1979 JUN 19 AM 10:55

'79 JUN

HAND DELIVERED ☐

Andy Miller for Senate
2501 West Broad Street
Richmond, Virginia 23220
804/355-3277

June 15, 1979

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

Gentlemen:

Please find enclosed a copy of our cancelled check
refunding the contribution of the Smith Transfer
Corporate Political Action Committee.

Sincerely,

Linda O. Hennessee

Linda O. Hennessee

LOH:r
encl.

2409 Newton St.
Vienna, Va. 22180

K 52451 / VA DEM C928

790200314598
810402314128

MILLER FOR SENATE COMMITTEE

809

May 9

19 79

810

PAY TO THE
ORDER OF

Smith Transfer Corporate Political Action Committee

\$1,000.00

Three thousand

00/100

DOLLARS

United Virginia Bank
Freemansburg - Leesburg - Hopewell
Hanover County

refund of contribution

For

0510000201

19 57 090

0000300000

790620033
FOR DEPOSIT ONLY
SMITH'S PAC

January, 1979

Code of Federal Regulations

1979 B. Section 1.101

Washington, D.C. 20540

ITEMIZED EXPENDITURES

(Updating, Transfer Out, Contributions In Kind,
Loans, Loan Repayments and Refund Model)
Supporting Lines 21a, 21b, and 21c, 22a, and 22c
OFFICIAL FORM 3

Page 1 of 1 for
Line Number 10 (a)

(Use Separate Schedules for
each numbered unit.)

Name of Contributor or Committee in Full

Miller for Senate Committee

Full Name, Mailing Address and ZIP Code	Particulars of Expenditure	Date (month, day, year)	Amount of each expenditure this period
Miller for Senate (Escrow Account)	monies put in escrow acct. for past due taxes	4-3-79	261.89
Full Name, Mailing Address and ZIP Code	Particulars of Expenditure	Date (month, day, year)	Amount of each expenditure this period
Linda O. Hennessee 2409 Newton St. Vienna, Va. 22180	expenses - telephone, mileage & parking	4-3-79	184.21
Full Name, Mailing Address and ZIP Code	Particulars of Expenditure	Date (month, day, year)	Amount of each expenditure this period
B & P Printing 8305 Merrifield Ave. Fairfax, Va.	collating	4-23-79	305.00
Full Name, Mailing Address and ZIP Code	Particulars of Expenditure	Date (month, day, year)	Amount of each expenditure this period
Linda O. Hennessee 2409 Newton St. Vienna, Va. 22180	expenses - telephone	4-24-79	134.40
Full Name, Mailing Address and ZIP Code	Particulars of Expenditure	Date (month, day, year)	Amount of each expenditure this period
Joy Renney 2316 Tanglevale Drive Vienna, Va. 22180	cons. fee	5-7-79	196.00
Full Name, Mailing Address and ZIP Code	Particulars of Expenditure	Date (month, day, year)	Amount of each expenditure this period
Smith Transfer Corporate Political Action Committee Box 1000 Staunton, Va. 24401	refund of contribution	5-9-79	3,000.00
Full Name, Mailing Address and ZIP Code	Particulars of Expenditure	Date (month, day, year)	Amount of each expenditure this period
Linda O. Hennessee 2409 Newton St. Vienna, Va. 22180	cons. fee	6-14-79	500.00
Full Name, Mailing Address and ZIP Code	Particulars of Expenditure	Date (month, day, year)	Amount of each expenditure this period
Linda O. Hennessee 2409 Newton St. Vienna, Va. 22180	expenses, telephone, misc. and mileage	6-14-79	205.28
SUBTOTAL			84,806.78
TOTAL			8

3177402304677



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

W. C. Lescure, Treasurer
Smith's Transfer Corporation PAC
Post Office Box 1000
Staunton, Virginia 24401

Re: MUR 1075

Dear Mr. Lescure:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on , 1979, found reason to believe that your committee may have violated section 441a of the Federal Election Campaign Act of 1971, as amended ("the Act"). This section of the Act makes it unlawful for an unqualified political committee to contribute more than \$1,000 per election to a Federal candidate. Specifically, it appears that your committee contributed \$5,000 to the Miller for Senate Committee in September 1978. According to our records, your committee did not become a qualified multicandidate committee until January 12, 1979. Although the excessive amount of the contribution in question was reported as returned, the Act may have been violated when the contribution was made and accepted.

We have numbered this matter MUR 1075. 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.

W. C. Lescure, Treasurer
Page 2

If you have any questions, please contact Susan Donaldson,
the staff member assigned to this matter, at (202) 523-4057.

This matter will remain confidential in accordance with
2 U.S.C. Section 437g(a)(3)(B) unless you notify the Commission
in writing that you wish the investigation to be made public.

Sincerely,

Charles N. Steele
General Counsel

31040231415



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

McLain T. O'Ferrall, Jr., Treasurer
Miller for Senate
2501 West Broad Street
Richmond, Virginia 23220

Re: MUR 1075

Dear Mr. O'Ferrall:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission has found reason to believe that your committee may have violated section 441a of the Federal Election Campaign Act of 1971, as amended ("the Act"). This section of the Act makes it unlawful for a political committee to accept a contribution in excess of \$1,000 from an unqualified political committee. Specifically, it appears that your committee accepted a \$5000 contribution from the Smith's Transfer Corporation PAC in September, 1978. Although the excessive amount of the contribution in question was reported as returned, the Act may have been violated when the contribution was made and accepted.

We have numbered this matter MUR 1075. 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.

McLain T. O'Ferrall, Jr.
Page 2

If you have any questions, please contact Susan Donaldson,
the staff member assigned to this matter at (202) 523-4057.

This matter will remain confidential in accordance with
2 U.S.C. Section 437g(a)(3)(B) unless you notify the Commission
in writing that you wish the investigation to be made public.

Sincerely,

Charles N. Steele
General Counsel

REFER TO INSTRUCTIONS ON REVERSE SIDE BEFORE COMPLETING

REPORTS ANALYSIS REFERRAL SHEET

DATE October 30, 1979

ANALYST ROBERTO GARCIA *RG*

TO: WILLIAM C. OLDAKER

TEAM CHIEF STEVE MIMS *SM*

THROUGH: STAFF DIRECTOR *MP*

COMPLIANCE REVIEW CARROLL BOWEN *CB*

FROM: ASSISTANT STAFF DIRECTOR FOR REPORTS ANALYSIS *JH*

CANDIDATE/COMMITTEE: SMITH'S TRANSFER CORPORATION POLITICAL ACTION COMMITTEE

TREASURER: W.C. Lescure

ADDRESS: P.O. Box 1000
Staunton, VA 24401

MUR 1075

AFFILIATE(S): Smith's Transfer Corporation

ALLEGATION(S):

CITE:

ATTACHMENT(S)

excessive contribution
to candidate from
non-qualified committee

2 USC 441a
11 CFR 110.1(a)(1)

#2

MANNER IN WHICH REVIEW WAS INITIATED if other than normal review, AND DATE:

normal course of review; surface violation sent 3/8/79

ATTACHMENT

#3

REPORTS: All reports within the dates listed below have received initial basic review. For all reports reviewed, see Attachment 1.

PERIOD COVERED FROM 7/13/78 TO 9/30/78

TOTAL RECEIPTS \$ 8152 TOTAL EXPENDITURES \$ 5000

CASH ON HAND \$ 3152 DEBTS \$ 0

HISTORY:

RESULTS OF REVIEW:

surface violation sent 3/8/79

responses received 3/23/79

response received 5/15/79

ATTACHMENT

#3

#4

#6

COMMUNICATIONS WITH CANDIDATE/COMMITTEE:

telecon - 5/9/79

ATTACHMENT

#5

REASON(S) FOR REFERRAL:

ATTACHMENT

Meets Division threshold for referral.

OTHER PENDING ACTIONS INITIATED BY RAD:

ATTACHMENT

OTHER RELEVANT INFORMATION:

On their April 10 Quarterly report, the Smith Transfer Corporation Political Action Committee discloses Line 12 debt owed to them for \$3000, and itemize on Schedule C.

#7

Qualification Date: January 12, 1979
Non-filer since Q2-Report

See referral for 'Miller for Senate'.

RAD Form 1
August 1978

ATTACHMENT #1

81040231421

81040231422

FEDERAL ELECTION COMMISSION
COMMITTEE INDEX OF DISCLOSED DOCUMENTS - (C)

DATE 23MAY79
PAGE 1

NON-PARTY RELATED

COMMITTEE	DOCUMENT	RECEIPTS		EXPENDITURES		COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
		PRIMARY	GENERAL	PRIMARY	GENERAL			
SMITH'S TRANSFER CORPORATION POLITICAL ACTION COMMITTEE								
CONNECTED ORGANIZATION: SMITH'S TRANSFER CORPORATION								
	1978 STATEMENT OF ORGANIZATION					12JUL78	5	78FEC/079/4411
	1979 MISCELLANEOUS TRANSACTION TO F.E.C.					26MAR79	3	79FEC/122/2935
	MISCELLANEOUS TRANSACTION TO F.E.C.					14MAY79	2	79FEC/127/1046
1978	OCTOBER 10 QUARTERLY	8,152		5,000		13JUL78 - 30SEP78	7	78FEC/008/0057
	OCTOBER 10 QUARTERLY - AMENDMENT					1JUL78 - 30SEP78	2	79FEC/127/2248
	REQUEST FOR ADDITIONAL INFO 2ND					1JUL78 - 30SEP78	2	79FEC/121/3107
	10 DAY PRE-GENERAL	1,256		1,850		1OCT78 - 23OCT78	5	78FEC/095/2576
	30 DAY POST-GENERAL	773		400		24OCT78 - 27NOV78	5	78FEC/097/5233
	YEAR END REPORT	2,516		400		28NOV78 - 31DEC78	6	79FEC/126/4505
1979	APRIL 10 QUARTERLY	947		1,000		1JAN79 - 31MAR79	5	79FEC/126/4511
	TOTAL	13,644	0	8,650	0		42	TOTAL PAGES

ID# C00099408

ATTACHMENT #2

81040231423

Commission
N.W.
D.C. 20463

(Operating, Transfers Out, Contributions In-Kind,
Loans, Loan Repayments and Refunds Made)
Supporting Lines 20a, 21a, and 22a, 22b, and 22c
of FEC FORM 3

(Use Separate Schedules for
each numbered line)

Q3

Name of Candidate or Committee in Full

SMITH'S TRANSFER CORPORATION POLITICAL ACTION COMMITTEE

Full Name, Mailing Address and ZIP Code

MILLER FOR SENATE COMMITTEE
P.O. Box 5454
RICHMOND, VA. 23220

Particulars of Expenditure

ANDREW J. MILLER
U.S. SENATE - VIRGINIA
CONTRIBUTION TO DATE 9/11/78

Expenditure for:

☐ Primary ☐ General ☐ Other

Date (month,
day, year)

9/11/78

Amount of each expendi-
ture this period

\$ 5,000.00

Full Name, Mailing Address and ZIP Code

Particulars of Expenditure

Expenditure for:

☐ Primary ☐ General ☐ Other

Date (month,
day, year)

Amount of each expendi-
ture this period

Full Name, Mailing Address and ZIP Code

Particulars of Expenditure

Expenditure for:

☐ Primary ☐ General ☐ Other

Date (month,
day, year)

Amount of each expendi-
ture this period

Full Name, Mailing Address and ZIP Code

Particulars of Expenditure

Expenditure for:

☐ Primary ☐ General ☐ Other

Date (month,
day, year)

Amount of each expendi-
ture this period

Full Name, Mailing Address and ZIP Code

Particulars of Expenditure

Expenditure for:

☐ Primary ☐ General ☐ Other

Date (month,
day, year)

Amount of each expendi-
ture this period

Full Name, Mailing Address and ZIP Code

Particulars of Expenditure

Expenditure for:

☐ Primary ☐ General ☐ Other

Date (month,
day, year)

Amount of each expendi-
ture this period

Full Name, Mailing Address and ZIP Code

Particulars of Expenditure

Expenditure for:

☐ Primary ☐ General ☐ Other

Date (month,
day, year)

Amount of each expendi-
ture this period

Full Name, Mailing Address and ZIP Code

Particulars of Expenditure

Expenditure for:

☐ Primary ☐ General ☐ Other

Date (month,
day, year)

Amount of each expendi-
ture this period

SUBTOTAL of expenditures this page (optional).....

\$ 5,000.00

TOTAL this period (last page this line number only).....

\$ 5,000.00

ITEMIZED RECEIPTS

(Contributions, Transfers, Contribution in Kind,
Other Income, Loans, Refunds)

Supplement, Lines 14, 15, 15a, 16, 17a and 18a
of FEC FORM 3

Name of Contributor or Committee in Full

Miller for Senate

Direct Action Fund - LTV
PO Box 225003
Dallas, TX 75265

PAC

9/14/78

\$50.00

\$ 500

Smith's PAC Fund
Staunton, VA

PAC

9/14/78

\$50.00

\$ 500

Hughes Active Citizenship Fund
Bldg. 100 PO Box 20515
Los Angeles, CA 90009

PAC

7/21/78

\$250

\$ 250

American Osteometric Assn.
1700 M St. NW #205
Washington DC 20036

PAC

11/1/78

\$250

\$ 250

District 2 Naba Voluntary
PAC

pre-convention

650 4th Ave.

Brooklyn, NY 11242

PAC

8-1-78

\$500.00

\$ 500.00

SUBTOTAL

TOTAL

\$1100

\$1100

81040231426

ATTACHMENT #3

In reply please refer to: 2SV1/78-195



FEDERAL ELECTION COMMISSION

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

March 8, 1979

W. C. Lescure, Treasurer
Smith's Transfer Corporation Political Action Committee
P. O. Box 1000
Staunton, VA 24401

Dear Mr. Lescure:

This letter is prompted by the Commission's interest in assisting candidates and committees who wish to comply with the Federal Election Campaign Act, as amended. During review of the October 10 Quarterly Report of Receipts and Expenditures, we noticed an entry indicating that you have made a contribution which exceeds the limits set forth in the Act. A copy of that portion of your report is attached so that a review of your records can be made.

The Act precludes individuals and political committees, other than multicandidate political committees, from making political contributions to a candidate for Federal office in excess of \$1,000 per election. The Act defines a multicandidate committee as one which has been registered with the Commission for a period of not less than six months; has received contributions from more than fifty persons; and has made contributions to five or more candidates for Federal office.

The Commission recommends that if you have made a contribution in excess of the limits set forth in the Act that you notify the recipient and request a refund of the amount in excess of \$1,000. By separate letter to the recipient we have recommended that such a refund be made upon confirmation from you that the contribution was in excess of the limits. This return should be reported immediately by letter and should be reflected as a refund on your next report of receipts and expenditures. If you find that the entry in question is incomplete or incorrect, please submit a statement which would clarify this particular matter for the public record. You may do so by amending your original report of receipts and expenditures.

-2-

Please notify the Commission within fifteen (15) days from the date of this letter of the determination made on this matter. If you have any questions concerning this matter, please do not hesitate to contact Roberto Garcia (800)424-9530, our Reports Analyst assigned to you. Our local telephone number is 523-4048.

Sincerely,

Orlando B. Potter

Orlando B. Potter
Staff Director

81040231429

PS Form 3811, Apr. 1977

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

BB 25V1178-195 N-P

● 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:
Smith's Transfer Corp. PAC

3. ARTICLE DESCRIPTION:
 REGISTERED NO. CERTIFIED NO. INSURED NO.
 438227

(Always obtain signature of addressee or agent)

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

4. **W. A. H. H.**
 DATE OF DELIVERY **MAR 12 1979** POSTMARK

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE: CLERK'S INITIALS

81040231430

ATTACHMENT #4



RECEIVED
FEDERAL ELECTION
COMMISSION

SMITH'S TRANSFER CORPORATION

General Office: P. O. Box 1000 Staunton, Virginia 24401 Area Code 703 886-6231

79 MAR 26 PM 1:09

March 23, 1979

Mr. Orlando B. Potter, Staff Director
Federal Election Commission
1325 K Street, N. W.
Washington, D. C. 20463

Re: 2SV1/78-195

Dear Mr. Potter:

In reply to your letter of March 8, you are correct in that we did make a \$5,000 contribution to Andrew J. Miller, U. S. Senate Campaign. We were at that time unknowingly in violation inasmuch as the PAC had not been in effect for six months and we had not made contributions to five or more candidates for Federal office. We are, however, now in full compliance and have been since October of last year.

Enclosed find copy of letter to Andrew J. Miller requesting that he return to the Smith's PAC the sum of \$3,000. The reason for the \$3,000 request rather than \$4,000, as I interpret the regulations, we can give \$1,000 to the Primary and \$1,000 to the General Election.

As soon as we receive this payment from the Miller Campaign, we will so advise.

Very truly yours,

W. C. Lescure
Senior Vice President-Finance
and Treasurer of Smith's PAC

cc: Mr. McLain T. O'Ferrall
Alex. Brown & Sons
One James River Plaza
7th & Cary Streets
Richmond, Virginia 23219

REGISTERED MAIL



SMITH'S TRANSFER CORPORATION

General Office: P. O. Box 1000 Staunton, Virginia 24401 Area Code 703 666-8331

March 23, 1979

Mr. McLain T. O'Ferrall
Alex. Brown & Sons
One James River Plaza
7th & Cary Streets
Richmond, Virginia 23219

Dear Mr. O'Ferrall:

In regard to the letter that we received from the Federal Election Commission dated March 8, inasmuch as we did not qualify for the \$5,000 contribution at that time, I regret that we must request that you return to us the sum of \$3,000. The way I arrived at the \$3,000, you should assign \$1,000 to the Primary and \$1,000 to the General Election.

Thanking you for your immediate response to this request.

Very truly yours,

W. C. Lescure
Senior Vice President-Finance
and Treasurer of Smith's PAC

cc: Mr. Orlando B. Potter, Staff Director
Federal Election Commission
1325 K Street, N. W.
Washington, D. C. 20463

34624023136326
C
O
P
Y

81040231433

ATTACHMENT #5

TELECON FOR THE FILE

CMTE. NAME: SMITH TRANSFER CO. PAC CMTE. ID# C00099408
CMTE. CONTACT: Mr. R.R. SMITH
DATE/TIME: 5/9/79 11:50 am RE: 2SV1/78-195
ANALYST NAME: Roberto Garcia

REMARKS;

Returned telephone call which Mr. Smith initiated. He had called me to inform me that the 'Miller for Senate' staff had just informed him that the \$3000 debt/obligation was on its way to the Smith Pac.

He told me that immediately after receiving the money that the PAC would send us a letter informing and disclosing that fact and that it would be disclosed in their Second-Quarterly Report. .

3177731134

81040231435

ATTACHMENT #6



SMITH'S TRANSFER CORPORATION

General Office: P. O. Box 1000 Staunton, Virginia 24401

RECEIVED
FEDERAL ELECTION
COMMISSION

'79 MAY 15 12:39
Area Code 703-555-5131

May 10, 1979

Mr. Orlando B. Potter
Staff Director
Federal Election Commission
1325 K Street NW
Washington, D. C. 20463

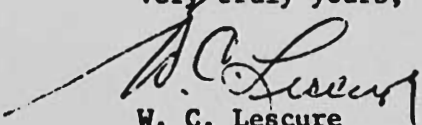
Re: 2SV1/78-195

Dear Mr. Potter:

This will acknowledge that we have today received a check in the amount of Three Thousand Dollars (\$3,000) from the "Miller for Senate Committee" as a refund of our contribution to that committee on September 11, 1978.

By a copy of this letter we are acknowledging receipt of the check to the "Miller for Senate Committee". The check was drawn to Smith's Transfer Corporation Political Action Committee and we trust this clears up the matter.

Very truly yours,


W. C. Lescure
Senior Vice President, Finance
and Treasurer of Smith's PAC

cc: Roberto Garcia
Linda O. Hennessee
McLain T. O'Ferrall, Jr.

7905122221935
31040221935

81040231437

ATTACHMENT #7

REPORT OF RECEIPTS AND EXPENDITURES
FOR A CANDIDATE OR COMMITTEE
SUPPORTING CANDIDATE(S) FOR
NOMINATION OR ELECTION TO FEDERAL OFFICE

(Except for Candidates or Committees Receiving Federal Matching Funds)

21

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

1 Smith's Transfer Corporation
Political Action Committee
Name of Candidate or Committee (in full)
P. O. Box 1000
Address (number and street)
Staunton, Virginia 24401
City, State and ZIP Code
☐ Check if address is different than previously reported.
2 I.D. No. C 00099408
Candidate/Committee
3 NA
Office Sought, State/District (if applicable)
Year of Election NA

4 Type of Report (check appropriate boxes)

- ☒ April 10 Quarterly Report
☐ July 10 Quarterly Report
☐ October 10 Quarterly Report
☐ January 31 Annual Report
☐ Monthly Report _____ (month) _____ (date)
☐ Tenth day report preceding _____ election (primary, general or convention) on _____ in the State of _____ (date)
☐ Thirtieth day report following _____ election (primary, general or convention) on _____ in the State of _____ (date)
☐ Termination Report
☐ Amendment for: _____ (which report)
This is a report for ☐ Primary Election ☐ General Election ☐ Primary and General ☒ Other (special, runoff, etc.)

SUMMARY OF RECEIPTS AND EXPENDITURES
(Figures may be rounded to nearest dollar.)

5 Covering Period	Column A This Period	Column B Calendar Year-To-Date
<u>1/1/79</u> Through <u>3/31/79</u>		
6 Cash on hand January 1, 19 <u>79</u>		\$ 5,047.90
7 Cash on hand at beginning of reporting period	\$ 5,047.90	
8 Total receipts (from line 19)	\$ 947.50	\$ 947.50
(a) Subtotal (Add lines 7 and 8 for Column A and lines 6 and 8 for Column B)	\$ 5,995.40	\$ 5,995.40
9 Total expenditures (from line 25)	\$ 1,000.00	\$ 1,000.00
10 Cash on hand at close of reporting period (Subtract line 9 from line 8a)	\$ 4,995.40	\$ 4,995.40
11 Value of contributed items on hand to be liquidated (Attach itemized list) \$ _____		
12 Debts and obligations owed to the Committee/Candidate (itemize all on Schedule C)	\$ 3,000.00	
13 Debts and obligations owed by the Committee/Candidate (itemize all on Schedule C)	\$ _____	

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

5/4/79

(Date)

W. C. Lescure

(Typed Name of Treasurer or Candidate)

[Signature]
(Signature of Treasurer or Candidate)

Note: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. Section 437g, or Section 441j (see reverse side of form).

For further
information,
Contact:

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

or call 800/424 9530

Approved by GAO
B-187620 (R0506)
Expires 3-31-81

All previous versions of FEC FORM 3 are obsolete and should no longer be used.

Any information reported herein may not be copied for sale or use by any person for purposes of soliciting contributions or for any commercial purpose.

DEBTS AND OBLIGATIONS

Supporting Line Numbers 12 and 13
of FEC FORM 3

Page 1 of 1 for
Line Number 12

(Use Separate Schedules for
each numbered line)

(Indicate Primary or General Election for each Entry)

Name of Candidate and Committee in Full Smith's Transfer Corporation Political Action Committee				
Full Name, Mailing Address and ZIP Code of Debtor or Creditor Miller for Senate Committee P. O. Box 5454 Richmond, Virginia 23220	Date (month, day, year) 9/11/78	Amount of Original Debt, Contract, Agreement or Promise \$ 3,000.00	Cumulative Payment To Date \$ -0-	Outstanding Balance at Close of This Period \$ 3,000.00
☒ Primary ☒ General ☐ Other				
NATURE OF OBLIGATION (Details of Debt): Loan to Miller for Senate Committee				
Full Name, Mailing Address and ZIP Code of Debtor or Creditor	Date (month, day, year)	Amount of Original Debt, Contract, Agreement or Promise	Cumulative Payment To Date	Outstanding Balance at Close of This Period
		\$	\$	\$
☐ Primary ☐ General ☐ Other				
NATURE OF OBLIGATION (Details of Debt):				
Full Name, Mailing Address and ZIP Code of Debtor or Creditor	Date (month, day, year)	Amount of Original Debt, Contract, Agreement or Promise	Cumulative Payment To Date	Outstanding Balance at Close of This Period
		\$	\$	\$
☐ Primary ☐ General ☐ Other				
NATURE OF OBLIGATION (Details of Debt):				
Full Name, Mailing Address and ZIP Code of Debtor or Creditor	Date (month, day, year)	Amount of Original Debt, Contract, Agreement or Promise	Cumulative Payment To Date	Outstanding Balance at Close of This Period
		\$	\$	\$
☐ Primary ☐ General ☐ Other				
NATURE OF OBLIGATION (Details of Debt):				
SUBTOTALS this period this page (optional)		\$	\$	\$
TOTAL this period (last page this line number only)		\$	\$	\$
Carry outstanding balance only to appropriate line of summary.				

31004023145194

REFER TO INSTRUCTIONS ON REVERSE SIDE BEFORE COMPLETING

REPORTS ANALYSIS REFERRAL SHEET

DATE October 30, 1979

ANALYST Theresa Harley JA

TO: Office of General Counsel

TEAM CHIEF Suzanne Wilson SW

THROUGH: STAFF DIRECTOR AK

COMPLIANCE REVIEW Carroll Bowen JS CB

FROM: ASSISTANT STAFF DIRECTOR FOR REPORTS ANALYSIS JAH

CANDIDATE/COMMITTEE: Miller For Senate

VA

C00085175

TREASURER: McLain T. O'Ferrall, Jr.

ADDRESS: 2501 West Broad St.
Richmond, VA 23220

AFFILIATE(S): None

MUR 1075

ALLEGATION(S): Contribution made to a Federal candidate prior to qualification as a multicandidate committee. (\$3000 in excess of the \$1000 per election limit)

CITE: 2 U.S.C. 441a

ATTACHMENT(S)

#11

MANNER IN WHICH REVIEW WAS INITIATED if other than normal review, AND DATE:

Normal Review 3/2/79

ATTACHMENT

81040231440

REPORTS: All reports within the dates listed below have received initial basic review. For all reports reviewed, see Attachment 1.

PERIOD COVERED FROM 7-1-78 TO 9-30-78

TOTAL RECEIPTS \$ 228,011.00 TOTAL EXPENDITURES \$ 204,412.00

CASH ON HAND \$ 27,549.00 DEBTS \$ 56,993.00

HISTORY:

RESULTS OF REVIEW:

ATTACHMENT

Surface Violation Sent 3/12/79 for October 10 Quarterly
Adequate response received 5/9/79.

#III
#VI

COMMUNICATIONS WITH CANDIDATE/COMMITTEE:

ATTACHMENT

Telecon 4/6/79
Telecon 4/17/79

#IV
#V

REASON(S) FOR REFERRAL:

ATTACHMENT

Meets Commission threshold for referral

OTHER PENDING ACTIONS INITIATED BY RAD:

ATTACHMENT

None

OTHER RELEVANT INFORMATION:

Refund disclosed on July 10 Report.

#VII

See referral for Smith's Transfer Corporation PAC

81040231412

FEDERAL ELECTION COMMISSION
COMMITTEE INDEX OF DISCLOSURE DOCUMENTS - (C)DATE 12OCT79
PAGE 1

SENATE

COMMITTEE	DOCUMENT	RECEIPTS		EXPENDITURES		COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
		PRIMARY	GENERAL	PRIMARY	GENERAL			
MILLER FOR SENATE COMMITTEE								ID# C00085175
✓ 1979 APRIL 10 QUARTERLY			7,454	18,634		1JAN79 -31MAR79	24	79SEN/002/3220 ✓
✓ APRIL 10 QUARTERLY	- AMENDMENT		7,454	18,634		1JAN79 -31MAR79	25	79SEN/003/2203 ✓
JULY 10 QUARTERLY			46,766	48,248		1APR79 -30JUN79	21	79SEN/004/2272
	TOTAL	0	54,220	0	66,882		70	TOTAL PAGES

Reviewed

81040231413

FEDERAL ELECTION COMMISSION
COMMITTEE INDEX OF DISCLOSURE DOCUMENTS - (C)DATE 120CT79
PAGE 1

SENATE

COMMITTEE	DOCUMENT	RECEIPTS		EXPENDITURES		COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
		PRIMARY	GENERAL	PRIMARY	GENERAL			
MILLER FOR SENATE COMMITTEE								ID# C00085176
1978	STATEMENT OF ORGANIZATION					16JAN78	4	78SEN/001/0451 ✓
	STATEMENT OF ORGANIZATION- AMENDMENT					3MAR78	6	78SEN/002/1945 ✓
	48 HOUR CONTRIBUTION NOTICE					2JUN78	2	78SEN/006/1558 ✓
	48 HOUR CONTRIBUTION NOTICE					9JUN78	3	78SEN/006/2967 ✓
	48 HOUR CONTRIBUTION NOTICE					1NOV78	4	78SEN/017/0108 ✓
	48 HOUR CONTRIBUTION NOTICE					3NOV78	6	78SEN/017/0178 ✓
	48 HOUR CONTRIBUTION NOTICE					3NOV78	3	78SEN/017/0184 ✓
	48 HOUR CONTRIBUTION NOTICE					4NOV78	3	78SEN/017/0340 ✓
	48 HOUR CONTRIBUTION NOTICE					7NOV78	4	78SEN/017/1297 ✓
	APRIL 10 QUARTERLY	49,432		43,671		1JAN78 -31MAR78	25	78SEN/003/3504 ✓
	REQUEST FOR ADDITIONAL INFORMATION					1JAN78 -31MAR78	4	78FEC/073/2253 ✓
	APRIL 10 QUARTERLY - AMENDMENT	49,432		43,671		1JAN78 -31MAR78	26	78SEN/005/2535 ✓
	10 DAY PRE-PRIMARY	60,098		62,125		1APR78 -26MAY78	39	78SEN/006/0876 ✓
	REQUEST FOR ADDITIONAL INFO 2ND						1	78FEC/085/3539 ✓
	REQUEST FOR ADDITIONAL INFORMATION					1APR78 -26MAY78	4	78FEC/076/3830 ✓
	10 DAY PRE-PRIMARY - AMENDMENT	60,098		62,125		1APR78 -26MAY78	42	78SEN/010/3349 ✓
	30 DAY POST-PRIMARY					27MAY78 -30JUN78	3	78SEN/009/0655 ✓
	JULY 10 QUARTERLY	30,828		34,561		27MAY78 -30JUN78	42	78SEN/009/0605 ✓
	JULY 10 QUARTERLY					11JUN78 -30JUN78	8	78SEN/009/0647 ✓
	REQUEST FOR ADDITIONAL INFORMATION					27MAY78 -30JUN78	4	78FEC/086/3504 ✓
	JULY 10 QUARTERLY - AMENDMENT	42,271		42,864		27MAY78 -30JUN78	5	78SEN/012/2517 ✓
	REQUEST FOR ADDITIONAL INFORMATION					27MAY78 -30JUN78	1	79SEN/005/3581 ✓
	OCTOBER 10 QUARTERLY		228,011		204,412	1JUL78 -30SEP78	87	78SEN/013/2522 ✓
	OCTOBER 10 QUARTERLY - AMENDMENT		238,611		218,012	1JUL78 -30SEP78	8	78SEN/015/1800 ✓
	OCTOBER 10 QUARTERLY - AMENDMENT					1JUL78 -30SEP78	11	78SEN/015/1142 ✓
	REQUEST FOR ADDITIONAL INFORMATION					1JUL78 -30SEP78	1	79FEC/121/3977 ✓
	OCTOBER 10 QUARTERLY - AMENDMENT					1FEB78 -30SEP78	3	79SEN/002/2528 ✓
	OCTOBER 10 QUARTERLY - AMENDMENT					1JUL78 -30SEP78	3	79SEN/003/3889 ✓
	OCTOBER 10 QUARTERLY - AMENDMENT					1JUL78 -30SEP78	4	79SEN/003/4598 ✓
	10 DAY PRE-GENERAL	198,897		160,783		30SEP78 -23OCT78	93	78SEN/016/1318 ✓
	30 DAY POST-GENERAL	229,591		271,470		24OCT78 -27NOV78	127	78SEN/017/3852 ✓
	REQUEST FOR ADDITIONAL INFORMATION					24OCT78 -27NOV78	1	79SEN/005/3583 ✓
	YEAR END REPORT		31,413	33,848		27NOV78 -31DEC78	40	79SEN/001/8153 ✓
	REQUEST FOR ADDITIONAL INFORMATION					27NOV78 -31DEC78	1	79SEN/005/3582 ✓
	TOTAL	151,801	698,512	148,660	684,113		418	TOTAL PAGES

ITEMIZED RECEIPTS

(Contributions, Transfers, Contribution in Kind,
Other Income, Loans, Refunds)

Signatures, Lines 14a, 15a, 15b, 15c, 16a, 17a and 18a
FEC FORM 3

Name of Candidate or Committee in Full

Direct Action Fund - LTV
PO Box 225003
Dallas, TX 75265

Miller for Senate

18K C00008953

PAC

9/14/78

\$500.00

Smith's PAC Fund
Staunton, VA

18K C00099408

PAC

9/14/78

\$500.00

Hughes Active Citizenship Fund
Bldg. 100 Po Box 90515
Los Angeles, CA 90006

18K C00002162

PAC

7/11/78

\$250.00

American Osteometric Assn.
1740 M St. NW #205
Washington DC 20036

18K C00024968

PAC

9/1/78

\$250.00

District 2 Naba Voluntary
PAC
650 4th Ave.
Brooklyn, NY 11232

pre-convention
18K C00027532

PAC

9-1-78

\$500.00

SUBTOTAL
TOTAL

11.02
64.10

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

McLain T. O'Ferral, Jr., Treasurer
Miller for Senate Committee
P.O. Box 5454
Richmond, VA 23220

This letter is prompted by the Commission's interest in assisting candidates and committees who wish to comply with the Federal Election Campaign Act, as amended. During review of the October 10 Quarterly/Amended Report of Receipts and Expenditures, we noticed an entry indicating that you may have received a contribution which exceeds the limits set forth in the Act. A copy of that portion of your report is attached so that a review of your records can be made.

The Act precludes individuals and political committees, other than multicandidate committees, from making political contributions to a candidate for Federal election in excess of \$1,000 per election. The Act defines a multicandidate committee as one which has been registered for a period of not less than six months; has received contributions from more than fifty persons; and has made contributions to five or more candidates for Federal office. The committee listed as the source of the contribution in question does not presently qualify as a multicandidate committee and we have notified them accordingly. We have recommended that the source committee notify you if it is confirmed that the contribution was in excess of the limits.

The Commission recommends that if you find the contribution you received was in excess of the limits set forth in the Act you return the amount in excess of \$1,000 to the donor. This return should be reported immediately by letter and should be reflected as a contribution refund on your next report of receipts and expenditures. If you find that the entry in question is incomplete or incorrect, please submit a statement which would clarify this particular matter for the public record. You may do so by amending your original report by letter.

Please notify the Commission within fifteen (15) days from the date of this letter of the determination made on this matter. If you have any questions concerning this matter, please do not hesitate to contact Bill Coppel (800)424-9530, our Reports Analyst assigned to you. Our local telephone number is 523-4048.

Sincerely,

Orlando B. Potter
Staff Director

MEMORANDUM: FOR FILE

ANALYST: COPPEL

RE: TELECON

FROM: Linda Hennessy

DATE: 4/6/79

NAME OF COMMITTEE: Andy Miller for U.S. Senate/Va.

Ms. Hennessy was concerned about the status of the compliance generated dealing w/ the excessive contribution the Miller Cntc had accepted. She, upon receiving a letter from the Smith Transfer PAC was advised that the PAC had since fulfilled the necessary requirements to become qualified. This lead Ms Hennessy to conclude that the Miller Cntc was under no obligation to give back the money. She felt that since the PAC had allegedly come into compliance. There would be no need to transfer the funds back.

I advised Ms Hennessy that she should not regard anything that PAC has told her to be the Commission decision. As far as the Commission is concerned, the violation has been discovered and, until the money is transferred back, the Miller Cntc was still in the wrong. I advised her to list the \$2000.00 as on outstanding obtained by the Cntc to the Smith PAC. I further advised her that whether the Smith PAC is qualified or not, the Miller Cntc would make every attempt to return the contribution. She said she understood and asked me to keep her up to date on its status.

MEMORANDUM: FOR FILE

ASSISTANT: BILL COPPEL

RE: TELECON

FROM: TO: Linda HENNESSY

DATE: 4/17/79

NAME OF COMMITTEE: Andy MILLER For SENATE/VA.

I called Mrs. Hennessy to advise her to file an amendment to the Q1 report of 79 indicating an additional debt owed to the Smith transistor PAC of \$ 3000.00. Since the Committee doesn't have the funds available to re-pay the excessive contribution, it should be listed as an outstanding debt. Mrs. Hennessy agreed to this and indicated she would send it in.

I further advised her that the Cate. should continue to disclose this debt until it is paid back.

Andy Miller

U.S. SENATE

SECRETARY OF THE SENATE

1979 JUN 19 AM 10:55

'79 JUN

HAND DELIVERED ☐

Andy Miller for Senate
2501 West Broad Street
Richmond, Virginia 23220
804/355-3277

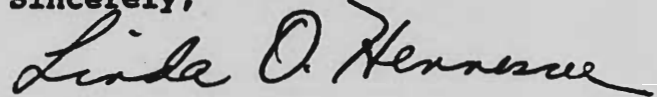
June 15, 1979

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

Gentlemen:

Please find enclosed a copy of our cancelled check
refunding the contribution of the Smith Transfer
Corporate Political Action Committee.

Sincerely,



Linda O. Hennessee

LOH:r
encl.

2409 Newton St.
Vienna, Va. 22180

8 7 9 0 2 0 0 3 4 5 9 8

K 52451 / VA DEM 0928

MILLER FOR SENATE COMMITTEE

809

May 9 19 79 89-2 510

PAY TO THE
ORDER OF

Smith Transfer Corporate Political Action Committee

\$1,000.00

Three thousand

00/100

DOLLARS

61:8 United Virginia Bank
Richmond - Petersburg - Hopewell
Hanover County
refund of contribution

For 00510000201 19 57 090 0000300000

79
FOR DEPOSIT ONLY
SMITH'S PAC

ITEMIZED EXPENDITURES

(Operating, Transfers Out, Contributions in Kind,
Loans, Loan Repayments and Refunds Made)
Supporting Lines 21a, 21b and 21c, 22a, and 22c.
1110010000

Page 2 of 2 for
Line Number 20 (a)

(Use Separate Schedules for
each numbered line.)

Name of Contributor or Committee in Full

Miller for Senate Committee

Full Name, Mailing Address and ZIP Code Miller for Senate (Escrow Account)	Particulars of Expenditure monies put in escrow acct. for past due taxes	Date (month, day, year) 4-3-79	Amount of each ex- penditure this period 281.89
Full Name, Mailing Address and ZIP Code Linda O. Hennessee 2409 Newton St. Vienna, Va. 22180	Particulars of Expenditure expenses - telephone, mileage & parking	Date (month, day, year) 4-3-79	Amount of each ex- penditure this period 184.21
Full Name, Mailing Address and ZIP Code B & P Printing 8305 Merrifield Ave. Fairfax, Va.	Particulars of Expenditure collating	Date (month, day, year) 4-23-79	Amount of each ex- penditure this period 305.00
Full Name, Mailing Address and ZIP Code Linda O. Hennessee 2409 Newton St. Vienna, Va. 22180	Particulars of Expenditure expenses - telephone	Date (month, day, year) 4-24-79	Amount of each ex- penditure this period 134.40
Full Name, Mailing Address and ZIP Code Joy Ranney 2316 Tanglevale Drive Vienna, Va. 22180	Particulars of Expenditure cons. fee	Date (month, day, year) 5-7-79	Amount of each ex- penditure this period 196.00
Full Name, Mailing Address and ZIP Code Smith Transfer Corporate Political Action Committee Box 1000 Staunton, Va. 24401	Particulars of Expenditure refund of contribution	Date (month, day, year) 5-9-79	Amount of each ex- penditure this period 3,000.00
Full Name, Mailing Address and ZIP Code Linda O. Hennessee 2409 Newton St. Vienna, Va. 22180	Particulars of Expenditure cons. fee	Date (month, day, year) 6-14-79	Amount of each ex- penditure this period 500.00
Full Name, Mailing Address and ZIP Code Linda O. Hennessee 2409 Newton St. Vienna, Va. 22180	Particulars of Expenditure expenses, telephone, misc. and mileage	Date (month, day, year) 6-14-79	Amount of each ex- penditure this period 205.28
SUBTOTAL			84,806.78
TOTAL			8



FEDERAL ELECTION COMMISSION

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

THIS IS THE BEGINNING OF MUR # 1075

Date Filmed 2-23-81 Camera No. --- 2

Cameraman _____