FEDERAL ELECTION COMMISSION

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

THIS IS THE END OF MUR # 1376

Date Filmed 10/22/81 Camera No. --- 2

Cameraman SPC

8 1 0 4 0 3 0 4 6 8

8-14-81

PS Form 3811, Jan. 1979

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

● SENDER: Complete items 1, 2, and 3.
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- ☐ Show to whom, date and address of delivery... ____¢
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  Show to whom and date delivered............ ____¢
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  Show to whom, date, and address of delivery.$ ____

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:

Richard Thaxton
430 N. Michigan Avenue
Chicago, ILL. 60611

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	020538	

(Always obtain signature of addressee or agent)

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

4. C. Howard

DATE OF DELIVERY

POSTMARK

CHICAGO, ILL. FORT DEARBORN STA.
AUG 17 198

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE: CLERK'S INITIALS

MUR 1376 - Hagan

☆GPO : 1979-300-459

8104030I069

FEDERAL ELECTION COMMISSION

All Reports and Related Correspondence

concerning Conciliation

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 f. b. hagan

date 8/17/81

FEC 9-21-77

8 1 0 4 0 3 0 1 0 7 0

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 14, 1981

Mr. Richard Thaxton
Assistant Treasurer
Realtors Political Action Committee
430 North Michigan Avenue
Chicago, Illinois 60611

RE: MUR 1376

Dear Mr. Thaxton:

On August 11, 1981, the Commission accepted the conciliation agreement signed by RPAC's Chairman and a civil penalty in settlement of a violation of 2 U.S.C. § 441b(a), 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

Kenneth A. Gross

BY: Kenneth A. Gross
Associate General Counsel

cc: Ralph Holman

Enclosure
Conciliation agreement

[illegible] public record within [illegible] § 437g(a)(4)(B) prohibits any [illegible] 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,

[illegible] N. Steele
[illegible] Counsel

BY: Kenneth A. Gross
Associate General Counsel

cc: Ralph Holmes

Enclosure
Conciliation agreement

F.Hagan/tls/7/28/81

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
REALTORS®' Political Action Committee	)	MUR 1376
	)	

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 reason to believe having been found that REALTORS®' Political Action Committee ("Respondent") violated 2 U.S.C. §441b(a) by accepting prohibited contributions from corporate entities.

NOW THEREFORE, the Commission and Respondent having duly entered into conciliation pursuant to 2 U.S.C. §437g(a)(4)(A)(i) 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 registered as a political committee on July 24, 1972, and assumed its present name on March 10, 1975.

2. Respondent received 25 contributions totaling $3,242 from 24 incorporated entities during 1977 and 1978.

V. Respondent accepted corporate contributions in violation of 2 U.S.C. §441b(a).

VI. Respondent will refund all corporate contributions.

VII. Respondent will pay a civil penalty to the Treasurer of the United States in the amount of one thousand six hundred dollars ($1,600), pursuant to 2 U.S.C. §437g(a)(5)(A).

VIII. Respondent contends that the acceptance of corporate contributions was inadvertent and not knowing and willful.

IX. Respondent agrees that it will not knowingly accept contributions from incorporated entities, in violation of 2 U.S.C. §441b(a), and that it will continue to exercise all reasonable efforts to prevent inadvertent acceptance of any corporate contributions.

X. 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.

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

XII. Respondent shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

Aug. 13, 1981
Date

Charles N. Steele
General Counsel

July 15, 1981
Date

REALTORS® Political Action Committee

BY: DAVID C. JONES

8 1 0 4 0 3 0 1 0 7 5

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1376
Realtors Political Action)
Committee)

CERTIFICATION

I, Lena L. Stafford, Recording Secretary for the Federal Election Commission's Executive Session on August 11, 1981, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions regarding MUR 1376:

1. Accept the conciliation agreement which has been signed by David C. Jones, Chairman of the Realtors Political Action Committee.

2. Close the file.

Commissioners Aikens, McGarry, Reiche, Thomson, and Tiernan voted affirmatively. Commissioner Harris did not vote.

Attest:

8-12-81
Date

Lena L. Stafford
Recording Secretary

8 1 0 4 0 3 0 1 0 7 6

RECEIVED
GCC#5092
81 JUL 20 A 9: 43

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
REALTORS®' Political Action Committee) MUR 1376
)

81 JUL 20 AIO: 53
GENERAL COUNSEL

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 reason to believe having been found that REALTORS®' Political Action Committee ("Respondent") violated 2 U.S.C. §441b(a) by accepting prohibited contributions from corporate entities.

NOW THEREFORE, the Commission and Respondent having duly entered into conciliation pursuant to 2 U.S.C. §437g(a)(4)(A)(i) 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 registered as a political committee on July 24, 1972, and assumed its present name on March 10, 1975.

2. **Respondent received 25 contributions totaling $3,242 from 24 incorporated entities during 1977 and 1978.**

V. Respondent accepted corporate contributions in violation of 2 U.S.C. §441b(a).

VI. Respondent will refund all corporate contributions.

VII. Respondent will pay a civil penalty to the Treasurer of the United States in the amount of one thousand six hundred dollars ($1,600), pursuant to 2 U.S.C. §437g(a)(5)(A).

VIII. Respondent contends that the acceptance of corporate contributions was inadvertent and not knowing and willful.

IX. Respondent agrees that it will not knowingly accept contributions from incorporated entities, in violation of 2 U.S.C. §441b(a), and that it will continue to exercise all reasonable efforts to prevent inadvertent acceptance of any corporate contributions.

X. 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.

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

XII. Respondent shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

Aug. 13, 1981
Date

Charles N. Steele
General Counsel

July 15, 1981
Date

REALTORS® Political Action Committee

BY: DAVID C. JONES

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 30, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Richard R. Thaxton,
Assistant Treasurer
Realtors Political Action Committee
430 N. Michigan Avenue
Chicago, Illionis 60611

RE: MUR 1376

Dear Mr. Thaxton:

The Office of General Counsel has reviewed your request for an extension of time to respond to the Commission's finding of reason to believe that RPAC violated 2 U.S.C. § 441b(a). Based on the information in your letter, we are granting a 15-day extension of time to submit materials which you consider relevant to this investigation. Accordingly, we will expect your response by May 15, 1981.

If you have any questions, please contact Frances B. Hagan at 202/523-4057.

Sincerely,

Charles N. Steele
General Counsel

8 1 0 4 0 7 0 1 0 8 0

GCC#4539

RPAC REALTORS® POLITICAL ACTION COMMITTEE

430 NORTH MICHIGAN AVENUE CHICAGO, ILLINOIS 60611 (312) 440-8075

NATIONAL ASSOCIATION OF REALTORS®

81 APR 22 P4:44

RECEIVED OFFICE OF GENERAL COUNSEL

April 22, 1981

Mr. Charles Steele, General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

RE: MUR 1376

Dear Mr. Steele:

We are in receipt of Chairman McGarry's letter of April 14, 1981, received by the Committee April 20, 1981, indicating the Commission has made a "reason to believe" finding relative to an alleged violation of Section 441b(a) of the Federal Election Campaign Act of 1971, as amended.

We are confident that we will be able to demonstrate to the satisfaction of the Commission that the Committee has not violated Section 441b. Because of the unique manner of operation of our Committee, however, whereby contributions are collected at the level of local and State associations of members of the NATIONAL ASSOCIATION OF REALTORS®, our connected organization, compilation of information necessary to demonstrate our compliance may be somewhat more time consuming than in the ordinary case.

In addition, as you know, this matter is the result of an audit of the Committee for the period January 1, 1977, through July 31, 1979. The records and work papers left with the Committee do not, however, identify the 826 contributions believed to have been drawn on "business accounts", nor which 25 contributions of the 157 sample items are believed to have been received from corporate funds. We are presently awaiting receipt of such information from the audit team or your office.

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REALTOR®

Finally, we have unfortunately received this "reason to believe" notification just as the committee and the connected organization NATIONAL ASSOCIATION OF REALTORS® is in preparation for its annual spring business meetings. The ten day period during which we may submit relevant factual and legal materials expires during the time those meetings will be conducted, making preparation of a proper and useful response extremely difficult, if not impossible.

In view of the foregoing, and because of what I believe to be the mutual desire of the Committee and the Commission's to resolve this matter as expeditiously and as early in the enforcement process as possible, the Committee respectfully requests time to submit factual or legal materials which we believe are relevant to the Commission's consideration of this matter.

Inasmuch as the Committee's period to submit materials expires on April 30, 1981, we would appreciate your earliest response to this request. Please feel free to contact me at (202) 637-6810, or our Legal Department, attention Mr. Ralph Holmen, at (312) 440-8620, if you feel it appropriate to respond initially by telephone or if you have any further questions in this matter.

Very truly yours,

Richard R. Thaxton

Richard R. Thaxton
Assistant Treasurer - RPAC

ehr

cc: Bud Krones
Ralph Holmen, Esq.

NATIONAL ASSOCIATION OF REALTORS®

925 15th Street, N.W.,
Washington, D.C. 20005

REALTOR®

81040301083

ATTN: Frances Hagan, General Counsel's Office

Federal Election Commission
1325 K Street, NW
Washington, DC 20463

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 14, 1981

<u>CERTIFIED MAIL</u>
<u>RETURN RECEIPT REQUESTED</u>

Mr. Bud Krones, Treasurer
Realtors Political Action
  Committee
430 N. Michigan Avenue
Chicago, ILL 60611

RE: MUR 1376

Dear Mr. Krones:

On April 13, 1981, the Federal Election Commission determined that there is reason to believe that your committee violated section 441b(a) of the Federal Election Campaign Act of 1971, as amended ("the Act") by accepting prohibited corporate contributions. The General Counsel's factual and legal anlaysis, which formed a basis for the Commission's finding, is attached for your information.

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

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

81040301084

Letter to Bud Krones
Page Two
MUR 1376

The investigation now being conducted will be confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Frances B. Hagan, the staff member assigned to this matter, at 202/523-4057.

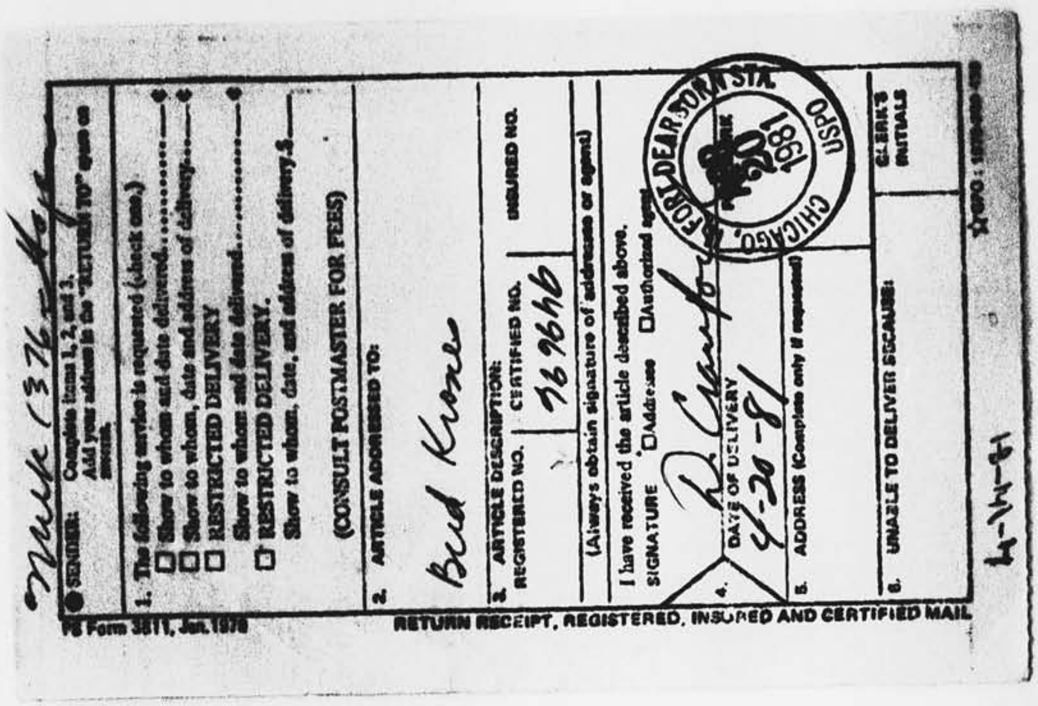
Sincerely,

John Warren McGarry

JOHN WARREN McGARRY
Chairman

Enclosures

General Counsel's Factual and Legal Analysis
Procedures



MUR 1376 – Hagan

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

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☐ 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: Bud Krones

3. ARTICLE DESCRIPTION: REGISTERED NO. | CERTIFIED NO. 969646 | INSURED NO.

(Always obtain signature of addressee or agent)

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

4. DATE OF DELIVERY 4-20-81

5. ADDRESS (Complete only if requested)

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

FORT DEARBORN STA. CHICAGO, IL 1981 USPO

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

4-24-81

81040301085

Mr. [illegible]
[illegible]
Committee
[illegible]
Chicago, Ill. 606[illegible]

RE: MUR 107[illegible]

Dear Mr. [illegible]:

On [illegible], the Federal Election Commission determined that there is reason to believe that your committee violated Section 441b(a) of the Federal Election Campaign Act of 1971, as amended ("the Act") by accepting prohibited corporate contributions. The General Counsel's factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

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

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

Sincerely,

Enclosure

General Counsel's Factual and Legal Analysis

FEDERAL ELECTION COMMISSION

GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

DATE April 14, 1981

MUR NO. 1376
STAFF MEMBER(S) & TEL. NO.
Frances B. Hagan
202/523-4057

RESPONDENT Realtors Political Action Committee

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

SUMMARY OF ALLEGATIONS

The Committee received contributions from corporate entities in violation of 2 U.S.C. § 441b(a).

FACTUAL BASIS AND LEGAL ANALYSIS

2 U.S.C. § 441b(a) makes it unlawful for any political committee knowingly to accept or receive any contribution prohibited by this section ..." (i.e. corporate contributions).

During a review of Committee receipts, FEC auditors found 826 contributions totaling $35,929.76 which were drawn on business accounts. Twenty-eight of these totaling $9612 were in amounts greater than $100. Of these 28 contributions, six totaling $2120 were from incorporated entities.

To test for prohibited funds among the remaining 798 contributions (amounts of $100 or less), the auditors drew a random sample of 129 items. The sample revealed 19 corporate contributions totaling $1122.

By statistically combining the results of the sample with the 100% review of the 28 larger contributions, the auditors could project an estimated total of corporate contributions over the entire amount of all contributions. Using a confidence level of 95%, auditors estimated that corporate funds would range between $5049 and $7854 of the total amount of contributions.

Committee officials told FEC auditors that their procedures called for contacting appropriate secretaries of state to determine the corporate status of business donors, but the Committee failed to maintain documentation of such efforts.

Based on the evidence of receipt of corporate funds, the Office of General Counsel recommended that the Commission find reason to believe that the Committee violated 2 U.S.C. § 441b(a).

RECOMMENDATION

Find reason to believe that the Realtors Political Action Committee violated 2 U.S.C. § 441b(a).

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 1376
Realtors Political Action	)	
Committee ("RPAC")	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on April 13, 1981, the Commission decided by a vote of 6-0 to take the following actions regarding MUR 1376:

1. Find reason to believe that the Realtors Political Action Committee violated 2 U.S.C. § 441b(a).

2. Send the letter attached to the First General Counsel's Report, dated April 8, 1981.

Attest:

4/13/81
Date

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

Received in Office of Commission Secretary: 4-8-81, 3:26
Circulated on 48 hour vote basis: 4-9-81, 11:00

[illegible] 1981

MEMORANDUM TO: Marjorie W. Emmons

FROM: Elissa T. Gary

SUBJECT: MUR 1376

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

81040301091

•SENSITIVE•

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

81 APR 8 P3:26

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

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL
BY OGC TO THE COMMISSION 4-8-81

MUR # 1376
STAFF MEMBER(S)
Frances B. Hagan

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

RESPONDENT'S NAME: Realtors Political Action Committee ("RPAC")

RELEVANT STATUTE: 2 U.S.C. § 441b(a)

INTERNAL REPORTS CHECKED: Audit Report, Audit Workpapers

GENERATION OF MATTER

This matter was referred to the Office of General Counsel by the Audit Division as a result of its audit of RPAC ("the Committee").

SUMMARY OF ALLEGATIONS

The Committee received contributions from corporate entities in violation of 2 U.S.C. § 441b(a).

FACTUAL AND LEGAL ANALYSIS

2 U.S.C. § 441b(a) makes it unlawful for any political committee knowingly to accept or receive any contribution prohibited by this section ..." (i.e. corporate contributions).

During a review of Committee receipts, FEC auditors found 826 contributions totaling $35,929.76 which were drawn on business accounts. Twenty-eight of these totaling $9612 were in amounts greater than $100. Of these 28 contributions, six totaling $2120 were from incorporated entities.

To test for prohibited funds among the remaining 798 contributions (amounts of $100 or less), the auditors drew a random sample of 129 items. The sample revealed 19 corporate contributions totaling $1122.

By statistically combining the results of the sample with the 100% review of the 28 larger contributions, the auditors could project an estimated total of corporate contributions over the entire amount of all contributions. Using a confidence level of 95%, auditors estimated that corporate funds would range between $5049 and $7854 of the total amount of contributions.

Committee officials told FEC auditors that their procedures called for contacting appropriate secretaries of state to determine the corporate status of business donors, but the Committee failed to maintain documentation of such efforts.

Based on the evidence of receipt of corporate funds, we are recommending that the Commission find reason to believe that the Committee violated 2 U.S.C. § 441b(a).

RECOMMENDATIONS

1. Find reason to believe that the Realtors Political Action Committee violated 2 U.S.C. § 441b(a).

2. Send attached letter.

Attachments

Audit Referral
General Counsel's Factual and Legal Analysis
Letter to Bud Krones

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

INTERIM REPORT OF THE AUDIT DIVISION ON THE REALTORS POLITICAL ACTION COMMITTEE

I. Background

A. Overview

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

The Committee registered with the U.S. General Accounting Office on July 24, 1972 as the Real Estate Political Education Committee. On March 10, 1975, the Committee changed its name to the Realtors Political Action Committee. The Committee maintains its headquarters in Chicago, Illinois.

The audit covered the period January 1, 1977 through June 30, 1979, the final coverage date of the latest report filed by the Committee at the time of the audit. During the period the Committee reported a beginning cash balance of $167,330.26, total receipts of $2,294,883.69, total expenditures of $2,045,112.43, and a closing cash balance of $415,601.52.

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

B. Key Personnel

The principal officers of the Committee during the period covered by the audit were: Mr. Paul J. Everson, Chairman from January 1, 1977 through January 23, 1977, Mr. Melvin L. Mould, Chairman from January 24, 1977 through February 25, 1979, Mr. Frank K. Halley, Jr., Chairman from February 26, 1979 through June 30, 1979, Mr. Alvin J. Wolff, Sr., Treasurer from January 1, 1977 through February 25, 1979, and Mr. James L. Hensel, Treasurer, from February 26, 1979 through June 30, 1979.

C. Scope

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

II. Audit Findings and Recommendations

A. Possible Corporate Contributions

Section 441b(a) of Title 2 of the United States Code states, in part, that it is unlawful for any corporation to make a contribution in connection with any Federal election or for any political committee to accept or receive any contribution prohibited by this section.

During a review of the Committee's receipt records, we found 826 contributions totaling $35,929.76 which were written on accounts of business entities. A Committee official stated that when both the Committee and the State PACs, 1/ received these contributions the appropriate secretaries of state offices were contacted by telephone to determine the corporate status; however, a log of these calls was not maintained by the Committee.

Of these 826 contributions, 798 totaling $26,317.76 were in amounts between $1.00 and $100.00. The remaining 28 contributions, totaling $9,612.00, were each in excess of $100.00. A random sample of 129 items was selected from the 798 contributions, while the remaining 28 were reviewed 100%. For both the sample and 100% review, the appropriate secretary of state's office was contacted to determine if the business entity was registered as an incorporated entity at the time the contribution was made.

1/ Contributions are received by the State PACs and forwarded to RPAC.

The result of this test indicated that of the 28 contributions in excess of $100.00, 6 totaling $2,120 were from incorporated entities. In addition, the sample contained 19 contributions from incorporated entities (totaling $1,122). When these results are combined, the estimated total amounts of contributions from incorporated entities, at a 95% confidence level, is between $5,049 and $7,854.

Recommendation

The Audit staff recommends that this matter be referred to the Office of General Counsel and that a compliance action be initiated against the Committee. Further, we recommend that the Committee develop more stringent review policies for determining which contributions received are drawn on incorporated entities.

B. Disclosure of Receipts

During the audit period Section 434(b)(1) and (2) of Title 2 of the United States Code stated, in part, that each report shall disclose the amount of cash on hand at the beginning of the reporting period, and the full name, mailing address (occupation and the principal place of business, if any) of each person who has made one or more contributions to or for such committee within the calendar year in an aggregate amount or value in excess of $100.

Currently, Section 432(b)(2) of Title 2 of the United States Code states that every person who receives a contribution for a political committee which is not an authorized committee shall:

(a) if the amount of the contribution is $50 or less, forward to the treasurer such contribution no later than 30 days after receiving the contribution; and

(b) if the amount of the contribution is in excess of $50, forward to the treasurer such contribution, the name and address of the person making the contribution, and the date of receipt of the contribution no later than 10 days after receiving the contribution.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Bud Krones, Treasurer
Realtors Political Action
Committee
430 N. Michigan Avenue
Chicago, ILL 60611

RE: MUR 1376

Dear Mr. Krones:

On , 1981, the Federal Election Commission determined that there is reason to believe that your committee violated section 441b(a) of the Federal Election Campaign Act of 1971, as amended ("the Act") by accepting prohibited corporate contributions. The General Counsel's factual and legal anlaysis, which formed a basis for the Commission's finding, is attached for your information.

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

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

The investigation now being conducted will be confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Frances B. Hagan, the staff member assigned to this matter, at 202/523-4057.

Sincerely,

Enclosures

General Counsel's Factual and Legal Analysis
Procedures

FEDERAL ELECTION COMMISSION

GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

DATE ______________________

MUR NO. 1376
STAFF MEMBER(S) & TEL. NO.
Frances B. Hagan
202/523-4057

RESPONDENT Realtors Political Action Committee

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

SUMMARY OF ALLEGATIONS

The Committee received contributions from corporate entities in violation of 2 U.S.C. § 441b(a).

FACTUAL BASIS AND LEGAL ANALYSIS

2 U.S.C. § 441b(a) makes it unlawful for any political committee knowingly to accept or receive any contribution prohibited by this section ..." (i.e. corporate contributions).

During a review of Committee receipts, FEC auditors found 826 contributions totaling $35,929.76 which were drawn on business accounts. Twenty-eight of these totaling $9612 were in amounts greater than $100. Of these 28 contributions, six totaling $2120 were from incorporated entities.

To test for prohibited funds among the remaining 798 contributions (amounts of $100 or less), the auditors drew a random sample of 129 items. The sample revealed 19 corporate contributions totaling $1122.

By statistically combining the results of the sample with the 100% review of the 28 larger contributions, the auditors could project an estimated total of corporate contributions over the entire amount of all contributions. Using a confidence level of 95%, auditors estimated that corporate funds would range between $5049 and $7854 of the total amount of contributions.

Committee officials told FEC auditors that their procedures called for contacting appropriate secretaries of state to determine the corporate status of business donors, but the Committee failed to maintain documentation of such efforts.

Based on the evidence of receipt of corporate funds, the Office of General Counsel recommended that the Commission find reason to believe that the Committee violated 2 U.S.C. § 441b(a).

RECOMMENDATION

Find reason to believe that the Realtors Political Action Committee violated 2 U.S.C. § 441b(a).

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 18, 1980

MEMORANDUM

TO: CHARLES N. STEELE
GENERAL COUNSEL

THROUGH: WILLIAM LOUGHREY
DEPUTY STAFF DIRECTOR

FROM: BOB COSTA RJC

SUBJECT: INTERIM AUDIT REPORT - REALTORS POLITICAL ACTION COMMITTEE (RPAC)

Attached is a copy of the interim audit report on the Realtors Political Action Committee for legal analysis. Upon receipt of the legal analysis, the report will be circulated to the Commission prior to forwarding to the Committee.

If you have any questions concerning the report, please contact Sue Paschen or Ray Lisi on extension 3-4155.

Attachment as stated

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

INTERIM REPORT OF THE AUDIT DIVISION ON THE REALTORS POLITICAL ACTION COMMITTEE

I. Background

A. Overview

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

The Committee registered with the U.S. General Accounting Office on July 24, 1972 as the Real Estate Political Education Committee. On March 10, 1975, the Committee changed its name to the Realtors Political Action Committee. The Committee maintains its headquarters in Chicago, Illinois.

The audit covered the period January 1, 1977 through June 30, 1979, the final coverage date of the latest report filed by the Committee at the time of the audit. During the period the Committee reported a beginning cash balance of \$167,330.26, total receipts of \$2,294,883.69, total expenditures of \$2,045,112.43, and a closing cash balance of \$415,601.52.

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

B. Key Personnel

The principal officers of the Committee during the period covered by the audit were: Mr. Paul J. Everson, Chairman from January 1, 1977 through January 23, 1977, Mr. Melvin L. Mould, Chairman from January 24, 1977 through February 25, 1979, Mr. Frank K. Halley, Jr., Chairman from February 26, 1979 through June 30, 1979, Mr. Alvin J. Wolff, Sr., Treasurer from January 1, 1977 through February 25, 1979, and Mr. James L. Hensel, Treasurer, from February 26, 1979 through June 30, 1979.

C. Scope

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

II. Audit Findings and Recommendations

A. Possible Corporate Contributions

Section 441b(a) of Title 2 of the United States Code states, in part, that it is unlawful for any corporation to make a contribution in connection with any Federal election or for any political committee to accept or receive any contribution prohibited by this section.

During a review of the Committee's receipt records, we found 826 contributions totaling $35,929.76 which were written on accounts of business entities. A Committee official stated that when both the Committee and the State PACs, 1/ received these contributions the appropriate secretaries of state offices were contacted by telephone to determine the corporate status; however, a log of these calls was not maintained by the Committee.

Of these 826 contributions, 798 totaling $26,317.76 were in amounts between $1.00 and $100.00. The remaining 28 contributions, totaling $9,612.00, were each in excess of $100.00. A random sample of 129 items was selected from the 798 contributions, while the remaining 28 were reviewed 100%. For both the sample and 100% review, the appropriate secretary of state's office was contacted to determine if the business entity was registered as an incorporated entity at the time the contribution was made.

1/ Contributions are received by the State PACs and forwarded to RPAC.

The result of this test indicated that of the 28 contributions in excess of $100.00, 6 totaling $2,120 were from incorporated entities. In addition, the sample contained 19 contributions from incorporated entities (totaling $1,122). When these results are combined, the estimated total amounts of contributions from incorporated entities, at a 95% confidence level, is between $5,049 and $7,854.

Recommendation

The Audit staff recommends that this matter be referred to the Office of General Counsel and that a compliance action be initiated against the Committee. Further, we recommend that the Committee develop more stringent review policies for determining which contributions received are drawn on incorporated entities.

B. Disclosure of Receipts

During the audit period Section 434(b)(1) and (2) of Title 2 of the United States Code stated, in part, that each report shall disclose the amount of cash on hand at the beginning of the reporting period, and the full name, mailing address (occupation and the principal place of business, if any) of each person who has made one or more contributions to or for such committee within the calendar year in an aggregate amount or value in excess of $100.

Currently, Section 432(b)(2) of Title 2 of the United States Code states that every person who receives a contribution for a political committee which is not an authorized committee shall:

(a) if the amount of the contribution is $50 or less, forward to the treasurer such contribution no later than 30 days after receiving the contribution; and

(b) if the amount of the contribution is in excess of $50, forward to the treasurer such contribution, the name and address of the person making the contribution, and the date of receipt of the contribution no later than 10 days after receiving the contribution.

Section 102.8(b)(2) of Title 11 of the Code of Federal Regulations states, in part, that if the amount of the contribution is in excess of $200 such person shall forward the contribution along with the contributor's identification including the occupation and principal place of business (if any) in accordance with 11 C.F.R. 100.12.

During the audit period Section 434(b)(4) of Title 2 of the United States Code stated, in part, that each report shall disclose the name and address of each political committee to which the reporting committee made any transfer of funds, together with the amounts and dates of all transfers.

The Committee participates in joint fundraising activities with its affiliated State PACs to solicit contributions from its members. The contributions are raised at the state level and then transferred to the Committee along with an itemized listing of contributors. In some cases, the funds are received by the Committee without the itemized contributor listing. This is due to processing delays at the state level. When this occurs, the Committee deposits the funds into its account and the amount received is reported as a debt owed by the Committee to the State PAC making the transfer, rather than as a receipt. When the itemized contributor listing is subsequently received, the Committee reports the receipt of the contributions and payment of the debt. Payment of these debts are reported on Schedule C only. This is to offset the reported debts owed to the State PACs, however no actual transfer of funds occur between the Committee and the State PACs except in cases where the contributor information is incomplete or never received. When this occurs, the questioned amount is transferred back to the State PAC; however the transfer is not reported. During the audit period this method of processing receipts resulted in up to a 16 month delay in the reporting of the receipt of funds.

Further, this method of reporting the jointly raised funds results in an understatement of the Committee's beginning and ending cash on hand for each reporting period. For the periods the funds are actually received from or refunded to the State PAC, the present process also results in a misstatement of reported receipts and expenditures.

Recommendation

The Audit staff recommends that the Committee notify its State PACs of the requirement of 2 U.S.C. 432(b)(2) and 11 C.F.R. 102.8(b)(2). Furthermore, if the Committee elects to transfer the contributions back to the State PAC, when contributor information is not received, we recommend that all such transfers be reported as required by Section 434(b)(4).

C. Contributions

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

As stated in finding B, the Committee and its affiliated State PACs engage in joint campaigns to solicit contributions from members. These campaigns are conducted under a written agreement which provides that contributions received will be divided between the State PACs and the Committee on a 60% - 40% basis. The Committee uses two (2) methods to deposit these contributions. In the first method the Committee relied on AO-1977-20 and established escrow accounts at the state level into which the jointly raised funds are deposited. An escrow agent is responsible for disbursing 60% of the funds to the State PAC and 40% to the Committee. Accompanying the 40% transfer to the Committee is a detailed contributor list identifying the contributors and 100% of the amount they have contributed.

In the second method 100% of the jointly raised funds are transferred by the State PACs directly to the Committee along with the itemized listing of contributors. The funds are deposited into a Committee depository and 60% of the funds are subsequently transferred back to the State PAC. The receipt of the individual contributions is reported by the Committee as well as the transfer back to the State PAC.

For the period of the audit, regardless of which method was used to deposit the funds, the Committee itemized on its reports only contributions received in excess of or aggregating in excess of $250.00. This was based on the fact that the Committee's portion (40%) would then exceed $100, the threshold for itemization at that time. Furthermore, in all cases the Committee attributed the entire amount of the contribution to the listed contributor on its disclosure reports, even if only 40 % of the contribution was received. This resulted in a misstatement of both itemized and unitemized contributions.

In addition our review of the receipt records revealed that the Committee did not itemize 82 other contributions totaling $39,318.63. This amount represents contributions which were either deposited directly by the Committee or at the State PAC level.

Recommendation

The Audit Division does not recommend the filing of an amendment for the incorrectly itemized contributions since the amount was not significant. However, the Audit Division does recommend that the Committee establish the following procedures for itemizing contributions received in the future:

1. In cases where 100% of the funds jointly raised are transferred to the Committee and deposited, all contributions which are in excess of or aggregate in excess of $200 2/ from a single contributor in a calendar year are required to be itemized.

2. In cases where 40% of the funds jointly raised are transferred to the Committee from the escrow accounts only that portion of the contribution transferred to the Committee that is in excess of or aggregates in excess of $200 in a calendar year from a single contributor is required to be itemized.

In addition, the Audit staff recommends that the Committee file an amended report itemizing the Committee's allocable portion of the 82 contributions which the Committee had failed to itemized within 30 days of receipt of this report.

2/ Public Law 96-187 effective January 8, 1980 increased the disclosure requirements from $100 to $200.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 31, 1980

MEMORANDUM

TO: Robert J. Costa

THROUGH: B. Allen Clutter
Staff Director

FROM: Charles N. Steele
General Counsel

SUBJECT: Interim Audit Report - Realtors Political Action Committee (RPAC) A-799

The Office of General Counsel has reviewed the Interim Audit Report of the Realtors Political Action Committee (RPAC). Based on the information in the report and discussions with the auditors, we offer the following comment.

Finding A: We agree that the amount of corporate contributions apparently accepted by the Committee makes it necessary to consider the issue further in a Matter Under Review.

Finding B: The auditors state that the Committee and its affiliated PACs engage in joint fundraising efforts to solicit member donations. The funds raised at the state level are deposited into "escrow accounts" in the states. The money is then split on a percentage basis and transferred to the national committee and state PACs.

During the audit fieldwork, the auditors discovered accounting procedures which created inaccuracies on disclosure reports. If the Committee did not receive a contributor identification list with the transfer from a state PAC, the Committee reported a series of notations which did not reflect actual transactions. Lacking the contributor names, the Committee deposited funds but reported a debt owed to the transferring state PAC rather than reporting a receipt from the state. When the Committee received the contributor list -- often months later -- the Committee reported the receipt and itemized contributors. To balance the debt schedule, the Committee reported payment of its fictional debt. If for some reason the state PAC could not provide contributor information, the Committee would transfer back to the state the unidentified amount. The transfer-out was not reported in such cases. Obviously, inaccuracies and inordinate disclosure delays resulted from the arrangement.

The Audit staff noted that the Committee is willing to adjust its accounting system to allow more accurate record-keeping and reporting of receipts and expenditures. The auditors recommend that the Committee notify its state affiliates of the statutory requirements for forwarding contributions found in 2 U.S.C. § 432(b)(2). The auditors also recommended that future transfers-out to its state PACs be reported pursuant to 2 U.S.C. § 434(b)(4). We concur with these recommendations.

Finding C: As noted in the audit report, the Committee follows two methods of transferring monies from the joint fundraising escrow accounts. By agreement, the Committee's share of proceeds is 40% and the state's is 60%. In AO 1977-20, the Commission endorsed an arrangement whereby an account trustee at the state level makes the appropriate transfers to the state and national committees. The national Committee is to report its 40% receipt and itemize the contributions in excess of $100 (pursuant to 2 U.S.C. former § 434(b)(2)).

In the second method, the Committee receives 100% of the jointly-raised funds. It is the Committee's responsibility to report the entire receipt, but to count only 40% as a contribution for limitation purposes. Sixty percent would be transferred back to the states.

According to the audit findings, the Committee consistently erred in its itemization of contributions. Whether the Committee received only its allotted percentage or the entire amount of jointly-raised funds, it itemized as a contribution both the Federal and state portions of the amount in the escrow accounts when itemization was indicated. Again, the reports failed to accurately reflect the Committee's actual contributions received. Therefore, we agree that the Committee be required to establish procedures to incorporate the Audit Division's recommendations.

FEDERAL ELECTION COMMISSION

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

THIS IS THE BEGINNING OF MUR # 1376

Date Filmed 10/22/81 Camera No. --- 2

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

THE FOLLOWING MATERIAL IS BEING ADDED TO THE PUBLIC FILE OF CLOSED MUR 1376.

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Legal Affairs
430 North Michigan Avenue, Chicago, Illinois 60611
Telephone 312 440 8000 · Telex 02 53742

81 DEC 7 P4:23

December 2, 1981

Ms. Frances B. Hagan
Federal Election Commission
1325 K Street, N.W.
Washington, DC 20463

Re: MUR 1376

Dear Ms. Hagan:

Enclosed please find photocopies of 22 cancelled checks, representing refunds which RPAC agreed to make of the corporate contributions inadvertently accepted by RPAC, in accordance with the terms of the Conciliation Agreement reached in MUR 1376.

The total of these 22 checks is $3,123. Still outstanding are refunds to be made to Gabriel Realty of Paramus, New Jersey, in the amount of $99, to Bart Gray Realty Company of Jacksonville, Arkansas, in the amount of $10, and to Leonard Realty, Inc., formerly of Worcester, Massachusetts, in the amount of $10. The total amount represented by these three checks and the cancelled checks received is $3,242, the amount of corporate refunds which RPAC agreed to make in paragraph VI of the Conciliation Agreement.

In the case of the refunds to Gabriel Realty and Bart Gray Realty Company, we have been advised by those companies that the refund checks have been received and have been or will shortly be deposited. Photocopies of the certified mail receipts of the letters containing these checks have been enclosed.

In the case of Leonard Realty, Inc., our letter containing the refund check was returned unclaimed. A check with our state and local affiliated organizations in the Worcester, Massachusetts area failed to reveal a more recent address for the company. The telephone directory assistance operator in the area had no listing for the company. Finally, the corporation division records of the Secretary of State of Massachusetts indicate that the corporation was involuntarily dissolved on July 7, 1980. Those records contain no information as to how the remaining assets of the corporation, if any, were distributed.

Please advise as to how you would like us to handle this remaining $10 refund due Leonard Realty, Inc., a non-existent entity. As I indicated in our phone conversation, one solution would be for RPAC to transfer this amount to an account used solely for RPAC administrative purposes.

I look forward to receiving your instructions with respect to this final remaining refund so that we can bring this matter to an end.

Very truly yours,

Ralph W. Holmen

Ralph W. Holmen
Associate Counsel

RWH/bjm
Enclosures

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Frances B. Hagan
Federal Election Commission
1325 K Street, N.W.
Washington, DC 20463

Form No. 111-332 (12/76)

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

January 5, 1982

Ralph W. Holmen
Associate Counsel
National Association of Realtors
430 N. Michigan Avenue
Chicago, Illinois 60611

Re: MUR 1376

Dear Mr. Holmen:

We have received copies of 22 canceled checks representing RPAC refunds made to corporate contributors in accordance with the conciliation agreement in MUR 1376. You state that two additional corporations have received their refunds and soon will negotiate the outstanding checks.

In addition, you note that RPAC is unable to refund $10 due to Leonard Realty, Inc. because the corporation has been dissolved. To resolve the matter, you suggest a transfer of $10 from the Committee's account to an account used solely for administrative purposes. We agree that such a transfer offers a reasonable alternative when a refund check cannot be negotiated. This type of transfer would not violate the conciliation agreement.

If you have any further questions regarding this matter, please contact Frances B. Hagan at (202) 523-4529.

Sincerely,

Charles N. Steele
General Counsel

F

FEDERAL ELECTION COMMISSION

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

END OF ADDITIONAL MATERIAL FOR CLOSED MUR 1376.

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