OFFICE OF THE FEC
COMMISSION SECRETARY

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C 20463

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August 6, 1984

MEMORANDUM TO: The Commission

FROM: Charles N. Steele
General Counsel

SUBJECT: MUR 1609

Attached for the Commission's review are briefs stating the position of the General Counsel on the legal and factual issues of the above-captioned matter. A copy of the briefs and letters notifying the respondents of the General Counsel's intent to recommend to the Commission a finding of probable cause to believe was mailed on August 6 , 1984. Following receipt of the respondents' replies to this notice, this Office will make a further report to the Commission.

Attachments
Briefs and Letters to Respondents

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ATTACHMENT I

BEFORE THE FEDERAL ELECTION COMMISSION

(1)

In the Matter of	)	
	)	
Friends of Congressman George Miller and Alison Cartwright Brown, as Treasurer	)	MUR 1609

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On December 5, 1983, Mr. Rudy G. Rodriguez of the Mexican-American Political Association filed a complaint with the Commission alleging that the City of Pittsburg, California made contributions to the Friends of Congressman George Miller (the "Miller Committee"), using city funds, in the names of other individuals and that certain members of the city council permitted their names to be used to make such contributions in violation of 2 U.S.C. § 441f. The complaint also asserts that the City of Pittsburg, California, a municipal corporation, made corporate contributions to the Miller Committee in violation of 2 U.S.C. § 441b(a), and that the Friends of Congressman George Miller and its treasurer violated 2 U.S.C. § 441f by accepting contributions made by the City of Pittsburg, California in the names of others.1/

By letter of December 9, 1983, the Office of General Counsel notified the respondents of the complaint filed against them. On December 16, 1983, the Office of General Counsel received the response of Ms. Alison Cartwright Brown, treasurer of the Friends of Congressman George Miller.

1/ While not specifically alleged in the complaint, the Committee's acceptance of contributions from the City of Pittsburg raises the additional issue of whether the Committee violated 2 U.S.C. § 441b(a).

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On April 10, 1984, the Commission found reason to believe that the Friends of Congressman George Miller and its treasurer, Alison Cartwright Brown violated 2 U.S.C. § 441b(a). The Commission found no reason to believe that the Friends of Congressman George Miller and its treasurer, Alison Cartwright Brown violated 2 U.S.C. § 441f. Interrogatories and requests for documents were forwarded to the respondent. On April 26, 1984, the Miller Committee responded to the reason to believe notification.

II. LEGAL AND FACTUAL ANALYSIS

1. The facts

Based on information ascertained by the Commission in its investigation, the facts, briefly summarized, are as follows.

The Friends of Congressman George Miller was the principal campaign committee for Congressman George Miller's campaign for re-election to the House of Representatives in 1982. The Miller Committee remains in existence having been redesignated as the principal campaign committee for Congressman Miller's campaign for re-election to the House of Representatives in 1984. Alison Cartwright Brown serves as treasurer of the Committee.

In the Spring of 1982, the Miller Committee publicized a birthday celebration event for Congressman George Miller's 37th birthday to be held on May 7, 1982. The celebration consisted of a formal dinner held at the Sheraton Airport Inn in the City of Concord, Contra Costa County, California.

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Five city councilmen requested the city manager's secretary to make reservations for their attendance at the birthday celebration event. The secretary executed a payment demand signed by the city manager which was sent to the city's finance department. The finance department issued checks which were mailed to the Miller Committee shortly before May 7, 1982. The checks were to cover the cost of tickets to the event. The cost of each ticket was $38.

The Miller Committee received two checks from the city, one for $266 and one for $38, which were deposited on May 19, 1982. The Committee reported the funds as contributions received from the City of Pittsburg.

On July 14, 1982, the Clerk of the House notified the Miller Committee that the City of Pittsburg was a corporation. On July 15, 1982, the Miller Committee refunded $304 to the City of Pittsburg. In a form letter accompanying the refund the Miller Committee explained that it was returning the contribution because it appeared to be from a corporation. The letter further stated that due to Federal Election Commission regulations, it was unable to accept contributions from corporations. A handwritten addition to the form letter noted that "cities are considered corporations under FEC law." In addition, the letter advised the City of Pittsburg that if the Miller Committee's assumption was incorrect, and the contribution was legal, the city should return the contribution with a signed letter to that effect.

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2. **The law applicable**

The Federal Election law prohibition which has general application to the above stated facts is 2 U.S.C. § 441b(a).

Section 441b(a) of Title 2, United States Code prohibits a corporation from making contributions or expenditures in connection with any election to federal office.2/ Furthermore, § 441b(a) prohibits any political committee from knowingly accepting such contributions.

Pursuant to 2 U.S.C. § 441b(b)(2), the term "contribution or expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit or gift of money, or any services or anything of value to any candidate, campaign committee or political party or organization in connection with any election to federal office.

3. **Application of the law to the facts.**

Friends of Congressman George Miller responded on April 26, 1984, and indicated that the Miller Committee received the two checks of $266 and $38 from the City of Pittsburg on May 19, 1982, and deposited them in its banking account. The Committee also stated that it did not know at the time that it received the contributions that cities are considered corporations. The contributions were refunded in full on July 15, 1982 after the Miller Committee was notified by the Clerk of the House.

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2/ In Advisory Opinions 1977-32 and 1982-26 the Commission concluded that a municipal corporation is a "corporation" for purposes of the limitations and prohibitions of the Act. See 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶5277 and ¶5672.

In addition, the Committee submitted a copy of the Miller Committee standard contribution screening procedures and copies of the invitations to birthday dinners for 1979, 1980, 1981 and 1982. Each invitation stated that it was paid for by the Friends of George Miller Committee, that a copy of the Committee's report is filed with the Federal Election and that Federal law prohibits corporate or union contributions.

Although the Miller Committee had established screening procedures and contends that it did not knowingly accept a corporate contribution in fact it accepted two checks, in the amounts of $266 and $38 from the City of Pittsburg. The Miller Committee refunded the checks sent by the City of Pittsburg after notification by the Clerk of the House. Although, this may be mitigating factor it does not nullify the fact that the Miller Committee accepted and negotiated the checks, thereby accepting a corporate contribution. Therefore, the Office of General Counsel recommends that the Miller Committee violated 2 U.S.C. § 441b(a).

In conclusion, the facts indicate that the annual birthday party was a campaign fundraising event. The invitations or response cards stated the birthday party was a function of the Miller Committee and that corporate contributions were impermissible. The City of Pittsburg gave a corporate contribution to the Miller Committee. Only after notification of the Clerk of the House did the Miller Committee return the corporate contribution to the City of Pittsburg. Therefore, the

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Office of General Counsel recommends finding probable cause to believe that the Friends of Congressman George Miller violated 2 U.S.C. § 441b(a) for accepting a corporate contribution.

III. **GENERAL COUNSEL'S RECOMMENDATION:**

1. Find probable cause to believe that Friends of Congressman George Miller and its treasurer, Alison Cartwright Brown, violated 2 U.S.C. § 441b(a) by accepting corporate contributions from the City of Pittsburg.

6 August 1984
Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 6, 1984

Alison Cartwright Brown, Treasurer
Friends of Congressman George Miller
145 Park Place
Richmond, Virginia 94801

RE: MUR 1609
Friends of Congressman
George Miller

Dear Ms. Brown:

Based on a complaint filed with the Commission on October 7, 1983, and information supplied by your client the Commission determined on April 10, 1984, that there was reason to believe that Friends of Congressman George Miller and you, as treasurer, had violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") 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 if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request to the Commission for an extension of time in which to file a brief. The Commission will not grant any extensions beyond 20 days.

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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.

Should you have any questions, please contact Martha Romney, the staff member assigned to handle this matter, at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Brief

cc: Congressman George Miller

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
City of Pittsburg, California) MUR 1609

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On December 5, 1983, Mr. Rudy G. Rodriguez of the Mexican-American Political Association filed a complaint with the Commission alleging that the City of Pittsburg, California made contributions to the Friends of Congressman George Miller (the "Miller Committee"), using city funds, in the names of other individuals and that certain members of the city council permitted their names to be used to make such contributions in violation of 2 U.S.C. § 441f. The complaint also asserts that the City of Pittsburg, California, a municipal corporation, made corporate contributions to the Miller Committee in violation of 2 U.S.C. § 441b(a), and that the Friends of Congressman George Miller and its treasurer violated 2 U.S.C. § 441f by accepting contributions made by the City of Pittsburg, California in the names of others.1/

1/ While not specifically alleged in the complaint, the Committee's acceptance of contributions from the City of Pittsburg raises the additional issue of whether the Committee violated 2 U.S.C. § 441b(a).

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By letter of December 9, 1983, the Office of General Counsel notified the respondents of the complaint filed against them. On January 30, 1984, City Attorney John R. Shaw responded on behalf of the City of Pittsburg, California, and Pittsburg City Council Members Downing, Quesada, Rives, Siino, Detorres.

On April 10, 1984, the Commission found reason to believe that the City of Pittsburg, California violated 2 U.S.C. § 441b(a) and 2 U.S.C. § 441f, that Councilmen Joseph S. Siino, Joseph Detorres, Ralph Downing, Frank R. Quesada and Ronald P. Rives violated 2 U.S.C. § 441f. Interrogatories and requests for documents were forwarded to the respondents.

On June 1, 1984, the Commission received a response from the city attorney of Pittsburg, California responding on behalf of the City of Pittsburg and the city councilmen. In addition, copies of the checks issued by the City of Pittsburg during 1982 to Congressman George Miller and checks signed by the City of Pittsburg to Councilmen Siino, Detorres, Downing, Quesada and Rives were submitted. In the letter the city attorney indicated that the City of Pittsburg desired to follow the formal conciliation procedure. In a follow-up conversation with the city attorney on June 14, 1984, he indicated that in his letter of June 14, he was not requesting to enter into pre-probable cause conciliation.

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II. LEGAL AND FACTUAL ANALYSIS

1. The facts

Based on information ascertained by the Commission in its investigation, the facts, briefly summarized, are as follows.

The Friends of Congressman George Miller was the principal campaign committee for Congressman George Miller's campaign for re-election to the House of Representatives in 1982. The Miller Committee remains in existence having been redesignated as the principal campaign committee for Congressman Miller's campaign for re-election to the House of Representatives in 1984. Alison Cartwright Brown serves as treasurer of the Committee.

In the Spring of 1982, the Miller Committee publicized a birthday celebration event for Congressman George Miller's 37th birthday to be held on May 7, 1982. The celebration consisted of a formal dinner held at the Sheraton Airport Inn in the City of Concord, Contra Costa County, California.

Five city councilmen requested the city manager's secretary to make reservations for their attendance at the birthday celebration event. The secretary executed a payment demand signed by the city manager which was sent to the city's finance department. The finance department issued checks which were mailed to the Miller Committee shortly before May 7, 1982. The checks were to cover the cost of tickets to the event. The cost of each ticket was $38.

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The Miller Committee received two checks from the city, one for $266 and one for $38, which were deposited on May 19, 1982. The Committee reported the funds as contributions received from the City of Pittsburg.

On July 14, 1982, the Clerk of the House notified the Miller Committee that the City of Pittsburg was a corporation. On July 15, 1982, the Miller Committee refunded $304 to the City of Pittsburg. In a form letter accompanying the refund the Miller Committee explained that it was returning the contribution because it appeared to be from a corporation. The letter further stated that due to Federal Election Commission regulations, it was unable to accept contributions from corporations. A handwritten addition to the form letter noted that "cities are considered corporations under FEC law." In addition, the letter advised the City of Pittsburg that if the Miller Committee's assumption was incorrect, and the contribution was legal, the city should return the contribution with a signed letter to that effect. Otherwise, the form letter went on to state, the city should replace the city check with a personal check or a political action committee check.

On receipt of the above-referenced letter, the city manager's secretary phoned each of the councilmen to explain that the city check had been returned and to request that they make out personal checks to the Miller Committee. Each councilman was told he would be reimbursed for the expense. Individual checks were made out and each councilman was subsequently reimbursed by the City of Pittsburg. In its 12 Day Pre-Primary Election Report

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for the period October 1 through October 13, 1982, the Miller Committee lists a $76 contribution received from Joseph and Alamay Siino, a $38 contribution from Joseph and Terri Detorres, a $76 contribution from Ralph and Beulah Downing, a $38 contribution from Frank and Eleanor Quesada, and a $76 contribution from Ronald P. Rives.

2. **The law applicable**

There are two Federal Election law prohibitions which have general application to the above stated facts, 2 U.S.C. § 441b(a) and § 441f.

Section 441b(a) of Title 2, United States Code prohibits a corporation from making contributions or expenditures in connection with any election to federal office.[2/] Furthermore, § 441b(a) prohibits any political committee from knowingly accepting such contributions.

Pursuant to 2 U.S.C. § 441b(b)(2), the term "contribution or expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit or gift of money, or any services or anything of value to any candidate, campaign committee or political party or organization in connection with any election to federal office.

2/ In Advisory Opinions 1977-32 and 1982-26 the Commission concluded that a municipal corporation is a "corporation" for purposes of the limitations and prohibitions of the Act. See 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶5277 and ¶5672.

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2 U.S.C. § 441f prohibits a person from making a contribution in the name of another person or knowingly permitting his name to be used to effect such a contribution. Furthermore § 441f prohibits a person from knowingly accepting a contribution made by one person in the name of another person.

Pursuant to 2 U.S.C. § 431(11) the term "person" includes an individual, partnership, committee, association, corporation, labor organization or any other organization or group of persons.

3. **Application of the law to the facts.**

The city attorney for the City of Pittsburg responded on behalf of the City of Pittsburg and the city councilmen by raising as a threshold defense the definition of "contribution" as set forth in 2 U.S.C. § 431(8)(A). This section provides that:

> "The term 'contribution' includes- [i] any gift, subscription, loan advance or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office;" (emphasis added)

The city attorney argues that the payment of monies by city councilmen or the city to the Miller Committee should not be treated as "contributions" as defined above.

The city attorney states that the legal definition of contribution impliedly requires the presence of intent by the donor that the purpose of the payment be devoted to influencing the outcome of a federal election. In support of this interpretation, the city attorney cites to Federal Election Commission v. California Medical Association, 502 F. Supp. 196

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(1980); U.S. v. National Committee for Impeachment, 469 F. 2d 1139 (1972) and U.S. v. Hankin, 607 F. 2d. 611 (1979).

The city attorney maintains that the councilmen and city manager did not understand the birthday event to be a campaign fundraiser, but rather, a social event affording the opportunity for local politicians to meet with their legislator. According to the city attorney's response, the event was not expressly advertised as a campaign fundraiser to raise funds to influence congressional elections. While the city attorney does not cite to any statutory or regulatory authority, it is the position of his clients that the Miller Committee bears a responsibility to clearly make known to the public that it is treating the birthday party as a campaign event and that the funds which it solicits will be used directly to influence the candidates election to office.

A second line of defense raised by the city attorney is that 2 U.S.C. § 441f requires that persons have knowledge that their names are to be used to effect a campaign contribution in the name of another person. The city attorney maintains that the § 441f prohibition was not violated by the councilmen in that they did not have knowledge that their names were to be used to effect a campaign contribution in the name of another person. The city attorney asserts that the public associated the Miller Committee with the single purpose of a birthday event -- not an election. According to the city attorney, the annual birthday

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tradition is conducted without regard to pending federal elections. The city attorney further states that the birthday party has been an annual affair extending back over several years. According to the response, it has been a customary practice for city councilmen to attend those birthday dinners. Their attendance at such parties is viewed by the city as part of the councilmen's normal city duties in representing the interests of the City of Pittsburg.

It is the view of this Office that the defense of the City of Pittsburg and the councilmen is not substantiated by the facts in this matter. First, the invitations themselves stated that the birthday event was a function of the Miller Committee and that corporate and labor union contributions were prohibited. Second, the facts make clear that on July 15, 1982, the city was made aware that the Miller Committee was treating the birthday party as a campaign event. On this date the Committee refunded the city $304 and put the city on notice that the Committee was treating the funds as contributions. The notice further advised that contributions from corporations are prohibited by Federal Election Commission regulations.

While the city attorney admits that the Miller Committee's notice of July 15, 1983, was received, he argues that no one, other than the city manager's secretary, had knowledge of the content of this letter. However, at the very least the city councilmen knew that the Miller Committee would not accept payment from the city. They were also asked to draw checks on their personal accounts and were told that they would later be

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reimbursed by the city. Just because the councilmen may not have seen the Miller Committee's letter does not exculpate them from their actions.

The claim that neither the city nor its councilmen understood the birthday party to be a fundraising event for Congressman Miller's campaign is untenable. All checks issued by the city and the councilmen were made payable to Friends of Congressman George Miller, the candidate's principal campaign committee. The councilmen, with close political ties, surely had notice that Congressman Miller was running for re-election and their issuance of checks to Congressman Miller's principal campaign committee should have clued them to the fact that they were making contributions or at least should have raised questions concerning the use to which their monies would be put. Such knowledge combined with the knowledge that they would receive reimbursement from the city establishes a violation of 2 U.S.C. § 441f.

In conclusion, the facts indicate that the annual birthday party was a campaign fundraising event. The invitations or response cards stated the birthday party was a function of the Miller Committee and that corporate contributions were impermissible. The City of Pittsburg gave a corporate contribution to the Miller Committee. The Miller Committee returned the corporate contribution to the City of Pittsburg. Whereupon, the city councilmen submitted their personal checks to

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the Miller Committe and then were reimbursed by the City of Pittsburg. Therefore, the Office of General Counsel recommends finding probable cause to believe that the City of Pittsburg violated 2 U.S.C. § 441b(a) for making a corporate contribution and violated 2 U.S.C. § 441f for making a contribution in the name of another and that the city councilmen violated 2 U.S.C. § 441f for permitting their names to be used to effect such a contribution.

III. **GENERAL COUNSEL'S RECOMMENDATIONS:**

1. Find probable cause to believe that the City of Pittsburg, California, a municipal corporation, violated 2 U.S.C. § 441b(a) by making corporate contributions to the Friends of Congressman George Miller.

2. Find probable cause to believe the the City of Pittsburg, California violated 2 U.S.C. § 441f by making contributions in the name of other persons to the Friends of Congressman George Miller.

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6 August 1984
Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 6, 1984

John R. Shaw, Esquire
Office of City Attorney
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, California 94565

RE: MUR 1609
City of Pittsburg, California

Dear Mr. Shaw:

Based on a complaint filed with the Commission on October 7, 1983, and information supplied by your client the Commission determined on April 10, 1984, that there was reason to believe that your client had violated 2 U.S.C. § 441b(a) and 2 U.S.C. § 441f, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act") 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 if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request to the Commission for an extension of time in which to file a brief. The Commission will not grant any extensions beyond 20 days.

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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.

Should you have any questions, please contact Martha Romney, the staff member assigned to handle this matter, at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
City Councilman Frank R. Quesada) MUR 1609

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On December 5, 1983, Mr. Rudy G. Rodriguez of the Mexican-American Political Association filed a complaint with the Commission alleging that the City of Pittsburg, California made contributions to the Friends of Congressman George Miller (the "Miller Committee"), using city funds, in the names of other individuals and that certain members of the city council permitted their names to be used to make such contributions in violation of 2 U.S.C. § 441f. The complaint also asserts that the City of Pittsburg, California, a municipal corporation, made corporate contributions to the Miller Committee in violation of 2 U.S.C. § 441b(a), and that the Friends of Congressman George Miller and its treasurer violated 2 U.S.C. § 441f by accepting contributions made by the City of Pittsburg, California in the names of others.1/

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1/ While not specifically alleged in the complaint, the Committee's acceptance of contributions from the City of Pittsburg raises the additional issue of whether the Committee violated 2 U.S.C. § 441b(a).

By letter of December 9, 1983, the Office of General Counsel notified the respondents of the complaint filed against them. On January 30, 1984, City Attorney John R. Shaw responded on behalf of the City of Pittsburg, California, and Pittsburg City Council Members Downing, Quesada, Rives, Siino, Detorres.

On April 10, 1984, the Commission found reason to believe that the City of Pittsburg, California violated 2 U.S.C. § 441b(a) and 2 U.S.C. § 441f, that Councilmen Joseph S. Siino, Joseph Detorres, Ralph Downing, Frank R. Quesada and Ronald P. Rives violated 2 U.S.C. § 441f. Interrogatories and requests for documents were forwarded to the respondents.

On June 1, 1984, the Commission received a response from the city attorney of Pittsburg, California responding on behalf of the City of Pittsburg and the city councilmen. In addition, copies of the checks issued by the City of Pittsburg during 1982 to Congressman George Miller and checks signed by the City of Pittsburg to Councilmen Siino, Detorres, Downing, Quesada and Rives were submitted. In the letter the city attorney indicated that the City of Pittsburg desired to follow the formal conciliation procedure. In a follow-up conversation with the city attorney on June 14, 1984, he indicated that in his letter of June 14, he was not requesting to enter into pre-probable cause conciliation.

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II. LEGAL AND FACTUAL ANALYSIS

1. The facts

Based on information ascertained by the Commission in its investigation, the facts, briefly summarized, are as follows.

The Friends of Congressman George Miller was the principal campaign committee for Congressman George Miller's campaign for re-election to the House of Representatives in 1982. The Miller Committee remains in existence having been redesignated as the principal campaign committee for Congressman Miller's campaign for re-election to the House of Representatives in 1984. Alison Cartwright Brown serves as treasurer of the Committee.

In the Spring of 1982, the Miller Committee publicized a birthday celebration event for Congressman George Miller's 37th birthday to be held on May 7, 1982. The celebration consisted of a formal dinner held at the Sheraton Airport Inn in the City of Concord, Contra Costa County, California.

Five city councilmen requested the city manager's secretary to make reservations for their attendance at the birthday celebration event. The secretary executed a payment demand signed by the city manager which was sent to the city's finance department. The finance department issued checks which were mailed to the Miller Committee shortly before May 7, 1982. The checks were to cover the cost of tickets to the event. The cost of each ticket was $38.

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The Miller Committee received two checks from the city, one for $266 and one for $38, which were deposited on May 19, 1982. The Committee reported the funds as contributions received from the City of Pittsburg.

On July 14, 1982, the Clerk of the House notified the Miller Committee that the City of Pittsburg was a corporation. On July 15, 1982, the Miller Committee refunded $304 to the City of Pittsburg. In a form letter accompanying the refund the Miller Committee explained that it was returning the contribution because it appeared to be from a corporation. The letter further stated that due to Federal Election Commission regulations, it was unable to accept contributions from corporations. A handwritten addition to the form letter noted that "cities are considered corporations under FEC law." In addition, the letter advised the City of Pittsburg that if the Miller Committee's assumption was incorrect, and the contribution was legal, the city should return the contribution with a signed letter to that effect. Otherwise, the form letter went on to state, the city should replace the city check with a personal check or a political action committee check.

On receipt of the above-referenced letter, the city manager's secretary phoned each of the councilmen to explain that the city check had been returned and to request that they make out personal checks to the Miller Committee. Each councilman was told he would be reimbursed for the expense. Individual checks were made out and each councilman was subsequently reimbursed by the City of Pittsburg. In its 12 Day Pre-Primary Election Report

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for the period October 1 through October 13, 1982, the Miller Committee lists a $76 contribution received from Joseph and Alamay Siino, a $38 contribution from Joseph and Terri Detorres, a $76 contribution from Ralph and Beulah Downing, a $38 contribution from Frank and Eleanor Quesada, and a $76 contribution from Ronald P. Rives.

2. **The law applicable**

There are two Federal Election law prohibitions which have general application to the above stated facts, 2 U.S.C. § 441b(a) and § 441f.

Section 441b(a) of Title 2, United States Code prohibits a corporation from making contributions or expenditures in connection with any election to federal office.2/ Furthermore, § 441b(a) prohibits any political committee from knowingly accepting such contributions.

Pursuant to 2 U.S.C. § 441b(b)(2), the term "contribution or expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit or gift of money, or any services or anything of value to any candidate, campaign committee or political party or organization in connection with any election to federal office.

2/ In Advisory Opinions 1977-32 and 1982-26 the Commission concluded that a municipal corporation is a "corporation" for purposes of the limitations and prohibitions of the Act. See 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶5277 and ¶5672.

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for the period October 1 through October 13, 1982, the Miller Committee lists a $76 contribution received from Joseph and Alamay Siino a $38 contribution from Joseph and Terri Detorres a $76 contribution from Ralph and Beulah Downing a $38 contribution from Frank and Eleanor Quesada and a $76 contribution from Ronald P. Rives.

2. **The law applicable**

There are two Federal Election law prohibitions which have general application to the above stated facts, 2 U.S.C. § 441b(a) and § 441f.

Section 441b(a) of Title 2, United States Code prohibits a corporation from making contributions or expenditures in connection with any election to federal office.2/ Furthermore, § 441b(a) prohibits any political committee from knowingly accepting such contributions.

Pursuant to 2 U.S.C. § 441b(b)(2), the term "contribution or expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit or gift of money, or any services or anything of value to any candidate, campaign committee or political party or organization in connection with any election to federal office.

2/ In Advisory Opinions 1977-32 and 1982-26 the Commission concluded that a municipal corporation is a "corporation" for purposes of the limitations and prohibitions of the Act. See 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶5277 and ¶5672.

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2 U.S.C. § 441f prohibits a person from making a contribution in the name of another person or knowingly permitting his name to be used to effect such a contribution. Furthermore § 441f prohibits a person from knowingly accepting a contribution made by one person in the name of another person.

Pursuant to 2 U.S.C. § 431(11) the term "person" includes an individual, partnership, committee, association, corporation, labor organization or any other organization or group of persons.

3. **Application of the law to the facts.**

The city attorney for the City of Pittsburg responded on behalf of the City of Pittsburg and the city councilmen by raising as a threshold defense the definition of "contribution" as set forth in 2 U.S.C. § 431(8)(A). This section provides that:

> "The term 'contribution' includes- [i] any gift, subscription, loan advance or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office;" (emphasis added)

The city attorney argues that the payment of monies by city councilmen or the city to the Miller Committee should not be treated as "contributions" as defined above.

The city attorney states that the legal definition of contribution impliedly requires the presence of intent by the donor that the purpose of the payment be devoted to influencing the outcome of a federal election. In support of this interpretation, the city attorney cites to Federal Election Commission v. California Medical Association, 502 F. Supp. 196

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(1980); U.S. v. National Committee for Impeachment, 469 F. 2d 1139 (1972) and U.S. v. Hankin, 607 F. 2d. 611 (1979).

The city attorney maintains that the councilmen and city manager did not understand the birthday event to be a campaign fundraiser, but rather, a social event affording the opportunity for local politicians to meet with their legislator. According to the city attorney's response, the event was not expressly advertised as a campaign fundraiser to raise funds to influence congressional elections. While the city attorney does not cite to any statutory or regulatory authority, it is the position of his clients that the Miller Committee bears a responsibility to clearly make known to the public that it is treating the birthday party as a campaign event and that the funds which it solicits will be used directly to influence the candidates election to office.

A second line of defense raised by the city attorney is that 2 U.S.C. § 441f requires that persons have knowledge that their names are to be used to effect a campaign contribution in the name of another person. The city attorney maintains that the § 441f prohibition was not violated by the councilmen in that they did not have knowledge that their names were to be used to effect a campaign contribution in the name of another person. The city attorney asserts that the public associated the Miller Committee with the single purpose of a birthday event -- not an election. According to the city attorney, the annual birthday

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tradition is conducted without regard to pending federal elections. The city attorney further states that the birthday party has been an annual affair extending back over several years. According to the response, it has been a customary practice for city councilmen to attend those birthday dinners. Their attendance at such parties is viewed by the city as part of the councilmen's normal city duties in representing the interests of the City of Pittsburg.

It is the view of this Office that the defense of the City of Pittsburg and the councilmen is not substantiated by the facts in this matter. First, the invitations themselves stated that the birthday event was a function of the Miller Committee and that corporate and labor union contributions were prohibited. Second, the facts make clear that on July 15, 1982, the city was made aware that the Miller Committee was treating the birthday party as a campaign event. On this date the Committee refunded the city $304 and put the city on notice that the Committee was treating the funds as contributions. The notice further advised that contributions from corporations are prohibited by Federal Election Commission regulations.

While the city attorney admits that the Miller Committee's notice of July 15, 1983, was received, he argues that no one, other than the city manager's secretary, had knowledge of the content of this letter. However, at the very least the city councilmen knew that the Miller Committee would not accept payment from the city. They were also asked to draw checks on their personal accounts and were told that they would later be

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reimbursed by the city. Just because the councilmen may not have seen the Miller Committee's letter does not exculpate them from their actions.

The claim that neither the city nor its councilmen understood the birthday party to be a fundraising event for Congressman Miller's campaign is untenable. All checks issued by the city and the councilmen were made payable to Friends of Congressman George Miller, the candidate's principal campaign committee. The councilmen, with close political ties, surely had notice that Congressman Miller was running for re-election and their issuance of checks to Congressman Miller's principal campaign committee should have clued them to the fact that they were making contributions or at least should have raised questions concerning the use to which their monies would be put. Such knowledge combined with the knowledge that they would receive reimbursement from the city establishes a violation of 2 U.S.C. § 441f.

In conclusion, the facts indicate that the annual birthday party was a campaign fundraising event. The invitations or response cards stated the birthday party was a function of the Miller Committee and that corporate contributions were impermissible. The City of Pittsburg gave a corporate contribution to the Miller Committee. The Miller Committee returned the corporate contribution to the City of Pittsburg. Whereupon, the city councilmen submitted their personal checks to

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the Miller Committee and then were reimbursed by the City of Pittsburg. Therefore, the Office of General Counsel recommends finding probable cause to believe that the City of Pittsburg violated 2 U.S.C. § 441b(a) for making a corporate contribution and violated 2 U.S.C. § 441f for making a contribution in the name of another and that the city councilmen violated 2 U.S.C. § 441f for permitting their names to be used to effect such a contribution.

III. **GENERAL COUNSEL'S RECOMMENDATIONS:**

1. Find probable cause to believe that City Councilman Frank R. Quesada violated 2 U.S.C. § 441f by knowingly permitting his name to be used by the City of Pittsburg in making a contribution to the Friends of Congressman George Miller.

6 August 1984
Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 6, 1984

John R. Shaw, Esquire
Office of City Attorney
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, California 94565

RE: MUR 1609
Councilman Frank R. Quesada

Dear Mr. Shaw:

Based on a complaint filed with the Commission on October 7, 1983, and information supplied by your client the Commission determined on April 10, 1984, that there was reason to believe that your client had violated 2 U.S.C. § 441f, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") 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 if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request to the Commission for an extension of time in which to file a brief. The Commission will not grant any extensions beyond 20 days.

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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.

Should you have any questions, please contact Martha Romney, the staff member assigned to handle this matter, at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
City Councilman Joseph Detorres) MUR 1609

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On December 5, 1983, Mr. Rudy G. Rodriguez of the Mexican-American Political Association filed a complaint with the Commission alleging that the City of Pittsburg, California made contributions to the Friends of Congressman George Miller (the "Miller Committee"), using city funds, in the names of other individuals and that certain members of the city council permitted their names to be used to make such contributions in violation of 2 U.S.C. § 441f. The complaint also asserts that the City of Pittsburg, California, a municipal corporation, made corporate contributions to the Miller Committee in violation of 2 U.S.C. § 441b(a), and that the Friends of Congressman George Miller and its treasurer violated 2 U.S.C. § 441f by accepting contributions made by the City of Pittsburg, California in the names of others.1/

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1/ While not specifically alleged in the complaint, the Committee's acceptance of contributions from the City of Pittsburg raises the additional issue of whether the Committee violated 2 U.S.C. § 441b(a).

By letter of December 9, 1983, the Office of General Counsel notified the respondents of the complaint filed against them. On January 30, 1984, City Attorney John R. Shaw responded on behalf of the City of Pittsburg, California, and Pittsburg City Council Members Downing, Quesada, Rives, Siino, Detorres.

On April 10, 1984, the Commission found reason to believe that the City of Pittsburg, California violated 2 U.S.C. § 441b(a) and 2 U.S.C. § 441f, that Councilmen Joseph S. Siino, Joseph Detorres, Ralph Downing, Frank R. Quesada and Ronald P. Rives violated 2 U.S.C. § 441f. Interrogatories and requests for documents were forwarded to the respondents.

On June 1, 1984, the Commission received a response from the city attorney of Pittsburg, California responding on behalf of the City of Pittsburg and the city councilmen. In addition, copies of the checks issued by the City of Pittsburg during 1982 to Congressman George Miller and checks signed by the City of Pittsburg to Councilmen Siino, Detorres, Downing, Quesada and Rives were submitted. In the letter the city attorney indicated that the City of Pittsburg desired to follow the formal conciliation procedure. In a follow-up conversation with the city attorney on June 14, 1984, he indicated that in his letter of June 14, he was not requesting to enter into pre-probable cause conciliation.

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II. LEGAL AND FACTUAL ANALYSIS

1. The facts

Based on information ascertained by the Commission in its investigation, the facts, briefly summarized, are as follows.

The Friends of Congressman George Miller was the principal campaign committee for Congressman George Miller's campaign for re-election to the House of Representatives in 1982. The Miller Committee remains in existence having been redesignated as the principal campaign committee for Congressman Miller's campaign for re-election to the House of Representatives in 1984. Alison Cartwright Brown serves as treasurer of the Committee.

In the Spring of 1982, the Miller Committee publicized a birthday celebration event for Congressman George Miller's 37th birthday to be held on May 7, 1982. The celebration consisted of a formal dinner held at the Sheraton Airport Inn in the City of Concord, Contra Costa County, California.

Five city councilmen requested the city manager's secretary to make reservations for their attendance at the birthday celebration event. The secretary executed a payment demand signed by the city manager which was sent to the city's finance department. The finance department issued checks which were mailed to the Miller Committee shortly before May 7, 1982. The checks were to cover the cost of tickets to the event. The cost of each ticket was $38.

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The Miller Committee received two checks from the city, one for $266 and one for $38, which were deposited on May 19, 1982. The Committee reported the funds as contributions received from the City of Pittsburg.

On July 14, 1982, the Clerk of the House notified the Miller Committee that the City of Pittsburg was a corporation. On July 15, 1982, the Miller Committee refunded $304 to the City of Pittsburg. In a form letter accompanying the refund the Miller Committee explained that it was returning the contribution because it appeared to be from a corporation. The letter further stated that due to Federal Election Commission regulations, it was unable to accept contributions from corporations. A handwritten addition to the form letter noted that "cities are considered corporations under FEC law." In addition, the letter advised the City of Pittsburg that if the Miller Committee's assumption was incorrect, and the contribution was legal, the city should return the contribution with a signed letter to that effect. Otherwise, the form letter went on to state, the city should replace the city check with a personal check or a political action committee check.

On receipt of the above-referenced letter, the city manager's secretary phoned each of the councilmen to explain that the city check had been returned and to request that they make out personal checks to the Miller Committee. Each councilman was told he would be reimbursed for the expense. Individual checks were made out and each councilman was subsequently reimbursed by the City of Pittsburg. In its 12 Day Pre-Primary Election Report

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for the period October 1 through October 13, 1982, the Miller Committee lists a $76 contribution received from Joseph and Alamay Siino a $38 contribution from Joseph and Terri Detorres a $76 contribution from Ralph and Beulah Downing a $38 contribution from Frank and Eleanor Quesada and a $76 contribution from Ronald P. Rives.

2. **The law applicable**

There are two Federal Election law prohibitions which have general application to the above stated facts, 2 U.S.C. § 441b(a) and § 441f.

Section 441b(a) of Title 2, United States Code prohibits a corporation from making contributions or expenditures in connection with any election to federal office.2/ Furthermore, § 441b(a) prohibits any political committee from knowingly accepting such contributions.

Pursuant to 2 U.S.C. § 441b(b)(2), the term "contribution or expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit or gift of money, or any services or anything of value to any candidate, campaign committee or political party or organization in connection with any election to federal office.

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2/ In Advisory Opinions 1977-32 and 1982-26 the Commission concluded that a municipal corporation is a "corporation" for purposes of the limitations and prohibitions of the Act. See 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶5277 and ¶5672.

2 U.S.C. § 441f prohibits a person from making a contribution in the name of another person or knowingly permitting his name to be used to effect such a contribution. Furthermore § 441f prohibits a person from knowingly accepting a contribution made by one person in the name of another person.

Pursuant to 2 U.S.C. § 431(11) the term "person" includes an individual, partnership, committee, association, corporation, labor organization or any other organization or group of persons.

3. **Application of the law to the facts.**

The city attorney for the City of Pittsburg responded on behalf of the City of Pittsburg and the city councilmen by raising as a threshold defense the definition of "contribution" as set forth in 2 U.S.C. § 431(8)(A). This section provides that:

> "The term 'contribution' includes- [i] any gift, subscription, loan advance or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office;" (emphasis added)

The city attorney argues that the payment of monies by city councilmen or the city to the Miller Committee should not be treated as "contributions" as defined above.

The city attorney states that the legal definition of contribution impliedly requires the presence of intent by the donor that the purpose of the payment be devoted to influencing the outcome of a federal election. In support of this interpretation, the city attorney cites to Federal Election Commission v. California Medical Association, 502 F. Supp. 196

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(1980); U.S. v. National Committee for Impeachment, 469 F. 2d 1139 (1972) and U.S. v. Hankin, 607 F. 2d. 611 (1979).

The city attorney maintains that the councilmen and city manager did not understand the birthday event to be a campaign fundraiser, but rather, a social event affording the opportunity for local politicians to meet with their legislator. According to the city attorney's response, the event was not expressly advertised as a campaign fundraiser to raise funds to influence congressional elections. While the city attorney does not cite to any statutory or regulatory authority, it is the position of his clients that the Miller Committee bears a responsibility to clearly make known to the public that it is treating the birthday party as a campaign event and that the funds which it solicits will be used directly to influence the candidates election to office.

A second line of defense raised by the city attorney is that 2 U.S.C. § 441f requires that persons have knowledge that their names are to be used to effect a campaign contribution in the name of another person. The city attorney maintains that the § 441f prohibition was not violated by the councilmen in that they did not have knowledge that their names were to be used to effect a campaign contribution in the name of another person. The city attorney asserts that the public associated the Miller Committee with the single purpose of a birthday event -- not an election. According to the city attorney, the annual birthday

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tradition is conducted without regard to pending federal elections. The city attorney further states that the birthday party has been an annual affair extending back over several years. According to the response, it has been a customary practice for city councilmen to attend those birthday dinners. Their attendance at such parties is viewed by the city as part of the councilmen's normal city duties in representing the interests of the City of Pittsburg.

It is the view of this Office that the defense of the City of Pittsburg and the councilmen is not substantiated by the facts in this matter. First, the invitations themselves stated that the birthday event was a function of the Miller Committee and that corporate and labor union contributions were prohibited. Second, the facts make clear that on July 15, 1982, the city was made aware that the Miller Committee was treating the birthday party as a campaign event. On this date the Committee refunded the city $304 and put the city on notice that the Committee was treating the funds as contributions. The notice further advised that contributions from corporations are prohibited by Federal Election Commission regulations.

While the city attorney admits that the Miller Committee's notice of July 15, 1983, was received, he argues that no one, other than the city manager's secretary, had knowledge of the content of this letter. However, at the very least the city councilmen knew that the Miller Committee would not accept payment from the city. They were also asked to draw checks on their personal accounts and were told that they would later be

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reimbursed by the city. Just because the councilmen may not have seen the Miller Committee's letter does not exculpate them from their actions.

The claim that neither the city nor its councilmen understood the birthday party to be a fundraising event for Congressman Miller's campaign is untenable. All checks issued by the city and the councilmen were made payable to Friends of Congressman George Miller, the candidate's principal campaign committee. The councilmen, with close political ties, surely had notice that Congressman Miller was running for re-election and their issuance of checks to Congressman Miller's principal campaign committee should have clued them to the fact that they were making contributions or at least should have raised questions concerning the use to which their monies would be put. Such knowledge combined with the knowledge that they would receive reimbursement from the city establishes a violation of 2 U.S.C. § 441f.

In conclusion, the facts indicate that the annual birthday party was a campaign fundraising event. The invitations or response cards stated the birthday party was a function of the Miller Committee and that corporate contributions were impermissible. The City of Pittsburg gave a corporate contribution to the Miller Committee. The Miller Committee returned the corporate contribution to the City of Pittsburg. Whereupon, the city councilmen submitted their personal checks to

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the Miller Committee and then were reimbursed by the City of Pittsburg. Therefore, the Office of General Counsel recommends finding probable cause to believe that the City of Pittsburg violated 2 U.S.C. § 441b(a) for making a corporate contribution and violated 2 U.S.C. § 441f for making a contribution in the name of another and that the city councilmen violated 2 U.S.C. § 441f for permitting their names to be used to effect such a contribution.

III. GENERAL COUNSEL'S RECOMMENDATIONS:

1. Find probable cause to believe that City Councilman Joseph Detorres violated 2 U.S.C. § 441f by knowingly permitting his name to be used by the City of Pittsburg in making a contribution to the Friends of Congressman George Miller.

6 August 1984
Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 6, 1984

John R. Shaw, Esquire
Office of City Attorney
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, California 94565

RE: MUR 1609
Councilman Joseph Detorres

Dear Mr. Shaw:

Based on a complaint filed with the Commission on October 7, 1983, and information supplied by your client the Commission determined on April 10, 1984, that there was reason to believe that your client had violated 2 U.S.C. § 441f, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") 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 if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request to the Commission for an extension of time in which to file a brief. The Commission will not grant any extensions beyond 20 days.

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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.

Should you have any questions, please contact Martha Romney, the staff member assigned to handle this matter, at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

(45)

In the Matter of)
)
City Councilman Joseph Siino) MUR 1609

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On December 5, 1983, Mr. Rudy G. Rodriguez of the Mexican-American Political Association filed a complaint with the Commission alleging that the City of Pittsburg, California made contributions to the Friends of Congressman George Miller (the "Miller Committee"), using city funds, in the names of other individuals and that certain members of the city council permitted their names to be used to make such contributions in violation of 2 U.S.C. § 441f. The complaint also asserts that the City of Pittsburg, California, a municipal corporation, made corporate contributions to the Miller Committee in violation of 2 U.S.C. § 441b(a), and that the Friends of Congressman George Miller and its treasurer violated 2 U.S.C. § 441f by accepting contributions made by the City of Pittsburg, California in the names of others.1/

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1/ While not specifically alleged in the complaint, the Committee's acceptance of contributions from the City of Pittsburg raises the additional issue of whether the Committee violated 2 U.S.C. § 441b(a).

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By letter of December 9, 1983, the Office of General Counsel notified the respondents of the complaint filed against them. On January 30, 1984, City Attorney John R. Shaw responded on behalf of the City of Pittsburg, California, and Pittsburg City Council Members Downing, Quesada, Rives, Siino, Detorres.

On April 10, 1984, the Commission found reason to believe that the City of Pittsburg, California violated 2 U.S.C. § 441b(a) and 2 U.S.C. § 441f, that Councilmen Joseph S. Siino, Joseph Detorres, Ralph Downing, Frank R. Quesada and Ronald P. Rives violated 2 U.S.C. § 441f. Interrogatories and requests for documents were forwarded to the respondents.

On June 1, 1984, the Commission received a response from the city attorney of Pittsburg, California responding on behalf of the City of Pittsburg and the city councilmen. In addition, copies of the checks issued by the City of Pittsburg during 1982 to Congressman George Miller and checks signed by the City of Pittsburg to Councilmen Siino, Detorres, Downing, Quesada and Rives were submitted. In the letter the city attorney indicated that the City of Pittsburg desired to follow the formal conciliation procedure. In a follow-up conversation with the city attorney on June 14, 1984, he indicated that in his letter of June 14, he was not requesting to enter into pre-probable cause conciliation.

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II. LEGAL AND FACTUAL ANALYSIS

1. The facts

Based on information ascertained by the Commission in its investigation, the facts, briefly summarized, are as follows.

The Friends of Congressman George Miller was the principal campaign committee for Congressman George Miller's campaign for re-election to the House of Representatives in 1982. The Miller Committee remains in existence having been redesignated as the principal campaign committee for Congressman Miller's campaign for re-election to the House of Representatives in 1984. Alison Cartwright Brown serves as treasurer of the Committee.

In the Spring of 1982, the Miller Committee publicized a birthday celebration event for Congressman George Miller's 37th birthday to be held on May 7, 1982. The celebration consisted of a formal dinner held at the Sheraton Airport Inn in the City of Concord, Contra Costa County, California.

Five city councilmen requested the city manager's secretary to make reservations for their attendance at the birthday celebration event. The secretary executed a payment demand signed by the city manager which was sent to the city's finance department. The finance department issued checks which were mailed to the Miller Committee shortly before May 7, 1982. The checks were to cover the cost of tickets to the event. The cost of each ticket was $38.

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The Miller Committee received two checks from the city, one for $266 and one for $38, which were deposited on May 19, 1982. The Committee reported the funds as contributions received from the City of Pittsburg.

On July 14, 1982, the Clerk of the House notified the Miller Committee that the City of Pittsburg was a corporation. On July 15, 1982, the Miller Committee refunded $304 to the City of Pittsburg. In a form letter accompanying the refund the Miller Committee explained that it was returning the contribution because it appeared to be from a corporation. The letter further stated that due to Federal Election Commission regulations, it was unable to accept contributions from corporations. A handwritten addition to the form letter noted that "cities are considered corporations under FEC law." In addition, the letter advised the City of Pittsburg that if the Miller Committee's assumption was incorrect, and the contribution was legal, the city should return the contribution with a signed letter to that effect. Otherwise, the form letter went on to state, the city should replace the city check with a personal check or a political action committee check.

On receipt of the above-referenced letter, the city manager's secretary phoned each of the councilmen to explain that the city check had been returned and to request that they make out personal checks to the Miller Committee. Each councilman was told he would be reimbursed for the expense. Individual checks were made out and each councilman was subsequently reimbursed by the City of Pittsburg. In its 12 Day Pre-Primary Election Report

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for the period October 1 through October 13, 1982, the Miller Committee lists a $76 contribution received from Joseph and Alamay Siino a $38 contribution from Joseph and Terri Detorres a $76 contribution from Ralph and Beulah Downing a $38 contribution from Frank and Eleanor Quesada and a $76 contribution from Ronald P. Rives.

2. **The law applicable**

There are two Federal Election law prohibitions which have general application to the above stated facts, 2 U.S.C. § 441b(a) and § 441f.

Section 441b(a) of Title 2, United States Code prohibits a corporation from making contributions or expenditures in connection with any election to federal office.2/ Furthermore, § 441b(a) prohibits any political committee from knowingly accepting such contributions.

Pursuant to 2 U.S.C. § 441b(b)(2), the term "contribution or expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit or gift of money, or any services or anything of value to any candidate, campaign committee or political party or organization in connection with any election to federal office.

2/ In Advisory Opinions 1977-32 and 1982-26 the Commission concluded that a municipal corporation is a "corporation" for purposes of the limitations and prohibitions of the Act. See 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶5277 and ¶5672.

2 U.S.C. § 441f prohibits a person from making a contribution in the name of another person or knowingly permitting his name to be used to effect such a contribution. Furthermore § 441f prohibits a person from knowingly accepting a contribution made by one person in the name of another person.

Pursuant to 2 U.S.C. § 431(11) the term "person" includes an individual, partnership, committee, association, corporation, labor organization or any other organization or group of persons.

3. **Application of the law to the facts.**

The city attorney for the City of Pittsburg responded on behalf of the City of Pittsburg and the city councilmen by raising as a threshold defense the definition of "contribution" as set forth in 2 U.S.C. § 431(8)(A). This section provides that:

> "The term 'contribution' includes- [i] any gift, subscription, loan advance or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office;" (emphasis added)

The city attorney argues that the payment of monies by city councilmen or the city to the Miller Committee should not be treated as "contributions" as defined above.

The city attorney states that the legal definition of contribution impliedly requires the presence of intent by the donor that the purpose of the payment be devoted to influencing the outcome of a federal election. In support of this interpretation, the city attorney cites to Federal Election Commission v. California Medical Association, 502 F. Supp. 196

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(1980); U.S. v. National Committee for Impeachment, 469 F. 2d 1139 (1972) and U.S. v. Hankin, 607 F. 2d. 611 (1979).

The city attorney maintains that the councilmen and city manager did not understand the birthday event to be a campaign fundraiser, but rather, a social event affording the opportunity for local politicians to meet with their legislator. According to the city attorney's response, the event was not expressly advertised as a campaign fundraiser to raise funds to influence congressional elections. While the city attorney does not cite to any statutory or regulatory authority, it is the position of his clients that the Miller Committee bears a responsibility to clearly make known to the public that it is treating the birthday party as a campaign event and that the funds which it solicits will be used directly to influence the candidates election to office.

A second line of defense raised by the city attorney is that 2 U.S.C. § 441f requires that persons have knowledge that their names are to be used to effect a campaign contribution in the name of another person. The city attorney maintains that the § 441f prohibition was not violated by the councilmen in that they did not have knowledge that their names were to be used to effect a campaign contribution in the name of another person. The city attorney asserts that the public associated the Miller Committee with the single purpose of a birthday event -- not an election. According to the city attorney, the annual birthday

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tradition is conducted without regard to pending federal elections. The city attorney further states that the birthday party has been an annual affair extending back over several years. According to the response, it has been a customary practice for city councilmen to attend those birthday dinners. Their attendance at such parties is viewed by the city as part of the councilmen's normal city duties in representing the interests of the City of Pittsburg.

It is the view of this Office that the defense of the City of Pittsburg and the councilmen is not substantiated by the facts in this matter. First, the invitations themselves stated that the birthday event was a function of the Miller Committee and that corporate and labor union contributions were prohibited. Second, the facts make clear that on July 15, 1982, the city was made aware that the Miller Committee was treating the birthday party as a campaign event. On this date the Committee refunded the city $304 and put the city on notice that the Committee was treating the funds as contributions. The notice further advised that contributions from corporations are prohibited by Federal Election Commission regulations.

While the city attorney admits that the Miller Committee's notice of July 15, 1983, was received, he argues that no one, other than the city manager's secretary, had knowledge of the content of this letter. However, at the very least the city councilmen knew that the Miller Committee would not accept payment from the city. They were also asked to draw checks on their personal accounts and were told that they would later be

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reimbursed by the city. Just because the councilmen may not have seen the Miller Committee's letter does not exculpate them from their actions.

The claim that neither the city nor its councilmen understood the birthday party to be a fundraising event for Congressman Miller's campaign is untenable. All checks issued by the city and the councilmen were made payable to Friends of Congressman George Miller, the candidate's principal campaign committee. The councilmen, with close political ties, surely had notice that Congressman Miller was running for re-election and their issuance of checks to Congressman Miller's principal campaign committee should have clued them to the fact that they were making contributions or at least should have raised questions concerning the use to which their monies would be put. Such knowledge combined with the knowledge that they would receive reimbursement from the city establishes a violation of 2 U.S.C. § 441f.

In conclusion, the facts indicate that the annual birthday party was a campaign fundraising event. The invitations or response cards stated the birthday party was a function of the Miller Committee and that corporate contributions were impermissible. The City of Pittsburg gave a corporate contribution to the Miller Committee. The Miller Committee returned the corporate contribution to the City of Pittsburg. Whereupon, the city councilmen submitted their personal checks to

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the Miller Committee and then were reimbursed by the City of Pittsburg. Therefore, the Office of General Counsel recommends finding probable cause to believe that the City of Pittsburg violated 2 U.S.C. § 441b(a) for making a corporate contribution and violated 2 U.S.C. § 441f for making a contribution in the name of another and that the city councilmen violated 2 U.S.C. § 441f for permitting their names to be used to effect such a contribution.

III. GENERAL COUNSEL'S RECOMMENDATIONS:

1. Find probable cause to believe that City Councilman Joseph Siino violated 2 U.S.C. § 441f by knowingly permitting his name to be used by the City of Pittsburg in making a contribution to the Friends of Congressman George Miller.

6 August 1984
Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 6, 1984

John R. Shaw, Esquire
Office of City Attorney
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, California 94565

RE: MUR 1609
Councilman Joseph Siino

Dear Mr. Shaw:

Based on a complaint filed with the Commission on October 7, 1983, and information supplied by your client the Commission determined on April 10, 1984, that there was reason to believe that your client had violated 2 U.S.C. § 441f, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") 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 if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request to the Commission for an extension of time in which to file a brief. The Commission will not grant any extensions beyond 20 days.

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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.

Should you have any questions, please contact Martha Romney, the staff member assigned to handle this matter, at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
City Councilman Ralph Downing) MUR 1609

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On December 5, 1983, Mr. Rudy G. Rodriguez of the Mexican-American Political Association filed a complaint with the Commission alleging that the City of Pittsburg, California made contributions to the Friends of Congressman George Miller (the "Miller Committee"), using city funds, in the names of other individuals and that certain members of the city council permitted their names to be used to make such contributions in violation of 2 U.S.C. § 441f. The complaint also asserts that the City of Pittsburg, California, a municipal corporation, made corporate contributions to the Miller Committee in violation of 2 U.S.C. § 441b(a), and that the Friends of Congressman George Miller and its treasurer violated 2 U.S.C. § 441f by accepting contributions made by the City of Pittsburg, California in the names of others.1/

1/ While not specifically alleged in the complaint, the Committee's acceptance of contributions from the City of Pittsburg raises the additional issue of whether the Committee violated 2 U.S.C. § 441b(a).

for the period October 1 through October 13, 1982, the Miller Committee lists a $76 contribution received from Joseph and Alamay Siino, a $38 contribution from Joseph and Terri Detorres, a $76 contribution from Ralph and Beulah Downing, a $38 contribution from Frank and Eleanor Quesada, and a $76 contribution from Ronald P. Rives.

2. **The law applicable**

There are two Federal Election law prohibitions which have general application to the above stated facts, 2 U.S.C. § 441b(a) and § 441f.

Section 441b(a) of Title 2, United States Code prohibits a corporation from making contributions or expenditures in connection with any election to federal office.2/ Furthermore, § 441b(a) prohibits any political committee from knowingly accepting such contributions.

Pursuant to 2 U.S.C. § 441b(b)(2), the term "contribution or expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit or gift of money, or any services or anything of value to any candidate, campaign committee or political party or organization in connection with any election to federal office.

2/ In Advisory Opinions 1977-32 and 1982-26 the Commission concluded that a municipal corporation is a "corporation" for purposes of the limitations and prohibitions of the Act. See 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶5277 and ¶5672.

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II. LEGAL AND FACTUAL ANALYSIS

1. The facts

Based on information ascertained by the Commission in its investigation, the facts, briefly summarized, are as follows.

The Friends of Congressman George Miller was the principal campaign committee for Congressman George Miller's campaign for re-election to the House of Representatives in 1982. The Miller Committee remains in existence having been redesignated as the principal campaign committee for Congressman Miller's campaign for re-election to the House of Representatives in 1984. Alison Cartwright Brown serves as treasurer of the Committee.

In the Spring of 1982, the Miller Committee publicized a birthday celebration event for Congressman George Miller's 37th birthday to be held on May 7, 1982. The celebration consisted of a formal dinner held at the Sheraton Airport Inn in the City of Concord, Contra Costa County, California.

Five city councilmen requested the city manager's secretary to make reservations for their attendance at the birthday celebration event. The secretary executed a payment demand signed by the city manager which was sent to the city's finance department. The finance department issued checks which were mailed to the Miller Committee shortly before May 7, 1982. The checks were to cover the cost of tickets to the event. The cost of each ticket was $38.

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The Miller Committee received two checks from the city, one for $266 and one for $38, which were deposited on May 19, 1982. The Committee reported the funds as contributions received from the City of Pittsburg.

On July 14, 1982, the Clerk of the House notified the Miller Committee that the City of Pittsburg was a corporation. On July 15, 1982, the Miller Committee refunded $304 to the City of Pittsburg. In a form letter accompanying the refund the Miller Committee explained that it was returning the contribution because it appeared to be from a corporation. The letter further stated that due to Federal Election Commission regulations, it was unable to accept contributions from corporations. A handwritten addition to the form letter noted that "cities are considered corporations under FEC law." In addition, the letter advised the City of Pittsburg that if the Miller Committee's assumption was incorrect, and the contribution was legal, the city should return the contribution with a signed letter to that effect. Otherwise, the form letter went on to state, the city should replace the city check with a personal check or a political action committee check.

On receipt of the above-referenced letter, the city manager's secretary phoned each of the councilmen to explain that the city check had been returned and to request that they make out personal checks to the Miller Committee. Each councilman was told he would be reimbursed for the expense. Individual checks were made out and each councilman was subsequently reimbursed by the City of Pittsburg. In its 12 Day Pre-Primary Election Report

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for the period October 1 through October 13, 1982, the Miller Committee lists a $76 contribution received from Joseph and Alamay Siino a $38 contribution from Joseph and Terri Detorres a $76 contribution from Ralph and Beulah Downing a $38 contribution from Frank and Eleanor Quesada and a $76 contribution from Ronald P. Rives.

2. **The law applicable**

There are two Federal Election law prohibitions which have general application to the above stated facts, 2 U.S.C. § 441b(a) and § 441f.

Section 441b(a) of Title 2, United States Code prohibits a corporation from making contributions or expenditures in connection with any election to federal office.2/ Furthermore, § 441b(a) prohibits any political committee from knowingly accepting such contributions.

Pursuant to 2 U.S.C. § 441b(b)(2), the term "contribution or expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit or gift of money, or any services or anything of value to any candidate, campaign committee or political party or organization in connection with any election to federal office.

2/ In Advisory Opinions 1977-32 and 1982-26 the Commission concluded that a municipal corporation is a "corporation" for purposes of the limitations and prohibitions of the Act. See 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶5277 and ¶5672.

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2 U.S.C. § 441f prohibits a person from making a contribution in the name of another person or knowingly permitting his name to be used to effect such a contribution. Furthermore § 441f prohibits a person from knowingly accepting a contribution made by one person in the name of another person.

Pursuant to 2 U.S.C. § 431(11) the term "person" includes an individual, partnership, committee, association, corporation, labor organization or any other organization or group of persons.

3. **Application of the law to the facts.**

The city attorney for the City of Pittsburg responded on behalf of the City of Pittsburg and the city councilmen by raising as a threshold defense the definition of "contribution" as set forth in 2 U.S.C. § 431(8)(A). This section provides that:

> "The term 'contribution' includes- [i] any gift, subscription, loan advance or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office;" (emphasis added)

The city attorney argues that the payment of monies by city councilmen or the city to the Miller Committee should not be treated as "contributions" as defined above.

The city attorney states that the legal definition of contribution impliedly requires the presence of intent by the donor that the purpose of the payment be devoted to influencing the outcome of a federal election. In support of this interpretation, the city attorney cites to Federal Election Commission v. California Medical Association, 502 F. Supp. 196

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(1980); U.S. v. National Committee for Impeachment, 469 F. 2d 1139 (1972) and U.S. v. Hankin, 607 F. 2d. 611 (1979).

The city attorney maintains that the councilmen and city manager did not understand the birthday event to be a campaign fundraiser, but rather, a social event affording the opportunity for local politicians to meet with their legislator. According to the city attorney's response, the event was not expressly advertised as a campaign fundraiser to raise funds to influence congressional elections. While the city attorney does not cite to any statutory or regulatory authority, it is the position of his clients that the Miller Committee bears a responsibility to clearly make known to the public that it is treating the birthday party as a campaign event and that the funds which it solicits will be used directly to influence the candidates election to office.

A second line of defense raised by the city attorney is that 2 U.S.C. § 441f requires that persons have knowledge that their names are to be used to effect a campaign contribution in the name of another person. The city attorney maintains that the § 441f prohibition was not violated by the councilmen in that they did not have knowledge that their names were to be used to effect a campaign contribution in the name of another person. The city attorney asserts that the public associated the Miller Committee with the single purpose of a birthday event -- not an election. According to the city attorney, the annual birthday

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tradition is conducted without regard to pending federal elections. The city attorney further states that the birthday party has been an annual affair extending back over several years. According to the response, it has been a customary practice for city councilmen to attend those birthday dinners. Their attendance at such parties is viewed by the city as part of the councilmen's normal city duties in representing the interests of the City of Pittsburg.

It is the view of this Office that the defense of the City of Pittsburg and the councilmen is not substantiated by the facts in this matter. First, the invitations themselves stated that the birthday event was a function of the Miller Committee and that corporate and labor union contributions were prohibited. Second, the facts make clear that on July 15, 1982, the city was made aware that the Miller Committee was treating the birthday party as a campaign event. On this date the Committee refunded the city $304 and put the city on notice that the Committee was treating the funds as contributions. The notice further advised that contributions from corporations are prohibited by Federal Election Commission regulations.

While the city attorney admits that the Miller Committee's notice of July 15, 1983, was received, he argues that no one, other than the city manager's secretary, had knowledge of the content of this letter. However, at the very least the city councilmen knew that the Miller Committee would not accept payment from the city. They were also asked to draw checks on their personal accounts and were told that they would later be

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reimbursed by the city. Just because the councilmen may not have seen the Miller Committee's letter does not exculpate them from their actions.

The claim that neither the city nor its councilmen understood the birthday party to be a fundraising event for Congressman Miller's campaign is untenable. All checks issued by the city and the councilmen were made payable to Friends of Congressman George Miller, the candidate's principal campaign committee. The councilmen, with close political ties, surely had notice that Congressman Miller was running for re-election and their issuance of checks to Congressman Miller's principal campaign committee should have clued them to the fact that they were making contributions or at least should have raised questions concerning the use to which their monies would be put. Such knowledge combined with the knowledge that they would receive reimbursement from the city establishes a violation of 2 U.S.C. § 441f.

In conclusion, the facts indicate that the annual birthday party was a campaign fundraising event. The invitations or response cards stated the birthday party was a function of the Miller Committee and that corporate contributions were impermissible. The City of Pittsburg gave a corporate contribution to the Miller Committee. The Miller Committee returned the corporate contribution to the City of Pittsburg. Whereupon, the city councilmen submitted their personal checks to

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the Miller Committee and then were reimbursed by the City of Pittsburg. Therefore, the Office of General Counsel recommends finding probable cause to believe that the City of Pittsburg violated 2 U.S.C. § 441b(a) for making a corporate contribution and violated 2 U.S.C. § 441f for making a contribution in the name of another and that the city councilmen violated 2 U.S.C. § 441f for permitting their names to be used to effect such a contribution.

III. GENERAL COUNSEL'S RECOMMENDATIONS:

1. Find probable cause to believe that City Councilman Ralph Downing violated 2 U.S.C. § 441f by knowingly permitting his name to be used by the City of Pittsburg in making a contribution to the Friends of Congressman George Miller.

6 August 1984
Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 6, 1984

John R. Shaw, Esquire
Office of City Attorney
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, California 94565

RE: MUR 1609
Councilman Ralph Downing

Dear Mr. Shaw:

Based on a complaint filed with the Commission on October 7, 1983, and information supplied by your client the Commission determined on April 10, 1984, that there was reason to believe that your client had violated 2 U.S.C. § 441f, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") 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 if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request to the Commission for an extension of time in which to file a brief. The Commission will not grant any extensions beyond 20 days.

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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.

Should you have any questions, please contact Martha Romney, the staff member assigned to handle this matter, at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
City Councilman Ronald P. Rives) MUR 1609

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On December 5, 1983, Mr. Rudy G. Rodriguez of the Mexican-American Political Association filed a complaint with the Commission alleging that the City of Pittsburg, California made contributions to the Friends of Congressman George Miller (the "Miller Committee"), using city funds, in the names of other individuals and that certain members of the city council permitted their names to be used to make such contributions in violation of 2 U.S.C. § 441f. The complaint also asserts that the City of Pittsburg, California, a municipal corporation, made corporate contributions to the Miller Committee in violation of 2 U.S.C. § 441b(a), and that the Friends of Congressman George Miller and its treasurer violated 2 U.S.C. § 441f by accepting contributions made by the City of Pittsburg, California in the names of others.1/

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1/ While not specifically alleged in the complaint, the Committee's acceptance of contributions from the City of Pittsburg raises the additional issue of whether the Committee violated 2 U.S.C. § 441b(a).

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By letter of December 9, 1983, the Office of General Counsel notified the respondents of the complaint filed against them. On January 30, 1984, City Attorney John R. Shaw responded on behalf of the City of Pittsburg, California, and Pittsburg City Council Members Downing, Quesada, Rives, Siino, Detorres.

On April 10, 1984, the Commission found reason to believe that the City of Pittsburg, California violated 2 U.S.C. § 441b(a) and 2 U.S.C. § 441f, that Councilmen Joseph S. Siino, Joseph Detorres, Ralph Downing, Frank R. Quesada and Ronald P. Rives violated 2 U.S.C. § 441f. Interrogatories and requests for documents were forwarded to the respondents.

On June 1, 1984, the Commission received a response from the city attorney of Pittsburg, California responding on behalf of the City of Pittsburg and the city councilmen. In addition, copies of the checks issued by the City of Pittsburg during 1982 to Congressman George Miller and checks signed by the City of Pittsburg to Councilmen Siino, Detorres, Downing, Quesada and Rives were submitted. In the letter the city attorney indicated that the City of Pittsburg desired to follow the formal conciliation procedure. In a follow-up conversation with the city attorney on June 14, 1984, he indicated that in his letter of June 14, he was not requesting to enter into pre-probable cause conciliation.

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II. LEGAL AND FACTUAL ANALYSIS

1. The facts

Based on information ascertained by the Commission in its investigation, the facts, briefly summarized, are as follows.

The Friends of Congressman George Miller was the principal campaign committee for Congressman George Miller's campaign for re-election to the House of Representatives in 1982. The Miller Committee remains in existence having been redesignated as the principal campaign committee for Congressman Miller's campaign for re-election to the House of Representatives in 1984. Alison Cartwright Brown serves as treasurer of the Committee.

In the Spring of 1982, the Miller Committee publicized a birthday celebration event for Congressman George Miller's 37th birthday to be held on May 7, 1982. The celebration consisted of a formal dinner held at the Sheraton Airport Inn in the City of Concord, Contra Costa County, California.

Five city councilmen requested the city manager's secretary to make reservations for their attendance at the birthday celebration event. The secretary executed a payment demand signed by the city manager which was sent to the city's finance department. The finance department issued checks which were mailed to the Miller Committee shortly before May 7, 1982. The checks were to cover the cost of tickets to the event. The cost of each ticket was $38.

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The Miller Committee received two checks from the city, one for $266 and one for $38, which were deposited on May 19, 1982. The Committee reported the funds as contributions received from the City of Pittsburg.

On July 14, 1982, the Clerk of the House notified the Miller Committee that the City of Pittsburg was a corporation. On July 15, 1982, the Miller Committee refunded $304 to the City of Pittsburg. In a form letter accompanying the refund the Miller Committee explained that it was returning the contribution because it appeared to be from a corporation. The letter further stated that due to Federal Election Commission regulations, it was unable to accept contributions from corporations. A handwritten addition to the form letter noted that "cities are considered corporations under FEC law." In addition, the letter advised the City of Pittsburg that if the Miller Committee's assumption was incorrect, and the contribution was legal, the city should return the contribution with a signed letter to that effect. Otherwise, the form letter went on to state, the city should replace the city check with a personal check or a political action committee check.

On receipt of the above-referenced letter, the city manager's secretary phoned each of the councilmen to explain that the city check had been returned and to request that they make out personal checks to the Miller Committee. Each councilman was told he would be reimbursed for the expense. Individual checks were made out and each councilman was subsequently reimbursed by the City of Pittsburg. In its 12 Day Pre-Primary Election Report

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for the period October 1 through October 13, 1982, the Miller Committee lists a $76 contribution received from Joseph and Alamay Siino, a $38 contribution from Joseph and Terri Detorres, a $76 contribution from Ralph and Beulah Downing, a $38 contribution from Frank and Eleanor Quesada, and a $76 contribution from Ronald P. Rives.

2. **The law applicable**

There are two Federal Election law prohibitions which have general application to the above stated facts, 2 U.S.C. § 441b(a) and § 441f.

Section 441b(a) of Title 2, United States Code prohibits a corporation from making contributions or expenditures in connection with any election to federal office.2/ Furthermore, § 441b(a) prohibits any political committee from knowingly accepting such contributions.

Pursuant to 2 U.S.C. § 441b(b)(2), the term "contribution or expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit or gift of money, or any services or anything of value to any candidate, campaign committee or political party or organization in connection with any election to federal office.

2/ In Advisory Opinions 1977-32 and 1982-26 the Commission concluded that a municipal corporation is a "corporation" for purposes of the limitations and prohibitions of the Act. See 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶5277 and ¶5672.

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2 U.S.C. § 441f prohibits a person from making a contribution in the name of another person or knowingly permitting his name to be used to effect such a contribution. Furthermore § 441f prohibits a person from knowingly accepting a contribution made by one person in the name of another person.

Pursuant to 2 U.S.C. § 431(11) the term "person" includes an individual, partnership, committee, association, corporation, labor organization or any other organization or group of persons.

3. **Application of the law to the facts.**

The city attorney for the City of Pittsburg responded on behalf of the City of Pittsburg and the city councilmen by raising as a threshold defense the definition of "contribution" as set forth in 2 U.S.C. § 431(8)(A). This section provides that:

> "The term 'contribution' includes- [i] any gift, subscription, loan advance or deposit of money or anything of value made by any person <u>for the purpose of influencing any election for federal office</u>;" (emphasis added)

The city attorney argues that the payment of monies by city councilmen or the city to the Miller Committee should not be treated as "contributions" as defined above.

The city attorney states that the legal definition of contribution impliedly requires the presence of intent by the donor that the purpose of the payment be devoted to influencing the outcome of a federal election. In support of this interpretation, the city attorney cites to <u>Federal Election Commission v. California Medical Association</u>, 502 F. Supp. 196

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(1980); U.S. v. National Committee for Impeachment, 469 F. 2d 1139 (1972) and U.S. v. Hankin, 607 F. 2d. 611 (1979).

The city attorney maintains that the councilmen and city manager did not understand the birthday event to be a campaign fundraiser, but rather, a social event affording the opportunity for local politicians to meet with their legislator. According to the city attorney's response, the event was not expressly advertised as a campaign fundraiser to raise funds to influence congressional elections. While the city attorney does not cite to any statutory or regulatory authority, it is the position of his clients that the Miller Committee bears a responsibility to clearly make known to the public that it is treating the birthday party as a campaign event and that the funds which it solicits will be used directly to influence the candidates election to office.

A second line of defense raised by the city attorney is that 2 U.S.C. § 441f requires that persons have knowledge that their names are to be used to effect a campaign contribution in the name of another person. The city attorney maintains that the § 441f prohibition was not violated by the councilmen in that they did not have knowledge that their names were to be used to effect a campaign contribution in the name of another person. The city attorney asserts that the public associated the Miller Committee with the single purpose of a birthday event -- not an election. According to the city attorney, the annual birthday

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tradition is conducted without regard to pending federal elections. The city attorney further states that the birthday party has been an annual affair extending back over several years. According to the response, it has been a customary practice for city councilmen to attend those birthday dinners. Their attendance at such parties is viewed by the city as part of the councilmen's normal city duties in representing the interests of the City of Pittsburg.

It is the view of this Office that the defense of the City of Pittsburg and the councilmen is not substantiated by the facts in this matter. First, the invitations themselves stated that the birthday event was a function of the Miller Committee and that corporate and labor union contributions were prohibited. Second, the facts make clear that on July 15, 1982, the city was made aware that the Miller Committee was treating the birthday party as a campaign event. On this date the Committee refunded the city $304 and put the city on notice that the Committee was treating the funds as contributions. The notice further advised that contributions from corporations are prohibited by Federal Election Commission regulations.

While the city attorney admits that the Miller Committee's notice of July 15, 1983, was received, he argues that no one, other than the city manager's secretary, had knowledge of the content of this letter. However, at the very least the city councilmen knew that the Miller Committee would not accept payment from the city. They were also asked to draw checks on

reimbursed by the city. Just because the councilmen may not have seen the Miller Committee's letter does not exculpate them from their actions.

The claim that neither the city nor its councilmen understood the birthday party to be a fundraising event for Congressman Miller's campaign is untenable. All checks issued by the city and the councilmen were made payable to Friends of Congressman George Miller, the candidate's principal campaign committee. The councilmen, with close political ties, surely had notice that Congressman Miller was running for re-election and their issuance of checks to Congressman Miller's principal campaign committee should have clued them to the fact that they were making contributions or at least should have raised questions concerning the use to which their monies would be put. Such knowledge combined with the knowledge that they would receive reimbursement from the city establishes a violation of 2 U.S.C. § 441f.

In conclusion, the facts indicate that the annual birthday party was a campaign fundraising event. The invitations or response cards stated the birthday party was a function of the Miller Committee and that corporate contributions were impermissible. The City of Pittsburg gave a corporate contribution to the Miller Committee. The Miller Committee returned the corporate contribution to the City of Pittsburg. Whereupon, the city councilmen submitted their personal checks to

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the Miller Committee and then were reimbursed by the City of Pittsburg. Therefore, the Office of General Counsel recommends finding probable cause to believe that the City of Pittsburg violated 2 U.S.C. § 441b(a) for making a corporate contribution and violated 2 U.S.C. § 441f for making a contribution in the name of another and that the city councilmen violated 2 U.S.C. § 441f for permitting their names to be used to effect such a contribution.

III. GENERAL COUNSEL'S RECOMMENDATIONS:

1. Find probable cause to believe that City Councilman Ronald P. Rives violated 2 U.S.C. § 441f by knowingly permitting his name to be used by the City of Pittsburg in making a contribution to the Friends of Congressman George Miller.

6 August 1984
Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 6, 1984

John R. Shaw, Esquire
Office of City Attorney
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, California 94565

RE: MUR 1609
Councilman Ronald R. Rives

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Dear Mr. Shaw:

Based on a complaint filed with the Commission on October 7, 1983, and information supplied by your client the Commission determined on April 10, 1984, that there was reason to believe that your client had violated 2 U.S.C. § 441f, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") 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 if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request to the Commission for an extension of time in which to file a brief. The Commission will not grant any extensions beyond 20 days.

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.

Should you have any questions, please contact Martha Romney, the staff member assigned to handle this matter, at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Brief

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RECEIVED AT THE FEC
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OFFICE OF
THE CITY ATTORNEY
City of Pittsburg
JOHN R. SHAW
CITY ATTORNEY
P.O. BOX 518
[illegible] RAILROAD AVENUE
PITTSBURG, CALIFORNIA 94565
(415) 439-4890

May 25, 1984

Charles N. Steele
General Counsel
Federal Elections Commission
1325 K Street NW
Washington, D. C. 20463

Re: Case No. MUR 1609

Dear Mr. Steele:

In response to the Federal Elections Commission's letter, of April 13, 1984, addressed to the City of Pittsburg, I am enclosing additional information as requested.

More specifically, enclosed are copies of checks (front and back) of all checks issued by the City of Pittsburg during 1982 to Congressman George Miller and, in addition, checks (front and back) issued by the City of Pittsburg to Councilmen Siino, DeTorres, Downing, Quesada and Rives.

Our Finance Department has advised there is no additional independent memoranda of telephone conversations, etc., as requested in your item 3.

This is to further advise that the City of Pittsburg desires to follow the formal conciliation procedure as explained to us by Beverly Kraemer of your office.

Your cooperation is most appreciated.

Very truly yours,

John Shaw

John R. Shaw

JRS/dk

enclosures

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CITY OF PITTSBURG

65 CIVIC AVENUE
PITTSBURG, CALIFORNIA 94565

90-553
1211

No. 24154

CITY OF PITTSBURG 266dol's00cts

DATE	CHECK NO.	AMOUNT
May 6, 1982		$266.00

PAY TO THE ORDER OF Friends of George Miller

CITY OF PITTSBURG

Marie Cole

PITTSBURG OFFICE
WELLS FARGO BANK
PITTSBURG, CALIFORNIA

⑈024154⑈ ⑆1261055319365 57504⑈ 00000266⁰⁰⑈

MARKET-MONTGOMERY
SAN FRANCISCO, CALIF.
11-24/07B 11-24/07B
PEG PAY ANY BANK PEG
WELLS FARGO BANK N.A.

MAY 19 82

335 FOR DEPOSIT ONLY
PAY TO THE ORDER OF
WELLS FARGO BANK, N.A.

1144 0335 299171 1961

CITY OF PITTSBURG

65 CIVIC AVENUE
PITTSBURG, CALIFORNIA 94565

90-553
1211

No. 24156

CITY OF PITTSBURG
38dol's00cts

PAY
TO THE Friends of George Miller
ORDER
OF

CHECK NO.	AMOUNT
May 7, 1982	$38.00

CITY OF PITTSBURG

PITTSBURG OFFICE
WELLS FARGO BANK
PITTSBURG, CALIFORNIA

"024156" :1211055319365 57504 3" "0000003800"

11-24/075 11-24/075
MARIE K. MONTGOMERY
SAN FRANCISCO, CALIF
MAY 4 5 82
11-24/075 11-24/075
PEG PREV ANY BANK PEG
WELLS FARGO BANK, N.A.

MAY 1982

MY '82 19

CITY OF PITTSBURG
65 CIVIC AVENUE
PITTSBURG, CALIFORNIA 94565

90-553
1211

No. 26202

CITY OF PITTSBURG 76dol's00cts

DATE	CHECK NO.	AMOUNT
August 18, 1982		$76.00

PAY TO THE ORDER OF Joseph Siino

CITY OF PITTSBURG

Mary . Ebe

PITTSBURG OFFICE
WELLS FARGO BANK
PITTSBURG, CALIFORNIA

⑈026202⑈ ⑆1211⑆0553⑆9365 575043⑈ ⑈00007600⑈

RCO BANK, N.A.
11-24

PROCESSED
WELLS FARGO BANK
SAN FRANCISCO, CA.
PAY ANY BANK

Joseph Siino

CITY OF PITTSBURG

65 CIVIC AVENUE
PITTSBURG, CALIFORNIA 94565

No. 26203

90-553
1211

-CITY OF- 38dol's00cts
PITTSBURG

PAY
TO THE
ORDER
OF Frank Quesada

DATE	CHECK NO.	AMOUNT
August 18, 1982		$38.00

CITY OF PITTSBURG

Mary [illegible]

PITTSBURG OFFICE
WELLS FARGO BANK
PITTSBURG, CALIFORNIA

⑈026203⑈ ⑆1261⑈0553⑆9315 57504⑈ 00003800⑈

PAY TO THE ORDER OF
DELTA PACIFIC BANK
PITTSBURG, CA
FOR DEPOSIT ONLY
CHIQO'S MEXICAN RESTAURANT
01-600700

SE '87 07
PAY ANY BANK, P.E.O.
BANK of AMERICA, NT & SA
SAN FRANCISCO, CA.

PROCESSED
WELLS FARGO BANK
SAN FRANCISCO, CA.
PAY ANY BANK

CITY OF PITTSBURG

65 CIVIC AVENUE
PITTSBURG, CALIFORNIA 94565

90-553
1211

No. 26087

~CITY OF~ 76dol's00cts
PITTSBURG

DATE	CHECK NO.	AMOUNT
August 6, 1982	26087	$76.00

PAY
TO THE
ORDER
OF Ralph Downing

CITY OF PITTSBURG

Mary . Chen

PITTSBURG OFFICE
WELLS FARGO BANK
PITTSBURG, CALIFORNIA

⑈026087⑈ ⑆121105539⑆ 57504 3⑈ ⑈0000007600⑈

8 5 0 4 0 5 2 4 6 7 0

CITY OF PITTSBURG
65 CIVIC AVENUE
PITTSBURG, CALIFORNIA 94565

90-553
1211

No. 26086

CITY OF PITTSBURG 76dol's00cts

DATE	CHECK NO.	AMOUNT
August 6, 1982	26086	$76.00

PAY TO THE ORDER OF Ronald Rives

CITY OF PITTSBURG

Mary Ellen

PITTSBURG OFFICE
WELLS FARGO BANK
PITTSBURG, CALIFORNIA

⑈026086⑈ ⑆121105531⑆ 9365 57504 3⑈

⑆000007600⑆

CREDITED TO THE ACCOUNT OF WITHIN NAMED PAYEE
01 07419
BETTA PACIFIC BANK

AG '82' 10
PAY ANY BANK, P.E.G.
BANK of AMERICA, NT & SA
SAN FRANCISCO, CA.

AG 11
PROCESSED
WELLS FARGO BANK
SAN FRANCISCO, CA.
PAY ANY BANK

AUG 11 '82

P.E.G.

OFFICE OF
THE CITY ATTORNEY
City of Pittsburg
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, CA 94565

MAY 1 AM 3

Charles N. Steele
General Counsel
Federal Elections Commission
1325 K Street NW
Washington, D. C. [redacted]

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES N. STEELE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/SUSAN M. TEIR SMT

DATE: MAY 25, 1984

SUBJECT: MUR 1609 - COMPREHENSIVE INVESTIGATIVE REPORT #1 signed May 23, 1984

The above-named document was circulated to the Commission on a 24 hour no-objection basis at 11:00 on May 24, 1984.

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

8504052467 3

BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

In the Matter of)
)
City of Pittsburg, California) MUR 1609
City Councilman Joseph Siino)
City Councilman Joseph Detorres)
City Councilman Ralph Downing)
City Councilman Frank R. Quesada)
City Councilman Ronald P. Rives)
Friends of Congressman George Miller)
Alison Cartwright Brown, Treasurer)

84 MAY 23 P 3: 59

SENSITIVE

COMPREHENSIVE INVESTIGATIVE REPORT # 1

This matter arose based on a complaint filed by Mr. Rudy G. Rodriquez of the Mexican-American Political Association. On the basis of information in the complaint and information provided by the respondents, the Commission, on April 10, 1984, found reason to believe that the City of Pittsburg, California made contributions to a federal candidate, using city funds, in the names of other individuals and that certain members of the city council permitted their names to be used to make such contributions in violation of 2 U.S.C. § 441f. In addition, the Commission found reason to believe that the City of Pittsburg, California, a municipal corporation, made corporate contributions to a federal candidate in violation of 2 U.S.C. § 441b(a), and that the Friends of Congressman George Miller and its treasurer, Ms. Alison Cartwright Brown, violated 2 U.S.C. § 441b(a) by accepting corporate contributions from the City of Pittsburg, California. Notifications of the Commission's determination were sent to respondents on April 13, 1984. Appended to the notifications were requests for documents and interrogatories.

8504067

The notices requested that the respondents reply to the interrogatories and requests for documents within 10 days.

By letter of April 19, 1984, City Attorney John R. Shaw requested an extension of 30 days, or until May 26, 1984, in which to respond to the Commission's notification. In addition, Mr. Shaw expressed an interest in entering into a conciliation agreement prior to a finding of probable cause to believe. See Attachment 1. The Office of General Counsel granted an extension of 30 days but requested that the respondents return a response as soon as possible concerning whether they wish to enter into pre-probable cause conciliation. See Attachment 2.

On April 30, 1984, the Office of General Counsel received a partial response from Ms. Alison Cartwright Brown. Ms. Brown's response provided all of the information and documentation requested by the Commission with the exception of one bank document, which she indicated would be forwarded as soon as possible.

Once all of the responses have been received and reviewed, the Office of General Counsel will make a further report to the Commission with recommendations.

Charles N. Steele
General Counsel

May 17, 1984
Date

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

Attachments
1. April 19, 1984 letter from Mr. John R. Shaw.
2. May 1, 1981 letter to Mr. John R. Shaw.

8504052467 6

GCC#3195

May 15, 1984

MUR 1609
Kramer

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

84 MAY 18 P1:11

RE: MUR 1609

Dear Ms. Elliott:

Enclosed please find the copy of the check you requested in which our committee refunded a contribution from the City of Pittsburg. This will complete the list of documents requested on your letter dated April 13, 1984.

If you have any questions, please contact me.

Sincerely,

Alison Cartwright Brown
Friends of Congressman
George Miller

(415)233-6900

8504052467 7

FRIENDS OF CONGRESSMAN GEORGE MILLER 1129

7/15 82

PAY TO THE ORDER OF City of Pittsburg $ 304-

three hundred four ——— 00/100

Wells Fargo Bank

re: return of contribution Check Correct

Wells Fargo Bank

PITTSBURG OFFICE

PAY TO

lison C. Brown
45 Park Place
ichmond, CA 94801

8504052452

84 MAY 18

Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463
ATTN: Beverly Kramer or
Lee Ann Elliott

OFFICE OF
THE CITY ATTORNEY
City of Pittsburg
JOHN R. SHAW
CITY ATTORNEY

April 30, 1984

RECEIVED AT THE FEC
3038

1518
2020 RAILROAD AVENUE
(415) 439-4890

MUR 1609
Kramer

'84 MAY -4 A10:14

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

Attention: Beverly Kramer

Re: MUR 1609/Grant of Extension

Dear Beverly:

This letter is to confirm the grant of extension of thirty days, or until May 26, 1984, to produce additional information as requested by the commission in its letter of April 13, 1984.

The City will also, within that period of time, or sooner if possible, indicate its decision as to which conciliation approach it wishes to follow.

Your cooperation is most appreciated.

Very truly yours,

John Shaw

JOHN R. SHAW

JRS/dk

cc: City Manager

8504052468O

OFFICE OF
HE CITY ATTORNEY
City of Pittsburg
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, CA 94565

94 MAY 4 A 07

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

Attention: Beverly Kramer

FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

May 1, 1984

John R. Shaw
City Attorney
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, California 94565

Re: MUR 1609
City of Pittsburg, California
Councilman Joseph Siino
Councilman Joseph Detorres
Councilman Ralph Downing
Councilman Frank R. Quesada
Councilman Ronald P. Rives

Dear Mr. Shaw:

This is in reference to your letter of April 19, 1984, requesting an extension of 30 days to respond to the Commission's notice of reason to believe findings in the above-captioned matter. After considering the circumstances presented in your letter, the Office of General Counsel has determined to grant you your requested extension. Accordingly, your response will be due on May 26, 1984.

Regarding the other matter you raised concerning the possibility of entering into conciliation prior to a finding of probable cause to believe, it is our understanding, based on your conversation with Beverly Kramer of this office on April 25, 1984, that you will need additional time to consult with your clients before returning a response as to whether they wish to request that the Commission enter into negotiations directed towards reaching a conciliation agreement prior to a finding of probable cause to believe. On this matter, we would appreciate receiving your response as soon as possible.

8504052463 2

If you have any questions, please contact Beverly Kramer, the staff member assigned to this matter at (202)523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

8504052468 3

Occ#3014

MUR 1609
Kramer

RECE
OFFICE
COMMISSION

84 APR 30 P 3:59

April 26, 1984

Lee Ann Elliott
Federal Election Commission
Washington, D.C. 20463

RE: Friends of Congressman
George Miller
MUR 1609

Dear Ms. Elliott:

This letter is our response to your letter dated April 13, 1984 which we received on April 19, 1984, in which you requested additional information regarding a contribution from the City of Pittsburg.

We received and deposited into our Wells Fargo Bank, Richmond Main Branch account, two checks from the City of Pittsburg not knowing at the time that cities are considered corporations. I received a call from the Clerk of the House on July 14, 1982, notifying me that our 1982 12 Day Pre-Primary report showed these contributions and that cities are considered corporations. On July 15, 1982 I refunded the contributions in full.

We have requested a copy of the refund check from the bank and have been informed that it should be available on Friday, April 27th. I requested an extension for the initial 10-day response to your letter by telephone from Ms. Beverly Kramer. I have enclosed a copy of the bank statement showing the refund check and will forward the copy of the check as soon as I receive it.

Also enclosed is a copy of the standard screening procedures which our committee uses and were in effect at the time of the City of Pittsburg contribution. We did not knowingly accept an illegal contribution and it was refunded as soon as we became aware that it was prohibited. All contributions are normally screened.

Additional documents requested and enclosed are as follows:

- o copies of invitations to birthday dinners for 1979, 1980, 1981 and 1982
- o copy of the letter from the City of Pittsburg which accompanied the replacement for the returned contribitions

I hope this information will be sufficient for you to conclude this matter. If you need further information, please notify me as soon as possible. Thank you.

Sincerely,

Alison Cartwright Brown

Alison Cartwright Brown
145 Park Place
Richmond, CA 94801

8504052463 1

0335-293171

Wells Fargo Bank
NATIONAL ASSOCIATION

H

RICHMOND OFFICE
PO BOX 1392 RICHMOND CA
94802

0335 W Z PG 1 ITEMS 15

Prepared for: FRIENDS OF CONGRESSMAN MILLER

If you have any questions, please call:
415 236-5030

Statement period:
7/12/82 THROUGH 8/ 6/82

YOUR ACCOUNT SUMMARY

ACCOUNT TYPE AND NUMBER	BEGINNING BALANCE	DEPOSITS/CREDITS	CHECKS/DEBITS		ENDING BALANCE
CHECKING 0335-293171	22325.86	2069.00	1520.23		22874.63

YOUR ACCOUNT ACTIVITY

---CHECKING---

-CHECKS/DEBITS

	DATE	AMOUNT		DATE	AMOUNT
1078	8/ 5	18.50	1123	7/16	121.00
1102*	7/28	20.00	1124	7/19	25.00
1107*	7/13	50.00	1125	7/20	15.00
1119*	7/20	51.75	1126	7/21	20.00
1120	7/15	22.50	1127	7/14	187.42
1121	7/13	556.00	1128	7/28	17.34
1122	7/28	82.68	1129	7/21	304.00
			1130	7/27	29.04

-DEPOSITS/CREDITS

CUSTOMER DEPOSIT	7/19	292.00
CUSTOMER DEPOSIT	7/21	1777.00

BALANCE

DATE	BEGINNING BALANCE
7/12	22325.86
7/13	21719.86
7/14	21532.44
7/15	21509.94
7/16	21388.94
7/19	21655.94
7/20	21589.19
7/21	23042.19
7/27	23013.15
7/28	22893.13
8/ 5	22874.63
	ENDING BALANCE
8/ 6	22874.63

Please report any errors or omissions regarding checks charged to your account within fourteen days, your failure to do so may result in you being liable for forged checks drawn against your account. If you have any questions about Express Stop, Direct Deposit,

FRIENDS OF CONGRESSMAN
GEORGE MILLER

PROCEDURES

I. CASH RECEIPTS

A. All persons receiving check must:

1. Inspect for legality
   a. corporations, unions, national banks, government contractors are illegal
   b. consult treasurer or return if in doubt
   c. excessive amount-see appendix B of Campaign Guide on contribution limits
2. For checks $200.00 and over, be sure to obtain the residence, business address and occupation
3. Sort by:
   a. individuals
   b. political committees (this includes PAC's and political party committees, as well as campaign committees)
   c. other, (e.g. business accounts). For these contributions either:
      1. obtain a signed statement as to legality, or
      2. return with the appropriate form letter
4. Alphabetize checks by category
5. Make two copies of checks - one set for the treasurer and one set for the computer service
6. Forward both copies to the treasurer within three days of receipt.

B. Notify treasurer immediately of any contributions-in-kind.

C. Do not accept cash from any single contributor in excess of $99.00. Do not mail cash to the treasurer. Cash must be hand delivered.

D. Treasurer will be responsible for all compliance. Consult Campaign Guide for further information and guidelines.

8504052486

X Yes, I wish to attend the Birthday Dinner
for CONGRESSMAN GEORGE MILLER
Saturday, May 9, 1981

Name Paul Ikins Residence Phone _____
please print

Address 1135 Lisbon Ave City Concord Zip 94518

Business Name Pacific Lighting Service Co Business Phone 687-7021

Address and occupation Attorney
(check box if self-employed)

_____
(if a committee, I.D.)

Above information required by Federal law.

☐ Please reserve 1 table(s) at $370.00
There will be 10 person(s) in my party. (tables of ten)

☐ Please reserve _____ ticket(s) at $37.00 each.

☐ Sorry, I cannot attend but enclosed is my contribution of $_____

Please make checks payable to: Friends of George Miller Committee
P.O. Box 5864
Concord, CA 94524
(415) 229-2558

SEE REVERSE SIDE OF THIS CARD FOR IMPORTANT INFORMATION

C 85040052468 87

1982

TO: Friends of George Miller
P.O. Box 5864
Concord, CA 94524

Please reserve _____ birthday dinner tickets at $38.00 per person

Please reserve _____ table(s) at $380.00 per table (10 guests per table)

I'm sorry, I'm unable to attend, but enclosed is a contribution of $ 500

Name Mr. + Mrs. Jean Zwickl
please print

Address 3150 Scott Ave

City & State Pittsburg Ca Zip Code 94565

Please make checks payable to Friends of George Miller.

Federal law requires us to request the following information.

Occupation: retired

Principal place of business _____
(This check is a personal contribution even though it may be drawn on a business, partnership or other type of account.)

Signature Jean Zwickl

Paid for and authorized by Friends of George Miller. Federal law prohibits corporate or union treasury contributions. A copy of our report is filed with and is available for purchase from the Federal Election Commission, Washington, D.C. Alison Cartwright Brown, Treasurer

I expect that the following persons will be my dinner guests:
(Please Print)

1. _____ 6. _____
2. _____ 7. _____
3. _____ 8. _____
4. _____ 9. _____
5. _____ 10. _____

1981

In order to comply with federal election laws, the Friends of George Miller Committee will be unable to accept corporate or labor treasury contributions.

This communication not intended for any Federal Employee.

Paid for by Friends of George Miller Committee
Alison Cartwright, Treasurer

A copy of our report is filed with the Federal Election Commission and is available for purchase from the Federal Election Commission, Washington, D.C.

8504052463

TO: Friends of George Miller
P.O. Box 5864
Concord, CA 94524

Please reserve _____ birthday dinner tickets at $38.00 per person

Please reserve _____ table(s) at $380.00 per table (10 guests per table)

I'm sorry, I'm unable to attend, but enclosed is a contribution of $ 50.00

Name Mr. + Mrs. Jean Zwicki
(please print)

Address 365 Vella Ave

City & State Pittsburg CA Zip Code 94565

Please make checks payable to Friends of George Miller.

Federal law requires us to request the following information.

Occupation: retired

Principal place of business _____
(This check is a personal contribution even though it may be drawn on a business, partnership or other type of account)

Signature Jean Zwicki

Paid for and authorized by Friends of George Miller. Federal law prohibits corporate or union treasury contributions. A copy of our report is filed with and is available for purchase from the Federal Election Commission, Washington, D.C. Alison Cartwright Brown, Treasurer.

☐ Yes, I wish to attend the Birthday Dinner for CONGRESSMAN GEORGE MILLER Saturday, May 12, 1979

lace
5¢
amp
ere

Name _____ Residence Phone _____
please print

Address _____ City _____ Zip _____

Business Name _____ Business Phone _____

Address and occupation _____ ☐
(check box if self employed)

_____
(if a committee, I.D.)

Above information required by Federal law.

☐ Please reserve _____ tables at $350.00 (tables of ten)

☐ Please reserve _____ tickets at $35.00 each

☐ Sorry, I cannot attend but enclosed is my contribution of $ _____

Please make checks payable to George Miller Dinner Committee
346 38th Street, Richmond, Calif. 94805
(415) 232-7100

SEE REVERSE SIDE OF THIS CARD FOR IMPORTANT INFORMATION

8504052246807

1980

Name _____ Res. Phone _____

Address _____ City/Zip _____

Business Name _____ Bus. Phone _____

Address & Occupation _____
(Check box if self-employed) ☐

_____
(if a committee, I.D. #

☐ Please reserve _____ tables at $360, (tables of ten). There will be _____ persons in my party. See reverse side.

☐ Yes, I will attend, please reserve _____ tickets at $36 each.

☐ Sorry, I cannot attend but enclosed is my contribution for $_____

Please make checks payable to: **Friends of George Miller**
Alison Cartwright, Treasurer, 145 Park Place
Pt. Richmond, CA 94806
229-2558

You can deduct your donation from your Federal income tax in either of two ways:

1. Itemize a deduction from gross income not to exceed $100 for an individual or $200 for married couples filing a joint return;
2. Subtract one-half of the contribution from your actual tax owed to a maximum of $25 for an individual $50 for married couples filing a joint return.

1979

In order to comply with federal election laws, the Dinner Committee will be unable to accept corporate or labor treasury contributions.

This communication not intended for any Federal Employee

Paid for by George Miller Dinner Committee
Alison Cartwright, Treasurer

A copy of our report is filed with the Federal Election Commission and is available for purchase from the Federal Election Commission, Washington, D.C.

3504052469 0

I expect that the following persons will be my dinner guests:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

1980

★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★

In order to comply with Federal Election laws, Friends of George Miller cannot accept corporate contributions.

★ ★ ★ ★

This communication not intended for any Federal Employee.

Paid for by Friends of George Miller, Alison Cartwright, Treasurer

CITY OF PITTSBURG, CA
CIVIC CENTER • P.O. BOX 1518 • PITTSBURG, CALIFORNIA 94565

September 3, 1982

Alison Brown , Treasurer, Friends of Congressman George Miller
Arthur Young and Company
One Post Street, Suite 2900
San Francisco, Ca 94104

Dear Ms. Brown:

With regard to your letter dated July 15, 1982, enclosed are five checks to replace the City of Pittsburg check previously issued (returned by you) for dinners for the party given Mr. Miller. There were two checks issued by the City of Pittsburg, one in the amount of $266.00 and another one in the amount of $38.00 making a total of $304.00.

The checks enclosed total $304.00 - this is to reimburse for the City checks returned:

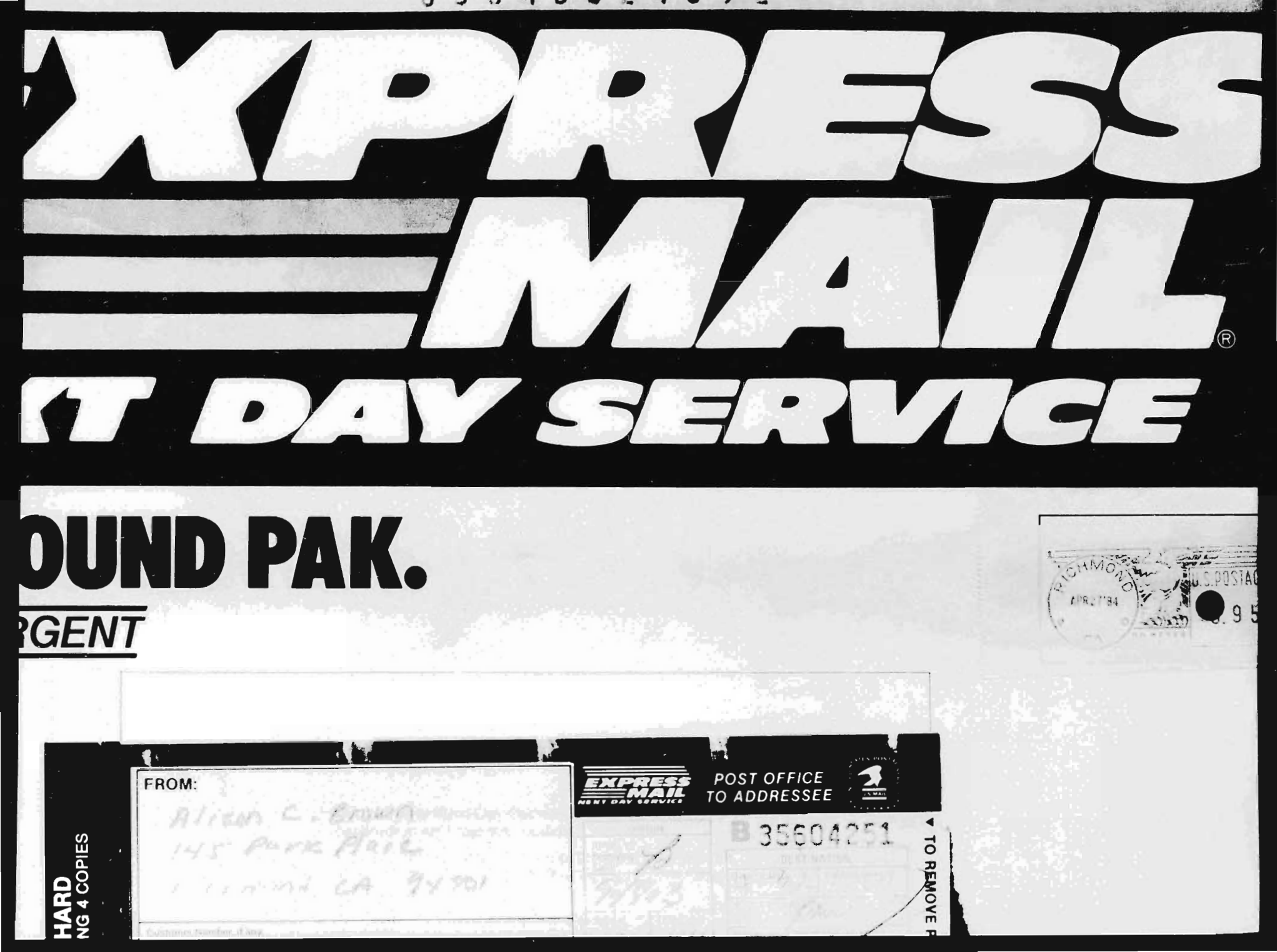
Ronald Rives	$76.00
Joseph DeTorres	$38.00
Ralph Downing	$76.00
Joseph Siino	$76.00
Frank Quesada	$38.00

I trust this settles this account.

Very truly yours,

Victoria Bertoglio
Secretary to the City Manager

Attachs.


XPRESS
MAIL®
T DAY SERVICE
OUND PAK.
RGENT
FROM:
EXPRESS MAIL
NEXT DAY SERVICE
POST OFFICE
TO ADDRESSEE
35604251
HARD
NG 4 COPIES
TO REMOVE

6942339

OFFICE OF
THE CITY ATTORNEY
City of Pittsburg
JOHN R. SHAW
CITY ATTORNEY

P.O. BOX 1518
RAILROAD AVENUE
PITTSBURG, CALIFORNIA 94565
(415) 439-4890

84 APR 23 P2:31

MUR 1609
Kramer

April 19, 1984

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

Re: Case No. MUR 1609/Your Request for Additional Information/Request for Extension of Time

Dear Mr. Steele:

This letter acknowledges Chairman Lee Ann Elliott's letter of April 13, 1984, in which the Federal Election Commission has requested additional information in its investigation of the above captioned matter.

The letter requests the subject documents within ten days of receipt of the letter, or until April 26, 1984.

The City of Pittsburg will proceed to research its records for the subject information, but because of the nature of the information requested and the work demands on this office, we will not be able to comply with the timeframe imposed by the letter.

We would request an additional thirty (30) days or until May 26, 1984, to comply with the letter request.

In addition, the Federal Election's letter states:

> "The Office of the General Counsel would like to settle this matter through conciliation prior to the finding of a probable cause."

The City of Pittsburg would also like to discuss the possibility of a settlement of the matter with your office. To date, the commission staff has not in any way suggested a settlement approach. Therefore, we request that your office suggest a settlement approach in resolution of the points of difference that exist between the commission and the City.

Your cooperation is most appreciated.

Very truly yours,

JOHN R. SHAW

JRS/dk
cc: City Manager

8504052469 3

OFFICE OF
HE CITY ATTORNEY
City of Pittsburg
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, CA 94565

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

CERTIFIED
P 319 734 499
MAIL

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 13, 1984

John R. Shaw
City Attorney
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, California 94565

Re: MUR 1609
City of Pittsburg, California
Councilman Joseph Siino
Councilman Joseph Detorres
Councilman Ralph Downing
Councilman Frank Quesada
Councilman Ronald P. Rives

Dear Mr. Shaw:

The Federal Election Commission notified your clients on December 9, 1983, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on April 10, 1984, determined that there is reason to believe that your clients have violated 2 U.S.C. §§ 441b(a) and 441f, provisions of the Act.

Specifically, it appears that the City of Pittsburg, California made corporate contributions to a federal candidate in violation of 2 U.S.C. § 441b(a). In addition, it appears that the City of Pittsburg, California made contributions with city funds to a federal candidate in the names of other individuals and that councilmen Joseph Siino, Joseph Detorres, Ralph Downing, Frank R. Quesada and Ronald P. Rives permitted their names to be used to make such contributions in violation of 2 U.S.C. § 441f.

Your response to the Commission's initial notification of this complaint did not provide complete information regarding

8504052469

the matters in question. Please respond to the enclosed request for documents within ten days of receipt of this letter. You may also submit any other factual or legal materials that you believe are relevant to the Commission's analysis of this matter.

The Office of General Counsel would like to settle this matter through conciliation prior to a finding of probable cause. However, in the absence of any information which demonstrates that no further action should be taken against your clients, the Office of General Counsel must proceed to the next compliance stage as noted on page 2, paragraph 2, of the enclosed procedures.

This matter will remain 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 matter to be made public.

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

Sincerely,

Lee Ann Elliott
Chairman

Enclosures
Procedures

8504052469 6

Request for Documents from:
City of Pittsburg, California
Councilman Joseph Siino
Councilman Joseph Detorres
Councilman Ralph Downing
Councilman Frank R. Quesada
Councilman Ronald P. Rives

1. Provide copies (front and back) of all checks issued in 1982 by the City of Pittsburg, California to the Friends of Congressman George Miller.

2. Provide copies (front and back) of all checks issued by the City of Pittsburg, California to Councilmen Joseph Siino, Joseph Detorres, Ralph Downing, Frank R. Quesada and Ronald P. Rives, as reimbursement for expenditures incurred by the councilmen in connection with the 1982 Annual Birthday Dinner sponsored by Friends of Congressman George Miller on May 7, 1982.

3. Provide copies of all documents including, but not limited to, memoranda of telephone conversations, inter-office memoranda, routing slips, notes regarding the checks submitted by the City of Pittsburg to Friends of Congressman George Miller, that were later returned in a letter of July 15, 1982.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 13, 1984

Ms. Alison Cartwright Brown, Treasurer
Friends of Congressman George Miller
145 Park Place
Richmond, California 94801

Re: MUR 1609
Friends of Congressman George Miller
Alison Cartwright Brown, Treasurer

Dear Ms. Brown:

The Federal Election Commission notified the Friends of Congressman George Miller and you, as treasurer, on December 9, 1983, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to you at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on April 10, 1984, determined that there is reason to believe that Friends of Congressman George Miller and you, as treasurer, have violated 2 U.S.C. § 441b(a), a provision of the Act. Specifically, it appears that Friends of Congressman George Miller and you, as treasurer, accepted a corporate contribution from the City of Pittsburg, California in violation of 2 U.S.C. § 441b(a). In addition, the Commission found no reason to believe that the Friends of Congressman George Miller and you, as treasurer, violated 2 U.S.C. § 441f by accepting contributions made by the City of Pittsburg, California in the names of others.

Your response to the Commission's initial notification of this complaint did not provide complete information regarding

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the matter in question. Please respond to the enclosed interrogatories and request for documents within ten days of receipt of this letter. Statements should be submitted under oath. You may also submit any other factual or legal materials that you believe are relevant to the Commission's analysis of this matter.

The Office of General Counsel would like to settle this matter through conciliation prior to a finding of probable cause. However, in the absence of any information which demonstrates that no further action should be taken against your committee and you, as treasurer, the Office of General Counsel must proceed to the next compliance stage as noted on page 2, paragraph 2, of the enclosed procedures.

This matter will remain 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 matter to be made public.

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

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
Procedures

8504052469 7

Interrogatories to and Request for Documents from
Friends of Congressman George Miller and
Alison Cartwright Brown, as treasurer

1. In its 1982 12 Day Pre-Primary Election Report, the Friends of Congressman George Miller discloses the receipt of two checks, one for $266 and one for $38 from the City of Pittsburg, California. In its 1982 October 15 Quarterly Report, the Friends of Congressman George Miller discloses a refund of $304 on July 15, 1982, to the City of Pittsburg, California.

a) State whether the two checks received from the City of Pittsburg, California were deposited by the Friends of Congressman George Miller and identify the account into which the funds were deposited.

b) State whether the checks received from the City of Pittsburg, California were returned to the city uncashed. If the funds were returned by separate check drawn on an account maintained by the Friends of Congressman George Miller, please provide a copy of the refund check.

2. Provide a copy of the invitation to the 1982 Annual Birthday Dinner sponsored by the Friends of Congressman George Miller, on May 7, 1982. In addition, please provide copies of invitations to birthday dinners held by Friends of Congressman George Miller in prior election and non-election years.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
City of Pittsburg, California,) MUR 1609
et al.)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on April 10, 1984, do hereby certify that the Commission took the following actions in MUR 1609:

1. Decided by a vote of 6-0 to find reason to believe that the City of Pittsburg, California violated 2 U.S.C. § 441b(a) and 2 U.S.C. § 441f.

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

2. Decided by a vote of 6-0 to find reason to believe that Councilmen Joseph Siino, Joseph Detorres, Ralph Downing, Frank R. Quesada, and Ronald P. Rives violated 2 U.S.C. § 441f.

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

3. Failed in a vote of 2-4 to pass a motion to find no reason to believe that the Friends of Congressman George Miller and its treasurer, Alison Cartwright Brown, violated 2 U.S.C. § 441b(a).

   Commissioners Elliott and Harris voted affirmatively for the motion; Commissioners Aikens, McDonald, McGarry, and Reiche dissented.

4. Decided by a vote of 4-2 to find reason to believe that the Friends of Congressman George Miller and its treasurer, Alison Cartwright Brown, violated 2 U.S.C. § 441b(a).

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

(Continued)

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5. Decided by a vote of 6-0 to find no reason to believe that the Friends of Congressman George Miller and its treasurer, Alison Cartwright Brown, violated 2 U.S.C. § 441f.

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

6. Decided by a vote of 6-0 to approve the letters with interrogatories and/or requests for documents as recommended by the FEC General Counsel.

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

Attest:

4-11-84
Date

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

8504052470 2

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM TO: CHARLES STEELE, GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/SUSAN M. TEIR SMT

DATE: APRIL 2, 1984

SUBJECT: OBJECTION - MUR 1609 - MEMORANDUM TO THE COMMISSION, dated March 30, 1984

The above-named document was circulated to the Commission on Monday, April 2, 1984, 11:00.

Objections have been received from the Commissioners as indicated by the name(s) checked:

Commissioner Aikens	_____
Commissioner Elliott	X
Commissioner Harris	_____
Commissioner McDonald	_____
Commissioner McGarry	_____
Commissioner Reiche	_____

This matter will be placed on the Executive Session agenda for Tuesday, April 10, 1984.

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RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

84 MAR 30 All: 51

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 30, 1984

SENSITIVE

MEMORANDUM TO: The Commission

FROM: Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

SUBJECT: Correction to First General Counsel's Report
MUR 1609: City of Pittsburg, California et al
and Friends of Congressman George Miller

The First General Counsel's Report concerning the above-referenced matter contains an error. The fourth recommendation appearing on page 13 should have been deleted from an earlier draft. This recommendation reads "Close the file as it pertains to Friends of Congressman George Miller and its treasurer Alison Cartwright Brown."

Attached please find an amended page 13 which corrects the error.

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4. Find no reason to believe that the Friends of Congressman George Miller and its treasurer, Alison Cartwright Brown, violated 2 U.S.C. § 441f.

5. Approve and send the attached letters with interrogatories and/or requests for documents.

Charles N. Steele
General Counsel

3/30/84
Date

By: Kenneth A. Gross (by JJ)
Kenneth A. Gross
Associate General Counsel

Attachments
Attachment I - response of Friends of Congressman George Miller (5 pages)
Attachment II - response of the City of Pittsburg, California (41 pages)
Letters

8504052705

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE, GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JODY C. RANSOM JCR

DATE: MARCH 30, 1984

SUBJECT: OBJECTION - MUR 1609 First General Counsel's Report signed March 28, 1984

The above-named document was circulated to the Commission on Thursday, March 29, 1984 at 11:00.

Objections have been received from the Commissioners as indicated by the name(s) checked:

Commissioner Aikens	_____
Commissioner Elliott	X
Commissioner Harris	_____
Commissioner McDonald	_____
Commissioner McGarry	_____
Commissioner Reiche	_____

This matter will be placed on the Executive Session agenda for Tuesday, April 10, 1984.

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RECEIVED
OFFICE OF THE
COMMISSION SECRETARY
84 MAR 28 P 1: 08

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 3/28/84-1:00

MUR # 1609
DATE COMPLAINT RECEIVED BY OGC 12/5/83
DATE OF NOTIFICATION TO RESPONDENTS 12/9/83
STAFF MEMBER
Beverly Kramer

SENSITIVE

Complainant's Name: Rudy G. Rodriguez, Chairman
Mexican-American Political Association

Respondents' Names: City of Pittsburg, California
Joseph Siino
Joseph Detorres
Ralph Downing
Frank R. Quesada
Ronald P. Rives
Alison Cartwright Brown, Treasurer
Friends of Congressman George Miller

Relevant Statute: 2 U.S.C. § 431(8)(A)
2 U.S.C. § 431(11)
2 U.S.C. § 441b(a)
2 U.S.C. § 441f

Internal Reports Checked: 12 Day Pre-Primary (4/1-5/19/82)
12 Day Pre-Primary Amendment
October 15 Quarterly (7/1-9/30/82)
12 Day Pre-Primary (10/1-10/13/82)
12 Day Pre-Primary Amendment
Advisory Opinion 1977-32
Advisory Opinion 1982-26

Federal Agencies Checked: None

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GENERATION OF MATTER

On December 5, 1983, Mr. Rudy G. Rodriguez of the Mexican-American Political Association filed a complaint with the Commission alleging that the City of Pittsburg, California made contributions to a federal candidate, using city funds, in the names of other individuals and that certain members of the city council permitted their names to be used to make such

contributions in violation of 2 U.S.C. § 441f. 1/ The complaint also asserts that the City of Pittsburg, California, a municipal corporation, made corporate contributions to a federal candidate in violation of 2 U.S.C. § 441b(a), and that the Friends of Congressman George Miller and its treasurer violated 2 U.S.C. § 441f by accepting contributions made by the City of Pittsburg, California in the names of others. 2/

The complaint is based on a newspaper article which appeared in The Pittsburg Post Dispatch on October 5, 1983. The same article also appeared in The Contra Costa Times and in The Antioch Daily Ledger. The newspaper article supplied by the complainant provides sufficient information for the Commission to address the complaint fully.

According to assertions contained in the October 5 article, a $266 check was issued by the City of Pittsburg, California to Congressman George Miller's campaign committee in May of 1982 to cover the cost of four councilmen and three wives attending a Committee dinner held six months before the election. A second check, for $38 was sent to the Committee a day later to pay for the fifth council member's attendance.

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1/ A copy of the complaint was circulated to the Commission on December 9, 1983.

2/ While not specifically alleged in the complaint, the Committee's acceptance of a corporate contribution from the City of Pittsburg raises the additional issue of whether the Committee violated 2 U.S.C. § 441b(a).

According to the article, Miller's committee refused to accept the check on the basis that it may have violated provisions of the Act prohibiting candidates for federal office from receiving contributions from corporations, including incorporated cities. The Article asserts that after the checks were returned, the city made out individual checks to the five councilmen, who then sent the money to Miller's committee. The Miller committee's report listed the contributions under the names of each councilman.

By letter of December 9, 1983, the Office of General Counsel notified the respondents of the complaint filed against them. On December 16, 1983, the Office of General Counsel received the response of Ms. Alison Cartwright Brown, treasurer of the Friends of Congressman George Miller. See Attachment I at pages 1-5. On January 30, 1984, City Attorney John R. Shaw responded on behalf of the City of Pittsburg, California, Pittsburg City Council Members Downing, Quesada, Rives, Siino, Detorres and City Manager S. Anthony Donato. See Attachment II at pages 6-46. 3/

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LEGAL AND FACTUAL ANALYSIS

1. The Facts

Based on information provided by the respondents and information available on the public record, the facts, briefly summarized, are as follows:

3/ By letter of December 20, 1983, City Attorney John R. Shaw requested an extension to respond to the allegations involved. The Office of General Counsel determined to grant the requested extension and so notified Mr. Shaw on January 5, 1984.

The Friends of Congressman George Miller ("the Committee") was the principal campaign committee for Congressman George Miller's campaign for re-election to the House of Representatives in 1982. 4/ The Committee remains in existence having been redesignated as the principal campaign committee for Congressman Miller's campaign for re-election to the House of Representatives in 1984. Alison Cartwright Brown serves as treasurer of the Committee.

In the Spring of 1982, the Committee publicized a birthday celebration event for Congressman George Miller's 37th birthday to be held on May 7, 1982. The celebration consisted of a formal dinner held at the Sheraton Airport Inn in the City of Concord, Contra Costa County, California.

Five city councilmen requested the city manager's secretary to make reservations for their attendance at the birthday celebration event. 5/ The secretary executed a payment demand signed by the city manager which was sent to the city's finance department. The finance department issued checks which were

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4/ Congressman George Miller ran as a Democratic candidate for election to the House of Representatives in the 7th District of California. The Congressman ran unopposed in the June 8, 1982, primary election and won in the November 1982 general election, having received 67% of the vote.

5/ The city's response states that the birthday party has been an annual affair extending back over several years. According to the response, it has been a customary practice for city councilmen to attend those birthday dinners. Their attendance at such parties is viewed by the city at part of the councilmen's normal city duties in representing the interests of the City of Pittsburg.

mailed to the Committee shortly before May 7, 1982. The checks were to cover the cost of tickets to the event. The cost of each ticket was $38.

The Committee received two checks from the city, one for $266 and one for $38, which were deposited on May 19, 1982. The Committee reported the funds as contributions received from the City of Pittsburg.

On July 15, 1982, the Committee refunded $304 to the City of Pittsburg. 6/ In a form letter accompanying the refund the committee explained that they were returning the contribution because it appeared to be from a corporation. The letter further stated that due to Federal Election Commission regulations, they were unable to accept contributions from corporations. A handwritten addition to the form letter noted that "cities are considered corporations under FEC law." In addition, the letter advised the city that if the committee's assumption was incorrect, and the contribution was legal, the city should return the contribution with a signed letter to that effect. Otherwise, the form letter went on to state, the city should replace the city check with a personal check or a political action committee check. See Attachment II at page 39.

On receipt of the above-referenced letter, the city manager's secretary phoned each of the councilmen to explain that

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6/ The city's response states that the two checks issued by the city were returned uncashed. See Attachment II at page 9. However, a notation written on the Committee's letter which accompanied the refund suggests that the Committee may have deposited the city's checks and issued a separate check (No. 1129) drawn on the Committee's account. See Attachment II at page 39.

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the city check had been returned and to request that they make out personal checks to the Committee. See Attachment II at page 33. Each councilman was told he would be reimbursed for the expense. 7/ See Attachment II at pages 9 and 10. Individual checks were made out and each councilman was subsequently reimbursed by the city. 8/

On October 5, 1983, the local paper, the Pittsburg Post Dispatch, ran a story questioning the use of city funds to pay for the attendance of five councilmen and three wives at a fundraising event for Congressman George Miller's 1982 campaign.

On October 7, 1983, the Committee refunded each of the councilmen for their contributions to the Committee. In an accompanying letter the Committee stated that it had come to their attention that the funds sent by the councilmen for the 1982 Annual Birthday Dinner were apparently from the City of Pittsburg. The letter explained that the Committee cannot accept contributions from cities and, therefore, the funds were being returned. See Attachment I at page 5.

7/ According to the city's response, none of the councilmen saw the Committee's letter which returned the city's original check. See Attachment II at page 10.

8/ In its 12 Day Pre-Primary Election Report for the period October 1 through October 13, 1982, the Committee lists a $76 contribution received from Joseph and Alamay Siino; a $38 contribution from Joseph and Terri Detorres; a $76 contribution from Ralph and Beulah Downing; a $38 contribution from Frank and Eleanor Quesada; and a $76 contribution from Ronald P. Rives.

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2. **The law applicable**

There are two Federal Election law prohibitions which have general application to the above stated facts, 2 U.S.C. § 441b(a) and § 441f.

Section 441b(a) of Title 2, United States Code prohibits a corporation from making contributions or expenditures in connection with any election to federal office. 9/ Furthermore, § 441b(a) prohibits any political committee from knowingly accepting such contributions.

Pursuant to 2 U.S.C. § 441b(b)(2), the term "contribution or expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit or gift of money, or any services or anything of value to any candidate, campaign committee or political party or organization in connection with any election to federal office.

2 U.S.C. § 441f prohibits a person from making a contribution in the name of another person or knowingly permitting his name to be used to effect such a contribution. Furthermore § 441f prohibits a person from knowingly accepting a contribution made by one person in the name of another person.

Pursuant to 2 U.S.C. § 431(11) the term "person" includes an individual, partnership, committee, association, corporation, labor organization or any other organization or group of persons.

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9/ In Advisory Opinions 1977-32 and 1982-26 the Commission concluded that a municipal corporation is a "corporation" for purposes of the limitations and prohibitions of the Act. See 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶5277 and ¶5672.

3. **Application of the law to the Facts.**

Counsel for the City of Pittsburg has raised as a threshold defense the definition of "contribution" as set forth in 2 U.S.C. § 431(8)(A). This section provides that:

> "The term 'contribution' includes- [i] any gift, subscription, loan advance or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office;" (emphasis added)

Counsel argues that the payment of monies by city councilmen or the city to the Miller committee should not be treated as "contributions" as defined above.

Counsel argues that this legal definition of contribution impliedly requires the presence of intent by the donor that the purpose of the payment be devoted to influencing the outcome of a federal election. In support of this interpretation, counsel cites to Federal Election Commission v. California Medical Association, 502 F. Supp. 196 (1980); U.S. v. National Committee for Impeachment, 469 F. 2d 1139 (1972) and U.S. v. Hankin, 607 F. 2d. 611 (1979).

Counsel maintains that the councilmen and city manager did not understand the birthday event to be a campaign fundraiser, but rather, a social event affording the opportunity for local politicians to meet with their legislator. According to Counsel's response, the event was not expressly advertised as a campaign fundraiser to raise funds to influence congressional

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elections. While counsel does not cite to any statutory or regulatory authority, it is counsel's position that the committee bears a responsibility to clearly make known to the public that it is treating the birthday party as a campaign event, the funds from which will be used directly to affect election to office.

A second line of defense raised by counsel for the city is that 2 U.S.C. § 441f requires that persons have knowledge that their names were to be used to effect a campaign contribution in the name of another person. Counsel maintains that the § 441f prohibition was not violated by the councilmen in that they did not have knowledge that their names were to be used to effect a campaign contribution in the name of another person. Counsel asserts that the public associated the Committee with the single purpose of a birthday event -- not an election. According to counsel the annual birthday tradition is conducted without regard to pending federal elections.

It is the view of this Office that Counsel's defense is not substantiated by the facts in this matter. The facts make clear that as early as July 15, 1982, the city was made aware that the Committee was treating the party as a campaign event. On this date the Committee refunded the city $304 and put the city on notice that the Committee was treating the funds as contributions. The notice further advised that contributions from corportions are prohibited by Federal Election Commission regulations.

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While Counsel for the city admits having received the Committee's notice of July 15, 1983, counsel would have us believe that no one, other than the city manager's secretary, had knowledge of the content of this letter. In that no one in a position of authority had knowledge of the content of this letter, counsel appears to argue that the city cannot be held responsible for its acts.

The declarations of the various councilmen and city manager leave many questions unanswered. They would have us believe that these individuals raised no questions upon being notified by the city manager's secretary that the Committee would not accept payment from the city, but instead had requested checks drawn on personal accounts that could later be reimbursed by the city. At a minimum it appears that it would have been reasonable to request an explanation for the refund.

The further claim by counsel, that neither the city nor its councilmen understood the birthday party to be a fundraising event for Congressman Miller's campaign is similarly untenable. All checks issued by the city and the councilmen were made payable to Friends of Congressman George Miller, the candidate's principal campaign committee. The councilmen, with close political ties, surely had notice that Congressman Miller was running for re-election and, their issuance of checks to Congressman Miller's principal campaign committee should have clued them to the fact that they were making contributions or at

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least should have raised questions concerning the use to which their monies would be put. Such knowledge combined with the knowledge that they would receive reimbursement from the city is all that is required to establish a violation of 2 U.S.C. § 441f.

In light of the foregoing, the Office of General Counsel recommends that the Commission find reason to believe that the City of Pittsburg, California violated 2 U.S.C. § 441b(a) and § 441f, and that the five city councilmen violated 2 U.S.C. § 441f. In addition, we recommend that the Commission approve and send the attached letter and request for documents.

With regard to the Committee, we find no basis for the allegation that the Committee violated 2 U.S.C. § 441f by knowingly accepting a contribution made by one person in the name of another. The record reflects that the Committee had no knowledge that funds contributed by the councilmen would be reimbursed by the city. It was only upon reading an article in the Pittsburg Post Dispatch that the Committee learned that the councilmen had been reimbursed by the city for their contributions. Two days after the article appeared in the newspaper, the Committee promptly refunded the contributions. Accordingly, the Office of General Counsel recommends that the Commission find no reason to believe that the Friends of Congressman Miller and its treasurer, Ms. Alison Cartwright Brown, violated 2 U.S.C. § 441f.

The issue of whether the Committee violated 2 U.S.C. § 441b(a) involves the factual question of whether the Committee

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deposited checks that were issued by the City of Pittsburg. The city's response states that its checks were returned uncashed. The Committee, however, has reported the receipt of the checks, thus indicating the checks were deposited. This view is substantiated by the fact that in refunding the city's contribution the Committee issued its own refund check, as evidenced by a notation on the letter accompanying the refund check. See Attachment II at page 39. As the record in this case indicates that the Committee accepted corporate contributions from the City of Pittsburg, it is the recommendation of the General Counsel that the Commission find reason to believe that the Committee and its treasurer, Ms. Alison Cartwright Brown, violated 2 U.S.C. § 441b(a). In addition, we recommend that the Commission approve and send the attached letter with interrogatories and a request for documents from Friends of Congressman George Miller and Alison Cartwright Brown, as treasurer.

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RECOMMENDATIONS

1. Find reason to believe that the City of Pittsburg, California violated 2 U.S.C. § 441b(a) and 2 U.S.C. § 441f.

2. Find reason to believe that Councilmen Joseph Siino, Joseph Detorres, Ralph Downing, Frank R. Quesada, and Ronald P. Rives violated 2 U.S.C. § 441f.

3. Find reason to believe that the Friends of Congressman George Miller and its treasurer, Alison Cartwright Brown, violated 2 U.S.C. § 441b(a).

4. Find no reason to believe that the Friends of Congressman George Miller and its treasurer, Alison Cartwright Brown, violated 2 U.S.C. § 441f.

5. Close the file as it pertains to Friends of Congressman George Miller and its treasurer, Alison Cartwright Brown.

6. Approve and send the attached letters with interrogatories and/or requests for documents.

Charles N. Steele
General Counsel

March 28, 1984
Date

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

Attachments
Attachment I - response of Friends of Congressman George Miller (5 pages)
Attachment II - response of the City of Pittsburg, California (41 pages)
Letters

8504052719

GCC#1367

December 16, 1983

Kramer
MUR 1609

Ms. Beverly Kramer
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1609 -- 2nd GC
Friends of
Congressman George
Miller

Dear Ms. Kramer:

The funds referred to by the Mexican American Political Association in their complaint were returned on October 7, 1983, immediately after it came to our attention that the funds may have been from the City of Pittsburg. Enclosed please find copies of the following:

- o transmittal letter which accompanied the amendment to our Twelfth Day Report Preceding the General Election on November 2, 1982
- o amended report, including a list of the names of the individuals to whom the funds were returned
- o transmittal letter to the individuals

If you have any questions, please contact me.

Sincerely,

Alison Cartwright Brown

Alison Cartwright Brown, treasurer
145 Park Place
Richmond, CA 94801
(415) 233-6900

(1)

8504047220

October 7, 1983

Clerk of the House of Representatives
1036 Longworth House Office Building
Washington, D.C. 20515

Re: Friends of
Congressman George
Miller
ID #052566

Dear Sir:

It has just come to our attention that funds sent to us by certain individuals to replace City of Pittsburg contributions during 1982 were apparently reimbursed by that City. Federal Election Commission Regulations prohibit the acceptance of city funds, therefore we have returned the contributions to those individuals.

We have attached a detailed listing of the refunds.

Sincerely,

Alison Cartwright Brown,
Treasurer

(2)

8504052471

REPORTS OF RECEIPTS AND DISBURSEMENTS
For Authorized Committee

(Summary Page)

ALIGN AREA | ALIGN AREA

1. Name of Committee (In Full)
Friends of Congressman George Miller

2. FEC Identification Number
052566

Address (Number and Street)
145 Park Place

3. Is this Report an Amendment?
[X] YES [ ] NO

City, State and Zip Code
Richmond, CA 94801

[ ] Check if address is different than previously reported.

4. TYPE OF REPORT

- [ ] April 15 Quarterly Report
- [ ] July 15 Quarterly Report
- [ ] October 15 Quarterly Report
- [ ] January 31 Year End Report
- [ ] July 31 Mid Year Report (Non-election Year Only)
- [X] Twelfth day report preceding General (Type of Election) election on 11/2/82 in the State of CA
- [ ] Thirtieth day report following the General Election on _____ in the State of _____
- [ ] Termination Report

This report contains activity for – [ ] Primary Election [X] General Election [ ] Special Election [ ] Runoff Election

SUMMARY	COLUMN A This Period	COLUMN B Calender Year-to-Date
5. Covering Period 10/1 through 10/13/82		
6. Net Contributions (other than loans)		
(a) Total Contributions (other than loans) (From Line 11 (e))	2065.00	98151.61
(b) Total Contribution Refunds (from Line 20 (d))	-0-	1280.00
(c) Net Contributions (other than loans) (subtract Line 6 (b) from 6 (a))	2065.00	96871.61
7. Net Operating Expenditures		
(a) Total Operating Expenditures (from Line 17)	8295.41	53734.20
(b) Total Offsets to Operating Expenditures (from Line 14)	-0-	259.13
(c) Net Operating Expenditures (Subtract Line 7 (b) from 7 (a))	8295.41	53475.07
8. Cash on Hand at Close of Reporting Period (from Line 27)	103301.36	
9. Debts and Obligations Owed TO The Committee (Itemize all on Schedule C or Schedule D)		
10. Debts and Obligations Owed BY The Committee (Itemize all on Schedule C or Schedule D)		

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

For further information, contact:
Federal Election Commission
Toll Free 800-424-9530
Local 202-523-4068

Alison Cartwright Brown
Type or Print Name of Treasurer

SIGNATURE OF TREASURER

10/ 7 /83
Date

NOTE: Submission of false erroneous or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g.

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

FEC FORM 3 (3/80)

8504052247222

AMENDMENT TO TWELFTH DAY PRECEDING GENERAL ELECTION
ON NOVEMBER 2, 1982

This is a listing of refunds sent to individuals on October 7, 1983. Please see attached letter of explanation.

Name	Date of Receipt	Amount
SIINO, Joseph 936 Ventura Drive Pittsburg, CA 94565	10/6/82	$ 76.00
DETORRES, Joseph 131 Regent Drive Pittsburg, CA 94565	10/6/82	38.00
DOWNING, Ralph 1174 Jewett Avenue Pittsburg, CA 94565	10/6/82	76.00
QUESADA, Frank R. 33 Jimno Avenue Pittsburg, CA 94565	10/6/82	38.00
RIVES, Ronald P. 4476 St. John Lane Pittsburg, CA 94565	10/6/82	76.00
	TOTAL	$304.00 *

* $304.00 was refunded to the City of Pittsburg and is on our report for the period of July 1 to September 30, 1982.

FRIENDS OF CONGRESSMAN GEORGE MILLER

(4)

8504052723

October 7, 1983

Dear Mr.

It has come to our attention that the funds you sent to our committee for our 1982 Annual Birthday Dinner were apparently from the City of Pittsburg. We cannot accept contributions from cities, therefore we are returning the funds to you.

We are filing an amendment to our election report in which your contribution was reported.

Sincerely,

Alison Cartwright Brown,
Treasurer
Friends of Congressman
George Miller
145 Park Place
Richmond, CA 94801

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(5)

RECEIVED AT THE FEC
Gcc # 1527
04 JAN 30 P12:36

CITY OF PITTSBURG
RESPONSE TO
FEDERAL ELECTIONS COMMISSION
LETTER OF INQUIRY - MUR 1609

04 JAN 30 P4:22

Smead MFG.CO. HASTINGS MN. LOS ANGELES. CHICAGO
LOGAN OH. MCGREGOR TX. LOCUST GROVE GA
TITLE PAGE-STOCK NO. 100TP
3 5 0 4 0 5 2 4 7 2 5

OFFICE OF
THE CITY ATTORNEY
City of Pittsburg
JOHN R. SHAW
CITY ATTORNEY

P.O. BOX 1518
2020 RAILROAD AVENUE
PITTSBURG, CALIFORNIA 94565
(415) 439-4890

January 26, 1984

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

Re: City of Pittsburg Response to Commission Letter Complaint - MUR1609

Dear Mr. Steele:

Please find enclosed the City of Pittsburg's response to your letter of December 9, 1983, addressed to Pittsburg City Council Members Downing, Quesada, Rives, Siino, DeTorres and Pittsburg City Manager S. Anthony Donato. This response is on behalf of the above-stated persons.

All communications should be directed to this office.

Your cooperation is most appreciated.

Very truly yours,

JOHN R. SHAW

JRS/dk

enclosure (1)

cc: Mayor and City Council
City Manager

(7)

8504052-4726

RESPONSE TO FEDERAL ELECTION COMMISSION COMPLAINT

TABLE OF CONTENTS

		PAGE
I	INTRODUCTION	1
II	FACTS	1
III	ANALYSIS	
	A. Payment of monies by City Councilmen or the City to the Miller committee should not be treated as "contributions" as defined in 2 USC 431 [E][2]	2
	B. If the payment of monies by the City and/or Councilmen are treated as contributions, the Councilmen did not knowingly permit their names to be used to effect a contribution in the name of another person	5
	C. The City Manager did not knowingly make a contribution in the name of another person	5
IV	CONCLUSIONS	6

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I

INTRODUCTION

This letter brief, with attached exhibits, is in response to the written complaint referred to in the General Counsel's letter of the Federal Elections Commission, dated December 9, 1983. This letter response is on behalf of Pittsburg City Councilmembers DeTorres, Downing, Quesada, Rives, Siino and City Manager S. Anthony Donato.

II

FACTS

In the Spring of 1982, the birthday committee of Congressman George Miller publicized a birthday celebration event for George Miller's 37th birthday to be held on May 7, 1982. The celebration consisted of a formal dinner held at the Sheraton Airport Inn in the City of Concord, Contra Costa County, California. We have been unable to locate a copy of the 1982 birthday invitation.

The birthday party has been an annual affair extending back over a several year period. It has been customary practice for City Councilmen to attend these birthday dinners as a part of the Councilmen's normal city duties in representing the interests of the City of Pittsburg. (See Exhibits A-1 through A-5, B)

Under customary practice, when a Councilman desires to attend such a social event having relationship to City business, Councilmen contact the City Manager's Secretary who then makes the appropriate reservations for the event. In this particular situation, all five Councilmen requested the City Manager's Secretary to make reservations.

The City Manager's Secretary executed a payment demand, signed by the City Manager, which was then sent to the City's Finance Department. The Finance Department issued the checks as a matter of course and these were mailed by the Manager's Secretary to the committee shortly before May 7, 1982. (See Exhibit C)

In July 1982, the Finance Department received the two subject checks, uncashed, with a cover letter from the committee stating they could not accept the checks from a corporate entity. (See Exhibit D) The letter continued requesting personal checks from those in attendance. The Manager's Secretary phoned the Councilmen requesting that they make out personal checks to Miller's committee. (See Exhibit C) Each Councilman was told he would be reimbursed

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for the expense. Individual checks were made out and each were subsequently reimbursed. Each Councilman did not regard the event as a campaign fund raiser related to a federal election; rather each Councilman viewed the birthday event as affording the opportunity to discuss City business with Congressman Miller. (See Exhibits A-1 through A-5)

None of the Councilmen ever saw the Miller letter which returned the check. (See Exhibits A-1 through A-5, C, E)

On or about October 5, 1983, the local newspaper, the Pittsburg Post Dispatch, ran a story questioning the Councilmen's payment and reimbursement of money regarding the Miller birthday party.

On or about October 7, 1983, the Friends of Congressman George Miller Committee returned by letter the amount paid by each in attending the annual birthday party. (See Exhibit F)

On or about November 30, 1983, the Mexican-American Political Association (MAPA) filed a complaint with the Federal Elections Commission charging potential illegal donations to the campaign committee of George Miller.

III

ANALYSIS

A. Payment of monies by City Councilmen or the City to the Miller committee should not be treated as "contributions" as defined in 2 USC 431 [E][2].

There are two apparent federal election law prohibitions which have general application to the above stated facts. 2 USC 441[B] prohibits corporate entities from making contributions in connection with any election at which representatives to the United States Congress are to be voted for. 2 USC 441[F] prohibits a person from making a contribution in the name of another person, or knowingly permit his name to be used to effect such a contribution.

Obviously, one of the several predicates to liability under these statutes is that there be a "contribution." The threshold question then arises as to whether the City or the City Councilmen made "contributions" to the Miller committee. This question turns on the definition of "contribution" which is set forth in 2 USC 431 [8][A]. It provides that:

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"The term 'contribution' includes-

[i] any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office;" (emphasis added)

2 USC 431[8][B] goes on to set out a number of items deemed not to be contributions. None of these are relevant to the issue at hand.

Both sections 441[B] and 441[F] stress a nexus between the payment of funds and an intended purpose to affect or influence a federal election.

Federal case law provides further illumination as to this required nexus. In Federal Election Commission v. California Medical Ass'n., 502 F. Supp. 196 (1980), the court stated:

"It is well established that the thrust of FECA is to regulate contributions and expenditures made for the relatively narrow purpose of influencing federal elections and that it does not reach activities designed more broadly to promote the discussion of political issues." p. 201

U.S. v. National Committee For Impeachment, 469 F.2d 1139 (1972), held FECA inapplicable to a committee which received contributions in response to an advertisement it ran in the New York Times sponsoring President Nixon's impeachment. The court there found:

"Thus, the words of the Act seem to indicate that Congresses' concern was primarily with groups organized or at least authorized by a particular candidate and whose principal focus is a specific campaign. The central theme of the advertisement at issue here relates to impeachment of the President, not specific election campaigns or candidates." p. 1140 (emphasis added)

Were we to think otherwise, Title III of the Act would raise serious constitutional issues, on which we express no opinion." p. 1140

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> We also construe the Act to apply to committees soliciting contributions or making expenditures the major purpose of which is the nomination or election of candidates." p. 1141 (emphasis added)

In addition, FECA "...is to be liberally interpreted in favor of the accused." See U.S. v. Hankin, 607 F.2d 611, 615 [1979].

The legal definition of contribution set forth in 2 USC 431 8[A], impliedly requires the presence of an intent by the donor that the purpose of the payment be devoted to influencing the outcome of a federal election. The above stated case law further supports this interpretation.

All pertinent circumstances, especially those facts surrounding the intent of the donor, should be carefully weighed in determining whether a payment of money constitutes a contribution under Section 431[E][2].

We have not been able to locate the formal birthday invitation mailed in the Spring of 1982. However, the declarations of the Councilmen point out that this event was not expressly advertised as a campaign fund raiser. Indeed, this event has always been thought by Pittsburg officials to be a social event allowing direct communicative contact with the Congressman in the format of a birthday party. In short, the Miller committee advertised the event as a birthday party---not as a fund raiser to raise funds to influence congressional elections.

The cost of each ticket, at $38.00, is not a particularly large sum of money when considering that this was a formal dinner at one of the finer hotels in the county. One normally thinks of a campaign fund raiser as a campaign event, advertised as such, and priced at a level that is clearly far in excess of the amount needed to defray the cost of the dinner.

Further, this event has come to be viewed as an annual event which is not held in the context of the heat of a congressional battle for federal office.

More importantly, as the declarations of the Councilmen and the City Manager bear out, they do not understand this event to be a campaign fund raiser. Rather, this was a social event affording the opportunity for local politicians to meet with their legislator. The City of Pittsburg has been very active over the years in obtaining a large amount of federal funding for a variety of local programs. This event affords one of the few opportunities for local politicians to meet with their legislator.

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We find now that the Miller committee appears to have treated the party as a source of campaign contributions. However, we do not believe this mere fact alone should be controlling as to the determination or categorization of the payment as a contribution. We think that the committee does bear a responsibility to clearly make known to the public that it is treating the birthday party as a campaign event, the funds from which will be used directly to affect election to office. We emphasize that we know of no printed information distributed by the committee which states expressly and clearly that the party was held as a campaign event to raise campaign funds to influence a federal election.

B. If the payment of monies by the City and/or Councilmen are treated as contributions, the Councilmen did not knowingly permit their names to be used to effect a contribution in the name of another person.

The Section 441 [F] rule prohibition against contributions in the name of another person was not violated by the Councilmen in that they did not have knowledge that their names were to be used to effect a campaign contribution in the name of another person. U.S. v. Hankin, 607 F. 2d 611, (1979) provides clear guidance in resolving this issue. There, in the middle of a federal election campaign, the defendant requested two persons to contribute $500.00 each to a campaign committee known as the "Shapp for President Committee." The title given to the committee itself made clear that it was organized around the impending presidential election. Both persons understood the payment of funds to be campaign election contributions. Further, the defendant had approached these two persons with the proposition that these campaign contributions would be promptly reimbursed by him. Defendant clearly knew that these were campaign contributions. The defendant was charged and convicted of illegally making four campaign contributions in the name of the two donors.

In contrast to the facts in the Hankin supra case, the City Councilmen at no time were on notice that they were consciously making campaign contributions. The Miller committee was directly associated by the public with the single purpose of a birthday event---not an election. The City Manager, who ultimately authorized initial city payment, was not aware that the payment of funds constituted campaign contributions. These facts are clearly distinguishable from the facts in the Hankin case where there never was any doubt that the payment of funds were campaign contributions. We note further that the annual birthday tradition, which again is advertised as a "birthday" function, is conducted without regard to pending federal elections.

C. The City Manager did not knowingly make a contribution in the name of another person.

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The City Manager declares he did not understand the birthday party to be a campaign fund raiser. (Exhibit B) His authorization of City payments to the committee was an act consistent with other City expenditures to encourage Councilmen to attend political social events having some relationship to City business. Under this practice, Councilmen have been consistently reimbursed for attending political social events. The City Manager has forthrightly, albeit, embarrasingly, now discovered after extensive staff research into City Clerk and finance files, that the Miller campaign committee had themselves treated the payment of funds as contributions as early as 1980. (Exhibit G)

The City Manager has declared under penalty of perjury that he was unaware of this fact. Had he been aware of this fact, he would not have authorized payment and now recognizes that if indeed the payment of funds car be treated as a campaign contribution, the City will cease and desist from this practice in the future.

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CONCLUSIONS

The City Manager and the Councilmen genuinely believed that payment of funds for birthday tickets to the Miller committee did not constitute outright campaign contributions to be used for the purpose of influencing a federal election. Rather, it was their intent that these funds be used simply for the purpose of purchasing tickets which would enable local politicians to meet with their local legislator.

This controversy would probably have never occurred but for the proverbial left hand not knowing what the right hand was doing; that is, a classic case of bureaucratic mismanagement of paperwork relating to the handling of payments for birthday tickets resulted in the failure of the City Clerk and Finance Department to communicate the problem of City payment of funds to a federal campaign committee to the City Manager.

City staff has spent a great deal of time assembling the facts relating to this matter. We trust that the commission will appreciate the candor of the City Manager in his disclosure of the 1980 snafu.

Further, the City of Pittsburg in no way desires to make this same mistake again and will take all appropriate precautions to ensure that no further City funds are expended for Congressman Miller's birthday parties.

Dated: January 25, 1984

John R. Shaw
JOHN R. SHAW
CITY ATTORNEY

DECLARATION OF FRANK QUESADA

I, COUNCILMAN FRANK R. QUESADA, hereby declare as follows:

1. I am a city councilman of the City of Pittsburg, having been elected to said position on or about April 15, 1974.

2. I received on or about December 13, 1983, a letter from the Federal Elections Commission, dated December 9, 1983, enclosing a complaint against me regarding alleged campaign contributions made to Congressman George Miller's committee.

3. My recollection regarding the facts surrounding the payment of money to Congressman George Miller is as follows:

On or about late April, or early May 1982, I received a written invitation to attend Congressman Miller's 38th birthday party to be held in May 1982. As is the normal practice, I contacted the City Manager's Secretary, Vicki Bertoglio, to make a reservation for my attendance. I remember personally paying for the ticket sometime after the event at the request of the City Manager's Secretary. I have not been able to find my cancelled check. I do have a general recollection that the check was required because the Miller people required individual checks in returning the original City payment.

4. I understood the event to be a social event in celebration of the Congressman's birthday which provided Pittsburg officials with the opportunity to meet with Congressman Miller. I did not know, or intend that payment for the birthday ticket was a campaign contribution to be used to influence the next congressional election. Furthermore, this event provides virtually the only time during the year when Congressman Miller makes himself available to the City of

EXHIBIT A - 1 (15)

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P.O. Box 1518
2020 Railroad Avenue
Pittsburg, CA 94565
(415) 439-4890

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Pittsburg constituency. As such, I view my attendance at this event as a part of my normal councilman's duties. During the event, for example, I personally spoke with Congressman Miller regarding a pending city application (UDAG grant application) for federal funding. I again repeat, at no time did I understand this event to be designed or set up for the purpose of raising campaign funds in connection with election to federal office. Rather, the purpose of my payment was to have dinner with Congressman Miller in discharge of my duties as councilman.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 25 day of January, 1984, at Pittsburg, California.

FRANK R. QUESADA

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CITY of PITTSBURG
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, CA 94565
(415) 439-4890

850405247335

DECLARATION OF RALPH DOWNING

I, RALPH DOWNING, hereby declare as follows:

1. I am a City Councilman in the City of Pittsburg having been appointed to fill a vacancy on the City Council on November 8, 1979, and having served since then continuously in this position.

2. I received on or about December 13, 1983, a letter from the Federal Elections Commission, dated December 9, 1983, enclosing a complaint against me regarding alleged campaign contributions made to Congressman George Miller's committee.

3. This is my recollection of the facts: Sometime prior to May 7, 1982, I received a written invitation to attend Congressman Miller's 37th birthday party to be held on May 7, 1982. I have looked for this invitation, but have not been able to find it. Sometime prior to this date, I was contacted by the City Manager's Secretary and asked if I planned to attend Congressman Miller's birthday party. I was advised that the City wanted to confirm reservations and the city would issue a check to cover the cost of the dinner for the city officials attending. I agreed to go as the birthday dinner offered the city officials one of the few opportunities to meet and talk with our congressman. I considered this as part of my duties as Councilman and as a representative of our city.

4. At no time prior to attending the birthday dinner or during the dinner was I aware that this was a fund raising

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(17)

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2020 Railroad Avenue
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(415) 439-4890

EXHIBIT A-2

event for the purpose of raising monies for Congressman Miller's election. It was my understading that this was a social event honoring Congressman Miller on his birthday, and I believe the donation of $38.00 would be used to defray the actual cost of the dinner and decorations. The invitations did not indicate, as I recall, that the function was a campaign contribution fund raiser.

5. Sometime in the latter part of July or early August, 1982, the City Manager's office informed me that the City's check issued to defray the cost of my attendance and the other city officials' attendance had been returned. The reason given me was that Miller's committee could not accept the check from the City and that a request had been made by them to have individual checks sent from each Councilman to the committee. Therefore, I was asked to issue a personal check for $76.00 to cover the cost of my wife and my attendance at the dinner.

On August 6, 1982, I delivered a personal check for $76.00 payable to Friends of Congressman George Miller to the City Manager's Secretary. The City thereafter issued a check for $76.00 as reimbursement for the expenses I had incurred.

6. At no time, did I ever see a letter from the Miller committee which returned the City check for the birthday tickets.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 25TH day of JANUARY, 1984, at Pittsburg, California.

(18)

Ralph Downing

RALPH DOWNING

850524737

CITY ATTORNEY
CITY of PITTSBURG
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, CA 94565
(415) 439-4890

DECLARATION FOR JOSEPH SIINO

I, Joseph Siino, hereby declare as follows:

1. I am a City Councilman in the City of Pittsburg, having served in this capacity since 1976.

2. In response to the December 9, 1983 Federal Elections Commission letter, I relate my recollection of the pertinent facts as follows:

I attended Congressman Miller's birthday party which was held in early May 1982. I regarded this birthday party as a social event---not as a political campaign fundraiser. This event has given me the opportunity over the last several years to meet with Congressman Miller on a personal basis. It was my impression that the ticket revenue would be used to defray the cost of the dinner and I had no reason to believe that the proceeds would be used for campaign purposes.

I was under the impression before the dinner that the tickets would be paid for by the City as it was my impression that this was an obligation as a part of my Councilman's duties. Later, I recall the City Manager's Secretary calling me stating that the City payment had been returned and that the Miller committee was requesting that personal checks be made out by each Councilman.

Later, I received reimbursement for my expense incurred in purchase of the tickets. The reimbursement was instigated by City staff.

City staff at no time sent me a copy of the Miller letter which returned the check prior to my payment.

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(19)

EXHIBIT A - 3

CITY ATTORNEY
CITY of PITTSBURG
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, CA 94565
(415) 439-4890

8504052-4738

I had no knowledge that Congressman Miller's committee had sent a communication to the City of Pittsburg that the tickets for the birthday dinner were in fact a fund raiser.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 25 day of January, 1984, at Pittsburg, California.

Joseph S. Siino

JOSEPH S. SIINO

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CITY ATTORNEY
CITY of PITTSBURG
P O Box 1518
2020 Railroad Avenue
Pittsburg, CA 94565
(415) 439-4890

11-24/315
1210 (3)

PITTSBURG OFFICE
3071 RAILROAD AVENUE
PITTSBURG, CALIFORNIA 94565

Wells Fargo Bank

No. 199

8/31 1982

Pay to the order of Friends of Congressman Miller $ 76.00

Seventy six 00 Dollars

JOSEPH S. SILVA
ALAMAY D. SILVA
936 VENTURA DR.
PITTSBURG, CA 94565

Donation

"000000 7600"

8504052470

CT '82' 18

PROCESSED
WELLS FARGO BANK
SAN FRANCISCO
BAY AREA BANK

FOR DEPOSIT ONLY

0335 293171

(21)

DECLARATION OF RONALD P. RIVES

I, Ronald P. Rives, do hereby declare:

1. Since April 8, 1980, and to the present, I have been a member of the City Council of the City of Pittsburg, California.

2. Prior to May 1982, I received an invitation from a group designated as "Friends of George Miller" inviting me to attend a birthday party for Congressman George Miller. No part of said invitation indicated that the function was a campaign fundraiser.

3. Prior to attending the event in question, I received no information from any source that the event was a campaign fundraiser. In fact, in May 1982, I had no idea that Congressman Miller was campaigning for anything.

4. My wife and I attended Congressman Miller's birthday party on May 7, 1982. Nothing was said or indicated to me or in my presence during the course of the birthday party to indicate that the proceeds thereof were to be used for campaign purposes. The tickets cost $38.00 each, $1.00 for each year of Congressman Miller's life. I believed that the proceeds of the tickets would be used to defray the cost of the dinner and I had no knowledge or belief that any portion of the proceeds would be used for campaign purposes.

5. Prior to the dinner I was advised that the City would pay for the tickets as the members of the Council were present at the dinner for the purpose of representing the City of Pittsburg. After the dinner, I was advised by the City that the City had not paid for the tickets in that a City check

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Pittsburg, CA 94565
(415) 439-4890

8504052741

(22)

EXHIBIT A - 4

had been returned with a request made by the Miller committee that individual checks were required. I was never made aware of, nor did I see, the Miller letter which returned the check. I then drew a check on my personal account, a copy of which is attached hereto as Exhibit A, to defray the cost of the tickets.

6. On a date following the payment for the tickets, I submitted an expense account to the City of Pittsburg in which I listed this expense. I listed this as an expense because I attended as the Mayor and representative of the City of Pittsburg, and believed that I was simply attending a birthday party. If I had attended the function to represent my law firm, I would have expensed the cost of the event to my law firm. If I had been at the event to represent myself, I would have borne the expense myself.

7. As an attorney, I am aware of the axiom that "ignorance of the law is no excuse." However, in light of the incredible complexity of the regulations pertaining to campaign contributions and the fact that there are no corresponding state or local regulations, I must state that I had no knowledge that it was contrary to federal regulations to attend a dinner which is a campaign fundraiser and expense the cost of such attendance to a municipal or other corporation.

In summary, the complaint, in my opinion, merits no further action on two grounds:

1. I was not aware I was attending a political fundraiser. Neither Congressman Miller nor his campaign committee took any steps to advise persons in attendance at said dinner that the

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P.O. Box 1518
2020 Railroad Avenue
Pittsburg, CA 94565
(415) 439-4890

850405247 2

proceeds thereof would be used for campaign purposes.

2. I was not aware being reimbursed for attending a birthday party for a local congressman, a portion of the proceeds of which would be used for campaign purposes, was contrary to federal regulations.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 25th day of January, 1984 at Pittsburg, California.

Ronald P. Rives

RONALD P. RIVES

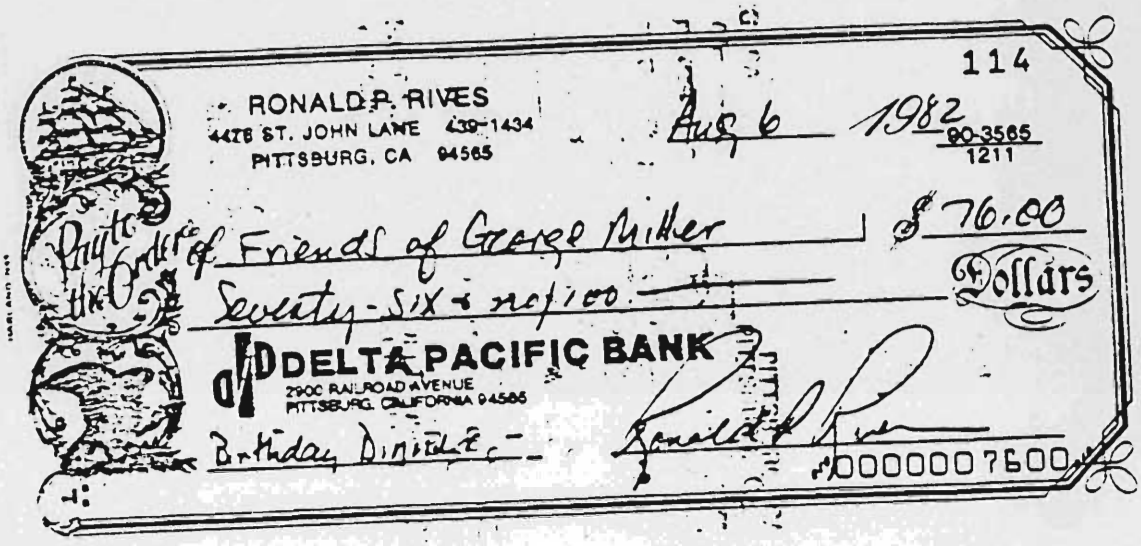
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CITY ATTORNEY
CITY of PITTSBURG
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, CA 94565
(415) 439-4890



114

RONALD P. RIVES
4428 ST. JOHN LANE 439-1434
PITTSBURG, CA 94565

Aug 6 1982 90-3565 1211

Pay to the Order of Friends of George Miller $ 76.00

Seventy-Six + no/100 Dollars

DELTA PACIFIC BANK
2900 RAILROAD AVENUE
PITTSBURG, CALIFORNIA 94565

Birthday Dinner

Ronald P. Rives

⑈000000 7600⑈

⑆:

850405247441

DECLARATION OF JOSEPH DETORRES

I, Joseph DeTorres, hereby declare as follows:

1. I am a City Council and Mayor in the City of Pittsburg having been elected to said position in 1976.

2. In regards to the Federal Elections Commission letter of complaint, dated December 9, 1983, my recollection of the facts pertaining to this matter are as follows:

In early May 1982, I was asked whether I desired to attend Congressman Miller's birthday party to be held in May of that year. I indicated to the City Manager's Secretary that I desired to go. Later, after the event, I remember receiving a telephone call from the City Manager's Secretary indicating that the City payment for the function had been returned and that the Miller committee had requested that individual Councilmen, as an alternative to City payment, make checks directly payable to the committee. Based upon that request, I wrote a personal check to the Miller committee, a copy of which is attached.

Sometime later, I was reimbursed for this expense as we consider attendance at this type of event a normal part of the Councilman's duties.

I regarded the birthday party as a social event giving members of the City Council a chance to discuss directly with Congressman Miller pending City problems having relevancy to federal funding.

In regards to the Miller committee letter of July 1982, I have never seen this letter prior to my personal payment for the event.

(26)

EXHIBIT A - 5

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CITY of PITTSBURG
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, CA 94565
(415) 439-4890

8504052745

In conclusion, I was not aware of the fact that payments to the Miller committee constituted campaign contributions.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 26th day of JANUARY, 1984, at Pittsburg, California.

JOSEPH DeTORRES

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CITY ATTORNEY
CITY of PITTSBURG
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, CA 94565
(415) 439-4890

JOSEPH L. DeTORRES
TERRI DeTORRES
LIC. K0800597 R0635737
131 REGENT DR. 439-2960
PITTSBURG, CALIF. 94565

No. 4523

Sept 2 19 82

11-57/621
1210

Pay to the order of Friends of George Miller $ 38.00

Thirty Eight Dollars and No/100 DOLLARS

UCB UNITED CALIFORNIA BANK
San Francisco Main Office
405 Montgomery Street
San Francisco, California 94104

For

Joseph L. DeTorres

⑆000000 3800⑆

⑈030047⑈

DECLARATION FOR S. ANTHONY DONATO

I. S. Anthony Donato, hereby declare as follows:

1. I am the City Manager of the City of Pittsburg having served continuously in this position since 1968.

2. I received on or about December 13, 1983, a letter from the Federal Elections Commission, dated December 9, 1983, enclosing a complaint against me regarding alleged campaign contributions made to Congressman George Miller's committee.

3. My recollection regarding what I know about this matter is as follows:

On or about early May 1982, I executed two payment demands, in the total amount of $304.00 which was submitted to me by my Secretary.

The authorization for payment of funds was made for the purpose of buying tickets to allow our Mayor and Councilmen to attend Congressman George Miller's birthday dinner, to be held May 7, 1982.

The City of Pittsburg has had a common historical practice of reimbursing Councilmen for attending dinners honoring our state and federal legislators. For years, the City has encouraged Councilmen to attend these dinners as a normal part of their official City duties. Each receives the meager sum of $150.00 per month to carry out all of their duties. Attendance at these functions is encouraged because of the immense importance these persons have on the legislative process which directly affects City matters. We have always considered this kind of activity a normal part of a Councilman's job function to represent the City at such social events in order

CITY ATTORNEY
CITY of PITTSBURG
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, CA 94565
(415) 439-4890

EXHIBIT B (29)

to communicate our points of view regarding city business to our legislators.

At the time of authorizing the payment demand, I was not aware of the fact that payment for a birthday ticket would be construed as a campaign contribution designed to influence the federal election. Rather, our understanding and intent has been that attendance at these dinners is for the purpose of allowing our elected representatives at the local level to meet with our legislators to press our points of view regarding pending city business.

Sometime after the holding of the event, my Secretary advised me that the committee had returned the city checks. She stated that the committee in the alternative was requesting that individual checks from the Councilmen be written to the committee. I do not recall seeing any correspondence from the committee regarding this matter.

Upon learning of this situation from my Secretary, I instructed my staff to follow through and make the appropriate arrangements. This is the extent of my knowledge regarding the issue up until the point when the local newspaper ran a story questioning the practice of city payment for birthday tickets.

4. Upon receiving the Federal Elections Commission letter, I instructed my staff to research this matter. We have since learned that in 1980, the Miller Campaign Committee sent a letter to the City which advised that corporate contributions could not be received. Unfortunately, this letter was received by our City Clerk who relayed it to the

CITY ATTORNEY
CITY of PITTSBURG
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, CA 94565
(415) 439-4890

Finance Department, which did not communicate the situation to me. I also point out that we have had frequent changes in our Finance Department having had three new Finance Directors in the last three years. Also, we have found a letter from the campaign committee dated July 15, 1982, which was received by our Finance Department. This form letter appears to be the same type of letter issued in 1980.

5. From our search of finance records, for 1980, it appears that none of the Councilmen attended the 1980 event or were reimbursed for their attendance.

6. It was not my intent, nor did I realize that the payment for the birthday tickets would be treated as campaign but rather for the purpose of meeting with our legislative representatives. If I had been aware of the fact that as early as 1980, the campaign committee was taking the position that any monies received by the committee were campaign contributions, I certainly would not have authorized payment as was done.

In this sense, the city payment of $308.00 appears to have been a technical error if we assume the city payment of funds were in fact campaign contributions.

7. Based on the representations made in the campaign committee treasurer's letters, which have come to light to me and the City Council only now, we will certainly not allow this to occur again.

I declare under penalty of perjury that the foregoing is true and correct.

/ / / /

/ / / /

CITY ATTORNEY
CITY of PITTSBURG
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, CA 94565
(415) 439-4890

Executed this 25th day of January, 1984, at Pittsburg, California.

S. ANTHONY DONATO

8504047511

/ / / /

/ / / /

/ / / /

32

CITY ATTORNEY
CITY of PITTSBURG
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, CA 94565
(415) 439-4890

DECLARATION FOR VICTORIA BERTOGLIO

I, Victoria Bertoglio, hereby declare as follows:

1. I am the Secretary to the City Manager of the City of Pittsburg.

2. I recall that in May 1982, I made reservations for birthday dinner tickets to be used to attend the Miller birthday party held in early May 1982. I made these reservations at the request of individual Councilmen and their wives.

3. I also personally mailed the City check for the tickets after the City Manager had authorized payment for the tickets.

4. I recall that sometime after the birthday event, a member of the City Finance Department brought to me a letter from the Miller committee indicating they would not accept a City check. The letter requested in its place individual separate checks. Based upon the wording of the letter, I then phoned each Councilman and explained that the City check had been returned and individual checks had been requested by the Miller committee. To my knowledge, the Miller committee letter was never sent to the Councilmembers.

5. After each Councilman paid for the tickets for the event they had attended, arrangements were then made for reimbursement to them for the expenses they had incurred. This is in accordance with standard City practice.

I declare under penalty of perjury that the foregoing is true and correct.

/ / / /

/ / / /

33

EXHIBIT C

CITY ATTORNEY
CITY of PITTSBURG
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, CA 94565
(415) 439-4890

Executed this 25th day of January, 1984, at Pittsburg, California.

Victoria Bertoglio

VICTORIA BERTOGLIO

8504052473

/ / / /

/ / / /

/ / / /

(34)

CITY ATTORNEY
CITY of PITTSBURG
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, CA 94565
(415) 439-4890

DIRECT PAYMENT CLAIM

CITY OF PITTSBURG

2020 Railroad Avenue Phone (415) 439-4950

Pittsburg, California 94565

The Direct Payment Claim may only be used to cover the following payments:

Employee reimbursement (or advances) for travel or other business expense.
Renewal subscriptions for publications.
Organization or association dues.
Purchases when payment is required to accompany the order.

DATE: May 4, 1982

PAYEE Friends of George Miller

AMOUNT $ 266.00

DESCRIPTION:

Dinner for George Miller - Friday May 7, 1982

Mayor Rives & wife
Councilman Silno and wife
Frank Quesada
Downing and wife

35

ACCOUNT NO. 10-0110-4700

AUTHORIZED SIGNATURE

DIRECTOR OF FINANCE

8 3 3 4 0 5 2 4 7 3 1

CITY OF PITTSBURG
63 CIVIC AVENUE
PITTSBURG, CALIFORNIA 94565

90-52
12

24154

CITY OF PITTSBURG 266.00

DATE	CHECK NO.	AMOUNT
May 6, 1982		$266.00

PAY TO THE ORDER OF: Friends of George Miller

CITY OF PITTSBURG

REPUNCHED
JUN 17 1982
S.O

NOT NEGOTIABLE

PITTSBURG OFFICE
WELLS FARGO BANK
PITTSBURG, CALIFORNIA

REFERENCE	FUND NO.	ACCOUNT NO.	AMOUNT	PREVIOUS BALANCE	BALANCE	DESCRIPTION
5/6/82	10	0110-4700	$266.00	Dinner for George Miller Mayor Rivera & Wife Councilman Silva and Wife Frank Quesada Deraing and Wife	5/7/82	

PLEASE DETACH BEFORE DEPOSITING CHECK

CITY OF PITTSBURG
63 CIVIC AVENUE
PITTSBURG, CALIFORNIA 94565

THIS CHECK IS TENDERED IN FULL PAYMENT OF INVOICES LISTED ABOVE

36

ACCOUNT NO. 10-0110-4700

AUTHORIZED SIGNATURE

DIRECTOR OF FINANCE

DIRECT PAYMENT CLAIM

CITY OF PITTSBURG

2020 Railroad Avenue — Phone (415) 439-4950

Pittsburg, California 94565

The Direct Payment Claim may only be used to cover the following payments:

Employee reimbursement (or advances) for travel or other business expense.
Renewal subscriptions for publications.
Organization or association dues.
Purchases when payment is required to accompany the order.

DATE: May 7, 1982

PAYEE: Friends of George Miller

AMOUNT $ 33.00

DESCRIPTION:

For Vice Mayor Joseph DeTorres
Dinner for George Miller
May 7, 1982

37

ACCOUNT NO. _____

AUTHORIZED SIGNATURE _____

DIRECTOR

65 CIVIC AVENUE
PITTSBURG, CALIFORNIA 94565

No. 24156

CITY OF PITTSBURG — 38 dollars 00 cts

DATE	CHECK NO.	AMOUNT
May 7, 1982		$38.00

PAY TO THE ORDER OF: Friends of George Miller

CITY OF PITTSBURG

KEYPUNCHED JUN 7 1982

COPY NOT NEGOTIABLE

S.O.

PITTSBURG OFFICE
WELLS FARGO BANK
PITTSBURG, CALIFORNIA

DATE	REFERENCE	FUND NO.	ACCOUNT NO.	AMOUNT	PREVIOUS BALANCE	BALANCE	DESCRIPTION
5/7/82		10	0110-4700	$38.00			Dinner for George Miller 5/7/82: Vice Mayor Joseph DeTorres

PLEASE DETACH BEFORE DEPOSITING CHECK

CITY OF PITTSBURG
65 CIVIC AVENUE
PITTSBURG, CALIFORNIA 94565

THIS CHECK IS TENDERED IN FULL PAYMENT OF INVOICES LISTED ABOVE

38

ACCOUNT NO. _____

AUTHORIZED SIGNATURE _____

DIRECTOR OF FINANCE _____

City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565

July 15, 198X

Dear Contributor(s):

Due to Federal Election Commission regulations, we are unable to accept contributions from corporations, unions and national banks, unless they are made from separate segregated funds or political action committees.

We are returning this contribution because it appears to be from a corporation*, union or national bank. If our assumption is incorrect and the contribution is legal, please return it with a signed letter to that effect. Otherwise, please replace it with a personal check or a political action committee check.

If you have any questions, please call me at (415)393-2895.

*Cities are considered corporations under FEC law.

Sincerely,

05-10-86

Alison Cartwright

Alison Cartwright, Treasurer
Friends of Congressman George Miller

Please address all correspondence to:

Alison Brown c/o
Arthur Young and Company
One Post Street, Suite 2900
San Francisco, CA 94104

Encl: Check #1129 - $304.00

EXHIBIT D (39)

DECLARATION FOR MARY ERBEZ

I, Mary Erbez, hereby declare as follows:

1. I am the City Clerk for the City of Pittsburg. I have served in this capacity for thirty-five years.

2. The City Manager instructed me to research our files regarding the subject matter of the complaint described in the Federal Election Commission letter of December 9, 1983.

3. I have been able to find two letters from Friends of Congressman George Miller Committee, one dated May 28, 1980, and the other dated July 15, 1982. The May 26, 1980 letter was origirally received by me and sent to the Finance Department for review for confirmation as to whether there was a problem in the City making direct payment to the Miller committee. I have no specific recollection of the Finance Department giving definitive word back to my office as to this issue.

I do believe, however, that neither the May 1980 letter or the July 1982 letters were ever sent to the City Council.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 25 day of January, 1984 at Pittsburg, California.

Mary Erbez

MARY ERBEZ

EXHIBIT E (40)

8504057

October 7, 1983

Mr. Ronald P. Rives
4476 St. John Lane
Pittsburg, CA 94565

Dear Mr. Rives:

It has come to our attention that the funds you sent to our committee for our 1982 Annual Birthday Dinner were apparently from the City of Pittsburg. We cannot accept contributions from cities, therefore we are returning the funds to you.

We are filing an amendment to our election report in which your contribution was reported.

Sincerely,

Alison Cartwright Brown

Alison Cartwright Brown,
Treasurer
Friends of Congressman
George Miller
145 Park Place
Richmond, CA 94801

8504052-4760

WELLS FARGO BANK N.A.

Memo: Pledge

RICHMOND OFFICE
1221 MacDONALD AVENUE, RICHMOND, CA 94801

11-21/735
1210 (8)

1544

10/7 19 83

Pay to Ronald P. Rives $ 70.00

THE ORDER OF
Seventy-six Dollars

FRIENDS OF CONGRESSMAN
GEORGE MILLER
145 PARK PLACE
POINT RICHMOND, CA 94501

Alison Cartwright

⑈121000248⑈544 0335 293171⑈

41

EXHIBIT F

October 7, 1983

Mr. Joseph Siino
936 Ventura Drive
Pittsburg, CA 94565

Dear Mr. Siino:

It has come to our attention that the funds you sent to our committee for our 1982 Annual Birthday Dinner were apparently from the City of Pittsburg. We cannot accept contributions from cities, therefore we are returning the funds to you.

We are filing an amendment to our election report in which your contribution was reported.

Sincerely,

Alison Cartwright Brown

Alison Cartwright Brown,
Treasurer
Friends of Congressman
George Miller
145 Park Place
Richmond, CA 94801

50405247561

WELLS FARGO BANK N.A.
RICHMOND OFFICE
1221 MacDONALD AVENUE, RICHMOND, CA 94801

Memo Refund

11-24/355
1210 (8)

1540

10/7 1983

Pay to Joseph Siino
THE ORDER OF

$ 76.00

Seventy-six 00/100 Dollars

FRIENDS OF CONGRESSMAN
GEORGE MILLER
145 PARK PLACE
POINT RICHMOND, CA 94801

Alison Cartwright

⑆121000248⑆540 0335 293171⑈

42

October 7, 1983

Mr. Joseph DeTorres
131 Regent Drive
Pittsburg, CA 94565

Dear Mr. DeTorres:

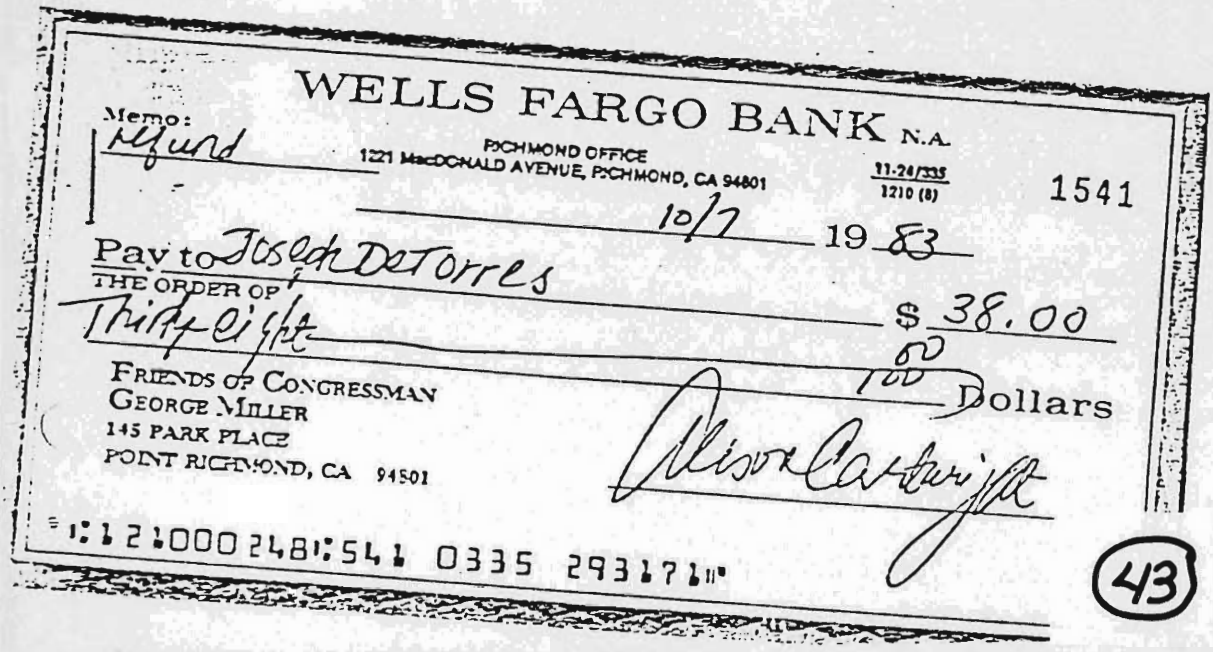
It has come to our attention that the funds you sent to our committee for our 1982 Annual Birthday Dinner were apparently from the City of Pittsburg. We cannot accept contributions from cities, therefore we are returning the funds to you.

We are filing an amendment to our election report in which your contribution was reported.

Sincerely,

Alison Cartwright Brown

Alison Cartwright Brown,
Treasurer
Friends of Congressman
George Miller
145 Park Place
Richmond, CA 94801



(43)

October 7, 1983

Mr. Ralph Downing
1174 Jewett Avenue
Pittsburg, CA 94565

Dear Mr. Downing:

It has come to our attention that the funds you sent to our committee for our 1982 Annual Birthday Dinner were apparently from the City of Pittsburg. We cannot accept contributions from cities, therefore we are returning the funds to you.

We are filing an amendment to our election report in which your contribution was reported.

Sincerely,

Alison Cartwright Brown

Alison Cartwright Brown,
Treasurer
Friends of Congressman
George Miller
145 Park Place
Richmond, CA 94801

850405247563

WELLS FARGO BANK N.A.

RICHMOND OFFICE
1221 MacDONALD AVENUE, RICHMOND, CA 94801

11-24/335
1210 (8)

1542

Memo: Refund

10/7 19 83

Pay to THE ORDER OF Ralph Downing $ 76.00

Seventy-six Dollars

FRIENDS OF CONGRESSMAN
GEORGE MILLER
145 PARK PLACE
POINT RICHMOND, CA 94801

Alison Cartwright

⑆121000248⑆542 0335 293171⑈

44

October 7, 1983

Mr. Frank R. Quesada
33 Jimno Avenue
Pittsburg, CA 94565

Dear Mr. Quesada:

It has come to our attention that the funds you sent to our committee for our 1982 Annual Birthday Dinner were apparently from the City of Pittsburg. We cannot accept contributions from cities, therefore we are returning the funds to you.

We are filing an amendment to our election report in which your contribution was reported.

Sincerely,

Alison Cartwright Brown

Alison Cartwright Brown,
Treasurer
Friends of Congressman
George Miller
145 Park Place
Richmond, CA 94801

8504052476 1

WELLS FARGO BANK N.A.
RICHMOND OFFICE
1221 MacDONALD AVENUE, RICHMOND, CA 94801

11-24/325
1210 (8)

1543

Memo: Refund

10/7 19 83

Pay to Frank R. Quesada

$ 38.00

THE ORDER OF Thirty-eight 00/100 Dollars

FRIENDS OF CONGRESSMAN
GEORGE MILLER
145 PARK PLACE
POINT RICHMOND, CA 94801

Alison Cartwright

⑈121000248⑈543 0335 293171⑈

45

CITY CLERK

JUN 02 1980

May 28, 1980

City of Pittsburg
2020 Railroad Avenue
Pittsburg, California 94565

Dear Contributor(s):

Due to Federal Election Commission regulations, we are unable to accept contributions from corporations, unions and national banks, unless they are made from separate segregated funds or political action committees.

We are returning this contribution because it appears as if it may be from a corporation, union or national bank. If not, please return it with a signed letter stating its legality. Otherwise, please replace it with another one from separate funds, a PAC or a personal check.

If you have any questions, please call. We apologize for the inconvenience.

Sincerely,

Alison Cartwright

Alison Cartwright, Treasurer
Friends of Congressman George Miller
145 Park Place
Richmond, California 94801
(415) 233-6900

8504057653

EXHIBIT G (46)

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

John R. Shaw
City Attorney
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, California 94565

Re: MUR 1609
City of Pittsburg, California
Councilman Joseph Siino
Councilman Joseph Detorres
Councilman Ralph Downing
Councilman Frank Quesada
Councilman Ronald P. Rives

Dear Mr. Shaw:

The Federal Election Commission notified your clients on December 9, 1983, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on , 1984, determined that there is reason to believe that your clients have violated 2 U.S.C. §§ 441b(a) and 441f, provisions of the Act.

Specifically, it appears that the City of Pittsburg, California made corporate contributions to a federal candidate in violation of 2 U.S.C. § 441b(a). In addition, it appears that the City of Pittsburg, California made contributions with city funds to a federal candidate in the names of other individuals and that councilmen Joseph Siino, Joseph Detorres, Ralph Downing, Frank R. Quesada and Ronald P. Rives permitted their names to be used to make such contributions in violation of 2 U.S.C. § 441f.

Your response to the Commission's initial notification of this complaint did not provide complete information regarding

8504052476

the matters in question. Please respond to the enclosed request for documents within ten days of receipt of this letter. You may also submit any other factual or legal materials that you believe are relevant to the Commission's analysis of this matter.

The Office of General Counsel would like to settle this matter through conciliation prior to a finding of probable cause. However, in the absence of any information which demonstrates that no further action should be taken against your clients, the Office of General Counsel must proceed to the next compliance stage as noted on page 2, paragraph 2, of the enclosed procedures.

This matter will remain 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 matter to be made public.

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

Sincerely,

Enclosures
Procedures

8504052467

Request for Documents from:
City of Pittsburg, California
Councilman Joseph Siino
Councilman Joseph Detorres
Councilman Ralph Downing
Councilman Frank R. Quesada
Councilman Ronald P. Rives

1. Provide copies (front and back) of all checks issued in 1982 by the City of Pittsburg, California to the Friends of Congressman George Miller.

2. Provide copies (front and back) of all checks issued by the City of Pittsburg, California to Councilmen Joseph Siino, Joseph Detorres, Ralph Downing, Frank R. Quesada and Ronald P. Rives, as reimbursement for expenditures incurred by the councilmen in connection with the 1982 Annual Birthday Dinner sponsored by Friends of Congressman George Miller on May 7, 1982.

3. Provide copies of all documents including, but not limited to, memoranda of telephone conversations, inter-office memoranda, routing slips, notes regarding the checks submitted by the City of Pittsburg to Friends of Congressman George Miller, that were later returned in a letter of July 15, 1982.

8504052473

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Ms. Alison Cartwright Brown, Treasurer
Friends of Congressman George Miller
145 Park Place
Richmond, California 94801

Re: MUR 1609
Friends of Congressman George Miller
Alison Cartwright Brown, Treasurer

Dear Ms. Brown:

The Federal Election Commission notified the Friends of Congressman George Miller and you, as treasurer, on December 9, 1983, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to you at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on , 1984, determined that there is reason to believe that Friends of Congressman George Miller and you, as treasurer, have violated 2 U.S.C. § 441b(a), a provision of the Act. Specifically, it appears that Friends of Congressman George Miller and you, as treasurer, accepted a corporate contribution from the City of Pittsburg, California in violation of 2 U.S.C. § 441b(a). In addition, the Commission found no reason to believe that the Friends of Congressman George Miller and you, as treasurer, violated 2 U.S.C. § 441f by accepting contributions made by the City of Pittsburg, California in the names of others.

Your response to the Commission's initial notification of this complaint did not provide complete information regarding

8504052470

the matter in question. Please respond to the enclosed interrogatories and request for documents within ten days of receipt of this letter. Statements should be submitted under oath. You may also submit any other factual or legal materials that you believe are relevant to the Commission's analysis of this matter.

The Office of General Counsel would like to settle this matter through conciliation prior to a finding of probable cause. However, in the absence of any information which demonstrates that no further action should be taken against your committee and you, as treasurer, the Office of General Counsel must proceed to the next compliance stage as noted on page 2, paragraph 2, of the enclosed procedures.

This matter will remain 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 matter to be made public.

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

Sincerely,

Enclosures
Procedures

8504052477 0

Interrogatories to and Request for Documents from
Friends of Congressman George Miller and
Alison Cartwright Brown, as treasurer

1. In its 1982 12 Day Pre-Primary Election Report, the Friends of Congressman George Miller discloses the receipt of two checks, one for $266 and one for $38 from the City of Pittsburg, California. In its 1982 October 15 Quarterly Report, the Friends of Congressman George Miller discloses a refund of $304 on July 15, 1982, to the City of Pittsburg, California.

a) State whether the two checks received from the City of Pittsburg, California were deposited by the Friends of Congressman George Miller and identify the account into which the funds were deposited.

b) State whether the checks received from the City of Pittsburg, California were returned to the city uncashed. If the funds were returned by separate check drawn on an account maintained by the Friends of Congressman George Miller, please provide a copy of the refund check.

2. Provide a copy of the invitation to the 1982 Annual Birthday Dinner sponsored by the Friends of Congressman George Miller, on May 7, 1982. In addition, please provide copies of invitations to birthday dinners held by Friends of Congressman George Miller in prior election and non-election years.

8504052477

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 5, 1984

John R. Shaw
City Attorney
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, California 94565

Re: MUR 1609

Dear Mr. Shaw:

This is to inform you that the Office of General Counsel has determined to grant you your requested extension until January 28, 1984, in which to submit a response on behalf of city council members Mr. Joseph Siino, Mr. Joseph Detorres, Mr. Ralph Downing, Mr. Frank Quesada, Mr. Ronald Rives and city manager S. Anthony Donato, in the above-referenced matter.

If you have any questions, please direct them to Beverly Kramer, the staff member assigned to this matter, at (202)523-4057.

Sincerely,

Charles N. Steele
General Counsel

Kenneth A. Gross by FDW

By: Kenneth A. Gross
Associate General Counsel

8504052477 2

OFFICE OF
THE CITY ATTORNEY
City of Pittsburg
JOHN R. SHAW
CITY ATTORNEY
P.O. BOX 1518
[illegible] AVENUE
PITTSBURG, CALIFORNIA 94565
(415) 439-4890

RECEIVED AT THE FEC
6 cch 1316
83 DEC 20 P 2:37
MUR 1609
JCramer
P4:38

December 20, 1983

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

Re: Case #MUR 1609/Request for Extension

Dear Mr. Steele:

I represent Pittsburg City Council Members Downing, Quesada, Rives, Siino and DeTorres, and Pittsburg City Manager S. Anthony Donato, in regards to the above-captioned matter.

These persons were served with your letter dated December 9, 1983, on December 13, 1983.

This letter is to request a thirty-day extension to answer the allegations set forth in the letter of December 9, 1983. Since the initial fifteen-day response time ends December 28, 1983, a thirty-day extension would run through January 28, 1984. Therefore, my request for extension is to and including January 28, 1984.

I have been advised by your staff person, Beverly Cramer, that this request for extension will be granted by you in due course based upon the following grounds:

1. A substantial period of time will be needed to gather documentary evidence relating to the allegations, including birthday invitation requests distributed by Congressman Miller, cancelled checks, etc.

2. Research time to be undertaken regarding questions of law involved in this matter.

Your cooperation is most appreciated.

Very truly yours,

John Shaw

JOHN R. SHAW

JRS/dk

cc: City Council
City Manager

8504052473

CITY ATTORNEY

20 Railroad Avenue

03 DEC 20 P2:42

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

CERTIFIED

P 319 734 49

MAIL

RECEIVED AT THE FEC
83 DEC 27 P1:27

OFFICE OF
THE CITY ATTORNEY
City of Pittsburg
JOHN R. SHAW
CITY ATTORNEY

P.O. BOX 1518
[illegible] LA AVENUE
PITTSBURG, CALIFORNIA 94565
(415) 439-4890

December 20, 1983

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

Re: Case #MUR 1609/Request for Extension

Dear Mr. Steele.

I represent Pittsburg City Council Members Downing, Quesada, Rives, Siino and DeTorres, and Pittsburg City Manager S. Anthony Donato, in regards to the above-captioned matter.

These persons were served with your letter dated December 9, 1983, on December 13, 1983.

This letter is to request a thirty-day extension to answer the allegations set forth in the letter of December 9, 1983. Since the initial fifteen-day response time ends December 28, 1983, a thirty-day extension would run through January 28, 1984. Therefore, my request for extension is to and including January 28, 1984.

I have been advised by your staff person, Beverly Cramer, that this request for extension will be granted by you in due course based upon the following grounds:

1. A substantial period of time will be needed to gather documentary evidence relating to the allegations, including birthday invitation requests distributed by Congressman Miller, cancelled checks, etc.

2. Research time to be undertaken regarding questions of law involved in this matter.

Your cooperation is most appreciated.

Very truly yours,

JOHN R. SHAW

JRS/dk

cc: City Council
City Manager

8504052477 5

THE CITY ATTORNEY
City of Petaluma
P.O. Box 1578
2020 Railroad Avenue
Petaluma, CA 94565

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

RECEIVED AT THE FEC
Gen # 1522
84 JAN 30 P12:36

CITY OF PITTSBURG
RESPONSE TO
FEDERAL ELECTIONS COMMISSION
LETTER OF INQUIRY - MUR 1609

84 JAN 27 P4:22

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OFFICE OF
THE CITY ATTORNEY
City of Pittsburg
JOHN R. SHAW
CITY ATTORNEY

P.O. BOX 1518
2020 RAILROAD AVENUE
PITTSBURG, CALIFORNIA 94565
(415) 439-4890

January 26, 1984

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

Re: City of Pittsburg Response to Commission Letter Complaint - MUR1609

Dear Mr. Steele:

Please find enclosed the City of Pittsburg's response to your letter of December 9, 1983, addressed to Pittsburg City Council Members Downing, Quesada, Rives, Siino, DeTorres and Pittsburg City Manager S. Anthony Donato. This response is on behalf of the above-stated persons.

All communications should be directed to this office.

Your cooperation is most appreciated.

Very truly yours,

JOHN R. SHAW

JRS/dk

enclosure (1)

cc: Mayor and City Council
City Manager

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RESPONSE TO FEDERAL ELECTION COMMISSION COMPLAINT

TABLE OF CONTENTS

		PAGE
I	INTRODUCTION	1
II	FACTS	1
III	ANALYSIS	
	A. Payment of monies by City Councilmen or the City to the Miller committee should not be treated as "contributions" as defined in 2 USC 431 [E][2]	2
	B. If the payment of monies by the City and/or Councilmen are treated as contributions, the Councilmen did not knowingly permit their names to be used to effect a contribution in the name of another person	5
	C. The City Manager did not knowingly make a contribution in the name of another person	5
IV	CONCLUSIONS	6

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I

INTRODUCTION

This letter brief, with attached exhibits, is in response to the written complaint referred to in the General Counsel's letter of the Federal Elections Commission, dated December 9, 1983. This letter response is on behalf of Pittsburg City Councilmembers DeTorres, Downing, Quesada, Rives, Siino and City Manager S. Anthony Donato.

II

FACTS

In the Spring of 1982, the birthday committee of Congressman George Miller publicized a birthday celebration event for George Miller's 37th birthday to be held on May 7, 1982. The celebration consisted of a formal dinner held at the Sheraton Airport Inn in the City of Concord, Contra Costa County, California. We have been unable to locate a copy of the 1982 birthday invitation.

The birthday party has been an annual affair extending back over a several year period. It has been customary practice for City Councilmen to attend these birthday dinners as a part of the Councilmen's normal city duties in representing the interests of the City of Pittsburg. (See Exhibits A-1 through A-5, B)

Under customary practice, when a Councilman desires to attend such a social event having relationship to City business, Councilmen contact the City Manager's Secretary who then makes the appropriate reservations for the event. In this particular situation, all five Councilmen requested the City Manager's Secretary to make reservations.

The City Manager's Secretary executed a payment demand, signed by the City Manager, which was then sent to the City's Finance Department. The Finance Department issued the checks as a matter of course and these were mailed by the Manager's Secretary to the committee shortly before May 7, 1982. (See Exhibit C)

In July 1982, the Finance Department received the two subject checks, uncashed, with a cover letter from the committee stating they could not accept the checks from a corporate entity. (See Exhibit D) The letter continued requesting personal checks from those in attendance. The Manager's Secretary phoned the Councilmen requesting that they make out personal checks to Miller's committee. (See Exhibit C) Each Councilman was told he would be reimbursed

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for the expense. Individual checks were made out and each were subsequently reimbursed. Each Councilman did not regard the event as a campaign fund raiser related to a federal election; rather each Councilman viewed the birthday event as affording the opportunity to discuss City business with Congressman Miller. (See Exhibits A-1 through A-5)

None of the Councilmen ever saw the Miller letter which returned the check. (See Exhibits A-1 through A-5, C, E)

On or about October 5, 1983, the local newspaper, the Pittsburg Post Dispatch, ran a story questioning the Councilmen's payment and reimbursement of money regarding the Miller birthday party.

On or about October 7, 1983, the Friends of Congressman George Miller Committee returned by letter the amount paid by each in attending the annual birthday party. (See Exhibit F)

On or about November 30, 1983, the Mexican-American Political Association (MAPA) filed a complaint with the Federal Elections Commission charging potential illegal donations to the campaign committee of George Miller.

III

ANALYSIS

A. Payment of monies by City Councilmen or the City to the Miller committee should not be treated as "contributions" as defined in 2 USC 431 [E][2].

There are two apparent federal election law prohibitions which have general application to the above stated facts. 2 USC 441[B] prohibits corporate entities from making contributions in connection with any election at which representatives to the United States Congress are to be voted for. 2 USC 441[F] prohibits a person from making a contribution in the name of another person, or knowingly permit his name to be used to effect such a contribution.

Obviously, one of the several predicates to liability under these statutes is that there be a "contribution." The threshold question then arises as to whether the City or the City Councilmen made "contributions" to the Miller committee. This question turns on the definition of "contribution" which is set forth in 2 USC 431 [8][A]. It provides that:

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"The term 'contribution' includes-

[i] any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office;" (emphasis added)

2 USC 431[8][B] goes on to set out a number of items deemed not to be contributions. None of these are relevant to the issue at hand.

Both sections 441[B] and 441[F] stress a nexus between the payment of funds and an intended purpose to affect or influence a federal election.

Federal case law provides further illumination as to this required nexus. In Federal Election Commission v. California Medical Ass'n., 502 F. Supp. 196 (1980), the court stated:

"It is well established that the thrust of FECA is to regulate contributions and expenditures made for the relatively narrow purpose of influencing federal elections and that it does not reach activities designed more broadly to promote the discussion of political issues." p. 201

U.S. v. National Committee For Impeachment, 469 F.2d 1139 (1972), held FECA inapplicable to a committee which received contributions in response to an advertisement it ran in the New York Times sponsoring President Nixon's impeachment. The court there found:

"Thus, the words of the Act seem to indicate that Congresses' concern was primarily with groups organized or at least authorized by a particular candidate and whose principal focus is a specific campaign. The central theme of the advertisement at issue here relates to impeachment of the President, not specific election campaigns or candidates." p. 1140 (emphasis added)

Were we to think otherwise, Title III of the Act would raise serious constitutional issues, on which we express no opinion." p. 1140

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We also construe the Act to apply to committees soliciting contributions or making expensitures the major purpose of which is the nomination or election of candidates." p. 1141 (emphasis added)

In addition, FECA "...is to be liberally interpreted in favor of the accused." See U.S. v. Hankin, 607 F.2d 611, 615 [1979].

The legal definition of contribution set forth in 2 USC 431 8[A], impliedly requires the presence of an intent by the donor that the purpose of the payment be devoted to influencing the outcome of a federal election. The above stated case law further supports this interpretation.

All pertinent circumstances, especially those facts surrounding the intent of the donor, should be carefully weighed in determining whether a payment of money constitutes a contribution under Section 431[E][2].

We have not been able to locate the formal birthday invitation mailed in the Spring of 1982. However, the declarations of the Councilmen point out that this event was not expressly advertised as a campaign fund raiser. Indeed, this event has always been thought by Pittsburg officials to be a social event allowing direct communicative contact with the Congressman in the format of a birthday party. In short, the Miller committee advertised the event as a birthday party---not as a fund raiser to raise funds to influence congressional elections.

The cost of each ticket, at $38.00, is not a particularly large sum of money when considering that this was a formal dinner at one of the finer hotels in the county. One normally thinks of a campaign fund raiser as a campaign event, advertised as such, and priced at a level that is clearly far in excess of the amount needed to defray the cost of the dinner.

Further, this event has come to be viewed as an annual event which is not held in the context of the heat of a congressional battle for federal office.

More importantly, as the declarations of the Councilmen and the City Manager bear out, they do not understand this event to be a campaign fund raiser. Rather, this was a social event affording the opportunity for local politicians to meet with their legislator. The City of Pittsburg has been very active over the years in obtaining a large amount of federal funding for a variety of local programs. This event affords one of the few opportunities for local politicians to meet with their legislator.

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We find now that the Miller committee appears to have treated the party as a source of campaign contributions. However, we do not believe this mere fact alone should be controlling as to the determination or categorization of the payment as a contribution. We think that the committee does bear a responsibility to clearly make known to the public that it is treating the birthday party as a campaign event, the funds from which will be used directly to affect election to office. We emphasize that we know of no printed information distributed by the committee which states expressly and clearly that the party was held as a campaign event to raise campaign funds to influence a federal election.

B. If the payment of monies by the City and/or Councilmen are treated as contributions, the Councilmen did not knowingly permit their names to be used to effect a contribution in the name of another person.

The Section 441 [F] rule prohibition against contributions in the name of another person was not violated by the Councilmen in that they did not have knowledge that their names were to be used to effect a campaign contribution in the name of another person. U.S. v. Hankin, 607 F. 2d 611, (1979) provides clear guidance in resolving this issue. There, in the middle of a federal election campaign, the defendant requested two persons to contribute $500.00 each to a campaign committee known as the "Shapp for President Committee." The title given to the committee itself made clear that it was organized around the impending presidential election. Both persons understood the payment of funds to be campaign election contributions. Further, the defendant had approached these two persons with the proposition that these campaign contributions would be promptly reimbursed by him. Defendant clearly knew that these were campaign contributions. The defendant was charged and convicted of illegally making four campaign contributions in the name of the two donors.

In contrast to the facts in the Hankin supra case, the City Councilmen at no time were on notice that they were consciously making campaign contributions. The Miller committee was directly associated by the public with the single purpose of a birthday event---not an election. The City Manager, who ultimately authorized initial city payment, was not aware that the payment of funds constituted campaign contributions. These facts are clearly distinguishable from the facts in the Hankin case where there never was any doubt that the payment of funds were campaign contributions. We note further that the annual birthday tradition, which again is advertised as a "birthday" function, is conducted without regard to pending federal elections.

C. The City Manager did not knowingly make a contribution in the name of another person.

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The City Manager declares he did not understand the birthday party to be a campaign fund raiser. (Exhibit B) His authorization of City payments to the committee was an act consistent with other City expenditures to encourage Councilmen to attend political social events having some relationship to City business. Under this practice, Councilmen have been consistently reimbursed for attending political social events. The City Manager has forthrightly, albeit, embarrasingly, now discovered after extensive staff research into City Clerk and finance files, that the Miller campaign committee had themselves treated the payment of funds as contributions as early as 1980. (Exhibit G)

The City Manager has declared under penalty of perjury that he was unaware of this fact. Had he been aware of this fact, he would not have authorized payment and now recognizes that if indeed the payment of funds can be treated as a campaign contribution, the City will cease and desist from this practice in the future.

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CONCLUSIONS

The City Manager and the Councilmen genuinely believed that payment of funds for birthday tickets to the Miller committee did not constitute outright campaign contributions to be used for the purpose of influencing a federal election. Rather, it was their intent that these funds be used simply for the purpose of purchasing tickets which would enable local politicians to meet with their local legislator.

This controversy would probably have never occurred but for the proverbial left hand not knowing what the right hand was doing; that is, a classic case of bureaucratic mismanagement of paperwork relating to the handling of payments for birthday tickets resulted in the failure of the City Clerk and Finance Department to communicate the problem of City payment of funds to a federal campaign committee to the City Manager.

City staff has spent a great deal of time assembling the facts relating to this matter. We trust that the commission will appreciate the candor of the City Manager in his disclosure of the 1980 snafu.

Further, the City of Pittsburg in no way desires to make this same mistake again and will take all appropriate precautions to ensure that no further City funds are expended for Congressman Miller's birthday parties.

Dated: January 25, 1984

JOHN R. SHAW
CITY ATTORNEY

DECLARATION OF FRANK QUESADA

I, COUNCILMAN FRANK R. QUESADA, hereby declare as follows:

1. I am a city councilman of the City of Pittsburg, having been elected to said position on or about April 15, 1974.

2. I received on or about December 13, 1983, a letter from the Federal Elections Commission, dated December 9, 1983, enclosing a complaint against me regarding alleged campaign contributions made to Congressman George Miller's committee.

3. My recollection regarding the facts surrounding the payment of money to Congressman George Miller is as follows:

On or about late April, or early May 1982, I received a written invitation to attend Congressman Miller's 38th birthday party to be held in May 1982. As is the normal practice, I contacted the City Manager's Secretary, Vicki Bertoglio, to make a reservation for my attendance. I remember personally paying for the ticket sometime after the event at the request of the City Manager's Secretary. I have not been able to find my cancelled check. I do have a general recollection that the check was required because the Miller people required individual checks in returning the original City payment.

4. I understood the event to be a social event in celebration of the Congressman's birthday which provided Pittsburg officials with the opportunity to meet with Congressman Miller. I did not know, or intend that payment for the birthday ticket was a campaign contribution to be used to influence the next congressional election. Furthermore, this event provides virtually the only time during the year when Congressman Miller makes himself available to the City of

EXHIBIT A - 1

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Pittsburg constituency. As such, I view my attendance at this event as a part of my normal councilman's duties. During the event, for example, I personally spoke with Congressman Miller regarding a pending city application (UDAG grant application) for federal funding. I again repeat, at no time did I understand this event to be designed or set up for the purpose of raising campaign funds in connection with election to federal office. Rather, the purpose of my payment was to have dinner with Congressman Miller in discharge of my duties as councilman.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 25 day of January, 1984, at Pittsburg, California.

FRANK R. QUESADA

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CITY ATTORNEY
CITY of PITTSBURG
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, CA 94565
(415) 439-4890

DECLARATION OF RALPH DOWNING

I, RALPH DOWNING, hereby declare as follows:

1. I am a City Councilman in the City of Pittsburg having been appointed to fill a vacancy on the City Council on November 8, 1979, and having served since then continuously in this position.

2. I received on or about December 13, 1983, a letter from the Federal Elections Commission, dated December 9, 1983, enclosing a complaint against me regarding alleged campaign contributions made to Congressman George Miller's committee.

3. This is my recollection of the facts: Sometime prior to May 7, 1982, I received a written invitation to attend Congressman Miller's 37th birthday party to be held on May 7, 1982. I have looked for this invitation, but have not been able to find it. Sometime prior to this date, I was contacted by the City Manager's Secretary and asked if I planned to attend Congressman Miller's birthday party. I was advised that the City wanted to confirm reservations and the city would issue a check to cover the cost of the dinner for the city officials attending. I agreed to go as the birthday dinner offered the city officials one of the few opportunities to meet and talk with our congressman. I considered this as part of my duties as Councilman and as a representative of our city.

4. At no time prior to attending the birthday dinner or during the dinner was I aware that this was a fund raising

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(415) 439-4890

EXHIBIT A - 2

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event for the purpose of raising monies for Congressman Miller's election. It was my understading that this was a social event honoring Congressman Miller on his birthday, and I believe the donation of $38.00 would be used to defray the actual cost of the dinner and decorations. The invitations did not indicate, as I recall, that the function was a campaign contribution fund raiser.

5. Sometime in the latter part of July or early August, 1982, the City Manager's office informed me that the City's check issued to defray the cost of my attendance and the other city officials' attendance had been returned. The reason given me was that Miller's committee could not accept the check from the City and that a request had been made by them to have individual checks sent from each Councilman to the committee. Therefore, I was asked to issue a personal check for $76.00 to cover the cost of my wife and my attendance at the dinner.

On August 6, 1982, I delivered a personal check for $76.00 payable to Friends of Congressman George Miller to the City Manager's Secretary. The City thereafter issued a check for $76.00 as reimbursement for the expenses I had incurred.

6. At no time, did I ever see a letter from the Miller committee which returned the City check for the birthday tickets.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 25TH day of JANUARY, 1984, at Pittsburg, California.

Ralph Downing
RALPH DOWNING

CITY ATTORNEY
CITY of PITTSBURG
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, CA 94565
(415) 439-4890

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DECLARATION FOR JOSEPH SIINO

I, Joseph Siino, hereby declare as follows:

1. I am a City Councilman in the City of Pittsburg, having served in this capacity since 1976.

2. In response to the December 9, 1983 Federal Elections Commission letter, I relate my recollection of the pertinent facts as follows:

I attended Congressman Miller's birthday party which was held in early May 1982. I regarded this birthday party as a social event---not as a political campaign fundraiser. This event has given me the opportunity over the last several years to meet with Congressman Miller on a personal basis. It was my impression that the ticket revenue would be used to defray the cost of the dinner and I had no reason to believe that the proceeds would be used for campaign purposes.

I was under the impression before the dinner that the tickets would be paid for by the City as it was my impression that this was an obligation as a part of my Councilman's duties. Later, I recall the City Manager's Secretary calling me stating that the City payment had been returned and that the Miller committee was requesting that personal checks be made out by each Councilman.

Later, I received reimbursement for my expense incurred in purchase of the tickets. The reimbursement was instigated by City staff.

City staff at no time sent me a copy of the Miller letter which returned the check prior to my payment.

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EXHIBIT A - 3

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I had no knowledge that Congressman Miller's committee had sent a communication to the City of Pittsburg that the tickets for the birthday dinner were in fact a fund raiser.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 25 day of January, 1984, at Pittsburg, California.

Joseph S. Siino

JOSEPH S. SIINO

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PITTSBURG OFFICE
3001 RAILROAD AVENUE
PITTSBURG, CALIFORNIA 94565

Wells Fargo Bank

No. 199

8/31 1982

Pay to the order of Friends of Congressman Miller $ 76.00

Seventy six 00 Dollars

JOSEPH S. SIENO
ALAMAY D. SIENO
936 VENTURA DR.
PITTSBURG, CA 94565

Donation

"0000007600"

8501405247922

CT '82' 18

PROCESSED
WELLS FARGO BANK
SAN FRANCISCO
BAY AREA BANK

FOR DEPOSIT ONLY
TO THE CREDIT OF

DECLARATION OF RONALD P. RIVES

I, Ronald P. Rives, do hereby declare:

1. Since April 8, 1980, and to the present, I have been a member of the City Council of the City of Pittsburg, California.

2. Prior to May 1982, I received an invitation from a group designated as "Friends of George Miller" inviting me to attend a birthday party for Congressman George Miller. No part of said invitation indicated that the function was a campaign fundraiser.

3. Prior to attending the event in question, I received no information from any source that the event was a campaign fundraiser. In fact, in May 1982, I had no idea that Congressman Miller was campaigning for anything.

4. My wife and I attended Congressman Miller's birthday party on May 7, 1982. Nothing was said or indicated to me or in my presence during the course of the birthday party to indicate that the proceeds thereof were to be used for campaign purposes. The tickets cost $38.00 each, $1.00 for each year of Congressman Miller's life. I believed that the proceeds of the tickets would be used to defray the cost of the dinner and I had no knowledge or belief that any portion of the proceeds would be used for campaign purposes.

5. Prior to the dinner I was advised that the City would pay for the tickets as the members of the Council were present at the dinner for the purpose of representing the City of Pittsburg. After the dinner, I was advised by the City that the City had not paid for the tickets in that a City check

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EXHIBIT A - 4

had been returned with a request made by the Miller committee that individual checks were required. I was never made aware of, nor did I see, the Miller letter which returned the check. I then drew a check on my personal account, a copy of which is attached hereto as Exhibit A, to defray the cost of the tickets.

6. On a date following the payment for the tickets, I submitted an expense account to the City of Pittsburg in which I listed this expense. I listed this as an expense because I attended as the Mayor and representative of the City of Pittsburg, and believed that I was simply attending a birthday party. If I had attended the function to represent my law firm, I would have expensed the cost of the event to my law firm. If I had been at the event to represent myself, I would have borne the expense myself.

7. As an attorney, I am aware of the axiom that "ignorance of the law is no excuse." However, in light of the incredible complexity of the regulations pertaining to campaign contributions and the fact that there are no corresponding state or local regulations, I must state that I had no knowledge that it was contrary to federal regulations to attend a dinner which is a campaign fundraiser and expense the cost of such attendance to a municipal or other corporation.

In summary, the complaint, in my opinion, merits no further action on two grounds:

1. I was not aware I was attending a political fundraiser. Neither Congressman Miller nor his campaign committee took any steps to advise persons in attendance at said dinner that the

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proceeds thereof would be used for campaign purposes.

2. I was not aware being reimbursed for attending a birthday party for a local congressman, a portion of the proceeds of which would be used for campaign purposes, was contrary to federal regulations.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 25th day of January, 1984 at Pittsburg, California.

Ronald P. Rives

RONALD P. RIVES

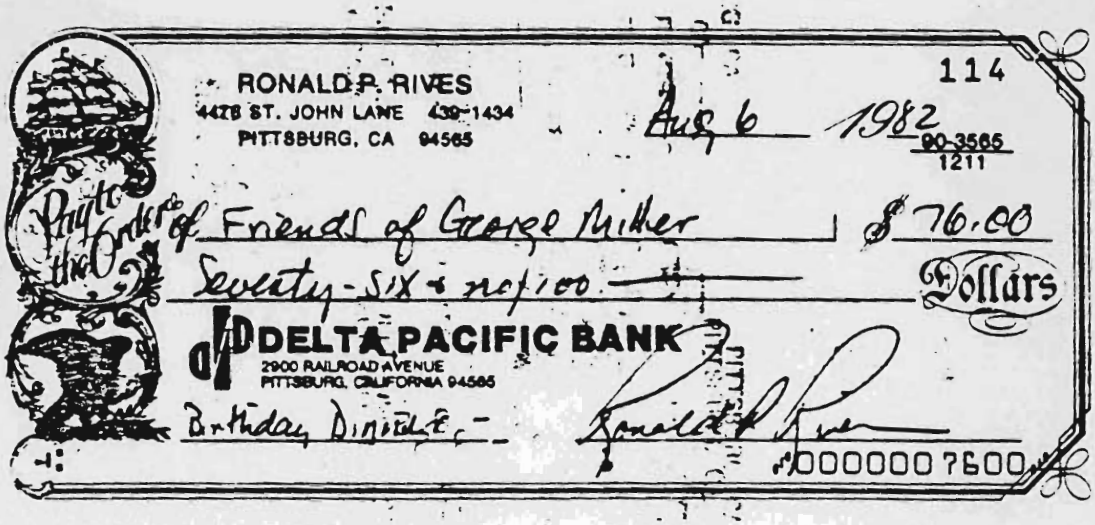
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(415) 439-4890



RONALD P. RIVES
4428 ST. JOHN LANE 439-1434
PITTSBURG, CA 94565

114

Aug 6 1982

90-3565
1211

Pay to the Order of Friends of George Miller $ 76.00

Seventy-Six + no/100 Dollars

DELTA PACIFIC BANK
2900 RAILROAD AVENUE
PITTSBURG, CALIFORNIA 94565

Birthday Dinner Etc.

Ronald P. Rives

⑈000000 7600⑈

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DECLARATION OF JOSEPH DETORRES

I, Joseph DeTorres, hereby declare as follows:

1. I am a City Council and Mayor in the City of Pittsburg having been elected to said position in 1976.

2. In regards to the Federal Elections Commission letter of complaint, dated December 9, 1983, my recollection of the facts pertaining to this matter are as follows:

In early May 1982, I was asked whether I desired to attend Congressman Miller's birthday party to be held in May of that year. I indicated to the City Manager's Secretary that I desired to go. Later, after the event, I remember receiving a telephone call from the City Manager's Secretary indicating that the City payment for the function had been returned and that the Miller committee had requested that individual Councilmen, as an alternative to City payment, make checks directly payable to the committee. Based upon that request, I wrote a personal check to the Miller committee, a copy of which is attached.

Sometime later, I was reimbursed for this expense as we consider attendance at this type of event a normal part of the Councilman's duties.

I regarded the birthday party as a social event giving members of the City Council a chance to discuss directly with Congressman Miller pending City problems having relevancy to federal funding.

In regards to the Miller committee letter of July 1982, I have never seen this letter prior to my personal payment for the event.

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EXHIBIT A - 5

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In conclusion, I was not aware of the fact that payments to the Miller committee constituted campaign contributions.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 25th day of January, 1984, at Pittsburg, California.

JOSEPH DeTORRES

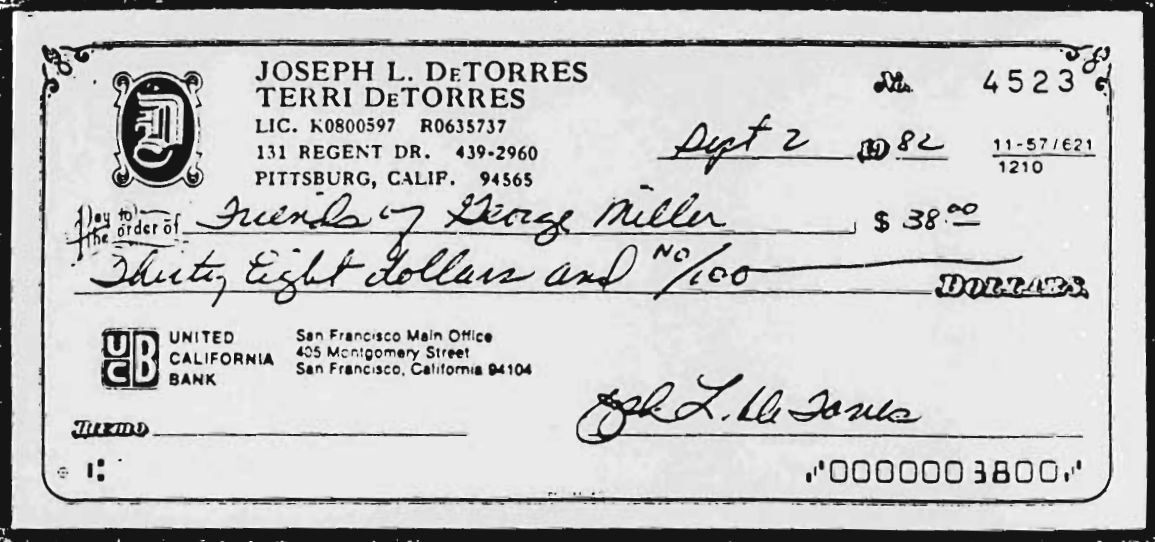
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2020 Railroad Avenue
Pittsburg, CA 94565
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JOSEPH L. DeTORRES
TERRI DeTORRES
LIC. K0800597 R0635737
131 REGENT DR. 439-2960
PITTSBURG, CALIF. 94565

No. 4523

Dept 2 19 82

11-57/621
1210

Pay to the order of Friends of George Miller $ 38.00

Thirty Eight Dollars and No/100 DOLLARS

UCB UNITED CALIFORNIA BANK
San Francisco Main Office
405 Montgomery Street
San Francisco, California 94104

MEMO

Joseph L. DeTorres

⑈ 1: "000000 3800"

DECLARATION FOR S. ANTHONY DONATO

I. S. Anthony Donato, hereby declare as follows:

1. I am the City Manager of the City of Pittsburg having served continuously in this position since 1968.

2. I received on or about December 13, 1983, a letter from the Federal Elections Commission, dated December 9, 1983, enclosing a complaint against me regarding alleged campaign contributions made to Congressman George Miller's committee.

3. My recollection regarding what I know about this matter is as follows:

On or about early May 1982, I executed two payment demands, in the total amount of $304.00 which was submitted to me by my Secretary.

The authorization for payment of funds was made for the purpose of buying tickets to allow our Mayor and Councilmen to attend Congressman George Miller's birthday dinner, to be held May 7, 1982.

The City of Pittsburg has had a common historical practice of reimbursing Councilmen for attending dinners honoring our state and federal legislators. For years, the City has encouraged Councilmen to attend these dinners as a normal part of their official City duties. Each receives the meager sum of $150.00 per month to carry out all of their duties. Attendance at these functions is encouraged because of the immense importance these persons have on the legislative process which directly affects City matters. We have always considered this kind of activity a normal part of a Councilman's job function to represent the City at such social events in order

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EXHIBIT B

to communicate our points of view regarding city business to our legislators.

At the time of authorizing the payment demand, I was not aware of the fact that payment for a birthday ticket would be construed as a campaign contribution designed to influence the federal election. Rather, our understanding and intent has been that attendance at these dinners is for the purpose of allowing our elected representatives at the local level to meet with our legislators to press our points of view regarding pending city business.

Sometime after the holding of the event, my Secretary advised me that the committee had returned the city checks. She stated that the committee in the alternative was requesting that individual checks from the Councilmen be written to the committee. I do not recall seeing any correspondence from the committee regarding this matter.

Upon learning of this situation from my Secretary, I instructed my staff to follow through and make the appropriate arrangements. This is the extent of my knowledge regarding the issue up until the point when the local newspaper ran a story questioning the practice of city payment for birthday tickets.

4. Upon receiving the Federal Elections Commission letter, I instructed my staff to research this matter. We have since learned that in 1980, the Miller Campaign Committee sent a letter to the City which advised that corporate contributions could not be received. Unfortunately, this letter was received by our City Clerk who relayed it to the

CITY ATTORNEY
CITY of PITTSBURG
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, CA 94565
(415) 439-4890

8504052480 1

Finance Department, which did not communicate the situation to me. I also point out that we have had frequent changes in our Finance Department having had three new Finance Directors in the last three years. Also, we have found a letter from the campaign committee dated July 15, 1982, which was received by our Finance Department. This form letter appears to be the same type of letter issued in 1980.

5. From our search of finance records, for 1980, it appears that none of the Councilmen attended the 1980 event or were reimbursed for their attendance.

6. It was not my intent, nor did I realize that the payment for the birthday tickets would be treated as campaign but rather for the purpose of meeting with our legislative representatives. If I had been aware of the fact that as early as 1980, the campaign committee was taking the position that any monies received by the committee were campaign contributions, I certainly would not have authorized payment as was done.

In this sense, the city payment of $308.00 appears to have been a technical error if we assume the city payment of funds were in fact campaign contributions.

7. Based on the representations made in the campaign committee treasurer's letters, which have come to light to me and the City Council only now, we will certainly not allow this to occur again.

I declare under penalty of perjury that the foregoing is true and correct.

/ / / /

/ / / /

CITY ATTORNEY
CITY of PITTSBURG
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, CA 94565
(415) 439-4890

850405 2480 2

Executed this 25th day of January, 1984, at Pittsburg, California.

S. ANTHONY DONATO

85040548803

/ / / /

/ / / /

/ / / /

CITY ATTORNEY
CITY of PITTSBURG
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, CA 94565
(415) 439-4890

DECLARATION FOR VICTORIA BERTOGLIO

I, Victoria Bertoglio, hereby declare as follows:

1. I am the Secretary to the City Manager of the City of Pittsburg.

2. I recall that in May 1982, I made reservations for birthday dinner tickets to be used to attend the Miller birthday party held in early May 1982. I made these reservations at the request of individual Councilmen and their wives.

3. I also personally mailed the City check for the tickets after the City Manager had authorized payment for the tickets.

4. I recall that sometime after the birthday event, a member of the City Finance Department brought to me a letter from the Miller committee indicating they would not accept a City check. The letter requested in its place individual separate checks. Based upon the wording of the letter, I then phoned each Councilman and explained that the City check had been returned and individual checks had been requested by the Miller committee. To my knowledge, the Miller committee letter was never sent to the Councilmembers.

5. After each Councilman paid for the tickets for the event they had attended, arrangements were then made for reimbursement to them for the expenses they had incurred. This is in accordance with standard City practice.

I declare under penalty of perjury that the foregoing is true and correct.

/ / / /

/ / / /

EXHIBIT C

CITY ATTORNEY
CITY of PITTSBURG
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, CA 94565
(415) 439-4890

8504052480 4

Executed this 25th day of January, 1984, at Pittsburg, California.

Victoria Bertoglio

VICTORIA BERTOGLIO

8504052480 5

/ / / /

/ / / /

/ / / /

CITY ATTORNEY
CITY of PITTSBURG
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, CA 94565
(415) 439-4890

DIRECT PAYMENT CLAIM

CITY OF PITTSBURG

2020 Railroad Avenue — Phone (415) 439-4950

Pittsburg, California 94565

The Direct Payment Claim may only be used to cover the following payments:

- Employee reimbursement (or advances) for travel or other business expense.
- Renewal subscriptions for publications.
- Organization or association dues.
- Purchases when payment is required to accompany the order.

DATE: May 4, 1982

PAYEE: Friends of George Miller

AMOUNT $ 266.00

DESCRIPTION:

Dinner for George Miller - Friday May 7, 1982

Mayor Rives & wife
Councilman Siino and wife
Frank Quesada
Downing and wife

ACCOUNT NO. 10-2110-4700

AUTHORIZED SIGNATURE _____

DIRECTOR OF FINANCE _____

CITY OF PITTSBURG

63 CIVIC AVENUE
PITTSBURG, CALIFORNIA 94565

90-553
1211

No. 24154

CITY OF PITTSBURG 266 dollars 00 cts

PAY TO THE ORDER OF: Friends of George Miller

DATE	CHECK NO.	AMOUNT
May 6, 1982		$266.00

CITY OF PITTSBURG

NOT NEGOTIABLE

KEYPUNCHED
JUN 7 1982
S.O.

PITTSBURG OFFICE
WELLS FARGO BANK
PITTSBURG, CALIFORNIA

DATE	REFERENCE	FUND NO.	ACCOUNT NO.	AMOUNT	PREVIOUS BALANCE	BALANCE	DESCRIPTION
5/6/82		10	0110-4700	$266.00			Dinner for George Miller 5/7/82: Mayor Rivera & Wife Councilman Sidno and Wife Frank Quesada Downing and Wife

PLEASE DETACH BEFORE DEPOSITING CHECK

CITY OF PITTSBURG
63 CIVIC AVENUE
PITTSBURG, CALIFORNIA 94565

THIS CHECK IS TENDERED IN FULL PAYMENT OF INVOICES LISTED ABOVE.

ACCOUNT NO. 10-0110-4700

AUTHORIZED SIGNATURE

DIRECTOR OF FINANCE

DIRECT PAYMENT CLAIM

CITY OF PITTSBURG

2020 Railroad Avenue — Phone (415) 439-4950

Pittsburg, California 94565

The Direct Payment Claim may only be used to cover the following payments:

Employee reimbursement (or advances) for travel or other business expense.
Renewal subscriptions for publications.
Organization or association dues.
Purchases when payment is required to accompany the order.

DATE: May 7, 1982

PAYEE: Friends of George Miller

AMOUNT $ 33.00

DESCRIPTION:

For Vice Mayor Joseph DeTorres
Dinner for George Miller
May 7, 1982

ACCOUNT NO. _____

AUTHORIZED SIGNATURE _____

DIRECTOR OF FINANCE

CITY OF PITTSBURG

65 CIVIC AVENUE
PITTSBURG, CALIFORNIA 94565

90-553
1211

No. 24156

CITY OF PITTSBURG 38 dol's 00 cts

DATE	CHECK NO.	AMOUNT
May 7, 1982		$38.00

PAY TO THE ORDER OF **Friends of George Miller**

CITY OF PITTSBURG

KEYPUNCHED
JUN 7 1982
S.O.

COPY
NOT NEGOTIABLE

PITTSBURG OFFICE
WELLS FARGO BANK
PITTSBURG, CALIFORNIA

DATE	REFERENCE	FUND NO.	ACCOUNT NO.	AMOUNT	PREVIOUS BALANCE	BALANCE	DESCRIPTION
5/7/82		10	0110-4700	$38.00			Dinner for George Miller 5/7/82: Vice Mayor Joseph DeTorres

PLEASE DETACH BEFORE DEPOSITING CHECK

CITY OF PITTSBURG
65 CIVIC AVENUE
PITTSBURG, CALIFORNIA 94565

THIS CHECK IS TENDERED IN FULL PAYMENT OF INVOICES LISTED ABOVE

ACCOUNT NO. _____

AUTHORIZED SIGNATURE _____

DIRECTOR OF FINANCE _____

City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565

July 15, 1987

Dear Contributor(s):

Due to Federal Election Commission regulations, we are unable to accept contributions from corporations, unions and national banks, unless they are made from separate segregated funds or political action committees.

We are returning this contribution because it appears to be from a corporation*, union or national bank. If our assumption is incorrect and the contribution is legal, please return it with a signed letter to that effect. Otherwise, please replace it with a personal check or a political action committee check.

If you have any questions, please call me at (415)393-2895.

*Cities are considered corporations under FEC law.

Sincerely,

05-10-06

Alison Cartwright

Alison Cartwright, Treasurer
Friends of Congressman George Miller

Please address all correspondence to:

Alison Brown c/o
Arthur Young and Company
One Post Street, Suite 2900
San Francisco, CA 94104

Encl: Check #1129 - $304.00

EXHIBIT D

DECLARATION FOR MARY ERBEZ

I, Mary Erbez, hereby declare as follows:

1. I am the City Clerk for the City of Pittsburg. I have served in this capacity for thirty-five years.

2. The City Manager instructed me to research our files regarding the subject matter of the complaint described in the Federal Election Commission letter of December 9, 1983.

3. I have been able to find two letters from Friends of Congressman George Miller Committee, one dated May 28, 1980, and the other dated July 15, 1982. The May 26, 1980 letter was originally received by me and sent to the Finance Department for review for confirmation as to whether there was a problem in the City making direct payment to the Miller committee. I have no specific recollection of the Finance Department giving definitive word back to my office as to this issue.

I do believe, however, that neither the May 1980 letter or the July 1982 letters were ever sent to the City Council.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 25 day of January, 1984 at Pittsburg, California.

Mary Erbez

MARY ERBEZ

8504052811

EXHIBIT E

October 7, 1983

Mr. Ronald P. Rives
4476 St. John Lane
Pittsburg, CA 94565

Dear Mr. Rives:

It has come to our attention that the funds you sent to our committee for our 1982 Annual Birthday Dinner were apparently from the City of Pittsburg. We cannot accept contributions from cities, therefore we are returning the funds to you.

We are filing an amendment to our election report in which your contribution was reported.

Sincerely,

Alison Cartwright Brown

Alison Cartwright Brown,
Treasurer
Friends of Congressman
George Miller
145 Park Place
Richmond, CA 94801

850405248 12

WELLS FARGO BANK N.A.

Memo: Refund

RICHMOND OFFICE
1221 MacDONALD AVENUE, RICHMOND, CA 94801

11-24/335
1210 (8)

1544

10/7 19 83

Pay to Ronald P. Rives $ 70.00

THE ORDER OF
Seventy-six Dollars

FRIENDS OF CONGRESSMAN
GEORGE MILLER
145 PARK PLACE
POINT RICHMOND, CA 94501

Alison Cartwright

⑈121000248⑆544 0335 293171⑈

EXHIBIT F

October 7, 1983

Mr. Joseph Siino
936 Ventura Drive
Pittsburg, CA 94565

Dear Mr. Siino:

It has come to our attention that the funds you sent to our committee for our 1982 Annual Birthday Dinner were apparently from the City of Pittsburg. We cannot accept contributions from cities, therefore we are returning the funds to you.

We are filing an amendment to our election report in which your contribution was reported.

Sincerely,

Alison Cartwright Brown

Alison Cartwright Brown,
Treasurer
Friends of Congressman
George Miller
145 Park Place
Richmond, CA 94801

85004052481 3

WELLS FARGO BANK N.A.

RICHMOND OFFICE
1221 MacDONALD AVENUE, RICHMOND, CA 94801

11-24/335
1210 (8)

1540

Memo: Refund

10/7 1983

Pay to Joseph Siino
THE ORDER OF

$ 76.00

Seventy-six 00/100 Dollars

FRIENDS OF CONGRESSMAN
GEORGE MILLER
145 PARK PLACE
POINT RICHMOND, CA 94801

Alison Cartwright

⑈121000248⑆540 0335 293171⑈

October 7, 1983

Mr. Joseph DeTorres
131 Regent Drive
Pittsburg, CA 94565

Dear Mr. DeTorres:

It has come to our attention that the funds you sent to our committee for our 1982 Annual Birthday Dinner were apparently from the City of Pittsburg. We cannot accept contributions from cities, therefore we are returning the funds to you.

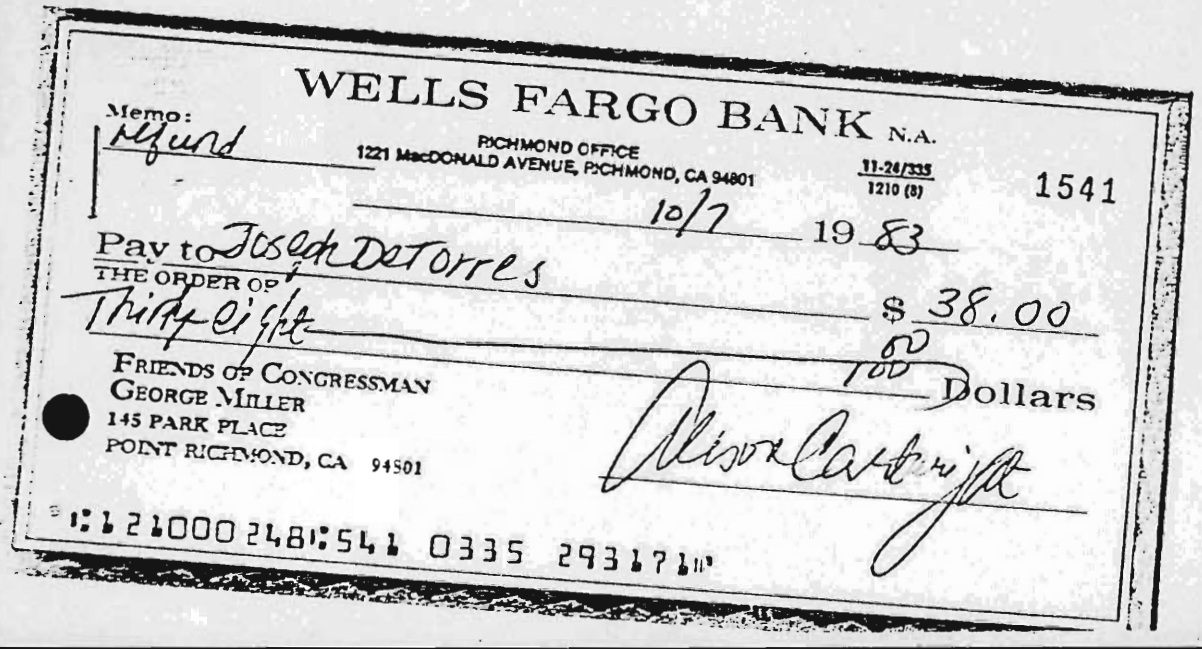
We are filing an amendment to our election report in which your contribution was reported.

Sincerely,

Alison Cartwright Brown

Alison Cartwright Brown,
Treasurer
Friends of Congressman
George Miller
145 Park Place
Richmond, CA 94801

8504052481 4



WELLS FARGO BANK N.A.
RICHMOND OFFICE
1221 MacDONALD AVENUE, RICHMOND, CA 94801
11-24/335
1210 (8)
1541

Memo: Refund

10/7 19 83

Pay to Joseph DeTorres
THE ORDER OF

$ 38.00
100

Thirty Eight Dollars

FRIENDS OF CONGRESSMAN
GEORGE MILLER
145 PARK PLACE
POINT RICHMOND, CA 94801

Alison Cartwright

⑈121000248⑈541 0335 293171⑈

October 7, 1983

Mr. Ralph Downing
1174 Jewett Avenue
Pittsburg, CA 94565

Dear Mr. Downing:

It has come to our attention that the funds you sent to our committee for our 1982 Annual Birthday Dinner were apparently from the City of Pittsburg. We cannot accept contributions from cities, therefore we are returning the funds to you.

We are filing an amendment to our election report in which your contribution was reported.

Sincerely,

Alison Cartwright Brown

Alison Cartwright Brown,
Treasurer
Friends of Congressman
George Miller
145 Park Place
Richmond, CA 94801

8504052481 5

WELLS FARGO BANK N.A.
RICHMOND OFFICE
1221 MacDONALD AVENUE, RICHMOND, CA 94801

11-24/335
1210 (8)

1542

Memo: Refund

10/7 19 83

Pay to THE ORDER OF Ralph Downing $ 76.00

Seventy-six Dollars

FRIENDS OF CONGRESSMAN
GEORGE MILLER
145 PARK PLACE
POINT RICHMOND, CA 94801

Alison Cartwright

⑈121000248⑆542 0335 293171⑈

October 7, 1983

Mr. Frank R. Quesada
33 Jimmo Avenue
Pittsburg, CA 94565

Dear Mr. Quesada:

It has come to our attention that the funds you sent to our committee for our 1982 Annual Birthday Dinner were apparently from the City of Pittsburg. We cannot accept contributions from cities, therefore we are returning the funds to you.

We are filing an amendment to our election report in which your contribution was reported.

Sincerely,

Alison Cartwright Brown

Alison Cartwright Brown,
Treasurer
Friends of Congressman
George Miller
145 Park Place
Richmond, CA 94801

8504052481 6

WELLS FARGO BANK N.A.
RICHMOND OFFICE
1221 MacDONALD AVENUE, RICHMOND, CA 94801

Memo: Refund

11-24/325
1210 (8)

1543

10/7 19 83

Pay to Frank R. Quesada

THE ORDER OF

$ 38.00

Thirty-eight 00/100 Dollars

FRIENDS OF CONGRESSMAN
GEORGE MILLER
145 PARK PLACE
POINT RICHMOND, CA 94801

Alison Cartwright

⑈121000248⑈543 0335 293171⑈

CITY CLERK

JUN 02 1980

May 28, 1980

City of Pittsburg
2020 Railroad Avenue
Pittsburg, California 94565

Dear Contributor(s):

Due to Federal Election Commission regulations, we are unable to accept contributions from corporations, unions and national banks, unless they are made from separate segregated funds or political action committees.

We are returning this contribution because it appears as if it may be from a corporation, union or national bank. If not, please return it with a signed letter stating its legality. Otherwise, please replace it with another one from separate funds, a PAC or a personal check.

If you have any questions, please call. We apologize for the inconvenience.

Sincerely,

Alison Cartwright

Alison Cartwright, Treasurer
Friends of Congressman George Miller
145 Park Place
Richmond, California 94801
(415) 233-6900

8504048117

EXHIBIT G

GCC#1367

December 16, 1983

Kramer
MUR 1609

Ms. Beverly Kramer
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1609
Friends of
Congressman George
Miller

Dear Ms. Kramer:

The funds referred to by the Mexican American Political Association in their complaint were returned on October 7, 1983, immediately after it came to our attention that the funds may have been from the City of Pittsburg. Enclosed please find copies of the following:

- o transmittal letter which accompanied the amendment to our Twelfth Day Report Preceding the General Election on November 2, 1982
- o amended report, including a list of the names of the individuals to whom the funds were returned
- o transmittal letter to the individuals

If you have any questions, please contact me.

Sincerely,

Alison Cartwright Brown

Alison Cartwright Brown, treasurer
145 Park Place
Richmond, CA 94801
(415) 233-6900

3 0 4 0 5 4 8 1 6

October 7, 1983

Clerk of the House of Representatives
1036 Longworth House Office Building
Washington, D.C. 20515

Re: Friends of
Congressman George
Miller
ID #052566

Dear Sir:

It has just come to our attention that funds sent to us by certain individuals to replace City of Pittsburg contributions during 1982 were apparently reimbursed by that City. Federal Election Commission Regulations prohibit the acceptance of city funds, therefore we have returned the contributions to those individuals.

We have attached a detailed listing of the refunds.

Sincerely,

Alison Cartwright Brown,
Treasurer

8504052481 2

AMENDMENT TO TWELFTH DAY PRECEDING GENERAL ELECTION
ON NOVEMBER 2, 1982

This is a listing of refunds sent to individuals on October 7, 1983. Please see attached letter of explanation.

Name	Date of Receipt	Amount
SIINO, Joseph 936 Ventura Drive Pittsburg, CA 94565	10/6/82	$ 76.00
DETORRES, Joseph 131 Regent Drive Pittsburg, CA 94565	10/6/82	38.00
DOWNING, Ralph 1174 Jewett Avenue Pittsburg, CA 94565	10/6/82	76.00
QUESADA, Frank R. 33 Jimno Avenue Pittsburg, CA 94565	10/6/82	38.00
RIVES, Ronald P. 4476 St. John Lane Pittsburg, CA 94565	10/6/82	76.00
	TOTAL	$304.00 *

* $304.00 was refunded to the City of Pittsburg and is on our report for the period of July 1 to September 30, 1982.

FRIENDS OF CONGRESSMAN GEORGE MILLER

8504052482 0

s of Congressman
George Miller
rk Place
nd, CA 94801

7 167

FEDERAL ELECTION COMMISSION
Washington, D.C. 20463

ATTN: BEVERLY KRAMER

REGISTERED MAIL

R 065 839 722

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 9, 1983

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mayor Joe DeTorres
City Hall
2020 Railroad Avenue
Pittsburg, California 94565

Re: MUR 1609

Dear Mr. DeTorres:

This letter is to notify you that on December 5, 1983 the Federal Election Commission received a complaint which alleges that you may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1609. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against you in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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.

This matter will remain 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 matter to be made public.

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

8504052482

If you have any questions, please contact Beverly Kramer, the staff member assigned to this matter at (202) 523-4057. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

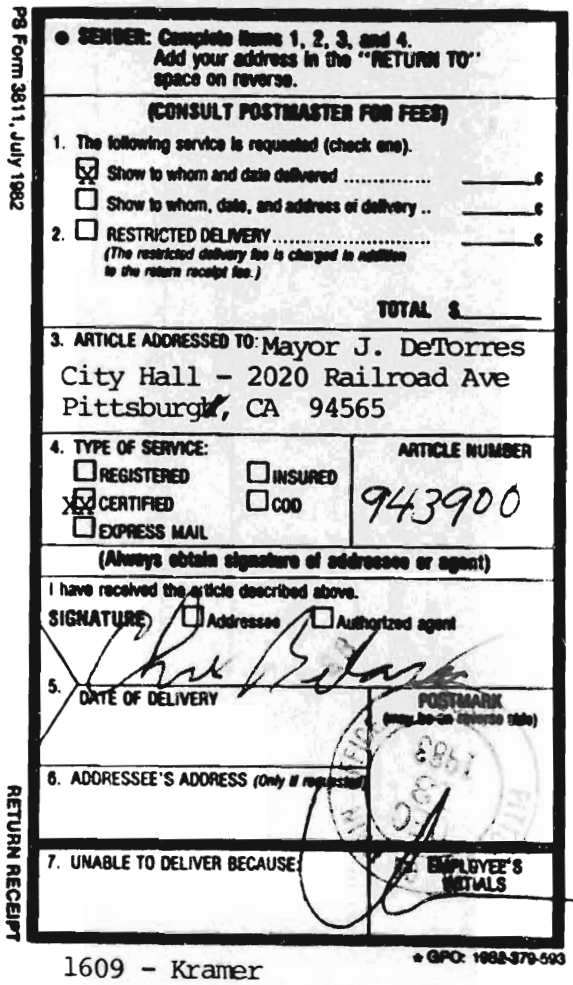
Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

8504052482 3



PS Form 3811, July 1982

● SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
☒ Show to whom and date delivered ..... ¢
☐ Show to whom, date, and address of delivery .. ¢
2. ☐ RESTRICTED DELIVERY ..... ¢
(The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $

3. ARTICLE ADDRESSED TO: Mayor J. DeTorres
City Hall - 2020 Railroad Ave
Pittsburg, CA 94565

4. TYPE OF SERVICE:
☐ REGISTERED ☐ INSURED
☒ CERTIFIED ☐ COD
☐ EXPRESS MAIL

ARTICLE NUMBER
P 943900

(Always obtain signature of addressee or agent)

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

5. DATE OF DELIVERY

POSTMARK

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

8. EMPLOYEE'S INITIALS

RETURN RECEIPT

* GPO: 1982-379-593

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 9, 1983

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Councilman Ralph Downing
City Hall
2020 Railroad Avenue
Pittsburg, California 94565

Re: MUR 1609

Dear Councilman Downing:

This letter is to notify you that on December 5, 1983 the Federal Election Commission received a complaint which alleges that you may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1609. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against you in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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.

This matter will remain 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 matter to be made public.

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

8504052482 1

If you have any questions, please contact Beverly Kramer, the staff member assigned to this matter at (202) 523-4057. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

8504052482 3

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

PS Form 3811, July 1982

● SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
☒ Show to whom and date delivered ..... ¢
☐ Show to whom, date, and address of delivery .. ¢
2. ☐ RESTRICTED DELIVERY ..... ¢
(The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $

3. ARTICLE ADDRESSED TO: Councilman R. Downing
City Hall - 2020 Railroad Avenue
Pittsburg, California 94565

4. TYPE OF SERVICE:
☐ REGISTERED ☐ INSURED
☒ CERTIFIED ☐ COD
☐ EXPRESS MAIL

ARTICLE NUMBER
943901

(Always obtain signature of addressee or agent)

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

5. DATE OF DELIVERY

POSTMARK (if affixed on reverse side)

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

EMPLOYEE'S INITIALS

RETURN RECEIPT

★ GPO: 1982-379-593

KS 1609 - Kramer

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 9, 1983

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Councilman Ron Rives
City Hall
2020 Railroad Avenue
Pittsburg, California 94565

MUR 1609

Dear Councilman Rives:

This letter is to notify you that on December 5, 1983 the Federal Election Commission received a complaint which alleges that you may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1609. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against you in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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.

This matter will remain 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 matter to be made public.

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

8504826

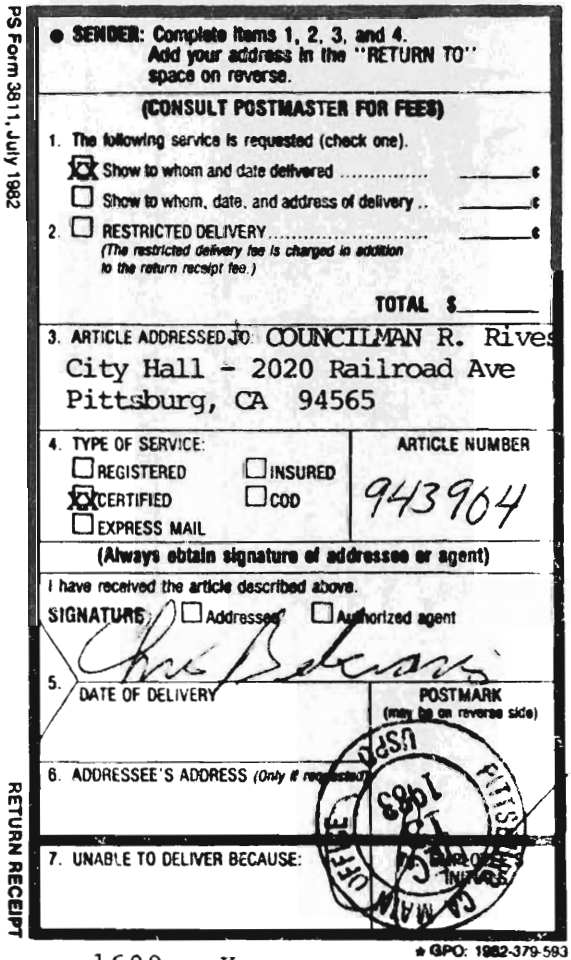
If you have any questions, please contact Beverly Kramer, the staff member assigned to this matter at (202) 523-4057. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures
1. Complaint
2. Procedure
3. Designation of Counsel Statement


PS Form 3811, July 1982

● SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
☒ Show to whom and date delivered ..... ¢
☐ Show to whom, date, and address of delivery .. ¢
2. ☐ RESTRICTED DELIVERY ..... ¢
(The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $

3. ARTICLE ADDRESSED TO: COUNCILMAN R. Rives
City Hall - 2020 Railroad Ave
Pittsburg, CA 94565

4. TYPE OF SERVICE: ☐ REGISTERED ☐ INSURED ☒ CERTIFIED ☐ COD ☐ EXPRESS MAIL
ARTICLE NUMBER: 943964

(Always obtain signature of addressee or agent)

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

5. DATE OF DELIVERY
POSTMARK (may be on reverse side)

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

RETURN RECEIPT

★ GPO: 1982-379-593

1609 - Kramer

8504052482827

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 9, 1983

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Councilman Frank Quesada
City Hall
2020 Railroad Avenue
Pittsburg, California 94565

MUR 1609

Dear Councilman Quesada:

This letter is to notify you that on December 5, 1983 the Federal Election Commission received a complaint which alleges that you may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1609. Please refer to this matter in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against you in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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.

This matter will remain 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 matter to be made public.

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

If you have any questions, please contact Beverly Kramer, the staff member assigned to this matter at (202) 523-4057. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

8504052483222

PS Form 3811, July 1982

● SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

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☐ Show to whom, date, and address of delivery .. ____¢
2. ☐ RESTRICTED DELIVERY..... ____¢
(The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $____

3. ARTICLE ADDRESSED TO: COUNCILMAN QUESADA
City Hall - 2020 Railroad Ave
Pittsburg, CA 94565

4. TYPE OF SERVICE:
☐ REGISTERED ☐ INSURED
☒ CERTIFIED ☐ COD
☐ EXPRESS MAIL

ARTICLE NUMBER
943903

(Always obtain signature of addressee or agent)

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

5. DATE OF DELIVERY

POSTMARK

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

EMPLOYEE'S INITIALS

RETURN RECEIPT

★ GPO: 1982-379-593

1609 - Kramer

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 9, 1983

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Councilman Joe Siino
City Hall
2020 Railroad Avenue
Pittsburg, California 94565

Re: MUR 1609

Dear Councilman Siino:

This letter is to notify you that on December 5, 1983 the Federal Election Commission received a complaint which alleges that you may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1609. Please refer to this matter in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against you in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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8304052483 0

If you have any questions, please contact Beverly Kramer, the staff member assigned to this matter at (202) 523-4057. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

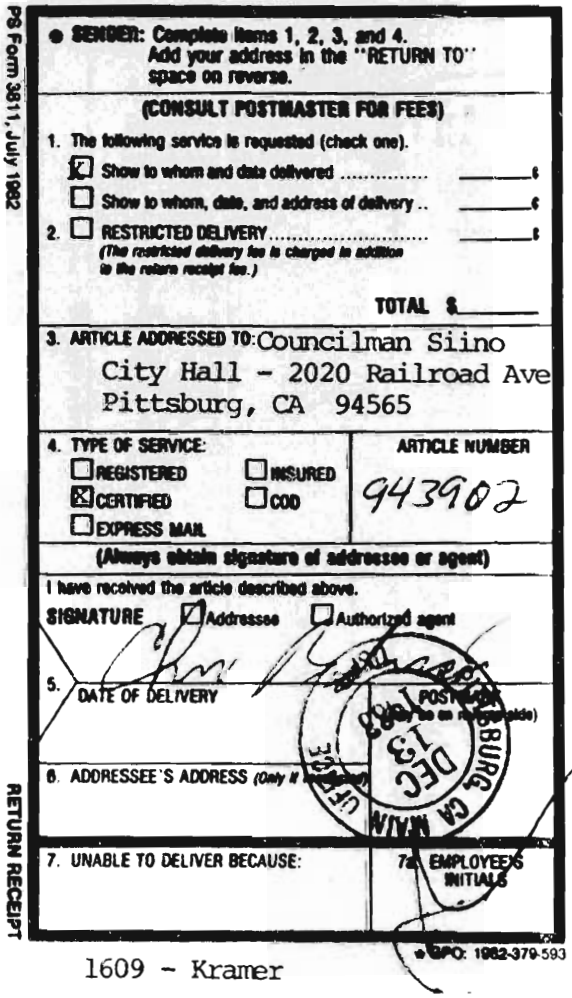
Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

8504052483 1



PS Form 3811, July 1982

● SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
☑ Show to whom and date delivered ..... ____¢
☐ Show to whom, date, and address of delivery .. ____¢
2. ☐ RESTRICTED DELIVERY ..... ____¢
(The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $____

3. ARTICLE ADDRESSED TO: Councilman Siino
City Hall - 2020 Railroad Ave
Pittsburg, CA 94565

4. TYPE OF SERVICE:
☐ REGISTERED ☐ INSURED
☒ CERTIFIED ☐ COD
☐ EXPRESS MAIL

ARTICLE NUMBER
943902

(Always obtain signature of addressee or agent)

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

5. DATE OF DELIVERY

POSTMARK (Affix postmark on reverse side)

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

7a. EMPLOYEE'S INITIALS

RETURN RECEIPT

GPO: 1982-379-593

1609 - Kramer

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 9, 1983

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

City Manager Anthony Donato
City Hall
2020 Railroad Avenue
Pittsburg, California 94565

MUR 1609

Dear City Manager Donato:

This letter is to notify you that on December 5, 1983 the Federal Election Commission received a complaint which alleges that you may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1609. Please refer to this matter in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against you in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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.

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

8504052483 2

If you have any questions, please contact Beverly Kramer, the staff member assigned to this matter at (202) 523-4057. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

8504052483 3

PS Form 3811, July 1982

● SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

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☒ Show to whom and date delivered ..... ____¢
☐ Show to whom, date, and address of delivery .. ____¢
2. ☐ RESTRICTED DELIVERY ..... ____¢
(The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $

3. ARTICLE ADDRESSED TO
~~City Manager Donato~~
City Hall - 2020 Railroad Ave
Pittsburg, CA 94565

4. TYPE OF SERVICE:
☐ REGISTERED ☐ INSURED
☒ CERTIFIED ☐ COD
☐ EXPRESS MAIL

ARTICLE NUMBER
943906

(Always obtain signature of addressee or agent)

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

5. DATE OF DELIVERY

POSTMARK
(May be on reverse side)

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

7a. EMPLOYEE'S INITIALS

RETURN RECEIPT

1609 - Kramer

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 9, 1983

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Alison Cartwright Brown, Treasurer
Friends of Congressman George Miller
145 Park Place
Richmond, California 94801

Re: MUR 1609

Dear Ms. Brown:

This letter is to notify you that on December 5, 1983 the Federal Election Commission received a complaint which alleges that you may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1609. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against you in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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

8504052483 4

If you have any questions, please contact Beverly Kramer, the staff member assigned to this matter at (202) 523-4057. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

3504052483 5

PS Form 3811, July 1983

SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
- [X] Show to whom and date delivered ..... ¢
- [ ] Show to whom, date, and address of delivery .. ¢
2. [ ] RESTRICTED DELIVERY ..... ¢
(The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $

3. ARTICLE ADDRESSED TO:
A.C. Brown, Treas.
Friends of Congressman Miller
145 Park Place
Richmond, CA 94801

4. TYPE OF SERVICE:
- [ ] REGISTERED
- [ ] INSURED
- [X] CERTIFIED
- [ ] COD
- [ ] EXPRESS MAIL

ARTICLE NUMBER
943907

(Always obtain signature of addressee or agent)

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

5. DATE OF DELIVERY

POSTMARK (may be on reverse side)

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

7a. EMPLOYEE'S INITIALS

RETURN RECEIPT

GPO: 1982-370-593

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 9, 1983

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Alison Cartwright Brown, Treasurer
Friends of Congressman George Miller
145 Park Place
Richmond, California 94801

Re: MUR 1609

Dear Ms. Brown:

This letter is to notify you that on December 5, 1983, the Federal Election Commission received a complaint which alleges that your committee may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1609. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against your committee in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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.

This matter will remain 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 matter to be made public.

If the committee will be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

8504052483 6

If you have any questions, please contact Beverly Kramer, the staff member assigned to this matter at (202) 523-4057. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

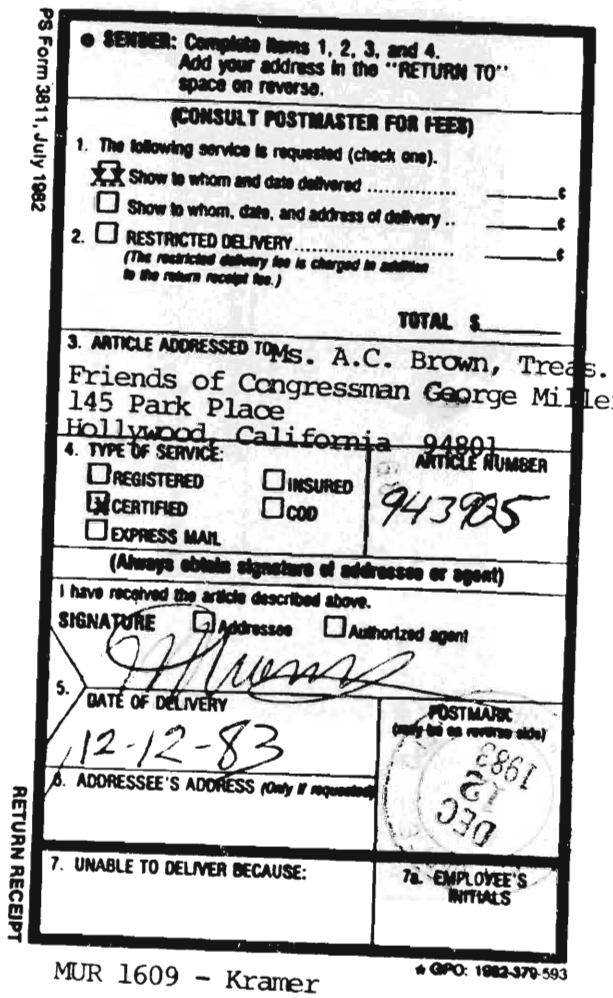
Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosures

1. Complaint
2. Procedures
3. Designation of Counsel Statement



PS Form 3811, July 1982

● SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

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☐ Show to whom, date, and address of delivery .. ¢
2. ☐ RESTRICTED DELIVERY ..... ¢
(The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $

3. ARTICLE ADDRESSED TO:
Ms. A.C. Brown, Treas.
Friends of Congressman George Miller
145 Park Place
Hollywood, California 94801

4. TYPE OF SERVICE:
☐ REGISTERED ☐ INSURED
☒ CERTIFIED ☐ COD
☐ EXPRESS MAIL

ARTICLE NUMBER
943925

(Always obtain signature of addressee or agent)

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

5. DATE OF DELIVERY
12-12-83

POSTMARK
(only fill on reverse side)
DEC 12 1983

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

7a. EMPLOYEE'S INITIALS

RETURN RECEIPT

★ GPO: 1982-370-593

8504052483 7

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 9, 1983

Rudy G. Rodriguez, Chairman
Mexican-American Political Association
Contra Costa Chapter
256 Sierra Drive
Walnut Creek, California 94596

Dear Mr. Rodriguez:

This letter is to acknowledge receipt of your complaint which we received on December 5, 1983, against the city council members of the City of Pittsburg, California which alleges violations of the Federal Election Campaign laws. A staff member has been assigned to analyze your allegations. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Commission takes final action on your complaint. Should you have or receive any additional information in this matter, please forward it to this office. We suggest that this information be sworn to in the same manner as your original complaint. For your information, we have attached a brief description of the Commission's procedure for handling complaints. If you have any questions, please contact Cheryl Thomas at (202) 523-4073.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure

8504052483 3

RECEIVED AT THE FEC
GOC #1200
83 DEC 5 P2:18

MEXICAN-AMERICAN POLITICAL ASSOCIATION

CONTRA COSTA CHAPTER

256 SIERRA DRIVE — WALNUT CREEK, CA. 94596

MUR 1609

November 30, 1983

FEC 5 P2:40

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

Dear Mr. Steele:

Thank you for your correspondence of November 15, asking for additional information regarding our complaint against the city council members of the city of Pittsburg, California. On October 7, 1983, our chapter decided to file this complaint.

It is believed that public monies from the city's general fund in the amount of $304.00 were illegally donated to the campaign committee of a local Congressman in May, 1982. This information was derived from a newspaper article that appeared on October 5, 1983, in The Pittsburg Post Dispatch; the same article also appeared in The Contra Costa Times and in The Antioch Daily Ledger. See article, attached.

The following quotes are extracted from this article: "Miller's committee refused to accept the checks, however, because of a law prohibiting candidates for a federal office from receiving contributions from corporations, including incorporated cities. After the checks were returned, the city made out individual checks to the five councilmen, who then sent the money to Miller's committee. Miller listed the contributions on his campaign statement under the names of each councilman. Federal law also prohibits making contributions in the name of another person or organization".

The reported replies of the city council members, and City Manager Anthony Donato, confirm the fact that this and other similar contributions were made by the city to numerous candidates campaigning for elective office.

We ask for a complete and thorough investigation of this donation. Possibly the Commission's review will reveal additional irregularities in what appear to be lon-standing practices of unlawful use of taxpayers' monies by the City of Pittsburg.

8504052483 9

The respondents are all the members of the city council as follows: Mayor Joe DeTorres, Councilmember Ralph Downing, Councilmember Ron Rives, Councilmember Frank Quesada, and Councilmember Joe Siino. Their address is City Hall, City of Pittsburg, 2020 Railroad Avenue, Pittsburg, Ca. 94565. The phone number for city hall is 415-439-4850.

Our Chapter is the only politically active Hispanic organization in this county. For twenty-three years we have been involved not only in local politics but also in diligently monitoring public agencies. We are particularly concerned when there is evidence of a violation of law and/or the public trust by elected officials. Our Chapter has received several awards for its volunteer community work.

We ask for a prompt reply to this request.

Sincerely yours,

R. G. Rodriguez, Chairman

Attch.

I SWEAR THAT THE INFORMATION CONTAINED IN THIS LETTER IS ACCURATE AND CORRRECT TO THE BEST OF MY KNOWLEDGE.

Rudy G. Rodriguez 11/30/83

8504052484 0

NO 20

GENERAL ACKNOWLEDGMENT

State of California } ss.
County of Contra Costa }

On this the 30 day of November 1983, before me,

Carol J. Smith,

the undersigned Notary Public, personally appeared

Rudy G. Rodriguez,

☐ personally known to me
* proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) ~~is~~ subscribed to the within instrument, and acknowledged that he executed it.

WITNESS my hand and official seal.

OFFICIAL SEAL
CAROL J. SMITH
NOTARY PUBLIC — CALIFORNIA
CONTRA COSTA COUNTY
My Commission Expires Dec. 29, 1986

Carol J. Smith
Notary's Signature

NATIONAL NOTARY ASSOCIATION • 23012 Ventura Blvd. • P.O. Box 4625 • Woodland Hills, CA 91365

7110 122

8504052484 1

The Pittsburg Post Dispatch

Vol. 83, No. 234 | 18 Pages | Pittsburg, California, Wednesday, October 5, 1983 | 25 Cents

City funds spent on politics

By SANDY KLEFFMAN
Staff Writer

Two Pittsburg city councilmen contributed $200 in taxpayers' money to the campaign fund of County Supervisor Tom Powers of Richmond 12 days before he voted in favor of a controversial city annexation request.

The payment was one of many instances in which Pittsburg councilmen have used city funds to buy tickets to campaign committee events for local politicians, the Post-Dispatch has learned.

An official in the state Attorney General's office recently questioned the legality and ethics of the practice.

On one occasion in 1982, Councilman Ron Rives spent $25 in city money to attend a campaign committee dinner for two of his fellow councilmen while they were waging a re-election battle against two other contenders.

In another instance, an $80 city check was sent to a political lobbying group of the AFL-CIO. The money paid for two city employees and their spouses to attend a birthday party for a union official.

Councilmen have also used city funds to buy tickets to campaign committee functions for such officials as Congressman George Miller, D-Martinez, county Supervisor Tom Torlakson, and state Assemblyman Robert Campbell, D-Richmond.

In most cases, the payments were made from city "training and seminar" funds.

Mayor Joseph DeTorres insists the payments are a "legitimate expenditure on behalf of the city." He stresses that councilmen attend the political gatherings to lobby legislators on issues important to Pittsburg.

"I believe that's a very proper way of getting your ideas heard," DeTorres said.

But state Deputy Attorney General

See related editorial on page 8

Scott Thorpe said the practice "raises questions as to the propriety of the expenditure of public funds for such partisan political purposes where the money goes directly to the campaign fund of the candidate."

A review of finance records in five other Contra Costa County cities revealed that Pittsburg councilmen are virtually the only local officials using city funds to attend campaign committee events. And several councilmen in other cities said they do not believe it is ethical to use taxpayers' money for such purposes.

"I would hope and assume the city would not reimburse for that type of activity," said Concord Councilman Steve Weir. "I don't think the city ought to reimburse out of city funds for a political activity."

Thorpe said he knows of no statutes or court cases that directly address whether taxpayers' money can legally be spent in this manner.

But he said a recent opinion issued by [illegible] his office on a related matter raises questions about the legality of such payments.

That opinion was issued June 16 at the request of Humboldt County. It stated that county funds could not be used to reimburse a county officer or employee for buying meals for legislators, even if legislation of interest to the county was discussed.

"If you can't spend money on a legislator's lunch, surely you wouldn't be able to use public funds where those funds are going to be given for purely partisan campaign purposes," Thorpe said.

See COUNCILMEN, page 8

8504052434 2

CONTRIBUTIONS

From page 1

He added that employees of the attorney general's office who are invited to political fund-raisers pay for their expenses out of their own pockets, rather than seek reimbursement from the state.

"The consensus is that that would not be a proper reimbursement," Thorpe said.

Pittsburg sent a $75 city check to Powers' campaign committee in May 1982 — 15 days before he was re-elected to his west county seat. The money paid for Councilman Joseph Silno to attend a campaign committee function, according to city finance records.

A month later, a second city check — for $200 — was sent to the committee, records show. That money paid for Rives, Councilman Frank Quesada, and their wives to attend a $50-a-plate fund-raising birthday dinner for Powers at Bimbo's Restaurant in San Francisco.

Both checks were made out to Powers Election Committee and drawn from a city "training and seminars" fund, according to finance records.

Although the dinner at Bimbo's was held one month after the election, Powers' campaign committee collected approximately $4,000 to $5,000 that night, which was used to defray expenses incurred during the campaign, according to the supervisor.

Twelve days later, on July 14, 1982, Powers joined in a unanimous vote by the Local Agency Formation Commission to allow Pittsburg to annex the Baker property, a prized piece of commercial land lying between Pittsburg and Antioch.

The vote put an end to a bitter, 13-year battle between the two cities for the right to annex the property, which is expected to provide hefty sales tax revenues once it is developed.

Powers later reported the $200 in public funds as a political contribution on his state campaign statement.

(The $75 check sent in May was not recorded, although state law requires the listing of all contributions from any source donating more than $100 to a campaign. Rex Cruz, Powers' campaign treasurer, said recently he did not recall the contribution and did not know why it was never recorded.)

Rives defended the expenditure, saying he was not aware the birthday party at Bimbo's was a fund-raiser, but would have gone anyway if he had known.

"At the time that we went to the function, we took it as a birthday party," Rives said. "I didn't care what he did with the money."

"The reason we were at that birthday party is so we could meet with Tom Powers on a social basis and discuss some issues," he said, adding that they had "a long discussion" with Powers regarding the Baker property that night.

"If I did not believe that my presence there would benefit the city, I would not have gone," Rives said. "It was important for us to press our case."

Silno insisted that attending political functions helps councilmen develop a rapport with government officials.

"If you don't have any legislative people that will give you their ears," Silno said, "you end up at the bottom of the barrel."

"That's just the nature of our political society," he added. "We didn't invent it."

Quesada declined to comment.

In addition to the $200 paid to Powers' committee for the birthday dinner, Rives charged Pittsburg $40 twice for "entertainment and mileage" expenses related to the party, according to city finance records.

He received the first $40 on July 19, and the second $40 on Sept. 27, records show.

Rives said recently he was not aware he had billed Pittsburg twice. He later repaid $134.50 worth of duplicate payments covering this and other items, according to Finance Director Ken Hammon.

The expense money for the Bimbo's dinner covered the cost of the drive to San Francisco at 20 cents a mile, Rives said, and "the rest of that was probably buying wine for the table, things like that."

Powers declined to comment when asked whether it is proper for councilmen to use taxpayers' money to attend political fund-raisers, but he said he does not do it himself.

"I do pay out of my pocket or out of campaign funds for going to events of political leaders in the community," the supervisor said.

However, he said there is nothing wrong with his campaign committee accepting a city check.

"It was properly received by me," Powers said. "Whether it was properly expended by the city of Pittsburg is another question. It's not my job to monitor every check that comes in."

Asked if Pittsburg's presence at his fund-raiser influenced his vote, Powers commented, "Everything influences the vote, but I act on the total amount of information I receive.

"I don't believe it unduly influenced me because they made a contribution to my campaign."

Other instances of Pittsburg officials using city funds to attend political functions follow:

•Rives spent $25 in taxpayers' money on April 2, 1982, to attend a dinner and dance honoring Councilmen Quesada and Ralph Downing while they were opposing two other contenders in a campaign to recapture their council seats.

Held 11 days before the election, the party was sponsored by Citizens of Pittsburg for Good Government, a committee formed to provide financial support for the two incumbents. Rives was active in Downing's campaign at the time.

•An $80 city check was issued in 1980 to the Contra Costa County Committee on Political Education, a political action group of the AFL-CIO. The committee lobbies the board of supervisors and city councils in favor of "pro-labor" measures that create jobs, according to union officials in Contra Costa.

The money paid for City Manager Tony Ernaldo, Assistant City Manager Mary Ethez and their spouses to attend Carmata's 60th birthday party.

•A $340 city check was issued to Assemblyman Campbell's campaign committee in March 1982 to finance Silno and his wife's attendance at a committee dinner. Campbell was re-elected eight months later.

•A $34.50 check was sent to Citizens for Tom Torlakson to pay for an "Oath of Office Day Breakfast" on Jan. 6, 1981, attended by four councilmen, Ethez and her husband. Torlakson had been elected the previous November and was sworn into office in January.

The breakfast was not a fund-raiser as the check just covered the cost of the meal, according to Diana Torlakson, the supervisor's wife and campaign manager. "If we had received a check from the city for a political contribution we would have returned it," she said.

•A $286 check was issued to Congressman George Miller's campaign committee in May 1982 to cover the cost of four councilmen and three wives attending a committee dinner, held six months before the election. A second check, for $36, was sent to the committee a day later to pay for the fifth council member's attendance.

Miller's committee refused to accept the checks, however, because of a law prohibiting candidates for a federal office from receiving contributions from corporations, including incorporated cities.

After the checks were returned, the city made out individual checks to the five councilmen, who then sent the money to Miller's committee. Miller listed the contributions on his campaign statement under the names of each councilman.

Federal law also prohibits making contributions in the name of another person or organization.

Rives defended his use of taxpayers' money to attend a campaign committee dinner for two councilmen while they were seeking re-election.

"I'm not dipping into the public trough here," he said. "If I charged the city, it would be because I felt it was important for me to be there to represent the citizens of Pittsburg."

Rives said he had heard county supervisors and other politicians would be attending the dinner, and thought it would help to have a rapport with such officials when lobbying for city projects.

He acknowledged it would not have been proper to use taxpayers' money if it had been a $100-a-plate affair, but insisted that "it depends on the extent to which it was a fund-raiser."

Although admission to the dinner was $6 per person, Rives billed the city $25. He said recently he could not recall why he charged more than the price of the tickets, but it was probably to cover the cost of buying drinks for people.

Donato, who as city manager approved many of the payments, said Pittsburg councilmen have been using city funds to attend political functions "for years and years." But he maintained only "a very small amount of money" is involved.

Donato insisted the practice [illegible] certain federal and state dollars.

"Why should we get a federal program over somebody else?" he queried. "It's because we work at it. We work very hard at it."

However, both Donato and DeTorres acknowledge that city checks should not have been written directly to a campaign fund of a political candidate.

"I made the assumption that the checks went out to the individual councilmen," Donato said. "It should not have been done that way."

But the two men said they see nothing wrong with issuing checks to councilmen to reimburse them for attending campaign committee events.

Donato compared the practice to a businessman taking clients out to lunch.

"We don't look at it in terms of contributing to a campaign," Donato said. "We don't go to these things when Powers or Miller is running against somebody."

A review of city records reveals that in at least two instances in 1982 city funds were used to attend events for politicians who were facing opponents in an upcoming election.

A city check was written to Powers' campaign committee 15 days before he defeated El Cerrito Mayor Jean Siri, and Rives got city money to attend a dinner for two fellow councilmen 11 days before they defeated two opponents.

In addition, all five councilmen attended a campaign committee dinner for Miller six months before he defeated a Republican opponent. The dinner was held one month before a primary election in which Miller faced no opposition within his own party, but his Republican opponent was selected.

Staff writer Per Mansson contributed to this article.



COUNCILMAN
JOE SILNO



COUNCILMAN
FRANK QUESADA



COUNCILMAN
RON RIVES



MAYOR JOE DETORRES

R. G. RODRIGUEZ, CHAIRMAN
MAPA
CONTRA COSTA CHAPTER
256 SIERRA DRIVE
WALNUT CREEK, CA. 94596

83 DEC 5

Season's Greetings USA

MR. CHARLES N. STEELE
GENERAL COUNSEL
FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

8504052484 1

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

THIS IS THE BEGINNING OF MUR # 1609

Date Filmed 6/21/85 Camera No. --- 4

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FEDERAL ELECTION COMMISSION

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

THIS IS THE END OF MUR # 1609

Date Filmed 6/21/85 Camera No. --- 4

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FEDERAL ELECTION COMMISSION

Routing slips, Internal reports i.e., 12 Day Report, 12 Day Pre-Brief, Senior staff comments, Documents pertaining to conciliation Copies of personal checks from which account numbers have been deleted

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

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

Signed Beverly B. Kramer

date 6-17-85

FEC 9-21-77

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 1609
Friends of Congressman George Miller	)	
Colin J. Coffey, as treasurer	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on May 22, 1985, the Commission decided by a vote of 6-0 to take the following actions in MUR 1609:

1. Approve the conciliation agreement submitted with the General Counsel's Report signed May 17, 1985.
2. Close the file.
3. Approve and send the letters attached to the General Counsel's Report signed May 17, 1985.

Commissioners Aikens, Elliott, Harris, McDonald, McGarry and Reiche voted affirmatively in this matter.

Attest:

5/22/85
Date

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

Received in Office of Commission Secretary: 5-20-85, 8:55
Circulated on 48 hour tally basis: 5-22-85, 4:00

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Friends of Congressman George Miller and Colin J. Coffey, as Treasurer	)	MUR 1609
	)	
	)	
	)	

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by Rudy E. Rodriguez. An investigation has been conducted, and the Commission found probable cause to believe that the Friends of Congressman George Miller and Colin J. Coffey, as Treasurer, ("Respondent") violated 2 U.S.C. §441b(a) by accepting corporate contributions from the City of Pittsburg, California.

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, and this agreement has the effect of an agreement entered into pursuant to 2 U.S.C. §437g(a)(4)(A)(i).

II. The Respondent believes that it has had an adequate opportunity to respond to the General Counsel's brief and the Commission's notice of its probable cause determination.

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

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

1. Respondent, Friends of Congressman George Miller, was the principal campaign committee for Congressman George Miller's campaign for re-election to the House of Representatives in 1982.

2. Alison Cartwright Brown was the treasurer of the Friends of Congressman George Miller until February 29, 1984, at which time the Committee submitted an amended Statement of Organization designating its new treasurer, Colin J. Coffey.

3. In the Spring of 1982, the Miller Committee publicized a birthday celebration event to be held on May 7, 1982, as part of Congressman George Miller's re-election campaign.

4. The City of Pittsburg, is a California municipal corporation. Five Pittsburg City Councilmen requested that the City Manager's secretary make reservations for their attendance at the birthday event. The Miller committee received two checks from the City of Pittsburg, one for $266.00 and one for $38.00 which were used to cover the cost of the City Councilmens' attendance at the birthday event.

5. The Miller Committee deposited the checks on May 19, 1982, shortly after their receipt. In its subsequent financial disclosure report, the Miller Committee duly reported the funds as contributions received from the City of Pittsburg.

6. Evidence has been presented to the Commission demonstrating that the Miller Committee had established screening procedures by which it endeavored to confirm the legality of contributions received by the Committee.

7. After his routine review of the Miller Committee's financial disclosure report, the Clerk of the House of Representatives noticed the contribution and on July 14, 1982, the Clerk of the House telephoned the Miller Committee's treasurer and informed her that cities were considered corporations within the corporate contribution prohibition of the Federal Election Campaign Act of 1971. The Miller Committee's treasurer immediately drew out a refund check to the City and mailed the same on July 15, 1982, refunding the contributions to the City.

8. Title 2, U.S.C. §441b(a) states that it is unlawful for a committee to knowingly accept or receive a corporate contribution.

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V. The Friends of Congressman George Miller contends that it did not knowingly and wilfully accept a corporate contribution. Respondent admits, however, that by initially depositing the contribution before refunding it, the Respondent accepted contributions prohibited by 2 U.S.C. §441b(a).

VI. Respondent agrees to pay a civil penalty to the Treasurer of the United States in the amount of One Hundred Dollars ($100.00) pursuant to U.S.C. §437g(a)(5)(A).

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

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.

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

XI. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein and no other statement, promise, or agreement, either written or oral made by either party or by agents of either party that is not contained

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in this agreement shall be valid.

FOR THE COMMISSION:

Charles N. Steele
General Counsel

BY: _____ May 28, 1985
Kenneth A. Gross
Associate Genreal Counsel
Date

FOR THE RESPONDENT:

_____ 4-25-85
Colin J. Coffey
Treasurer/Legal Counsel
Date

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 28, 1985

James C. Hazard, Esquire
Sellar, Hazard, Snyder and Kelly
2815 Mitchell Drive, Suite 202
P.O. Box 3510
Walnut Creek, California 94598

RE: MUR 1609
City of Pittsburg, CA
Joseph Detorres
Ralph Downing
Frank Quesada
Joseph Siino
Ronald Rives

Dear Mr. Hazard:

This is to advise you that the entire file in this matter has now been closed and will become part of the public record within thirty days. Should you wish to submit any legal or factual materials to be placed on the public record in connection with this matter, please do so within 10 days.

Should you have any questions, contact Beverly Kramer, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 28, 1985

Rudy G. Rodriguez, Chairman
Mexican-American Political Association
Contra-Costa Chapter
256 Sierra Drive
Walnut Creek, California 94596

RE: MUR 1609
City of Pittsburg, CA
Joseph Detorres
Ralph Downing
Frank Quesada
Joseph Siino
Ronald Rives
Friends of Congressman
George Miller
Colin J. Coffey, as treasurer

Dear Mr. Rodriguez:

This is in reference to the complaint you filed with the Commission on December 5, 1984, alleging violations of the Federal Election Campaign Act of 1971, as amended ("the Act") by the above-referenced parties.

After conducting an investigation of this matter, the Commission determined that there was reason to believe that the City of Pittsburg, CA, violated 2 U.S.C. §§ 441b(a) and 441f, and that Joseph Detorres, Ralph Downing, Frank Quesada, Joseph Siino and Ronald Rives violated 2 U.S.C. § 441f, provisions of the Act. On April 4, 1985, a conciliation agreement signed by these respondents was accepted by the Commission. A copy of this agreement is enclosed.

In addition, the Commission found probable cause to believe that Friends of Congressman George Miller and Colin J. Coffey, as treasurer, violated 2 U.S.C. § 441b(a). On May 22, 1985, a conciliation agreement signed by these respondents was accepted by the Commission. A copy of this agreement is also enclosed for your information.

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The file number in this matter is MUR 1609. If you have any questions, please contact Beverly Kramer, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosures
Conciliation Agreements

8504052485

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
City of Pittsburg	)	MUR 1609
Joseph DeTorres	)	
Ralph Downing	)	
Frank Quesada	)	
Joseph Siino	)	
Ronald Rives	)	

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by Rudy E. Rodriguez. An investigation has been conducted, and the Commission (1) found reason to believe that the Respondent City of Pittsburg violated 2 U.S.C. § 441b(a) by making corporate contributions to the Friends of Congressman George Miller and violated 2 U.S.C. § 441f by making contributions in the name of other persons to the Friends of Congressman George Miller; (2) found reason to believe that the respondents Ralph Downing, Joseph DeTorres, Frank Quesada, Joseph Siino, and Ronald Rives each violated 2 U.S.C. § 441f by permitting his name to be used by the City of Pittsburg in making a contribution to the Friends of Congressman George Miller.

NOW, THERFORE, the Commission and Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the respondents, and the subject matter of this proceeding, and this agreement has

the effect of an agreement entered into pursuant to 2 U.S.C. § 437g(a)(4)(i).

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

III. Respondents enter voluntarily into this agreement with the Commission.

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

1. Respondent, City of Pittsburg, is a corporate municipality.

2. Respondents Ralph Downing, Joseph DeTorres, Frank Quesada, Joseph Siino, and Ronald Rives were councilmembers in the City of Pittsburg in 1982.

3. The Friends of Congressman George Miller (the "Miller Committee") is the principal campaign committee of Congressman George Miller.

4. In the Spring of 1982, the City of Pittsburg, California issued two checks (one for $266 and one for $38) which were mailed to the Miller Committee. The tickets were to be used by the city councilmen of the City of Pittsburg to attend the birthday celebration of Congressman Miller.

5. Respondents Frank Quesada, Joseph DeTorres, Joseph Siino, Ronald Rives, and Ralph Downing contend that they did not know that the birthday celebration was part of George Miller's re-election campaign.

6. The Miller Committee deposited the checks on May 19, 1982, and reported the funds as contributions.

7. On July 14, 1982, the Clerk of the House of Representatives notified the Miller Committee that the City of Pittsburg was a corporation.

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8. On July 15, 1982, the Miller Committee refunded $304 to the City of Pittsburg and informed the City of Pittsburg that Federal Election Commission regulations prohibit corporate contributions and informed the City of Pittsburg that federal political committees could not accept corporate contributions.

9. In October 1982, the Miller Committee received individual personal checks from respondents Frank R. Quesada, Joseph DeTorres, Joseph Siino, Ralph Downing and Ronald Rives totalling $304.

10. Each councilman was told he would be reimbursed for the expense by the City of Pittsburg.

11. Individual checks were made out and each councilman was subsequently reimbursed by the City of Pittsburg.

12. Respondents contend that they did not knowingly and wilfully violate or intend to violate any federal campaign law or regulation.

V. The facts as completely set forth above constitute a violation of 2 U.S.C. § 441b(a) and a violation of 2 U.S.C. § 441f.

VI. Respondents shall pay a civil penalty to the Treasurer of the United States in the total amount of five hundred dollars ($500), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. Respondents agree that they 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.

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.

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IX. 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. Respondents 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.

XI. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be valid.

FOR THE COMMISSION:

Charles N. Steele
General Counsel

BY: Kenneth A. Gross — April 8, 1985
Kenneth A. Gross
Associate General Counsel
Date

FOR THE RESPONDENTS:

James L. Hazard — 3/21/85
JAMES L. HAZARD, Attorney
for City of Pittsburg
Date

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JAMES L. HAZARD, Attorney
for Joseph DeTorres

3/21/85
Date

JAMES L. HAZARD, Attorney
for Ralph Downing

3/21/85
Date

JAMES L. HAZARD, Attorney
for Frank Quesada

3/21/85
Date

JAMES L. HAZARD, Attorney
for Joseph Siino

3/21/85
Date

JAMES L. HAZARD, Attorney
for Ronald Rives

3/21/85
Date

8504052480

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Friends of Congressman George Miller and Colin J. Coffey, as Treasurer	)	MUR 1609
	)	
	)	
	)	

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by Rudy E. Rodriguez. An investigation has been conducted, and the Commission found probable cause to believe that the Friends of Congressman George Miller and Colin J. Coffey, as Treasurer, ("Respondent") violated 2 U.S.C. §441b(a) by accepting corporate contributions from the City of Pittsburg, California.

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, and this agreement has the effect of an agreement entered into pursuant to 2 U.S.C. §437g(a)(4)(A)(i).

II. The Respondent believes that it has had an adequate opportunity to respond to the General Counsel's brief and the Commission's notice of its probable cause determination.

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

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

1. Respondent, Friends of Congressman George Miller, was the principal campaign committee for Congressman George Miller's campaign for re-election to the House of Representatives in 1982.

2. Alison Cartwright Brown was the treasurer of the Friends of Congressman George Miller until February 29, 1984, at which time the Committee submitted an amended Statement of Organization designating its new treasurer, Colin J. Coffey.

3. In the Spring of 1982, the Miller Committee publicized a birthday celebration event to be held on May 7, 1982, as part of Congressman George Miller's re-election campaign.

4. The City of Pittsburg, is a California municipal corporation. Five Pittsburg City Councilmen requested that the City Manager's secretary make reservations for their attendance at the birthday event. The Miller committee received two checks from the City of Pittsburg, one for $266.00 and one for $38.00 which were used to cover the cost of the City Councilmens' attendance at the birthday event.

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5. The Miller Committee deposited the checks on May 19, 1982, shortly after their receipt. In its subsequent financial disclosure report, the Miller Committee duly reported the funds as contributions received from the City of Pittsburg.

6. Evidence has been presented to the Commission demonstrating that the Miller Committee had established screening procedures by which it endeavored to confirm the legality of contributions received by the Committee.

7. After his routine review of the Miller Committee's financial disclosure report, the Clerk of the House of Representatives noticed the contribution and on July 14, 1982, the Clerk of the House telephoned the Miller Committee's treasurer and informed her that cities were considered corporations within the corporate contribution prohibition of the Federal Election Campaign Act of 1971. The Miller Committee's treasurer immediately drew out a refund check to the City and mailed the same on July 15, 1982, refunding the contributions to the City.

8. Title 2, U.S.C. §441b(a) states that it is unlawful for a committee to knowingly accept or receive a corporate contribution.

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V. The Friends of Congressman George Miller contends that it did not knowingly and wilfully accept a corporate contribution. Respondent admits, however, that by initially depositing the contribution before refunding it, the Respondent accepted contributions prohibited by 2 U.S.C. §441b(a).

VI. Respondent agrees to pay a civil penalty to the Treasurer of the United States in the amount of One Hundred Dollars ($100.00) pursuant to U.S.C. §437g(a)(5)(A).

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

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.

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

XI. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein and no other statement, promise, or agreement, either written or oral made by either party or by agents of either party that is not contained

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in this agreement shall be valid.

FOR THE COMMISSION:

Charles N. Steele
General Counsel

BY: _____ _____
Kenneth A. Gross Date
Associate Genreal Counsel

FOR THE RESPONDENT:

_____ _____
Colin J. Coffey Date
Treasurer/Legal Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 28, 1985

Colin J. Coffey
Noris and Noris
3718 MacDonald Avenue
Richmond, California 94805-2288

RE: MUR 1609
Friends of Congressman
George Miller
Colin J. Coffey, as treasurer

Dear Mr. Coffey:

On May 22 , 1985, the Commission accepted the conciliation agreement signed by you and a check for the 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

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Conciliation Agreement

cc: Congressman George Miller

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Friends of Congressman George Miller and Colin J. Coffey, as Treasurer	)	MUR 1609
	)	
	)	
	)	

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by Rudy E. Rodriguez. An investigation has been conducted, and the Commission found probable cause to believe that the Friends of Congressman George Miller and Colin J. Coffey, as Treasurer, ("Respondent") violated 2 U.S.C. §441b(a) by accepting corporate contributions from the City of Pittsburg, California.

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, and this agreement has the effect of an agreement entered into pursuant to 2 U.S.C. §437g(a)(4)(A)(i).

II. The Respondent believes that it has had an adequate opportunity to respond to the General Counsel's brief and the Commission's notice of its probable cause determination.

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

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

1. Respondent, Friends of Congressman George Miller, was the principal campaign committee for Congressman George Miller's campaign for re-election to the House of Representatives in 1982.

2. Alison Cartwright Brown was the treasurer of the Friends of Congressman George Miller until February 29, 1984, at which time the Committee submitted an amended Statement of Organization designating its new treasurer, Colin J. Coffey.

3. In the Spring of 1982, the Miller Committee publicized a birthday celebration event to be held on May 7, 1982, as part of Congressman George Miller's re-election campaign.

4. The City of Pittsburg, is a California municipal corporation. Five Pittsburg City Councilmen requested that the City Manager's secretary make reservations for their attendance at the birthday event. The Miller committee received two checks from the City of Pittsburg, one for $266.00 and one for $38.00 which were used to cover the cost of the City Councilmens' attendance at the birthday event.

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5. The Miller Committee deposited the checks on May 19, 1982, shortly after their receipt. In its subsequent financial disclosure report, the Miller Committee duly reported the funds as contributions received from the City of Pittsburg.

6. Evidence has been presented to the Commission demonstrating that the Miller Committee had established screening procedures by which it endeavored to confirm the legality of contributions received by the Committee.

7. After his routine review of the Miller Committee's financial disclosure report, the Clerk of the House of Representatives noticed the contribution and on July 14, 1982, the Clerk of the House telephoned the Miller Committee's treasurer and informed her that cities were considered corporations within the corporate contribution prohibition of the Federal Election Campaign Act of 1971. The Miller Committee's treasurer immediately drew out a refund check to the City and mailed the same on July 15, 1982, refunding the contributions to the City.

8. Title 2, U.S.C. §441b(a) states that it is unlawful for a committee to knowingly accept or receive a corporate contribution.

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V. The Friends of Congressman George Miller contends that it did not knowingly and wilfully accept a corporate contribution. Respondent admits, however, that by initially depositing the contribution before refunding it, the Respondent accepted contributions prohibited by 2 U.S.C. §441b(a).

VI. Respondent agrees to pay a civil penalty to the Treasurer of the United States in the amount of One Hundred Dollars ($100.00) pursuant to U.S.C. §437g(a)(5)(A).

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

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.

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

XI. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein and no other statement, promise, or agreement, either written or oral made by either party or by agents of either party that is not contained

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in this agreement shall be valid.

FOR THE COMMISSION:

Charles N. Steele
General Counsel

BY: Kenneth A. Gross — May 28, 1985
Kenneth A. Gross — Date
Associate Genreal Counsel

FOR THE RESPONDENT:

Colin J. Coffey — 4-25-85
Colin J. Coffey — Date
Treasurer/Legal Counsel

8504052487 1

FRIENDS OF CONGRESSMAN
GEORGE MILLER
348 - 38TH ST. 232-7100
RICHMOND, CA 94805

404

4-5 1985 90-203/1211

PAY TO THE ORDER OF Treasurer of the United States $ 100.00

One hundred 00/100 DOLLARS

HEAD OFFICE
THE MECHANICS BANK
3170 HILLTOP MALL ROAD
RICHMOND, CALIFORNIA 94806

MEMO

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SENSITIVE

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

85 MAY 15 P12:51

May 15, 1985

MEMORANDUM

TO : The Commission

FROM : Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

SUBJECT: MUR 1609

Attached for your information is a correspondence received from respondents with respect to whom the file in MUR 1609 was closed on April 4, 1985. The file in MUR 1609 remains open with respect to other respondents. We expect to circulate shortly a General Counsel's report concerning the remaining respondents.

8504052487

SELLAR, HAZARD, SNYDER & KELLY
A LAW PARTNERSHIP INCLUDING
PROFESSIONAL CORPORATIONS
2815 MITCHELL DRIVE, SUITE 202
POST OFFICE BOX 3510
WALNUT CREEK, CALIFORNIA 94598
TELEPHONE (415) 938-1430

*RUDD SELLAR
A. J. ENGLEKING (1924-1981)
*JAMES L. HAZARD
*MARTIN T. SNYDER
*JOHN KELLY

JAMES V. FITZGERALD, III
DONALD J. LIDDLE
*TIMOTHY P. HOAGLAND
H. MAL CAMERON
GRETCHEN R. MANKAMYER

*PROFESSIONAL CORPORATION

85 APR 22 A8:3

April 16, 1985

85 APR 22 A10:07

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

Reference: MUR 1609

Dear Ms. Kramer:

Enclosed please find the original signed Public Statements of Joseph Siino and Ronald Rives in the above matter. Please see that these statements are included in your file.

Thank you for your courtesy and cooperation.

Very truly yours,

SELLAR, HAZARD, SNYDER & KELLY

James L. Hazard

JAMES L. HAZARD
sb
Enclosures

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PUBLIC STATEMENT OF RONALD RIVES

APR 22 A10:07

I have entered into the Conciliation Agreement on the advice of counsel and with the following express understandings:

1. I maintain my position that at the time I sought reimbursement from the City of Pittsburg for attendance at the George Miller birthday celebration, I was not aware that said function was a campaign fund raiser.

2. I am advised that the City of Pittsburg will pay and the Commission has agreed to accept from the City of Pittsburg the payment of the total civil penalty. I will not be responsible for the payment of any fine arising from this agreement or the subject matter of this agreement.

3. I did not knowingly violate or intend to violate any federal campaign law or regulation.

Dated: ~~March~~ April 11, 1985

Ronald P. Rives

RONALD RIVES

8504052487 5

BEFORE THE FEDERAL ELECTION COMMISSION

APR 22 A10:07

In the Matter of	)	
	)	MUR 1609
City of Pittsburg	)	
Joseph DeTorres	)	
Ralph Downing	)	
Frank Quesada	)	
Joseph S. Siino	)	
Ronald P. Rives	)	
	)	

PUBLIC STATEMENT OF JOSEPH S. SIINO

On the advice of counsel, I have entered into the CONCILIATION AGREEMENT and executed the same on February 7, 1985, under the following express understandings:

1. When reimbursement was made to me by the City of Pittsburg for my attendance at the George Miller Birthday Celebration, I was not aware at any time that said function was a campaign fund raiser for said candidate.

2. I have been advised by legal counsel that the City of Pittsburg will pay and the Commission has agreed to accept from the City of Pittsburg the payment of the total civil penalty assessed in this case. I will not be responsible for the payment of any fine arising from this Agreement or the subject matter of this Agreement.

3. I did not knowingly or willfully violate or intend to violate any Federal campaign law, rule or regulation.

DATED: April 11, 1985.

Joseph S. Siino

JOSEPH S. SIINO

8503040487

OCC 3244

SELLAR, HAZARD, SNYDER & KELLY
A LAW PARTNERSHIP INCLUDING
PROFESSIONAL CORPORATIONS
2815 MITCHELL DRIVE, SUITE 202
POST OFFICE BOX 3510
WALNUT CREEK, CALIFORNIA 94598
TELEPHONE (415) 938-1430

*RUDD SELLAR
A. J. ENGLEKING (1924-1981)
*JAMES L. HAZARD
*MARTIN T. SNYDER
*JOHN KELLY

JAMES V. FITZGERALD, III
DONALD J. LIDDLE
*TIMOTHY P. HOAGLAND
H. MAL CAMERON
GRETCHEN R. MANKAMYER

*PROFESSIONAL CORPORATION

85 APR 22 A8:38

April 16, 1985

APR 22 A10:07

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

Reference: MUR 1609

Dear Ms. Kramer:

Enclosed please find the original signed Public Statements of Joseph Siino and Ronald Rives in the above matter. Please see that these statements are included in your file.

Thank you for your courtesy and cooperation.

Very truly yours,

SELLAR, HAZARD, SNYDER & KELLY

JAMES L. HAZARD
sb
Enclosures

8504053248377

APR 22 AM 10:07

PUBLIC STATEMENT OF RONALD RIVES

I have entered into the Conciliation Agreement on the advice of counsel and with the following express understandings:

1. I maintain my position that at the time I sought reimbursement from the City of Pittsburg for attendance at the George Miller birthday celebration, I was not aware that said function was a campaign fund raiser.

2. I am advised that the City of Pittsburg will pay and the Commission has agreed to accept from the City of Pittsburg the payment of the total civil penalty. I will not be responsible for the payment of any fine arising from this agreement or the subject matter of this agreement.

3. I did not knowingly violate or intend to violate any federal campaign law or regulation.

Dated: ~~March~~ April 11, 1985

Ronald P. Rives

RONALD RIVES

8504048873

BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
FEDERAL ELECTION COMMISSION
GENERAL COUNSEL
APR 22 AM 10:07

In the Matter of	)	
	)	MUR 1609
City of Pittsburg	)	
Joseph DeTorres	)	
Ralph Downing	)	
Frank Quesada	)	
Joseph S. Siino	)	
Ronald P. Rives	)	
	)	

PUBLIC STATEMENT OF JOSEPH S. SIINO

On the advice of counsel, I have entered into the CONCILIATION AGREEMENT and executed the same on February 7, 1985, under the following express understandings:

1. When reimbursement was made to me by the City of Pittsburg for my attendance at the George Miller Birthday Celebration, I was not aware at any time that said function was a campaign fund raiser for said candidate.

2. I have been advised by legal counsel that the City of Pittsburg will pay and the Commission has agreed to accept from the City of Pittsburg the payment of the total civil penalty assessed in this case. I will not be responsible for the payment of any fine arising from this Agreement or the subject matter of this Agreement.

3. I did not knowingly or willfully violate or intend to violate any Federal campaign law, rule or regulation.

DATED: April 11, 1985.

Joseph S. Siino

JOSEPH S. SIINO

3 3 3 0 2 4 8 7 2

ELLAR, HAZARD, SNYDER & KELLY
AW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
2815 MITCHELL DRIVE, SUITE 202
POST OFFICE BOX 3510
WALNUT CREEK, CALIFORNIA 94598

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

APR 22 A8:08

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 1609
City of Pittsburg	)	
Joseph DeTorres	)	
Ralph Downing	)	
Frank Quesada	)	
Joseph Siino	)	
Ronald Rives	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on April 4, 1985, the Commission decided by a vote of 5-0 to take the following actions in MUR 1609:

1. Accept the conciliation agreement with the City of Pittsburg, Joseph DeTorres, Ralph Downing, Frank Quesada, Joseph Siino, and Ronald Rives, submitted with the General Counsel's Report signed April 1, 1985.

2. Close the file as it pertains to the City of Pittsburg, Joseph DeTorres, Ralph Downing, Frank Quesada, Joseph Siino, and Ronald Rives.

3. Approve the letter attached to the General Counsel's Report signed April 1, 1985.

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

Attest:

4-4-85
Date

Judy C. Ransom
for Marjorie W. Emmons
Secretary of the Commission

8504052483

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 9, 1985

James L. Hazard, Esq.
Sellar, Hazard, Snyder & Kelly
2815 Mitchell Drive
Suite 202
Post Office Box 3510
Walnut Creek, CA 94598

RE: MUR 1609
City of Pittsburg
Joseph DeTorres
Ralph Downing
Frank Quesada
Joseph Siino
Ronald Rives

Dear Mr. Hazard:

On April 4 , 1985, the Commission accepted the conciliation agreement signed by you and a check from the City of Pittsburg for the civil penalty in settlement of violations of 2 U.S.C. § 441b(a) and §441f, provisions of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter as it pertains to your clients, and it will become a part of the public record within thirty days after this matter has been closed with respect to all other respondents involved. 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 within 10 days.

The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter has been closed. The Commission will notify you when the entire file has been closed.

3504052483 2

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

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure
Conciliation Agreement

8504052483

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
City of Pittsburg	)	MUR 1609
Joseph DeTorres	)	
Ralph Downing	)	
Frank Quesada	)	
Joseph Siino	)	
Ronald Rives	)	

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by Rudy E. Rodriguez. An investigation has been conducted, and the Commission (1) found reason to believe that the Respondent City of Pittsburg violated 2 U.S.C. § 441b(a) by making corporate contributions to the Friends of Congressman George Miller and violated 2 U.S.C. § 441f by making contributions in the name of other persons to the Friends of Congressman George Miller; (2) found reason to believe that the respondents Ralph Downing, Joseph DeTorres, Frank Quesada, Joseph Siino, and Ronald Rives each violated 2 U.S.C. § 441f by permitting his name to be used by the City of Pittsburg in making a contribution to the Friends of Congressman George Miller.

NOW, THERFORE, the Commission and Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the respondents, and the subject matter of this proceeding, and this agreement has

the effect of an agreement entered into pursuant to 2 U.S.C. § 437g(a)(4)(i).

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

III. Respondents enter voluntarily into this agreement with the Commission.

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

1. Respondent, City of Pittsburg, is a corporate municipality.

2. Respondents Ralph Downing, Joseph DeTorres, Frank Quesada, Joseph Siino, and Ronald Rives were councilmembers in the City of Pittsburg in 1982.

3. The Friends of Congressman George Miller (the "Miller Committee") is the principal campaign committee of Congressman George Miller.

4. In the Spring of 1982, the City of Pittsburg, California issued two checks (one for $266 and one for $38) which were mailed to the Miller Committee. The tickets were to be used by the city councilmen of the City of Pittsburg to attend the birthday celebration of Congressman Miller.

5. Respondents Frank Quesada, Joseph DeTorres, Joseph Siino, Ronald Rives, and Ralph Downing contend that they did not know that the birthday celebration was part of George Miller's re-election campaign.

6. The Miller Committee deposited the checks on May 19, 1982, and reported the funds as contributions.

7. On July 14, 1982, the Clerk of the House of Representatives notified the Miller Committee that the City of Pittsburg was a corporation.

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8. On July 15, 1982, the Miller Committee refunded $304 to the City of Pittsburg and informed the City of Pittsburg that Federal Election Commission regulations prohibit corporate contributions and informed the City of Pittsburg that federal political committees could not accept corporate contributions.

9. In October 1982, the Miller Committee received individual personal checks from respondents Frank R. Quesada, Joseph DeTorres, Joseph Siino, Ralph Downing and Ronald Rives totalling $304.

10. Each councilman was told he would be reimbursed for the expense by the City of Pittsburg.

11. Individual checks were made out and each councilman was subsequently reimbursed by the City of Pittsburg.

12. Respondents contend that they did not knowingly and wilfully violate or intend to violate any federal campaign law or regulation.

V. The facts as completely set forth above constitute a violation of 2 U.S.C. § 441b(a) and a violation of 2 U.S.C. § 441f.

VI. Respondents shall pay a civil penalty to the Treasurer of the United States in the total amount of five hundred dollars ($500), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. Respondents agree that they 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.

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. 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. Respondents 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.

XI. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be valid.

FOR THE COMMISSION:

Charles N. Steele
General Counsel

BY: Kenneth A. Gross — April 8, 1985
Kenneth A. Gross — Date
Associate General Counsel

FOR THE RESPONDENTS:

James L. Hazard — 3/21/85
JAMES L. HAZARD, Attorney — Date
for City of Pittsburg

3540324837

JAMES L. HAZARD, Attorney
for Joseph DeTorres

Date 3/21/85

JAMES L. HAZARD, Attorney
for Ralph Downing

Date 3/21/85

JAMES L. HAZARD, Attorney
for Frank Quesada

Date 3/21/85

JAMES L. HAZARD, Attorney
for Joseph Siino

Date 3/21/85

JAMES L. HAZARD, Attorney
for Ronald Rives

Date 3/21/85

8504040363

CITY OF PITTSBURG
65 CIVIC AVENUE
PITTSBURG, CALIFORNIA 94565

No. 27577

90-553
1211

-CITY OF PITTSBURG- 500dol's00cts

DATE	CHECK NO.	AMOUNT
February 21, 1985		xx$500.00xx

PAY
TO THE
ORDER
OF .Fedral Election Commission

CITY OF PITTSBURG

k Mary J. Ehrenz

PITTSBURG OFFICE
WELLS FARGO BANK
PITTSBURG, CALIFORNIA

⑈027577⑈ ⑆1211⑆0553⑆9315 57504 3⑈

8504057

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 5, 1984

Colin J. Coffey, Esquire
Norris and Norris
3718 Macdonald Avenue
Richmond, California 94805-2288

RE: MUR 1609
Friends of Congressman
George Miller

Dear Mr. Coffey:

On December 4, 1984, the Commission determined that there is probable cause to believe Friends of Congressman George Miller and you, as treasurer, committed a violation of 2 U.,S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended.

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 Martha Romney, the staff member assigned to this matter, at (202) 523-4000.

Sincerely,

Charles N. Steele by KBS
Charles N. Steele
General Counsel

Enclosure
Conciliation Agreement

8504052490

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Friends of Congressman George Miller and Colin J. Coffey, as Treasurer	)	MUR 1609

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of December 4, 1984, do hereby certify that the Commission took the following actions in MUR 1609:

2. Decided by a vote of 5-0 to take the following actions:

a) Find probable cause to believe that Friends of Congressman George Miller and Colin Coffey, as treasurer, violated 2 U.S.C. § 441b(a).

(continued)

c) Approve and send the letter attached to the General Counsel's report dated November 20, 1984.

Commissioners Aikens, Elliott, Harris, McDonald, and McGarry voted affirmatively for the decision; Commissioner Reiche was not present at the time of the vote.

Attest:

12-4-84
Date

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

8504052 4892

SENSITIVE

RECEIVED
FEC
SECRETARY

BEFORE THE FEDERAL ELECTION COMMISSION

84 NOV 21 A8:28

In the Matter of)
)
Friends of Congressman) MUR 1609
George Miller)
and Colin J. Coffey,)
as Treasurer)

EXECUTIVE SESSION
04 DEC 1984

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On December 5, 1983, Mr. Rudy G. Rodriguez of the Mexican-American Political Association filed a complaint with the Commission alleging that the City of Pittsburg, California made contributions to Friends of Congressman George Miller (the "Miller Committee"), using city funds, in the names of other individuals and that certain members of the city council permitted their names to be used to make such contributions in violation of 2 U.S.C. § 441f. The complaint also asserts that the City of Pittsburg, California, a municipal corporation, made corporate contributions to the Miller Committee in violation of 2 U.S.C. § 441b(a), and that Friends of Congressman George Miller and its treasurer violated 2 U.S.C. § 441f by accepting contributions made by the City of Pittsburg, California in the names of others.*/

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*/ While not specifically alleged in the complaint, the Committee's acceptance of contributions from the City of Pittsburg raises the additional issue of whether the Committee violated 2 U.S.C. § 441b(a).

By letter of December 9, 1983, the Office of General Counsel notified the Miller Committee of the complaint filed against it. On December 16, 1983, the Office of General Counsel received the response of Ms. Alison Cartwright Brown, treasurer of Friends of Congressman George Miller.

On April 10, 1984, the Commission found reason to believe that Friends of Congressman George Miller and its treasurer, Alison Cartwright Brown, violated 2 U.S.C. § 441b(a). The Commission found no reason to believe that Friends of Congressman George Miller and its treasurer, Alison Cartwright Brown, violated 2 U.S.C. § 441f. Interrogatories and requests for documents were forwarded to the respondent. On April 26, 1984, the Miller Committee responded to the reason to believe notification. The General Counsel's brief was sent to the Miller Committee on August 6, 1984. The Miller Committee filed a brief with the Commission on September 11, 1984.

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II. LEGAL ANALYSIS

The Legal Analysis is contained in the Brief of the Office of General Counsel dated August 6, 1984. The Miller Committee's reply is contained in its response brief.

Mr. Coffey, counsel for the Miller Committee, contends that the Commission failed to give adequate notice to the Miller Committee under 2 U.S.C. § 437g(a)(2). Mr. Coffey claims that the Miller Committee did not receive actual notification of the Commission's reason to believe finding until August 13, 1984, because the Commission mailed the reason to believe notification to Alison Cartwright Brown, the original treasurer of record.

The Office of General Counsel believes the Miller Committee assertion is without merit. Alison Cartwright Brown was the treasurer of the Miller Committee when the complaint was filed. A copy of the complaint was sent to her and received by her. The Miller Committee submitted an amended Statement of Organization, dated February 29, 1984, naming Colin Coffey as treasurer. However, Alison Cartwright Brown continued to correspond with the Commission. In response to the Commission's reason to believe finding and request for information, Alison Cartwright Brown responded twice providing the requested information. Ms. Brown also signed one of the letters "Alison Cartwright Brown, Friends of Congressman George Miller."

Further, Mr. Coffey admits, under oath, that Ms. Brown discussed the Commission's investigation with him in February 1984, when he replaced Ms. Brown as the treasurer of the Miller Committee. In addition, in April 1984, Ms. Brown informed Mr. Coffey that the Commission had asked her for some more information concerning the contribution. Mr. Coffey states that on August 13, 1984, Ms. Brown provided him with a copy of the General Counsel's letter and Brief dated August 6, 1984.

The Miller Committee was properly notified of the complaint. Also, Mr. Coffey was on notice of the Commission's investigation in February 1984. Mr. Coffey had numerous opportunities to discuss the case with Ms. Brown and, in fact, did speak with Ms. Brown on several occasions. Therefore, Mr. Coffey's allegation of inadequate notice is without merit.

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III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

IV. RECOMMENDATIONS

1. Find probable cause to believe that Friends of Congressman George Miller and Colin Coffey, as treasurer, violated 2 U.S.C. § 441b(a).

2. Approve the attached, proposed conciliation agreement.

3. Approve and send the attached letter.

20 Nov 1984
Date

Charles N. Steele
General Counsel

Attachments
1. Letter
2. Conciliation Agreement to Respondent

8504052489 6

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
City of Pittsburg, California;	)	MUR 1609
City Councilmembers DeTorres,	)	
Downing, Quesada, Rives, Siino.	)	

RESPONDENT'S BRIEF

I. INTRODUCTION.

This brief, with attached declarations and exhibits, is in response to the formal briefs of the General Counsel of the Federal Elections Commission. This response is filed on behalf of former Councilmember QUESADA.

II. FACTS.

Sometime prior to May, 1982, the members of the Pittsburg City Council were mailed an invitation to a birthday dinner in honor of Congressman George Miller. A copy of this 1982 invitation is attached hereto and incorporated by reference as Exhibit "A".

This invitation states on the front cover: "You are cordially invited to celebrate the 37th birthday of our Congressman George Miller." The date and time of the event are then given. There is no indication that the planned event is anything other than a social dinner.

The invitation directs the recipient to: "Please respond on enclosed card." The enclosed card asks the respondent to check how many birthday dinner tickets he wishes and also includes the statement: "I am unable to attend but enclosed is a contribution of _____." The respondent is then asked to give his name and address

and to make his checks payable to "Friends of George Miller." The enclosure card further states: "Federal law requires us to request the following information." The enclosure card then asks the respondent to list his occupation and principal place of business.

At the bottom of the card, in small print and among other statements, the following statement appears: "Federal law prohibits corporate or union treasury contributions."

The birthday party for George Miller has been an annual affair, extending back over a several year period. It has been customary practice for Pittsburg City Councilmembers to be sent invitations to these birthday dinners; as a part of the Councilmembers' normal city duties in representing the interests of the City of Pittsburg, Councilmembers often attended. (See Exhibits B-1 through B-5, E.)

When respondent QUESADA received the invitation, he ignored it. (Exhibit G-3.)

Respondent QUESADA had a very poor relationship with George Miller; as Mayor of Pittsburg in 1980, QUESADA travelled to Washington, D.C. on three separate occasions to see Congressman Miller and each time was ignored. (Exhibit G-3.)

However, after the City Manager's secretary advised him that no one else was going to attend, that the City wanted to have a representative present, and that the City would reimburse him, QUESADA attended the dinner. (Exhibit G-3.) Had he known that other Councilmembers would be present, he would not have done so. Nothing prior to his attendance nor at the dinner itself gave QUESADA notice that his attendance could be viewed as a contribution.

As QUESADA has affirmed:

"If I had known that even one cent of the dinner cost was going to be used for campaign purposes I never would have attended. In fact, I had told Congressman Miller at a community function in 1981 that he should never expect any political support or political contributions from me or my family." (Exhibit G-3.)

However, the City Manager's secretary, having obtained QUESADA' consent to attend, arranged for the City's finance department to issue checks to cover the dinner reservations. These checks were mailed to the committee shortly before May 7, 1982. (Exhibit C.)

These checks were deposited by the Friends of George Miller on May 19, 1982. (Exhibit H.) On July 15, 1982, a letter was received by the City of Pittsburg from Alison Cartwright, Treasurer, Friends of Congressman George Miller. (Exhibit D.) This letter stated that the committee was returning the check because it appeared to be from a corporation. A handwritten footnote indicated: "Cities are considered corporations under FEC law." The letter asked the City to replace the check in question with a personal check.

Upon receipt of this letter, the City Manager's secretary phoned QUESADA, requesting him to make out a personal check to Miller's committee. (See Exhibit C.) QUESADA was told that the City had used the "wrong procedure" in issuing a single check, that QUESADA had to make out an individual check and then be reimbursed. (Exhibit G-3.) There was no information given to QUESADA as to the reason why the City's check had been rejected or any indication that his attendance was being considered as a contribution. (Exhibits B-5, G-3.)

As a result of a similar phone call from the secretary to every attendee, each person who had attended the dinner, made out an individual check; each subsequently requested reimbursement from

the City either for the cost of the "Friends of George Miller dinner" or for "cost of meeting in Concord concerning congressional matters." (See Exhibit "C".) The City did in fact reimburse each Councilmember.

None of the Councilmembers, including QUESADA, ever saw the letter from Alison Cartwright. (See Exhibits B-1 through B-5, C, E.) Each Councilmember, including QUESADA, regarded the birthday dinner not as a campaign fund-raiser related to a federal election but rather as a social event affording the opportunity to discuss City business with Congressman Miller. (See Exhibits B-1 through B-5.)

On or about October 7, 1983, the Friends of Congressman George Miller Committee returned the amounts paid by each Councilmember. (See Exhibits B-1 through B-5.)

III. ARGUMENT

A. The Invitation Failed to Give the Notice Required By Law that a Contribution Was Being Sought

Under 2 U.S.C. R441d(a), any public communication soliciting contributions must display an appropriate authorization notice, such as "Paid for by the John Doe for Congress Committee." Although the authorization notice need not always appear on the first page of the solicitation, FEC regulations require that the notice be displaced clearly and conspicuously. 11 CFR 110.11(a)(1); AO 1980-145.

In the present case, the authorization notice for the birthday dinner appeared only amidst a number of lines of very small print on the bottom of a small card enclosed within the birthday invitation. The face of this small card was to be used by recipients to indicate the number of tickets desired. Nothing in the invitation itself indicated to the reader that attendance would be considered a

contribution. (See Exhibit A.)

The invitation received by QUESADA thus failed to give him clear and conspicuous notice. By analogy, respondent points to the similar requirement for conspicuous notice for disclaimers of warranties under the Uniform Commercial Code, section 2-316. In construing this requirement, the courts have held that small print does not constitute conspicuous notice. See, for example, Dorman v. International Harvester Co. (1975) 46 Cal.App. 3d 11.

Since the invitation failed to give him notice as required by law, QUESADA could not have realized that sending a check for the stated cost of the dinner would be making a contribution, even assuming arguendo that such payment otherwise qualified as a contribution.

It is axiomatic that someone who enters into an ordinary transaction with one who happens to represent a candidate and is given no notice that the candidate intends to treat that transaction as a contribution has not violated the election laws. Otherwise, someone who unknowingly purchased property from a candidate's committee at an inflated price could be held to have violated §441b(a) if the candidate then unilaterally decided to report the purchase as a campaign contribution. People would be put in the position of dealing with federal candidates at their peril--and the federal courts have specifically held that the Constitution demands that persons not be required to act only at their peril in matters involving federal elections. United States v. Chestnut, 394 F.Supp. 581 (S.D. N.Y. 1975), affirmed 533 F.2d 40, cert denied 429 U.S. 829, 97 S.Ct. 88.

Thus, not only statutes and regulations but logic require that the burden of informing potential contributors that a contribution

is being sought should fall on the candidate--not the recipient of the solicitation. This is particularly true when, as in this case, the cost of the item being offered for sale fails to give notice to the recipient that its purchase will create excess funds that could then be used for campaign purposes. A solicitation to purchase a ticket to a $200-a-plate dinner may give the recipient constructive, if not actual, notice that a contribution-purpose is intended; an invitation to pay $38 for a dinner does not.

B. The Payment for the Dinner Did Not Constitute a Contribution.

Respondent QUESADA is alleged to have knowingly permitted his name to be used to effect a contribution made by the City. This allegation depends on the fact that the money paid for attendance at the dinner did in fact constitute a contribution. That is, if the money expended by the City was not a contribution, then QUESADA could not be guilty of any impropriety in sending a personal check for the dinner and then getting reimbursed.

Analysis of the statutes, case law and the advisory opinions of the FEC indicate that the payment for tickets to attend George Miller's birthday dinner did not constitute a contribution.

In his dissent in United States v. Hankin, 607 F.2d 611 (C.A.3d 1979) Circuit Judge Garth, in construing the meaning of "contribution," corectly noted:

> "The term 'contribution' as it appeared in §614, and even as it appears today in the successor statute to §614 (2 U.S.C. §6441f) was then, as it is now, defined as 'a gift...made for the purpose of influencing the nomination for election, or election, of any person to Federal office...' 88 Stat. 1260; 2 U.S.C. §431(e)."

Where the purpose of a payment has not been to influence the election of a person to office, the case law has not found a

contribution to have been made. In State of North Carolina v. Charlotte Liberty Mutual Insurance Company (1979) 251 S.E.2d 867, for example, the court construed two state statutes prohibiting the making of a contribution by a corporation not to prohibit the payment with corporation checks for attendance at a breakfast celebrating the re-election of an insurance commissioner; since the commissioner had been re-elected, the corporations' money was not expended for the purpose of influencing an election and therefore did not constitute contributions. The court specifically stated that the statutes it was construing were similar both in language and scope to 2 U.S.C. §441b, citing United States v. CIO, 335 U.S. 106, 68 S. Ct. 1349 (1948).

Federal case law provides further support for the view that a payment must be made with a particular intent to influence an election in order to constitute a contribution. In Federal Election Commission v. California Medical Ass'n., 502 F. Supp. 196 (1980), the court stated:

> "It is well established that the thrust of FECA is to regulate contributions and expenditures, made for the relatively narrow purpose of influencing federal elections and that it does not reach activities designed more broadly to promote the discussion of political issues." (At page 201.)

U.S. v. National Committee for Impeachment, 469 F.2d 1139 (1972) held FECA inapplicable to a committee which received contributions in response to an advertisement it ran in the New York Times sponsoring President Nixon's impeachment. The court there found:

> "Thus, the words of the Act seem to indicate that Congress' concern was primarily with groups organized or at least authorized by a particular candidate and whose principal focus is a specific campaign. The central theme of the advertisement at issue here relates to impeachment of the President, not specific election campaigns or candidates." (At page 1140; emphasis added.)

"Were we to think otherwise, Title III of the Act would raise serious constitutional issues..." (At page 1140.)

"We also construe the Act to apply to committees soliciting contributions or making expenditures the major purpose of which is the nomination or election of candidates." (At page 1141; emphasis added.)

In construing the word "contribution," respondent QUESADA reminds the commission that special rules of construction must be applied to federal election laws. Since the violation of a political contribution statute carries potential criminal liability, the statute must be narrowly construed, and all doubts about the scope of the statute's liability must be resolved in favor of the one charged with the violation. 79 ALR 3d 491. As the courts have pointed out, if one is required to act at his peril in matters involving elections, free dissemination of ideas my be inhibited; therefore, strict standards of definiteness must be applied. United States v. Chestnut, 394 F. Supp. 581 (S.D. N.Y. 1975), affirmed 533 F.2d 40, cert denied 429 U.S. 829, 97 S.Ct. 88. At the same time, any construction must be liberally interpreted in favor of the accused. United States v. Hankin, 607 F.2d 611 (C.A. 3rd 1979).

Further, in interpreting what constitutes a contribution, the circumstances should be considered. As the United States Supreme Court found in construing the word "expenditure" as used in the predecessor to section 441b, the applicability of the word to the prohibition of certain acts must be determined from the circumstances. United States v. CIO, 335 U.S. 106, 68 S.Ct. 1349 (1948).

Those circumstances must include the intent or purpose of the person making the payment in question. 2 U.S.C. §431. Further, in the case of section 441b(a), the statute requires a showing of the further circumstance that the payment be made "in connection with" a federal election.

"It is unlawful for...any corporation...to make a contribution or expenditure in connection with any [federal] election..." §441b(a); emphasis added.

The facts in this case show that neither QUESADA nor the City intended the payments for the dinner tickets to influence an election to federal office, nor were these payments made in connection with a federal election. QUESADA intended to attend a traditional local social function to discuss local civic concerns; the City intended to compensate him for a legitimate expense incurred in carrying out his office with the City.

An analysis of recent articles and advisory opinions by this Commission supports the view that the payments in question did not constitute contributions. 2 U.S.C. §437f provides that any person involved in a transaction which is similar in its material aspects to that upon which such an advisory opinion is rendered may rely upon the advisory opinion. Advisory opinions thus are highly persuasive. The articles published in the FEC's official organ, the Federal Election Commission Record, presumably represent the most recent views of the FEC on federal election law provisions.

When those FEC articles and advisory opinions which deal with what constitutes a corporate contribution are analyzed, four general principles emerge:

1. When an item is sold for the sole purpose of raising money for a candidate, committee, or political party, its purchase will be regarded as a contribution.

For example, in the Federal Election Commission Record of December, 1982, Volume 8, Number 12, the Commission stated in an article regarding concert fundraisers that if one purchases a ticket to a concert at which entertainers have volunteered their services,

the sole purpose of which is to raise funds for an election, he has made a contribution. Similarly, in Advisory Opinion 1982-24, the Commission declared that the purchasers of artworks offered by a committee whose sole purpose in soliciting the works was to raise funds for an election would be making a contribution.

The birthday dinner held for George Miller is clearly distinguishable from the campaign fundraisers contemplated in the situations outlined above. The sole purpose of celebrating Congressman Miller's birthday was not to raise money for his candidacy; that this is so is demonstrated by the fact that the birthday celebration is held annually, whether or not any federal election is occurring that year.

2. A person who purchases or sells a non-contributed item for its fair market value has not made a contribution.

Advisory Opinion 1982-30, for example, determined that a corporation could sell discount restaurant coupon books to a candidate without making a contribution provided it charged him the usual and normal fee for such books. Advisory Opinion 1982-53 declared that a corporation could purchase a mailing list from the Bill Frazier for Congress Committee without making a contribution provided that the sale price represented the "fair market value" of such a list. Finally, Advisory Opinion 1982-24 stated that the sale of artworks to the Phillips for Congress Committe was not a contribution because the Committee would pay the artists the normal price for such artwork.

In the instant case, the $38 paid by the City for QUESADA to attend a gala dinner was well within the usual market range of restaurant dinners in the Bay Area. Since the City paid fair market value for the tickets, no contribution was made.

3. A sale or purchase made for a business purpose and not an election purpose is not a contribution.

Advisory Opinion 1982-30 determined that where restaurants agree to honor discount coupons sold by a political committee and their purpose in so doing is to attract business rather than to finance political campaigns, they are not making contributions. It is helpful to look at the analagous provisions of the IRS Code of 1954, which allows tax credits for political contributions. Under these provisions, the purchase of a ticket to a dinner will not qualify as a contribution if the event is primarily a device to confer benefits upon the participants. Rev. Rul. 72-412, 1972-2 CB 5.

QUESADA' primary purpose in attending the birthday dinner was to discuss civic problems with the Congressman and other functionaries attending the event. Since his was a business and not a political purpose, he was not making a contribution in agreeing to pay for his dinner.

4. A payment connected with a purely social event is not a contribution.

In Advisory Opinion 1983-6, the Commission declared that a corporation would not be making a contribution in paying for a portion of a banquet given by the Democratic Women's Club because the banquet was a social event. In Advisory Opinion 1981-26, the Commission determined that the costs of a party given for an incumbent Congressman was not a contribution because the party would be "purely a social event" and was not being held to influence the results of a federal election.

The party for George Miller which QUESADA attended was billed as a purely social event--a birthday celebration--and he accepted in that spirit. It was not held to influence a federal election in that its timing was based on the Congressman's birth date, not the election calendar. Moreover, it was an annual event, one held whether or not an election was to occur.

It is essential, under the First Amendment, that persons with common political interests not be precluded from attending social events together, even where the social event involves some cost. Further, the First Amendment demands that persons not be precluded from making expenditures in order to solialize and communicate with another for fear that such conduct will be viewed as illegal contributions. As the United States Supreme Court points out in Buckley v. Valeo, 424 U.S. 1, 97 S.Ct. 612 (1976):

> "...virtually every means of communicating ideas in today's mass society requires some expenditure of money." (At page .)

C. Later Acts by the Recipient Cannot Transform a Non-contribution into a Contribution.

In United States v. Hankin, supra, 607 F.2d 611 (1979), the court carefully considered the issue of when a contribution is "made" by a contributor under the federal election laws. It specifically held that a contribution is made at the point when it is delivered or dispatched by the contributor--not when it is accepted by the recipient. It further held:

> "The act of making the contribution was complete whether or not the Committee decided to deposit the checks." (At page 614.)

It follows from this that only those circumstances existing prior to a delivery of funds can determine whether the funds constitute a contribution or not. If a "contribution" were not to become a contribution until and unless certain circumstances arose subsequent to its dispatch, then the Hankin court could not have held that the making of contributions is complete upon the doing of the necessarily prior act of delivery.

Hence, no act by the recipient after receipt of funds--since that act would necessarily be subsequent to delivery--can turn what was originally not a contribution into a contribution. The Counsel-General argues that because the George Miller Committee, more than two months after receipt of the City's check, decided to "treat" the birthday dinner as a fundraiser, the check became a contribution:

> "Second, the facts make clear that on July 15, 1982, the city was made aware that the Miller Committee was treating the birthday party as a campaign event." (Page 8 of the General Counsel's briefs.)

Under Hankin, this reasoning is clearly erroneous. Whether the agreement to purchase tickets to the birthday dinner constituted a contribution can only be determined by the circumstances existing prior to the delivery of the purchase money--not the unilateral actions of the recipients several months later.

The only circumstances existing prior to the sending of the City's check were the invitation received by QUESADA and his subjective intent to attend what he believed to be a social function for the purpose of discussing municipal problems and concerns. As respondent has pointed out, if the invitation was intended as a solicitation for contributions, it was a severely defective one. In any case, it failed to give QUESADA effective notice that the

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purchase of a ticket would constitute a contribution. Because it failed to give such notice, it could not be expected to dispel QUESADA' settled and entirely innocent belief regarding the nature of the transaction.

When the Commission examines only those circumstances existing prior to the dispatch of the first check--as, under Hankin, it must--it must be clear that there is nothing in those circumstances that would meet the requirements for a contribution established in the election statues. The statutes plainly require that funds be expended for the specific purpose of influencing a federal election before they can be classed as contribution. There was no such intent here and no circumstances from which such intent could have arisen.

Since the original transaction did not involve a contribution, there being no intent such as the statutes require, and since the George Miller Committee's later communications could not transform it into a contribution, there was no impropriety either in the City originally issuing a check for this birthday dinner or in later reimbursing QUESADA for his individual check.

D. The Interpretation of the Statutes Urged by the General Counsel's Briefs Is Unconstitutional

The General Counsel's briefs urge that the statutes in question--section 441b(a) and 441f--are violated whenever a corporation makes a disbursement of funds and the recipient of those funds unilaterally decides to treat them as a contribution. Thus, on page 8 of each brief the General Counsel states:

> "Second, the facts make cear that on July 15, 1982, the city was made aware that the Miller Committee was treating the birthday party as a campaign event. On this date the Committee refunded the city $304 and put the city on notice that the Committee was treating the funds as contributions." (Emphasis added.)

For the reasons previously discussed in the analysis of the Hankin case, supra, this interpretation urged by the Counsel General is clearly antithetical to case law interpretations of these statutes.

Moreover, if the General Counsel's interpretation were accepted--if these statutes can be violated by persons who had no intent to make a contribution, who failed to receive the notice required by law that a contribution was being solicited from them, and who made purchases with no purpose to further anyone's federal election--then the statutes in question must be regarded as unconstitutional. Each would violate due process by (1) failing to give fair notice to those persons potentially subject to such a provision; (2) failing to adequately guard against arbitrary and discriminatory enforcement; and (3) failing to provide sufficient breathing space for First Amendment rights. As discussed below, any one of these grounds is sufficient to find a due process violation.

In his briefs the General Counsel is, by implication, urging the term "contribution" as it appears in sections 441b and 441f be construed as:

> Any expenditure in connection with a transaction which the other party to the transaction, without regard to the prior communications between the parties, chooses to treat as a contribution.

This construction would make it impossible for a person who enters into any transactions with candidates or elected officials (or with any persons representing candidates or elected officals) to have any notice of whether his contemplated conduct might subsequently become a violation of the federal election laws.

A statute which fails to give "a person of ordinary intelligence fair notice that his contemplated conduct is forbidden" violates due

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process. United States v. Harriss, 347 U.S. 612, 617, 74 S.Ct. 808, 812 (1954); Palmer v. City of Euclid, Ohio, 402 U.S. 544, 91 S.Ct. 1563 (1971). Here, QUESADA could have had no notice that attending this social event could be construed as violation of this statute.

"The underlying principle is that no man shall be held criminally responsible for conduct which he could not reasonably understand to be prescribed." United States v. Harriss, supra, at 617, 74 S.Ct at 812; Bouie v. Columbia, 378 U.S. 347, 84 S.Ct. 1240 (1963); Palmer v. City of Euclid, Ohio, supra.

The Counsel General's suggested interpretation also lends itself to arbitrary and discriminatory enforcement of the statutes in question. If it is only the intent of the candidate which matters--i.e., if purchase money becomes a "contribution" only when the candidate receiving it decides to treat it as such--then it would be entirely possible for two different persons or corporations to enter into similar transactions with a candidate and for only one of those transactions to become an illegal contribution.

As the Supreme Court noted in Interstate Circuit, Inc. v. City of Dallas, 390 U.S. 676, at 689-690, 88 S.Ct. 1298, at 1306, a statute which may lead to arbitrary enforcement is unconstitutional due to:

> "...the lack of guidance to those who seek to adjust their conduct and to those who seek to administer the law..."

Even more fatally, the indefiniteness the suggested interpretation would instill into the statutes in question would inhibit the exercise of fundamental rights, in particular the First Amendment rights of association and expression.

"Because First Amendment freedoms need breathing space to survive, government may regulate in the area only with narrow specificity." NAACP v. Button, 371 U.S. 415, 433, 83 S.Ct. 328, 338

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(1963). The indefiniteness of a statute which relates to First Amendment activites (which, as United States v. Chestnut, supra, pointed out, includes the federal election statutes) creates a danger

> "that the state will get away with more inhibitory regulation than it has a constitutional right to impose, because persons at the fringes of amenability to regulation will rather obey than run the risk of erroneous constitutional judgment."

Note, 109 U.Pa.L.Rev. 67 80 (1960).

It is for this reason that the United States Supreme Court has repeatedly applied strict standards of permissible statutory vagueness to legislation in the area of First Amendment rights. See, for example, Interstate Circuit, Inc. v. City of Dallas, supra. Moreover, the Court will permit an attack on a vague provision even though the person making the attack fails to demonstrate that his own conduct could not be regulated by a statute drawn with the requisite specificity. That is, in appraising a vague statute's inhibitory effect upon First Amendment rights, the Court will take into account possible applications of the statute in other factual contexts. NAACP v. Button, supra.

In the instant case, the respondent can show that both his own conduct and that of others would be impermissibly restricted and burdened by the lax definition of contribution which the Counsel General has urged. For example, the respondent QUESADA, should he be a municipal representative, would be hesitant to attend functions at which he could discuss municipal business, and for which the City would reimburse him, for fear that such reimbursement might later be regarded as an election law violation. This could happen if the contemplated event were later announced to be a campaign fundraiser

for a federal condidate, even though not publicized as such previously. Similarly, all employees of corporations who are normally reimbursed for business expenses would be hesitant to attend civic luncheons, lectures, or conferences for fear that such attendance would create liability. All corporations would be reluctant to expend money for their employees to attend any event at which a candidate or federal officeholder might be present for fear that the event would later be claimed by the candidate to have been a campaign fund raiser.

E. The Respondent lacked the necessary scienter for a violation of §441F.

Respondent QUESADA is alleged to have violated section 441f. He is specifically alleged to have violated the provision of §441f which prohibits a person from "knowingly permit(ting) his name to be used to effect...a contribution" actually being made by another. (Emphasis added.)

§441f thus requires the showing of a particular scienter, namely the actual knowledge that the accused's name was to be used and that it was to be used to effect a contribution. One who lacks knowledge either that his name is to be used or that a contribution is being made has therefore not violated this section.

In United States v. Jewell, 532 F.2d 697 (C.A.9th 1976), the Court approved the following trial court instruction on the meaning of "knowingly" as used in two federal statutes:

> "An act is done knowingly if it's done voluntarily and intentionally and not because of mistake or accident or other innocent reasons.
>
> The purpose of adding the word "knowingly" was to insure that no one would be convicted for acts done because of an omission or failure to act due to mistake or accident or other innocent reason." (Emphasis added.)

Therefore, even assuming, arguendo, that a contribution was made by the City in this case, if QUESADA was, because of a mistake or for other innocent reasons, unaware a contribution was being made, he cannot have violated §441f. In his briefs the Counsel General concedes that the only notice the Councilmembers received of the return of the City's check by the Miller Committee, was a phone call from the City Manager's secretary. (At page 4 of the General Counsel's briefs.) The General Counsel further does not dispute the fact that this phone call failed to notify QUESADA that the dinner payment was being regarded by the Miller Committee as a campaign contribution but rather that each Councilmember, as he had from the beginning, even after the call, continued to view the dinner purchase as a payment for a social event. (See Exhibits B-1 through B-5). Thus, none of the Councilmembers, including QUESADA, had any awareness that the possible making of a contribution was in issue.

If this lack of knowledge was due to an error or omission on his part, such an error or omission was merely a mistake and committed for innocent reasons. Therefore, even assuming that his ignorance was negligent, it fails to constitute the scienter that must be shown for violation of §441f.

IV. CONCLUSION

In that the invitation which QUESADA received failed to comply with the requirements for a solicitation and its language failed to give effective notice that a contribution was being sought, respondent lacked effective notice that his purchase of a dinner ticket might be construed as a contribution. In that the respondent never read the enclosed card, he lacked actual notice that the dinner was governed by the Federal Election Laws.

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Moreover, the fair market cost of attending a social function for a business purpose does not qualify as a contribution, and no later actions by the recipients will transform it into a contribution. Finally, QUESADA lacked the scienter required for a violation of these sections.

For all the above reasons, QUESADA is entitled to a dismissal of the allegations.

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...rge Miller," says Jack Anderson, is one of the "rising stars" in ...gress. Representing Contra Costa County since 1975, Miller's ...ated efforts as Chairman of the Labor Standards Subcommittee, ...he House Interior Committee and on the Education and Labor ...mittee have led to an impressive record of accomplishments.

...s personal intervention broke through bureaucratic red tape to win appro... for new projects vital to jobs and economic growth for Contra Costa, like ... West County Agency grant;

...brought pressure to bear against unreasonable federal regulations which ...tened to shut down an important industrial factory in Antioch at a loss of ...dreds of jobs, and he won;

...ceeded in winning House approval of his historic plan to slash unjusti... ...ater subsidies which encourage heavy water comsumption and endanger ...lta;

...on millions of dollars in federal assistance to flood victims in the Delta ...g the devastating floods of 1980;

...posed the abuse of children and waste of billions of dollars in tax dollars ... foster care system, and won enactment of his reform legislation with ...isan support;

...vealed the dangers of asbestos health hazards in classrooms throughout ...tion, and won enactment of his bill to encourage schools to replace the ...genic materials;

...s fought for five years on behalf of the victims of asbestos disease, and ...thored legislation, as chairman of the Labor Standards Subcommittee ...vide them with decent compensation at no cost to taxpayers;

...mined abuses in federal oil and gas sales, and won enactment of changes ... will save taxpayers over $50 million every year.

... *...alked up solid legislative marks — and the respect of his colleagues — in ...*

New West Magazine

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You Are Cordially Invited
To Celebrate The
37th Birthday
Of Our Congressman

George Miller

For Dinner
Friday, May 7, 1982
Sheraton Airport Inn
45 John Glenn Drive, Concord

No-host Cocktails - 7:00 p.m.
Dinner - 8:00 p.m.

Donation $38.00 per person
($1 To Grow On)

Please respond on the enclosed card.

EXHIBIT A

P.O. Box 5864
Concord, CA 94524

Please reserve _____ birthday dinner tickets at $38.00 per person

Please reserve _____ table(s) at $380.00 per table (10 guests per table)

I'm sorry, I'm unable to attend, but enclosed is a contribution of $ _____

Name _____

Address _____

City & State _____ Zip Code _____

Please make checks payable to Friends of George Miller.

Federal law requires us to request the following information

Occupation: _____

Principal place of business _____

(This check is a personal contribution even though it may be drawn on a business partnership or other type of account.)

Signature _____

Paid for and authorized by Friends of George Miller. Federal law prohibits corporate and labor union treasury contributions. A copy of our report is filed with and is available for purchase from the Federal Election Commission, Washington, DC. Alison Cartwright Brown, Treasurer.

850405249118

EXHIBIT A

"He is one of those twenty members who are principled, diligent, and do more than vote correctly most of the time. They defend the public interest."

Village Voice

...spoken and a contentious advocate for the public interest, George Miller of California is rapidly emerging as Capitol ...leading theoretician and champion for young people."

— Child Protection Report, 3/26/82

...didn't make Big Government listen to me but with your help, ...really did hear."

Lorna Kooiker, Rodeo

...the most outstanding pro-consumer records in Congress."

Consumer Federation of America

8504052499

Place Stamp Here

Friends of Congressman George Miller
P.O. Box 5864
Concord, CA 94524

8504052492 2

Envelope

Exhibit A

DECLARATION OF JOSEPH DETORRES

I, Joseph DeTorres, hereby declare as follows:

1. I am a City Council and Mayor in the City of Pittsburg having been elected to said position in 1976.

2. In regards to the Federal Elections Commission letter of complaint, dated December 9, 1983, my recollection of the facts pertaining to this matter are as follows:

In early May 1982, I was asked whether I desired to attend Congressman Miller's birthday party to be held in May of that year. I indicated to the City Manager's Secretary that I desired to go. Later, after the event, I remember receiving a telephone call from the City Manager's Secretary indicating that the City payment for the function had been returned and that the Miller committee had requested that individual Councilmen, as an alternative to City payment, make checks directly payable to the committee. Based upon that request, I wrote a personal check to the Miller committee, a copy of which is attached.

Sometime later, I was reimbursed for this expense as we consider attendance at this type of event a normal part of the Councilman's duties.

I regarded the birthday party as a social event giving members of the City Council a chance to discuss directly with Congressman Miller pending City problems having relevancy to federal funding.

In regards to the Miller committee letter of July 1982, I have never seen this letter prior to my personal payment for the event.

EXHIBIT B-1

CITY ATTORNEY
CITY of PITTSBURG
P.O. Box 1518
020 Railroad Avenue

850405 4921

In conclusion, I was not aware of the fact that payments to the Miller committee constituted campaign contributions.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 26th day of January, 1984, at Pittsburg, California.

JOSEPH DeTORRES

8504052249222

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CITY ATTORNEY
CITY of PITTSBURG
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, CA 94565

EXHIBIT A-1

JOSEPH L. DeTORRES
TERRI DeTORRES
LIC. K0500597 R0635737
131 REGENT DR. 439-2960
PITTSBURG, CALIF. 94565

No. 4523

Dept 2 '82

11-57/621
1210

Pay to the order of Friends of George Miller $ 38.00

Thirty Eight Dollars and No/100 DOLLARS

UNITED CALIFORNIA BANK
San Francisco Main Office
455 Montgomery Street
San Francisco, California 94104

Joseph L. DeTorres

⑆1:

⑈0000003800⑈

EXHIBIT E-1

October 7, 1983

Mr. Joseph DeTorres
131 Regent Drive
Pittsburg, CA 94565

Dear Mr. DeTorres:

It has come to our attention that the funds you sent to our committee for our 1982 Annual Birthday Dinner were apparently from the City of Pittsburg. We cannot accept contributions from cities, therefore we are returning the funds to you.

We are filing an amendment to our election report in which your contribution was reported.

Sincerely,

Alison Cartwright Brown

Alison Cartwright Brown,
Treasurer
Friends of Congressman
George Miller
145 Park Place
Richmond, CA 94801

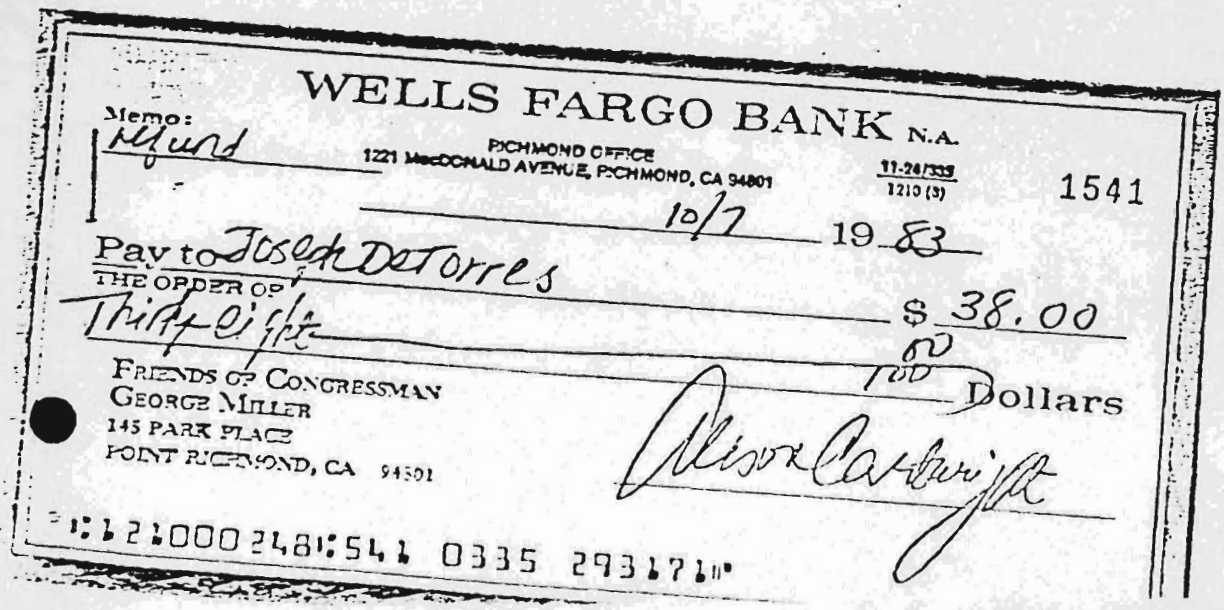

WELLS FARGO BANK N.A.
RICHMOND OFFICE
1221 MacDONALD AVENUE, RICHMOND, CA 94801
11-24/335
1210 (3)
1541
Memo: Refund
10/7 19 83
Pay to Joseph DeTorres
THE ORDER OF
Thirty-eight $ 38.00 00 Dollars
FRIENDS OF CONGRESSMAN
GEORGE MILLER
145 PARK PLACE
POINT RICHMOND, CA 94801
Alison Cartwright
⑈121000248⑈541 0335 293171⑈

EXHIBIT B-1

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DECLARATION OF RONALD P. RIVES

I, Ronald P. Rives, do hereby declare:

1. Since April 8, 1980, and to the present, I have been a member of the City Council of the City of Pittsburg, California.

2. Prior to May 1982, I received an invitation from a group designated as "Friends of George Miller" inviting me to attend a birthday party for Congressman George Miller. No part of said invitation indicated that the function was a campaign fundraiser.

3. Prior to attending the event in question, I received no information from any source that the event was a campaign fundraiser. In fact, in May 1982, I had no idea that Congressman Miller was campaigning for anything.

4. My wife and I attended Congressman Miller's birthday party on May 7, 1982. Nothing was said or indicated to me or in my presence during the course of the birthday party to indicate that the proceeds thereof were to be used for campaign purposes. The tickets cost $38.00 each, $1.00 for each year of Congressman Miller's life. I believed that the proceeds of the tickets would be used to defray the cost of the dinner and I had no knowledge or belief that any portion of the proceeds would be used for campaign purposes.

5. Prior to the dinner I was advised that the City would pay for the tickets as the members of the Council were present at the dinner for the purpose of representing the City of Pittsburg. After the dinner, I was advised by the City that the City had not paid for the tickets in that a City check

CITY ATTORNEY
CITY of PITTSBURG
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, CA 94565

had been returned with a request made by the Miller committee that individual checks were required. I was never made aware of, nor did I see, the Miller letter which returned the check. I then drew a check on my personal account, a copy of which is attached hereto as Exhibit A, to defray the cost of the tickets.

6. On a date following the payment for the tickets, I submitted an expense account to the City of Pittsburg in which I listed this expense. I listed this as an expense because I attended as the Mayor and representative of the City of Pittsburg, and believed that I was simply attending a birthday party. If I had attended the function to represent my law firm, I would have expensed the cost of the event to my law firm. If I had been at the event to represent myself, I would have borne the expense myself.

7. As an attorney, I am aware of the axiom that "ignorance of the law is no excuse." However, in light of the incredible complexity of the regulations pertaining to campaign contributions and the fact that there are no corresponding state or local regulations, I must state that I had no knowledge that it was contrary to federal regulations to attend a dinner which is a campaign fundraiser and expense the cost of such attendance to a municipal or other corporation.

In summary, the complaint, in my opinion, merits no further action on two grounds:

1. I was not aware I was attending a political fundraiser. Neither Congressman Miller nor his campaign committee took any steps to advise persons in attendance at said dinner that the

CITY ATTORNEY
CITY of PITTSBURG
P.O. Box 1518
2020 Railroad Avenue

850405 9926

proceeds thereof would be used for campaign purposes.

2. I was not aware being reimbursed for attending a birthday party for a local congressman, a portion of the proceeds of which would be used for campaign purposes, was contrary to federal regulations.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 25th day of January, 1984 at Pittsburg, California.

Ronald P. Rives

RONALD P. RIVES

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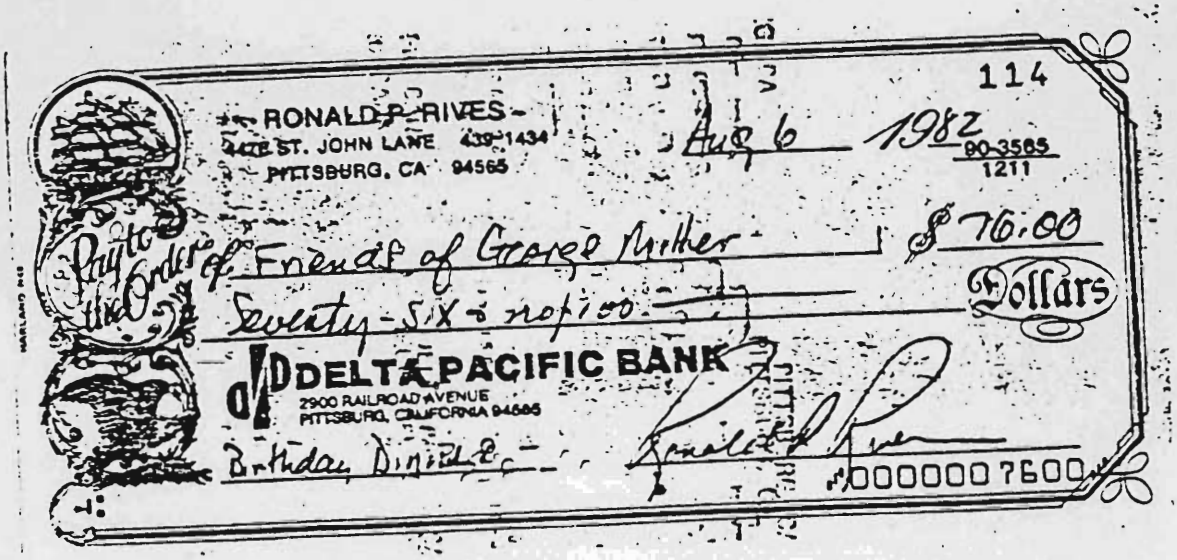
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CITY ATTORNEY
CITY of PITTSBURG
P.O. Box 1518
2020 Railroad Avenue

EXHIBIT B-2



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RONALD P. RIVES
2472 ST. JOHN LANE 439-1434
PITTSBURG, CA 94565

Aug 6 19 82 80-3565 1211

Pay to the Order of Friends of George Miller $ 76.00

Seventy-Six & no/100 Dollars

DELTA PACIFIC BANK
2900 RAILROAD AVENUE
PITTSBURG, CALIFORNIA 94565

Birthday Dinner Ronald P. Rives

⑈000000 7600⑈

⑆1211⑆ 035040928

EXHIBIT B-2

October 7, 1983

Mr. Ronald P. Rives
4476 St. John Lane
Pittsburg, CA 94565

Dear Mr. Rives:

It has come to our attention that the funds you sent to our committee for our 1982 Annual Birthday Dinner were apparently from the City of Pittsburg. We cannot accept contributions from cities, therefore we are returning the funds to you.

We are filing an amendment to our election report in which your contribution was reported.

Sincerely,

Alison Cartwright Brown

Alison Cartwright Brown,
Treasurer
Friends of Congressman
George Miller
145 Park Place
Richmond, CA 94801

8504052249220

WELLS FARGO BANK N.A.

RICHMOND OFFICE
1221 MacDONALD AVENUE, RICHMOND, CA 94801

11-21/1210 (3)

1544

Memo: Rives

10/7 19 83

Pay to Ronald P. Rives $ 70.00

THE ORDER OF Seventy-six Dollars

FRIENDS OF CONGRESSMAN
GEORGE MILLER
145 PARK PLACE
POINT RICHMOND, CA 94801

Alison Cartwright

⑈121000248⑆544 0335 293171⑈

EXHIBIT B-2

DECLARATION FOR JOSEPH SIINO

I, Joseph Siino, hereby declare as follows:

1. I am a City Councilman in the City of Pittsburg, having served in this capacity since 1976.

2. In response to the December 9, 1983 Federal Elections Commission letter, I relate my recollection of the pertinent facts as follows:

I attended Congressman Miller's birthday party which was held in early May 1982. I regarded this birthday party as a social event---not as a political campaign fundraiser. This event has given me the opportunity over the last several years to meet with Congressman Miller on a personal basis. It was my impression that the ticket revenue would be used to defray the cost of the dinner and I had no reason to believe that the proceeds would be used for campaign purposes.

I was under the impression before the dinner that the tickets would be paid for by the City as it was my impression that this was an obligation as a part of my Councilman's duties. Later, I recall the City Manager's Secretary calling me stating that the City payment had been returned and that the Miller committee was requesting that personal checks be made out by each Councilman.

Later, I received reimbursement for my expense incurred in purchase of the tickets. The reimbursement was instigated by City staff.

City staff at no time sent me a copy of the Miller letter which returned the check prior to my payment.

/ / / /

EXHIBIT B-3

CITY ATTORNEY
CITY of PITTSBURG
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, CA 94565
(415) 439-4990

8504052493 0

I had no knowledge that Congressman Miller's committee had sent a communication to the City of Pittsburg that the tickets for the birthday dinner were in fact a fund raiser.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 25 day of January, 1984, at Pittsburg, California.

Joseph S. Siino

JOSEPH S. SIINO

8504052493 1

/ / / /

/ / / /

/ / / /

CITY ATTORNEY
CITY of PITTSBURG
P.O. Box 1518
2020 Railroad Avenue

EXHIBIT B-3

11-24/3?3

PITTSBURG OFFICE
3?? RAILROAD AVENUE
PITTSBURG, CALIFORNIA 94565

Wells Fargo Bank

No. 199

8/31 1982

Pay to the order of Friends of Congressman Miller $ 76.00

Seventy six 00 Dollars

JOSEPH S. SINO
ALAMAY D. SINO
936 VENTURA DR.
PITTSBURG, CA 94565

Donation

"000000?600"

8504052493?

OCT '82 18

PROCESSED
BY WELLS FARGO BANK
SAN FRANCISCO
BAY AREA OFFICE

335 FOR DEPOSIT ONLY
PAY TO THE ORDER OF
WELLS FARGO BANK, N.A.
CONCORD MAIN
CONCORD, CALIFORNIA
11-24 0335 293171 16-22

EXHIBIT B-3

October 7, 1983

Mr. Joseph Siino
936 Ventura Drive
Pittsburg, CA 94565

Dear Mr. Siino:

It has come to our attention that the funds you sent to our committee for our 1982 Annual Birthday Dinner were apparently from the City of Pittsburg. We cannot accept contributions from cities, therefore we are returning the funds to you.

We are filing an amendment to our election report in which your contribution was reported.

Sincerely,

Alison Cartwright Brown

Alison Cartwright Brown,
Treasurer
Friends of Congressman
George Miller
145 Park Place
Richmond, CA 94801

WELLS FARGO BANK N.A.

RICHMOND OFFICE
1221 MacDONALD AVENUE, RICHMOND, CA 94801

11-24/1210 (8)

1540

Memo: Refund

10/7 1983

Pay to Joseph Siino

THE ORDER OF

Seventy-six 00/100 Dollars $76.00

FRIENDS OF CONGRESSMAN
GEORGE MILLER
145 PARK PLACE
POINT RICHMOND, CA 94801

Alison Cartwright

⑈121000248⑈ 510 0335 2931760⑈

EXHIBIT B-3

DECLARATION OF RALPH DOWNING

I, RALPH DOWNING, hereby declare as follows:

1. I am a City Councilman in the City of Pittsburg having been appointed to fill a vacancy on the City Council on November 8, 1979, and having served since then continuously in this position.

2. I received on or about December 13, 1983, a letter from the Federal Elections Commission, dated December 9, 1983, enclosing a complaint against me regarding alleged campaign contributions made to Congressman George Miller's committee.

3. This is my recollection of the facts: Sometime prior to May 7, 1982, I received a written invitation to attend Congressman Miller's 37th birthday party to be held on May 7, 1982. I have looked for this invitation, but have not been able to find it. Sometime prior to this date, I was contacted by the City Manager's Secretary and asked if I planned to attend Congressman Miller's birthday party. I was advised that the City wanted to confirm reservations and the city would issue a check to cover the cost of the dinner for the city officials attending. I agreed to go as the birthday dinner offered the city officials one of the few opportunities to meet and talk with our congressman. I considered this as part of my duties as Councilman and as a representative of our city.

4. At no time prior to attending the birthday dinner or during the dinner was I aware that this was a fund raising

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/ / / /

EXHIBIT B-4

CITY ATTORNEY
CITY of PITTSBURG
P.O. Box 1518
2020 Railroad Avenue

850405 2493 4

event for the purpose of raising monies for Congressman Miller's election. It was my understading that this was a social event honoring Congressman Miller on his birthday, and I believe the donation of $38.00 would be used to defray the actual cost of the dinner and decorations. The invitations did not indicate, as I recall, that the function was a campaign contribution fund raiser.

5. Sometime in the latter part of July or early August, 1982, the City Manager's office informed me that the City's check issued to defray the cost of my attendance and the other city officials' attendance had been returned. The reason given me was that Miller's committee could not accept the check from the City and that a request had been made by them to have individual checks sent from each Councilman to the committee. Therefore, I was asked to issue a personal check for $76.00 to cover the cost of my wife and my attendance at the dinner.

On August 6, 1982, I delivered a personal check for $76.00 payable to Friends of Congressman George Miller to the City Manager's Secretary. The City thereafter issued a check for $76.00 as reimbursement for the expenses I had incurred.

6. At no time, did I ever see a letter from the Miller committee which returned the City check for the birthday tickets.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 25th day of JANUARY, 1984, at Pittsburg, California.

Ralph Downing
RALPH DOWNING

EXHIBIT B-4

CITY ATTORNEY
CITY of PITTSBURG
P.O. Box 1518
2020 Railroad Avenue

8504049335

October 7, 1983

Mr. Ralph Downing
1174 Jewett Avenue
Pittsburg, CA 94565

Dear Mr. Downing:

It has come to our attention that the funds you sent to our committee for our 1982 Annual Birthday Dinner were apparently from the City of Pittsburg. We cannot accept contributions from cities, therefore we are returning the funds to you.

We are filing an amendment to our election report in which your contribution was reported.

Sincerely,

Alison Cartwright Brown

Alison Cartwright Brown,
Treasurer
Friends of Congressman
George Miller
145 Park Place
Richmond, CA 94801

850405209336

WELLS FARGO BANK N.A.
RICHMOND OFFICE
1221 MacDONALD AVENUE, RICHMOND, CA 94801
11-24/333
1210 (9)

1542

Memo: Refund

10/7 19 83

Pay to Ralph Downing
THE ORDER OF

Seventy-six $ 76.00

Dollars

FRIENDS OF CONGRESSMAN
GEORGE MILLER
145 PARK PLACE
POINT RICHMOND, CA 94801

Alison Cartwright

⑈121000248⑈542 0335 293121⑈

EXHIBIT B-4

DECLARATION OF FRANK QUESADA

I, COUNCILMAN FRANK R. QUESADA, hereby declare as follows:

1. I am a city councilman of the City of Pittsburg, having been elected to said position on or about April 15, 1974.

2. I received on or about December 13, 1983, a letter from the Federal Elections Commission, dated December 9, 1983, enclosing a complaint against me regarding alleged campaign contributions made to Congressman George Miller's committee.

3. My recollection regarding the facts surrounding the payment of money to Congressman George Miller is as follows:

On or about late April, or early May 1982, I received a written invitation to attend Congressman Miller's 38th birthday party to be held in May 1982. As is the normal practice, I contacted the City Manager's Secretary, Vicki Bertoglio, to make a reservation for my attendance. I remember personally paying for the ticket sometime after the event at the request of the City Manager's Secretary. I have not been able to find my cancelled check. I do have a general recollection that the check was required because the Miller people required individual checks in returning the original City payment.

4. I understood the event to be a social event in celebration of the Congressman's birthday which provided Pittsburg officials with the opportunity to meet with Congressman Miller. I did not know, or intend that payment for the birthday ticket was a campaign contribution to be used to influence the next congressional election. Furthermore, this event provides virtually the only time during the year when Congressman Miller makes himself available to the City of

EXHIBIT B-5

CITY ATTORNEY
CITY of PITTSBURG
P O Box 1518
2020 Railroad Avenue
Pittsburg CA 94565

8504049337

Pittsburg constituency. As such, I view my attendance at this event as a part of my normal councilman's duties. During the event, for example, I personally spoke with Congressman Miller regarding a pending city application (UDAG grant application) for federal funding. I again repeat, at no time did I understand this event to be designed or set up for the purpose of raising campaign funds in connection with election to federal office. Rather, the purpose of my payment was to have dinner with Congressman Miller in discharge of my duties as councilman.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 25 day of January, 1984, at Pittsburg, California.

Frank R. Quesada

FRANK R. QUESADA

8504054938

/ / / /

/ / / /

/ / / /

CITY ATTORNEY
CITY of PITTSBURG
P.O. Box 1518
2020 Railroad Avenue

EXHIBIT B-5

October 7, 1983

Mr. Frank R. Quesada
33 Jimno Avenue
Pittsburg, CA 94565

Dear Mr. Quesada:

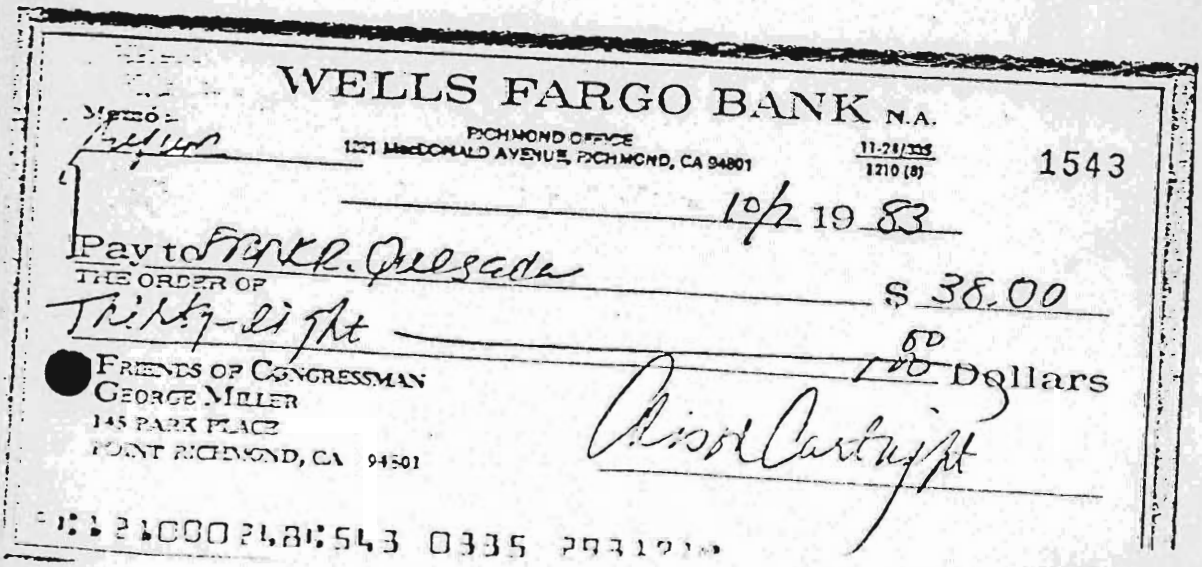
It has come to our attention that the funds you sent to our committee for our 1982 Annual Birthday Dinner were apparently from the City of Pittsburg. We cannot accept contributions from cities, therefore we are returning the funds to you.

We are filing an amendment to our election report in which your contribution was reported.

Sincerely,

Alison Cartwright Brown

Alison Cartwright Brown,
Treasurer
Friends of Congressman
George Miller
145 Park Place
Richmond, CA 94801


WELLS FARGO BANK N.A.
RICHMOND OFFICE
1221 MacDONALD AVENUE, RICHMOND, CA 94801
11-21/325
1210 (8)
1543
Memo
10/7 19 83
Pay to Frank R. Quesada
THE ORDER OF
$ 38.00
Thirty-eight 00/100 Dollars
FRIENDS OF CONGRESSMAN
GEORGE MILLER
145 PARK PLACE
POINT RICHMOND, CA 94801
Alison Cartwright
⑈121000248⑈ 543 0335 ⑈

B-5

DECLARATION FOR VICTORIA BERTOGLIO

I, Victoria Bertoglio, hereby declare as follows:

1. I am the Secretary to the City Manager of the City of Pittsburg.

2. I recall that in May 1982, I made reservations for birthday dinner tickets to be used to attend the Miller birthday party held in early May 1982. I made these reservations at the request of individual Councilmen and their wives.

3. I also personally mailed the City check for the tickets after the City Manager had authorized payment for the tickets.

4. I recall that sometime after the birthday event, a member of the City Finance Department brought to me a letter from the Miller committee indicating they would not accept a City check. The letter requested in its place individual separate checks. Based upon the wording of the letter, I then phoned each Councilman and explained that the City check had been returned and individual checks had been requested by the Miller committee. To my knowledge, the Miller committee letter was never sent to the Councilmembers.

5. After each Councilman paid for the tickets for the event they had attended, arrangements were then made for reimbursement to them for the expenses they had incurred. This is in accordance with standard City practice.

I declare under penalty of perjury that the foregoing is true and correct.

/ / / /

/ / / /

EXHIBIT C

8504052 4940

CITY ATTORNEY
CITY of PITTSBURG
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, CA 94565

Executed this 12th day of January, 1984, at Pittsburg, California.

Victoria Bertoglio

VICTORIA BERTOGLIO

8504052 4941

/ / / /

/ / / /

/ / / /

CITY ATTORNEY
CITY of PITTSBURG
P.O. Box 1518
2020 Railroad Avenue
Pittsburg, CA 94565
(415) 439-4800

EXHIBIT C

PITTSBURG, CALIFORNIA 94565

CITY OF PITTSBURG 38dlls00cts

DATE	CHECK NO.	AMOUNT
May 7, 1982		$38.00

TO THE ORDER OF Friends of George Miller

CITY OF PITTSBURG

KEYPUNCHED
JUN 17 1982
S.O.

COPY
NOT NEGOTIABLE

PITTSBURG OFFICE
WELLS FARGO BANK
PITTSBURG, CALIFORNIA

DATE	REFERENCE	FUND NO.	ACCOUNT NO.	AMOUNT	PREVIOUS BALANCE	BALANCE	DESCRIPTION
5/7/82		10	0116-4700	$38.00			Dinner for George Miller 5/7/82: Vice Mayor Joseph DeTorres

PLEASE DETACH BEFORE DEPOSITING CHECK

CITY OF PITTSBURG
65 CIVIC AVENUE
PITTSBURG, CALIFORNIA 94565

THIS CHECK IS TENDERED IN FULL PAYMENT OF INVOICES LISTED ABOVE

ACCOUNT NO. _____

AUTHORIZED SIGNATURE _____

DIRECTOR OF FINANCE _____

DIRECT PAYMENT CLAIM

CITY OF PITTSBURG

2020 Railroad Avenue — Phone (415) 439-4950

Pittsburg, California 94565

The Direct Payment Claim may only be used to cover the following payments:

Employee reimbursement (or advances) for travel or other business expense.
Renewal subscriptions for publications.
Organization or association dues.
Purchases when payment is required to accompany the order.

DATE: May 7, 1982

PAYEE: Friends of George Miller

AMOUNT $ 33.00

DESCRIPTION:

For Vice Mayor Joseph DeTorres
Dinner for George Miller
May 7, 1982

ACCOUNT NO. _____

AUTHORIZED SIGNATURE _____

EXHIBIT C

AVENUE
PITTSBURG, CALIFORNIA 94565

No. 24154

CITY OF PITTSBURG
266-1510

DATE	CHECK NO.	AMOUNT
May 6, 1982		$266.00

PAY TO THE ORDER OF: Friends of George Miller

CITY OF PITTSBURG

REPUNCHED

JUN 7 1982

NOT NEGOTIABLE

PITTSBURG OFFICE
WELLS FARGO BANK
PITTSBURG, CALIFORNIA

S.O.

REFERENCE	FUND NO.	ACCOUNT NO.	AMOUNT	PREVIOUS BALANCE	BALANCE	DESCRIPTION
5/6/82	10-	0110-4700	$266.00			Dinner for George Miller 6/7/82 Mayor Rivera & Wife Councilman Sidno and Wife Frank Quesada Downing and Wife

PLEASE DETACH BEFORE DEPOSITING CHECK

CITY OF PITTSBURG
65 CIVIC AVENUE
PITTSBURG, CALIFORNIA 94565

THIS CHECK IS TENDERED IN FULL PAYMENT OF INVOICES LISTED ABOVE

ACCOUNT NO. 10-0110-4700

AUTHORIZED SIGNATURE

DIRECTOR

EXHIBIT C

DIRECT PAYMENT CLAIM

CITY OF PITTSBURG

2020 Railroad Avenue — Phone (415) 439-4950

Pittsburg, California 94565

The Direct Payment Claim may only be used to cover the following payments:

Employee reimbursement (or advances) for travel or other business expense.
Renewal subscriptions for publications.
Organization or association dues.
Purchases when payment is required to accompany the order.

DATE: May 4, 1982

PAYEE: Friends of George Miller

AMOUNT $ 266.00

DESCRIPTION:

Dinner for George Miller - Friday May 7, 1982

Mayor Rives & wife
Councilman Silno and wife
Frank Quesada
Downing and wife

3504053249 45

ACCOUNT NO. 10-0110-4700

AUTHORIZED SIGNATURE

DIRECTOR OF FINANCE

C

City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565

July 15, 1987

Dear Contributor(s):

Due to Federal Election Commission regulations, we are unable to accept contributions from corporations, unions and national banks, unless they are made from separate segregated funds or political action committees.

We are returning this contribution because it appears to be from a corporation*, union or national bank. If our assumption is incorrect and the contribution is legal, please return it with a signed letter to that effect. Otherwise, please replace it with a personal check or a political action committee check.

If you have any questions, please call me at (415)393-2895.

*Cities are considered corporations under FEC laws.

Sincerely,

05-10-06

Alison Cartwright

Alison Cartwright, Treasurer
Friends of Congressman George Miller

Please address all correspondence to:

Alison Brown c/o
Arthur Young and Company
One Post Street, Suite 2900
San Francisco, CA 94104

Encl: Check #1129 - $304.00

EXHIBIT D

DECLARATION FOR MARY ERBEZ

I, Mary Erbez, hereby declare as follows:

1. I am the City Clerk for the City of Pittsburg. I have served in this capacity for thirty-five years.

2. The City Manager instructed me to research our files regarding the subject matter of the complaint described in the Federal Election Commission letter of December 9, 1983.

3. I have been able to find two letters from Friends of Congressman George Miller Committee, one dated May 28, 1980, and the other dated July 15, 1982. The May 26, 1980 letter was originally received by me and sent to the Finance Department for review for confirmation as to whether there was a problem in the City making direct payment to the Miller committee. I have no specific recollection of the Finance Department giving definitive word back to my office as to this issue.

I do believe, however, that neither the May 1980 letter or the July 1982 letters were ever sent to the City Council.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 25 day of January, 1984 at Pittsburg, California.

Mary Erbez

MARY ERBEZ

EXHIBIT E

8504059947

CITY CLERK

JUN 02 1980

May 28, 1980

City of Pittsburg
2020 Railroad Avenue
Pittsburg, California 94565

Dear Contributor(s):

Due to Federal Election Commission regulations, we are unable to accept contributions from corporations, unions and national banks, unless they are made from separate segregated funds or political action committees.

We are returning this contribution because it appears as if it may be from a corporation, union or national bank. If not, please return it with a signed letter stating its legality. Otherwise, please replace it with another one from separate funds, a PAC or a personal check.

If you have any questions, please call. We apologize for the inconvenience.

Sincerely,

Alison Cartwright

Alison Cartwright, Treasurer
Friends of Congressman George Miller
145 Park Place
Richmond, California 94801
(415) 233-6900

850495949

EXHIBIT E

I, FRANK QUESADA, declare under penalty of perjury that the following is true and correct:

I recall seeing an invitation to the birthday dinner for George Miller in 1982. Usually, I ignored all mail from Congressman Miller as a result of the poor relationship that developed between me and Congressman Miller. As Mayor of Pittsburg in 1980, I specifically travelled to Washington, D.C., on three separate occasions to see Congressman Miller. However, he refused to see me.

When I spoke to Vicki Bertoglio, the city manager's secretary, she advised me that no one else was planning to attend the birthday dinner. She was pleased that I was willing to attend so the city would have a representative at the Congressman's birthday party. She advised me that the city would be paying for the cost of the dinner. Traditionally, city council members considered attending community events which were not designated as political fund raisers with local and federally elected officials to be proper city business. I attended the dinner. I was surprised at the dinner to see that other council members were attending. If I had known that another council member was going to be present, I would not have attended. No one at the dinner stated that it was a fund raiser. It was continually stated that it was George's birthday party.

Some weeks after the dinner the city manager's secretary called me. She stated that the city had used the wrong procedure in issuing a single check and that an individual check was required from me. She asked me to forward a check in the amount of $38 to the city and advised me that a check would be issued by the city

EXHIBIT G-3

3504524949

SELLAR, ENGLEKING, HAZARD, SNYDER & KELLY
A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
WALNUT CREEK, CALIF.
(415) 938-1430

to reimburse me. She specifically did not advise me as to any of the reasons why the city check had been returned by the birthday committee or that it had been improper for the city in fact to issue the check in the first place.

I provided an individual check merely to comply with what the city manager's secretary advised me was a procedural requirement of the finance department.

If I had known that even one cent of the dinner cost was going to be used for campaign purposes I never would have attended. In fact, I had told Congressman Miller at a community function in 1981 that he should never expect any political support or political contributions from me or my family.

Dated: September 25, 1984

Frank R. Quesada

FRANK QUESADA

8504052495O

SELLAR, ENGLEKING, HAZARD, SNYDER & KELLY
A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
WALNUT CREEK, CALIF.
(415) 938-1430

EXHIBIT G-3

CITY OF PITTSBURG
65 CIVIC AVENUE
PITTSBURG, CALIFORNIA 94565

No. 24156

CITY OF PITTSBURG
38dol's00cts

PAY	CHECK NO.	AMOUNT
TO THE Friends of George Miller		$38.00
ORDER OF	May 7, 1982	

CITY OF PITTSBURG

PITTSBURG OFFICE
WELLS FARGO BANK
PITTSBURG, CALIFORNIA

⑈024156⑈ ⑆1211-0553⑆ 936-5750 43⑈ ⑈0000003800⑈

MAY 19 '82

PAY ANY

EXHIBIT H

CITY OF PITTSBURG
65 CIVIC AVENUE
PITTSBURG, CALIFORNIA 94565

90-553
1211

No. 24154

CITY OF PITTSBURG 266dls00cts

PAY TO THE ORDER OF	DATE	CHECK NO.	AMOUNT
Friends of George Miller	May 6, 1982		$266.00

CITY OF PITTSBURG

PITTSBURG OFFICE
WELLS FARGO BANK
PITTSBURG, CALIFORNIA

⑈024154⑈ ⑆1221-0553⑆9365 57504③⑈ 00000266.00

MARKET-MONTGOMERY
SAN FRANCISCO, CALIF.
11-24/075 11-24/075
PEG PAY ANY BANK PEG
WELLS FARGO BANK N.A.

MAY 1983

335 FOR DEPOSIT ONLY
PAY TO THE ORDER OF
WELLS FARGO BANK, N.A.

EXHIBIT H

RECEIVED AT THE FEC
GCC#557
84 NOV 13 A10:06

LAW OFFICES
NORRIS AND NORRIS
A PROFESSIONAL CORPORATION
3718 MACDONALD AVENUE
RICHMOND, CALIFORNIA 94805-2288

TELEPHONE
(415) 235 3568

RICHARD E NORRIS
MELANIE REYNOLDS NORRIS
COLIN J. COFFEY

OF COUNSEL
DOUGLAS C STRAUS

November 9, 1984

84 NOV 13 P1:23

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

Re: MUR 1609/Friends of Congressman George Miller

Dear Ms. Romney:

Please excuse this delay in responding to your telephone call last week concerning pre-probable cause conciliation. Your call came a few days before the election and needless to say I found it difficult to consult with other committee members on this matter. The Friends of Congressman George Miller rejects pre-probable cause conciliation on the terms you stated briefly in your telephone call.

First, you stated that our brief submitted in response to the General Counsel's brief would not be considered if this committee elected to pursue pre-probable cause conciliation. By all means, this committee wants the Commission to consider our brief. Second, you stated that pre-probable cause conciliation would necessarily involve a settlement based on a monetary penalty. Since this committee, as set forth in our brief, believes that it will be impossible for the Commission to proceed with this matter given the highly prejudicial notification defects involved, we do not believe a monetary penalty is legal or appropriate.

Should the Commission proceed to instigate suit on this matter, the notification defects are such, and the law as stated in our brief so clear, that it would quickly be subject to a summary judgment dismissal. The Commission's inexplicable mistake in communicating with a person unconnected with this committee denied us the chance to thoroughly review the situation, hire counsel, and respond swiftly back in April of 1984. Then, after the committee became aware of the circumstances in August of 1984, we requested an extension of time to respond beyond the outer twenty day limit suggested in the letter accompanying the General Counsel's brief. Despite the circumstances, we were given merely to the end of that twenty day limitation.

Since we do not accept pre-probable cause conciliation based on the terms you stated in your telephone call, we request that the General Counsel review our brief and provide this committee with a copy of the General Counsel's advice to the Commission which the General Counsel is required to prepare in

3504052495 3

writing, stating whether he intends to proceed with the recommendation or withdraw the recommendation, pursuant to Section 111.16 of the Code of Federal Regulations. We are particularly interested in how the General Counsel responds to the notification problems existing in this matter.

Should you have any further questions concerning our position, please do not hesitate to call.

Thank you for your demonstrated courtesy in communicating with us concerning pre-probable cause conciliation.

Very truly yours,

COLIN J. COFFEY
Treasurer/Legal Counsel
Friends of Congressman George Miller

CJC:dee

cc: Kenneth A. Gross

8504052495 4

LAW OFFICES
NORRIS AND NORRIS
A PROFESSIONAL CORPORATION
3318 MACDONALD AVENUE
RICHMOND, CALIFORNIA 94805-2288

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

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 1609
Mexican American Political Association	)	
Raul M. Lopez, Chairperson	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on October 10, 1984, the Commission approved and authorized by a vote of 5-0, the sending of the letter to Raul M. Lopez, Chairperson of the Mexican American Political Association as submitted with the General Counsel's October 4, 1984 Memorandum to the Commission.

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

Attest:

10-11-84
Date

Jody C. Hanson
for Marjorie W. Emmons
Secretary of the Commission

Received in Office of Commission Secretary: 10-4-84, 9:02
Circulated on 48 hour tally basis: 10-5-84, 2:00

8504052495 6

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

October 18, 1984

Raul M. Lopez, Chairperson
Mexican American Political Association
P.O. Box 271821
Concord, California 94527

Re: MUR 1609

Dear Mr. Lopez:

This is in reference to your letter of September 6, 1984, requesting that the complaint you filed against City of Pittsburg and certain City Council members be withdrawn.

Under 2 U.S.C. § 437g, the Commission is empowered to review a complaint properly filed with it and to take action which it deems appropriate under the Federal Election Campaign Act of 1971, as amended (the "Act"). Any request for withdrawal of a complaint will not prevent the Commission from taking any action appropriate under the Act. However, your request will become part of the public record within thirty (30) days after the entire file is closed.

If you have any further questions about this procedure, please contact Martha Romney, the staff member assigned to this matter, at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

8504049057

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
OFFICE OF THE FEC
COMMISSION SECRETARY

84 OCT 4 A9:02

October 4, 1984

MEMORANDUM TO: The Commission

SENSITIVE

FROM: Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

SUBJECT: MUR 1609
Correction of Memorandum

On the September 24, 1984, memorandum to the Commission recommending approval and authorization of sending a letter to the Complainant, the Office of General Counsel inadvertently recommended sending the letter to the Respondents. The Office of General Counsel recommends that the corrected recommendation be approved.

RECOMMENDATION

Approve and authorize the sending of the attached letter to Raul M. Lopez, Chairperson of the Mexican American Political Association.

Attachment:

Letter to Complainant

8504052493 9

ATTACHMENT I

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Raul M. Lopez, Chairperson
Mexican American Political Association
P.O. Box 271821
Concord, California 94527

Re: MUR 1609

Dear Mr. Lopez:

This is in reference to your letter of September 6, 1984, requesting that the complaint you filed against City of Pittsburg and certain City Council members be withdrawn.

Under 2 U.S.C. § 437g, the Commission is empowered to review a complaint properly filed with it and to take action which it deems appropriate under the Federal Election Campaign Act of 1971, as amended (the "Act"). Any request for withdrawal of a complaint will not prevent the Commission from taking any action appropriate under the Act. However, your request will become part of the public record within thirty (30) days after the entire file is closed.

If you have any further questions about this procedure, please contact Martha Romney, the staff member assigned to this matter, at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

8504052959

RECEIVED AT THE FEC
GLC #5058
84 OCT 9 P2:

SELLAR, HAZARD, SNYDER & KELLY
A LAW PARTNERSHIP INCLUDING
PROFESSIONAL CORPORATIONS
2815 MITCHELL DRIVE, SUITE 202
POST OFFICE BOX 3510
WALNUT CREEK, CALIFORNIA 94598
TELEPHONE (415) 938-1430

*RUDD SELLAR
A. J. ENGLEKING (1924-1981)
*JAMES L. HAZARD
*MARTIN T. SNYDER
*JOHN KELLY

JAMES V. FITZGERALD, III
DONALD J. LIDDLE
*TIMOTHY P. HOAGLAND
H. MAL CAMERON
GRETCHEN R. MANKAMYER

*PROFESSIONAL CORPORATION

October 5, 1984

84 OCT 10 A10:45

Mr. Gary Johansen
Office of General Counsel
Federal Elections Commission
1325 K Street, N.W.
Washington, D.C. 20463

Reference: MUR 1609

Reference is made to the telephone discussion between Gary Johansen and the undersigned on September 26, 1984. At that time attorney Johansen informed me that the briefs of the City of Pittsburg, Mayor Ronald Rives and former City Council members De Torres, Siino, Downing and Quesada were not due on the 27th of September in light of our request to enter into negotiations directed towards reaching conciliation prior to a finding of probable cause by the Commission. Mr. Johansen also advised me that if the Commission did not accept our request for conciliation, we would have at least 48 hours telephonic notice before our brief would be due. If this letter does not accurately describe our understanding, please telephone me immediately.

Very truly yours,

SELLAR, HAZARD, SNYDER & KELLY

JAMES L. HAZARD
JLH:sb

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SELLAR, ENGLEKING, HAZARD
SNYDER & KELLY
LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
2815 MITCHELL DRIVE, SUITE 202
POST OFFICE BOX 3510
WALNUT CREEK, CALIFORNIA 94598

Mr. Gary Johansen
Office of General Counsel
Federal Elections Commission
1325 K Street, N.W.
Washington, D.C. 20463

83 OCT 19 P2:56

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 1609
City of Pittsburg	)	
Certain City Council Members	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on October 2, 1984, the Commission approved and authorized by a vote of 6-0 the sending of the letter to the City of Pittsburg and certain City Council Members as attached to the General Counsel's Memorandum to the Commission dated September 24, 1984.

Commissioners Aikens, Elliott, Harris, McDonald, McGarry and Reiche voted affirmatively in this matter.

Attest:

10-2-84
Date

Jody C. Ransom
for Marjorie W. Emmons
Secretary of the Commission

Received in Office of Commission Secretary: 9-24-84, 3:04
Circulated on 48 hour tally basis: 9-25-84, 11:00
Objection withdrawn: 10- 2-84, 8:38

8504052496 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE, GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JODY C. RANSOM

DATE: SEPTEMBER 27, 1984

SUBJECT: OBJECTION - MUR 1609 Memorandum to the Commission dated September 24, 1984

The above-named document was circulated to the Commission on Tuesday, September 25, 1984 at 11:00.

Objections have been received from the Commissioners as indicated by the name(s) checked:

Commissioner Aikens	_____
Commissioner Elliott	_____
Commissioner Harris	_____
Commissioner McDonald	_____
Commissioner McGarry	X
Commissioner Reiche	_____

This matter will be placed on the Executive Session agenda for Tuesday, October 2, 1984.

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RECEIVED
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COMMISSION SECRETARY

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

84 SEP 24 P3:04

September 24, 1984

MEMORANDUM TO: The Commission

FROM: Charles N. Steele
General Counsel

SENSITIVE

By: Kenneth A. Gross
Associate General Counsel

SUBJECT: Letter from Complainant(s) MUR 1609

On October 7, 1983, the Office of General Counsel received a signed, sworn, and notarized complaint from Rudy G. Rodriquez against the City of Pittsburg and certain City Council members. On September 6, 1984, the Office of General Counsel received another letter from Complainant (See Attachment 1). In that letter Complainant requested the withdrawal of the complaint.

Under 2 U.S.C. §§ 437c(b)(1) and 437(d)(e), the Commisssion is vested with exclusive jurisdiction over civil enforcement of the Federal Election Campaign Act of 1971, as amended (the "Act"). Moreover, the enforcement provisions of the Act make it clear that if a proper complaint is received, the Commission may proceed to determine whether there is reason to believe a violation has occurred, 2 U.S.C. § 437g(a)(1) & (2).

The Office of General Counsel recommends that the Commission send the attached letter to the Complainant. The letter states that the Commission is empowered to take any action which it deems appropriate on complaints properly filed with it and that any request for withdrawal will not prevent the Commission from taking further action in this matter.

RECOMMENDATION

Approve and authorize the sending of the attached letter to City of Pittsburg and certain City Council Members.

Attachments
1. Letter from Complainant
2. Proposed letter to Complainant

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ATTACHMENT I ①

GCC#4644

MEXICAN-AMERICAN POLITICAL ASSOCIATION

CONTRA COSTA CHAPTER

Mr. Raul M. Lopez, Chairperson
Mexican-American Political Assoc.
Post Office Box 271821
Concord, California 94527

September 6, 1984

Lee Ann Elliott, Chairperson
Federal Election Commission
Washington, D.C. 20463

Re: 1609 MUR/Friends of Congressman George Miller

Dear Chairperson:

It has recently come to MAPA's attention that the FEC has been investigating whether the Friends of Congressman George Miller have violated the federal election laws by accepting a check in 1982 from the City of Pittsburg. Apparently, the FEC has pursued this matter against the Friends of George Miller based on a complaint filed by our organization on November 30, 1983. We direct the FEC's attention to the complaint, dated November 30, 1983, and note that we directed the complaint toward the City of Pittsburg and named as respondents certain city council members. It was never MAPA's intention nor desire that Congressman Miller's campaign be subject to our complaint.

If the FEC is investigating Congressman Miller's campaign as a result of our complaint, then the Commission has misconstrued the intent and purpose of that complaint. Congressman Miller's campaign, we believe, was an innocent third party to the events involving political contributions by the City of Pittsburg through members of its city council. It was to these events, involving the City of Pittsburg and members of its city council, to which our complaint was directed. Nowhere in our complaint did we assert that Congressman Miller's campaign was guilty of any wrong.

We would like to withdraw the complaint insofar as it has caused the Commission to believe the Friends of Congressman George Miller as a party to what we asserted were possibly unlawful uses of taxpayer's monies by the City of Pittsburg. When it was brought to the attention of our organization's executive committee that the FEC was pursuing the matter against the Friends of Congressman George Miller as a result of our complaint, the executive committee

14 SEP 84 AM 10:26
FEDERAL ELECTION COMMISSION
GENERAL COUNSEL

8504052496 5

unanimously agreed to my dispatching this letter to suggest that the Commission's attention to the Congressman's campaign is misdirected and to request that the Commission dismiss our complaint to the extent that it has caused the Commission to include the Friends of Congressman George Miller as a party to our complaint.

To pursue this matter any further would do an injustice to Congressman Miller and a disservice to the community he serves.

> "The foregoing is of my personal knowledge and belief and if called upon to testify as to these matters, I could competently testify thereto. I swear under penalty of perjury that the foregoing is true and correct and was executed this 6th day of September, 1984, in the City of Concord, California."

Sincerely,

Raul M. Lopez
Chairperson

cc: Congressman George Miller

8504052496

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Raul M. Lopez, Chairperson
Mexican American Political Association
P.O. Box 271821
Concord, California 94527

Re: MUR 1609

Dear Mr. Lopez:

This is in reference to your letter of September 6, 1984, requesting that the complaint you filed against City of Pittsburg and certain City Council members be withdrawn.

Under 2 U.S.C. § 437g, the Commission is empowered to review a complaint properly filed with it and to take action which it deems appropriate under the Federal Election Campaign Act of 1971, as amended (the "Act"). Any request for withdrawal of a complaint will not prevent the Commission from taking any action appropriate under the Act. However, your request will become part of the public record within thirty (30) days after the entire file is closed.

If you have any further questions about this procedure, please contact Martha Romney, the staff member assigned to this matter, at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

8504052495 7

RECEIVED AT THE FEC
GCC#4814
84 SEP 24 P 1:21

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POST OFFICE BOX 3510
WALNUT CREEK, CALIFORNIA 94598
TELEPHONE (415) 938-1430

*RUDD SELLAR
A. J. ENGLEKING (1924-1981)
*JAMES L. HAZARD
*MARTIN T. SNYDER
*JOHN KELLY

JAMES V. FITZGERALD, III
DONALD J. LIDDLE
*TIMOTHY P. HOAGLAND
H. MAL CAMERON
GRETCHEN R. MANKAMYER

*PROFESSIONAL CORPORATION

September 20, 1984

84 SEP 24 P3:56

Office of the General Counsel
Federal Elections Commission
1325 K Street, N. W.
Washington, D. C. 20463

Attention: Charles N. Steele
Gary Johanson

Reference: MUR 1609

Gentlemen:

As I previously advised you, I am representing the City of Pittsburg; its current Mayor, Ronald Rives; and four city council members, Joseph De Torres, Joseph Siino, Ralph Downing, and Frank Quesada. On behalf of each of these individuals, I hereby request that the Commission enter into negotiations directed towards reaching a conciliation agreement prior to a finding of probable cause to believe that a violation has occurred by the Commission.

Very truly yours,

SELLAR, HAZARD, SNYDER & KELLY

JAMES L. HAZARD
JLH:sb
cc: Mr. Ronald Rives
Mr. Joseph De Torres
Mr. Joseph S. Siino
Mr. Ralph Downing
Mr. Frank Quesada
Mr. O. F. Fenstermacher
Mr. Jake O'Malley
Mr. Charles Williams,
Acting City Attorney

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SELLAR, ENGLEKING, HAZARD
SNYDER & KELLY
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
2815 MITCHELL DRIVE, SUITE 202
POST OFFICE BOX 3510
WALNUT CREEK, CALIFORNIA 94598

Office of the General Counsel
Federal Elections Commission
1325 K Street, N. W.
Washington, D. C. 20463

Attention: Charles N. Steele
Gary Johanson

12 APR 21 PM 4:21

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 19, 1984

James L. Hazard
Sellar, Hazard, Snyder & Kelley
2815 Mitchell Drive, Suite 202
P.O. Box 3510
Walnut Creek, California 94598

Re: MUR 1609
City of Pittsburg, et. al.

Dear Mr. Hazard:

This is in reference to your letter dated September 12, 1984, requesting an extension of 10 days to respond to the Office of General Counsel's brief. After considering the circumstances presented in your letter, the Commission has determined to grant you your requested extension. Accordingly, your response will be due on September 27, 1984.

If you have any questions, please contact Martha Romney, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

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84 SEP 13 P3:41

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POST OFFICE BOX 3510
WALNUT CREEK, CALIFORNIA 94598
TELEPHONE (415) 938-1430

*RUDD SELLAR
A. J. ENGLEKING (1924-1981)
*JAMES L. HAZARD
*MARTIN T. SNYDER
*JOHN KELLY

JAMES V. FITZGERALD, III
DONALD J. LIDDLE
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*PROFESSIONAL CORPORATION

September 12, 1984

84 SEP 14 A9:20

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

Attention: Charles N. Steele
Gary Johanson

Reference: MUR 1609

Gentlemen:

Reference is made to Mr. Shaw's letter of August 15, 1984, and telephone conversations between Martha Romney and attorney Gary Johanson on Tuesday, September 11, 1984. This will confirm that I am requesting a ten (10) day extension of time to file our reply brief. If the extension is granted, our brief would be due on September 27, 1984. The request for extension is based upon two grounds:

1. I believe that one or more of my clients may wish to enter into conciliation prior to a finding of probable cause. In this regard, I represent the current Mayor of the City of Pittsburg, Ronald Rives, four former city council members (Quesada, Downing, De Torres, and Siino) and the City of Pittsburg itself. I am now conducting individual discussions with each client. It is possible that a conflict of interest may develop among my clients. If this does occur, it will be necessary to obtain additional counsel.

2. Furthermore, since I am representing the City of Pittsurg as a public entity, it is necessary that the litigation session of the City Council be scheduled in order to discuss whether or not the City wishes to enter into conciliation prior to a finding of probable cause. The earliest date that such a meeting can take place is the date that our brief is due, September 17, 1984. Accordingly, I hereby request an extension of time to the 27th.

Moreover, I would request that whomever is in a position to negotiate conciliation prior to a finding of probable cause

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contact me at the earliest possible date in order that I can ascertain the Commission's position concerning an appopriate settlement in this case.

Very truly yours,

SELLAR, HAZARD, SNYDER & KELLY

JAMES L. HAZARD
JLH:sb

8504049720

ELLAR, ENGLEKING, HAZARD
SNYDER & KELLY

FROM:

JAMES E. HAZARD
HELLAR, HAZARD, SNYDER & KELLY
P. O. Box 3510
Walnut Creek, CA 94598

Customer Number, if any
#1000-005

TO:

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

Attention: Charles N. Steele
Mary Johnson

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GCC #4647
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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Friends of Congressman George Miller and Alison Cartwright Brown, as Treasurer	)	MUR 1609

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GENERAL COUNSEL
1984 SEP 11 P2:45

RESPONSIVE BRIEF OF FRIENDS OF CONGRESSMAN GEORGE MILLER IN OPPOSITION TO PROBABLE CAUSE FINDING.

I.

FRIENDS OF CONGRESSMAN GEORGE MILLER DID NOT KNOWLINGLY ACCEPT OR RECEIVE A PROHIBITED CONTRIBUTION WITHIN THE MEANING OF SECTION 441b(a).

In May of 1982, the Friends of Congressman George Miller accepted $304.00 from the City of Pittsburg to pay for five of its City Council members' attendance at Congressman Miller's annual birthday fund-raiser. There is no contention in the General Counsel's Brief that the Friends of Congressman George Miller or Alison Cartwright Brown, then its Treasurer, accepted the contribution knowing either that the City of Pittsburg was a corporate entity or that municipal corporations were considered corporations for the purposes of the Federal Election Campaign Act of 1971. As acknowledged in the General Counsel's Brief, the Friends of George Miller reported the contribution in the regular course of campaign finance disclosure, and fully refunded the contribution the day after the Treasurer received a telephone call from the Clerk of the House informing her that the contribution was considered corporate in nature.

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The Friends of Congressman George Miller believe that a probable cause finding against it is unwarranted and the imposition of a civil penalty thereon would be unreasonable. Title 2, U.S.C. Section 441b(a) states that it is unlawful for a committee "knowingly to accept or receive" a corporate contribution. If the term "knowingly" is to have any meaning, it must be that a violation occurs when a committee accepts a contribution knowing that the contributor is a corporation. To take the position that a violation occurs when a donation is simply "knowingly accepted" rather than "knowingly corporate," is to take a position wholly removing the knowledge requirement Congress inserted in Section 441b(a).

In discussing the elements of a violation under 2 U.S.C. Section 441a(f), the court in In re Fed. Elec. Campaign Act Lit., 474 F. Supp. 1044 (1979), stated that "...candidates must have been aware of the illegal nature of the contributions...." to constitute a violation of that section. (Id. at 1047). The court stated that knowledge of the illegal nature of the contribution was a necessary element to allegations of a violation. (Id.) Section 441a(f) and Section 441a(b) are equilavent in the language by which they set forth the knowledge requirement.

The knowledge sufficient to create civil liability under these two sections of the Federal Election Campaign Act was discussed in Federal Election Commission vs. Cal Medical Assn., 502 F. Supp. 196 (1980), wherein the court concluded that sufficient knowledge existed where the receiving committee "knew the facts... which rendered its conduct unlawful." (Id. at 203). In that case, the recipient committee knew the nature and extent of the in-kind contributions it was receiving. It did not know whether they were illegal under Section

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441a(f) until a judicial determination so declared. But since that determination was made rendering the contributions unlawful, the recipient committee's knowledge of the nature of the in-kind contributions was sufficient to create civil liability. In the present situation, the Friends of Congressman George Miller did not know, and no where is it contended that it knew, the facts (that the City of Pittsburg was a municipal corporation and that municipal corporations are considered corporations under the Act) which would render its acceptance of the donation unlawful. (See Declaration of Alison Cartwright Brwn, attached hereto.)

The Friends of Congressman George Miller was presented with a situation distinguishable from that of a committee receiving a donation which appears to be illegal, e.g., a check from a business entity. Under 11 C.F.R. Section 103.3(b), if a committee receives a check which may be illegal it is under a duty to investigate the legality of the contribution. For example, if the Friends of Congressman George Miller receives a check from Joe Bob's Service Station, under the committee's standard contribution screening procedures (which procedures have been reviewed by the General Counsel), the committee will contact Joe Bob to ask whether he is incorporated, or if cannot reach him, the committee would send him a letter or call the California Secretary of State's Office to see if there is a corporate listing for Joe Bob's Service Station.

There is no basis to expect the same inquisitiveness where a non-lawyer treasurer receives a check from a local city. Nowhere in the Federal Election Campaign Act or in the Commission's Federal Elections Regulations or in published guide books, is there to be found any

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indication that contributions from local governments are prohibited. Nor are all local governments in California necessarily municipal corporations.

In addition to there being no statutory reference to local governments or municipal corporations, there has never been a judicial determination of the question. A determination of municipal corporations' status under the Act was first made in a 1977 Advisory Opinion (AO 1977-32) concerning the obscure issue of solicitation of municipal corporation executives. That Advisory Opinion was publisned prior to Alison Cartwright Brown's becomming Treasurer of the Friends of Congressman George Miller. That Advisory Opinion was confirmed in a second Advisory Opinion on the issue of solicitation (AO 1982-26), but that advisory opinion was published after the Friends of Congressman George Miller accepted the subject contribution.

It would be unreasonable to assert that Alison Cartwright Brown, a non-lawyer, who was nevertheless aware of the corporate contribution prohibition and who presided over a thorough standard contribution screening procedure, should have considered the possibility that the contribution from the City of Pittsburg was somehow prohibited. To impose such a burden by penalizing her mistake in accepting the subject contribution, the Commission would be taking another step toward requiring that every committee treasurer be an attorney. Even then, it is doubtful that during the routine of screening hundreds of checks it would occur to an attorney so involved that such a contribution was prohibited.

In summary, under the cases establishing awareness of the illegal nature of the contribution as a necessary prerequisite to a finding of a violation, the Friends of Congressman George Miller did not have the

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knowledge sufficient to create civil liability under 2 U.S.C. Section 441a(b). Furthermore, because of the reasonableness of the committee's ignorance in this situation, it would be fundamentally unfair and an unwarranted burden in terms of the precedent created, to impute to the committee the knowledge required for a violation of Section 441b(a).

II.

IMPOSING A CIVIL PENALTY AGAINST THE FRIENDS OF CONGRESSMAN GEORGE MILLER WOULD BE INAPPROPRIATE.

The legal questions presented by the instant probable cause proceeding are of secondary importance. The primary problem presented by this proceeding is that despite the obvious innocence involved in the acceptance of the subject contribution, and despite the committee's immediate and complete refund of the contribution upon learning of its prohibited nature, and despite the demonstrated competence and thoroughness of the committee's standard contributions screening procedure; despite these acknowledged mitigating factors, the Commission may nevertheless proceed to penalize the Friends of Congressman George Miller for this minor slip.

Congressman Miller was elected to Congress partially because he was out in front of the political reform wave sweeping through California when he first ran in 1974. He is a strong supporter of the Federal Election Campaign Act and a vigorous proponent of further and stronger campaign finance reform. The Friends of Congressman George Miller has routinely gone far beyond the disclosure requirements of the Act by reporting <u>all</u> contributors of any amount whatsoever. For example, of the approximately $75,000.00 the committee had raised this year as of its last report, only $155.00 was reported anonymously because the committee was unable to trace certain small cash

8504052497 3

contributions under $25.00. The committee also itemizes all contributions from business entities in any amount whatsoever. Thus, the committee was recently called upon by the Commission's compliance review staff to explain a $10.00 contribution that appeared to be from a corporate donor. The Commission, in fact, was confusing the committee's $10.00 contributor with a corporate entity of the same name. But because the committee not only discloses such contributors, but itemizes them as well, it is regularly subject to that kind of scrutiny.

The Brief of the General Counsel states that the complaint initiating this action, which was filed by the Mexican-American Political Association of Contra Costa County, was directed against the Friends of Congressman George Miller. In fact, the complaint did not name the Friends of Congressman George Miller as a respondent. The complaint was concerned with the actions of the City of Pittsburg and members of its City Council. Contributions were made to several state office-holders as well as to Congressman Miller's campaign. The committee acknowledges that the Commission may act on knowledge it gained from the complaint regardless as to whom the complaint was directed; however, it should be noted by the Commission that the complaint's authors were not actually concerned with the recipients of the City's contributions.

The Friends of Congressman George Miller are terribly concerned about the possibility of being fined. Because of its candidate's history of commitment to campaign finance reform, its concern is based on principle and not related to whatever sums may be imposed. Nor is its concern political, since the Congressman is expected to receive

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over 60% of the votes in his district this year. The committee believes that an innocent mistake was made, which mistake did not amount to a violation of the act and which mistake was promptly corrected when brought to the committee's attention.

In rejecting the imposition of a civil penalty, the court in AFL-CIO vs. Federal Election Commission (1980) (1 Fed. Elec. Camp. Fin. Guide (CCH) Paragraph 9119), stated: "We believe the refund... ordered by the court was properly to be characterized as the correction of a mistake. That is what we have here, a breach of law by mistake, not by wilfull wrong." (Id.) Although that case concerned allegations of knowing and wilfull violations under former 2 U.S.C. Section 437g(a)(7) (now Section 437g(a)(5)(b)), the principle articulated by the court remains valid and the court explicitly refrained from reaching the question of whether a penalty could have been imposed without a finding of a knowing and wilfull violation. And in a case where the issue before the court was the appropriateness of a civil penalty where there was no knowing or wilfull violation, the court concluded that although a violation had actually occurred, a civil penalty was not warranted because the violation was not intentional and a court ordered refund was sufficient. (Federal Election Commission vs. National Education Assn. 457 F. Supp. 1102, 1112 (1978).)

In addition, therefore, to its belief that no violation of Section 441b(a) occurred, the Friends of Congressman George Miller maintain that furtherance of this proceeding is unwarranted because it could lead to the imposition of a fine which, in any amount, would be unduly punitive. Since an innocent and reasonable mistake was promptly corrected, there is no purpose to pursuing this matter.

3504052490

III.

THE COMMISSION HAS FAILED TO MEET THE NOTICE REQUIREMENTS OF SECTION 437g(a)(2) AND 11 CFR SECTION 111.9.

On February 29, 1984, the Friends of Congressman George Miller submitted an Amended Statement of Organization designating a new Treasurer, a new address, and a new depository. Since that time, the Federal Election Commission's compliance review staff and the Clerk of the House of Representatives have both been corresponding with the committee through its new Treasurer and at its new address. Inexplicably, in all matters concerning MUR 1609, the Commission has been corresponding with Ms. Alison Cartwright Brown, the committee's former treasurer.

Ms. Brown has not had any formal relationship with the Friends of Congressman George Miller since the February 29, 1984, Statement of Organization was submitted. In matters pertaining to MUR 1609, even the Commission's correspondence carbon copied to Congressman George Miller has been mailed to Ms. Brown.

When the committee's new treasurer assumed his office, he was informed by Ms. Brown that an investigation had occurred concerning the donation to the campaign from the City of Pittsburg. Sometime in April of 1984, Ms. Brown informed the new treasurer that the Commission had again requested information concerning the City of Pittsburg contribution. Ms. Brown informed the new treasurer that if she supplied the requested information, the matter was not going to be pursued. (See Declarations of Alison Cartwright Brown and Colin J. Coffey, attached hereto.) Ms. Brown apparently felt that since she still held the files concerning the subject contribution, and since the

3504052493 1

matter would probably not be pursued, that she did not need to turn the matter over to the committee.

Since the time Ms. Brown officially ended her relationship with the committee, no one connected with the Friends of Congressman George Miller had seen any of the correspondence directed to the committee by the FEC until August 13, 1984, when the committee's treasurer was given a copy of the General Counsel's letter to the committee dated August 6, 1984. In particular, no one connected with the committee had received actual notice that a determination was made on April 10, 1984, that there was reason to believe that the Friends of Congressman George Miller had violated Section 441b(a). Section 437g(a)(2) states that the commission "shall" notify the person involved where it has made a reason to believe determination. 11 CFR, Section 111.9 states a similar requirement.

The Commission had the committee's correct address and the name of its treasurer as demonstrated by the continued correspondence with the committee from the Commission's compliance review staff. Nevertheless, the Commission continued to correspond on matters involving MUR 1609 solely with somebody unaffiliated with the Friends of Congressman George Miller. In Gelman vs. Federal Election Commission (1980) (2 Fed. Elec. Camp. Fin. Guide (CCH) Paragraph 9139), the court noted the Section 437g requirement of notice upon a reason to believe finding and stated:

> "The legislative history of the 1979 amendments indicates Congressional intent that the FEC conduct its investigations within the boundaries of strict procedural safeguards."

The court there concluded that the FEC would have to suffer a temporary delay while it restarted its investigation in order to comply

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with the statutory notification requirements.

In Federal Election Commission vs. NRA of America, 553 F. Supp. 1331 (1983), the court cited "the clear and unmistakable duty of the FEC to follow certain procedures" under Section 437g, including "a determination of reasonable cause to believe a violation has occurred... and the provision of notice and an opportunity to comment to the respondent." (Id. at 1332.) The court stated:

> "... it is essential that the Court take a hard look at the FEC's efforts to notify the defendants of the charges and the FEC's attempts to conciliate with them. The defendants must have a fair opportunity to review and respond to the FEC's findings and have notice of precisely what activities have been found to be violations of the Act. Without such notice, the defendants are unable to adequately assess their situation and determine whether conciliation is in their best interest. (Id. at 1338-1339.)"

It is clear that the Commission did not meet the statutory notice requirements given the strict judicial determination of those requirements discussed in the foregoing cases. By letter dated August 17, 1984, the committee through its treasurer informed the Commission of the notificiation defects. The committee stated therein "we would like to fully review the matter, determine whether we wish to assert the defense or ask for pre-probable cause conciliation, and determine whether we ought to retain legal representation specializing in FEC matters." The letter twice indicated that the twenty (20) day extension indicated in the Commission's letter of August 6, 1984, would not allow the committee sufficient time to reply. Nevertheless, the committee was given to the outer limit of the twenty (20) day extension period originally offered before the notice defects were brought to the Commission's attention.

IV.

CONCLUSION

The present MUR should be dismissed as to the Friends of Congressman George Miller. Under case law hereinabove discussed, the committee did not have the knowledge required for a finding of probable cause, and under the circumstances, such knowledge cannot be imputed. If it were judicially determined that a violation occurred, a civil penalty would be inappropriate and, therefore, pursuit of this matter by the Commission would be an empty endeavor. Finally, if the matter were pursued, the manifest notification defects present would compel restarting the process from the point of a reason to believe finding.

If the Commission is nonetheless determined to continue this MUR, the Friends of Congressman George Miller would be pleased to discuss a pre-probable cause conciliation agreement designed to prevent reoccurrences of the mistake in question. As a matter of principle, however, the committee would object to conciliation involving a civil penalty. By discussing conciliation, the committee would in no way be waiving the notification defects cited herein and the prejudice to it arising from the lack of reasonable notice.

Dated: September 7, 1984

Respectfully Submitted,

NORRIS AND NORRIS
By COLIN J. COFFEY
Attorneys for the Friends of
Congressman George Miller

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Friends of Congressman George Miller and Alison Cartwright Brown, as Treasurer	)	MUR 1609
	)	

DECLARATION OF COLIN J. COFFEY

I, COLIN J. COFFEY, declare:

1. I am an attorney at law duly licensed to practice in all the courts of the State of California and in the Federal District Court, Northern District of California. I am Treasurer and legal counsel to the Friends of Congressman George Miller.

2. On February 29, 1984, I assumed the office of Treasurer of the Friends of Congressman George Miller and on that date filled out and submitted a Statement of Organization providing the Federal Election Commission with the committee's new address and informing the Commission that the committee had a new Treasurer.

3. At no time since February 29, 1984, was the committee's former treasurer, Alison Cartwright Brown, officially affiliated with our committee except to the extent that we have from time to time employed her in her professional capacity as an accountant. At no time since February 29, 1984, was Alison Cartwright Brown authorized by the Friends of Congressman George Miller to act on its behalf in regard to Federal Election Commission matters.

4. When I assumed the office of Treasurer in February of 1984, Ms. Brown informed me that the Commission had requested information regarding a contribution our committee received in 1982 from the City

of Pittsburg. Sometime in April of 1984, Ms. Brown informed me that the Commission had asked her for "some more information" concerning the contribution and that she had been informed that the matter would not be pursued further. At neither time did our conversations go beyond this breif discussion of the matter. On August 13, 1984, Ms. Brown provided me with a copy of the General Counsel's letter to her and the committee dated August 6, 1984. After reviewing the letter I requested that Ms. Brown provide me with her entire file on the subject. After discussing the matter with Ms. Brown, fully reviewing the file on the matter, and discussing the matter with others involved in the campaign organization, I sent the Commission a letter dated August 17, 1984, explaining the notification problems and requesting an extension of time beyond the 15 and 20 day limitations set forth in the General Counsel's letter of August 6, 1984. Nevertheless, I was informed by telephone and confirming letter that we would be given to September 10, 1984, to respond.

The foregoing is of my personal knowledge and belief, and if called upon I could competently testify thereto. I swear under penalty of perjury that the foregoing is true and correct and executed this 7th day of September, 1984, at Richmond, California.

COLIN J. COFFEY, Treasurer

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Friends of Congressman George Miller and Alison Cartwright Brown, as Treasurer	)	MUR 1609
	)	
	)	

DECLARATION OF ALISON CARTWRIGHT BROWN

I, ALISON CARTWRIGHT BROWN, declare:

1. I am a certified public accountant and served as Treasurer of the Friends of Congressman George Miller between mid 1978 and February 29, 1984. Since February 29, 1984, I have not been affiliated with the Friends of Congressman George Miller except insofar as I have from time to time rendered professional accounting services to the committee.

2. Since February 29, 1984, the Federal Election Commission has continued to correspond directly with me in regard to MUR 1609. I assumed, since the Commission had knowledge of the committee's new treasurer and new address, that the Commission was corresponding solely with me on this matter because I had been treasurer at the time the donation in question was accepted. Sometime shortly after I received the letter from the Chairman, dated April 13, 1984, I discussed the matter with Ms. Beverly Cramer and inquired as to why the matter was being pursued despite our prompt refund of the donation in question. I was told that if I provided the information requested, the matter would not be pursued. Unfortunately, because I considered the matter relatively minor I did not refer any of the correspondence to my successor treasurer of the Friends of Congressman George Miller. I merely informed the committee that the commission had requested certain

documents and that I would be providing copies of the documents to the Commission and that I was informed that the matter would probably not be pursued. On August 13, 1984, after receiving the General Counsel's letter dated August 6, 1984, I turned that letter and my entire file on MUR 1609 to Colin J. Coffey, the treasurer of the Friends of Congressman George Miller. Again, at all times I assumed that the Commission's correspondence directly with me was deliberate, and I therefore responded in my personal capacity as a former treasurer.

3. When the committee received the donation in question from the City of Pittsburg in May of 1982, I was responsible for accepting and depositing the contribution. I do not recall whether that particular contribution had been screened prior to my receiving it, but in any event, when I received and screened it no person had brought any question involving its legality to my attention, as was required in such cases by our standard screening procedures. When I was treasurer, if the committee received a business check, I always endeavored to confirm the entity's non-corporate status. It never occurred to me when I received and deposited the check from the City of Pittsburg that a City was a corporate entity prohibited from contributing under the Act. When reviewing the two checks from the City, such a thought never arose in my mind and I deposited the contributions without bringing them to the attention of anyone else in the committee. We reported the contributions in our regular 1982 12-day pre-primary disclosure report. On July 14, 1982, I received a telephone call from the Clerk of the House, who informed me that cities were considered corporations for the purposes of the Act. I immediately drew out refund checks to the City and prepared a cover letter. I mailed the same on July 15, 1982.

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5. As treasurer of the Friends of Congressman George Miller, I had read the Federal Elections Regulations and several campaign guides prepared by the FEC to assist treasurers in their duties. I had never read or seen any reference to contributions from local governments, and I was not aware that some local governments are municipal corporations and thereby prohibited from contributing to federal election campaigns.

I swear under penalty of perjury that the foregoing is true and correct and of my personal knowledge. If called upon to testify as to these matters, I could competently testify thereto.

Executed this 7th day of September, 1984, in the City of Richmond, California.

Alison Cartwright Brown

ALISON CARTWRIGHT BROWN

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GCC#4644

MEXICAN-AMERICAN POLITICAL ASSOCIATION

CONTRA COSTA CHAPTER

OFFICE OF COMMISSION SECRETARY FEC

Mr. Raul M. Lopez, Chairperson
Mexican-American Political Assoc.
Post Office Box 271821
Concord, California 94527

September 6, 1984

Lee Ann Elliott, Chairperson
Federal Election Commission
Washington, D.C. 20463

Re: 1609 MUR/Friends of Congressman George Miller

RECEIVED
GENERAL COUNSEL

Dear Chairperson:

It has recently come to MAPA's attention that the FEC has been investigating whether the Friends of Congressman George Miller have violated the federal election laws by accepting a check in 1982 from the City of Pittsburg. Apparently, the FEC has pursued this matter against the Friends of George Miller based on a complaint filed by our organization on November 30, 1983. We direct the FEC's attention to the complaint, dated November 30, 1983, and note that we directed the complaint toward the City of Pittsburg and named as respondents certain city council members. It was never MAPA's intention nor desire that Congressman Miller's campaign be subject to our complaint.

If the FEC is investigating Congressman Miller's campaign as a result of our complaint, then the Commission has misconstrued the intent and purpose of that complaint. Congressman Miller's campaign, we believe, was an innocent third party to the events involving political contributions by the City of Pittsburg through members of its city council. It was to these events, involving the City of Pittsburg and members of its city council, to which our complaint was directed. Nowhere in our complaint did we assert that Congressman Miller's campaign was guilty of any wrong.

We would like to withdraw the complaint insofar as it has caused the Commission to believe the Friends of Congressman George Miller as a party to what we asserted were possibly unlawful uses of taxpayer's monies by the City of Pittsburg. When it was brought to the attention of our organization's executive committee that the FEC was pursuing the matter against the Friends of Congressman George Miller as a result of our complaint, the executive committee

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unanimously agreed to my dispatching this letter to suggest that the Commission's attention to the Congressman's campaign is misdirected and to request that the Commission dismiss our complaint to the extent that it has caused the Commission to include the Friends of Congressman George Miller as a party to our complaint.

To pursue this matter any further would do an injustice to Congressman Miller and a disservice to the community he serves.

> "The foregoing is of my personal knowledge and belief and if called upon to testify as to these matters, I could competently testify thereto. I swear under penalty of perjury that the foregoing is true and correct and was executed this 6th day of September, 1984, in the City of Concord, California."

Sincerely,

Raul M. Lopez

Raul M. Lopez
Chairperson

cc: Congressman George Miller

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Mr. Raul M. Lopez, Chairperson
Mexican-American Political Association
Post Office Box 271821
Concord, California 94527

84 SEP 10 A9:

Lee Ann Elliott, Chairperson
Federal Election Commission
Washington, D.C. 20463

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RECEIVED AT THE FEC
GC#4505
84 AUG 30 A8:

RICHARD E NORRIS
MELANIE REYNOLDS NORRIS
COLIN J COFFEY

OF COUNSEL
DOUGLAS C STRAUS

LAW OFFICES
NORRIS AND NORRIS
A PROFESSIONAL CORPORATION
3718 MACDONALD AVENUE
RICHMOND, CALIFORNIA 94805-2288

TELEPHONE
(415) 235-3568

MR

August 27, 1984

84 AUG 30 A9:50
GENERAL COUNSEL

Kenneth A. Gross
Associate General Counsel
Office of the General Counsel
Federal Election Commission
Washington, D. C. 20463

Re: MUR 1609
Friends of Congressman George Miller

Dear Mr. Gross:

This letter is in response to your letter dated August 23, 1984, which regarded my letter of August 17 and my conversation with Gary Johansen on August 22, 1984. We thank the Commission for extending our time for response to the General Counsel's Brief to September 10, 1984.

This letter is to inform the Commission that the Friends of Congressman George Miller in no way waive the ramifications of the notification defects noted in my letter of August 17. I note that the extension we were given represented no more than the standard 20 day extension limit mentioned in the Commission's August 6, 1984, letter to our committee. Hence, no special consideration was given to the notification defects plainly existing.

We will respond nevertheless to the General Counsel's Brief by or before September 10, 1984. The notification defects, and the prejudice to us arising from them, remain a concern to our committee.

Very truly yours,

COLIN J. COFFEY
Treasurer/Legal Counsel
Friends of Congressman George Miller

CJC:dee

3504053493

LAW OFFICES
NORRIS AND NORRIS
A PROFESSIONAL CORPORATION
3718 MACDONALD AVENUE
RICHMOND, CALIFORNIA 94805-2200

84 AUG30 A8:

Kenneth A. Gross
Associate General Counsel
Office of the General Counsel
Federal Election Commission
Washington, D. C. 20463

AUG 30 A10:02

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 23, 1984

Colin J. Coffey
Norris and Norris
3718 MacDonald Avenue
Richmond, California 94805-2288

Re: MUR 1609
Friends of Congressman
George Miller

Dear Mr. Coffey:

This is in reference to your letter dated August 17, 1984, and your telephone call of August 22, 1984, with Gary Johansen requesting an extension of time to respond to the General Counsel's Brief. After considering the circumstances presented in your letter, the Commission has determined to grant you your requested extension. Accordingly, your response will be due on September 10, 1984.

If you have any questions, please contact Martha Romney, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

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84 AUG 20 P12:22

RICHARD E NORRIS
MELANIE REYNOLDS NORRIS
COLIN J COFFEY

OF COUNSEL
DOUGLAS C STRAUS

LAW OFFICES
NORRIS AND NORRIS
A PROFESSIONAL CORPORATION
3718 MACDONALD AVENUE
RICHMOND, CALIFORNIA 94805-2288

TELEPHONE
(415) 235-3568

GCC #4386

August 17, 1984

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

Re: MUR 1609/Friends of Congressman George Miller

Dear Mr. Johansen:

A matter requiring immediate attention by your office has arisen and I am told that Martha Romney, the staff member assigned to handle this matter, is on vacation during the week of August 20. On February 29, 1984, I submitted an amended Statement of Organization on behalf of the Friends of Congressman George Miller by which our committee formally informed the FEC as well as the Clerk of the House of Representatives and the California Secretary of State's office that I was the new treasurer of the committee. As of that date, Ms. Alison Cartwright Brown was no longer treasurer of our committee nor in any other way affiliated with the committee except to the extent that she has provided accounting services to the committee.

When I assumed the office of treasurer and legal counsel to the Friends of Congressman George Miller in late February of 1984, I was informed by Ms. Brown of the complaint filed with the Commission on October 7, 1983, concerning the donation to our campaign by the City of Pittsburg. I was told by Ms. Brown that the particular contribution had been refunded and that the FEC had requested certain information concerning the circumstances surrounding the contribution and that she did not expect the matter to materialize into anything serious.

Neither I, nor any other official in the campaign, had seen any of the correspondence directed to our committee by the FEC until earlier this week, August 13, 1984, when I was given a copy of the General Counsel's letter to our committee dated August 6, 1984, by which we are informed that a determination was made on April 10, 1984, that there was reason to believe that Friends of Congressman George Miller and Alison Brown had violated 2 U. S. C. Section 441b(a). Hence, no one in our campaign was notified that such a determination was made on April 10, 1984.

Ms. Brown had informed me orally sometime in April of 1984, that the Commission had again requested information concerning the circumstances surrounding the City of Pittsburg contribution and that she was responding

thereto, since she still held the files concerning that contribution. I have since learned that after Ms. Brown received the FEC's letter dated April 13, 1984, by which the FEC attempted to notify the Friends of Congressman George Miller that the Commission had made a reason to believe determination, Ms. Brown had had a conversation with the staff person in charge of this MUR, Beverly Cramer, in which Ms. Cramer informed Ms. Brown that if Ms. Brown responded to the Commission's information requests, the Commission would probably not pursue the matter any further. Ms. Brown apparently did not consider this a matter which could lead to civil penalties being imposed on the Friends of Congressman George Miller and upon being reassured by Ms. Cramer, Ms. Brown did not feel compelled to turn over the matter to myself or any other official of the Friends of Congressman George Miller.

Despite our submitting an amended Statement of Organization designating myself as treasurer as of February 29, 1984, the Commission continued to correspond on this matter with Ms. Brown. Upon reviewing the Commission's letter of August 6, 1984, last Monday, I requested that Ms. Brown give me the full file on the matter. Upon reviewing that full file it is clear that the matter is much more serious than Ms. Brown ever comprehended. The General Counsel's letter of August 6, 1984, was carbon copied to Congressman George Miller and thus for the first time since I assumed the office of treasurer correspondence from the FEC regarding this matter was actually directed to somebody connected with the committee.

We do not wish to aggravate these proceedings by over emphasisizing this notification problem concerning the FEC's correspondence on this matter. However, I note that the time to file a responsive brief to the General Counsel's brief attached to the Commission's letter of August 6, 1984, is only fifteen days. Ms. Brown has told me that she unilaterally sent in a request for an extension of time. She has not been connected with the committee since February 29, 1984; I therefore, hereby, formally request an extension of time on behalf of the committee to respond to the General Counsel's brief. Given the notification problems that are manifest in this case, we request an extension beyond the twenty day limit indicated in the Commission's letter of August 6, 1984.

Upon reviewing the material involved, I believe the committee may have a valid defense to a finding of probable cause since there was no knowing or willful violation of Section 441b(a) by our committee. Alternatively, Ms. Romney informed me yesterday by telephone that we are entitled to ask for pre-probable cause conciliation. Since the committee never received the notice of the substance of the FEC's proceedings and procedures until earlier in this week, we would like time to fully review the matter, determine whether we wish to assert a defense or ask for pre-probable cause conciliation, and determine whether we ought to retain legal repesentation specializing in FEC matters. I do not believe the fifteen day plus twenty day extension allows us this opportunity.

We would appreciate an immediate response to this letter, by telephone

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if possible, indicating when we will be required to respond to the General Counsel's brief in light of this request for an extension and the notification problems enumerated above. In closing, I would note that the FEC's compliance review staff has been corresponding directly with me since February 29, 1984, concerning questions arising from our finance reports. Thus, the FEC clearly has had actual notice of Ms. Brown's leaving the office of treasurer as of February 29, 1984.

Your attention to this matter will be greatly appreciated.

Very truly yours,

COLIN J. COFFEY
Treasurer/Legal Counsel
Friends of Congressman George Miller

CJC:dee

cc: Congressman George Miller

8504053493

LAW OFFICES
NORRIS AND NORRIS
A PROFESSIONAL CORPORATION
3718 MACDONALD AVENUE
RICHMOND, CALIFORNIA 94805-2288

84 AUG 20 P12:22

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

Urgent

RECEIVED AT THE FEC

OFFICE OF
THE CITY ATTORNEY
City of Pittsburg
JOHN R. SHAW
CITY ATTORNEY

P.O. BOX 1518
[redacted]
(415) 439-4890

GCC #4376

August 15, 1984

Federal Elections Commission
ATTN: Charles N. Steele
1325 "K" Street, NW
Washington, DC 20463

Re: MUR 1609

Dear Mr. Steele;

This letter acknowledges receipt of your letters dated August 6, 1984, addressed to the City of Pittsburg, and Councilmen Rives, Quesada, Downing, DeTorres, and Siino. I received these letters on August 13, 1984.

I wish to advise you that I have secured a new employment position with the City of San Juan Capistrano, California, effective August 20, 1984. By reason of this job change, I have arranged for the assignment of this case to special counsel, James Hazard, Esquire, 2815 Mitchell Drive, Post Office Box 3510, Walnut Creek, 94598. Mr. Hazard, however, is presently on vacation.

Based upon these circumstances, I would request an extension of the period of time allowed in which to file an answer to the formal brief received in the August 6, 1984, letters. Pursuant to the direction provided in your letter, we would request an additional twenty (20) days, or until September 17, 1984, to file an answer.

Based upon my special circumstances of a change of employment, it may be necessary to secure an additional extension of time. Mr. Hazard will discuss this matter with you further.

Very truly,

John R Shaw

John R. Shaw

cc: City Manager
Mr. James Hazard

8504052500

THE CITY ATTORNEY
City of Petaluma
P.O. Box 1518
2020 Railroad Avenue
Petaluma, CA 94953

04 AUG 20 A 9:1

Federal Elections Commission
ATTN: Charles N. Steele
1325 "K" Street, NW
Washington, DC 20463

RECEIVED AT THE FEC

84 AUG 20 A8:28

GCC #4362

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

August 14, 1984

Dear Mr. Steele:

The purpose of this letter is to request an extension of time to respond to a letter dated August 6, 1984 regarding MUR 1609 for myself and Friends of Congressman George Miller.

The letter was received on August 10, 1984. We would like an extension until August 30th.

If there is any problem with our request, please notify us immediately.

Thank you.

Sincerely,

Alison Cartwright Brown

Alison Cartwright Brown
145 Park Place
Richmond, CA 94801

(415)233-6900

8504025003

145 Park Place
Richmond, CA 94801



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