



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 2303

DATE FILMED 3/25/88 CAMERA NO. 4

CAMERAMAN GR

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WASHINGTON, D.C. 20463

August 13, 1986

MEMORANDUM

TO: CHARLES N. STEELE
GENERAL COUNSEL

THROUGH: JOHN C. SURINA
STAFF DIRECTOR

FROM: JOHN D. GIBSON
ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION

SUBJECT: REFERRAL OF SACRAMENTO VOTER EDUCATION AND
REGISTRATION PROJECT

This is a referral of the Sacramento Voter Education and Registration Project ("SVERP"), an unregistered organization which received a total of \$20,000 from the Congressman Fazio Campaign Committee ("Fazio Committee") and Bob Matsui for Congress ("Matsui Committee") during calendar year 1985. A Registration Notice was sent to SVERP which advised that the receipt of the funds may subject SVERP to the registration and reporting requirements of the Act. As of this date, SVERP has not submitted a written response. Therefore, in accordance with the RAD Review and Referral Procedures for Unauthorized Committees (Standard 22), further examination is required by your office.

Please note that Requests for Additional Information were sent to the Fazio and Matsui Committees regarding possible excessive contributions made to SVERP. A response submitted on behalf of the Matsui Committee stated that SVERP is a non-profit unincorporated association that engages in voter registration and therefore does not meet the definition of a political committee under the Act. A copy of the response is included with this referral. To date, no response has been received from the Fazio Committee.

Please also note that two (2) additional disbursements from the Matsui Committee and the Fazio Committee totalling \$10,500 were made to SVERP for "Voter Registration" and reported subsequent to sending notification of its registration and reporting obligations. The Fazio Committee disclosed a \$500 disbursement on June 25, 1986 and the Matsui Committee disclosed a \$10,000 disbursement on June 26, 1986.

If you have any questions regarding this matter, please
contact Mike Tangney at 376-2480.

Attachment

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REPORTS ANALYSIS REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: August 13, 1986ANALYST: Mike Tangney

I. COMMITTEE: Sacramento Voter Education and
Registration Project (unregistered)
Lance Olson, Representative
431 J Street, 4th Floor
Sacramento, CA 95814

II. RELEVANT STATUTE: 2 U.S.C. §§433(a) and 434(a)
11 CFR 102.1(d) and 104.1(a)

III. BACKGROUND:

Failure to Register and Report as a Political Committee

The Sacramento Voter Education and Registration Project ("SVERP"), an unregistered organization, received amounts totalling \$20,000 from the Congressman Fazio Campaign Committee ("Fazio Committee") and Bob Matsui for Congress ("Matsui Committee") during calendar year 1985.

The 1985 Year End Report filed by the Matsui Committee disclosed a disbursement of \$10,000 to SVERP on September 19, 1985 as a "Contribution" (Attachment 2). The 1985 Year End Report filed by the Fazio Committee disclosed a disbursement of \$10,000 to SVERP on October 23, 1985 for "Voter Registration" (Attachment 1).

A Registration Notice was mailed to SVERP on April 16, 1986 advising it that the receipts from the Fazio Committee and the Matsui Committee may have qualified SVERP as a political Committee subject to the registration and reporting requirement of the Act. The Registration Notice advised SVERP to: 1) submit a Statement of Organization and file disclosure reports or 2) make full contribution refunds to the candidates' principal campaign Committees. The Notice also stated that the second option should be followed if SVERP did not want to register and report (Attachment 3).

On May 8, 1986, a Second Notice was sent to SVERP for failure to respond to the April 16, 1986 notice (Attachment

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**SACRAMENTO VOTER EDUCATION AND
REGISTRATION PROJECT
REPORTS ANALYSIS OGC REFERRAL
PAGE 2**

4). The Second Notice informed SVERP that if no response was received within fifteen (15) days, the Commission may choose to initiate legal action to ensure compliance with the Act.

On May 9, 1986, the Matsui Committee responded to a Request for Additional Information which questioned the apparent excessive contribution made to SVERP (Attachment 5). Included with the response was a letter from the law firm of Olson, Connelly and Hagel which explained that SVERP is a non-profit unincorporated association whose workers engage in voter registration. The letter further stated that:

SVERP receives funds from the Sacramento area City, County, State and Federal elected officials. All donations received go towards expenses associated with its voter registration activity. By definition, the monies received are not "contributions", as they are not received "for the purpose of influencing any election for federal office." Nor are SVERP expenses considered to be "expenditures", as they are also not intended to influence election (sic) for federal office.

On June 9, 1986, a Reports Analysis Division ("RAD") analyst called SVERP and was referred to Ms. Susan Christian, an attorney with the law firm of Olson, Connelly and Hagel. Ms. Christian stated that a response had been sent to the Commission concerning a letter sent to the Matsui Committee. She was advised by the RAD analyst that a response should also be sent specifically addressing the letter sent to SVERP. Ms. Christian stated that Mr. Lance Olson, an attorney with the firm, was the organizer of SVERP but was on vacation until June 23, 1986 (Attachment 6).

On June 23, 1986 the RAD analyst called Mr. Lance Olson to determine when a response would be sent. The RAD analyst was informed that Mr. Olson was on another line and would return his call. On June 27, 1986 Mr. Olson called the RAD analyst. Mr. Olson was informed that a specific response should be filed concerning SVERP detailing the nature of the organization. Mr. Olson stated that he would provide a response shortly (Attachment 7).

As of this date, a response has not been filed with the Commission.

IV. OTHER PENDING MATTERS INITIATED BY RAD:

None.

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RECEIVED DISBURSEMENT

(The separate schedule for an
category of the Detailed
Summary Page)

Any information copied from such Reports and Statements may not be used in any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

Name of Committee (in Full)

BOB MATSUI FOR CONGRESS

1985 Year End Report

A. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Contribution	Date (month, day, year)	Amount of Each Disbursement This Per
Congressman Pat Williams Committee 329 Morris Ingodew #401 Alexandria, VA	Disbursement for: ☐ Primary ☐ General ☐ Other (specify):	12/19/85	\$1,000.00
B. Full Name, Mailing Address and ZIP Code Ed Markey for Congress Committee P.O. Box 8309 Boston, Mass. 02114	Purpose of Disbursement Contribution	Date (month, day, year)	Amount of Each Disbursement This Per
	Disbursement for: ☐ Primary ☐ General ☐ Other (specify):	12/19/85	\$1,000.00
C. Full Name, Mailing Address and ZIP Code Ed Markey for Congress Committee P.O. Box 8309 Boston, Mass. 02114	Purpose of Disbursement Contribution	Date (month, day, year)	Amount of Each Disbursement This Per
	Disbursement for: ☐ Primary ☐ General ☐ Other (specify):	12/19/85	\$1,000.00
D. Full Name, Mailing Address and ZIP Code Sacramento Voter Education and Registration 431 J Street Sacramento, CA 95814	Purpose of Disbursement Contribution	Date (month, day, year)	Amount of Each Disbursement This Per
	Disbursement for: ☐ Primary ☐ General ☐ Other (specify):	9/19/85	\$10,000.00
E. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Per
	Disbursement for: ☐ Primary ☐ General ☐ Other (specify):		
F. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Per
	Disbursement for: ☐ Primary ☐ General ☐ Other (specify):		
G. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Per
	Disbursement for: ☐ Primary ☐ General ☐ Other (specify):		
H. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Per
	Disbursement for: ☐ Primary ☐ General ☐ Other (specify):		
I. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Per
	Disbursement for: ☐ Primary ☐ General ☐ Other (specify):		
SUBTOTAL of Disbursements This Page (optional)			
TOTAL This Period (last page this line number only)			\$13,000.00

3 3 0 1 2 4 8 5 8 4 3 5 6

SCHEDULE B

ITEMIZED DISBURSEMENTS

Page 1 of 1 for
LINE NUMBER 31
(Use separate schedule for each
category of the Detailed
Summary Page)

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for
any other purpose, other than using the name and address of any political committee to solicit contributions from such committee.

Name of Committee (in Full)

Congressman Fazio Campaign Committee

1985 Year End Report

A. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
Sacramento Voter Education & Registration Project 431 J Street, Fourth Floor Sacramento, CA 95814	Voter Registration Disbursement for: ☐ Primary ☐ General ☐ Other (specify):	10/23/85	10,000.00
B. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify):	Date (month, day, year)	Amount of Each Disbursement This Period
C. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify):	Date (month, day, year)	Amount of Each Disbursement This Period
D. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify):	Date (month, day, year)	Amount of Each Disbursement This Period
E. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify):	Date (month, day, year)	Amount of Each Disbursement This Period
F. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify):	Date (month, day, year)	Amount of Each Disbursement This Period
G. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify):	Date (month, day, year)	Amount of Each Disbursement This Period
H. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify):	Date (month, day, year)	Amount of Each Disbursement This Period
I. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify):	Date (month, day, year)	Amount of Each Disbursement This Period
SUBTOTAL of Disbursements This Page (optional)			
TOTAL This Period (last page this line number only)			10,000.00 ✓



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

APR 16 1986

**Treasurer
Sacramento Voter Education
and Registration Project
431 J Street, 4th Floor
Sacramento, CA 95814**

Dear Treasurer:

This letter is prompted by the Commission's interest in assisting committees which may be subject to the registration and reporting requirements of the Federal Election Campaign Act ("the Act") but are not registered with the Commission.

The Act defines a "political committee" to include any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or makes expenditures aggregating in excess of \$1,000 during a calendar year (for the purpose of influencing any election for federal office). 2 U.S.C. §431(4).

A review of the disbursements reported by the Congressman Fazio Campaign Committee and Bob Matsui for Congress indicates that your organization may have received contributions to influence federal elections. This activity may qualify your organization as a "political committee" subject to the registration, reporting and other requirements of the Act. In addition, a "political committee" subject to the reporting requirements of the Act may only receive a contribution of \$5,000 per calendar year from the principal campaign committee of a candidate. A copy of the disbursement schedule(s) which lists the activity is enclosed for your review.

The Commission advises that you must either:

- 1) submit a Statement of Organization and file disclosure reports on FEC Form 3X (relevant informational materials and forms are enclosed) and refund \$5,000 to the candidates' principal campaign committees; or
- 2) make full contribution refunds to the candidates' principal campaign committees.

The second alternative must be followed if your organization does not wish to register and file disclosure reports.

If you believe that your organization is not a political committee, or that the Commission is otherwise in error, please submit documentation which will clarify this matter.

Although the Commission may take further legal steps concerning this matter, your prompt action will be taken into consideration. Please notify the Commission within fifteen (15) days from the date of this letter of your course of action. If you have any questions, please contact me on the agency's toll-free number, (800) 424-9530. My local number is (202) 376-2480.

Sincerely,



Mike Tangney
Reports Analyst
Reports Analysis Division

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 8, 1986

**Treasurer
Sacramento Voter Education
and Registration Project
431 J Street, 4th Floor
Sacramento, CA 95814**

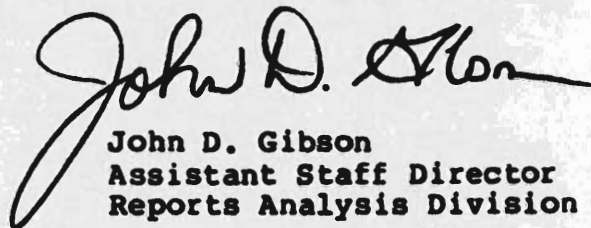
Dear Treasurer:

This is to inform you that as of this date, the Commission has not received your response to our letter dated April 16, 1986. Our letter notified you that a review of reports filed with the Commission indicates that your organization may have made expenditures which qualify it as a political committee. Enclosed is a copy of our original letter.

If no response is received within fifteen (15) days from the date of this notice, the Commission may choose to initiate legal action to ensure compliance with the Act.

If you should have any questions related to this matter, please contact Mike Tangney on our toll-free number (800) 424-9530 or our local number (202) 376-2480.

Sincerely,


John D. Gibson
Assistant Staff Director
Reports Analysis Division

Enclosure

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MATSUI CONGRESS

CERTIFIED MAIL

MAY 09 1986

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May 9, 1986

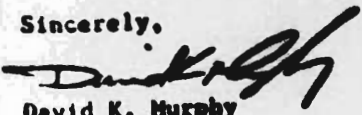
Ms. Robin Kelly
Reports Analysis Division
Federal Election Commission
Washington, D.C. 20541

RE: Identification Number C00063688

Dear Ms. Kelly:

I am enclosing the requested information concerning the SVERP. I would please find a letter from Ms. Susan Christian of the Law Office of Olann, Connelly & Nagel. Also attached are the amended Receipt and Disbursement Reports that respond to your questions regarding the April 15th letter.

Sincerely,


David K. Murphy
Treasurer

DKM/cr

enclosure

MATSUI FOR CONGRESS COMMITTEE
Post Office Box 1347 - Sacramento, CA 95816

RECEIVED

GEORGE J. GILLES
LAWSON H. GILLES
OFFICE CHIEFS

OLSON, CONNELLY & HADZEL

401 J STREET, FOURTH FLOOR
SACRAMENTO, CALIFORNIA 95814
TELEPHONE (916) 442-7111

RECEIVED
MAY 12 1986
U.S. DEPT. OF JUSTICE
FEDERAL ELECTION COMMISSION

May 6, 1986

073571

Robin Kelly
Reports Analysis Division
Federal Election Commission
Washington, D.C. 20463

RE: Sacramento Voter Education and Registration Project

Dear Ms. Kelly:

The purpose of this letter is to provide you with the requested report on the nature and goals of the above-stated organization, "SVERP." It is a non-profit, unincorporated association which was formed in 1984. Its purpose is to encourage greater public participation in the electoral process in Sacramento County. In order to accomplish this purpose, SVERP's workers engage in voter registration.

SVERP receives funds from the Sacramento area City, County, State and Federal elected officials. All donations received go towards expenses associated with its voter registration activity. SVERP has never made a direct contribution to any elected official. By definition, the monies received are not "contributions", as they are not received "for the purpose of influencing any election for federal office." Nor are SVERP expenses considered to be "expenditures", as they are also not intended to influence election for federal office. SVERP fails to fall under the definition, therefore, of a "political committee", as provided in Section 301(4) of the Federal Election Campaign Act of 1971.

Similarly, Congressman Matsui's donation to SVERP was not a "contribution" as that term is defined in Section 301(8) of the Act. He did not make the donation "for the purpose of influencing any election for federal office". Rather, the Congressman seeks to support the encouragement of greater voter participation.

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For your information, California Law requires "any citizen or organization which distributes voter registration cards [to] give a voter registration card to any elector requesting it." California Election Code section 507(b)(2). Violation of this section, or of any other provision of the Election Code relating to voter registration, is an infraction punishable by a fine of up to \$200. Election Code section 29205.

Very truly yours,

OLSON, CONNELLY & HASEL
Susan Christian
SUSAN CHRISTIAN

8C/Er

ANALYST: Mike Tangney

CONVERSATION WITH: Susan Christian

COMMITTEE: Sacramento Voter Education and Registration Project ("SVERP")

DATE: June 9, 1986

SUBJECT(S): Response to FEC letter of April 16, 1986

I called SVERP and was referred to Ms. Susan Christian, an attorney with the law firm of Olson, Connelly & Hagel. I asked Ms. Christian whether SVERP had responded yet to the letter that I had sent. She stated that she was unaware of my letter but that a response had been sent concerning Bob Matsui For Congress. I advised Ms. Christian that a letter should also be sent specifically addressing the letter sent to SVERP. Ms. Christian stated that another attorney, Mr. Lance Olson was the organizer of SVERP but would be on vacation until June 23, 1986 and that he could respond with more information.

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ANALYST: Mike Tangney

CONVERSATION WITH: Lance Olson

COMMITTEE: Sacramento Voter Education And Registration Project ("SVERP")

DATE: June 23 and June 27, 1986

SUBJECT(S): Response to FEC letter of April 16, 1986

I called Lance Olson on June 23, 1986 to discuss SVERP. I was informed that he was on another line and would return my call. On June 27, 1986 Mr. Olson called and was informed that a specific response should be filed concerning SVERP detailing the nature of the organization. Mr. Olson stated that he would take another look at the letter and that a response would be filed shortly.

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SENSITIVE

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

RECEIVED
OFFICE OF THE FEC
COMMISSION SECRETARY

FIRST GENERAL COUNSEL'S REPORT

86 DEC 5 AM: 14

DATE AND TIME OF TRANSMITTAL
BY OGC TO THE COMMISSION:

RAD 86L-20
STAFF MEMBER:
Garr

RESPONDENT'S NAME: Sacramento Voter Education and Registration
Project
Lance Olson, Representative

RELEVANT STATUTES: 2 U.S.C. §§ 433(a) and 434(a),

INTERNAL REPORTS CHECKED: FEC Disclosure Documents

FEDERAL AGENCIES CHECKED: N/A

GENERATION OF MATTER

The Sacramento Voter Education and Registration Project
("SVERP") and Lance Olson, as Representative, were referred to
OGC by RAD for failing to register and to report as a political
committee.

SUMMARY OF ALLEGATIONS

SVERP, an unregistered organization, received amounts
totalling \$20,000 from the Bob Matsui for Congress Committee
("Matsui Committee") and the Congressman Fazio Campaign Committee
("Fazio Committee").^{1/}

A Registration Notice was mailed to SVERP on April 16, 1986,
advising that the receipts from the Fazio Committee and the
Matsui Committee may have qualified SVERP as a political

1/ The 1985 Year End Reports filed by both committees disclosed a
\$10,000 contribution to SVERP on September 19, 1985, by the
Matsui Committee and a \$10,000 disbursement to SVERP for "Voter
Registration" on October 23, 1985, by the Fazio Committee.

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committee subject to the registration and reporting requirements of the Act. The Registration Notice advised SVERP either to submit a Statement of Organization and file disclosure reports or to make full contribution refunds to the candidates' principal campaign committees. A Second Notice was sent on May 8, 1986.

RFAIs were also sent to the Fazio and Matsui Committees regarding possible excessive contributions to SVERP.^{2/} A response submitted by the law firm of Olson, Connelly, and Hagel on behalf of the Matsui Committee stated that SVERP is a non-profit, unincorporated association that engages in voter registration activities.^{3/} Because "all donations received go toward expenses associated with its voter registration activity they are not 'contributions' nor 'expenditures' received for the purpose of influencing an election for federal office." Thus, the response concluded, SVERP does not meet the definition of political committee under the Act.

On June 9, 1986, a RAD analyst spoke with a member of the Olson, Connelly and Hagel law firm and advised that a response

^{2/} Two additional disbursements from the Matsui Committee and the Fazio Committee totalling \$10,500 were made to SVERP for "Voter Registration" and reported subsequent to sending notification of its registration and reporting obligations. The Fazio Committee disclosed a \$500 disbursement on June 25, 1986 and the Matsui Committee disclosed a \$10,000 disbursement on June 26, 1986.

^{3/} Lance Olson, an attorney with the firm, is the organizer of SVERP.

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should be sent to the Commission specifically addressing the May 8th letter. A similar request was made to Mr. Olson on June 27, 1986. As of this date the Commission has received no further response.^{4/}

LEGAL AND FACTUAL ANALYSIS

Pursuant to 2 U.S.C. § 431(4)(A) a political committee is defined as any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year.^{5/}

Further, the term "contribution" is defined as 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. 2 U.S.C. § 431(8)(A).

^{4/} This Office notes that on November 25, 1985, Lance Olson requested an advisory opinion on behalf of Congressman Vic Fazio regarding the establishment of a political committee "designed to support State and local candidates throughout the United States." While this committee would "make charitable contributions as authorized by State law," it would not be involved with the making of expenditures on behalf of his re-election efforts, nor in supporting other candidates for federal office. The request failed to address whether this proposed committee would undertake get-out-the-vote and voter registration activities.

At this point it is premature to suggest that SVERP is the same committee referred to in the AO request.

^{5/} Once an organization meets the definition of political committee, it is required to register with the Commission within 10 days of becoming a political committee and to file periodic reports of receipts and expenditures. 2 U.S.C. §§ 433(a) and 434(a).

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Similarly, "expenditure" includes any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value made by any person for the purpose of influencing any election for Federal office. 2 U.S.C. § 431(9)(A).

While the Act specifies that the term "expenditure" does not include non-partisan activity designed to encourage individuals to vote or to register to vote, the Act contains no such provision with respect to "contribution." The Commission's Regulations interpret "non-partisan activity" to mean that no effort is or has been made to determine the party or candidate preference of individuals before encouraging them to register to vote or encouraging them to vote. 11 C.F.R. § 100.8(b)(3).

In the May 6, 1986, letter SVERP is described as a non-profit, unincorporated association formed in 1984 whose "purpose is to encourage greater public participation in the electoral process in Sacramento County." The response continues:

SVERP received funds from the Sacramento area City, County, State and Federal elected officials. All donations received go towards expenses associated with its voter registration activity. SVERP has never made a direct contribution to any elected official.

Counsel argues that because funds received by SVERP are used solely for voter registration activities and not for the purpose of influencing any election for federal office, they cannot be construed as either contributions or expenditures within the

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meaning of the Act; consequently, he continued, SVERP would not fall within the definition of political committee.

Apart from the generalities of the response, the only information that the Commission has regarding SVERP's activities involves the \$30,500 in donations which it received from the Matsui and Fazio Committees. Because SVERP has received such large amounts of money from both committees and because the response fails to address whether SVERP's activities are "non-partisan" in nature, there is some question as to whether any of its activities were conducted on behalf of those candidates who have made contributions to SVERP. Until the Commission determines how this money to SVERP was given and spent, the Commission is unable to definitely establish that SVERP is not a federal political committee.

It is the view of the Office of General Counsel, then, that the Commission find reason to believe that SVERP is in violation of 2 U.S.C. §§ 433(a) and 434(a) and send the attached questions regarding the nature of SVERP's activities.^{6/}

Based on the responses to the proposed questions, it may become necessary to find reason to believe that the Fazio and Matsui Committees violated 2 U.S.C. § 441a(a)(1)(C). At this point it is premature to recommend such action by the Commission.

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RECOMMENDATIONS

The Office of General Counsel recommends that the Commission:

1. Open a MUR;
2. Find reason to believe that the Sacramento Voter Education and Registration Project and Lance Olson, as Representative, violated 2 U.S.C. §§ 433(a) and 434(a);
3. Approve and send the attached letter and questions.

Charles N. Steele
General Counsel

12/4/86
Date

BY: Lawrence M. Noble (LH2)
Lawrence M. Noble
Deputy General Counsel

Attachments:

1. Referral
2. Proposed letter and questions
3. Legal and factual analysis

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES N. STEELE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/CHERYL A. FLEMING *CF*

DATE: DECEMBER 9, 1986

SUBJECT: OBJECTION TO RAD 86-20: 1st GENERAL COUNSEL'S
SIGNED DECEMBER 4, 1986

The above-captioned document was circulated to the Commission on Friday, December 5, 1986 at 2:00 P.M.

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

Commissioner Aikens	_____
Commissioner Elliott	_____
Commissioner Josefiak	_____
Commissioner McDonald	_____
Commissioner McGarry	_____
Commissioner Thomas	_____ x _____

This matter will be placed on the Executive Session agenda for Tuesday, December 16, 1986.

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RAD 86L-20 (MUR 2303)

CERTIFICATION

1. Open a Matter Under Review (MUR).
2. Find reason to believe that the Sacramento Voter Education and Registration Project and Lance Olson, as Representative, violated 2 U.S.C. §§ 433(a) and 434(a).
3. Approve and send the letter attached to the General Counsel's report, and send the questions submitted by Commissioner Thomas at the meeting.

Attest:

Margaret W. Emmen.

Marjorie W. Emmons
Secretary of the Commission



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

January 6, 1987

Lance Olson, Representative
Sacramento Voter Education and Registration Project
Olson, Connelly, and Hagel
431 J Street, 4th Floor
Sacramento, CA 95814

RE: MUR 2303
Sacramento Voter Education and
Registration Project
Lance Olson, Representative

Dear Mr. Olson:

On December 16, 1986, the Federal Election Commission determined that there is reason to believe that the Sacramento Voter Education and Registration Project and you, as its Representative, violated 2 U.S.C. §§ 433(a) and 434(a), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The General Counsel's factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you and the committee. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Please submit any such materials, along with your answers to the enclosed questions, within fifteen days of your receipt of this letter.

In the absence of any additional information which demonstrates that no further action should be taken against your committee and you, as its Representative, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or

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recommending declining that pre-probable cause conciliation be pursued. The Office of General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, requests for pre-probable cause conciliation will not be entertained after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of General Counsel is not authorized to give extensions beyond 20 days.

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.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Shelley Garr, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,



Scott Thomas
Chairman

Enclosures

General Counsel's Factual and Legal Analysis
Procedures
Designation of Counsel Statement

98040584375

CC# 2546

LAW OFFICES OF
LEROY Y. FONG, INC.

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RECEIVED
COMMISSION SECRETARY

January 21, 1987

Mr. Scott Thomas, Chairman
Federal Election Commission
Washington, D.C. 20463

RE: NUR 2303
Sacramento Voter Education and Registration Project
Lance Olson, Representative

Dear Mr. Thomas:

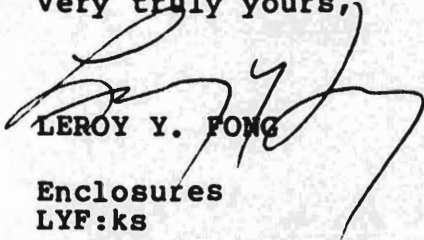
I am responding to your letter of January 6, 1987 on behalf of Lance Olson and the Sacramento Voter Education and Registration Project. Enclosed is the Statement of Designation of Counsel.

I am also enclosing Mr. Olson's answers to the questions submitted by the Commission regarding the Sacramento Voter Education and Registration Project (SVERP). It is our position that the organization and operation of SVERP, as detailed in the answers to the questions submitted, are such that SVERP does not constitute a political committee that would fall within the purview of the Federal Election Campaign Act of 1971. The monies received and expended by SVERP were not for the purpose of influencing any election for federal office. This position was stated in the letter dated May 6, 1986 from Mr. Olson's office to Robin Kelly of the Commission.

After the May 6, 1986 letter from Ms. Susan Christian of Mr. Olson's office was sent, Ms. Christian did talk to Mike Tangney, a Reports Analyst of the Commission, and advised Mr. Tangney that the response in the May 6th letter should serve as a response to the May 8th letter from the Commission. Since Ms. Christian's letter of May 6, 1986 referenced SVERP and its contents related solely to SVERP, Mr. Olson felt that the letter was a sufficient response.

Although Mr. Olson is confident of the correctness of his position on the issue, he does not feel that the issue is of such significance to either SVERP or the Commission that the matter cannot be resolved through conciliation. Therefore we are requesting at this time that conciliation be pursued.

Very truly yours,


LEROY Y. FONG
Enclosures
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**QUESTIONS
FOR THE
SACRAMENTO VOTER EDUCATION
AND REGISTRATION
PROJECT**

1. Please describe the nature and type of SVERP's activities.
2. What type of communications have been sent or distributed by SVERP? What was the content of the communications? Please forward a copy of each communication disseminated since 1985.
3. How has SVERP determined which individuals it will seek to register to vote? What criteria have been used? What methods have been used to identify prospective registrants?
4. Please provide the names of candidates (federal or nonfederal), if any, supported by SVERP.
5. How has SVERP decided on which candidates (federal or nonfederal), if any, to support?
6. Please state whether SVERP has made any communications expressly naming candidate(s) for federal office. If so, for each communication, state:
 - a. The name of the candidate and office sought;
 - b. The cost of the communication.

Please provide a copy of such communication if not already done pursuant to question 2.
7. From whom has SVERP receive its funds? Please identify (including dates received and amounts) all funds SVERP has received since 1985, from:
 - a. Federal candidates
 - b. Corporations and labor organizations
8. Has SVERP engaged in "get-out-the-vote" activities? If so, state whether SVERP targeted any group or persons for its "get-out-the-vote" activities and identify such groups or persons.
9. Has SVERP engaged in slate card mailing operations? If so, please explain.
10. Please state whether SVERP has ever inquired about the party or candidate preference of an individual prior to encouraging such individual to register to vote or to vote.

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**ANSWERS TO QUESTIONS SUBMITTED
FOR THE
SACRAMENTO VOTER EDUCATION AND
REGISTRATION PROJECT**

1. Please describe the nature and type of SVERP's activities.

Answer: SVERP's activities are exclusively related to voter registration. Specifically, SVERP employs individuals to set up voter registration booths in major shopping centers, malls, etc., where they register voters by having them complete voter registration affidavits. Generally these individuals participate in a voter registration seminar conducted by the Sacramento County Elections and Voter Registration office where they are trained and advised of applicable state election laws.

2. What type of communications have been sent or distributed by SVERP? What was the content of the communications? Please forward a copy of each communication disseminated since 1985.

Answer: To my knowledge SVERP has never published anything. The only printed material used by SVERP are the voter registration affidavits furnished by the County of Sacramento.

3. How has SVERP determined which individuals it will seek to register to vote? What criteria have been used? What methods have been used to identify prospective registrants?

Answer: The SVERP employees are sent to various shopping centers and similar areas where a large crowd of people are likely to pass by. These areas tend to be in new growing neighborhoods. In addition, major events will be targeted for voter registration i.e. state fair, crafts festivals, etc. The booth or table is clearly marked as a voter registration area and as people pass by they are asked if they are registered to vote. If they are not the prospective voter is given a voter registration affidavit to complete.

4. Please provide the names of candidates (federal or non-federal), if any, supported by SVERP.

Answer: SVERP does not specifically support any candidate for public office. All its funds are used for voter registration. It has never made a campaign contribution to any candidate at any level.

5. How has SVERP decided on which candidates (federal or nonfederal), if any, to support?

Answer: N/A

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Answers - Page Two

6. Please state whether SVERP has made any communications expressly naming candidate(s) for federal office. If so, for each communication state:

- a) The name of the candidate and office sought
- b) The cost of the communication.

Please provide a copy of such communication if not already done pursuant to question 2.

Answer: None have been made.

7. From whom has SVERP received its funds? Please identify (including dates received and amounts) all funds SVERP has received since 1985, from:

- a) federal candidates
- b) corporations and labor organizations

Answer: SVERP receives its funds primarily from federal, state and local candidates for public office all of whom are either Democrats or nonpartisan.

a) Federal candidates:

Bob Matsui	9/23/85	\$10,000.00
" "	3/17/86	10,000.00
" "	6/27/86	10,000.00
" "	6/27/86	500.00
" "	10/8/86	5,000.00
Vic Fazio	10/25/85	10,000.00
" "	3/17/86	10,000.00
" "	6/30/86	500.00
" "	7/14/86	10,000.00
" "	11/4/86	1,500.00

b) Corporations and labor organizations:

International Brotherhood
of Electrical Workers 6/18/86 \$637.50

Textile Processors, Service Trades
Health Care, Professional & Technical
Employees Int'l. Union 6/18/86 \$50.00

TIP Education Fund 6/19/86 \$500.00

U.A. Local 447 1/20/86 \$3,000.00

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Answers - Page Three

8. Has SVERP engaged in "get-out-the-vote" activities? If so, state whether SVERP targeted any group or persons for its "get-out-the-vote" activities and identify such groups or persons.

Answer: No.

9. Has SVERP engaged in slate card mailing operations? If so please explain.

Answer: No.

10. Please state whether SVERP has ever inquired about the party or candidate preference of an individual prior to encouraging such individual to register to vote or to vote.

Answer: To my knowledge SVERP's policy is not to make inquiry about party preference prior to encouraging individuals to register. SVERP employees are instructed to first inquire if the prospective voter is registered to vote. If they are not, they are asked if they would like to register. If yes, they are given an official Voter Registration Affidavit to complete. Party affiliation is readily obtained from the registration affidavit. State law prohibits any person seeking to register voters from denying or failing to give a prospective voter a registration affidavit. All SVERP personnel are advised of this law prior to employment.

Those persons who register as Democrat have their affidavits returned to SVERP for tabulation prior to submitting to the County Registrar of Voters. The other affidavits are mailed to the Registrar or returned to the registrant for mailing.

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STATEMENT OF DESIGNATION OF COUNSEL

MUR 2303

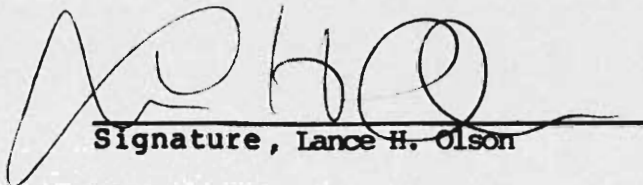
NAME OF COUNSEL: Leroy Y. Fong

ADDRESS: 431 J Street, Fourth Floor
Sacramento, California 95814

TELEPHONE: (916) 444-9251

The above-named individual is hereby designated as my
counsel and is authorized to receive any notifications and other
communications from the Commission and to act on my behalf before
the Commission.

January 21, 1987
Date


Signature, Lance H. Olson

RESPONDENT'S NAME: Sacramento Voter Education and Registration Project

ADDRESS: Lance H. Olson, Representative
431 J Street, Fourth Floor
Sacramento, California 95814

HOME PHONE: _____

BUSINESS PHONE: (916) 442-2952

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RECEIVED
OFFICE OF THE
GENERAL COUNSEL

LAW OFFICES OF
LEROY Y. FONG

87 FEB 24 P 3: 55

February 18, 1987

Shelley Garr
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

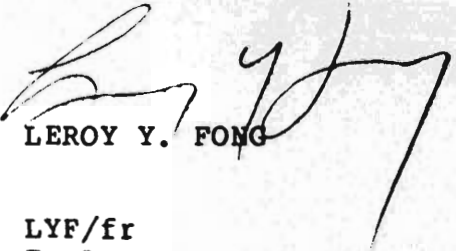
Re: MUR 2303

Dear Ms. Garr:

As indicated in our telephone conversation, I am sending you a copy of the agreement that each voter registration solicitor signs with SVERP, along with the appropriate California Elections Code sections by which the solicitor agrees to abide. The solicitors were hired through newspaper advertisements and each one hired attended a training seminar given by either SVERP or the local County Registrar.

If you have further questions, please call.

Very truly yours,


LEROY Y. FONG

LYF/fr
Encls.

cc: Lance Olson

This AGREEMENT made this _____ day of _____, 1985
is between _____, having a principal place of
business at _____, hereinafter referred to as
the Client, and _____, an independent contractor,
having a principal place of business at _____, here-
inafter referred to as the Contractor.

1. This agreement will become effective on _____, 1985 and will continue in effect until _____, 1985, and may be canceled by either party at will.

2. Contractor is hereby hired to solicit voter registration by collecting voters' signatures at shopping malls, by door-to-door contact, or by other such means which are lawful and effective.

3. Contractor agrees to abide by the California Election Code in procuring voters' signatures, and particularly agrees to comply with Election Code §§29200 et seq. Specifically, Contractor agrees:

a. to procure only the registrations of existent persons known to be entitled to register pursuant to Election Code §100;

b. not to tamper with the party affiliation declarations of voters; and

c. to comply with Election Code §507 with regard to the processing of voter registration cards.

4. In consideration for the services to be performed by Contractor, Client agrees to pay Contractor _____ per signature of Democratic registrant only; Contractor understands, however, that nothing in this agreement prohibits the procurement of voters members of other political parties.

5. Contractor shall indemnify and save Client harmless from all liability from loss, damage, or injury to persons or property resulting from the negligence or misconduct of Contractor.

This agreement will be governed by and construed in accordance with the laws of the State of California.

Executed at _____, California on the date
and year first above written.

CLIENT: _____
By: _____

CONTRACTOR: _____
By: _____

the postal authorities to the county clerk that the notification was sent, or that the notification card was processed, the county clerk not of that information entitled to vote pursuant

Amended by Stats 1982 ch 1166 § 2

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to be known as a voter all include information affidavit and to inform registered until a voter portion of the multipart noted by the Secretary of voter registration cards to the affidavit portion a ly of the affidavit by a

(e) Be returnable to the county clerk as a self-enclosed mailer with postage paid by the Secretary of State.

Nothing contained in the division shall prevent the use of voter registration cards and affidavits of registration in existence on the effective date of this section and produced pursuant to regulations of the Secretary of State, and all references to voter registration cards and affidavits in this division shall be applied to such existing voter registration cards and affidavits of registration.

Amended Stats 1977 ch 1116 § 8.

Amendments:

1977 Amendment: (1) Substituted subd (d) for the former subd (d); and (2) added the last paragraph.

Those sections of the Elections Code which are inconsistent with the explicit language of Cal. Const., art. II, § 4, providing for the disqualification of electors while imprisoned or on parole for the conviction of a felony, are constitutionally invalid and ineffectual. Language repugnant to the constitutional provision includes "conviction of a felony which disqualifies," contained in Elec. Code, §§ 101, 102 (providing for determination of

eligibility to vote), 500, 506 (providing for the contents and form of the affidavit of registration to vote), and 14216 (providing for oral challenge of a person offering to vote), as well as language relating to "infamous crimes" as such language appears in code provisions concerning the cancellation of a registration to vote (Elec. Code, §§ 701, 707, 708). Flood v Riggs (1978) 80 CA3d 138, 145 Cal Rptr 573.

§ 507. Duties of county clerk in addition to registration conducted by deputy registrars of voters; availability of voter registration cards

In addition to registration conducted by deputy registrars of voters, the county clerk shall, as follows:

(a) Provide voter registration cards for the registration of voters at his office and in sufficient number of locations throughout the county for the convenience of persons desiring to register, to the end that registration may be maintained at a high level.

(b) Provide voter registration cards in sufficient quantities to any citizens or organizations who wish to distribute such cards other than to persons who have been convicted of violating this section within the last five years. Citizens and organizations shall be permitted to distribute voter registration cards anywhere within the county.

(1) If, after completing his or her voter registration affidavit, an elector entrusts it to another person, the latter shall sign and date the attached, numbered receipt indicating his or her address and telephone number, if any, and give the receipt to the elector. Failure to comply with this paragraph shall not cause the invalidation of the registration of a voter.

(2) Any citizen or organization which distributes voter registration cards shall give a voter registration card to any elector requesting it; provided, that the citizen or organization, has a sufficient number of cards.

(3) If distribution of voter registration cards pursuant to this subdivision is undertaken by mailing cards to persons who have not requested the cards, the person mailing the cards shall enclose a cover letter or other notice with each card instructing the recipients to disregard the cards if they are currently registered voters.

(c) Mail a voter registration card immediately to any person who wishes to register to vote and requests a voter registration card.

Amended Stats 1977 ch 1116 § 9; Stats 1981 ch 551 § 1.

Amendments:

1977 Amendment: Added the second and third paragraphs in subd (b).

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ended Stats 1982 ch 109 § 11.

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ays" for "104 nor less than 74 days"; and

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and qualified. Immediately after the canvass of votes of a recall election at which a majority of the legislative body is recalled, and regardless of the results of the vote on the question set forth in Section 27311, the clerk shall call a special election to fill the vacancies arising as a result of the recall election, which special election shall be held within 89 days after the canvass of votes of the election at which they were recalled. The duties of the governing body of the city with respect to the holding of such special election shall be performed by the clerk. The vote of the special election shall be canvassed by the clerk, who shall declare the result. If the clerk has also been recalled, then the board of supervisors shall perform the clerk's duties.

Amended Stats 1984 ch 882 § 2.

Amendments:

1984 Amendment: (1) Added "of a recall election at which a majority of the legislative body is recalled, and regardless of the results of the vote on the question set forth in Section 27311" in the second sentence; and (2) substituted "the clerk's" for "his" in the last sentence.

§ 27341. Nominations of candidates; Exceptions

Nominations of candidates to succeed the recalled officer shall be made in the manner prescribed for nominating a candidate to that office in a regular election insofar as that procedure is consistent with this article. The following exceptions shall be made to that procedure:

(a) The nomination papers and the declaration of candidacy shall, in each case, be filed no less than 68 days prior to the date of the election and not before the day the order of the election is issued.

(b) If the clerk is required to certify to the governing board the names of the candidates to be placed on the ballot, that shall be done by the 64th day prior to the election.

(c) No person whose recall is being sought may be a candidate to succeed himself or herself at a recall election.

Amended Stats 1983 ch 142 § 19; Stats 1984 ch 1023 § 9.

Amendments:

1983 Amendment: Routine code maintenance.

1984 Amendment: Substituted (1) "68 days" for "59 days" in subd (a); and (2) "64th day" for "54th day" in subd (b).

§ 29200. Causing, procuring, or allowing unlawful registration

(a) Every person who willfully causes, procures, or allows himself or any other person to be registered as a voter, knowing that he or that other person is not entitled to registration, is punishable by imprisonment in the state prison for 16 months or two or three years, or in a county jail for not more than one year.

(b) Every person who knowingly and willfully signs, or causes or procures the signing of an affidavit of, registration of a nonexistent person, and who mails or delivers, or causes or procures the mailing or delivery of, such affidavit to a county clerk is guilty of a crime punishable by imprisonment in the state prison for 16 months or two or three years, or in a county jail for not more than one year. For purposes of this subdivision, "nonexistent person" includes, but is not limited to, deceased persons, animals, and inanimate objects.

Amended Stats 1979 ch 1032 § 1.

Amendments:

1979 Amendment: (1) Designated the former section to be subd (a); and (2) added subd (b).

§ 29200.5. Registration of fictitious person

Every person who knowingly and willfully completes, or causes or procures the completion, in whole or in part, of an affidavit of registration or a voter registration card, with the intent to cause the registration or reregistration as a voter, of a fictitious person or of any person who has not requested registration or reregistration as a voter, is guilty of a crime punishable by imprisonment in the state prison for 16 months or two or three years, or in a county jail for not more than one year.

Added Stats 1985 ch 894 § 1.

§ 29202. Interference with transfer of completed affidavit of registration, etc.

Any person who (a) willfully interferes with the prompt transfer of a completed affidavit of registration to the county clerk, (b) retains a voter's completed registration card, without the voter's authorization, for more than three days, excluding Saturdays, Sundays, and state holidays, or (c) denied a voter the right to return to the county clerk the voter's own completed registration card is guilty of a misdemeanor.

Amended Stats 1977 ch 1116 § 11.

Amendments:

1977 Amendment: Amended the section to read as at present.

§ 29203.7. Prohibition against statements indicating support or opposition to candidate or measure

No affidavit of registration or voter registration card shall contain, and no person other than the registrant shall write on or affix, or cause to be written on or affixed, thereto, any statement urging or indicating support or opposition to any candidate or measure.

Any person who violates this section is guilty of a misdemeanor.

Added Stats 1985 ch 346 § 1.

Misdemeanors: Pen C §§ 17, 19, 19a.

§ 29204. Unauthorized alteration of party affiliation declaration: Punishment

Every person is punishable by imprisonment in the state prison for 16 months or two or three years or in the county jail for not more than one year who, without the specific consent of the affiant, willfully and with the intent to affect the affiant's voting rights, causes, procures, or allows the completion, alteration, or defacement of the affiant's party affiliation declaration contained in an executed, or partially executed, affidavit of registration pursuant to subdivision (h) of Section 500 and Section 501.

This section shall not apply to a county clerk carrying out his or her official duties.

Added Stats 1979 ch 565 § 1.

§ 29205. Violation of voter registration provisions

Every person who willfully violates Section 507 is guilty of an infraction, punishable by a fine not to exceed two hundred dollars (\$200).

Added Stats 1981 ch 551 § 2.

§ 29303. Filing false nomination paper or declaration of candidacy

In an election contest in which it was found that a candidate had committed the criminal offense of filing a declaration of candidacy knowingly and willfully made (Elec. Code, § 29303), the contestants had the burden of proving that the candidate had committed an offense against the franchise by a preponderance of the evidence. *Harrold v Harrold* (1982, 4th Dist) 138 C 415, 188 Cal Rptr 458.

In an action contesting the election of a county judge (Elec. Code, § 20021), substantial evidence to support the trial court's findings that the elected candidate had committed an offense against the elective franchise by filing a declaration of candidacy while she was not a resident of the county on the date she filed her declaration of candidacy was that she was then a resident of the county (Elec. Code, § 29303), where the evidence showed that her use of her property in the county was occasional only. Therefore, the trial court's finding was supported by the evidence.

§ 29305. Intimidating candidate

A person shall not directly or indirectly solicit, or receive or cause to be received, money or other valuable consideration in order to induce a person not to run for or hold public office. Violation of this section is punishable in the state prison for 16 months or two or three years.

Amended Stats 1977 ch 1112 § 1.

Amendments:

1977 Amendment: Substituted "advanced" for "advance" and "Review of Selected 1977 California Legislation."

§ 29410. [Added Stats 1976 ch 1096, effective September 30, 1976; Stats 1983 ch 668 § 4.]

Note—Stats 1977 ch 976 also provides:

- (a) That a need exists for adequate identification in order to assist them in making rational choices.
- (b) That by requiring such identification, the source of campaign material, may be more readily identified and falsity.
- (c) That by requiring identification, and the heat of a campaign, will be discouraged.
- (d) That by requiring identification, a cause of redress in a civil action for damages.
- (e) That limiting identification requirements to attacks on candidates or measures can be pejorative.

(f) That a distinction needs to be made between more than a "Vote for _____" message, on the one hand, and campaign literature, on the other, because of the undue burden to require that identification in the case of the former, because of their Review of Selected 1977 California Legislation.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO:

CHARLES N. STEELE
GENERAL COUNSEL

FROM:

MUR (m)
MARJORIE W. EMMONS/JOSHUA MCFADDEN JM

DATE:

MARCH 10, 1987

SUBJECT:

MUR 2303 - COMPREHENSIVE INVESTIGATIVE REPORT #1
SIGNED MARCH 6, 1987

8 3 0 4 0 5 8 4 3 9 7
The above-captioned matter was received in the Office of the Secretary of the Commission Monday, March 9, 1987 at 12:26 P.M. and circulated to the Commission on a 24-hour no-objection basis Monday, March 9, 1987 at 4:00 P.M.

There were no objections received in the Office of the Secretary of the Commission to the Comprehensive Investigative Report #1 at the time of the deadline.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Sacramento Voter Education and
Registration Project

Lance Olsen, Representative

MUR 2303

COMPREHENSIVE INVESTIGATIVE REPORT #1

On December 16, 1986, the Commission found reason to believe that the Sacramento Voter Education and Registration Project ("SVERP") and Lance Olsen, as Representative, violated 2 U.S.C. §§ 433(a) and 434(a) for failing to register and report as a political committee. The Commission also approved the issuance of questions to SVERP to determine the nature of SVERP's activities and to determine how SVERP received its funding.

By letter dated January 21, 1987, the Commission received Mr. Olsen's response to its notification and questions. His response, however, failed to adequately address whether SVERP engages in any party-related voter registration activities.

Subsequently, this Office has been in contact with counsel for SVERP and has requested more detailed information and documentation. Upon receipt of this information, this Office will proceed to the next step in the enforcement process.

Charles N. Steele
General Counsel

Date

3/6/87

BY:

Lois G. Lerner
Associate General Counsel

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SECRET
FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20543

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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87 OCT -2 AM 9:31

September 30, 1987

MEMORANDUM

TO: The Commission
FROM: Lawrence M. Noble
Acting General Counsel
SUBJECT: MUR #2303

Attached for the Commission's review is a brief stating the position of the General Counsel on the legal and factual issues of the above-captioned matter. A copy of this brief and a letter notifying the respondent of the General Counsel's intent to recommend to the Commission a finding of no probable cause to believe was mailed on September 30, 1987. Following receipt of the respondent's reply to this notice, this Office will make a further report to the Commission.

Attachments

- 1-Brief
- 2-Letter to respondent

LMM (HJ)

88040584389



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 30, 1987

Leroy Fong, Esquire
431 H Street, 4th Floor
Sacramento, CA 95814

RE: MUR 2303
Sacramento Voter
Education and
Registration Project
Lance Olson, as
representative

Dear Mr. Fong:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on December 16, 1986, found reason to believe that your clients, the Sacramento Voter Education and Registration Project and Lance Olson, as Representative, violated 2 U.S.C. §§ 433(a) and 434(a), and instituted an investigation in this matter.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 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 the 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 whether there is 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 for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

Should you have any questions, please contact Shelley Garr, the staff member assigned to handle this matter, at (202) 376-8200.

Sincerely,

Lawrence M Noble (H2)

Lawrence M. Noble
Acting General Counsel

Enclosure
Brief

98040584391

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Sacramento Voter Education and) MUR 2303
Registration Project)
Lance Olson, as Representative)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On December 16, 1986, the Commission found reason to believe that the Sacramento Voter Education and Registration Project ("SVERP") and Lance Olson, as Representative, violated 2 U.S.C. §§ 433(a) and 434(a) for failing to register and to report as a political committee.^{1/} The Commission also approved the issuance of questions to SVERP to determine the nature of SVERP's activities and to determine how SVERP received its funding.

In his response to the Commission's findings and questions, dated January 21, 1987, Mr. Olson addressed the following issues:

A. Nature and type of activities -- SVERP's activities "are exclusively related to voter registration." SVERP employees (who, generally have participated in a voter registration seminar conducted by the Sacramento County Election and Voter Registration office) set up voter registration booths at shopping centers, state fairs, and similar areas where crowds of people are expected to assemble. As people pass by the booth, they are asked if they are registered to vote; if not, the prospective voter is given a voter registration affidavit which is furnished by the County of Sacramento. No other type of communication is

^{1/} The finding was based on SVERP's receipt of \$35,500 in Contributions from Rep. Bob Matusi between 9/23/85 and 10/8/86 and \$32,000 from Rep. Vic Fazio between 10/25/85 and 11/4/86.

published or furnished by SVERP. Those persons registering as Democrats have their affidavit returned to SVERP for tabulation.^{2/}

B. Candidates supported by SVERP -- SVERP does not "specifically support any candidate for public office." All funds are used for voter registration activities; no campaign contributions to a candidate at any level has been made by SVERP.

C. Source of funds -- SVERP receives its funds primarily from Federal, State, and local candidates for public office "all of whom are either Democrats or non-partisan." SVERP received \$35,500 from Rep. Bob Matsui between 9/23/85 and 10/8/86, and \$32,000 from Rep. Vic Fazio between 10/25/86 and 11/4/86. Additionally, SVERP reported receiving \$4,187.50 from four labor organizations between 1/20/86 and 6/18/86.

D. Other activities -- SVERP does not engage in slate card mailing operations or get-out-the-vote activities.

E. Determination of party-affiliation -- SVERP does not inquire about party preference prior to encouraging persons to register to vote.

SVERP's policy is not to make inquiry about party preference prior to encouraging individuals to register.

^{2/} In a subsequent telephone conversation, counsel explained that a tabulation was kept, because the persons who manned the voter registration tables received payment for the number of Democrats who registered to vote at the rate of \$1.50/registering Democrat. Subsequent to the conversation, counsel forwarded to the Commission a copy of the voter registration affidavit.

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SVERP employees are instructed to first inquire if the prospective voter is registered to vote. If they are not, they are asked if they would like to register. If yes, they are given an official Voter Registration Affidavit to complete.

II. ANALYSIS

Pursuant to 2 U.S.C. 431(4), the term "political committee" means any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year. The term contribution is defined as 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. 2 U.S.C. § 434(8)(A). Similarly, the term "expenditure" includes any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office. 2 U.S.C. § 431(9)(A).

The Act specifies that the term "expenditure" does not include non-partisan activity designed to encourage individuals to vote or to register to vote. 2 U.S.C. § 431(a)(B)(ii). The Commission's Regulations interpret non-partisan activity to mean that no effort is or has been made to determine the party or candidate preference of individuals before encouraging them to

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register to vote or encouraging them to vote. 11 C.F.R. § 100.8(b)(3).

In his response to the Commission's inquiry, counsel explained that SVERP's activities are exclusively related to voter registration. Although SVERP's funding came from Federal, State, and local sources, including \$67,000 from 2 Federal candidates between 9/23/85 and 11/4/86, SVERP did not specifically support any candidate for Federal office, nor did it make communciations or contributions to any candidate on any level.

While SVERP did tabulate those persons who registered to vote on the Democratic ticket and paid employees for each new Democratic registrant, no attempt was made to determine party affiliation before urging those individuals to register. Because non-partisan activity is interpreted to mean that no effort has been made to determine candidate or party preference before encouraging voter registration, it appears that SVERP's activites were non-partisan in nature and thus not subject to the definition of expenditure or contribution.

Based on the response to the Commission's questions, it appears that SVERP did not engage in partisan activities pursuant to 11 C.F.R. § 100.8(b)(3). It follows, then, that SVERP's activities would not constitute expenditures pursuant to 2 U.S.C. § 431(A)(8) and, thus, SVERP does not fit within the definition of a political committee.

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This Office recommends that the Commission find no probable cause to believe that SVERP and Lance Olson, as Representative, violated 2 U.S.C. §§ 433(a) and 434(a).

Date

9/29/87

Lawrence M. Noble (712)
Lawrence M. Noble
Acting General Counsel

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LERÖY Y. FONG

LAW OFFICES OF
OLSON, CONNELLY & HAGE
431 J STREET, FOURTH FLOOR
SACRAMENTO, CALIFORNIA 95814
TELEPHONE (916) 442-2952

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

7 NOV -4 AM 10:04

OF COUNSEL

LLOYD G. CONNELLY, Member
of the State Legislature

HAND DELIVERED

November 3, 1987

Shelley Garr
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

RE: MUR 2303

Dear Ms. Garr:

Enclosed please find the Response to General Counsel's Brief. I have enclosed the original and ten copies pursuant to your request.

Thank you for your assistance in this matter.

Very truly yours,

OLSON, CONNELLY & HAGE

LERÖY Y. FONG

Enclosure
LHO:kh

cc: Office of General Counsel

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

87 NOV -4 PM 12:10

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1 OLSON, CONNELLY & HAGEL
2 431 J Street - 4th Floor
3 Sacramento, CA 95814

4 (916) 442-2952

5 Attorneys for Respondents

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7
8 **BEFORE THE FEDERAL ELECTION COMMISSION**

9
10 In the Matter of) **MUR 2303**
11 Sacramento Voter Education and) **RESPONSE TO GENERAL**
12 Registration Project) **COUNSEL'S BRIEF**
13 Lance Olson, as Representative)

14 The Respondents, Sacramento Voter Education and
15 Registration Project and Lance Olson, as Representative, agree
16 with the analysis and conclusion reached in the General
17 Counsel's Brief, and concurs with the recommendation that the
18 Commission find no probable cause to believe that Sacramento
19 Voter Education and Registration Project and Lance Olson, as
20 Representative, violated 2 U.S.C. §§433(a) and 434(a).

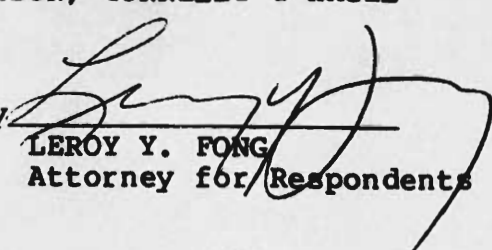
21 Respondents would note that the General Counsel's brief,
22 while well reasoned, did not point out one very important
23 factor. Sacramento Voter Education and Registration Project
24 employees were required to follow California Voter Registration
25 statutes (in fact those laws were referenced in the employment
26 contracts signed by the employees). Those statutes

1 specifically make it a crime to refuse to register a voter.
2 Certainly these criminal sanctions would act as an incentive
3 for the employees not to discriminate on the basis of party
4 affiliation.

5
6 DATED: November 3, 1987

OLSON, CONNELLY & HAGEL

7
8 By


9 LEROY Y. FONG
10 Attorney for Respondents
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BEFORE THE FEDERAL ELECTION COMMISSION NOV 20 PM 3:50

In the Matter of)
Sacramento Voter Education and)
Registration Project)
Lance Olson, as representative)

MUR 2303

SENSITIVE
EXECUTIVE SESSION
DEC 01 1987

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On December 16, 1986, the Commission found reason to believe that the Sacramento Voter Education and Registration Project ("SVERP") and Lance Olson, as representative, violated 2 U.S.C. §§ 433(a) and 434(a) for failing to register and to report as a political committee.^{1/} The Commission also approved the issuance of questions to SVERP to determine the nature of SVERP's activities and to determine how SVERP received its funding.

In his response to the Commission's findings and questions, dated January 21, 1987, Mr. Olson addressed the following issues:

A. Nature and type of activities -- SVERP's activities "are exclusively related to voter registration." SVERP employees (who, generally have participated in a voter registration seminar conducted by the Sacramento County Election and Voter Registration office) set up voter registration booths at shopping centers, state fairs, and similar areas where crowds of people are expected to assemble. As people pass by the booth, they are asked if they are registered to vote; if not, the prospective

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voter is given a voter registration affidavit which is furnished by the County of Sacramento. No other type of communication is published or furnished by SVERP. Those persons registering as Democrats have their affidavit returned to SVERP for tabulation.^{2/}

- B. Candidates supported by SVERP -- SVERP does not "specifically support any candidate for public office." All funds are used for voter registration activities; no campaign contributions to a candidate at any level has been made by SVERP.
- C. Source of funds -- SVERP receives its funds primarily from Federal, State, and local candidates for public office "all of whom are either Democrats or non-partisan." SVERP received \$35,500 from Rep. Bob Matsui between 9/23/85 and 10/8/86, and \$32,000 from Rep. Vic Fazio between 10/25/86 and 11/4/86. Additionally, SVERP reported receiving \$4,187.50 from four labor organizations between 1/20/86 and 6/18/86.
- D. Other activities -- SVERP does not engage in slate card mailing operations or get-out-the-vote activities.
- E. Determination of party-affiliation -- SVERP does not inquire about party preference prior to encouraging persons to register to vote.

^{2/} In a subsequent telephone conversation, counsel explained that a tabulation was kept, because the persons who manned the voter registration tables received payment for the number of Democrats who registered to vote at the rate of \$1.50/registering Democrat. Subsequent to the conversation, counsel forwarded to the Commission a copy of the voter registration affidavit.

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SVERP's policy is not to make inquiry about party preference prior to encouraging individuals to register. SVERP employees are instructed to first inquire if the prospective voter is registered to vote. If they are not, they are asked if they would like to register. If yes, they are given an official Voter Registration Affidavit to complete.

On September 30, 1987, the Office of General Counsel forwarded to SVERP its Brief recommending that the Commission find no probable cause to believe that SVERP violated 2 U.S.C. §§ 433(a) and 434(a). A telephone conversation with counsel and his response to the Brief followed. (See Attachment I).

II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 431(4), the term "political committee" means any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year. The term "contribution" is defined as 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. 2 U.S.C. § 434(8)(A). Similarly, the term "expenditure" includes any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office. 2 U.S.C. § 431(9)(A).

The Act specifies that the term "expenditure" does not include non-partisan activity designed to encourage individuals to vote or to register to vote. 2 U.S.C. § 431(a)(B)(ii). The Commission's Regulations interpret non-partisan activity to mean that no effort is or has been made to determine the party or candidate preference of individuals before encouraging them to register to vote or encouraging them to vote. 11 C.F.R. § 100.8(b)(3).

In his response to the Commission's inquiry, counsel explained that SVERP's activities are exclusively related to voter registration. Although SVERP's funding came from Federal, State, and local sources, including \$67,000 from 2 Federal candidates between 9/23/85 and 11/4/86, SVERP did not specifically support any candidate for Federal office, nor did it make communications or contributions to any candidate on any level.

While SVERP did tabulate those persons who registered to vote on the Democratic ticket and paid employees for each new Democratic registrant, no attempt was made to determine party affiliation before urging those individuals to register. Because non-partisan activity is interpreted to mean that no effort has been made to determine candidate or party preference before encouraging voter registration, it appears that SVERP's activities were non-partisan in nature and thus not subject to the definitions of "expenditure" or "contribution."

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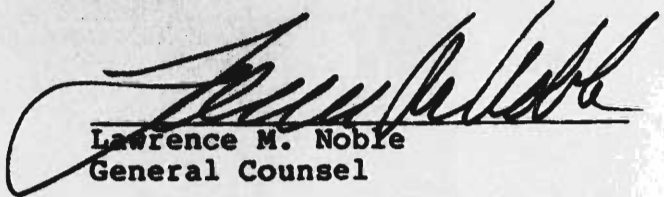
Based on the response to the Commission's questions, it appears that SVERP did not engage in partisan activities pursuant to 11 C.F.R. § 100.8(b)(3). It follows, then, that SVERP's activities would not constitute expenditures pursuant to 2 U.S.C. § 431(A)(8) and, thus, SVERP does not fit within the definition of a political committee.

III. RECOMMENDATION

1. Find no probable cause to believe that the Sacramento Voter Education and Registration Project and Lance Olson, as treasurer, violated 2 U.S.C. §§ 433(a) and 434(a);
2. Close the file;
3. Approve and send the attached letter.

Date

11/20/57


Lawrence M. Noble
General Counsel

Attachment
Proposed letter
Response

89040384404

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Sacramento Voter Education and)
Registration Project) MUR 2303
Lance Olson, as representative)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the
Federal Election Commission executive session of December 1,
1987, do hereby certify that the Commission decided by a vote
of 6-0 to take the following actions in MUR 2303:

1. Find no probable cause to believe that the
Sacramento Voter Education and Registration
Project and Lance Olson, as representative,
violated 2 U.S.C. §§ 433(a) and 434(a);
2. Close the file;
3. Approve and send the letter attached to the
General Counsel's report dated November 20,
1987.

Commissioners Aikens, Elliott, Josefiak, McDonald,
McGarry, and Thomas voted affirmatively for the decision.

Attest:

12-2-87

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

04 December 1987

Leroy Fong, Esquire
Olson, Connelly & Hazel
431 H Street, 4th Floor
Sacramento, California 95814

RE: MUR 2303
Sacramento Voter Education
and Registration Project
Lance Olson, as representative

Dear Mr. Fong:

This is to advise you that on December 1, 1987, the Federal Election Commission found that there is no probable cause to believe your clients, the Sacramento Voter Education and Registration Project ("Committee") and Lance Olson, as representative, violated 2 U.S.C. §§ 433(a) and 434(a). Accordingly, the file in this matter has been closed.

This matter will become a part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days. Such materials should be sent to the Office of the General Counsel.

If you have any questions, contact Shelley Garr, the staff member assigned to handle this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 2363

DATE FILMED 3/25/88 CAMERA NO. 4

CAMERAMAN GR

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THE FOLLOWING DOCUMENTATION IS ADDED TO

THE PUBLIC RECORD IN CLOSED MUR 2302.

6/20/91

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

CLOSED

June 17, 1991

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Bertram Hirsch, Esquire
81-33 258th Street
Floral Park, New York 11004

RE: MUR 2302
Sisseton-Wahpeton Sioux
Tribe and Russell Hawkins,
its chairman

Dear Mr. Hirsch:

On January 25, 1991, the Federal Election Commission and your clients, the Sisseton-Wahpeton Sioux Tribe and Russell Hawkins, its chairman, entered into a conciliation agreement in settlement of violations of 2 U.S.C. §§ 433(a), 434(a) and 441a(a). According to the agreement, your clients were required to pay a civil penalty of \$6,500. The conciliation agreement provided for four installment payments, with the first payment due on March 23, 1991, and additional payments due on the first day of each successive month, until and including, June 1, 1991.

According to Commission records, the final \$1,500 installment payment due June 1, 1991, has not been received. Please be advised that, pursuant to 2 U.S.C. § 437g(a)(5)(D), violation of any provision of the conciliation agreement may result in the institution of a civil suit for relief in the United States District Court. Unless we receive the payment from you in five days, this Office will recommend that the Commission file suit to remedy this violation.

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Bertram Hirsch, Esquire
Page 2

If you believe the Commission's records are in error, or if you have any questions, please contact Michael Marinelli, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel



BY: Lois G. Lerner
Associate General Counsel

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