



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 2610

DATE FILMED 3/13/89 CAMERA NO. 3

CAMERAMAN AS

89040734374

REPORTS ANALYSIS REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: 19 April 1988

ANALYST: Linda Tangney

I. COMMITTEE: Pete du Pont for President Committee
(C00207530)
Frank A. Ursomarso, Treasurer
P.O. Box 1988
Rockland, DE 19732

II. RELEVANT STATUTE: 2 U.S.C. §434(a)(3)(A)(i)
11 CFR 104.5(b)(1)(i)

III. BACKGROUND:

Failure to Timely File a Report

The Pete du Pont for President Committee (the "Committee") failed to file the 1988 March Monthly Report in a timely manner.

The Committee was notified on December 18, 1987 that the 1988 March Monthly Report was due on March 20, 1988 (Attachment 2). A mailgram was sent to the Committee on March 25, 1988 for failure to file the 1988 March Monthly Report (Attachment 3). The mailgram informed the Committee that failure to file this report immediately may result in publication, audit, or legal enforcement action.

On March 29, 1988, the Commission received a letter from Daniel J. Swillinger on behalf of the Committee. The letter stated the Committee had received a mailgram for failure to file the March Monthly Report. Mr. Swillinger stated that he had sought advice from a member of the Commission staff, and was told that the Committee could now file quarterly reports. Mr. Swillinger requested that the Committee be given until April 8, 1988 to file the March Monthly Report (Attachment 4).

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PETE DU PONT FOR PRESIDENT COMMITTEE
REPORTS ANALYSIS OGC REFERRAL
PAGE 2

The name of the Committee was published on April 1, 1988, for failure to file the 1988 March Monthly Report (Attachment 5).

On April 8, 1988, the Committee filed the 1988 March Monthly Report (Attachment 6).

IV. OTHER PENDING MATTERS INITIATED BY RAD:

None.

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FEDERAL ELECTION COMMISSION
1987-1988
CANDIDATE INDEX OF SUPPORTING DOCUMENTS - (E)

DATE 13APR88

PAGE 2

CANDIDATE/COMMITTEE/DOCUMENT	OFFICE SOUGHT/	PARTY	RECEIPTS		DISBURSEMENTS		COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
			PRIMARY	GENERAL	PRIMARY	GENERAL			

DU PONT, PETE PRESIDENT REPUBLICAN PARTY

1988 ELECTION ID# P80002345

1. STATEMENT OF CANDIDATE

1986 STATEMENT OF CANDIDATE

3JUN86

1 86FEC/334/4246

NOTE: THIS DOCUMENT WAS FILED WITH THE COMMISSION DURING A PREVIOUS ELECTION CYCLE. ADDITIONAL FINANCIAL ACTIVITY REPORTED BY THIS CANDIDATE MAY APPEAR ON INDICIES COVERING THAT EARLIER PERIOD

2. PRINCIPAL CAMPAIGN COMMITTEE

PETE DU PONT FOR PRESIDENT

ID #C00027530 PRESIDENTIAL

1986 JULY QUARTERLY		168,315	34,786	3JUN86 -30JUN86	52	86FEC/334/4742
JULY QUARTERLY - AMENDMENT		168,315	34,786	3JUN86 -30JUN86	6	86FEC/425/2528
OCTOBER QUARTERLY		474,858	187,731	1JUL86 -30SEP86	153	86FEC/425/1076
OCTOBER QUARTERLY - AMENDMENT		-	-	1JUL86 -30SEP86	1	86FEC/425/2581
YEAR-END		244,149	243,638	1OCT86 -31DEC86	139	87FEC/425/2873
1987 MISCELLANEOUS REPORT				18MAY87	9	87FEC/472/1892
MISCELLANEOUS REPORT FROM FEC				16DEC87	1	87FEC/485/3825
APRIL QUARTERLY		532,287	545,013	1JAN87 -31MAR87	553	87FEC/478/2289
APRIL QUARTERLY - AMENDMENT		-	-	1JAN87 -31MAR87	3	87FEC/476/1292
1ST LETTER INFORMATIONAL NOTICE				1JAN87 -31MAR87	1	87FEC/474/5423
JULY QUARTERLY		914,642	863,618	1APR87 -30JUN87	317	87FEC/475/4863
OCTOBER QUARTERLY		1,091,646	1,297,178	1JUL87 -30SEP87	523	87FEC/476/2752
OCTOBER QUARTERLY - AMENDMENT		-	-	1JUL87 -30SEP87	3	87FEC/489/0727
REQUEST FOR ADDITIONAL INFORMATION				1JUL87 -30SEP87	2	87FEC/489/0483
YEAR-END		2,112,419	2,574,159	1OCT87 -31DEC87	723	88FEC/490/4381
YEAR-END - AMENDMENT		2,112,419	2,574,159	1OCT87 -31DEC87	3	88FEC/511/2769
YEAR-END - AMENDMENT		2,112,419	2,574,159	1OCT87 -31DEC87	4	88FEC/511/3358
YEAR-END - AMENDMENT		2,112,419	2,574,159	1OCT87 -31DEC87	4	88FEC/514/5342
REQUEST FOR ADDITIONAL INFORMATION				1OCT87 -31DEC87	2	88FEC/511/1782
1988 MISCELLANEOUS REPORT TO FEC				9MAR88	2	88FEC/511/2767
MISCELLANEOUS REPORT TO FEC				29MAR88	1	88FEC/514/4112
FEBRUARY MONTHLY		2,692,865	1,919,754	1JAN88 -31JAN88	238	88FEC/506/3781
FEBRUARY MONTHLY - AMENDMENT		2,692,865	1,919,754	1JAN88 -31JAN88	4	88FEC/511/3231
FEBRUARY MONTHLY - AMENDMENT		2,692,865	1,919,754	1JAN88 -31JAN88	151	88FEC/511/3363
FEBRUARY MONTHLY - AMENDMENT		2,692,865	1,919,754	1JAN88 -31JAN88	9	88FEC/514/5332
REQUEST FOR ADDITIONAL INFORMATION				1JAN88 -31JAN88	1	88FEC/511/2194
MARCH MONTHLY		451,963	790,897	1FEB88 -29FEB88	245	88FEC/514/5342
NOTICE OF FAILURE TO FILE				1FEB88 -29FEB88	1	88FEC/514/4370

TOTAL

8,682,264

0 8,456,974

0

3151 TOTAL PAGES

3. AUTHORIZED COMMITTEES

4. JOINT FUNDRAISING COMMITTEES AUTHORIZED BY THE CAMPAIGN

ALL REPORTS HAVE BEEN REVIEWED.

ENDING CASH-ON-HAND AS OF 2/29/88: \$225,289

OUTSTANDING DEBTS OWED TO THE COMMITTEE AS OF 2/29/88:

\$2,893

OUTSTANDING DEBTS OWED BY THE COMMITTEE AS OF 2/29/88:

\$214,671

YEAR-END REPORT NOTICE

FEDERAL ELECTION COMMISSION

PRESIDENTIAL COMMITTEES

December 18, 1987

WHO MUST FILE

ALL PRINCIPAL CAMPAIGN COMMITTEES OF PRESIDENTIAL "CANDIDATES" must file a Year-End Report in January. To know whether you qualify as a candidate under the election law, please refer to the enclosed brochure for the definition of the term "candidate."

REPORTING DATES

Quarterly. The Year-End Report is due January 31, 1988, and must disclose financial activity that occurred from October 1 through December 31, 1987. Committees which have previously filed 1987 reports should only report activity from the closing date of the last report filed.

Monthly. Committees that choose to file on a monthly basis must file the Year-End Report due January 31, 1988. The report must disclose financial activity from December 1 through December 31, 1987. All other monthly reports are due by the 20th of each month and cover all financial activity of the previous month.

WHAT MUST BE REPORTED

A report must disclose all receipts and disbursements (not previously reported) that occurred during the reporting period. A newly registered committee filing its first report should also include all amounts received and expended prior to the candidate's attaining candidate status.

If the campaign has more than one authorized committee, the principal campaign committee must also file a consolidated report (FEC Form 3P, Page 5). For details, see 11 CFR 104.3(f) and the instructions on the back of the form.

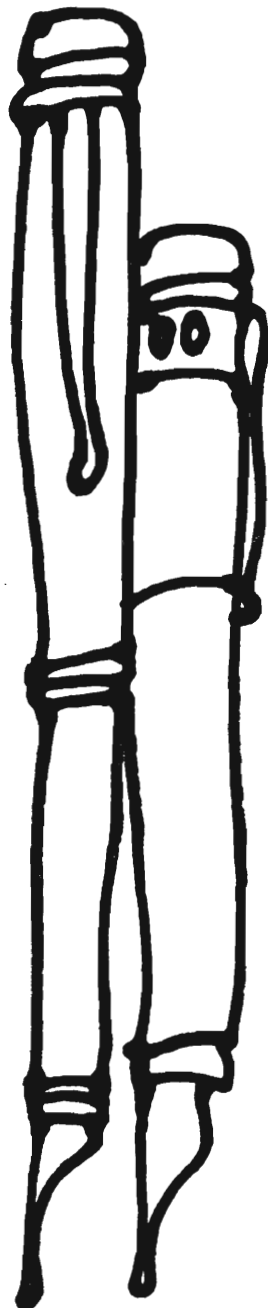
WHERE AND HOW TO FILE

Committees should consult the instructions on the enclosed FEC Form 3P for details. Note State filing requirements also. Affix the peel-off label from the envelope to line 1 of the report. Any corrections in the information should be made directly on the label.

COMPLIANCE

Political committees are responsible for filing all reports required under the Act in a timely fashion. Committees and treasurers who file late reports, or fail to file reports, are subject to enforcement action. Illegible reports and reports submitted on non-FEC forms will not be accepted; committees filing such documents will be required to refile.

(over)



3 3 7 4 0 7 5 4 3 7 8

A committee which does not anticipate that its financial activity will exceed \$100,000 as of January 1, 1988, must file quarterly reports. Such a committee must also file a pre-election report for each election in which the candidate is seeking nomination or election. If the candidate is in the general election the committee must also file a Post-General election report. All committees must file a Year-End report.

A committee which receives contributions or makes expenditures aggregating \$100,000 or more (or which anticipates this level of financial activity) as of January 1, 1988, must file monthly reports. A committee participating in the general election does not file monthly reports during the months of November and December 1988. Rather, the committee must file Pre- and Post-General election reports. The committee of a candidate not participating in the general election must continue to file monthly reports, or must file Pre- and Post-General election reports. All committees must file a Year-End report.

If, during the 1988 election year, a committee receives contributions or makes expenditures aggregating \$100,000 or more, it must begin filing monthly reports starting the next reporting period.

MONTHLY FILERS

Report	Period Covered 1/	Reg./Cert.	Filing Date
		Mailing Date 2/	
February	01/01 - 01/31	02/20/88	02/20/88
March	02/01 - 02/29	03/20/88	03/20/88
April	03/01 - 03/31	04/20/88	04/20/88
May	04/01 - 04/30	05/20/88	05/20/88
June	05/01 - 05/31	06/20/88	06/20/88
July	06/01 - 06/30	07/20/88	07/20/88
August	07/01 - 07/31	08/20/88	08/20/88
September	08/01 - 08/31	09/20/88	09/20/88
October	09/01 - 09/30	10/20/88	10/20/88
Pre-General	10/01 - 10/19	10/24/88	10/27/88
Post-General	10/20 - 11/28	12/08/88	12/08/88
Year-End	11/29 - 12/31	01/31/89	01/31/89

QUARTERLY FILERS

Report	Period Covered 1/	Reg./Cert.	Filing Date
		Mailing Date 2/	
April Quarterly	01/01 - 03/31	04/15/88	04/15/88
July Quarterly	04/01 - 06/30	07/15/88	07/15/88
October Quarterly	07/01 - 09/30	10/15/88	10/15/88
Pre-General	10/01 - 10/19	10/24/88	10/27/88
Post-General	10/20 - 11/28	12/08/88	12/08/88
Year-End	11/29 - 12/31	01/31/89	01/31/89

1/Newly registered committees should refer to "WHAT MUST BE REPORTED," reverse side.

2/Reports sent by registered or certified mail must be postmarked by the mailing date. Reports mailed first class or hand delivered must be received by the filing date.

RQ-7

(This is a copy of the text of a mailgram sent to the committee listed below on March 25, 1988.)

Frank A. Ursomarso, Treasurer
Pete Du Pont for President
P.O. Box 1988
Rockland, DE 19732

Identification Number: C00207530

Reference: MARCH MONTHLY REPORT (2/1/88-2/29/88)

It has come to the attention of the Federal Election Commission that you may have failed to file the above referenced Report of Receipts and Expenditures as required by the Federal Election Campaign Act. You were previously notified of the due date for this report.

You will be allowed four (4) business days from the date of this notice to file the March Monthly Report. The reports should be filed with the Federal Election Commission, 999 E Street, NW, Washington, DC 20463. A copy of the report should also be filed with the appropriate Secretary of State or equivalent state officer (see 11 CFR 108.2).

If you have filed the report timely by certified or registered mail, please notify us immediately, in writing, of the certified or registered number and the date that the report was sent. The failure to file this report may result in publication, audit or legal enforcement action.

If you have any questions regarding this matter, please contact the Reports Analysis Division on our toll free number (800) 424-9530 or on our local number (202) 376-2480.

Sincerely,

John D. Gibson
Assistant Staff Director
Reports Analysis Division

DATA DELIVEREDRECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

88 MAR 29 AM 9:23

OFFICES IN
LOUISVILLE, KENTUCKY
PALM BEACH, FLORIDA
MIAMI, FLORIDA
FRANKFORT, KENTUCKY
NASHVILLE, TENNESSEE
ATLANTA, GEORGIA
NEW ALBANY, INDIANA
BANGKOK, THAILAND

LAW OFFICE

BARNETT & ALAGIA

880 THOMAS JEFFERSON STREET, N.W.

WASHINGTON, DC 20007

(202) 342-0342

TELESCOPE (202) 775-9089

CABLE ALBAR

TELEX 44-0712

DANIEL J. SWILLINGER
PARTNER

March 28, 1988

BY HANDMr. John Gibson
Assistant Staff Director
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463RE: Pete du Pont for President

Dear Mr. Gibson:

This is in response to your mailgram to Mr. Frank Ursomarso dated March 25, 1988 and received by the committee on March 28, regarding the committee's failure to file a March monthly report.

Shortly after Governor du Pont withdrew as a candidate on February 18, I sought advice from Mr. Kent Cooper regarding the committee's subsequent reporting dates.

Mr. Cooper confirmed my view that the Act and regulations provide that once an individual is no longer a candidate, the committee reverts to quarterly filing.

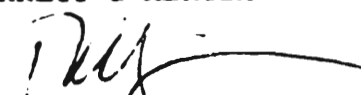
I so advised the campaign's staff by letter on February 22, 1988, that the committee's next report would be due April 15.

On behalf of the committee, I request that we be given until April 8 to file the March report, given the time it will take to pull together the requisite data for a large number of transactions.

Please call me if you have any questions.

Sincerely,

BARNETT & ALAGIA


Daniel J. Swillinger

DJS:crj

82040764381
88035144113

FEDERAL ELECTION COMMISSION

ATTACHMENT 5



Press Office

999 E Street, N.W., Washington, D.C. 20463

Phone: Local 376-3155

Toll Free 800-424-9530

FOR IMMEDIATE RELEASE:
FRIDAY, APRIL 1, 1988

CONTACT: FRED EILAND
SHARON SNYDER
KAREN FINUCAN

1988 PRESIDENTIAL CAMPAIGNS FAIL TO FILE MONTHLY REPORT

WASHINGTON -- The Federal Election Commission today cited four 1988 Presidential campaign committees with failure to file the required March monthly financial disclosure report, covering activity from February 1, 1988, through February 29, 1988. They are:

Babbitt for President Committee...Ronnie Lopez, tres...Bruce Babbitt (Dem)

Pete Du Pont for President...Frank A. Ursomarso, tres...Pete Du Pont (Rep) ^{LT}

Ben Fernandez for President Committee...Annie Padilla, tres...Ben Fernandez (Rep)

NE Dem Campaign Cmte/Anthony Martin-Trigona...Anthony Martin-Trigona, tres & (Dem)

The report was to have been filed March 20, 1988, and would have detailed financial activity for the month of February. If sent by certified or registered mail, the report should have been postmarked by midnight March 20.

On March 25, the committees were notified by mailgram that the FEC had not yet received their February monthly report. The campaigns had four business days, from the date of the notice, to respond. Failure to file by close of business Thursday, March 31, resulted in this publication. Notification of required filings, during the 1988 calendar year, was sent to committees on December 18, 1987.

During an election year, Presidential campaign committees that anticipate raising or spending over \$100,000 are required to report on a monthly basis. Those reports are due on the 20th of each month, covering financial activity during the prior month. The next report due from Presidential committees is the March monthly report, covering the period February 1 through February 29.

Further Commission action against non-filers and late filers will be decided on a case-by-case basis. The Federal Election Campaign Act gives the Commission broad authority to initiate enforcement actions, including civil court enforcement and the imposition of civil penalties (\$5,000 for "any violation" and \$10,000 for any "knowing and willful" violation) for infractions of the law, including failure to file required disclosure reports.

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FEC Form 3P, Page 1
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

**REPORT OF RECEIPTS AND DISBURSEMENTS
BY AN AUTHORIZED COMMITTEE OF A
CANDIDATE FOR THE OFFICE OF PRESIDENT**

RECEIVED
FEDERAL ELECTION COMMISSION
REPORTS ANALYSIS DIVISION

88 APR -8 PM 2:19

NOTE: This report is to be used by an authorized committee of a candidate seeking nomination or election to the Office of President or Vice President of the United States whether or not public funds are used.

1. NAME OF COMMITTEE IN FULL PETE DU PONT FOR PRESIDENT				2. IDENTIFICATION NUMBER 000207530	
ADDRESS (Number and Street) PO BOX 1988				3. IS THIS REPORT OF RECEIPTS AND DISBURSEMENTS FOR:	
CITY ROCKLAND	STATE DE	ZIP CODE 19732	☐ Check if name or address is changed		☒ Primary ☐ General
4. TYPE OF REPORT ("X" appropriate box and complete, if applicable) ☐ Amendment for (Report) ☒ Monthly Report (month) <u>FEBRUARY 1988</u> ☐ April 15 Quarterly Report ☐ January 31 Year-end Report ☐ July 15 Quarterly Report ☐ Termination Report ☐ October 15 Quarterly Report				☐ Twelfth Day Before Election ☐ Thirtieth Day After Election TYPE OF ELECTION STATE _____ ELECTION DATE _____	

COMMITTEE SUMMARY OF RECEIPTS AND DISBURSEMENTS

5. COVERING PERIOD		FROM FEBRUARY 1, 1989	THROUGH FEBRUARY 29, 1988
SUMMARY	6. CASH ON HAND AT BEGINNING OF THE REPORTING PERIOD	564,223.53	
	7. TOTAL RECEIPTS THIS PERIOD (From Line 22 Column A)	451,963.13	
	8. SUBTOTAL (Add Line 6 and 7)	1,016,186.66	
	9. TOTAL DISBURSEMENTS THIS PERIOD (From Line 30 Column A)	790,897.44	
	10. CASH ON HAND AT CLOSE OF THE REPORTING PERIOD (Subtract Line 9 from 8)	225,289.22	
	11. DEBTS AND OBLIGATIONS OWED TO THE COMMITTEE (Itemize All on Schedule C or Schedule D)	2,893.45	
	12. DEBTS AND OBLIGATIONS OWED BY THE COMMITTEE (Itemize All on Schedule C or Schedule D)	214,671.00	
13. EXPENDITURES SUBJECT TO LIMITATION (From FEC Form 3P, Page 4)	4,650,827.96		
NET YEAR-TO-DATE CONTRIBUTIONS AND EXPENDITURES	14. NET CONTRIBUTIONS (Other than Loans) (Subtract Line 28d Column B from 17a Column B)	794,048.68	
	15. NET OPERATING EXPENDITURES (Subtract Line 20a Column B from 23 Column B)	1,481,060.60	

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

TYPE OR PRINT NAME OF TREASURER
THOMAS J. SHOPA

ASSISTANT TREASURER

SIGNATURE OF TREASURER

DATE

Thomas J. Shopa *Asst. Treasurer* *2/8/88*

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 3P are obsolete and should no longer be used.

For further information, contact:

Federal Election Commission
Toll Free 800-424-9530
Local 523-4088

FEC Form 3P (2/83)

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FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

RAD # 88 NF-15
STAFF MEMBER
Sandra Dunham

SOURCE OF MUR: INTERNALLY GENERATED

RESPONDENTS: Pete du Pont for President Committee and
Frank A. Ursomarso, as treasurer

RELEVANT STATUTES: 2 U.S.C. § 434(a)(3)(A)(i)

INTERNAL REPORTS
CHECKED: Public Records

FEDERAL AGENCIES
CHECKED: None

I. GENERATION OF MATTER

This matter was generated by a referral from the Reports
Analysis Division ("RAD").^{1/}

II. FACTUAL AND LEGAL ANALYSIS

The Federal Election Campaign Act of 1971, as amended (the
"Act"), provides that the principal campaign committee of a
candidate for the Office of President shall file monthly reports
if such committee has on January 1, in any calendar year during
which a general election is held to fill such office, received
contributions aggregating \$100,000 or made expenditures
aggregating \$100,000 or anticipates receiving contributions
aggregating \$100,000 or more or making expenditures aggregating

^{1/} This matter was referred as a non-filer. However, the
report which forms the basis for the referral has been filed.
Therefore, this Office is treating this matter as a late filer.

\$100,000 or more during such year. Such reports shall be filed no later than the 20th day after the last day of each month and shall be complete as of the last day of the month. 2 U.S.C. § 434(a)(3)(A)(i).

The Pete du Pont for President Committee (the "Committee") was notified on December 18, 1987, that the 1988 March Monthly Report was due on March 20, 1988.

A mailgram concerning the March Monthly Report was sent to the Committee on March 25, 1988, for the failure to file the 1988 March Monthly Report. The mailgram informed the Committee that the failure to file this report immediately may result in publication, audit or legal enforcement action.

On March 29, 1988, the Commission received a letter from Daniel J. Swillinger on behalf of the Committee (Attachment 1, page 7). The letter stated the Committee had received the mailgram regarding its failure to file the March Monthly Report. Mr. Swillinger stated that he had sought advice from a member of the Commission staff, and was told that the Committee could now file quarterly reports. Mr. Swillinger requested that the Committee be given until April 8, 1988 to file the March Monthly Report.

Because the Committee received contributions and made expenditures in excess of \$100,000 during 1988, it was required to file the March Monthly Report by March 20. The Committee did not immediately respond to the March 25 mailgram, consequently, on April 1, 1988, the name of the Committee was published for

failure to file the March Monthly Report. On April 8, 1988, the Committee filed the 1988 March Monthly Report. It was 19 days late.

Accordingly, the Office of the General Counsel recommends that the Commission open a MUR and find reason to believe that the Committee violated 2 U.S.C. § 434(a)(3)(A)(i).

III. RECOMMENDATIONS

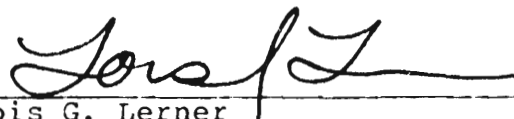
1. Open a MUR.
2. Find reason to believe that Pete du Pont for President Committee and Frank A. Ursomarso, as treasurer violated 2 U.S.C. § 434(a)(3)(A)(i).
3. Approve the attached letter and Factual and Legal Analysis.

Lawrence M. Noble
General Counsel

Date

5/3/88

BY:


Lois G. Lerner
Associate General Counsel

Attachments:

- 1-Referral Materials
- 2-Proposed Letter and Factual and Legal Analysis

Staff Person: Sandra Dunham

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

5/18/88
Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 24, 1988

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Frank A. Ursomarso, Treasurer
Pete du Pont for President Committee
P.O. Box 1988
Rockland, DE 19732

RE: MUR 2610
Pete du Pont for President
Committee and Frank A.
Ursomarso, as treasurer

Dear Mr. Ursomarso:

On May 17, 1988, the Federal Election Commission found that there is reason to believe the Pete de Pont for President Committee ("Committee") and you, as treasurer, violated 2 U.S.C. § 434(a)(3)(A)(i), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The 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 the Committee and you, as treasurer. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office, within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against the Committee and you, as treasurer, 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 the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or

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Letter to Frank A. Ursomarso, Treasurer
Page 2

recommending declining that pre-probable cause conciliation be pursued. The Office of the 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, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

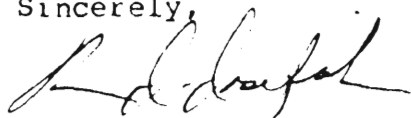
Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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 authorizing such counsel to receive any notifications and other communications from the Commission.

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 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 Sandra Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,



Thomas J. Josefiak
Chairman

Enclosures

Factual and Legal Analysis
Procedures
Designation of Counsel Form

8 9 0 4 0 7 3 4 3 8 9

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: **Pete du Pont for President Committee** MUR: 2610
 and Frank A. Ursomarso, as treasurer

SUMMARY OF ALLEGATIONS

FACTUAL BASIS AND LEGAL ANALYSIS

3 9 9 0 4 0 7 3 4 3 9 0
The Federal Election Campaign Act of 1971, as amended (the "Act"), provides that the principal campaign committee of a candidate for the Office of President shall file monthly reports if such committee has on January 1, in any calendar year during which a general election is held to fill such office, received contributions aggregating \$100,000 or made expenditures aggregating \$100,000 or anticipates receiving contributions aggregating \$100,000 or more or making expenditures aggregating \$100,000 or more during such year. Such reports shall be filed no later than the 20th day after the last day of each month and shall be complete as of the last day of the month. 2 U.S.C. § 434(a)(3)(A)(i).

The Pete du Pont for President Committee (the "Committee") was notified on December 18, 1987 that the 1988 March Monthly Report was due on March 20, 1988. A mailgram was sent to the Committee on March 25, 1988, for the failure to file its 1988 March Monthly Report. The mailgram informed the Committee that failure to file this report immediately may result in publication, audit, or legal enforcement action.

On March 29, 1988, the Commission received a letter from Daniel J. Swillinger on behalf of the Committee. The letter stated the Committee had received the mailgram for its

failure to file the March Monthly Report. Mr. Swillinger stated that he had sought advice from a member of the Commission staff, and was told that the Committee could now file quarterly reports. Mr. Swillinger requested that the Committee be given until April 8, 1988 to file the March Monthly Report.

Because the Committee received contributions and made expenditures in excess of \$100,000 during 1988, it was required to file the March Monthly Report by March 20. The Committee did not immediately respond to the March 25 mailgram, consequently, on April 1, 1988, the name of the Committee was published for failure to file the 1988 March Monthly Report.

On April 8, 1988, the Committee filed the 1988 March Monthly Report. This report was filed 19 days late. Therefore, there is reason to believe that the Committee violated 2 U.S.C. § 434(a)(3)(A)(i).

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Pete du Pont.
Tomorrow's Leader.
President.

RECEIVED
FEDERAL ELECTION COMMISSION

88 JUN 13 AM 9:24

June 7, 1988

Sandra Dunham
OFFICE OF GENERAL COUNSEL
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Dear Ms. Dunham:

SUBJECT: MUR 2610

Enclosed is the "Statement of Designation of Counsel" signed by
Frank A. Ursomarso, Treasurer.

Your letter of May 24th, post-marked June 1, 1988, was received today,
June 7th (as you will note from the signed and dated return receipt).

Sincerely,



Polly Lowe
Manager Accounting

Enc.

cc: Daniel J. Swillinger

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88 JUN 13 AM 11:50

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2610

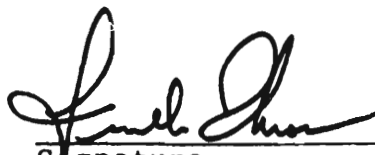
NAME OF COUNSEL: Daniel J. Swillinger

ADDRESS: BARNETT & ALAGIA
1000 Thomas Jefferson ST, Ste. 600
Washington, DC 20007

TELEPHONE: 202/342-0342

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.

June 7, 1988
Date


Signature

RESPONDENT'S NAME: Frank A. Ursomarso

ADDRESS: PETE DU PONT FOR PRESIDENT, INC.
P.O. Box 1988
Rockland, DE 19732

HOME PHONE: 215- 388- 6562

BUSINESS PHONE: 302- 573- 5202

39040734393

600#9509

LAW OFFICES

BARNETT & ALAGIA

1000 THOMAS JEFFERSON STREET, N.W.

WASHINGTON, D.C. 20007

(202) 342-0342

TELECOPIER (202) 775-9089

CABLE ALBAR

TELEX 44-0712

DANIEL J. SWILLINGER
PARTNER

OFFICES IN:
ATLANTA, GEORGIA
FRANKFORT, KENTUCKY
LOUISVILLE, KENTUCKY
MIAMI, FLORIDA
NASHVILLE, TENNESSEE
NEW ALBANY, INDIANA
PALM BEACH, FLORIDA
BANGKOK, THAILAND

June 13, 1988

HAND DELIVERED

Lawrence Noble, Esquire
General Counsel
Federal Election Commission
999 E Street, N.W.
Sixth Floor
Washington, D.C. 20463

Re: MUR 2610

Dear Mr. Noble:

You have by now received the designation of counsel letter from the Pete du Pont for President Committee.

The response in this matter would be due on June 22, 1988. Because of the press of business, and a planned vacation, I request an extension to file a response until July 8, 1988. This 15-day extension is within normal Commission practice, and no further extensions will be requested.

Thank you for your consideration.

Sincerely,

BARNETT & ALAGIA


Daniel J. Swillinger

DJS:crj

cc: Ms. Sandra Dunham (FEC)
Mr. Frank Ursomarso

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 16, 1988

Daniel J. Swillinger, Esquire
Barnett & Alagia
1000 Thomas Jefferson Street, Suite 600
Washington, D.C. 20007

RE: MUR 2610
Pete du Pont for President
Committee and Frank A.
Ursomarso, as treasurer

Dear Mr. Swillinger:

This is in response to your letter dated June 13, 1988, which we received on June 13, 1988, requesting an extension of 15 days to respond to the Commission's reason to believe finding that the Pete du Pont for President Committee failed to file the 1988 March Monthly in a timely manner. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on July 7, 1988.

If you have any questions, please contact Sandra Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

A handwritten signature in dark ink, appearing to read "Lois G. Lerner", is written over the typed name of the Associate General Counsel.

BY: Lois G. Lerner
Associate General Counsel

8 7 0 4 0 7 3 4 3 9 5

BEFORE THE
FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463

68 JUL -7 AM 9:29

RE: MUR 2610

RESPONSE OF PETE DU PONT FOR PRESIDENT, INC.,
AND ITS TREASURER, FRANK A. URSOMARSO

Now comes Pete du Pont for President, Inc., through undersigned counsel, and responds to the Federal Election Commission's letter dated May 24, 1988 (received June 7, 1988), in which the Commission states that it has found reason to believe that Pete du Pont for President, Inc. is in violation of the Federal Election Campaign Act of 1971, as amended.

FACTUAL BACKGROUND

Gov. Pete du Pont of Delaware became a candidate for the Republican nomination for President in June, 1986. He designated Pete du Pont for President, Inc. as his principal campaign committee.

Gov. du Pont withdrew as a candidate on February 18, 1988. The Commission was so notified.

68 JUL -7 AM 11:43
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FEDERAL ELECTION COMMISSION

ARGUMENT

1. The Commission's Interpretation of the Statute is Incorrect.

The Commission relies on 2 U.S.C. § 434(a)(3)(A)(i) for the proposition that Presidential candidate committees must continue to file monthly reports, even after the candidacy has ceased.

This section, like many others in the FECA, is triggered by candidacy. As of February 18, 1988, Gov. du Pont was no longer a candidate, a fact the Commission does not dispute. See 26 U.S.C. § 9032(2). Absent candidacy, the committee could revert to a quarterly disclosure schedule.

This interpretation also comports with the public policy underlying the disclosure provisions. Once a candidacy has ceased, it makes little policy sense to require a committee to undertake the expense of monthly reporting. This is particularly true when the campaign is publicly funded. By requiring monthly reporting, substantial additional public funds will be spent to maintain staff to gather and to produce the multiple additional reports, with no concomitant gain.

2. The Committee Sought, and Reasonably Relied Upon,
Advice From a Senior Commission Staff Member.

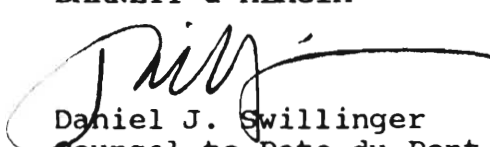
Since the statute is, at best, not clear, counsel for the committee sought the advice of a senior staff member of the Commission, and the committee in good faith relied upon that advice. Promptly after being informed by the Commission that it believed that a monthly report was due, the committee explained the situation, sought a reasonable time frame in which to file, and in fact did file as it said it would.

The violation, if any, is at best a technical one, which has been entirely mitigated by the committee's good faith actions both to obtain guidance and to file the report as soon as possible.

For the foregoing reasons, Pete du Pont for President, Inc. requests that the Commission take no further action in this matter and dismiss MUR 2610.

Respectfully submitted,

BARNETT & ALAGIA


Daniel J. Swillinger
Counsel to Pete du Pont
for President, Inc. and its
Treasurer

7/7/88

Exhibit 1

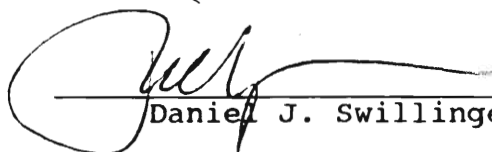
AFFIDAVIT OF DANIEL J. SWILLINGER

Washington, District of Columbia SS

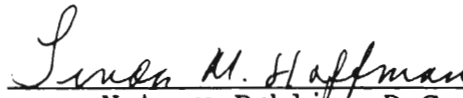
Daniel J. Swillinger, being duly sworn, deposes and says as follows:

1. I am an attorney at law practicing in Washington, D.C. as a partner in the firm of Barnett & Alagia. I have been General Counsel to Pete du Pont for President, Inc. since June, 1986, and continue to serve in that capacity.
2. Shortly after Gov. du Pont ceased his candidacy on February 18, 1988, I was asked by Pete Nellius, the campaign's controller, if the committee would be able to revert to a quarterly reporting schedule. Although I believed the FECA permitted such a reversion, I called Kent Cooper, in his capacity as Assistant Staff Director for Public Records, to seek his advice. Mr. Cooper told me that once a candidate withdrew, monthly reporting was no longer necessary. I so informed Mr. Nellius, who based his plans for disclosure reports and accounting staff wind-down on that advice.

Subscribed and sworn before me this 6th day July, 1988.



Daniel J. Swillinger



Linda M. Hoffman
Notary Public, D.C.

My Commission expires:

008DJS1.3/tmc/ldw

Doc. Comm. Expires: 12/31/91

Exhibit 2

LAW OFFICES

BARNETT & ALAGIA

1000 THOMAS JEFFERSON STREET, N.W.

WASHINGTON, DC. 20007

(202) 342-0342

TELECOPIER (202) 775-9089

CABLE ALBAR

TELEX 44-0712

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

88 MAR 29 AM 9:23

OFFICES IN:
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PALM BEACH, FLORIDA
MIAMI, FLORIDA
FRANKFORT, KENTUCKY
NASHVILLE, TENNESSEE
ATLANTA, GEORGIA
NEW ALBANY, INDIANA
BANGKOK, THAILAND

DANIEL J. SWILLINGER
PARTNER

March 28, 1988

BY HAND

Mr. John Gibson
Assistant Staff Director
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RE: Pete du Pont for President

Dear Mr. Gibson:

This is in response to your mailgram to Mr. Frank Ursomarso dated March 25, 1988 and received by the committee on March 28, regarding the committee's failure to file a March monthly report.

Shortly after Governor du Pont withdrew as a candidate on February 18, I sought advice from Mr. Kent Cooper regarding the committee's subsequent reporting dates.

Mr. Cooper confirmed my view that the Act and regulations provide that once an individual is no longer a candidate, the committee reverts to quarterly filing.

I so advised the campaign's staff by letter on February 22, 1988, that the committee's next report would be due April 15.

On behalf of the committee, I request that we be given until April 8 to file the March report, given the time it will take to pull together the requisite data for a large number of transactions.

Please call me if you have any questions.

Sincerely,

BARNETT & ALAGIA


Daniel J. Swillinger

DJS:crj

88 AUG 22 PM 12:47



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 22, 1988

MEMORANDUM

TO: The Commission
FROM: Lawrence M. Noble *lmn(4/2)*
General Counsel
SUBJECT: MUR # 2610

Attached for the Commission's review is a brief stating the position of the General Counsel on the legal and factual issues of the above-captioned matter. A copy of this brief and a letter notifying the respondent of the General Counsel's intent to recommend to the Commission a finding of probable cause to believe were mailed on August 22, 1988. 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

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SENSITIVE



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 22, 1988

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Daniel J. Swillinger, Esquire
Barnett & Alagia
1000 Thomas Jefferson Street, Suite 600
Washington, D.C. 20007

RE: MUR 2610
Pete du Pont for President
Committee and Frank A.
Ursomarso, as treasurer

Dear Mr. Swillinger:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities and information supplied by your clients, on May 17, 1988 the Federal Election Commission found reason to believe that your clients, the Pete du Pont for President Committee and Frank A. Ursomarso, as treasurer, violated 2 U.S.C. § 434(a)(3)(A)(i), and instituted an investigation in this matter.

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

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 (ten 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

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Daniel J. Swillinger
Page 2

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 Sandra Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

LM Noble (42)
Lawrence M. Noble
General Counsel

Enclosure
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Pete du Pont for President Committee
and Frank A. Ursomarso, as treasurer

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MUR 2610

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On May 17, 1988, the Commission found reason to believe that the Pete du Pont for President Committee and Frank A. Ursomarso, as treasurer, (the "Committee") violated 2 U.S.C.

§ 434(a)(3)(A)(i), by failing to file its 1988 March Monthly Report in a timely manner.

The Committee was notified on December 18, 1987 that the March Monthly Report was due on March 20, 1988. A mailgram was sent to the Committee on March 25, 1988, for the failure to file its 1988 March Monthly Report. The mailgram informed the Committee that the failure to file this report within four (4) days may result in publication, audit or legal enforcement action. The Committee did not file the report within four (4) days, consequently, on April 1, 1988, the name of the Committee was published for the failure to file the 1988 March Monthly Report. The Committee filed its 1988 March Monthly Report on April 8, 1988, 19 days late.

II. ANALYSIS

The Federal Election Campaign Act of 1981, as amended, provides that the principal campaign committee of a candidate for the Office of President shall file monthly reports if such committee has on January 1, in any calendar year during which a general election is held to fill such office, received contributions aggregating \$100,000 or made expenditures

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aggregating \$100,000 or anticipates receiving contributions aggregating \$100,000 or more or making expenditures aggregating \$100,000 or more during such year. Such reports shall be filed no later than the 20th day after the last day of each month and shall be complete as of the last day of the month. 2 U.S.C. § 434(a)(3)(A)(i).

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Counsel for the Committee responded to the Commission's reason to believe finding by requesting that the Commission take no further action for two reasons. First, Counsel argues that 2 U.S.C. § 434(a)(3)(A)(i) states that Presidential candidate committees must file monthly reports and Pete du Pont was no longer a candidate when the March Monthly Report was due. Consequently, he argues that the Committee could revert back to a quarterly filing schedule. Second, Counsel states in an affidavit included with the Committee's response, that he contacted the Assistant Staff Director for Public Disclosure at the Federal Election Commission for a confirmation of his belief that the Committee could file quarterly reports since the candidate had withdrawn from the race. He writes that the Commission staff member orally confirmed his conclusion.^{1/}

In response to Counsel's argument that Mr. du Pont was not required to file monthly reports because he was no longer a candidate, the Commission has specifically addressed the question

^{1/} Counsel's reliance on this information informally obtained from the Assistant Staff Director for Public Disclosure, is misplaced. The oral advice of a staff member cannot relieve the Committee of a reporting obligation set out in the Act and Regulations. Federal Election Commission v. Citizens for LaRouche, et al., Fed. Election Campaign Financing Guide (CCH) ¶9214 (D.D.C. Sept. 17, 1984). See also, Bury v. Marietta Dodge, 692 F.2d 1335 (1982).

of the reporting obligations of principal campaign committees after a candidate withdraws his candidacy for the Office of the President in AO 1980-83. This Advisory Opinion unequivocally states that principal campaign committees supporting Presidential candidates are required to file monthly reports during the year in which a general election is held even if the candidate is no longer running for the Office of the President. It stated that the Act itself and the Commission regulations are "quite specific in requiring principal campaign committees supporting Presidential candidates to file monthly reports during a given election year."

Therefore, because the Committee had both received and made expenditures exceeding \$100,000 on January 1, 1988, a year in which a general election for the Office of President is being held, the Committee was required to file monthly reports which were due on the 20th day after the last day of each month. The Committee filed its 1988 March Monthly Report on April 8, 1988, 19 days late. Therefore, the Committee violated 2 U.S.C. § 434(a)(3)(A)(i).

III. GENERAL COUNSEL'S RECOMMENDATION

1. Find probable cause to believe that the Pete du Pont for President Committee and Frank A. Ursomarso, as treasurer, violated 2 U.S.C. § 434(a)(3)(A)(i).

Date

8/22/88

Lawrence M. Noble
General Counsel

Lawrence M. Noble (LH)

89040734407

QCCA 269

LAW OFFICES

BARNETT & ALAGIA

1000 THOMAS JEFFERSON STREET, N.W.

WASHINGTON, D.C. 20007

(202) 342-0342

TELECOMER (202) 775-9089

CABLE ALBAR

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OFFICES IN:

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NEW ALBANY, INDIANA
PALM BEACH, FLORIDA
BANGKOK, THAILAND

DANIEL J. SWILLINGER
PARTNER

August 30, 1988

BY HAND

Lawrence Noble, Esquire
General Counsel
Federal Election Commission
999 E. St., N.W.
Room 657
Washington, D.C. 20463

RE: MUR 2610

Dear Mr Noble,

I am in receipt of your letter dated August 22, 1988 in which you state that your office is prepared to recommend a probable cause finding by the Commission, and enclose a copy of your proposed brief to the Commission.

The duPont committee has authorized me to indicate its willingness to seek "pre-probable cause conciliation," pursuant to 11 CFR Sec. 111.18(d). By this letter, I request that a staff member of the Counsel's office contact me to initiate negotiations leading toward a conciliation agreement.

In the meantime, the Committee will not file a response to the brief, although it reserves the right to file such brief if the negotiations prove fruitless.

I look forward to hearing from you.

Sincerely,



Daniel J. Swillinger

cc: Robert Perkins
DJS/dmr

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LAW OFFICES

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MAIL ROOM

BARNETT & ALAGIA

1000 THOMAS JEFFERSON STREET, N.W. 88 SEP -9 AM 10:38

WASHINGTON, D.C. 20007

(202) 342-0342

TELECOPIER (202) 775-9089

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DANIEL J. SWILLINGER
PARTNER

OFFICES IN:
LOUISVILLE, KENTUCKY
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NASHVILLE, TENNESSEE
ATLANTA, GEORGIA
NEW ALBANY, INDIANA
BANGKOK, THAILAND

September 6, 1988

CERTIFIED MAIL-RETURN RECEIPT

Lawrence M. Noble, Esquire
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2610

Dear Mr. Noble:

This is in response to your letter of August 22, 1988, advising the du Pont Committee that you intend to recommend a Probable Cause to Believe finding to the Commission, and enclosing a copy of your proposed brief.

The Committee has concluded it cannot offer any information beyond that already contained in its July 7, 1988 response to your Reason to Believe letter. The Committee therefore chooses to rely on that response as its "brief" in the Probable Cause phase.

Presuming that the Commission will accede to your Probable Cause recommendation, the Committee awaits the opportunity to proceed to conciliation.

Sincerely,

BARNETT & ALAGIA


Daniel J. Swillinger

DJS/tcc
cc: Robert W. Perkins

88 SEP -9 AM 11:49

RECEIVED
FEDERAL ELECTION COMMISSION

88 OCT 24 PM 3:01

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Pete du Pont for President Committee)
and Frank A. Ursomarso, as treasurer)

MUR 2610

EXECUTIVE SESSION

NOV 01 1988

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On May 17, 1988, the Commission found reason to believe that the Pete du Pont for President Committee and Frank A. Ursomarso, as treasurer, (the "Committee") violated 2 U.S.C.

§ 434(a)(3)(A)(i), by failing to file its 1988 March Monthly Report in a timely manner. The Committee responded to the Commission's finding on July 7, 1988 (Attachment 1). In that letter, counsel did not request pre-probable cause conciliation, rather he asked that the Commission take no further action in this matter. Consequently, this Office sent the Committee a brief on August 22, 1988.

On August 30, 1988, this Office received a response to its brief (Attachment 2). Counsel for the Committee stated that the Committee had authorized him to request pre-probable cause conciliation. He also indicated that the Committee would not file a response to the brief at that time but he was reserving its right to do so if negotiations were not successful.

This Office telephoned counsel on September 1, to inform him that it was too late to request pre-probable cause conciliation. He was reminded that the Commission's letter to the Committee, dated May 24, 1988, stated that the Commission "will not

entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent." Counsel then sent another letter on September 6, 1988, stating the Committee could not offer any new information (Attachment 3).

II. ANALYSIS

The Federal Election Campaign Act of 1981, as amended, provides that the principal campaign committee of a candidate for the Office of President shall file monthly reports if such committee has on January 1, in any calendar year during which a general election is held to fill such office, received contributions aggregating \$100,000 or made expenditures aggregating \$100,000 or anticipates receiving contributions aggregating \$100,000 or more or making expenditures aggregating \$100,000 or more during such year. Such reports shall be filed no later than the 20th day after the last day of each month and shall be complete as of the last day of the month. 2 U.S.C. § 434(a)(3)(A)(i).

Counsel for the Committee responded to the Commission's reason to believe finding by requesting that the Commission take no further action for two reasons. First, counsel argues that 2 U.S.C. § 434(a)(3)(A)(i) states that Presidential candidate committees must file monthly reports and Pete du Pont was no longer a candidate when the March Monthly Report was due. Consequently, he argues that the Committee could revert back to a quarterly filing schedule. Second, counsel states in an affidavit included with the Committee's response, that he contacted the Assistant Staff Director for Public Disclosure at the Federal Election Commission for a confirmation of his belief

that the Committee could file quarterly reports since the candidate had withdrawn from the race. He writes that the Commission staff member orally confirmed his conclusion.^{1/}

In response to counsel's argument that Mr. du Pont was not required to file monthly reports because he was no longer a candidate, the Commission has specifically addressed the question of the reporting obligations of principal campaign committees after a candidate withdraws his candidacy for the Office of the President in AO 1980-83. This Advisory Opinion unequivocally states that principal campaign committees supporting Presidential candidates are required to file monthly reports during the year in which a general election is held even if the candidate is no longer running for the Office of the President. It stated that the Act itself and the Commission regulations are "quite specific in requiring principal campaign committees supporting Presidential candidates to file monthly reports during a given election year."

Because the Committee had both received and made expenditures exceeding \$100,000 on January 1, 1988, a year in which a general election for the Office of President is being

^{1/} Counsel's reliance on this information informally obtained from the Assistant Staff Director for Public Disclosure, is misplaced. The oral advice of a staff member cannot relieve the Committee of a reporting obligation set out in the Act and Regulations. Federal Election Commission v. Citizens for LaRouche, et al., Fed. Election Campaign Financing Guide (CCH) ¶9214 (D.D.C. Sept. 17, 1984). See also, Bury v. Marietta Dodge, 692 F.2d 1335 (1982).

80074073412

held, the Committee was required to file monthly reports which were due on the 20th day after the last day of each month. The Committee filed its 1988 March Monthly Report on April 8, 1988, 19 days late. Therefore, this Office recommends that the Commission find probable cause to believe that the Pete du Pont for President Committee and Frank A. Ursomarso, as treasurer, violated 2 U.S.C. § 434(a)(3)(A)(i).

III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

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IV. RECOMMENDATIONS

1. Find probable cause to believe that the Pete du Pont for President Committee and Frank A. Ursomarso, as treasurer, violated 2 U.S.C. § 434(a)(3)(A)(i).
2. Approve the attached conciliation agreement and letter.

Date

10/24/88

Lawrence M. Noble
General Counsel

Attachments:

1. Letter from D. Swillinger dated July 7, 1988
2. Letter from D. Swillinger dated August 30, 1988
3. Letter from D. Swillinger dated September 6, 1988
4. Conciliation Agreement and Letter

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Pete du Pont for President Committee) MUR 2610
and Frank A. Ursomarso, as treasurer)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of November 1, 1988, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 2610:

1. Find probable cause to believe that the Pete du Pont for President Committee and Frank A. Ursomarso, as treasurer, violated 2 U.S.C. § 434(a)(3)(A)(i).
2. Approve the conciliation agreement and letter attached to the General Counsel's October 24, 1988 report,

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

Attest:

Nov. 2, 1988

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 9, 1988

Daniel J. Swillinger, Esquire
Barnett & Alagia
1000 Thomas Jefferson Street, Suite 600
Washington, D.C. 20007

RE: MUR 2610
Pete du Pont for President
Committee and Frank A.
Ursomarso, as treasurer

Dear Mr. Swillinger:

On November 1, 1988, the Federal Election Commission found that there is probable cause to believe the Pete du Pont for President Committee and Frank A. Ursomarso, as treasurer, violated 2 U.S.C. § 434(a)(3)(A)(i), a provision of the Federal Election Campaign Act of 1971, as amended, in connection with the Committee's late filing of its 1988 March Monthly Report.

The Commission has a duty to attempt to correct such violations for a period of 30 to 90 days by informal methods of conference, conciliation, and persuasion, and by entering into a conciliation agreement with a respondent. If we are unable to reach an agreement during that period, the Commission may institute a civil suit in United States District Court and seek payment of a civil penalty.

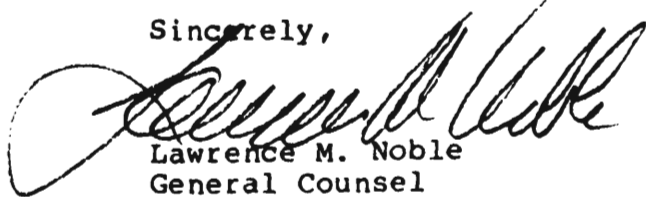
Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If you agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission within ten days. I will then recommend that the Commission accept the agreement. Please make your check for the civil penalty payable to the Federal Election Commission.

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Daniel J. Swillinger, Esquire
Page 2

If you have any questions or suggestions for changes in the enclosed conciliation agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact Sandra J. Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

A handwritten signature in dark ink, appearing to read "Lawrence M. Noble", is written over the typed name and title.

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

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RECEIVED
FEDERAL ELECTION COMMISSION

BEFORE THE FEDERAL ELECTION COMMISSION

89 FEB 14 AM 11:10

In the Matter of)

Pete du Pont for President Committee)
and Frank A. Ursomarso, as treasurer)

MUR 2610

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

Attached is a conciliation agreement which has been signed by Daniel J. Swillinger, the attorney for Pete du Pont for President Committee ("Respondents").

89040734418

II. RECOMMENDATIONS

1. Accept the attached conciliation agreement with the Pete du Pont for President Committee and Frank A. Ursomarso, as treasurer.
2. Close the file.
3. Approve the attached letter.

Lawrence M. Noble
General Counsel

Date

2/13/88

BY:


Lois G. Lerner
Associate General Counsel

Attachments

1. Conciliation Agreement
2. Letter to Respondent

Staff Assigned: Sandra J. Dunham

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Pete du Pont for President Committee
and Frank A. Ursomarso, as treasurer

MUR 2610

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on February 16, 1989, the Commission decided by a vote of 6-0 to take the following actions in MUR 2610:

1. Accept the conciliation agreement with the Pete du Pont for President Committee and Frank A. Ursomarso, as treasurer, as recommended in the General Counsel's report signed February 13, 1989.
2. Close the file.
3. Approve the letter, as recommended in the General Counsel's report signed February 13, 1989.

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

Attest:

2-16-89

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

Received in the Office of Commission Secretary:	Tues., 2-14-89,	11:10
Circulated on 48 hour tally basis:	Tues., 2-14-89,	4:00
Deadline for vote:	Thurs., 2-16-89,	4:00



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

February 22, 1989

Daniel J. Swillinger, Esquire
Alagia, Day, Marshall, Mintmire & Chauvin
1000 Thomas Jefferson Street, N.W.
Washington, D.C. 20007

RE: MUR 2610
Pete du Pont for President Committee
and Frank A. Ursomarso, as treasurer

Dear Mr. Swillinger:

On February 16, 1989, the Federal Election Commission accepted the signed conciliation agreement submitted on your client's behalf in settlement of a violation of 2 U.S.C. § 434(a)(3)(A)(i), a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter. This matter will become a part of the public record within 30 days. If 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.

Please be advised that information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact Sandra J. Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Conciliation Agreement

89040734421

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Pete du Pont for President Committee) MUR 2610
and Frank A. Ursomarso, as treasurer)

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found probable cause to believe that the Pete du Pont for President Committee and Frank A. Ursomarso, as treasurer ("Respondents") violated 2 U.S.C. § 434(a)(3)(A)(i).

NOW, THEREFORE, the Commission and the Respondents, 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 Respondents, and the subject matter of this proceeding.

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. Pete du Pont for President Committee is a political committee within the meaning of 2 U.S.C. § 431(4).

2. Frank A. Ursomarso is the treasurer of the Pete du Pont for President Committee.

3. Respondent committee was the principal campaign committee of a candidate for the Office of President.

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4. Respondent committee received contributions and made expenditures aggregating more than \$100,000 during a calendar year in which a general election was held.

5. Respondents were therefore required to file monthly reports no later than the 20th day after the last day of each month which were complete as of the last day of the month.

6. Respondents filed their 1988 March Monthly Report on April 8, 1988, 19 days late. This report disclosed a total financial activity of \$1,242,860.

7. Governor du Pont withdrew as a candidate on February 18, 198⁸₉. Respondents contend that once notified of their continuing obligation to file monthly reports, they ^{promptly} filed the 1988 March Monthly Report.

V. Respondents failed to file their 1988 March Monthly Report in a timely manner in violation of 2 U.S.C. § 434(a)(3)(A)(i).

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of One Thousand Five Hundred dollars (\$1,500.00), pursuant to 2 U.S.C. § 437g(a)(5)(A).

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

action for relief in the United States District Court for the District of Columbia.

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

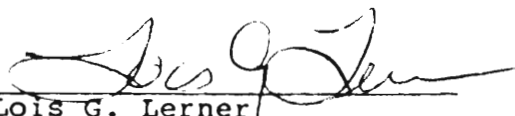
IX. Respondents shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. 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 enforceable.

FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

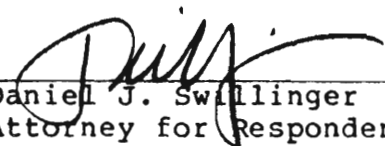
BY:


Lois G. Lerner
Associate General Counsel

Date

2/22/89

FOR THE RESPONDENTS:


Daniel J. Swillinger
Attorney for Respondents

Date

1/25/89

87040734424

S. Dunham

FAX OFFICE

FEDERAL

MISSION

ALAGIA, DAY, MARSHALL,
MINTMIRE & CHAUVIN

89 FEB 28 PM 2:16

1000 THOMAS JEFFERSON STREET, N.W.

WASHINGTON, D.C. 20007

(202) 342-0342

TELECOMPTER (202) 775-0080

CABLE ALBAR

TELEX 44 0712

OTHER OFFICES
ATLANTA, GEORGIA
BRANDY, KENTUCKY
LOUISVILLE, KENTUCKY
MEMPHIS, TENNESSEE
NASHVILLE, TENNESSEE
NEW ORLEANS, LOUISIANA
PALMDALE, CALIFORNIA

DANIEL J. SWILLINGER
PARTNER

February 27, 1989

Ms. Sandra J. Dunham
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2610

Dear Ms. Dunham:

I am in receipt of Lois Lerner's letter of February 22, enclosing a copy of the signed Conciliation Agreement.

I have requested a check from the du Pont campaign people, and anticipate having it before March 16.

The purpose of this letter is to specifically request that the Commission include in the public file each and every of the responses filed by me on behalf of the du Pont campaign. If you have any questions about this, please call me.

Thank you for your cooperation.

Sincerely,



Daniel J. Swillinger

DJS:mnd

cc: Mr. Robert W. Perkins

97040734425



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 2610

DATE FILMED 3/13/89 CAMERA NO. 3

CAMERAMAN AS

93040734426



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THE FOLLOWING MATERIAL IS BEING ADDED TO THE
PUBLIC RECORD IN (CLOSED) MUR 2610

89040752175

06 C 2203

LAW OFFICES

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE

**ALAGIA, DAY, MARSHALL,
MINTMIRE & CHAUVIN**

89 MAR 16 PM 2:01

1000 THOMAS JEFFERSON STREET, N.W.

WASHINGTON, D.C. 20007

(202) 342-0342

TELECOPIER (202) 775-9089

CABLE ALBAR

TELEX 44-0712

DANIEL J. SWILLINGER
PARTNER

OFFICES IN:
ATLANTA, GEORGIA
FRANKFORT, KENTUCKY
LOUISVILLE, KENTUCKY
MIAMI, FLORIDA
NASHVILLE, TENNESSEE
NEW ALBANY, INDIANA
PALM BEACH, FLORIDA

March 16, 1989

HAND DELIVERED

Ms. Sandra Dunham
Office of the General Counsel
Federal Election Commission
Suite 657
999 E Street, N.W.
Washington, D.C. 20463

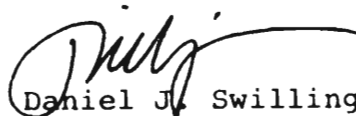
Re: MUR 2610

Dear Ms. Dunham:

Enclosed is a check in the amount of \$1,500 in payment of the agreed-upon penalty in MUR 2610.

Thank you for your courtesies in this matter.

Sincerely,


Daniel J. Swillinger

DJS:mnd
Enclosure
cc: Mr. Robert W. Perkins

89040752176

060 2203

MEMORANDUM

CLOSED

TO: DEBRA A. TRIMIEW

TO: CECILIA LIEBER

FROM: CECILIA LIEBER

FROM: DEBRA A. TRIMIEW

CHECK NO. 500979 { A COPY OF WHICH IS ATTACHED } RELATING TO

MUR 2610 AND NAME Pete du Pont for President Committee
(Dunham)

WAS RECEIVED ON 3/17/89. PLEASE INDICATE THE ACCOUNT INTO

WHICH IT SHOULD BE DEPOSITED:

/ / BUDGET CLEARING ACCOUNT { 95F3875.16 }
/ ✓ / CIVIL PENALTIES ACCOUNT { 95-1099.160 }
/ / OTHER _____

SIGNATURE

Debra A. Trimiew

DATE

3/12/89

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