



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

THIS IS THE BEGINNING OF MUR # 2828

DATE FILMED 5/23/91 CAMERA NO. 4

CAMERAMAN AS

91040842583

REPORTS ANALYSIS REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: 14 December 1988

ANALYST: Emily Leonard

I. COMMITTEE:

Dennis Smith for Congress
(C00222661)
Terry E. Brown, Treasurer
Two Corporate Center, Suite 2-300
Springfield, MO 65804

II. RELEVANT STATUTE:

2 U.S.C. §434(a)(2)(A)(iii)
11 CFR 104.5(a)(1)(iii)

III. BACKGROUND:

Failure to File a Required Report of Receipts and Disbursements

Dennis Smith for Congress ("the Committee") has failed to file the 1988 October Quarterly Report of Receipts and Disbursements. Prior Notice was sent September 21, 1988, informing the Committee that the report was due on October 15, 1988 (Attachment 2). A Non-Filer Notice was sent to the Committee on November 8, 1988, for failure to file the report (Attachment 3). The Non-Filer Notice informed the Committee that failure to file this report might result in audit or legal enforcement action.

On December 8, 1988, a Reports Analysis Division analyst called the treasurer to inquire about the October Quarterly Report (Attachment 4). The treasurer, Terry Brown, stated that he was aware that the report had not been filed. He said that the Committee would try to file the report by December 15, 1988, but that the report would definitely be filed no later than December 30, 1988.

As of this date, the 1988 October Quarterly Report has not been filed.

IV. OTHER PENDING MATTERS INITIATED BY RAD:

None.

91040842584

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

DATE 8DEC88

PAGE 1

91040842585

CANDIDATE/COMMITTEE/DOCUMENT	OFFICE SOUGHT/	PARTY	RECEIPTS PRIMARY	GENERAL	DISBURSEMENTS PRIMARY	GENERAL	COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
								TYPE OF FILER	
SMITH, DENNIS M	HOUSE 87	REPUBLICAN PARTY			MISSOURI		1988 ELECTION	ID# H8MD87841	
1. STATEMENT OF CANDIDATE									
1988 STATEMENT OF CANDIDATE							8FEB88	1	88HSE/344/2815
2. PRINCIPAL CAMPAIGN COMMITTEE									
DENNIS SMITH FOR CONGRESS							ID #C88222651	HOUSE	
1988 STATEMENT OF ORGANIZATION							8FEB88	1	88HSE/344/2805
STATEMENT OF ORGANIZATION - AMENDMENT							7JUN88	1	88HSE/351/3649
48 HOUR CONTRIBUTION NOTICE							14JUL88	1	88HSE/356/1287
48 HOUR CONTRIBUTION NOTICE							18JUL88	1	88HSE/356/5282
48 HOUR CONTRIBUTION NOTICE							27JUL88	1	88HSE/357/2294
48 HOUR CONTRIBUTION NOTICE							1AUG88	1	88HSE/357/3553
APRIL QUARTERLY			56,421		18,912		1JAN88 - 31MAR88	13	88HSE/348/1290
APRIL QUARTERLY - AMENDMENT			56,421		18,912		1JAN88 - 31MAR88	5	88HSE/358/1286
APRIL QUARTERLY - AMENDMENT			-		-		1JAN88 - 31MAR88	3	88HSE/351/2238
1'ST LETTER INFORMATIONAL NOTICE							1JAN88 - 31MAR88	1	88FEC/529/8837
JULY QUARTERLY			88,263		98,755		1APR88 - 30JUN88	32	88HSE/355/3664
JULY QUARTERLY - AMENDMENT			-		-		1APR88 - 30JUN88	4	88HSE/358/5312
JULY QUARTERLY - AMENDMENT			-		-		1APR88 - 30JUN88	3	88HSE/357/8877
JULY QUARTERLY - AMENDMENT			-		-		1APR88 - 30JUN88	1	88HSE/358/8886
PRE-PRIMARY			11,749		26,642		1JUL88 - 13JUL88	16	88HSE/356/5282
PRE-PRIMARY - AMENDMENT			-		-		1JUL88 - 13JUL88	1	88HSE/358/8816
1'ST LETTER INFORMATIONAL NOTICE							1JUL88 - 13JUL88	1	88FEC/541/8653
NOTICE OF FAILURE TO FILE							14JUL88 - 30SEP88	1	88FEC/564/5526
TOTAL			148,433	0	136,385	0		87	TOTAL PAGES
3. AUTHORIZED COMMITTEES									
DENNIS SMITH FOR STATE SENATE							ID #C88225722	HOUSE	
1988 STATEMENT OF ORGANIZATION							7APR88	1	88HSE/346/2679
TERMINATION REPORT			8,385		8,385		31MAR88	5	88HSE/349/1279
								6	TOTAL PAGES
								6	AUTH TOT PAGES
4. JOINT FUNDRAISING COMMITTEES AUTHORIZED BY THE CAMPAIGN									

All reports have been reviewed

Cash on hand as of 7/13/88 -- \$12,123.00

Debts as of 7/13/88 -- \$31,697.00

91040842585

QUARTERLY REPORT NOTICE

Attachment 2
Page 1 of 2

FEDERAL ELECTION COMMISSION

CONGRESSIONAL CANDIDATES

September 21, 1988

REPORT	REPORTING PERIOD	REG./CERT.	FILING
		MAILING DATE*	DATE
October Quarterly	07/01/88**-09/30/88	10/15/88	10/15/88

WHO MUST FILE

PRINCIPAL CAMPAIGN COMMITTEES OF CONGRESSIONAL "CANDIDATES" who seek election in 1988 must file an October Quarterly Report. These committees must continue to file quarterly throughout 1988, regardless of the primary outcome, unless they file a valid termination report.

WHO NEED NOT FILE

Principal campaign committees of candidates not active in the 1988 elections (i.e., committees active in past or future elections) do not file the quarterly report. Instead they report semiannually.

WHAT MUST BE REPORTED

All financial activity (not previously reported) that occurred during the reporting period.

REPORTING FORMS

Candidate committees use FORM 3 (enclosed). If the campaign has more than one authorized committee, the principal campaign committee must also file a consolidated report on FORM 3Z.

WHERE TO FILE

Consult the instructions on the back of the FORM 3 Summary Page. Note State filing requirements also.

LAST-MINUTE CONTRIBUTIONS

Committees which receive a contribution of \$1,000 or more after the 20th day, but more than 48 hours, before an election must provide notice of it to the appropriate filing offices within 48 hours of its receipt.

*Reports sent by registered or certified mail must be postmarked by the mailing date. Otherwise, they must be received by the filing date.

**From the date of registration, or the close of books of the last report filed, whichever is later.

(over)

21040342586

LABEL

Committees should affix the peel-off label from the envelope to Line 1 of the report. Corrections should be made on the label.

COMPLIANCE

TREASURERS OF POLITICAL COMMITTEES ARE RESPONSIBLE FOR FILING ALL REPORTS ON TIME. FAILURE TO DO SO IS SUBJECT TO ENFORCEMENT ACTION. COMMITTEES FILING ILLEGIBLE REPORTS OR USING NON-FEC FORMS WILL BE REQUIRED TO REFILE.

91040842587



WASHINGTON, DC 2004

10-2

November 8, 1988

Identification Number: C00222661

Reference: October Quarterly Report (7/14/88-9/30/88)

Dear Mr. Brown:

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 Disbursements as required by the Federal Election Campaign Act. You were previously notified of the due date for this report.

It is important that you file this report immediately with the Clerk of the House, Office of Records and Registration, 1030 Longworth House Office Building, Washington, DC 20515, or the Secretary of the Senate, 232 Hart Senate Office Building, Washington, DC 20510, as appropriate. A copy of the report should also be filed with the Secretary of State or equivalent state officer of your state.

The failure to file this report may result in an audit or legal enforcement action.

If you have any questions regarding this matter, please contact Peter Kell Jr. on our toll-free number (800) 424-9530. Our local number is (202) 376-2480.

Sincerely,

John D. Gibson
Assistant Staff Director

John D. Gibson
Assistant Staff Director
Reports Analysis Division

MEMORANDUM TO FILES:

DATE December 8, 1988

TELECON X
VISIT

NAME OF COMMITTEE: Dennis Smith for Congress

SUBJECT: Failure to file the 1988 October Quarterly Report

FEC REP: Leonard

COMMITTEE REP: Terry Brown (Treasurer)

He said he guarantees the report will be here by December 30,
but they are trying to get it here by the 15th.

91040842589

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

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

89 FEB 15 PM 4:22

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

RAD Referral # 88NF-58
Staff Member: Ivonne Cotto

SOURCE OF MUR: INTERNALLY GENERATED
RESPONDENTS: Dennis Smith for Congress
and Terry E. Brown, as treasurer
RELEVANT STATUTE: 2 U.S.C. § 434(a)(2)(A)(iii)
INTERNAL REPORTS
CHECKED: Disclosure Documents
FEDERAL AGENCIES
CHECKED: None

I. GENERATION OF MATTER

The Reports Analysis Division ("RAD") referred Dennis Smith for Congress ("the Committee") to the Office of the General Counsel on December 14, 1988. The basis for the attached referral is the Committee's failure to file the 1988 October Quarterly Report.

II. FACTUAL AND LEGAL ANALYSIS

The Federal Election Campaign Act of 1971, as amended ("the Act") provides that during an election year the principal campaign committee of candidates for the House of Representatives or for the Senate should file a quarterly report no later than the 15th day after the last day of each calendar quarter.

2 U.S.C. § 434(a)(2)(A)(iii). The Committee was notified on September 21, 1988, that a report was due on October 15, 1988. The Committee has still not filed its 1988 October Quarterly Report as of the date of this First General Counsel's Report.

91040842590

Accordingly, the Office of the General Counsel recommends that the Commission open a MUR and find reason to believe that Dennis Smith for Congress and Terry E. Brown, as treasurer, violated 2 U.S.C. § 434(a)(2)(A)(iii).

III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

This Office also recommends that the Commission offer to enter into conciliation with the respondents prior to a finding of probable cause to believe.

91040842591

IV. RECOMMENDATIONS

1. Open a MUR.
2. Find reason to believe that Dennis Smith for Congress and Terry E. Brown, as treasurer, violated 2 U.S.C. § 434(a)(2)(A)(iii), and enter into conciliation prior to a finding of probable cause to believe.
3. Approve the attached letter, Factual and Legal Analysis, and proposed conciliation agreement.

Lawrence M. Noble
General Counsel

Date

2/15/89

By:


Lois G. Lerner
Associate General Counsel

Attachments

1. Referral Materials
2. Proposed Conciliation Agreement
3. Letter and Factual and Legal Analysis

Staff Person: Ivonne Cotto

91040842592

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Dennis Smith for Congress
and Terry E. Brown, as treasurer

RAD Ref. 88NF-58

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on February 21, 1989, the Commission decided by a vote of 6-0 to take the following actions in RAD Ref. 88NF-58:

1. Open a MUR.
2. Find reason to believe that Dennis Smith for Congress and Terry E. Brown, as treasurer, violated 2 U.S.C. § 434(a)(2)(A)(iii), and enter into conciliation prior to a finding of probable cause to believe.
3. Approve the letter, Factual and Legal Analysis, and proposed conciliation agreement, as recommended in the First General Counsel's report signed February 15, 1989.

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

Attest:

2-21-89

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

Received in the Office of Commission Secretary: Wed., 2-15-89, 4:21
Circulated on 48 hour tally basis: Thurs., 2-16-89, 11:00
Deadline for vote: Tues., 2-21-89, 11:00

91040842593



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 3, 1989

Terry E. Brown, Treasurer
Two Corporate Center
Suite 2-300
Springfield, MO 65804

RE: MUR 2828
Dennis Smith for Congress and
Terry E. Brown, as treasurer

Dear Mr. Brown:

On February 21, 1989, the Federal Election Commission found that there is reason to believe Dennis Smith for Congress ("Committee") and you, as treasurer, violated 2 U.S.C. § 434(a)(2)(A)(iii), 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.

In order to expedite the resolution of this matter, the Commission has also decided to offer to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Enclosed is a conciliation agreement that the Commission has approved.

If you are interested in expediting the resolution of this matter by pursuing preprobable cause conciliation and if you agree with the provisions of the enclosed agreement, please sign and return the agreement, along with the civil penalty, to the

91040842594

Terry E. Brown
Page 2

Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

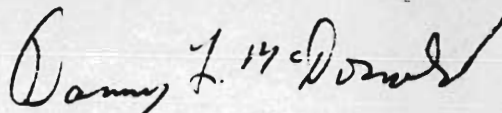
Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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

Sincerely,


Danny L. McDonald
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form
Conciliation Agreement

91040842595

**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: Dennis Smith for Congress
and Terry E. Brown, as treasurer

MUR 2828

I. GENERATION OF MATTER

The Reports Analysis Division ("RAD") referred Dennis Smith for Congress ("the Committee") to the Office of the General Counsel on December 14, 1988. The basis for the referral is the Committee's failure to file the 1988 October Quarterly Report.

II. FACTUAL AND LEGAL ANALYSIS

The Federal Election Campaign Act of 1971, as amended ("the Act") provides that during an election year the principal campaign committee of candidates for the House of Representatives or for the Senate should file a quarterly report, no later than the 15th day after the last day of each calendar quarter.

2 U.S.C. § 434(a)(2)(A)(iii). The Committee was notified on September 21, 1988, that a report was due on October 15, 1988. The Committee has still not filed its 1988 October Quarterly Report.

Therefore, there is reason to believe that Dennis Smith for Congress and Terry E. Brown, as treasurer, violated 2 U.S.C. § 434(a)(2)(A)(iii).

91040842596



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SECRET 11 2711-32

SENSITIVE

October 10, 1989

MEMORANDUM

TO: The Commission
FROM: Lawrence M. Noble *fn*
General Counsel
SUBJECT: MUR 2828

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 October 10, 1989. 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

91040842597



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 9, 1989

Terry E. Brown, Treasurer
Two Corporate Center
Suite 2-300
Springfield, MO 65804

RE: MUR 2828
Dennis Smith for Congress
and Terry E. Brown, as
treasurer

Dear Mr. Brown:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, on February 21, 1989, the Federal Election Commission found reason to believe that Dennis Smith for Congress ("Committee") and you, as treasurer, violated 2 U.S.C. § 434(a)(2)(A)(iii), 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 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.

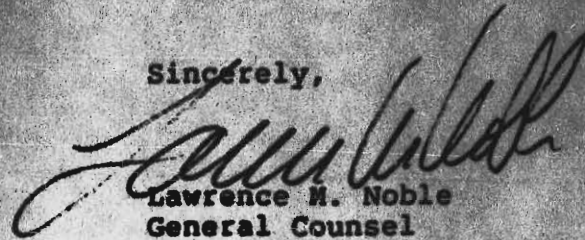
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Terry E. Brown
Page 2

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 Mary Ann Bumgarner, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,



Lawrence M. Noble
General Counsel

Enclosure
Brief

91040842599

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Dennis Smith for Congress and)
Terry E. Brown, as treasurer)

MUR 2828

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On February 21, 1989, the Federal Election Commission found reason to believe Dennis Smith for Congress and Terry E. Brown, as treasurer, ("Respondents") violated 2 U.S.C. § 434(a)(2)(A)(iii), by failing to file its 1988 October Quarterly Report.

II. ANALYSIS

The Federal Election Campaign Act of 1971, as amended ("the Act") provides that during an election year the principal campaign committee of a candidate for the House of Representatives or for the Senate shall file a quarterly report no later than the 15th day after the last day of each calendar quarter. 2 U.S.C. § 434(a)(2)(A)(iii).

Respondents have not yet filed the 1988 October Quarterly report. Therefore, this Office recommends that the Commission find probable cause to believe that Dennis Smith for Congress and Terry E. Brown, as treasurer, violated 2 U.S.C. § 434(a)(2)(A)(iii).

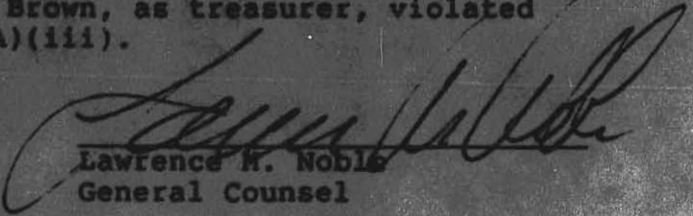
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III. RECOMMENDATION

1. Find probable cause to believe that Dennis Smith for Congress and Terry E. Brown, as treasurer, violated 2 U.S.C. § 434(a)(2)(A)(iii).

Date

10/10/89


Lawrence H. Noble
General Counsel

91040842601

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARY

89 NOV 28 AM 10: 04

SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

EXECUTIVE SESSION

DEC 5 1989

In the Matter of)
Dennis Smith for Congress and) MUR 2828
Terry E. Brown, as treasurer)

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On February 21, 1989, the Commission found reason to believe Dennis Smith for Congress and Terry E. Brown, as treasurer ("Respondents") violated 2 U.S.C. § 434(a)(2)(A)(iii), by failing to file its 1988 October Quarterly Report. The General Counsel's Brief was forwarded to Respondents on October 10, 1989.

II. ANALYSIS (The General Counsel's Brief is incorporated by reference)

The Federal Election Campaign Act of 1971, as amended ("the Act") provides that during an election year the principal campaign committee of a candidate for the House of Representatives or the Senate shall file a quarterly report no later than the 15th day after the last day of each calendar quarter. 2 U.S.C. § 434(a)(2)(A)(iii).

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This Office recommends that the Commission find probable cause to believe that Dennis Smith for Congress and Terry E. Brown, as treasurer, violated 2 U.S.C. § 434(a)(2)(A)(iii).

III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

Attached for the Commission's approval is a proposed conciliation agreement with Dennis Smith for Congress and Terry E. Brown, as treasurer (Attachment I).

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IV. RECOMMENDATIONS

1. Find probable cause to believe that Dennis Smith for Congress and Terry E. Brown, as treasurer, violated 2 U.S.C. § 434(a)(2)(A)(iii).
2. Approve the attached conciliation agreement and letter.

Date 11-27-89

Lawrence M. Noble (292)
Lawrence M. Noble
General Counsel

Attachments:

1. Conciliation Agreement
2. Letter

Staff Person: Mary Ann Bumgarner

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Dennis Smith for Congress and)
Terry E. Brown, as treasurer)

MUR 2828

CERTIFICATION

I, Hilda Arnold, recording secretary for the Federal Election Commission executive session of December 5, 1989, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions with respect to MUR 2336:

1. Find probable cause to believe that Dennis Smith for Congress and Terry E. Brown, as treasurer, violated 2 U.S.C. § 434(a)(2)(A)(iii).
2. Approve the conciliation agreement and letter as recommended in the General Counsel's Report dated November 27, 1989.

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

12/5/89

Date

Hilda Arnold

Hilda Arnold
Administrative Assistant

91040842605



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 12, 1989

Terry E. Brown, Treasurer
Two Corporate Center
Suite 2-300
Springfield, MO 65804

RE: MUR 2828
Dennis Smith for Congress
and Terry E. Brown, as
treasurer

Dear Mr. Brown:

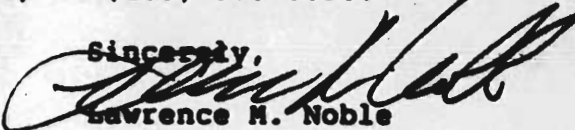
On December 5, 1989, the Federal Election Commission found that there is probable cause to believe Dennis Smith for Congress ("Committee") and you, as treasurer, violated 2 U.S.C. § 434(a)(2)(A)(iii), a provision of the Federal Election Campaign Act of 1971, as amended.

The Commission has a duty to attempt to correct such violations for a period of 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.

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 Mary Ann Bungarner, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,


Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

91040842606



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

January 16, 1990

Terry E. Brown, Treasurer
Two Corporate Center
Suite 2-300
Springfield, MO 65804

RE: MUR 2828
Dennis Smith for Congress
and Terry E. Brown, as
treasurer

Dear Mr. Brown:

On December 12, 1989, you were notified that the Federal Election Commission found probable cause to believe that Dennis Smith for Congress ("Committee") and you, as treasurer, violated 2 U.S.C. § 434(a)(2)(A)(iii). On that same date, you were sent a conciliation agreement offered by the Commission in settlement of this matter.

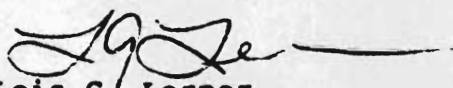
Please note that pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), the conciliation period in this matter may not extend for more than 90 days, but may cease after 30 days. Insofar as more than 30 days have elapsed without a response from you, a recommendation concerning the filing of a civil suit will be made to the Commission by the Office of the General Counsel unless we receive a response from you within 10 days of receipt of this letter.

Should you have any questions, please contact Mary Ann Bumgarner, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

BY:


Lois G. Lerner
Associate General Counsel

91040842607



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 22, 1990

Terry E. Brown, Treasurer
Dennis Smith for Congress
Two Corporate Center
Suite 2-300
Springfield, MO 65804

RE: MUR 2828
Dennis Smith for Congress
and Terry E. Brown, as
treasurer

Dear Mr. Brown:

On December 12, 1989, you were notified that the Federal Election Commission found probable cause to believe that Dennis Smith for Congress ("Committee") and you, as treasurer, violated 2 U.S.C. § 434(a)(2)(A)(iii). On that same date, you were sent a conciliation agreement offered by the Commission in settlement of this matter.

Please note that pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), the conciliation period in this matter may not extend for more than 90 days. Insofar as more than 90 days have elapsed, a recommendation concerning the filing of a civil suit will be made to the Commission by the Office of the General Counsel unless we receive a response from you within 5 days of receipt of this letter.

Should you have any questions, please contact Mary Ann Bumgarner, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

91040842608

90 APR 18 PM 4:25

SENSITIVE
EXECUTIVE SESSION
APR 24 1990

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Dennis Smith for Congress	)	MUR 2828
and Terry E. Brown, as	)	
treasurer	)	

GENERAL COUNSEL'S REPORT

On December 5, 1989, the Federal Election Commission found there is probable cause to believe that Dennis Smith for Congress and Terry E. Brown, as treasurer ("Respondents") violated 2 U.S.C. § 434(a)(2)(A)(iii), by failing to file its 1988 October Quarterly Report. The Commission's notification and proposed conciliation agreement were mailed to Respondents on December 12, 1989. No response was submitted by Respondents.

On January 16, 1990, a second letter was sent to Respondents reminding them that pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), the conciliation period in this matter may not extend for more than 90 days, but may cease after 30 days. No response was submitted by Respondents to the second letter.

This Office attempted on several occasions to telephone Mr. Brown in order to determine whether Respondents intended to respond to the probable cause finding by the Commission. This Office did reach Mr. Brown on January 31, 1990, at which time Mr. Brown informed this Office that Respondents were interested

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in pursuing post-probable cause conciliation.

Mr. Brown also informed this Office that Respondents planned to file the Committee's 1988 October Quarterly Report by February 15, 1990. No response was received from Respondents and, as of the date of this report, they have not filed their late report.

On February 27, 1990, this Office once again contacted Mr. Brown by telephone. At that time, Mr. Brown stated that this Office would be receiving a response within 5 days; however, no response has been submitted by Respondents. Therefore, on March 22, 1990, this Office notified Respondents by letter that if a written response was not received within 5 days of receipt of the letter, a recommendation concerning the filing of a civil suit would be made to the Commission by this Office. Respondents have not responded to this letter.

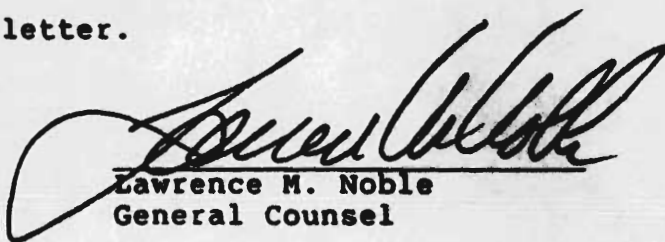
Since Respondents have made no effort to negotiate an agreement, it is recommended that the Commission authorize this Office to file a civil suit.

II. RECOMMENDATIONS

1. Authorize the Office of the General Counsel to file a civil suit for relief in United States District Court against Dennis Smith for Congress and Terry E. Brown, as treasurer.
2. Approve the attached letter.

Date

4/18/90


Lawrence M. Noble
General Counsel

Attachment

1. Letter to Respondents

Staff Assigned: Mary Ann Bumgarner

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Dennis Smith for Congress and
Terry E. Brown, as treasurer

)
)
) MUR 2828
)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the
Federal Election Commission executive session on April 24,
1990, do hereby certify that the Commission decided by a
vote of 5-0 to take the following actions in MUR 2828:

1. Authorize the Office of the General Counsel
to file a civil suit for relief in United
States District Court against Dennis Smith
for Congress and Terry E. Brown, as treasurer.
2. Approve the letter attached to the General
Counsel's report dated April 18, 1990.

Commissioners Aikens, Elliott, Josefiak, McGarry, and
Thomas voted affirmatively for the decision; Commissioner
McDonald was not present.

Attest:

4-25-90
Date

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

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

April 26, 1990

Terry E. Brown, Treasurer
Dennis Smith for Congress
Two Corporate Center
Suite 2-300
Springfield, Missouri 65804

RE: MUR 2828
Dennis Smith for Congress
and Terry E. Brown, as
treasurer

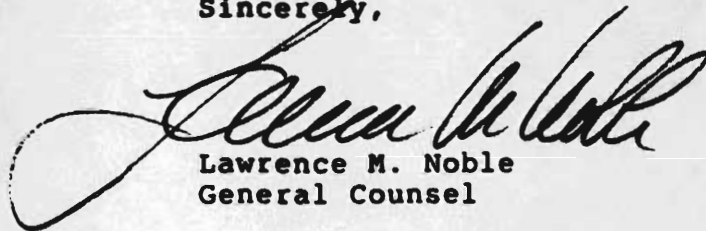
Dear Mr. Brown:

You were previously notified that on December 5, 1989, the Federal Election Commission found probable cause to believe that Dennis Smith for Congress ("Committee") and you, as treasurer violated 2 U.S.C. § 434(a)(2)(A)(iii), a provision of the Federal Election Campaign Act of 1971, as amended, in connection with the captioned matter.

As a result of our inability to settle this matter through conciliation within the allowable time period, the Commission has authorized the General Counsel to institute a civil action for relief in the United States District Court.

Should you have any questions, or should you wish to settle this matter prior to suit, please contact Robert Bonham, Acting Assistant General Counsel, at (202) 376-8200, within five days of your receipt of this letter.

Sincerely,



Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
MAIL ROOM

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION



FEDERAL ELECTION COMMISSION,

Plaintiff,

v.

DENNIS SMITH FOR CONGRESS, et al.,

Defendants.

Civil Action No.
90-3388-CV-S-2

FINAL CONSENT ORDER
AND JUDGMENT

FINAL CONSENT ORDER AND JUDGMENT

This action for declaratory, injunctive and other relief was instituted by the plaintiff Federal Election Commission (the "Commission" or "FEC") against the defendants Dennis Smith for Congress and Terry E. Brown, as treasurer (the "Defendants") pursuant to the express authority granted the Commission by sections 307(a)(6) and 309(a)(6)(A) of the Federal Election Campaign Act of 1971, as amended (the "Act" or "FECA"), codified at 2 U.S.C. § 437d(a)(6) and 437g(a)(6)(A).

This Court has original jurisdiction over this suit pursuant to 28 U.S.C. § 1345 as an action brought by an agency of the United States expressly authorized to sue by an Act of Congress. Venue is properly found in the Western District of Missouri in accord with 2 U.S.C. § 437g(a)(6)(A) as defendants can be found, reside, or transact business in this district. The plaintiff Commission has satisfied all jurisdictional requirements which are prerequisites to filing this suit.

The parties now agree to entry of this Court's judgment and

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consent to the issuance of this order, as evidenced by the signatures of their respective counsel affixed hereto.

The parties agree that the pertinent facts in this matter are as follows:

1. Plaintiff Federal Election Commission is the agency of the United States government empowered with exclusive primary jurisdiction to administer, interpret and enforce the Act. See generally 2 U.S.C. §§ 437c(b)(1), 437d(a), and 437g. The FEC is authorized to institute investigations of possible violations of the Act, 2 U.S.C. § 437g(a)(2), and has exclusive jurisdiction to initiate civil actions in the United States district courts to obtain judicial enforcement of the Act. 2 U.S.C. §§ 437c(b)(1) and 437d(e).

2. Defendant Dennis Smith for Congress is a "political committee" as defined by 2 U.S.C. § 431(4)(A) and was the principal campaign committee, as defined at 2 U.S.C. § 431(5), of Dennis Smith in connection with his campaign for election to the United States House of Representatives from the Seventh District of Missouri in 1988.

3. Defendant Terry E. Brown is the treasurer of Dennis Smith for Congress, and is responsible for filing all reports required by the Act. See 2 U.S.C. § 434(a)(1).

4. Section 434(a)(2)(A)(iii) of Title 2, United States Code, requires a political committee which is the principal campaign committee of a candidate for the House of Representatives to file a quarterly report of all receipts and

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disbursements no later than the 15th day after the last day of each calendar quarter.

5. Defendants were required to file the 1988 October Quarterly Report on October 15, 1988. Defendants did not file the 1988 October Quarterly Report until September 10, 1990, over 22 months late, disclosing \$31,000 in receipts and \$42,214 in disbursements during the period August 14, 1988 to September 30, 1988.

Therefore, it is ORDERED, ADJUDGED AND DECREED:

1. That Dennis Smith for Congress and Terry E. Brown, as treasurer, failed to file timely the 1988 October Quarterly Report, in violation of 2 U.S.C. § 434(a)(2)(A)(iii);

2. That Dennis Smith for Congress and Terry E. Brown, as treasurer, shall pay a civil penalty in the amount of Four Thousand Dollars (\$4,000) for the foregoing violations, for which the defendants shall be jointly and severally liable;

3. That Dennis Smith for Congress and Terry E. Brown, as treasurer, are permanently enjoined from failing to file timely quarterly reports of receipts of disbursements in violation of 2 U.S.C. § 434(a)(2)(A)(iii); and

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4. That the parties shall bear their own costs and attorney's fees in this litigation.

03/01/91
Date

William R. Collinson
William R. Collinson
United States Senior District Judge

We hereby consent to the entry of the foregoing consent order and judgment.

Lawrence M. Noble
Lawrence M. Noble
General Counsel

Richard B. Bader
Richard B. Bader
Associate General Counsel

David M. Fitzgerald
David M. Fitzgerald
Assistant General Counsel

Kenneth E. Kellner
Kenneth E. Kellner
Attorney

FOR THE PLAINTIFF
FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463
(202) 376-8200

Donald R. Duncan
Donald R. Duncan
Turner, Reid, Duncan,
Loomer & Patton, P.C.
1355 East Bradford Parkway
Suite A
P.O. Box 4043
Springfield, Missouri 65808
(417) 883-2102

FOR THE DEFENDANTS
DENNIS SMITH FOR CONGRESS
TERRY E. BROWN, AS TREASURER

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 2828

DATE FILMED 5/23/91 CAMERA NO. 1

CAMERAMAN AS

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