



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 3035

DATE FILMED 4/13/90 CAMERA NO. 4

CAMERAMAN AS

90040704043

REPORTS ANALYSIS REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: _____

ANALYST: Robert B. DiNardo

I. COMMITTEE: America First Resource Management, Inc.
Political Action Committee (AFPAC-FED)
(C00225474)
Timothy Hall, Treasurer
1004 Farnam Street
Omaha, NE 68102

II. RELEVANT STATUTE: 2 U.S.C. 441a(af)(1)(A)

III. BACKGROUND:

Excessive Contributions Made to Federal Candidate Committees

The America First Resource Management, Inc. Political Action Committee (AFPAC-Fed) (the "Committee") made two (2) apparent excessive contributions, totalling \$8,000, to two (2) federal candidate committees during calendar year 1988.

On August 18, 1989, the Committee filed its 1988 30 Day Post-General and Year End Reports. These reports disclosed two (2) contributions made on November 2, 1988, and one (1) contribution made on December 28, 1988, of \$5,000 each to three (3) federal candidate committees. All three contributions were designated for the general election (Attachment 2).

On September 27, 1989, a Request for Additional Information ("RFAI") was sent to the Committee. The RFAI notified the Committee that a non-multicandidate committee was precluded from making a contribution to a federal candidate in excess of \$1,000 per election. If the contributions were excessive, the RFAI recommended the Committee request a refund and/or redesignate the excessive amount (Attachment 3).

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A Second Notice was sent to the Committee on October 19, 1989 for failure to respond to the RFAI (Attachment 4).

On November 17, 1989, the Reports Analysis Division ("RAD") analyst called Mr. Timothy Hall, treasurer of the Committee. The RAD analyst told Mr. Hall that the Commission had not received a response to the RFAI. Mr. Hall said he was preparing a response which would be mailed by November 20, 1989 (Attachment 5).

On November 21, 1989, the Commission received a written response which stated that the Committee achieved multicandidate status on November 4, 1988. The Committee further stated that its understanding was "that the five federal candidate contribution requirements was one that could be simultaneous to the contributed requirement." The multicandidate date occurred two (2) days after the two (2) November 2nd \$5,000 contributions, but before the December 28th \$5,000 contribution. Therefore, the December 2nd contribution was rendered permissible (Attachment 6).

On December 5, 1989, the RAD analyst called Mr. Hall and told him that the Committee needed to request two (2) refunds totalling \$8,000 (\$4,000 from each candidate committee). The RAD analyst told Mr. Hall to send the Commission notification of the action the Committee was pursuing (Attachment 7).

On January 2, 1990, the Commission received a written response from Mr. Hall. He stated that the Committee was "in the process of having the excess amount refunded to AFPAC-FED" (Attachment 8).

As of this date, no refund and/or redesignation of the excess amount of the contributions have occurred.

IV. OTHER PENDING MATTERS INITIATED BY RAD:

None

FEDERAL ELECTION COMMISSION
1987-1988
COMMITTEE INDEX OF DISCLOSURE DOCUMENTS - (C)

DATE 4JAN90

PAGE 1

COMMITTEE	DOCUMENT	RECEIPTS	DISBURSEMENTS	COVERAGE DATES	# OF PAGES	LOCATION	TYPE OF FILER
AMERICA FIRST RESOURCE MANAGEMENT INC POLITICAL ACTION COMMITTEE (AFPAC-FED)				ID #C00225474 NON-PARTY QUALIFIED			
CONNECTED ORGANIZATION: AMERICA FIRST RESOURCE MANAGEMENT INC							
1988 STATEMENT OF ORGANIZATION							
	JULY QUARTERLY	0	0	8APR88	3	88FEC/516/1770	
	JULY QUARTERLY - AMENDMENT	200	0	8APR88 -30JUN88	3	88FEC/535/5300	
	OCTOBER QUARTERLY	0	0	8APR88 -30JUN88	8	89FEC/607/3000	
	OCTOBER QUARTERLY - AMENDMENT	11,377	0	1JUL88 -30SEP88	2	88FEC/553/5400	
	POST-GENERAL	11,743	10,750	1JUL88 -30SEP88	6	89FEC/607/3000	
	POST-GENERAL - AMENDMENT	-	-	1OCT88 -28NOV88	8	89FEC/607/3000	
	POST-GENERAL - AMENDMENT	-	-	1OCT88 -28NOV88	1	89FEC/615/5300	
	NOTICE OF FAILURE TO FILE			1OCT88 -28NOV88	6	90FEC/616/0500	
	REQUEST FOR ADDITIONAL INFORMATION			1OCT88 -28NOV88	1	89FEC/608/0500	
	REQUEST FOR ADDITIONAL INFORMATION 2ND			28NOV88	1	89FEC/610/3400	
	YEAR-END	1,150	5,000	1OCT88 -28NOV88	5	89FEC/613/1300	
	YEAR-END - AMENDMENT	-	-	29NOV88 -31DEC88	6	89FEC/607/3400	
	NOTICE OF FAILURE TO FILE			29NOV88 -31DEC88	1	89FEC/611/0400	
	REQUEST FOR ADDITIONAL INFORMATION			29NOV88 -31DEC88	1	89FEC/606/2800	
	REQUEST FOR ADDITIONAL INFORMATION 2ND			31DEC88	1	89FEC/610/3400	
				29NOV88 -31DEC88	5	89FEC/613/1300	
	TOTAL	24,470	0 15,750	0	58	TOTAL PAGES	

All reports listed above have been reviewed.

Cash-on-hand as of 12/31/88: \$8720.50

Debts and obligations owed to the committee as of 12/31/88: \$0

Debts and obligations owed by the committee as of 12/31/88: \$0

1988 30 Day Post-General Report

Attachment #2

SCHEDULE B

ITEMIZED DISBURSEMENTS

Use separate schedules for each category of the Detailed Summary Page	PAGE	OF
	1	1
FOR LINE NUMBER		

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

NAME OF COMMITTEE As Filed

AMERICA FIRST RESOURCE MANAGEMENT, INC., INC. (AFMC - FED)

A. Full Name, Mailing Address and ZIP Code FARNES FOR SENATE 6846 PACIFIC ST. #100 OMAHA, NE 68106	Purpose of Disbursement U.S. SENATE, NEBR. Disbursement for: ☐ Primary ☒ General ☐ Other (specify)	Date (month, day, year) 11-2-88	Amount of Each Disbursement This Period \$ 5,000.00
B. Full Name, Mailing Address and ZIP Code SCHWENEN FOR CONGRESS 8303 DAGE ST. OMAHA, NE 68114	Purpose of Disbursement 2nd DIST. U.S. CONGRESS, NEBR. Disbursement for: ☐ Primary ☒ General ☐ Other (specify)	Date (month, day, year) 11-2-88	Amount of Each Disbursement This Period \$ 5,000.00
C. Full Name, Mailing Address and ZIP Code BERGUTER FOR CONGRESS BOX 82887 1045 4 STREET LINCOLN, NE 68501	Purpose of Disbursement 1st DIST. U.S. CONGRESS, NEBR. Disbursement for: ☐ Primary ☐ General ☒ Other (specify) 1990 PRIMARY	Date (month, day, year) 11-4-88	Amount of Each Disbursement This Period \$ 250.00
D. Full Name, Mailing Address and ZIP Code SMITH FOR CONGRESS 1502 2nd Ave. #2 SCOTSDUFF, NE 69361	Purpose of Disbursement 3rd DIST. U.S. CONGRESS, NEBR. Disbursement for: ☐ Primary ☐ General ☒ Other (specify) 1990 PRIMARY	Date (month, day, year) 11-4-88	Amount of Each Disbursement This Period \$ 250.00
E. Full Name, Mailing Address and ZIP Code T.J. ECK FOR SENATE 287 FEDERAL BLDG. LINCOLN, NE 68508	Purpose of Disbursement U.S. SENATE, NEBR. Disbursement for: ☐ Primary ☐ General ☒ Other (specify) 1984 GENERAL	Date (month, day, year) 11-4-88	Amount of Each Disbursement This Period \$ 250.00
F. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
G. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
H. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
I. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period

NET TOTAL (Sum of all Disbursements on This Page)

16,750.00

NET TOTAL (Sum of all Disbursements on This Page)

16,750.00

1988 Year End Report

2 of Attachment #2

SCHEDULE B

ITEMIZED DISBURSEMENTS

Use separate schedules for each category of the Detailed Summary Page

PAGE 1 OF 1
FOR LINE NUMBER

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

NAME OF COMMITTEE (in Full)

FRANKLIN FIRST RESERVE MANAGEMENT, INC. P/C

(AFRAC-FED)

ED

A. Full Name, Mailing Address and ZIP Code HOPKINS FOR CONGRESS 215 AL. 17th ST. #8424 DUNN, NE 68102	Purpose of Disbursement 2nd DIST U.S. CONGRESS, NEBR. Disbursement for ☐ Primary ☒ General ☐ Other (specify)	Date (month, day, year) 12-28-88	Amount of Each Disbursement This Period \$5,000.00
B. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
C. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
D. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
E. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
F. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
G. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
H. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
I. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period

CAUTION: This page is for the use of the committee only.

5,000.00
5,000.00



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20543

RO-2

SEP 27 1990

Timothy Hall, Treasurer
America First Resource Management Inc.
Political Action Committee (APPAC-FED)
1004 Farnam Street
Omaha, NE 68102

Identification Number: C00195214

Reference: 30 Day Post-General (10/1/88-11/28/88) and Year End
(11/29/88-12/31/88) Reports

Dear Mr. Hall:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Schedule B of your report (pertinent portion(s) attached) discloses a contribution(s) which appears to exceed the limits set forth in the Act. The Act precludes a political committee, other than a multicandidate committee, from making a contribution to a candidate for federal office in excess of \$1,000 per election. (2 U.S.C. §441a(a))

If the contribution(s) in question was incompletely or incorrectly disclosed, you should amend your original report with the clarifying information. If you have made an excessive contribution, you should either notify the recipient and request a refund of the amount in excess of \$1,000 and/or notify the recipient, in writing, of your redesignation of the contribution. All refunds and redesignations must be made within sixty days of the treasurer's receipt of the contribution. Refunds are reported on Line 16 of the Detailed Summary Page and on Schedule A of the report covering the period during which they are received. Redesignations are reported as memo entries on Schedule B of the report covering the period during which the redesignation is made. (11 CFR 110.1(b))

Although the Commission may take further legal steps concerning the excessive contribution(s), your prompt action in obtaining a refund and/or redesignating the contribution(s) will be taken into consideration.

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Sincerely,
Robert D. Ward

Robert B. DiMardo
Reports Analyst
Reports Analysis Division



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20543

89-3

October 19, 1989

Timothy Hall, Treasurer
American First Resource Management
Inc. Political Action Committee
(AFPAC-FED)
1004 Farnam Street
Omaha, NE 68102

Identification Number: C00225474

Reference: 30 Day Post-General (10/1/88-11/28/88) and Year End
(11/29/88-12/31/88) Reports

Dear Mr. Hall:

This letter is to inform you that as of October 18, 1989, the Commission has not received your response to our request for additional information, dated September 27, 1989. That notice requested information essential to full public disclosure of your federal election financial activity and to ensure compliance with provisions of the Federal Election Campaign Act (the Act). A copy of our original request is enclosed.

If no response is received within fifteen (15) days from the date of this notice, the Commission may choose to initiate audit or legal enforcement action.

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

Sincerely,

John D. Gibson
Assistant Staff Director
Reports Analysis Division

Enclosure

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MEMORANDUM TO THE FILES:

COMMITTEE: America First Resource Management Inc. Political Action Committee
(AFPAC-FED)
I.D. NUMBER: C00225474
CONTACT: Timothy Hall, Treasurer
DATE: November 17, 1989
ANALYST: Robert B. DiNardo
SUBJECT: 1988 30G Post-General and Year End Reports

I called Mr. Hall at 4:05 and told him that the Commission has not received the committee's response to the RFAI. He said a response was being prepared and would be mailed no later than November 20, 1989.

2704076

AMERICA FIRST COMPANIES

1004 BARNHAM STREET

OSAMA, NEBRASKA 68102

TELEPHONE (402) 444-1630

Attachment #6

November 20, 1989

Mr. Robert B. DiMardo
Federal Election Commission
Washington, D.C. 20463

Identification Number: C00195214 (AFFAC - FED)
Reference: 30 Day Post General (10/01/88 - 11/28/88),
Year End (11/29/88 - 12/31/88) Report, and
Letter of September 27, 1989

Dear Mr. DiMardo:

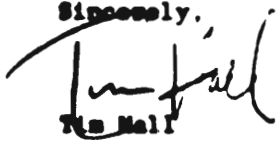
In response to your letter of September 27, 1989, I have reviewed the AFFAC-FED reports that you referenced and offer the following as my understanding and reasoning for the reports as submitted:

- To be eligible as a multicandidate committee three criteria have to be met.
 - 1) The committee would have to be registered for at least six months.
 - 2) The committee would have to receive contributions from more than fifty persons.
 - 3) The committee would have to contributed to at least five Federal candidates.
- America First Resource Management, Inc. Political Action Committee was organized and filed with the F.E.C. on April 8, 1988, which would meet the six month waiting period requirement.
- AFFAC-FED had over fifty contributors as of November 2, 1988.
- AFFAC-FED contributed to five Federal candidates as of November 4, 1988 as shown on the thirty day post-general report.

It was my understanding that the five Federal candidate contribution requirements was one that could be simultaneous to the contributed requirement. (In other words, if we were becoming a multicandidate committee the \$1,000.00 limit was not applicable. It did not make any sense to write one check for \$1,00.00 to candidate "X" on Monday, fulfill the multicandidate requirement, and on Tuesday, write the candidate "X" a \$4,000.00 check.)

If this is an incorrect interpretation on my part, please understand it was not intentional and I will do whatever necessary to correct the reports as filed. Thank you for your patience and support in this matter and please call me with any questions, (402) 444-1630.

Sincerely,


Tim Hall

Treasurer, AFFAC-FED

MEMORANDUM TO THE FILES:

COMMITTEE: America First Resource Mgmt. Inc. PAC
I.D. NUMBER: C00225474
CONTACT: Timothy Hall, Treasurer
DATE: December 5, 1989
ANALYST: Robert B. DiNardo
SUBJECT: 1989 Mid-Year Report

I called Mr. Hall at 9:25. I told him that the two (2) contributions made on November 2 were excessive, and that he needed to request refunds of at least \$4000 from each candidate committee. Mr. Hall said he would do so. I also told Mr. Hall to send the Commission written notification of the action the committee was pursuing. He said a written letter would be sent.

AMERICA FIRST COMPANIES
1004 BARNUM STREET
OMAHA, NEBRASKA 68102
TELEPHONE (402) 444-1630

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463
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Attachment #8

December 27, 1989

Mr. Robert B. DiNardo
Federal Election Commission
Washington, D.C. 20463

Identification Number: C00195214 (AFPAC - FED)

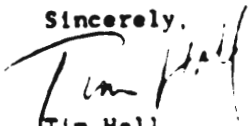
Dear Mr. DiNardo:

Subsequent to our conversation in early December, I have contacted both candidate committee's that received a contribution from AFPAC-FED that was in excess of the limits set forth in the Act. These contributions were reported to the Commission in our 30 Day Post-General and Year End Reports for 1988.

Currently we are in the process of having the excess amount refunded to AFPAC-FED, as soon as I have received documentation (checks), I will forward copies to the Commission and comply with the appropriate filing requirements.

As I stated in our phone conversation, I really appreciated your help in resolving the overpayment issue and the date on which AFPAC-FED became a multi-candidate committee. I will follow this letter up with the documentation and reports shortly.

Sincerely,


Tim Hall
Treasurer, AFPAC-FED

90177367023615

90 FEB 12 AM 11:13

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

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

RAD Referral #90L-1
Staff assigned: Xavier K. McDonnell

SOURCE: Internally Generated

RESPONDENTS: America First Resource Management, Inc.
Political Action Committee and
Timothy Hall, as treasurer

RELEVANT STATUTES: 2 U.S.C. § 441a(a)(1)(A)
2 U.S.C. § 441a(a)(2)(A)
2 U.S.C. § 441a(a)(4)

INTERNAL REPORTS CHECKED: None

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

The Reports Analysis Division ("RAD") referred America First Resource Management, Inc. Political Action Committee ("AFPAC" or the "Committee") and Timothy Hall, as treasurer, to the Office of General Counsel for making a total of \$8,000 in apparent excessive contributions to two federal candidates.

II. FACTUAL AND LEGAL ANALYSIS

A. Applicable Law

The Federal Election Campaign Act of 1971, as amended (the "Act") provides that no person shall make contributions to any candidate or candidate's political committee with respect to any election for Federal office, which, in the aggregate, exceed \$1,000. 2 U.S.C. § 441a(a)(1)(A). Multicandidate political committees shall not make contributions to any candidate or candidate's committee with respect to any election for Federal

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office which, in the aggregate, exceed \$5,000. 2 U.S.C. § 441a(a)(2)(A). Under the Act, a multicandidate political committee is one that has been registered with the Commission for a period of not less than six months, which has received contributions from more than fifty persons, and which has made contributions to five or more Federal candidates. 2 U.S.C. § 441a(a)(4).

B. Facts

AFPAC's Post-General Election Report indicates that on November 2, 1988, it made \$5,000 contributions to the Jerry Schenken For Congress Committee and to the Friends of Senator David Karnes, the authorized committees of two candidates for Federal office. RAD determined that on the day that AFPAC made these two \$5,000 contributions it was not a qualified multicandidate committee because the Committee had not made contributions to five or more Federal candidates. RAD notified AFPAC that the Report indicated it had made apparent excessive contributions, and on December 27, 1989, the Committee informed RAD that they were in the process of obtaining refunds from the two Committees.¹

C. Analysis

In a letter to the RAD analyst, the Committee's treasurer, Timothy Hall, asserted that the violation was not intentional, and

Timothy Hall, asserted that the violation was not intentional, and was due to his misinterpretation of the rule. Mr. Hall claims that he did not believe the \$1,000 limit applied when he made the contributions, because it was his understanding that the requirement that AFPAC contribute to five Federal candidates was one that could be met simultaneously with making the contributions at issue.

The fact that Mr. Hall misinterpreted the rule and did not intend to make the excessive contributions does not vitiate the apparent violations of Section 441a(a)(1)(A). The Act explicitly provides that a committee must satisfy all three criteria before it becomes a "multicandidate political committee."

2 U.S.C. § 441a(a)(4). AFPAC did not become a qualified multicandidate political committee until November 4, 1988, when it had made contributions to five candidates for Federal office. Under the Act, the Committee was prohibited from making contributions to these Federal candidates which aggregated in excess of \$1,000 until it met that requirement. 2 U.S.C. § 441a(a)(1)(A).

Moreover, AFPAC could not possibly have obtained multicandidate committee status simultaneously with the making of these contributions because Karnes and Schenken were the first two Federal candidates to which AFPAC contributed, and the Committee did not contribute to the other three Federal candidates until November 4, 1988. If Mr. Hall had called the Commission before he made these contributions, he would have learned that his assumptions about obtaining multicandidate status were incorrect,

and that AFPAC would not so qualify until all three statutory requirements had been met.

Since AFPAC was not a qualified multicandidate committee at the time it made these two contributions, the Committee was prohibited statutorily from contributing in excess of \$1,000 to each of the candidate's committees for each election.

2 U.S.C. § 441a(a)(1)(A). Accordingly, the Office of General Counsel recommends that the Commission find reason to believe that AFPAC and Timothy Hall, as treasurer, violated 2 U.S.C.

§ 441a(a)(1)(A).

III. RECOMMENDATIONS

1. Open a MUR
2. Find reason to believe America First Resource Management, Inc. Political Action Committee, and Timothy Hall, as treasurer, violated 2 U.S.C. § 441a(a)(1)(A).
3. Approve the attached letter, Factual and Legal Analysis and Interrogatories and Request for Production of Documents.

Lawrence M. Noble
General Counsel

2/9/90

Date

BY:



Lois G. Lerner
Associate General Counsel

Attachments:

1. Referral Materials
2. Proposed Letter and Factual and Legal Analysis
3. Interrogatories and Request for Production of Documents.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

America First Resource Management, Inc.)
Political Action Committee and)
Timothy Hall, as treasurer)

RAD Referral 90L-1

(MUR)
3035

CERTIFICATION

I, Marjorie W. Emmon, Secretary of the Federal Election Commission, do hereby certify that on February 14, 1990, the Commission decided by a vote of 6-0 to take the following actions in RAD Referral 90L-1:

1. Open a MUR.
2. Find reason to believe America First Resource Management, Inc. Political Action Committee, and Timothy Hall, as treasurer, violated 2 U.S.C. § 441a(a)(1)(A).
3. Approve the letter, Factual and Legal Analysis, and Interrogatories and Request for Production of Documents, as recommended in the General Counsel's Report dated February 9, 1990.

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

Attest:

2-14-90

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Monday, Feb. 12, 1990 11:13 a.m.
Circulated to the Commission: Monday, Feb. 12, 1990 4:00 p.m.
Deadline for vote: Wednesday, Feb. 14, 1990 4:00 p.m.



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

February 20, 1990

Timothy Hall, Treasurer
America First Resource Management, Inc.
Political Action Committee
1004 Farnam Street
Omaha, NE 68102

RE: MUR 3035
America First Resource Management, Inc.
Political Action Committee, and
Timothy Hall, as treasurer

Dear Mr. Hall:

On February 14, 1990, the Federal Election Commission found that there is reason to believe America First Resource Management, Inc. Political Action Committee (the "Committee") and you, as treasurer, violated 2 U.S.C. § 441a(a)(1)(A), 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, along with answers to the enclosed questions, 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 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.

Timothy Hall
Page 2

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 Xavier K. McDonnell, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,


Lee Ann Elliott
Chairman

Enclosures

1. Factual and Legal Analysis
2. Procedures
3. Designation of Counsel Form
4. Interrogatories and Request for
Production of Documents

OCC 5658

AMERICA FIRST COMPANIES

1004 FARNAM STREET

OMAHA, NEBRASKA 68102

TELEPHONE (402) 444-1630

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AMERICA FIRST

March 7, 1990

Ms. Lee Ann Elliott
Mr. Xavier K. McDonnell
Federal Election Commission
General Counsel's Office
Washington, D.C. 20463

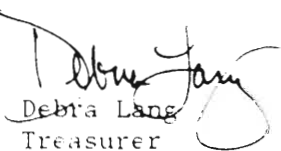
RE: MUR 3035
America First Resources Management, Inc.
Political Action Committee, and
Timothy Hall, as treasurer

Dear Ms. Elliot and Mr. McDonnell:

This is in response to your letter requesting an explanation regarding the overpayment to two federal candidates in November of 1988 by the America First Political Action Committee. I have attached several documents for your review that I hope will show that the apparent violation by a misinterpretation by Mr. Timothy Hall has been corrected.

First of all, to complicate this matter Mr. Hall resigned from America First employment and as treasurer to this committee at year end. I was appointed treasurer effective January 1, 1990. Attached is a letter to the commission stating that. The process for implementing and obtaining the refund was in motion before Mr. Halls' departure. The refunds, however, were not received by 12/31/89 and I did not record them on our 12/31/89 year-end report. This, along with Mr. Halls departure probably lead the commission to believe that their request had been ignored. This was not the case. I thought it would be appropriate to submit the refund on the first quarter report in 1990, since the refund of excess contribution had been submitted during this time frame. On Monday, March 5th, Mr. Hall, from his Lincoln office, called Mr. Xavier McDonnell to explain the transition and assure him that the accompanying documentation and our response to the interrogatories would be sent to the commission in a timely manner. I apologize for any inconvenience this has caused the commission, but I am hopeful that the attached explanations and substantiating documentation will clear up the concerns regarding this matter. Please respond or call me at (402) 444-1630, if you are in need of additional information.

Sincerely,


Debra Lang
Treasurer
AFPAC-FED

enclosures

90 MAR -9 PM 4:09

RESPONSE TO THE INTERROGATORIES
AND REQUEST FOR PRODUCTION OF DOCUMENTS

Schenken Committee Refund:

1. Mr. Hall spoke with Jerry Schenken in December to discuss the overpayment issue. Mr Schenken indicated he would have to contact Mr. Mitchell, his treasurer. I followed up by contacting Mr. Mitchell by phone in January and he issued a check in the amount of \$4,000.00 to the America First Political Action Committee on January 29, 1990. A copy of the canceled check and his letter to our committee is attached.

Friends of David B. Karnes Committee:

2. Likewise, Mr. Hall spoke with someone from the Karnes campaign in December to discuss the overpayment concern. I followed up with a call to Liz Karnes, treasurer, in January and explained the violation as it occurred and asked for a refund verbally and in writing. She submitted a check to the America First Political Action Committee in the amount of \$4,000.00, dated February 2, 1990. This documentation is attached.

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AMERICA FIRST COMPANIES

1004 FARNAM STREET

OMAHA, NEBRASKA 68102

TELEPHONE (402) 444-1630



January 28, 1989

Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

RE: FEC Identification # C00225474
America First Resource Management Inc.,
Political Action Committee

Please amend our Committee Statement of Organization to indicate that effective January 1, 1990, I will be assuming the responsibilities of Treasurer for our Political Action Committee. All future correspondence and FEC literature should come to my attention. I will be calling in the near future to obtain any information that will make this transition easier. Thank you for your attention to this. Should you need additional information I can be reached at 402-444-1630.

Sincerely,

Debra Lang
Political Action Committee
Treasurer

JERRY SCHENKEN



FOR CONGRESS

January 29, 1990

America First PAC
c/o Debra Lang
1004 Farnam Street
Suite 400
Omaha, Nebraska 68102

Re: Jerry Schenken for Congress, 1988
General Election, Nebraska 02

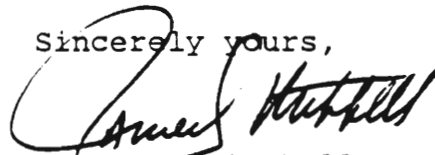
Dear Ms. Lang:

In keeping with our recent telephone conversations, I am forwarding to you on behalf of America First PAC a check drawn on the Jerry Schenken for Congress account payable to the PAC in the amount of \$4,000.00, which check represents a refund of excess campaign contributions made by the PAC relative to the 1988 general election.

The refund to your PAC will be reflected in our report to the FEC to be filed for the period covering January, 1990.

Thank you for your assistance in resolving the matter.

Sincerely yours,



James S. Mitchell
FOR THE CAMPAIGN

JSM/em
Enclosure

cc w/enc.: Jerald R. Schenken

02.27.1990

P. 1

JERRY SCHENKEN FOR CONGRESS

2201 LINNEY, P. O. BOX 34099
OMAHA, NE 68134
(402) 373-1303

2605

PAY
TO THE
ORDER OF

AMERICA FIRST INC

104901131
PAID

1/29

90

27-18/1040

\$ 4000.00

DOLLARS

BANK OF NEBRASKA
OMAHA

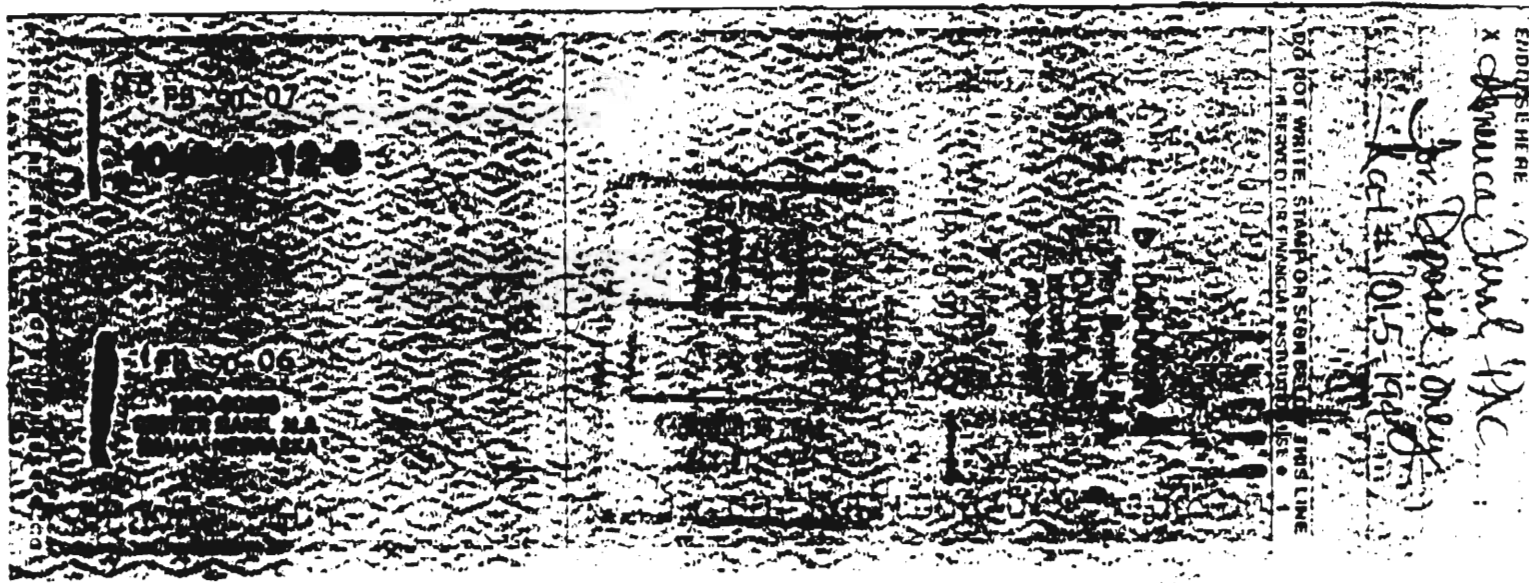
FEB 7 90

BANK OF NEBRASKA

FOR

Refund of 1985 Contribution

⑈002605⑈ ⑆104000⑆ ⑆100⑆



AMERICA FIRST COMPANIES

1004 FARNAM STREET

OMAHA, NEBRASKA 68102

TELEPHONE (402) 444-1630



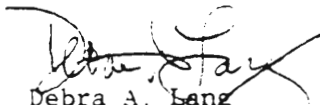
January 29, 1990

Karnes for U.S. Senate
c/o Liz Karnes
417 South 93rd Street
Omaha, NE 68114

Dear Liz,

As discussed in our recent telephone conversation please forward a check in the amount of \$4,000.00 made payable to: America First Political Action Committee. This check will serve as a refund of the excess contribution made to the Karnes campaign in November of 1988. Please call if you need additional information or have questions. 444-1630.

Sincerely,


Debra A. Lang
Treasurer, America First
Political Action Committee

2392

FRIENDS OF SENATOR DAVE KARNES

P. O. BOX 241174
OMAHA, NE 68124

ZT-5/1040

PAY TO THE ORDER OF America First Political Action Committee

\$ 4000.00

Four thousand & 00/100

DOLLARS



Northwest Bank Nebraska, N.A.
Omaha, NE 68103

FOR

Elyse C. D. Kane

⑈002392⑈-⑈04000058⑈ 155706424⑈

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*FEDERAL RESERVE BOARD OF GOVERNORS REG. CC

98 00 06

1048-08029
FIRSTIER BANK, N.A.
OMAHA, NEBRASKA

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE

*America First Political
Action Committee
for deposit only
#101-5-194*

⑈1048-08029⑈
FIRSTIER BANK, N.A.
OMAHA, NE
RETURNING
402-848-8871

90 MAR 26 AM 11:06

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of)
)
America First Resource Management, Inc.) MUR 3035
Political Action Committee, and)
Debra Lang, as treasurer)

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter arose when the Reports Analysis Division ("RAD") referred America First Resource Management, Inc. Political Action Committee ("AFPAC" or the "Committee") for making \$5,000 contributions to the Karnes and Schenken Committees two days before it had obtained qualified multicandidate status. 2 U.S.C. § 441a(a)(4). At the time the contributions were made, AFPAC had not yet contributed to 5 federal candidates, and was therefore prohibited from making contributions in excess of \$1,000 for any election. 2 U.S.C. § 441a(a)(1)(A). On February 14, 1990, the Commission found reason to believe the Respondents violated 2 U.S.C. § 441a(a)(1)(A), and AFPAC responded to the Commission's questions and document request on March 9, 1990.

II. ANALYSIS

In the Committee's response, Debra Lang, the current treasurer, has indicated that AFPAC has obtained refunds from both federal candidates. In response to the Commission's questions

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regarding the Committee's efforts to obtain the refunds, AFPAC has stated that in December, 1989, Mr. Hall, the former treasurer, contacted representatives from the Schenken and Karnes Committees to seek the refunds. Ms. Lang also called both of these Committees in January, 1990. AFPAC has submitted a copy of a refund check from the Karnes Committee, in the amount of \$4,000, dated for February 2, 1989, and a copy of a \$4,000 refund check from the Schenken Committee, dated January 29, 1990.¹

While AFPAC was not a qualified multicandidate committee when it made these \$5,000 contributions on November 2, 1988, the Committee became so qualified only two days later on November 4, 1988. Therefore, the entire violation stems from the fact that AFPAC contributed \$5,000 in one check, rather than simply issuing a second check to these Federal candidates just two days later when the Committee became qualified. Another important factor in this matter is AFPAC's apparent willingness to cooperate with the Commission. The facts and responses indicate that once AFPAC was notified by RAD that they were required to obtain refunds, they contacted the Karnes and Schenken Committees and the refund process was already underway when this matter was referred to the Office of General Counsel. Furthermore, the refunds have now been obtained and the apparent violation has been corrected. Although these factors do not vitiate the violation, in light of the

1. Ms. Lang also asserts that the refund process was complicated by AFPAC's change of treasurers on January 1, 1990, and she indicates that the refunds will be reported in AFPAC's first quarterly report of 1990.

foregoing, the Office of General Counsel recommends that the Commission take no further action in this matter and close the file.

III. RECOMMENDATIONS

1. Take no further action against America First Resource Management, Inc. Political Action Committee, and Debra Lang, as treasurer.

2. Close the file.

3. Approve the attached letter.

Lawrence M. Noble
General Counsel

3/23/90
Date

BY: 
Lois G. Lerner
Associate General Counsel

Attachments:

1. Response
2. Letter to Respondents

20040704072

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 3035
America First Resource Management, Inc.)
Political Action Committee, and)
Debra Lang, as treasurer)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on March 30, 1990, the Commission decided by a vote of 6-0 to take the following actions in MUR 3035:

1. Take no further action against America First Resource Management, Inc. Political Action Committee, and Debra Lang, as treasurer.
2. Close the file.
3. Approve the letter, as recommended in the General Counsel's report dated March 23, 1990.

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

Attest:

3-30-90

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Mon., March 26, 1990 11:06 a.m.
Circulated to the Commission: Mon., March 26, 1990 4:00 p.m.
Deadline for vote: Fri., March 30, 1990 4:00 p.m.



FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

April 4, 1990

Debra Lang, Treasurer
America First Resource Management, Inc.
Political Action Committee
1004 Farnam Street
Omaha, NE 68102

RE: MUR 3035
America First Resource Management,
Inc. Political Action Committee,
and Debra Lang, as treasurer

Dear Ms. Lang:

On February 20, 1990, you were notified that the Federal Election Commission found reason to believe that America First Resource Management, Inc. Political Action Committee ("AFPAC"), and you, as treasurer, violated 2 U.S.C. § 441a(a)(1)(A). On March 9, 1990 you submitted a response to the Commission's reason to believe finding.

After considering the circumstances of the matter, the Commission determined on March 30, 1990, to take no further action against AFPAC and you, as treasurer, and closed the file. The file will be made part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days of your receipt of this letter. Such materials should be sent to the Office of the General Counsel.

The Commission reminds you that making contributions in excess of \$1,000 for any election prior to obtaining qualified multicandidate status appears to be a violation of 2 U.S.C. § 441a(a)(1)(A). You should take immediate steps to insure that this activity does not occur in the future.

If you have any questions, please contact Xavier K. McDonnell, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: 
Lois G. Lerner
Associate General Counsel



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3035

DATE FILMED 4/13/90 CAMERA NO. 4

CAMERAMAN AS

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