



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

THIS IS THE BEGINNING OF MUR # 3105

DATE FILMED 2/7/91 CAMERA NO. 4

CAMERAMAN AS

21040322755

06C 7225



DEMOCRATIC
CONGRESSIONAL
CAMPAIGN COMMITTEE

MUR 3105

Beryl Anthony, Jr., AR
Chairman

August 7, 1990

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

Dear Commissioners:

According to newspaper accounts, a complaint was recently filed against Mike Pence, and his authorized campaign committee, People for Mike Pence, Inc., because of a corporate solicitation on his behalf in violation of the Federal Election Campaign Act of 1971, as amended ("FECA" or "the Act") and Federal Election Commission ("FEC") regulations. We have attached a copy of the report of this complaint. Since this complaint was filed, another corporate solicitation on behalf of Mike Pence has been discovered. This letter serves as a second complaint charging violations of the Act's prohibition against corporate contributions, see 2 U.S.C. section 441b, 11 C.F.R. section 114.3, 114.4., which we request be considered in conjunction with the earlier complaint.

Enclosed is a copy of a letter sent by Gary Pedigo and Ray Skillman, who identify themselves as with "Auto Dealers for Pence." The letter was apparently sent to other auto dealers. In this letter, Pedigo and Skillman solicit "personal donation[s] of \$1,000, \$500 or even \$250 to this fine candidate who has a real chance to win." However, this solicitation was written on letterhead bearing the inscription "Indianapolis Auto Auction, Inc." This heading indicates that this solicitation is sponsored by a corporation, Indianapolis Auto Auction, Inc.

Section 441b(a) of the FECA prohibits

any corporation whatever ... [from] mak[ing] a contribution or expenditure in connection with any [primary or general] election at which ... a Representative in ... Congress [is] to be voted for ... or for any candidate ... knowingly to accept or receive any contribution prohibited by this section.

This language clearly applies to solicitations such as the one by Indianapolis Auto Auction, Inc.

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 AUG - 7 PM 3:44

91040323756

Further, FEC regulations prohibit corporations from making partisan communications to anyone other than their executive and administrative personnel. See 11 C.F.R. section 114.3, 114.4. The auto dealers receiving the letter are not employed by Indianapolis Auto Auctions, Inc., and do not qualify for such corporate communications.

If Mike Pence has accepted or received any contributions as a result of this fundraising appeal, he and his campaign committee are in violation of the Act as well -- for the second time, and due to the same provision.

The Indianapolis Auto Auction, Inc. fundraising solicitation is also devoid of any disclaimer notice. The FECA, 2 U.S.C. section 441d(a) requires that any "communications expressly advocating the election or defeat of a clearly identified candidate, or solicit[ing] any contribution through ... any ... type of general public political advertising" must include a statement as to who paid for and authorized the communication. Furthermore, if the candidate -- Mike Pence in this case -- did not authorize the communication or solicitation, the communication must clearly state that it is "not authorized by any candidate or candidate's committee." 2 U.S.C. section 441d(a)(3). As is evident from the letter itself, no such authorization or disclaimer notice is included on this solicitation. This omission of any disclaimer amounts to an additional FECA violation by Indianapolis Auto Auction, Inc.^{1/}

Perhaps the most striking thing about this latest solicitation by a corporation on behalf of Mike Pence is that it suggests an ongoing practice on the part of the People for Mike Pence, Inc., to condone and accept contributions from corporations in violation of the Act. Mr. Pence has already come under scrutiny because of the Harcourt Outlines, Inc. solicitation. We now see a second corporation, Indianapolis Auto Auction, Inc., engaged in the same unlawful activity. We also see that Pence has conceded publicly that his campaign was aware of, and approved, this illegal solicitation. See Hackett, Sharp, Pence, Still Spar Over Tactics, Daily Journal, July 14, 1990, at A1 (copy attached).

^{1/} Internal Revenue Code section 6113 provides that solicitations for contributions on behalf of candidates for federal office must be accompanied by a statement notifying the solicitee that contributions to the candidate are not tax deductible for federal income tax purposes. Because this solicitation from Indianapolis Auto Auction, Inc., contains no such notification, it also is in violation of the Internal Revenue Code.

21040322757

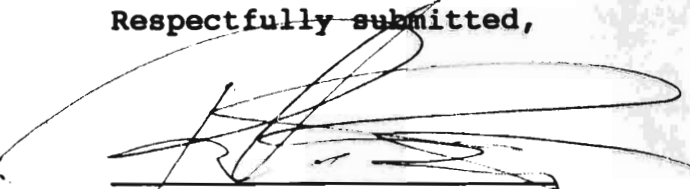
Federal Election Commission
August 7, 1990
Page 3

How many other corporations are doing the same as are Harcourt Outlines and Indianapolis Auto Auction? Mike Pence must be called upon to put an end to this pattern of corporate contributions once and for all. The Commission must not let these violations of campaign rules go uncorrected.

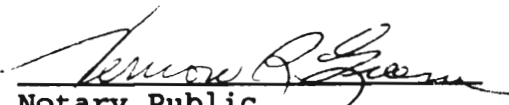
We request that the FEC conduct a prompt and immediate investigation of Mike Pence, People for Mike Pence, Inc., and Indianapolis Auto Auction, Inc. and take steps to prevent the repeated recurrence of violations. We further request that this complaint be considered in conjunction with the previous Harcourt Outlines complaint, and that, given the pendency of the 1990 elections, and this ongoing practice of soliciting corporate contributions on behalf of the Pence campaign, that the Commission give these complaints as swift a disposition as is possible.

Respectfully submitted,

CITY OF WASHINGTON
DISTRICT OF COLUMBIA


Richard Bates
Executive Director
Democratic Congressional
Campaign Committee

SUBSCRIBED AND SWORN before me this 7th day of August, 1990.


Notary Public
My Commission Expires:

Vernon R. Greene
Notary Public, Dist. of Columbia
Commission Expires April 30, 1995

1957E

91040322758



Indianapolis Auto Auction, Inc.

June 22, 1990

Mr. T. J. Brookbank
5500 National Road East
Richmond, IN 47374

Dear Tom:

~~YOU can be a big help in the 1990 Indiana Congressional races!~~

As you know, year after year 98% of incumbent Congressmen are re-elected. As a result, the status quo, tax-and-spend Democrats have been getting re-elected with little real opportunity for more conservative, business-oriented Republicans.

Nevertheless, there is a unique opportunity to gain a strong pro-business voice in the House of Representatives right here in our own backyard.

The candidate's name is MIKE PENCE.

As you may or may not remember, Mike ran the sixth-closest House challenger race in the country in 1988 when he received 47% of the vote against an eight-term incumbent.

Mike has already raised over \$300,000 and will receive in excess of \$200,000 from the National Republican Party. His advisory committee has told him that he will need \$750,000 to win. Mike does not accept money from political action committees (PACs) or lobbyists, whereas his opponent obtains 75 cents of every dollar from these groups, especially from Unions and Big Labor.

In brief, Mike Pence can win, but he MUST have solid support in the form of personal donations.

Would you consider sending a personal donation of \$1,000, \$500 or even \$250 to this fine candidate who has a real chance to win?

We have gotten to know Mike and his campaign, and we are pledging our time and money to helping him win in November.

Please give this your serious consideration.

Kind regards,

Gary Penige, Chairman
Auto Dealers for Pence

Ray Skillman
Auto Dealers for Pence

4040 Office Plaza Blvd., Indianapolis, Indiana 46254 (317) 286-6700

21040322759

Sharp, Pence still spar over tactics

By DAVID HACKETT
SUNY JOURNAL STAFF WRITER

At the outset, incumbent Phil Sharp, D-Ind., and Republican challenger Mike Pence of Greenwood stressed their rematch in the 2nd District U.S. congressional race should focus on "the issues."

Texas. The company, Small business, farming, political, political action committee distributions.

But in recent days, these hopes have been overshadowed by sparring over campaign tactics.

The latest spat came Friday when Sharp's campaign strongly charged Pence supporters with mailing an illegal first-class letter.

The letter was sent by auto dealers Gary Fudge and Ray Stillman on a company letterhead to about 50 other auto dealers, soliciting money for the Pence campaign, officials said.

Because it was written on Fudge's company stationery — Indianapolis Auto Auction Inc. — the letter violates Federal Election Commission rules barring corporations from soliciting campaign funds, according to Sharp's campaign manager, Billy Liville.

Liville circulated a copy of the letter to the media, saying it represents

"a pattern" of Pence campaign violations.

He cited a recent case in Rush County in which business executive Jean Ann Harcourt allegedly included invitations to a Pence fundraiser and requests for \$10 donations with her employees' payroll checks. Harcourt is vice president of Harcourt Oystines, a school-supply company.

"This shows there is clearly a pattern," Liville said of the two charges. "This is not something that should be overlooked. We expect Mike Pence to play by the rules."

Liville said the Sharp campaign is considering filing a protest with the Federal Election Commission.

Pence said Friday night that he had not seen the auto dealers' letter, but "from what I've been told" a mistake could have been made.

He characterized the potential violation as "minor."

"With quite literally thousands of Hoosiers supporting me it's sometimes darn tough to make sure we have all our ducks in order," he said.

Pence said he was unaware that the campaign letter was sent out on corporate stationery.

(SEE CAMPAIGN, PAGE A5)

Am
7/11/90
Journal

91 J 4 0 3 2 2 7 6 0

•Campaign

(CONTINUED FROM PAGE A1)

"Had I seen it, it might have set some bells off," he said. "It sounds like it slipped through the cracks."

Pence then renewed his attack on Sharp's campaign tactics, accusing the eight-term Democrat's campaign staff of lying to the media following the Rush County incident.

Sharp staff members made the illegal fund-raiser charges through Rush County Prosecutor Ronald Wilson — writing a press release and sending it to newspapers in the district.

Initially, Sharp staffers said they played no role in Wilson's allegations. Then they said they knew about the allegations, but did not help "plant the story." And finally, according to the Pence campaign, Sharp staff members admitted direct involvement.

Pence, a Greenwood attorney, said the Sharp campaign deceived the media and public, dubbing it the "Rushville Watergate."

He also attacked Sharp's acceptance of money from political-action committees, or PACs. Pence said he doesn't accept such contributions, relying instead on individual donations.

But Johnson County Democratic Chairman Dave Bright said Pence is

missing the point.

"What (Pence) did is totally illegal," Bright said. "That's obvious. So why is he trying to blame the Sharp people? He's an attorney — he should be smart enough to know the law."

In the letter on Indianapolis Auto Auction Inc. stationery, Pence and Sullivan refer to themselves as "Auto Dealers for Pence."

"Would you consider sending a personal donation of \$1,000, \$500 or even less to this fine candidate who has a real chance to win?" the letter said in part.

Pence conceded his finance manager was aware of the letter, which was apparently mailed to about 50 auto dealers. But he said his campaign would not knowingly support such violations.

With more than three months remaining until the election, the campaign shows signs of being as chaotic as five years ago, when Sharp gained a narrow victory.

If you want

The s. garity's

21040022761

Poul!

Pence fund-raiser draws complaint, ire of Sharp camp

By Darrell Radford
Herald Staff Writer

Rush County Prosecutor Ronald L. Wilson today filed an official complaint with the Federal Election Commission charging that the organizers behind a fund-raiser for 2nd District Republican congressional nominee Mike Pence violated federal election campaign laws.

He has requested an immediate investigation of Harcourt Outlines. Pence and his authorized campaign committee.

Meanwhile, in spite of the controversy that surrounded it, Pence says Saturday's fund-raiser was the best he's ever had. And he claims there is enough circumstantial evidence to link members of the U.S. Rep. Phil Sharp camp for starting the controversy.

So goes another day on a blistering campaign trail that is becoming lined with mud in the Second Congressional District.

Pence was in New Castle Monday and displayed a petition signed by 18 employees of Harcourt Outlines stating they were not coerced into attending Saturday's Pence fund-raiser or forced to contribute to the Pence campaign.

The controversy centered around Joan Ann Harcourt, who had placed a note in the June 20 pay envelopes leaving her 74 fulltime and 20 parttime employees to a rally for Pence.

Employees at the firm called the prosecutor's accusations a "cheap shot" and believe apologies are in order for the Harcourt family.

Pence said among the 200 in attendance at the rally were several Democrats upset by Sharp's views on certain issues.

Meanwhile, Pence listed three reasons why he believed the controversy was a ploy in the Sharp camp re-election strategy.

"First of all, the Rush County prosecutor would have no knowledge of an obscure federal election law," Pence said. "Secondly, a part-time prosecutor does not write press releases which mirror that of a professional press secretary, as this one did."

"And distribution of these releases would not have been so swift if they had simply come from the prosecutor's office. They were delivered to all Second Congressional District newspapers between 9 and 10 a.m. on July 4. The prosecutor himself would have had no knowledge of all these innuendoes."

Pence also indicated that the Rush County prosecutor was not running for re-election and perhaps had some professional

Continued from page A1

Pence

motives for helping Sharp.

Billy Linville, a representative of the Sharp office staff in Munster, had a response to the Pence's innuendoes that was just as biting.

"First of all, the Rush County prosecutor is not running for re-election because he wants to get back into law full time," Linville said. "There has not been any discussion about him joining Phil's staff."

"Secondly, it amazes me that Mike Pence is denouncing this violation of the law. Here's a man

running for Congress who is supposed to know and uphold the law, and he passes over this innuendo like it was nothing.

"It's not who discovered the violation what or why it was made public that's important here. The key issue is that a law was violated."

"I don't understand... would he have preferred the prosecutor look the other way? There's rules on the books for a reason."

Pence said he didn't think this particular issue would remain at the forefront of the campaign but did say he expected other attempts from the Sharp camp to distract the residents of the Second Congressional District.

21040322762



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 10, 1990

Richard Bates, Executive Director
Democratic Congressional Campaign Committee
430 South Capitol Street
Washington, D.C. 20003

RE: MUR 3105

Dear Mr. Bates:

This letter acknowledges receipt on August 7, 1990, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by Mike Pence, The People for Mike Pence and Michael W. Redford, as treasurer, Indianapolis Auto Auction, Inc., Gary Pedigo, Ray Skillman, and Auto Dealers for Pence. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 3105. Please refer to this number in all future correspondence. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

If you have any questions, please contact Retha Dixon, Docket Chief, at (202) 376-3110.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Procedures

91040322763



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 10, 1990

Ray Skillman
Auto Dealers for Pence
c/o Indianapolis Auto Auction, Inc.
4040 Office Plaza Blvd.
Indianapolis, IN 46254

RE: MUR 3105

Dear Mr. Skillman:

The Federal Election Commission received a complaint which alleges that Auto Dealers for Pence and you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3105. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

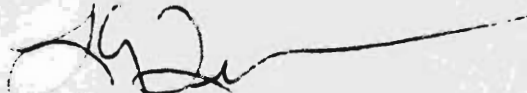
This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

21540322764

If you have any questions, please contact Lawrence Parrish, the attorney assigned to this matter at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel



BY: Lois G. Lerner
Associate General Counsel

Enclosures

1. Complaint
2. Procedures
3. Designation of Counsel Statement

91040322765



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 10, 1990

Gary Pedigo, Chairman
Auto Dealers for Pence
c/o Indianapolis Auto Auction, Inc.
4040 Office Plaza Blvd.
Indianapolis, IN 46254

RE: MUR 3105

Dear Mr. Pedigo:

The Federal Election Commission received a complaint which alleges that Auto Dealers for Pence and you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3105. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

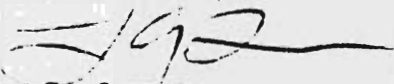
This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

If you have any questions, please contact Lawrence Parrish, the attorney assigned to this matter at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY:


Lois G. Lerner
Associate General Counsel

Enclosures

1. Complaint
2. Procedures
3. Designation of Counsel Statement

21040322767



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 10, 1990

Indianapolis Auto Auction, Inc.
4040 Office Plaza Blvd.
Indianapolis, IN 46254

RE: MUR 3105

Dear Gentleman:

The Federal Election Commission received a complaint which alleges that Indianapolis Auto Auction, Inc. may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3105. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

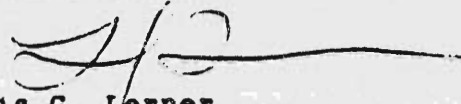
This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

91040322758

If you have any questions, please contact Lawrence Parrish, the attorney assigned to this matter at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel



BY: Lois G. Lerner
Associate General Counsel

Enclosures

1. Complaint
2. Procedures
3. Designation of Counsel Statement

91040322769



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 10, 1990

The People for Mike Pence
Michael W. Redford, Treasurer
435 E. Main Street
Suite M
Greenwood, IN 46142

RE: MUR 3105

Dear Mr. Redford:

The Federal Election Commission received a complaint which alleges that The People for Mike Pence and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3105. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

21040322770

If you have any questions, please contact Lawrence Parrish, the attorney assigned to this matter at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel



BY: Lois G. Lerner
Associate General Counsel

Enclosures

1. Complaint
2. Procedures
3. Designation of Counsel Statement

cc: Mike Pence

21040322771



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 10, 1990

**Mike Pence
229 W. Buffalo Drive
Indianapolis, IN 46217**

RE: MUR 3105

Dear Mr. Pence:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3105. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

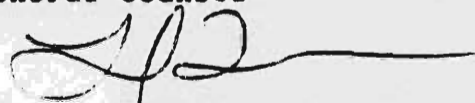
This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

9104032272

If you have any questions, please contact Lawrence Parrish, the attorney assigned to this matter at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel



BY: Lois G. Lerner
Associate General Counsel

Enclosures

1. Complaint
2. Procedures
3. Designation of Counsel Statement

91040322773

06-7599
RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
90 AUG 27 AM 11:55

August 21, 1990

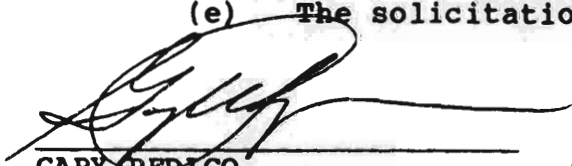
Lawrence M. Noble, General Counsel
Federal Election Commission
999 East Street, N.W.
Washington, D.C. 20463

RE: MUR 3105

Dear Mr. Noble:

In response to the complaint filed by the Democratic Congressional Campaign Committee, we respectfully request that no action be taken against us in this matter for the reasons that:

- (a) We are inexperienced in the legal requirements of raising funds for political candidates.
- (b) Because of such ignorance, we did not realize that we should seek counsel for an explanation of the election laws.
- (c) The use of the letterhead of Indianapolis Auto Auction, Inc. was inadvertent and not intended to be used as a device for solicitation.
- (d) To our knowledge, no funds were received as a result of the solicitation.
- (e) The solicitation was one time only.

91040322774

GARY PEDIGO


RAY SKILLMAN

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 AUG 27 PM 12:50

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3105

NAME OF COUNSEL: T. H. ST. CLAIR

ADDRESS: LEWIS BOWMAN ST. CLAIR & WAGNER

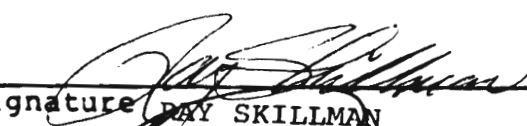
5101 Madison Avenue

Indianapolis, IN 46227

TELEPHONE: (317) 783-9261

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

8/21/90
Date


Signature RAY SKILLMAN

GARY PEDIGO

RESPONDENT'S NAME: RAY SKILLMAN

GARY PEDIGO

ADDRESS: SKILLMAN OLDSMOBILE

8424 U.S. 31 South

Indianapolis, IN 46217

INDPLS. AUTO
AUCTION
4040 Office Plaza
Blvd.
Indpls., IN 46254

HOME PHONE: _____

(317) 298-9700
(Business Phone)

BUSINESS PHONE: (317) 888-9500

21040322775

JACK L. BAILEY & ASSOCIATES

ATTORNEYS AT LAW
(IN ASSOCIATION WITH JACK L. BAILEY, P.C.)
(NOT A PARTNERSHIP)

LIBRARY PARK OFFICE COMPLEX
633 LIBRARY PARK, SUITE J
POST OFFICE BOX 159
GREENWOOD, INDIANA 46142-0159

JACK L. BAILEY
MICHAEL R. PENCE
DEETTA H. STEINMETZ

90 AUG 28 AM 10:21

MUR 3105

TELEPHONE:
(317) 882-7811
FAX: (317) 882-7839

August 27, 1990

Lawrence Noble, Esquire
Office of the General Counsel
Federal Election Commission
999 "E" Street, N.W.
Washington, D.C. 20463

ATTENTION: LAWRENCE PARRISH

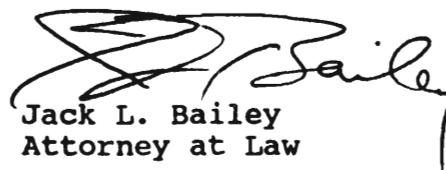
Dear Mr. Parrish:

I hereby request that your office grant the People For Pence Campaign, named in MUR 3105 as a Respondent, a 20 day extension in the deadline for the filing of People For Pence's response to the Commission. The letter from the FEC, dated August 10, 1990, was received by our campaign on the following Thursday, August 16, 1990. We, therefore, request that the deadline be moved to September 6, 1990.

The People For Pence Campaign requests this extension to ensure receipt by the Commission of an authoritative and comprehensive response.

Kindest regards,

JACK L. BAILEY & ASSOCIATES


Jack L. Bailey
Attorney at Law

JLB/dp

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF THE GENERAL COUNSEL
90 AUG 28 PM 2:38

9
2
7
7
2
2
3
6
0
4
0
1
6

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3105

NAME OF COUNSEL: Jack L. Bailey

ADDRESS: Jack L. Bailey & Associates

633 Library Park, Suite J

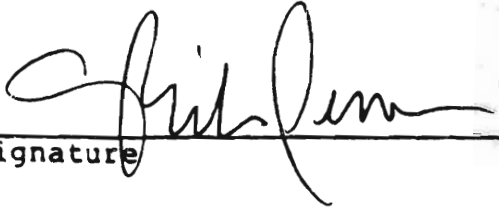
Greenwood, IN 46142

TELEPHONE: 317-882-7811

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.

8/27/90

Date

Signature 

RESPONDENT'S NAME: The People for Pence

ADDRESS: Post Office Box 1500

Greenwood, IN 46142-1500

HOME PHONE: _____

BUSINESS PHONE: 317-885-1989

91040322777



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 5, 1990

Jack L. Bailey, Esquire
Jack L. Bailey & Associates
633 Library Park, Suite J
Greenwood, IN 46142

RE: MUR 3105
People for Pence

Dear Mr. Bailey:

This is in response to your letter dated August 27, 1990, which we received on August 28, 1990, requesting an extension of 20 days to respond to MUR 3105. 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 September 17, 1990.

If you have any questions, please contact Lawrence D. Parrish, the assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

BY: 
Lois G. Lerner
Associate General Counsel

21040322778

JACK L. BAILEY & ASSOCIATES

ATTORNEYS AT LAW
(IN ASSOCIATION WITH JACK L. BAILEY, P.C.)
(NOT A PARTNERSHIP)

LIBRARY PARK OFFICE COMPLEX
633 LIBRARY PARK, SUITE J
POST OFFICE BOX 159
GREENWOOD, INDIANA 46142-0159

JACK L. BAILEY
MICHAEL R. PENCE
DEETTA H. STEINMETZ

HAND DELIVERED

OGC 7774
90 SEP -6 PM 2:43

TELEPHONE:
(317) 882-7811
FAX: (317) 882-7839

September 5, 1990

Lawrence Noble, Esquire
Office of the General Counsel
Federal Election Commission
999 "E" Street, N.W.
Washington, D.C. 20463

IN RE: MUR 3105

Dear Mr. Noble:

This memorandum is submitted in response to a complaint filed by the Democratic Congressional Campaign Committee (hereinafter, "Complainant"), and designated by the Federal Election Commission Matter Under Review ("MUR") 3105.

For the reasons stated herein, the Federal Election Commission should find no reason to believe that action should be taken against Mike Pence ("Respondent") on this matter.

FACTS:

On June 22, 1990, two individuals, Mr. Gary Pedigo and Mr. Ray Skillman, sent out a letter on behalf of Respondent. This letter, dated June 22, 1990, was printed on stationery containing the name and address of the Indianapolis Auto Auction, Inc. Approximately sixty (60) letters were sent out (See Exhibit "A"), Affidavit of Mr. Sherman Johnson, Campaign Manager, People For Pence). This letter forms the "basis" for the allegations that Pence thrice violated the Federal Election Campaign Act (hereinafter, "Act"). (Complainant's questionable use of the English language makes it difficult to discern exactly what allegations are directed at Mr. Pence). Complainant alleges:

1. That Respondent may have accepted or received contributions as a result of the Auto Auction letter, thereby violating provisions of the Act.

In response, no violation occurred because no contributions were accepted or received by Respondent in response to the mailing. (See Exhibit "A").

2. That the letter lacked disclaimers required by the Act, in violation of 2 U.S.C. 441(d) and 441(d)(a).

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 SEP -6 PM 3:44

9104032779

Mr. Lawrence Noble
Page 2
September 5, 1990

In response, no violation occurred for lack of disclaimers. A return card (See Exhibit "B") with the correct disclaimers was included in the package.

3. That a corporate contribution occurred when the letter was sent out on paper embossed with the Indianapolis Auto Auction, Inc. letterhead.

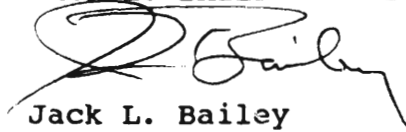
In response, with the exception of some sixty (60) pieces of paper and envelopes, the mailing was fully paid for by the Friends of Mike Pence. Again, stamps and clerical backup were fully paid for by the Friends of Mike Pence (See Exhibit "A"). The sixty (60) pieces of paper and envelopes are valued at approximately Six Dollars (\$6.00). (A survey of local vendors resulted in valuation of such envelopes at twenty (20) pieces for Fifty Nine Cents (.59) (*3 = \$1.77) and a box of eighty (80) sheets of paper at Five Dollars and Twenty Five Cents (\$5.25), or Four Dollars and Twenty Cents (\$4.20) for sixty (60), for a total cost of Five Dollars and Ninety Seven Cents (\$5.97). Please find at Exhibit "C" a copy of the check for Six Dollars (\$6.00) for reimbursement to the Indianapolis Auto Auction, Inc.

CONCLUSION

In the future, all mailings will be on Friends of Mike Pence letterhead or personal stationery (resulting in a legal in-kind contribution). Here, the intent was to pay for the entire mailing. The amount involved, Six Dollars (\$6.00), is de minimus and a check has been sent to the company involved. Therefore, Respondent contends that no further action should be taken by the Federal Election Commission.

Kindest regards,

JACK L. BAILEY & ASSOCIATES


Jack L. Bailey
Attorney at Law

JLB/dp

21040322730

Mr. Lawrence Noble
Page 3
September 5, 1990

Subscribed and sworn to before me on this 5th day of
September, 1990.

Darri Lea Pinnick
NOTARY PUBLIC
PRINTED DARRI LEA PINNICK
A RESIDENT OF JOHNSON COUNTY

MY COMMISSION EXPIRES:
9-29-90

91040322731

THE PEOPLE FOR MIKE PENCE, INC.
P.O. BOX 1500
GREENWOOD, INDIANA 46142

DATE	INVOICE	AMOUNT

20-5
740
2508

PAY Six and 00/100

DATE	TO THE ORDER OF	DESCRIPTION	CHECK NO.	DOLLARS
9/4	Indianapolis Auto Auction	Letterhead - 6135	2508	

CHECK AMOUNT
\$ 6.00

4040 Office Plaza Blvd.
Indpls, IN 46254

THE INDIANA NATIONAL BANK
INDIANAPOLIS, INDIANA 46266

Mark A. Blalock

⑆002508⑆ ⑆0740000052⑆ 05⑈619 874⑈

McBee

28722804016

06C7784

Mike Pence
Republican for
United States Congress

RECEIVED
FEDERAL ELECTION COMMISSION
SEP 7 1990

90 SEP -7 AM 10:42

HAND DELIVERED

Please attach this Exhibit "A" to MUR 3105
which was received by your office on 9-6-90.

Thank you.

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF THE CLERK
SEP 7 1990
90 SEP -7 PM 12:12

91040322783

AFFIDAVIT

Comes now SHERMAN JOHNSON, Campaign Manager for People for Pence Campaign Committee, and being first duly sworn upon his oath and for his Affidavit, would state as follows:

1. That I am the Campaign Manager for the People For Pence Campaign Committee and held that position at all times relevant to the allegations related to MUR 3105.

2. That no contributions were accepted or received as a result of the June 22, 1990, letter referred to in MUR 3105.

3. That the People For Pence campaign paid for the mailing referred to in MUR 3105 except envelopes and stationery.

4. That only approximately sixty (60) letters dated June 22, 1990, as referred to in MUR 3105 were sent.

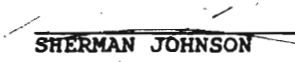
AND FURTHER THE AFFIANT SAITH NOT.


SHERMAN JOHNSON

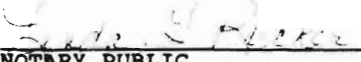
STATE OF INDIANA)
) SS:
COUNTY OF JOHNSON)

SHERMAN JOHNSON, being first duly sworn upon his oath, according to law, deposes and says:

That he is the Affiant named in the above and foregoing Affidavit and that the facts set forth herein are true and correct to the best of his knowledge.


SHERMAN JOHNSON

SUBSCRIBED AND SWORN TO BEFORE ME THIS 6 DAY OF SEPTEMBER, 1990.


NOTARY PUBLIC
PRINTED John A. Burt
A RESIDENT OF JOHNSON COUNTY

MY COMMISSION EXPIRES:
8-1-92

91040322784

OGC 8422

JACK L. BAILEY & ASSOCIATES

ATTORNEYS AT LAW
(IN ASSOCIATION WITH JACK L. BAILEY, P.C.)
(NOT A PARTNERSHIP)

LIBRARY PARK OFFICE COMPLEX
633 LIBRARY PARK, SUITE J
POST OFFICE BOX 159
GREENWOOD, INDIANA 46142-0159

JACK L. BAILEY
MICHAEL R. PENCE
DEETTA H. STEINMETZ

TELEPHONE:
(317) 882-7811
FAX: (317) 882-7839

October 18, 1990

Lawrence Noble, Esquire
Office of the General Counsel
Federal Election Commission
999 "E" Street, N.W.
Washington, D.C. 20463

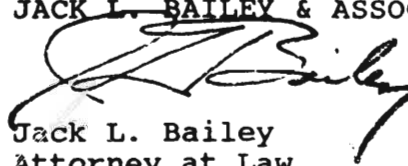
ATTENTION: LAWRENCE PARRISH
Re: MUR3105

Dear Mr. Parrish:

Enclosed please find a copy of Exhibit "B" as per our letter dated September 5, 1990.

Kindest regards,

JACK L. BAILEY & ASSOCIATES


Jack L. Bailey
Attorney at Law

JLB:lgr
Enc.

RECEIVED
FEDERAL ELECTION COMMISSION
90 OCT 26 PM 3:49

90 OCT 26 11:10:51

91J40322736

PEOPLE FOR LUNCH

YES, please send me your recipe for my favorite lunch. I am enclosing
a check for \$5.00, made out to PEOPLE FOR LUNCH, Inc.

NAME _____

ADDRESS _____

CITY/STATE/ZIP _____

PHONE _____

DATE _____

Completed and returned to: PEOPLE FOR LUNCH, Inc.

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

FIRST GENERAL COUNSEL'S REPORT

NUR #3105
DATE COMPLAINT RECEIVED
BY OGC: August 8, 1990
DATE OF NOTIFICATION TO
RESPONDENTS: August 14, 1990
STAFF MEMBER: Lawrence D. Parrish

COMPLAINANT: Richard Bates, Democratic Congressional Campaign Committee

RESPONDENTS: Mike Pence

The People for Mike Pence and Michael W. Redford,
as treasurer

Indianapolis Auto Auction, Inc.

Auto Dealers for Pence and Gary Pedigo, as
Chairman, and Ray Skillman

RELEVANT STATUTES: 2 U.S.C. § 433
2 U.S.C. § 434
2 U.S.C. § 441b
2 U.S.C. § 441b(b)(2)(C)
2 U.S.C. § 441d(a)
11 C.F.R. § 114.3

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

This matter was initiated by a complaint from Richard Bates, Executive Director of the Democratic Congressional Campaign Committee (DCCC). (Attachment 1). Mr. Bates alleged that Indianapolis Auto Auction, Inc. (IAA) sponsored a corporate solicitation undertaken by Gary Pedigo (Pedigo) and Ray Skillman (Skillman) of the Auto Dealers for Pence (AD for Pence) on

91040322787

behalf of Mike Pence (Pence) in violation of 2 U.S.C. §§ 441b and 441d(a). The Complainant further alleged that this is an ongoing practice of the People for Mike Pence, Inc. (PMP) to condone and accept contributions from corporations in violation of the Act.

II. FACTUAL AND LEGAL ANALYSIS

A. Statement of the Law

Pursuant to 2 U.S.C. § 441b(a), it is unlawful for a corporation or labor union to make a contribution or expenditure in connection with a federal election, or a candidate or political committee knowingly to accept such a contribution.

Pursuant to 11 C.F.R. § 114.3, no corporation may make contributions or expenditures for partisan communications to the general public in connection with a federal election.

Under 2 U.S.C. § 441d, whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, such communication shall (1) if paid for and authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication has been paid for by such authorized political committee, (2) if paid for by other persons but authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication is paid

91040322788

for by such other persons and authorized by such authorized political committee; or (3) if not authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee.

Pursuant to 2 U.S.C. § 431(4)(A), the term "political committee" means any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year.

Under 2 U.S.C. § 433, every campaign committee shall file a statement of organization no later than 10 days after designation pursuant to 2 U.S.C. § 432(e)(1). In addition, the treasurer of a political committee shall file reports of receipts and disbursements. 2 U.S.C. § 434.

B. Statement of the Facts

Complainant alleges that on June 22, 1990, solicitation letters were sent to auto dealers soliciting donations for Mike Pence from Pedigo and Skillman, who identify themselves as with the AD for Pence. The Complainant enclosed a copy of this letter with their complaint. In addition, the complaint asserts that "In this letter, Pedigo and Skillman solicit 'personal donation[s] of \$1,000, \$500 or even \$250 to this fine candidate who has a real chance to win.'" The complaint also stated, "However, this solicitation was written

91040322739

on letterhead bearing the inscription 'Indianapolis Auto Auction, Inc.'" Based on the foregoing, the Complainant asserts, as above, that the heading indicates that this solicitation is sponsored by a corporation in violation of 2 U.S.C. § 441b(a).

The Complainant further states that the "FEC regulations prohibit corporations from making partisan communications to anyone other than their executive and administrative personnel." Therefore, the Complainant alleges, "The auto dealers receiving the letter are not employed by Indianapolis Auto Auctions, Inc., and do not qualify for such corporate communications." In addition, the Complainant asserts, "If Mike Pence has accepted or received any contributions as a result of this fundraising appeal, he and his campaign committee are in violation of the Act"

The Complainant also alleges that this June 22, 1990 solicitation letter was devoid of any disclaimer notice identifying who paid for and authorized the communication as required by 2 U.S.C. § 441d(a). The Complainant further asserts, "if the candidate -- Mike Pence in this case -- did not authorize the communication or solicitation, the communication must clearly state that it is 'not authorized by any candidate or candidate's committee.' 2 U.S.C. § 441d(a)(3)."

The Complainant also alleges that this incident "suggests an ongoing practice on the part of the People for Mike Pence, Inc., to condone and accept contributions from corporations in violation of the Act."

21040822790

On August 21, 1990, Pedigo and Skillman responded to the complaint. (Attachment 2). Pedigo and Skillman response stated:

- (a) We are inexperienced in the legal requirements of raising funds for political candidates.
- (b) Because of such ignorance, we did not realize that we should seek counsel for an explanation of the election laws.
- (c) The use of the letterhead of Indianapolis Auto Auction, Inc. was inadvertent and not intended to be used as a device for solicitation.
- (d) To our knowledge, no funds were received as a result of the solicitation.
- (e) The solicitation was one time only.

On September 5, 1990, the PMP through their counsel responded to the complaint. (Attachment 3). Counsel states that two individuals, Pedigo and Skillman, sent out this letter, dated June 22, 1990, and printed on stationery containing the name and address of the Indianapolis Auto Auction, Inc., on behalf of Pence. Counsel further states that approximately sixty (60) letters were sent out. An affidavit of Mr. Sherman Johnson, Campaign Manager for PMP, was attached to PMP response. (Attachment 4).

Counsel's response to the Complainant's allegations were as follows:

1. That Respondent may have accepted or received contributions as a result of the Auto Auction letter, thereby violating provisions of the Act.

In response, no violation occurred because no contributions were accepted or received by Respondent in response to the mailing. (See Exhibit "A").

91040322791

2. That the letter lacked disclaimers required by the Act, in violation of 2 U.S.C. 441(d) and 441(d)(a)(sic).

In response, no violation occurred for lack of disclaimers. A return card (See Exhibit "B") with the correct disclaimers was included in the package. (Attachment 5).

3. That a corporate contribution occurred when the letter was sent out on paper embossed with the Indianapolis Auto Auction, Inc. letterhead.

In response, with the exception of some sixty (60) pieces of paper and envelopes, the mailing was fully paid for by the Friends of Mike Pence (See Exhibit "A"). The sixty (60) pieces of paper and envelopes are valued at approximately Six Dollars (\$6.00). (A survey of local vendors resulted in valuation of such envelopes at twenty (20) pieces for Fifty Nine Cents (.59) (*3=\$1.77) and box of eighty (80) sheets of paper at Five dollars and Twenty Five cents (\$5.25), or Four Dollars and Twenty Cents (\$4.20) for sixty (60), for a total cost of Five Dollars and Ninety Seven Cents (\$5.97). Please find at Exhibit "C" a copy of the check for Six Dollars (\$6.00) for reimbursement to the Indianapolis Auto Auction, Inc.

Counsel further states that in the future all of the Respondent's mailings will be on Friends of Mike Pence letterhead or personal stationery. In addition, Counsel states that it was the Committee's intention to pay for the entire mailing, and that a check in the amount of six dollars (\$6.00) has been sent to the company involved. (Attachment 6).

C. Analysis

Corporate Contribution

The Federal Election Campaign Act of 1971, as amended ("the Act"), provides that no corporation whatever shall make any

21040322792

contribution or expenditure in connection with a Federal election and that no candidate or political committee shall knowingly accept such a contribution or expenditure. 2 U.S.C. § 441b. The Act defines contribution to include "any direct or indirect payment, distribution, loan, advance, deposit, gift of money, or any services, or anything of value." 2 U.S.C. § 441b(b)(2).

The Complainant alleges that the sending out of the June 22, 1990 letter by the Respondent in this matter constituted a corporate contribution in violation of 2 U.S.C. § 441b, which prohibits any corporation from making a contribution or expenditure in connection with a federal election, and prohibits a candidate or political committee to accept such a contribution. As mentioned-above, the Complainant further assert that "If Mike Pence has accepted or received any contributions as a result of this fundraising appeal, he and his campaign committee are in violation of the Act ..."

The June 22, 1990 solicitation letters were sent to auto dealers soliciting donations for Mike Pence from Pedigo and Skillman. This solicitation was written on a letterhead bearing the inscription "Indianapolis Auto Auctions, Inc."

It appears that the IAA, a for profit corporation, was attempting to administer and solicit contributions to AD for Pence. Pedigo and Skillman contend that the use of the letter was not intended to be used as a device for solicitation, and that the letterhead was used because of their lack of knowledge of the legal requirements of raising funds for political

21040322793

candidates. Pedigo and Skillman further assert that no funds were received as a result of the June 22, 1990 letter.

Counsel for PMP asserts that since no contributions were accepted or received as a result of the June 22, 1990 letter, thus no violation has occurred. Furthermore, as mentioned-above, Counsel for PMP asserts that there were only sixty (60) pieces of paper and envelopes involved in this matter and that the mailing was fully paid for by PMP. Counsel approximated that the cost of the paper and envelopes at \$6.00. Counsel also enclosed a copy of a check for \$6.00, dated September 4, 1990, for reimbursement to IAA. Counsel for PMP also enclosed a notarized affidavit from PMP's campaign manager, Sherman Johnson, stating "that no contributions were accepted or received as a result of the June 22, 1990, letter..." Mr. Johnson also stated that PMP had paid for the mailing, and that there were approximately sixty (60) letters dated June 22, 1990, sent out.¹

The Commission has stated that the identity of an individual as a corporate official in a campaign advertisement in which the individual supported a Federal candidate would not result in a corporate contribution when the campaign paid all of the costs of the advertisement and the corporation was not compensating the individual for his time in making the advertisement. Advisory Opinions 1978-77 and 1984-43. The

1. Staff from the Office of General Counsel spoke with Mr. Pedigo, via telephone, on October 16, 1990. Mr. Pedigo stated that the letter went to auto dealers across the State of Indiana.

21040322794

Commission has also recognized that a corporation may endorse a candidate for election to Federal office and make such endorsement known through a press release distributed to those to whom it customarily sends its press releases. Advisory Opinion 1984-23. In MUR 1261, the Commission found no reason to believe Larry Foods, Inc. had made a corporate contribution when an officer of the corporation, acting as an individual volunteer for a Federal campaign, used corporate stationery for preparing invitations to a fundraiser. In that matter, the corporation stated that the individual was acting without authorization and the corporation had been reimbursed for the costs of preparation. The Commission recently considered the question whether the use of corporate letterhead, though reimbursed, would be a violation of 2 U.S.C. § 441b in MUR 3066. The Commission, however, was unable to agree on whether such use of corporate letterhead is a violation.

Although the PMP paid for the mailing and claims to have reimbursed IAA for the \$6.00 cost of the stationery on which the letter was printed and the envelopes used in sending out the June 22, 1990 letter, this reimbursement does not take into account the intrinsic value of having used IAA's name. Therefore, the Office of General Counsel remains of the opinion that using IAA's name would be considered something of value under 2 U.S.C. § 441b(b)(2).

As noted above, on September 4, 1990, PMP reimbursed IAA for the \$6.00 cost of the stationery and for the envelopes used in the mailing of the June 22, 1990 letter. This reimbursement

21040322795

did not take place until more than 74 days had elapsed. Based upon the foregoing, PMP is in violation of 2 U.S.C. § 441b by failing to reimburse IAA for the cost of the stationery and envelopes in a timely manner.

Accordingly, the Office of General Counsel recommends that the Commission find reason to believe that the Indianapolis Auto Auction, Inc. violated 2 U.S.C. § 441b by making a prohibited corporate contribution and that the People for Mike Pence and Michael W. Redford, as treasurer, knowingly accepted such a prohibited corporate contribution in violation of 2 U.S.C. § 441b. Because the amount involved in this matter is relatively small, this Office recommends that the Commission take no further action in regards to this violation.

Disclaimer

Pursuant to 2 U.S.C. § 441d, whenever a person makes an expenditure for the purpose of soliciting contributions through direct mail or any other type of general public political advertising, such solicitation shall state who paid for it and whether it was authorized by any candidate. Commission regulations require such disclaimer to be "clear and conspicuous" but do not require that they be on the front face or page "as long as a disclaimer appears within the communication." 11 C.F.R. § 110.11(a)(1). The Commission has stated that in a solicitation mailing consisting of several items, the disclaimer need appear on only one of the items. Advisory Opinion 1980-145.

In response to the Complainant's allegation that the letter

21040322796

was devoid of any disclaimers, as noted above, counsel asserts that a return card with the correct disclaimer was included in the package as required by 2 U.S.C. § 441d. Counsel also enclosed a copy of the return card along with PMP's response.²

Based upon the foregoing, the Office of General Counsel recommends that the Commission finds no reason to believe that the Auto Dealers for Pence and Gary Pedigo, as Chairman, and Ray Skillman, and the People for Mike Pence and Michael W. Redford, as treasurer, violated 2 U.S.C. § 441d.

Political Committee

Pursuant to 2 U.S.C. § 431(4)(A), the term "political committee" means any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year.

According to 2 U.S.C. § 433, every campaign committee shall file a statement of organization no later than 10 days after designation pursuant to 2 U.S.C. § 432(e)(1). In addition, the treasurer of a political committee shall file reports of receipts and disbursements. 2 U.S.C. § 434.

The June 22, 1990 letter included signature spaces which

2. Staff in this office did not find a copy of the return card enclosed with PMP response as alleged by PMP's counsel. Staff from this office notified PMP's counsel of this fact. On October 17, 1990, PMP's counsel's secretary phoned this office and reported that PMP was forwarding another return card. On October 26, 1990, the Office of General Counsel received a copy of the return card.

91040322797

91040322798
were titled "Gary Pedigo, Chairman, Auto Dealers for Pence" and "Ray Skillman, Auto Dealers for Pence." These signature spaces gave the appearance that "Auto Dealers for Pence" was a political committee. In Pedigo and Skillman response, as noted above, they claim that their ignorance and inexperience in legal requirements for raising funds for political parties was their excuse for sending off the June 22, 1990 letter. They also state that no funds were received as a result of this letter and that this was the only letter sent out. Also, as noted above, the PMP claimed to have paid for the mailing of the June 22, 1990 letter.

Based upon the above information, there is no evidence that AD for Pence was a political committee and should have filed a statement and reports with the Commission. The facts in this matter indicate that the June 22, 1990 letter was the only incident involving Pedigo, Skillman and AD for Pence. The facts also indicate that no funds were received as a result of this letter, and that there is no evidence of spending of any money by AD for Pence.

Accordingly, the Office of General Counsel recommends that the Commission find no reason to believe that Skillman, Pedigo and AD for Pence violated 2 U.S.C. §§ 433 and 434.

Candidate Mike Pence

Based upon the above information, the Office of General Counsel has not found any evidence which indicates that the candidate, Mike Pence, was personally involved in the circumstances of this mailing.

Accordingly, the Office of General Counsel recommends that the Commission find no reason to believe that candidate Mike Pence violated 2 U.S.C. §§ 441b and 441d.

III. RECOMMENDATIONS

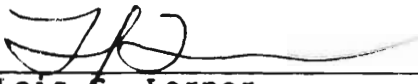
1. Find no reason to believe that Mike Pence violated 2 U.S.C. §§ 441b and 441d.
2. Find reason to believe that the People for Mike Pence and Michael W. Redford, as treasurer, and Indianapolis Auto Auction, Inc. violated 2 U.S.C. § 441b and take no further action.
3. Find no reason to believe that the People for Mike Pence and Michael W. Redford, as treasurer, violated 2 U.S.C. § 441d.
4. Find no reason to believe that the Auto Dealers for Pence, Gary Pedigo, as Chairman, and Ray Skillman violated 2 U.S.C. §§ 441d, 433 and 434.
5. Close the file in this matter.
6. Approve the appropriate letters.

Lawrence M. Noble
General Counsel

21040322799
Date

12/3/90

BY:


Lois G. Lerner
Associate General Counsel

Attachments

1. Complaint
2. Response from Pedigo and Skillman
3. Response from PMP
4. Affidavit of Mr. Sherman Johnson
5. Return card with disclaimers
6. September 4, 1990 check



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/ DONNA ROACH *DR*
COMMISSION SECRETARY

DATE: DECEMBER 6, 1990

SUBJECT: MUR 3105 - RECIRCULATION OF REPORT
MEMORANDUM FROM GENERAL COUNSEL
DATED DECEMBER 4, 1990

The above-captioned document was circulated to the
Commission on TUESDAY, DEC., 4, 1990 at 4:00 p.m.

Objection(s) have been received from the Commissioner(s)
as indicated by the name(s) checked below:

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

This matter will be placed on the meeting agenda
for DECEMBER 11, 1990.

Please notify us who will represent your Division before the
Commission on this matter.

91040322300

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Mike Pence; The People for Mike Pence) MUR 3105
and Michael W. Redford, as treasurer;)
Indianapolis Auto Auction, Inc.;)
Auto Dealers for Pence and Gary Pedigo,)
as Chairman; and Ray Skillman.)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the
Federal Election Commission executive session on
December 11, 1990, do hereby certify that the Commission
decided by a vote of 6-0 to take the following actions
in MUR 3105:

1. Find no reason to believe that Mike Pence
violated 2 U.S.C. §§ 441b and 441d.
2. Find reason to believe that the People for
Mike Pence and Michael W. Redford, as
treasurer, and Indianapolis Auto Auction,
Inc. violated 2 U.S.C. § 441b and take no
further action.
3. Find no reason to believe that the People
for Mike Pence and Michael W. Redford, as
treasurer, violated 2 U.S.C. § 441d.

(continued)

21040322301

Federal Election Commission
Certification for MUR 3105
December 11, 1990

Page 2

4. Find no reason to believe that the Auto Dealers for Pence, Gary Pedigo, as Chairman, and Ray Skillman, violated 2 U.S.C. §§ 441d, 433 and 434.
5. Close the file in this matter.
6. Approve the appropriate letters, as recommended in the General Counsel's report dated December 3, 1990.

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

Attest:

12-12-90
Date

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

21040322302



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CLOSED

December 26, 1990

Ray Skillman
Auto Dealers for Pence
c/o Indianapolis Auto Auction, Inc.
4040 Office Plaza Blvd.
Indianapolis, IN 46254

RE: MUR 3105
Auto Dealers for Pence and Ray
Skillman

Dear Mr. Skillman:

On August 10, 1990, the Federal Election Commission notified the Auto Dealers for Pence, and you, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On December 11, 1990, the Commission found, on the basis of the information in the complaint, and information provided by you, that there is no reason to believe Auto Dealers for Pence and Ray Skillman violated 2 U.S.C. §§ 441d and 433 and 434. Accordingly, the Commission closed its file in this matter.

This matter will become a part of the public record within 30 days. If you wish to submit any materials to appear on the public record, please do so within ten days. Please send such materials to the Office of the General Counsel.

Sincerely,

Lawrence M. Noble
General Counsel

BY: 
Lois G. Lerner
Associate General Counsel

Enclosure
First General Counsel's Report

9104032303



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 26, 1990

Gary Pedigo, Chairman
Auto Dealers for Pence
c/o Indianapolis Auto Auction, Inc.
4040 Office Plaza Blvd.
Indianapolis, IN 46254

RE: MUR 3105
Auto Dealers for Pence and Gary
Pedigo, as Chairman

Dear Mr. Pedigo:

On August 10, 1990, the Federal Election Commission notified the Auto Dealers for Pence and you, as Chairman, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On December 11, 1990, the Commission found, on the basis of the information in the complaint, and information provided by you, that there is no reason to believe Auto Dealers for Pence and Gary Pedigo, as Chairman, violated 2 U.S.C. §§ 441d and 433 and 434. Accordingly, the Commission closed its file in this matter.

This matter will become a part of the public record within 30 days. If you wish to submit any materials to appear on the public record, please do so within ten days. Please send such materials to the Office of the General Counsel.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
First General Counsel's Report

31040322304



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 26, 1990

Indianapolis Auto Auction, Inc.
4040 Office Plaza Blvd.
Indianapolis, IN 46254

RE: MUR 3105
Indianapolis Auto Action, Inc.

Dear Gentlemen:

On December 11, 1990, the Federal Election Commission found reason to believe that Indianapolis Auto Auction, Inc. violated 2 U.S.C. § 441b, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission also determined to take no further action and closed its file. The First General Counsel's Report, which formed a basis for the Commission's finding, is attached for your information.

The Commission reminds you that it is unlawful for a corporation or labor union to make a contribution or expenditure in connection with a federal election and no candidate or political committee shall knowingly to accept such a contribution or expenditure. Your client should take immediate steps to insure that this activity does not occur in the future.

The file will be made part of the public record within 30 days. Should you wish to submit any 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.

If you have any questions, please direct them to Lawrence D. Parrish, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lee Ann Elliott
Lee Ann Elliott
Chairman

Enclosure
First General Counsel Report

210403305



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 26, 1990

Jack L. Bailey, Esquire
Jack L. Bailey & Associates
633 Library Park, Suite J
Greenwood, IN 46142

RE: MUR 3105
The People for Mike Pence
and Michael W. Redford, as
treasurer

Dear Mr. Bailey:

On December 11, 1990, the Federal Election Commission found no reason to believe that your client, The People for Mike Pence and Mike W. Redford, as treasurer, violated 2 U.S.C. § 441d, and found reason to believe that The People for Mike Pence and Mike W. Redford, as treasurer, violated 2 U.S.C. § 441b, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission also determined to take no further action and closed its file. The First General Counsel's Report, which formed a basis for the Commission's finding, is attached for your information.

The Commission reminds you that it is unlawful for a candidate or political committee knowingly to accept a contribution or expenditure in connection with a federal election from a corporation or labor union. Your client should take immediate steps to insure that this activity does not occur in the future.

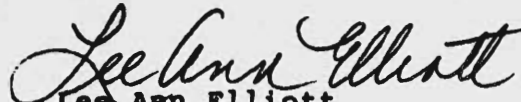
The file will be made part of the public record within 30 days. Should you wish to submit any materials to appear on the public record, please do so within ten days of your receipt of this letter. Such materials should be sent to the Office of the General Counsel.

91040322306

Jack L. Bailey, Esquire
MUR 3105
Page 2

If you have any questions, please direct them to Lawrence
D. Parrish, the attorney assigned to this matter, at (202)
376-8200.

Sincerely,


Lee Ann Elliott
Chairman

Enclosure
First General Counsel Report

91040322307



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 26, 1990

Jack L. Bailey, Esquire
Jack L. Bailey & Associates
633 Library Park, Suite J
Greenwood, IN 46142

RE: MUR 3105
Mike Pence

Dear Mr. Bailey:

On August 10, 1990, the Federal Election Commission notified your client, Mike Pence, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On December 11, 1990, the Commission found, on the basis of the information in the complaint, and information provided by your client, that there is no reason to believe Mike Pence violated 2 U.S.C. §§ 441b and 441d. Accordingly, the Commission closed its file in this matter.

This matter will become a part of the public record within 30 days. If you wish to submit any materials to appear on the public record, please do so within ten days. Please send such materials to the Office of the General Counsel.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure

First General Counsel's Report

21040308



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3105

DATE FILMED 2/7/91 CAMERA NO. 4

CAMERAMAN AS

91040322309



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THE FOLLOWING DOCUMENTATION IS ADDED TO

THE PUBLIC RECORD IN CLOSED MUR 3105.

21040324062



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

January 17, 1991

Indianapolis Auto Auction, Inc.
4040 Office Plaza Blvd.
Indianapolis, IN 46254

RE: MUR 3105

Dear Gentlemen:

By letter dated December 11, 1990, the Office of the General Counsel informed you of determinations made with respect to the complaint filed against you. Enclosed with that letter was a First General Counsel's Report.

Enclosed please find a Statement of Reasons from Commissioners Aikens, Elliott and Josefiak explaining their vote. This document will be placed on the public record as part of the file of MUR 3105.

If you have any questions, please contact Lawrence D. Parrish, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

A handwritten signature in dark ink, appearing to be "LGL", is written over a horizontal line.

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Statement of Reasons

21040821063



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

January 17, 1991

The People for Mike Pence
Michael W. Redford, Treasurer
435 E. Main Street
Suite M
Greenwood, IN 46142

RE: MUR 3105

Dear Mr. Redford:

By letter dated December 11, 1990, the Office of the General Counsel informed you of determinations made with respect to the complaint filed against you. Enclosed with that letter was a First General Counsel's Report.

Enclosed please find a Statement of Reasons from Commissioners Aikens, Elliott and Josefiak explaining their vote. This document will be placed on the public record as part of the file of MUR 3105.

If you have any questions, please contact Lawrence D. Parrish, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

A handwritten signature in black ink, appearing to read "Lerner", is written over a horizontal line.

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Statement of Reasons

cc: Mike Pence

91040824064



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 17, 1991

Mike Pence
229 W. Buffalo Drive
Indianapolis, IN 46217

RE: MUR 3105

Dear Mr. Pence:

By letter dated December 11, 1990, the Office of the General Counsel informed you of determinations made with respect to the complaint filed against you. Enclosed with that letter was a First General Counsel's Report.

Enclosed please find a Statement of Reasons from Commissioners Aikens, Elliott and Josefiak explaining their vote. This document will be placed on the public record as part of the file of MUR 3105.

If you have any questions, please contact Lawrence D. Parrish, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

A handwritten signature in dark ink, appearing to be "LF", is written over the typed name of Lois G. Ferner.

BY: Lois G. Ferner
Associate General Counsel

Enclosure
Statement of Reasons

5
3
0
3
2
2
4
0
3
4
0
3
1



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CLOSED

January 17, 1991

Ray Skillman
Auto Dealers for Pence
c/o Indianapolis Auto Auction, Inc.
4040 Office Plaza Blvd.
Indianapolis, IN 46254

RE: MUR 3105

Dear Mr. Skillman:

By letter dated December 11, 1990, the Office of the General Counsel informed you of determinations made with respect to the complaint filed against you. Enclosed with that letter was a First General Counsel's Report.

Enclosed please find a Statement of Reasons from Commissioners Aikens, Elliott and Josefiak explaining their vote. This document will be placed on the public record as part of the file of MUR 3105.

If you have any questions, please contact Lawrence D. Parrish, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Werners
Associate General Counsel

Enclosure
Statement of Reasons

21040324066



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

January 17, 1991

Richard Bates, Executive Director
Democratic Congressional Campaign Committee
430 South Capitol Street
Washington, D.C. 20003

RE: MUR 3105

Dear Mr. Bates:

By letter dated December 11, 1990, the Office of the General Counsel informed you of determinations made with respect to the complaint filed by you against Mike Pence, The People for Mike Pence and Michael W. Redford, as treasurer, Indianapolis Auto Auction, Inc., Auto Dealers for Pence and Gary Pedigo, as Chairman, and Ray Skillman. Enclosed with that letter was a First General Counsel's Report.

Enclosed please find a Statement of Reasons from Commissioners Aikens, Elliott and Josefiak explaining their vote. This document will be placed on the public record as part of the file of MUR 3105.

If you have any questions, please contact Lawrence D. Parrish, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

BY: 
Lois G. Lerner
Associate General Counsel

Enclosure
Statement of Reasons

21040324067

BEFORE THE FEDERAL ELECTION COMMISSION

Mike Pence)
)
People for Mike Pence and)
Michael W. Redford, as treasurer) MUR 3105
)
Indianapolis Auto Auction, Inc.)
)
Auto Dealers for Pence and)
Gary Pedigo, as Chairman, and)
Ray Skillman)

STATEMENT OF REASONS

Commissioner Joan D. Aikens

Commissioner Lee Ann Elliott

Commissioner Thomas J. Josefiah

On December 11, 1990, the Federal Election Commission voted to approve the General Counsel's recommendation to find reason to believe that People for Mike Pence and Michael W. Redford, as treasurer, and Indianapolis Auto Auction, Inc., violated 2 U.S.C. §441b, and to take no further action and close the file in this matter. * We supported finding a violation of §441b's prohibition against corporate contributions under these circumstances because the Pence committee's reimbursement for corporate stationery used in a mailing that solicited contributions to Pence's campaign was not made "within a reasonable time." See 11 CFR 114.9. Because the reimbursement involved a small amount of money and was only a

* The Commission also voted to find no reason to believe that Mike Pence violated 2 U.S.C. §§ 441b and 441d, no reason to believe that People for Mike Pence and Michael W. Redford, as treasurer, violated 2 U.S.C. §441d, and no reason to believe that the Auto Dealers for Pence, Gary Pedigo, as Chairman, and Ray Skillman violated 2 U.S.C. §§ 441d, 433 and 434.

STATEMENT OF REASONS -- MUR 3105
Commissioners Aikens, Elliott and Josefiak
Page 2

few days beyond the regulatory standard of 60 days, we also agreed with the General Counsel's recommendation to exercise prosecutorial discretion and not pursue the case further, consistent with the proper ordering of the Commission's priorities and resources. See Heckler v. Chaney, 470 U.S. 821 (1985).

21040824069

We wish to make clear for the record that our support of the §441b violation in this matter was based solely upon the lateness of the Pence campaign's reimbursement for use of the corporate letterhead stationery. We do not agree with the General Counsel's alternative argument for finding a corporate contribution that "... this reimbursement does not take into account the intrinsic value of having used IAA's name." As we recently wrote in Statements of Reasons in MUR 3066 (attached), and in particular reliance upon the Commission's prior decision in MUR 1261, we do not view the intangible value of the corporate letterhead (apart from the stationery's identifiable cost) to constitute a contribution or expenditure under the Federal Election Campaign Act.

December 17, 1990


JOAN D. AIKENS


LEE ANN ELLIOTT


THOMAS J. JOSEFIK



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

January 17, 1991

Gary Pedigo, Chairman
Auto Dealers for Pence
c/o Indianapolis Auto Auction, Inc.
4040 Office Plaza Blvd.
Indianapolis, IN 46254

RE: MUR 3105

Dear Mr. Pedigo:

By letter dated December 11, 1990, the Office of the General Counsel informed you of determinations made with respect to the complaint filed against you. Enclosed with that letter was a First General Counsel's Report.

Enclosed please find a Statement of Reasons from Commissioners Aikens, Elliott and Josefiak explaining their vote. This document will be placed on the public record as part of the file of MUR 3105.

If you have any questions, please contact Lawrence D. Parrish, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel


BY: Lois G. Lerner
Associate General Counsel

Enclosure
Statement of Reasons

91040324070

91040324071

~~70773888~~



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THE FOLLOWING DOCUMENTATION IS ADDED TO
THE PUBLIC RECORD IN CLOSED MUR 3105.

21040321454



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 25, 1991

USED

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Richard Bates, Executive Director
Democratic Congressional Campaign Committee
430 South Capitol Street
Washington, D.C. 20003

RE: MUR 3105

Dear Mr. Bates:

This is in reference to the complaint you filed with the Federal Election Commission on August 8, 1990, concerning violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by Mike Pence, The People for Mike Pence and Michael W. Redford, as treasurer, Indianapolis Auto Auction, Inc., Gary Pedigo, Ray Skillman, and Auto Dealers for Pence.

Based on that complaint, on December 11, 1990, the Commission found no reason to believe that Mike Pence violated 2 U.S.C. §§ 441b and 441d; found no reason to believe that the People for Mike Pence and Michael W. Redford, as treasurer, violated 2 U.S.C. § 441d; found no reason to believe that the Auto Dealers for Pence, Gary Pedigo, as Chairman, and Ray Skillman, violated 2 U.S.C. §§ 441d, 433 and 434. On the same day the Commission also found that there was reason to believe that the People for Mike Pence and Michael W. Redford, as treasurer, and Indianapolis Auto Auction, Inc. violated 2 U.S.C. § 441b, a provision of the Act. However, after considering the circumstances of this matter, the Commission determined to take no further action and closed the file in this matter on December 11, 1990. This matter will become part of the public record within 30 days. The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

21040321455

Richard Bates, Executive Director
MUR 3105
Page 2

Due to an administrative oversight, this letter was not issued with previous correspondence. If you have any questions, please contact Lawrence D. Parrish, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel



BY: Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report

91040321456