



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20461

THIS IS THE BEGINNING OF MUR # 3466

DATE FILMED 8-30-84 CAMERA NO. 2

CAMERAMAN JMH

94043561856

George Dottl
5171 Kearsarge Ave.
Los Alamitos, CA 90720
310-431-1651

RECEIVED
FEDERAL ELECTION COMMISSION

92 JAN -2 AM 10:42

December 30, 1991

MUR 3466

92 JAN -2 PM 4:40

Federal Election Commission
Washington D.C. 20460

Dear Sirs:

Your letter dated Dec. 19, 1991 and postmarked Dec. 23, 1991 was received by me on Dec. 28, 1991. I am sending the notarized sworn to before me copy today Dec. 30, 1991.

Sincerely,

George Dottl
George Dottl

CAT. NO. NN00627
FO 1944 CA (9-84)

(Individual)

STATE OF CALIFORNIA
COUNTY OF Orange

} ss.

Subscribed and sworn to be me,
On December 27, 1991

before me, the undersigned, a Notary Public in and for
said State, personally appeared George Dottl

personally known to me or
proved to me on the basis of satisfactory evidence to be
the person whose name is subscribed to the
within instrument and acknowledged that he ex-
ecuted the same.

WITNESS my hand and official seal.

Signature

Randa Taweel



(This area for official notarial seal)

24043561837

George Dottl
5171 Kearsarge Ave.
Los Alamitos, CA 90720
310-431-1651

December 11, 1991

MUR 3466

Federal Election Commission
Washington D.C. 20463

Complaint against American Commerce Bank and Gerald J. Garner

Dear Sirs:

As per a telephone conversation with a Mr. Stinton on Dec. 10, 1991, I was advised that I had a valid complaint.

He noted the bank could be paid back for its stationary etc. by the candidate. He also said that Linda Addeo being on the bank payroll to handle the R.S.V.P.'s was a clear violation. Please note I personally called Linda Addeo and asked her if she was being paid by the bank to handle the R.S.V.P. Her answer to me was yes. (letters enclosed)

I did the bank the courtesy of advising them of filing this complaint. Then I received a call from Gerald Garner advising me that he could be a very powerful enemy, which I took to be a threat.

It would appear John Seymour has become a paid lobbyist for the banking industry.

Your prompt attention would be appreciated.

Sworn to by

George Dottl

cc LA Times

cc Orange County Register

Subscribed and sworn to before me on this 30th day of December, 1991.





American Commerce
NATIONAL BANK

3800 East La Palma Avenue • Anaheim, California 92807
Telephone: 1/714/630-4500 • Telefax: 1/714/630-2493

MEMORANDUM

TO: FRIENDS OF SENATOR JOHN SEYMOUR
FROM: GERALD J. GARNER
DATE: November 27, 1991

=====

Join us at a private meeting arranged especially for you to meet
with Senator John Seymour on

THURSDAY - DECEMBER 5, 1991

5:30 PM TO 7:00 PM

UNITED STATES SENATOR JOHN SEYMOUR

UNITED STATES TRADE REPRESENTATIVE CARLA HILL

at

AMERICAN COMMERCE NATIONAL BANK

3800 EAST LA PALMA AVENUE

ANAHEIM, CALIFORNIA 92807

(714) 630-4500

Donation Requested \$200
Dinner Buffet

RSVP to Linda Addeo
ext. 325

A victorious senatorial campaign depends
heavily on your contributions!



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

January 8, 1992

Gerald J. Garner
Chairman of the Board
American Commerce National Bank
3800 East La Palma Avenue
Anaheim, CA 92807

RE: MUR 3466

Dear Mr. Garner:

The Federal Election Commission received a complaint which alleges that the American Commerce National Bank ("The Bank") 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 3466. 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 the bank 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.

24040561300

If you have any questions, please contact Jeffrey Long, the staff member assigned to this matter, at (202) 219-3690. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,



George Rishel
Assistant General Counsel

Enclosures

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

24043561361



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

January 8, 1991

F. Laurence Scott, Jr., Treasurer
US Senator John Seymour Committee
150 Paularino Avenue
Suite 275
Costa Mesa, CA 92626

RE: MUR 3466

Dear Mr. Scott:

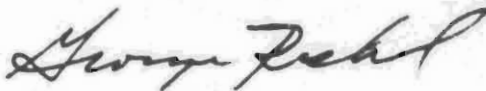
The Federal Election Commission received a complaint which alleges that the US Senator John Seymour Committee ("Committee") and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3466. 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 the Committee and you, as treasurer, 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 Jeffrey Long, the staff member assigned to this matter, at (202) 219-3690. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,



George Rishel
Assistant General Counsel

Enclosures

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

2404356103



FEDERAL ELECTION COMMISSION

WASHINGTON D.C. 20463

January 8, 1992

George Dottl
5171 Kearsarge Avenue
Los Alamitos, CA 90720

RE: MUR 3466

Dear Mr. Dottl:

This letter acknowledges receipt on January 2, 1992, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by the American Commerce National Bank, US Senator John Seymour Committee and F. Laurence Scott, Jr., as treasurer. 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 3466. 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.

Sincerely,

A handwritten signature in cursive script, which appears to read "George Rishel", is written over a rectangular area.

George Rishel
Assistant General Counsel

Enclosure
Procedures

94040561304



92 JAN 27 AM 10:34

12780 High Bluff Drive/270
San Diego, CA 92130-2016
619/481-7775
FAX 619/481-1829
1629 Columbia Street
San Diego, CA 92101-2572
619/235-6531
FAX 619/696-5397

January 22, 1992

Federal Election Commission
Washington, DC 20463

Re: MUR 3466

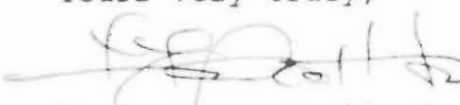
Dear Gentlemen:

The U.S. Senator John Seymour Committee ("Committee") has not violated the Federal Election Campaign Act of 1971 as alleged in the complaint. The facts are as follows:

- 1). American Commerce National Bank has held a series of public forums. The speakers have included college presidents, appointed officials, and elected officials. These forums are always open to the public at no charge.
- 2). A similar event with U.S. Senator John Seymour and U.S. Trade Representative Carla Hill was planned for December 1991.
- 3). The decision was made to hold a private reception as a fundraising event.
- 4). Once their decision was made, American Commerce National Bank was reimbursed for all costs.
- 5). This reimbursement was made by an in-kind contribution by Mr. Scott Garner. Attached is the correspondence acknowledging the in-kind contribution.
- 6). This in-kind contribution will be reflected on our 12/31/91 report.

I hope this resolves the matter to your satisfaction.

Yours very truly,


F. Laurence Scott, Jr., Treasurer
U.S. Senator John Seymour Committee

FLS:tlp
Enclosure

92 JAN 27 PM 3:25

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF ETHICS AND CONFLICT
MANAGEMENT

24043561865

**American Commerce
NATIONAL BANK**

3800 East La Palma Avenue • Anaheim, California 92807
Telephone: 1/714/630-4500 • Telefax: 1/714/630-2493

MEMORANDUM

TO: JOHN SEYMOUR
FROM: GERALD J. GARNER
DATE: DECEMBER 1, 1991
RE: THURSDAY, DECEMBER 5, 1991 PROGRAM

=====

Please note that the following paid \$500.00 toward expenses (including mailing) for the event with United States Trade Representative Carla Hill.

Scott Garner, Esq.
Latham & Watkins
650 Town Center Drive
20th Floor
Costa Mesa, CA 92626

Thank you.

phone 540-1235
fax 714 755-8290

GJG/lma

U. S. SENATOR JOHN SEYMOUR COMMITTEE
IN-KIND CONTRIBUTION FORM

All payments made for services, goods, etc. on behalf of the U.S. Senator John Seymour Committee need to be recorded as in-kind contributions (with the exception of costs on behalf of an in-house party as defined by the FEC). The limits for in-kind contributions and/or cash contributions (or any combination thereof) are \$1,000/individual per election and \$5,000/PAC per election.

All in-kind contributions must reflect personal payments (not corporate) for services, goods, etc. and must be accompanied by physical evidence as back-up (invoices).

Please sign the bottom of the following statement attesting to the legitimacy of the in-kind contribution made:

I, Scott Garner, Esq., hereby affirm that the in-kind contribution made on behalf of the U. S. Senator John Seymour Committee reflects a personal (not corporate) payment made by myself for the following services, goods, etc:

Amount of In-Kind \$500.00

Item(s) purchased mailing expense / office supplies

Company payment was made to Scott Garner, Esq.

Event purchased for (location/date) GERALD D-ARNER PA 12-25-91
(attach invoice)

X Scott Garner
signature

date

(please print)
NAME

Scott Garner, Esq.

ADDRESS

650 Town Center Drive - 20th Floor

CITY

Costa Mesa

STATE CA

ZIP

92626

PHONE (O)

714.540.1235

(H)

OCCUPATION

attorney

EMPLOYER

William & Watkins

Please return this form to:

U. S. Senator John Seymour Committee
150 Paularino, Suite 275, Costa Mesa, CA 92626
(714) 434-1992

STATEMENT OF DESIGNATION OF COUNSEL

NO. 3466

NAME OF COUNSEL: Reed & Davidson, Cary Davidson, Esq.

ADDRESS: 3151 Airway Avenue, Suite W-1
Costa Mesa, CA 92626

TELEPHONE: (714) 641-1688

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.

Date

2/7/92

Signature

[Signature]

RESPONDENT'S NAME: American Commerce National Bank

ADDRESS: 3800 East La Palma Avenue
Anaheim, CA 92807

HOME PHONE: _____

BUSINESS PHONE: (714) 630-4500

92FEB-8 PM 3:32

RECEIVED
OFFICE OF THE ATTORNEY GENERAL
COMMISSION

24040561368

DANA W. REED
CARY DAVIDSON
DARRYL R. WOLO
OF COUNSEL

REED & DAVIDSON
ATTORNEYS AT LAW
777 SOUTH FIGUEROA STREET
SUITE 3400
LOS ANGELES, CALIFORNIA 90017
TELEPHONE (213) 624-6200
FACSIMILE (213) 623-6008

ORANGE COUNTY OFFICE
3181 AIRWAY AVENUE, SUITE 141
COSTA MESA, CALIFORNIA 92626
TELEPHONE (714) 841-1688
FACSIMILE (714) 846-1003

February 12, 1992

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

VIA FACSIMILE

RE: MUR 3466

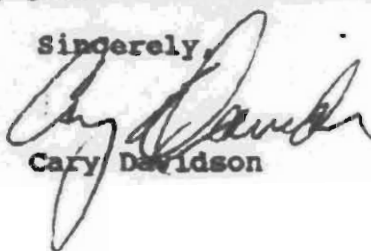
Dear Jeff:

This letter is to confirm our telephone discussion of today, and formally to request a twenty (20) day extension of time to respond to the complaint received by the Commission concerning our client American Commerce National Bank. By mutual agreement, we have determined that date to be Tuesday, February 18, 1992.

We will be seeking to demonstrate that no action should be taken against the American Commerce National Bank. Based upon our understanding of the facts, no violation of the Federal Election Campaign Act has occurred.

Thank you for your assistance and cooperation with this matter. If you have any questions, please do not hesitate to contact us.

Sincerely,


Cary Davidson

CD:jpb

CD20212.1

92 FEB 13 AM 9:01

RECEIVED
FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

94040561369



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

February 14, 1992

Cary Davidson, Esquire
Reed & Davidson
777 South Figueroa Street
Suite 3400
Los Angeles, California 90017

RE: MUR 3466
American Commerce National
Bank

Dear Mr. Davidson:

This is in response to your letter dated February, 12 1992, which we received on February 13, 1992, requesting an extension of 20 days to respond to the complaint in the above-referenced matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on February 18, 1992.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Jeffrey D. Long
Jeffrey D. Long
Paralegal

94043561370

REED & DAVIDSON

ATTORNEYS AT LAW

777 SOUTH FIGUEROA STREET

SUITE 2400

LOS ANGELES, CALIFORNIA 90017

TELEPHONE (213) 624-6200

FACSIMILE (213) 623-1692

DANA W. REED
CARY DAVIDSON
DANIEL R. WOLD
OF COUNSEL

ORANGE COUNTY OFFICE
3801 AIRWAY AVENUE, SUITE M-1
COSTA MESA, CALIFORNIA 92626
TELEPHONE (714) 941-4038
FACSIMILE (714) 948-1008

February 18, 1992

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

VIA FACSIMILE

RE: MUR 3466

Dear Mr. Long:

This letter seeks to demonstrate that no action should be taken against American Commerce National Bank in connection with a complaint received by the Federal Election Commission from George Dottl. The complaint stems from a memorandum inviting customers and stockholders of American Commerce National Bank ("the Bank") to a reception with United States Senator John Seymour and United States Trade Representative Carla Hills at the Bank. A copy of the memorandum is attached as Exhibit 1. Admission to the event was free. At the request of Senator Seymour's Campaign, another memorandum was sent to a short list provided by Senator Seymour inviting friends to the reception and requesting a \$200 donation to the Senator's campaign for attending the event. That was the memorandum received by Mr. Dottl. A copy of that memorandum is attached as Exhibit 2.

In arranging for the event, Gerald Garner, the Chairman of the Board of the Bank, did not contemplate that it would be a political fundraiser. The Bank regularly schedules "Town Hall meetings" for customers and stockholders. These meetings are held to provide the Bank's customers with the opportunity to meet both political and non-political figures. The speakers have included local, state, national and international scholars, political figures and otherwise noteworthy individuals. Admission to these events is always without charge. However, in this instance, Mr. Garner made an exception for the Seymour campaign. When asked if the event could be used to raise funds, Mr. Garner agreed. The Seymour campaign provided a list and Mr. Garner prepared another memorandum requesting a donation.

24043561371

Jeffrey Long, Esq.
Federal Election Commission
February 18, 1992
Page Two

The Seymour campaign assisted the Bank in conducting the event and explained that since Senator Seymour was soliciting funds from some people invited to the event, the event would have to be considered a political fundraiser. As such, the Senator's campaign notified Mr. Garner that the Bank could not pay for any of the expenses related to the event. Mr. Garner understood the limitations placed on the Bank, and as a result, asked his son, an attorney, to pay for the costs of the event. Scott Garner willingly agreed to do so, and he wrote a \$500 check to the Bank to pay for the event.

All of the costs associated with the event were borne by Scott Garner, as an in-kind contribution to the Seymour campaign. In a December 1, 1991 memorandum to Senator Seymour, Gerald Garner advised the Seymour campaign that Scott Garner had paid \$500 to the Bank to cover the costs of the event, including the mailing. A copy of the memorandum is attached as Exhibit 3. The Bank paid for nothing.

The Seymour campaign requested and obtained an in-kind contribution form from Scott Garner. A copy of that form is attached as Exhibit 4. The contribution was disclosed on the year-end report filed by the Senator's campaign committee. A copy of that report is also attached as Exhibit 5. The in-kind contribution paid for the stationery, photocopying, mailing and postage, the use of the facilities, and the food and refreshments. The Bank had no other expenses associated with the event.

Gerald Garner's assistant, Linda Addeo, handled the responses for the event, but the total time involved was considerably less than one hour. She did so voluntarily, and the work did not interfere with her other responsibilities. In fact, according to Ms. Addeo, not even one of the persons on the list provided by the Seymour campaign called to respond to the invitation. Ms. Addeo said that she never spoke with Mr. Dottl. Apparently, Mr. Dottl spoke with another assistant to Mr. Garner, who was covering the phones in Ms. Addeo's absence. That individual was not familiar with the event, but she had access to the list of invitees.

According to Gerald Garner, only five to eight of the attendees were people with whom he was not familiar. Everyone else he knew to be a customer or stockholder. He believes that some or all of the five to eight people he did not know were friends of customers or stockholders. With the exception of those people on

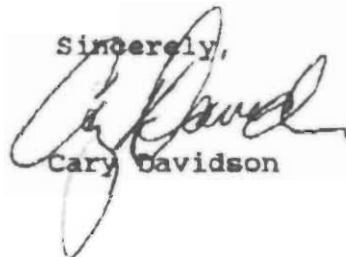
Jeffrey Long, Esq.
Federal Election Commission
February 18, 1992
Page Three

Senator Seymour's list, the other invitees and attendees considered the event to be one in the ongoing series of town hall meetings sponsored by the Bank. There was no admission charge to anyone. No one was collecting funds at the door. No one was solicited, and Mr. Garner is not aware of anyone who made a contribution to the Senator's campaign.

Gerald Garner is aware of the prohibitions placed on national banks and corporations by the Federal Election Campaign Act of 1971, as amended, specifically § 441b, and the regulations promulgated thereunder, specifically 11 CFR § 114.2. Mr. Garner considered the Senator's appearance at the Bank to be beneficial for the community and an honor for the Bank. The Bank neither made a contribution to the Seymour campaign nor did it involve itself in any way with a federal election. It appears that Mr. Dottl misconstrued the memorandum he obtained.

I believe that this letter sufficiently demonstrates that no action should be taken against the Bank in this matter. Should you desire additional documentation or information, we would be pleased to provide it. If you have any questions, please feel free to contact us.

Sincerely,



Cary Davidson

CD:jp

Enclosures

cc: Mr. Gerald Garner
Scott Garner, Esq.

CD20218.1

2404356133

EXHIBIT 1

**American Commerce
NATIONAL BANK**

3800 East La Palma Avenue • Anaheim, California 92807
Telephone: 1/714/630-4500 • Telefax: 1/714/630-2493

MEMORANDUM

TO: OUR SPECIAL BANK CUSTOMERS/STOCKHOLDERS
FROM: GERALD J. GARNER
DATE: November 25, 1991

Join us at a DOUBLE HEADER arranged especially for you.

1. Thursday - December 5, 1991
5:30 PM to 7:00 PM
United States Senator John Seymour
United States Trade Representative Carla Hill
2. Wednesday - December 18, 1991
7:30 PM to 9:00 PM
Israel Ambassador to German and former
Consul General to Los Angeles - Benjamin Navon
at

AMERICAN COMMERCE NATIONAL BANK
3800 EAST LA PALMA AVENUE
ANAHEIM, CA 92807
(714) 630-4500

Free Admission
Dinner Buffet

RSVP to Linda Addeo
ext. 325

Come Once - Come Twice

See those who make headlines

24043561074



**American Commerce
NATIONAL BANK**

EXHIBIT 2

3800 East La Palma Avenue • Anaheim, California 92807
Telephone: 1/714/630-4500 • Telefax: 1/714/630-2493

MEMORANDUM

TO: FRIENDS OF SENATOR JOHN SEYMOUR
FROM: GERALD J. GARNER
DATE: November 27, 1991

Join us at a private meeting arranged especially for you to meet
with Senator John Seymour on

THURSDAY - DECEMBER 5, 1991

5:30 PM TO 7:00 PM

UNITED STATES SENATOR JOHN SEYMOUR

UNITED STATES TRADE REPRESENTATIVE CARLA HILL

at

AMERICAN COMMERCE NATIONAL BANK

3800 EAST LA PALMA AVENUE

ANAHEIM, CALIFORNIA 92807

(714) 630-4500

Donation Requested \$200
Dinner Buffet

RSVP to Linda Addeo
ext. 325

A victorious senatorial campaign depends
heavily on your contributions!

24043561875

EXHIBIT 3

**American Commerce
NATIONAL BANK**

3800 East La Palma Avenue • Anaheim, California 92807
Telephone: 1/714/630-4500 • Telefax: 1/714/630-2493

MEMORANDUM

TO: JOHN SEYMOUR
FROM: GERALD J. GARNER
DATE: DECEMBER 1, 1991
RE: THURSDAY, DECEMBER 5, 1991 PROGRAM

Please note that the following paid \$500.00 toward expenses
(including mailing) for the event with United States Trade
Representative Carla Hill.

Scott Garner, Esq.
Latham & Watkins
650 Town Center Drive
20th Floor
Costa Mesa, CA 92626

Thank you.

phone 540-1235
fax 714 755-8290

GJG/lma

EXHIBIT 4U. S. SENATOR JOHN SEYMOUR COMMITTEE
IN-KIND CONTRIBUTION FORM

All payments made for services, goods, etc. on behalf of the U.S. Senator Joyn Seymour Committee need to be recorded as in-kind contributions (with the exception of costs on behalf of an in-house party as defined by the FEC). The limits for in-kind contributions and/or cash contributions (or any combination thereof) are \$1,000/individual per election and \$5,000/PAC per election.

All in-kind contributions must reflect personal payments (not corporate) for services, goods, etc. and must be accompanied by physical evidence as back-up (invoices).

Please sign the bottom of the following statement attesting to the legitimacy of the in-kind contribution made:

I, Scott Garner, Esq., hereby affirm that the in-kind contribution made on behalf of the U. S. Senator John Seymour Committee reflects a personal (not corporate) payment made by myself for the following services, goods, etc:

Amount of In-Kind \$500.00

Item(s) purchased mailing expense / office supplies

Company payment was made to Scott Garner, Esq.

Event purchased for (location/date) GERALD WARNER ON 12-05-91
(attach invoice)

X Scott Garner 12/26/91
signature date

(please print) NAME Scott Garner, Esq.

ADDRESS 650 Town Center Drive - 20th Floor

CITY Costa Mesa STATE CA ZIP 92626

PHONE (O) _____ (H) _____

OCCUPATION attorney

EMPLOYER Latham & Watkins

Please return this form to:
U. S. Senator John Seymour Committee
150 Paularino, Suite 275, Costa Mesa, CA 92626
(714) 434-1992

24043561877

SCHEDULE A

ITEMIZED RECEIPTS

PAGE: 338 OF 339
LINE NUMBER 12A

STATEMENT COVERS PERIOD FROM 7/01/91 THROUGH 12/31/91

NAME OF COMMITTEE: U.S. SENATOR JOHN SEYMOUR COMMITTEE

FED ID#C00250480

EMPLOYER/ OCCUPATION	SENT/ RECEIVED	DATE	AMOUNT
Mr. Patric E Bennett 106 W Pine St Stockton CA 95204 RECEIPT FOR: PRIMARY	San Tono Partners CFO	09/16/91	\$350.00 In-kind; airplane usage
Mr. Clark S. Davis 2700 Arlington Ave, #110 Torrance CA 90501 RECEIPT FOR: PRIMARY	Fitch/Davis Associates Principal	12/05/91	\$250.00 In-kind; catering
Ms. Alma Fitch 3250 Wilshire Blvd, #807 Los Angeles CA 90010 RECEIPT FOR: PRIMARY	Fitch/Davis Associates Governmental Affairs Consultant	12/05/91	\$250.00 In-kind; catering
Mr. Jeff Moore P.O. Box 1305 Brawley CA 92227 RECEIPT FOR: PRIMARY	Self-Employed Livestock Broker & Cattle Feeder	12/09/91	\$330.00 In-kind; catering
Mr. Scott Garner 650 Towne Ceter Drive, 20th Floor Costa Mesa CA 92626 RECEIPT FOR: PRIMARY	Latham & Watkins Attorney	12/05/91	\$500.00 In-kind; postage & supplies
Mr. John Berry PO Box 81708 San Diego CA 92138 RECEIPT FOR: PRIMARY	US Government Retired	11/02/91	\$243.56 In-kind; travel expense
Mr. Ernest M. Spokes, Jr. 1700 Standford, A-340 Modesto CA 95350 RECEIPT FOR: PRIMARY	Normoyle & Newman Attorney	09/07/91	\$300.00 In-kind; catering
Mrs. J.E. Coleman 2702 Scenic Bend Modesto CA 95355 RECEIPT FOR: PRIMARY		10/26/91	\$482.72 In-kind; catering

AGGREGATE YTD: \$482.72

SUBTOTAL OF RECEIPTS THIS PAGE..... \$2,706.28

SCHEDULE B

ITEMIZED DISBURSEMENTS

Use separate schedule(s)
for each category of the
Detailed Summary Page

PAGE **49** OF **99**
FOR LINE NUMBER
17

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)

U.S. SENATOR JOHN SYMOUR COMMITTEE

A. Full Name, Mailing Address and ZIP Code Mr. Patric E. Bennett (contributor) 106 W Pine Street Stockton, CA 95204	Purpose of Disbursement airplane usage Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year) 09/16/91	Amount of Each Disbursement This Period 350.00 in-kind received
B. Full Name, Mailing Address and ZIP Code Mr. Clark S. Davis (contributor) 2700 Arlington Ave, #110 Torrance, CA 90501	Purpose of Disbursement catering Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year) 12/05/91	Amount of Each Disbursement This Period 250.00 in-kind received
C. Full Name, Mailing Address and ZIP Code Ms. Alma Fitch (contributor) 3250 Wilshire Blvd, #807 Los Angeles, CA 90010	Purpose of Disbursement catering Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year) 12/05/91	Amount of Each Disbursement This Period 250.00 in-kind received
D. Full Name, Mailing Address and ZIP Code Mr. Jeff Moore (contributor) P.O. Box 1305 Brawley, CA 92227	Purpose of Disbursement catering Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year) 12/09/91	Amount of Each Disbursement This Period 330.00 in-kind received
E. Full Name, Mailing Address and ZIP Code Mr. Scott Garner (contributor) 650 Town Center Drive, 20th Floor Costa Mesa, CA 92626	Purpose of Disbursement postage & supplies Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year) 12/05/91	Amount of Each Disbursement This Period 500.00 in-kind received
F. Full Name, Mailing Address and ZIP Code Mr. John Berry (contributor) PO Box 81708 San Diego, CA 92138	Purpose of Disbursement travel expense Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year) 11/02/91	Amount of Each Disbursement This Period 243.56 in-kind received
G. Full Name, Mailing Address and ZIP Code Mr. Ernest M. Spokes, Jr. 1700 Stanford, A-340 Modesto, CA 95350	Purpose of Disbursement catering Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year) 09/07/91	Amount of Each Disbursement This Period 300.00 in-kind received
H. Full Name, Mailing Address and ZIP Code Mrs. J.E. Coleman (contributor) 2702 Scenic Bend Modesto, CA 95355	Purpose of Disbursement catering Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year) 10/26/91	Amount of Each Disbursement This Period 482.72 in-kind received
I. Full Name, Mailing Address and ZIP Code UNITEMIZED DISBURSEMENTS THIS PERIOD	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year) 	Amount of Each Disbursement This Period 5,603.25

SUBTOTAL of Disbursements This Page (optional)

8,309.53

TOTAL This Period (last page this line number only)

1,393,271.76

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RECEIVED
FEDERAL ELECTION
COMMISSION

REED & DAVIDSON

ATTORNEYS AT LAW

777 SOUTH FIGUEROA STREET

SUITE 3400

LOS ANGELES, CALIFORNIA 90017

TELEPHONE (213) 624-6200

FACSIMILE (213) 623-1692

DANA W. REED
CARY DAVIDSON

OF COUNSEL
DARRYL R. WOLD
BRADLEY W. HERTZ

ORANGE COUNTY OFFICE
3151 AIRWAY AVENUE, SUITE M
COSTA MESA, CALIFORNIA 92626
TELEPHONE (714) 641-1688
FACSIMILE (714) 548-1003

MAY 27 10 32 AM '92

May 21, 1992

Mr. Jeff Long
Enforcement Division
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RE: MUR 3466

Dear Mr. Long:

Pursuant to our telephone discussion of yesterday, enclosed are most of the supporting materials you requested in connection with the above referenced MUR. First, enclosed is a copy of Scott Garner's check, made payable to American Commerce National Bank. Also, enclosed is a copy of the internal bank document placing the funds in the appropriate account. Finally, enclosed is the invoice from the catering company. In addition to the written documentation, our client advised us that soft drinks were served at the event, but none were purchased specifically for the event. The Bank maintains a supply of soft drinks, and the drinks used at the event amounted to no more than \$15.00.

We will continue to provide you the information you requested as it becomes available. We trust that this additional documentation sufficiently substantiates our client's contention that it did not make a prohibited contribution.

If you have any questions, please feel free to contact us.

Sincerely,


Cary Davidson

CD:lb

Enclosures

cc: Mr. Gerald J. Garner
Scott Garner, Esq.

CD20521.1

92 MAY 27 PM 3:45

FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

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92 MAY 21 8M 3:45

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

To rem. bank for misc Exp relate
to above (Food, vet care, etc)

cr mis income

CR MIS INCOME
copy of this a check to memo f.

AMERICAN COMMERCE NATIONAL BANK
GENERAL LEDGER CHECK IF CORPORATE ACCOUNT ☐ ORIGINATING BRANCH OR DEPT NO _____
CREDIT DATE DEC 4 2 1951
ACCOUNT NAME Mrs. Income
DESCRIPTION Donation from Satt. Times for "John Seymour evening"
AUDIT DEPT. ☐ CONTRA PREPARED BY D APPROVED BY _____
500 —
TRAN CODE 72

900115000

0000



140201610

PLEASE USE THIS ALL THE TIME AND IN A...



BALANCE DUE UPON ARRIVAL

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

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

MUR 3466
DATE COMPLAINT RECEIVED
BY OGC January 2, 1992
DATE OF NOTIFICATION TO
RESPONDENTS January 8, 1992
STAFF MEMBERS George F. Rishel
Jeffrey D. Long

COMPLAINANT: George Dottl

RESPONDENTS: American Commerce National Bank
U.S. Senator John Seymour Committee
and F. Laurence Scott, Jr., as
treasurer

RELEVANT STATUTE: 2 U.S.C. § 441b

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

This matter was generated by a complaint filed on January 2, 1992, by George Dottl against the U.S. Senator John Seymour Committee and F. Laurence Scott, Jr., as treasurer ("Seymour Committee" or "Committee"), and the American Commerce National Bank ("Bank"). The complaint relates to a fundraiser apparently held at the Bank on December 5, 1991. The Seymour Committee filed its response on January 27, 1992. The Bank filed its response on February 20, 1992. Further information was provided by counsel for the Bank by telephone on March 17, 1992.

II. FACTUAL AND LEGAL ANALYSIS

A. Complaint's Allegations

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The complaint raised questions regarding a meeting and a fundraiser held at the Bank on December 5, 1991, and the use of the corporation's facilities and personnel regarding the fundraiser and the solicitation for it. The complainant evidently received a written invitation dated November 27, 1991, to a meeting at the Bank on December 5, 1991, from 5:30 to 7:00 p.m. with Senator John Seymour and U.S. Trade Representative Carla Hills.¹ The invitation was addressed to "Friends of Senator John Seymour," from Gerald J. Garner, and printed on Bank stationery. The bottom of the invitation requested a "donation" of \$200 with a dinner buffet and indicated an R.S.V.P. to Linda Addeo at ext. 325. It ended with the statement:

A victorious senatorial campaign depends heavily on your contributions!

The complainant states that he called Linda Addeo at the Bank and asked her if she was being paid by the Bank to handle the R.S.V.P. and she replied "yes." American Commerce National Bank is headquartered in Anaheim, California with total assets of \$129,186,000, according to the Fall 1991 edition of Polk's directory. Gerald J. Garner is chairman of the board of the Bank.

B. Responses

Counsel for the Seymour Committee submitted a letter in response to the allegations together with supporting

1. The invitation refers to Carla Hill rather than Carla Hills.

documentation. Counsel states that the Bank regularly schedules "Town Hall" type meetings for its customers and stockholders to meet political and nonpolitical figures. Counsel states that admission to these events is without charge. Counsel adds that the chairman of the board, Gerald J. Garner, did not contemplate that the meeting featuring Senator Seymour would be a political fundraiser, but agreed to permit funds to be raised at the event. In this regard counsel notes that two separate memoranda were prepared by the Bank.

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One memorandum invited customers and stockholders to the meeting with Senator Seymour and Carla Hills. Counsel provided a copy of this memorandum. It is on Bank letterhead and addressed to "our special bank customers/stockholders" from Gerald J. Garner and dated November 25, 1991. It invites the addressees to attend two separate events: a December 5, 1991, meeting from 5:30 to 7:00 p.m. with Senator Seymour and Carla Hills, and another unrelated meeting on December 18, 1991, with the Israeli Ambassador to Germany. The location for the meeting is the Bank's offices in Anaheim. The memorandum notes "free admission" and "dinner buffet" with R.S.V.P. to Linda Addeo at ext. 325. It invites the addressee to "come once - come twice" and "see those who make headlines." Counsel states by telephone that this invitation went to a "few hundred customers" as well as stockholders.

The second memorandum was also on Bank letterhead and addressed to "Friends of Senator John Seymour" from Gerald J. Garner and dated November 27, 1991. Counsel states that the

Seymour campaign provided a "short list" of people to be invited. According to counsel, the "short list" included approximately 100 names. This memorandum is otherwise identical to the one the complainant provided and is described above in Section A.

Counsel states that the Seymour campaign assisted the Bank in conducting the event and informed the Bank that because it would be a political fundraiser, the Bank could not pay for the expenses related to the event. Counsel states that Mr. Garner understood these limitations and accordingly asked his son, an attorney with the law firm of Latham & Watkins, to pay the costs. According to counsel, Mr. Garner's son, Scott Garner, wrote a \$500 check to the Bank for these expenses. Counsel states that "all of the costs associated with the event were borne by Scott Garner, as an in-kind contribution to the Seymour campaign." In this regard, counsel adds that Gerald Garner sent the Seymour campaign a memorandum dated December 1, 1991, advising the campaign that Scott Garner had paid the \$500 in event costs, including the costs of mailing. Counsel provided a copy of this memorandum. It is dated December 1, 1991, and is addressed to John Seymour from Gerald J. Garner. It states that Scott Garner paid \$500 "toward expenses (including mailing) for the event" and provides Scott Garner's address. The copy of the memorandum submitted by counsel also contains handwritten notations of a phone number and a FAX number. Counsel stated by telephone that Scott Garner is not a Bank stockholder or employee.

In addition, counsel states that the Seymour campaign requested and obtained an in-kind contribution form from Scott

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Garner. Counsel adds that the in-kind contribution paid for stationery, photocopying, mailing and postage, the use of the facilities, and the food and refreshments. He notes that the Bank had no other expenses associated with the event.

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A copy of that form was also provided by counsel. The form states that all payments for services or goods on behalf of the Seymour Committee need to be recorded as in-kind contributions and sets out the limits for such contributions as \$1,000 per individual per election and \$5,000 per PAC per election. The form further states that all in-kind contributions must reflect personal payments, not corporate ones, for services and goods and must be accompanied by documentation. The remainder of the form provides space for the contributor to sign and affirm that he or she made the in-kind contribution on behalf of the Seymour Committee and to describe the contribution. The completed form provided by counsel describes the in-kind contribution in the amount of \$500 for mailing expense and office supplies for an event identified as "Gerald Garner on 12-05-91" and identifies Scott Garner as the contributor. It is signed by Scott Garner and dated December 26, 1991.

Counsel states that Gerald J. Garner's assistant, Linda Addeo, handled the responses for the event, "but the total time involved was considerably less than one hour." He adds that she did so voluntarily and that the work did not interfere with her other responsibilities. He states that according to Ms. Addeo, "not even one of the persons on the list provided by the Seymour campaign called to respond to the invitation." He posits that

the complainant must have spoken with another assistant to Mr. Garner, who was covering the phones in Ms. Addeo's absence and was not familiar with the event or had access to a list of invitees.

Counsel further adds that according to Mr. Garner "only five to eight of the attendees were people with whom he was not familiar" with the remainder being customers or stockholders of the Bank. Counsel adds that Mr. Garner believes some of the people he was not familiar with may have been friends of customers or stockholders. Counsel states that "no one was collecting funds at the door" and "no one was solicited." He notes that Mr. Garner "is not aware of anyone who made a contribution to the Senator's campaign."

The response from the Seymour Committee was made by the treasurer. In a more cryptic fashion, it makes several of the same basic points as the response from counsel for the Bank and includes copies of the December 1, 1991, memorandum from Gerald Garner to John Seymour stating that Scott Garner had paid for the costs and a copy of the in-kind contribution form signed by Scott Garner. They are identical to the documents provided by counsel for the Bank. The treasurer of the Seymour Committee also notes that the in-kind contribution would be reflected on the 1991 Year End Report. Counsel for the Bank provided copies of the pages for the Seymour Committee's Year End Report that disclose a \$500 in-kind contribution from Scott Garner on December 5, 1991.

This Office's own review of the 1991 Year End Report located a \$1,000 primary election contribution and a \$250 general

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election contribution made by Gerald J. Garner to the Seymour Committee on November 25, 1991, the same day as the memorandum inviting customers and stockholders to the meeting on December 5, 1991. Our review did not locate any other contributions that could be readily identified with the December 5, 1991, event, though we note that the Seymour Committee has scrambled its itemized receipts (covering 339 pages) so that they do not follow any particular pattern, such as alphabetically by contributor, chronologically by date, or geographically by location. Moreover, contributions for only \$200 would not require itemization if the contributor had not made any other contributions to the Seymour Committee in 1991.

C. Issues

1. Characterization of Event

We conclude that the December 5, 1991, appearance by Senator Seymour at the Bank can only be treated as a partisan candidate appearance. Compare 11 C.F.R. § 114.3(c)(2) with 11 C.F.R. § 114.4(a)(2) and Advisory Opinions 1980-22 and 1992-6. Contributions were solicited in conjunction with this event. The solicitation itself was made by the chairman of the board of the Bank and printed on Bank letterhead, although it was sent to a list provided by the Seymour Committee and its costs were paid for by the chairman's son. Thus, this event became a partisan event at the time the solicitations were mailed, on or about November 27, 1991. The uncertainty whether any of the solicited persons actually attended the event or whether any contributions were actually made with respect to the event would not alter its

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characterization as a partisan appearance under the regulations. Furthermore, although two different groups of people were invited to the event in separate memoranda, they were invited to the same event, occurring at the same time, at the same place, and with the same speakers and dinner buffet. Therefore, the Seymour Committee's use of this event to solicit funds from some of those invited becomes controlling in characterizing the event.

As a partisan candidate appearance, the regulations limit who may make up the audience: stockholders, executive and administrative personnel, their families, employees needed to administer the event, limited invited guests and observers, and representatives of the news media. Carla Hills would, in our view, qualify as an invited guest. Two groups who apparently made up the audience present a question whether they can be subsumed within the "limited invited guest and observer" category: (1) the persons invited from the list provided by the Seymour Committee; and (2) customers of the Bank. Counsel for the Bank referred to the list provided by the Seymour Committee as a "short list" that he put at approximately 100 names, said that only five to eight persons who attended were not known to Mr. Garner and may have been guests of customers, and noted that Linda Addeo did not receive any R.S.V.P. calls from persons off the Seymour Committee list. Still, while the exact number of such persons present at the event is not known, the number invited was substantial. Counsel also estimates that the number of bank customers who were invited to this event were a "few hundred," but it is not clear how many attended. Furthermore, we

are reluctant to include both the customers and the solicitees from the Seymour Committee list as "limited invited guests and observers." To do so would appear to make that term too elastic and permit situations where the number of "guests and observers" exceed the number of stockholders and executive and administrative personnel and their families, which may have been the case here.

Thus, in our view, we conclude that this event would not meet the requirements of 11 C.F.R. § 114.3(c)(2).

2. Use of Corporate Facilities and Letterhead

Notwithstanding the above discussion, the question arises whether the Seymour Committee's use of Bank facilities and the reimbursement to the Bank (for all expenses related to the event including the mailing) may nevertheless fit within 11 C.F.R. §§ 114.9(a), 114.9(d), or 114.12(b).

Section 114.9(a) permits stockholders and employees of a corporation to make use of corporate facilities in volunteer activity in connection with a federal election on an occasionally, isolated, or incidental basis without requiring reimbursement or, if such activity exceeds this level, with reimbursement in a commercially reasonable time for the usual and normal rental charge. In this case, the facts show that the Seymour Committee chose to use the Bank's facilities for a fundraiser. Also, Scott Garner, who paid the Bank for the costs of the event, is not a Bank stockholder or employee. He was described by counsel for the Bank as an attorney with Latham & Watkins and the son of the chairman of the board. Therefore, it

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does not appear that Section 114.9(a) is available to the Bank and Seymour Committee for the event itself since reimbursement was not made by a stockholder or employee. In addition, counsel has noted that Linda Addeo spent less than one hour in handling responses for the event, which she did voluntarily. It would appear that her involvement may meet the occasional, isolated, and incidental exception of 11 C.F.R. § 114.9(a).

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Section 114.12(b) covers the use of corporate meeting rooms that are generally made available to groups and organizations in the community. Although it appears that the Bank regularly holds its "Town Hall" type of meetings, these are bank sponsored events. At the present time, we have no information whether community groups and organizations, outside the Bank, have access to the meeting facilities. We also do not know that if such groups have access to the facilities, the Bank provides letterhead stationery, mailings, R.S.V.P. service, and a dinner buffet to such groups and whether or how the Bank is reimbursed for such services. Therefore, on the basis of the information presently available, it does not appear that Section 114.12(b) is available to the Bank and the Seymour Committee.

Section 114.9(d) applies to the use of corporate facilities by persons other than stockholders and employees of the corporation with a requirement that the corporation be reimbursed for the usual and normal rental charge for such facilities within a commercially reasonable time. The facts indicate that the Seymour Committee initiated the idea of holding a political fundraiser as part of Senator Seymour's appearance at the

December 5, 1991, event at the Bank. It worked with the Bank in this regard such as providing the list of persons to be invited and solicited. The Committee also informed the Bank that the Bank would not pay for the costs of the event. These costs were paid for by a person, who is not a Bank stockholder or employee. The December 1, 1991, memorandum to the Committee informing it that Scott Garner had paid for the costs suggests that reimbursement was made contemporaneously with the event, though no copy of any reimbursement check has been provided. The Committee reported the reimbursement as an in-kind contribution.

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The Bank, however, did send out the solicitation on its own letterhead and from the Bank chairman, Gerald J. Garner. Furthermore, Mr. Garner also arranged for his son to reimburse the bank for the costs of the event. Thus, the Bank was an active participant in the planning, preparation, and financing of the event along with the Seymour Committee. The Seymour Committee was a relatively passive participant in this event. The regulation at 11 C.F.R. § 114.9(d) appears to contemplate a individual's or political committee's use of corporate facilities without such active participation in the arrangements for the event by the corporation itself, which then seeks reimbursement on its own initiative from a third party as an in-kind contribution to the Committee. Thus, notwithstanding Scott Garner's reimbursement, there appears to have been corporate facilitation of this event.

In relation to this issue, there is also the issue of the use of the Bank's letterhead itself for sending the November 27,

1991, memorandum that solicited contributions with respect to the December 5, 1991, event. The memorandum was also from the chairman of the Bank and sent to a list of persons provided by the Seymour Committee. The cost of the stationery, etc., were paid for by Scott Garner, son of the chairman of the Bank.

In two prior enforcement matters, MUR 3066 and MUR 3105, this Office set forth its position that the use of a corporate letterhead or logo itself was prohibited by 2 U.S.C. § 441b, even if the cost of the actual paper with the letterhead or logo was paid for by a political committee or a permissible contributor to a political committee. In both instances, the Commission was unable to agree on whether the use of the corporate letterhead itself was a violation of Section 441b. See, e.g., Statements of Reasons in MUR 3066 and 3105.

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We continue to hold the position that the use of corporate letterhead, particularly for soliciting contributions for federal candidates, is itself prohibited by Section 441b, notwithstanding any reimbursement for the stationery used. That the use of such letterhead is a thing of value in itself is again demonstrated by the actions of the respondents in this matter, as it was by the actions of the respondents in MUR 3066 and MUR 3105. Although the Seymour Committee provided the list of names to be solicited, it did not send out the solicitation on its own, using its own campaign stationery. Instead, as counsel for the Bank puts it, the "Seymour campaign assisted the bank in conducting the event...." Counsel states:

When asked if the event could be used to raise funds, Mr. Garner agreed. The Seymour campaign provided a list

and Mr. Garner prepared another memorandum requesting a donation.

This circumstance is clearly one where the actions speak more eloquently than any words in demonstrating the value in the use of the Bank's name in soliciting funds for the Seymour Committee. As noted, the making of the solicitation by the Bank using its own letterhead also takes this event outside the exception of Section 114.9(d).

Accordingly, for the reasons stated above, this Office recommends that the Commission find reason to believe the American Commerce National Bank and the U.S. Senator John Seymour Committee and F. Laurence Scott, Jr., as treasurer, violated 2 U.S.C. § 441b.

3. Need for a Disclaimer

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires a disclaimer on any communication that solicits contributions through direct mailing or any other type of general public political advertising. Direct mailing for disclaimer purposes is not defined in the Act or Commission regulations. The Commission has, however, determined that direct mailing for disclaimer purposes does not include mailings from lists created by a political committee that are not made from any commercial list or by any commercial vendor. See, Statement of Reasons, MUR 2756.

In this matter, the mailing of the solicitation was made to persons on a list provided to the Bank by the Seymour Committee. Counsel for the Bank has described this list as a "short list" of

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approximately 100 names. The mailing was apparently made by the Bank using its own facilities and personnel. There is no evidence that a commercial list or commercial vendor were used. Therefore, it does not appear that the solicitation required a disclaimer. Accordingly, there is no reason to believe a violation of 2 U.S.C. § 441d has occurred.

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The next question is with respect to whom should the no reason to believe finding regarding 2 U.S.C. § 441d be made. The facts indicate that the cost of this mailing was paid for by Scott Garner, although sent by the Bank at the behest of the Seymour Committee. He was not named or identified in the original complaint and his payment for the mailing and event were not known at that time. Therefore, no copy of the complaint was sent to him to give him an opportunity to demonstrate that no action should be taken with respect to him. Copies of the in-kind contribution form that he signed, however, were provided by both the Seymour Committee and the Bank. Because the disclaimer provision requires the identification of the person who paid for a communication that requires a disclaimer, we conclude that in this instance there is no reason to believe a recommendation should be made with respect to Scott Garner, since he actually paid the cost of the mailing.

Accordingly, we recommend that the Commission find no reason to believe Scott Garner violated 2 U.S.C. § 441d.²

2. Scott Garner will receive a notification letter of the Commission's finding as an internally generated respondent along with a factual and legal analysis.

III. RECOMMENDATIONS

1. Find reason to believe that U.S. Senator John Seymour Committee and F. Laurence Scott, Jr., as treasurer, violated 2 U.S.C. § 441b.
2. Find reason to believe that American Commerce National Bank violated 2 U.S.C. § 441b.
3. Find no reason to believe that Scott Garner violated 2 U.S.C. § 441d.
4. Approve the Factual and Legal Analyses as submitted in the report dated May 7, 1992.
5. Approve the appropriate letters.

Lawrence M. Noble
General Counsel

24040561598
Date 5/11/92

BY:

[Signature]
Lois G. Lerner
Associate General Counsel

Attachments

1. Seymour Committee response
2. Bank response
3. Proposed Factual and Legal Analyses (3)



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

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

DATE: MAY 14, 1992

SUBJECT: MUR 3466 - WITHDRAWAL OF FIRST GENERAL COUNSEL'S
REPORT DATED MAY 7, 1992 AND
RECIRCULATED. MEMORANDUM TO THE
COMMISSION DATED MAY 11, 1992

The above-captioned document was circulated to the
Commission on MONDAY, MAY 11, 1992 at 4:00 p.m.

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

Commissioner Aikens	<u>XXX</u>
Commissioner Elliott	<u>XXX</u>
Commissioner McDonald	<u> </u>
Commissioner McGarry	<u> </u>
Commissioner Potter	<u> </u>
Commissioner Thomas	<u>XXX</u>

This matter will be placed on the meeting agenda
for TUESDAY, MAY 19, 1992

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

94043561399

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

American Commerce National Bank;)
U.S. Senator John Seymour)
Committee and F. Laurence Scott,)
Jr., as treasurer.)

MUR 3466

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on June 2, 1992, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MUR 3466:

1. Find reason to believe that U.S. Senator John Seymour Committee and F. Laurence Scott, Jr., as treasurer, violated 2 U.S.C. § 441b.
2. Find reason to believe that American Commerce National Bank violated 2 U.S.C. § 441b.
3. Find no reason to believe that Scott Garner violated 2 U.S.C. § 441d, and close the file as to this respondent.

(continued)

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4. Approve the Factual and Legal Analyses as submitted in the General Counsel's report dated May 7, 1992
5. Send the appropriate letters as recommended in the General Counsel's report dated May 11, 1992.

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

Attest:

6-4-92
Date

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



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 24, 1992

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Scott Garner, Esquire
Latham & Watkins
650 Town Center Drive
20th Floor
Costa Mesa, California 92626

RE: MUR 3466

Dear Mr. Garner:

On January 2, 1992, the Federal Election Commission received a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On June 9, 1992, the Commission found, on the basis of the information in the complaint, and information provided by other parties, that there is no reason to believe you, Scott Garner, violated 2 U.S.C. § 441d. Accordingly, the Commission closed its file in this matter as it pertains to you. The Commission no longer considers you a respondent in this matter, but rather a witness only.

The Commission has issued the attached Interrogatories and Request for Production of Documents which request you to provide certain information in connection with its continuing investigation. You are requested to submit the information within 30 days of your receipt of this letter. Answers to questions must be submitted under oath.

Because this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies. That section prohibits making public any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. You are advised that no such consent has been given in this case. and Request for Production of Documents.

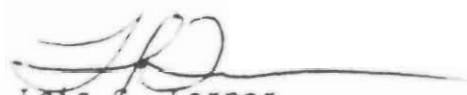
24043561902

Scott Garner, Esquire
Page 2

If you have any questions, please contact Jeffrey Long, the staff member assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel


BY: Lois G. Lerner
Associate General Counsel

Enclosure
Interrogatories and Request
for Production of Documents

74043561903

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
)
)
)

MUR 3466

INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS

TO: Scott Garner, Esquire
Latham & Watkins
650 Town Center Drive
20th Floor
Costa Mesa, California 92626

94043561204
In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 30 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

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DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

MUR 3466
Scott Garner, Esquire
Page 4

**INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS**

1. With regard to an event held at the American Commerce National Bank ("Bank") in Anaheim, California on December 5, 1991, state when you gave the check for expenses for the event to the Bank.

2. State whether the check has cleared the account and has been paid. If so, provide a copy of the check.

3. Explain why you were asked to reimburse the Bank for the Seymour Committee Fundraiser.

94043561207



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 24, 1992

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Cary Davidson, Esquire
Reed & Davidson
777 South Figueroa Street
Suite 3400
Los Angeles, California 90017

RE: MUR 3466
American Commerce National Bank

Dear Mr. Davidson:

On January 8, 1992, the Federal Election Commission notified your client, American Commerce National Bank, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was enclosed with that notification.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on June 2, 1992, found that there is reason to believe your client violated 2 U.S.C. § 441b, a provision of 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 your client. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Statements should be submitted under oath. All responses to the enclosed Interrogatories and Request for Production of Documents must be submitted to the General Counsel's Office within 30 days of your receipt of this letter. Any additional materials or statements you wish to submit should accompany the response to the Interrogatories.

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

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Cary Davidson, Esquire
Page 2

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.

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.

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.

If you have any questions, please contact Jeffrey Long, the staff member assigned to this matter, at (202) 219-3690.

Sincerely,

Joan D. Aikens

Joan D. Aikens
Chairman

Enclosures

Interrogatories and Request
for Production of Documents
Factual and Legal Analysis

24043561909

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
)
) MUR 3466
)

INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS

TO: Cary Davidson, Esquire
Reed & Davidson
777 South Figueroa Street
Suite 3400
Los Angeles, California 90017

94040561210
In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 30 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

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DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS

1. With regard to the event held at the American Commerce National Bank ("Bank") on December 5, 1991, in cooperation with the U.S. Senator John Seymour Committee ("Committee"), itemize all costs associated with the event, including but not limited to staff time for mailing invitations, arranging the event, and handling phone calls.

2. Explain why the Bank offered or agreed to send out solicitations to the event using a list provided by the Seymour Committee instead of having the Committee send them.

3. Explain why the Bank president found someone to reimburse the Bank rather than have the Seymour Committee reimburse the Bank for the expenses.

4. State whether the Bank rents its facilities to other groups, including political candidates, for similar types of events. If so, does the Bank provide services (e.g. mailing, R.S.V.P., buffet). State whether the Bank has a written policy for renting its space or providing related services. If so, provide a copy of the policy.

5. State whether there was a list or sign-in sheet kept for those who attended the event, including stockholders and customers. If so, provide a copy of the list.

6. State when the Bank received the reimbursement check from Scott Garner and to whom was it made. State when and where the check was deposited.

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: American Commerce National Bank MUR 3466

GENERATION OF MATTER

This matter was generated by a complaint filed on January 2, 1992, by George Dottl against the American Commerce National Bank ("Bank").

A. Complaint's Allegations

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The complaint raised questions regarding a meeting and a fundraiser held at the Bank on December 5, 1991, and the use of the corporation's facilities and personnel regarding the fundraiser and the solicitation for it. The complainant evidently received a written invitation dated November 27, 1991, to a meeting at the Bank on December 5, 1991, from 5:30 to 7:00 p.m. with Senator John Seymour and U.S. Trade Representative Carla Hills.¹ The invitation was addressed to "Friends of Senator John Seymour," from Gerald J. Garner, and printed on Bank stationery. The bottom of the invitation requested a "donation" of \$200 with a dinner buffet and indicated an R.S.V.P. to Linda Addeo at ext. 325. It ended with the statement:

A victorious senatorial campaign depends heavily on your contributions!

The complainant states that he called Linda Addeo at the Bank and asked her if she was being paid by the Bank to handle the R.S.V.P. and she replied "yes." American Commerce National Bank is headquartered in Anaheim, California. Gerald J. Garner is

1. The invitation refers to Carla Hill rather than Carla Hills.

chairman of the board of the Bank.

B. Responses

Counsel for the U.S. Senator John Seymour Committee and F. Laurence Scott, Jr., as treasurer ("Seymour Committee"), submitted a letter in response to the allegations together with supporting documentation. Counsel states that the Bank regularly schedules "Town Hall" type meetings for its customers and stockholders to meet political and nonpolitical figures. Counsel states that admission to these events is without charge. Counsel adds that the chairman of the board, Gerald J. Garner, did not contemplate that the meeting featuring Senator Seymour would be a political fundraiser, but agreed to permit funds to be raised at the event. In this regard counsel notes that two separate memoranda were prepared by the Bank.

One memorandum invited customers and stockholders to the meeting with Senator Seymour and Carla Hills. Counsel provided a copy of this memorandum. It is on Bank letterhead and addressed to "our special bank customers/stockholders" from Gerald J. Garner and dated November 25, 1991. It invites the addressees to attend two separate events: a December 5, 1991, meeting from 5:30 to 7:00 p.m. with Senator Seymour and Carla Hills, and another unrelated meeting on December 18, 1991, with the Israeli Ambassador to Germany. The location for the meeting is the Bank's offices in Anaheim. The memorandum notes "free admission" and "dinner buffet" with R.S.V.P. to Linda Addeo at ext. 325. It invites the addressee to "come once - come twice" and "see those who make headlines." Counsel states by telephone that this

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invitation went to a "few hundred customers" as well as stockholders.

The second memorandum was also on Bank letterhead and addressed to "Friends of Senator John Seymour" from Gerald J. Garner and dated November 27, 1991. Counsel states that the Seymour campaign provided a "short list" of people to be invited. According to counsel, the "short list" included approximately 100 names. This memorandum is otherwise identical to the one the complainant provided and is described above in Section A.

Counsel states that the Seymour campaign assisted the Bank in conducting the event and informed the Bank that because it would be a political fundraiser, the Bank could not pay for the expenses related to the event. Counsel states that Mr. Garner understood these limitations and accordingly asked his son, an attorney with the law firm of Latham & Watkins, to pay the costs. According to counsel, Mr. Garner's son, Scott Garner, wrote a \$500 check to the Bank for these expenses. Counsel states that "all of the costs associated with the event were borne by Scott Garner, as an in-kind contribution to the Seymour campaign." In this regard, counsel adds that Gerald Garner sent the Seymour campaign a memorandum dated December 1, 1991, advising the campaign that Scott Garner had paid the \$500 in event costs, including the costs of mailing. Counsel provided a copy of this memorandum. It is dated December 1, 1991, and is addressed to John Seymour from Gerald J. Garner. It states that Scott Garner paid \$500 "toward expenses (including mailing) for the event" and provides Scott Garner's address. The copy of the memorandum

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submitted by counsel also contains handwritten notations of a phone number and a FAX number. Counsel stated by telephone that Scott Garner is not a Bank stockholder or employee.

In addition, counsel states that the Seymour campaign requested and obtained an in-kind contribution form from Scott Garner. Counsel adds that the in-kind contribution paid for stationery, photocopying, mailing and postage, the use of the facilities, and the food and refreshments. He notes that the Bank had no other expenses associated with the event.

A copy of that form was also provided by counsel. The form states that all payments for services or goods on behalf of the Seymour Committee need to be recorded as in-kind contributions and sets out the limits for such contributions as \$1,000 per individual per election and \$5,000 per PAC per election. The form further states that all in-kind contributions must reflect personal payments, not corporate ones, for services and goods and must be accompanied by documentation. The remainder of the form provides space for the contributor to sign and affirm that he or she made the in-kind contribution on behalf of the Seymour Committee and to describe the contribution. The completed form provided by counsel describes the in-kind contribution in the amount of \$500 for mailing expense and office supplies for an event identified as "Gerald Garner on 12-05-91" and identifies Scott Garner as the contributor. It is signed by Scott Garner and dated December 26, 1991.

Counsel states that Gerald J. Garner's assistant, Linda Addeo, handled the responses for the event, "but the total time

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involved was considerably less than one hour." He adds that she did so voluntarily and that the work did not interfere with her other responsibilities. He states that according to Ms. Addeo, "not even one of the persons on the list provided by the Seymour campaign called to respond to the invitation." He posits that the complainant must have spoken with another assistant to Mr. Garner, who was covering the phones in Ms. Addeo's absence and was not familiar with the event or had access to a list of invitees.

Counsel further adds that according to Mr. Garner "only five to eight of the attendees were people with whom he was not familiar" with the remainder being customers or stockholders of the Bank. Counsel adds that Mr. Garner believes some of the people he was not familiar with may have been friends of customers or stockholders. Counsel states that "no one was collecting funds at the door" and "no one was solicited." He notes that Mr. Garner "is not aware of anyone who made a contribution to the Senator's campaign."

The response from the Seymour Committee was made by the treasurer. In a more cryptic fashion, it makes several of the same basic points as the response from counsel for the Bank and includes copies of the December 1, 1991, memorandum from Gerald Garner to John Seymour stating that Scott Garner had paid for the costs and a copy of the in-kind contribution form signed by Scott Garner. They are identical to the documents provided by counsel for the Bank. The treasurer of the Seymour Committee also notes that the in-kind contribution would be reflected on the 1991 Year

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End Report. Counsel for the Bank provided copies of the pages for the Seymour Committee's Year End Report that disclose a \$500 in-kind contribution from Scott Garner on December 5, 1991.

C. Issues

1. Characterization of Event

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The December 5, 1991, appearance by Senator Seymour at the Bank can only be treated as a partisan candidate appearance. Compare 11 C.F.R. § 114.3(c)(2) with 11 C.F.R. § 114.4(a)(2) and Advisory Opinions 1980-22 and 1992-6. Contributions were solicited in conjunction with this event. The solicitation itself was made by the chairman of the board of the Bank and printed on Bank letterhead, although it was sent to a list provided by the Seymour Committee and its costs were paid for by the chairman's son. Thus, this event became a partisan event at the time the solicitations were mailed, on or about November 27, 1991. The uncertainty whether any of the solicited persons actually attended the event or whether any contributions were actually made with respect to the event would not alter its characterization as a partisan appearance under the regulations. Furthermore, although two different groups of people were invited to the event in separate memoranda, they were invited to the same event, occurring at the same time, at the same place, and with the same speakers and dinner buffet. Therefore, the Seymour Committee's use of this event to solicit funds from some of those invited becomes controlling in characterizing the event.

As a partisan candidate appearance, the regulations limit who may make up the audience: stockholders, executive and

administrative personnel, their families, employees needed to administer the event, limited invited guests and observers, and representatives of the news media. Carla Hills would qualify as an invited guest. Two groups who apparently made up the audience present a question whether they can be subsumed within the "limited invited guest and observer" category: (1) the persons invited from the list provided by the Seymour Committee; and (2) customers of the Bank. Counsel for the Bank referred to the list provided by the Seymour Committee as a "short list" that he put at approximately 100 names, said that only five to eight persons who attended were not known to Mr. Garner and may have been guests of customers, and noted that Linda Addeo did not receive any R.S.V.P. calls from persons off the Seymour Committee list. Still, while the exact number of such persons present at the event is not known, the number invited was substantial. Counsel also estimates that the number of bank customers who were invited to this event were a "few hundred," but it is not clear how many attended. Furthermore, both the customers and the solicitees from the Seymour Committee list should not be included as "limited invited guests and observers." To do so would appear to make that term too elastic and permit situations where the number of "guests and observers" exceed the number of stockholders and executive and administrative personnel and their families, which may have been the case here.

Thus, this event would not meet the requirements of 11 C.F.R. § 114.3(c)(2).

2. Use of Corporate Facilities

Notwithstanding the above discussion, the question arises whether the Seymour Committee's use of Bank facilities and the reimbursement to the Bank (for all expenses related to the event including the mailing) may nevertheless fit within 11 C.F.R. §§ 114.9(a), 114.9(d), or 114.12(b).

Section 114.9(a) permits stockholders and employees of a corporation to make use of corporate facilities in volunteer activity in connection with a federal election on an occasionally, isolated, or incidental basis without requiring reimbursement or, if such activity exceeds this level, with reimbursement in a commercially reasonable time for the usual and normal rental charge. In this case, the facts show that the Seymour Committee chose to use the Bank's facilities for a fundraiser. Also, Scott Garner, who paid the Bank for the costs of the event, is not a Bank stockholder or employee. He was described by counsel for the Bank as an attorney with Latham & Watkins and the son of the chairman of the board. Therefore, it does not appear that Section 114.9(a) is available to the Bank and Seymour Committee for the event itself since reimbursement was not made by a stockholder or employee. In addition, counsel has noted that Linda Addeo spent less than one hour in handling responses for the event, which she did voluntarily. It would appear that her involvement may meet the occasional, isolated, and incidental exception of 11 C.F.R. § 114.9(a).

Section 114.12(b) covers the use of corporate meeting rooms that are generally made available to groups and organizations in

the community. Although it appears that the Bank regularly holds its "Town Hall" type of meetings, these are bank sponsored events. At the present time, there is no information whether community groups and organizations, outside the Bank, have access to the meeting facilities. It also is not known whether if such groups have access to the facilities, the Bank provides letterhead stationery, mailings, R.S.V.P. service, and a dinner buffet to such groups and whether or how the Bank is reimbursed for such services. Therefore, on the basis of the information presently available, it does not appear that Section 114.12(b) is available to the Bank and the Seymour Committee.

Section 114.9(d) applies to the use of corporate facilities by persons other than stockholders and employees of the corporation with a requirement that the corporation be reimbursed for the usual and normal rental charge for such facilities within a commercially reasonable time. The facts indicate that the Seymour Committee initiated the idea of holding a political fundraiser as part of Senator Seymour's appearance at the December 5, 1991, event at the Bank. It worked with the Bank in this regard such as providing the list of persons to be invited and solicited. The Committee also informed the Bank that the Bank would not pay for the costs of the event. These costs were paid for by a person, who is not a Bank stockholder or employee. The December 1, 1991, memorandum to the Committee informing it that Scott Garner had paid for the costs suggests that reimbursement was made contemporaneously with the event, though no copy of any reimbursement check has been provided. The

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Committee reported the reimbursement as an in-kind contribution.

The Bank, however, did send out the solicitation on its own letterhead and from the Bank chairman, Gerald J. Garner. Furthermore, Mr. Garner also arranged for his son to reimburse the Bank for the costs of the event. Thus, the Bank was an active participant in the planning, preparation, and financing of the event along with the Seymour Committee. The Seymour Committee was a relatively passive participant in this event. The regulation at 11 C.F.R. § 114.9(d) appears to contemplate a individual's or political committee's use of corporate facilities without such active participation in the arrangements for the event by the corporation itself, which then seeks reimbursement on its own initiative from a third party as an in-kind contribution to the Committee. Thus, notwithstanding Scott Garner's reimbursement, there appears to have been corporate facilitation of this event.

Accordingly, for the reasons stated above, there is reason to believe the American Commerce National Bank violated 2 U.S.C. § 441b.

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 24, 1992

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

F. Laurence Scott, Jr., Treasurer
U.S. Senator John Seymour Committee
c/o Hawkins & Scott
12789 High Bluff Drive/270
San Diego, California 92130-2016

RE: MUR 3466
U.S. Senator John Seymour Committee
and F. Laurence Scott, Jr., as
treasurer

Dear Mr. Scott:

On January 8, 1992, the Federal Election Commission notified the U.S. Senator John Seymour Committee ("Committee") and you, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was enclosed with that notification.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on June 2, 1992, found that there is reason to believe the Committee and you, as treasurer, violated 2 U.S.C. § 441b, a provision of 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. Statements should be submitted under oath. All responses to the enclosed Interrogatories and Request for Production of Documents must be submitted to the General Counsel's Office within 30 days of your receipt of this letter. Any additional materials or statements you wish to submit should accompany the response to the Interrogatories.

You may consult with an attorney and have an attorney assist you in the preparation of your responses to the Interrogatories. If you intend to be represented by counsel, please advise the Commission by completing the enclosed form stating the name,

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F. Laurence Scott, Jr., Treasurer
Page 2

address, and telephone number of such counsel, and authorizing such counsel to receive any notification or other communications from the Commission.

In the absence of any additional information which demonstrates 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.

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.

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.

If you have any questions, please contact Jeffrey Long, the staff member assigned to this matter, at (202) 219-3690.

Sincerely,

Joan D. Aikens

Joan D. Aikens
Chairman

Enclosures

Interrogatories and Request
for Production of Documents
Designation of Counsel Form
Factual and Legal Analysis

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
)
) MUR 3466
)

INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS

TO: F. Laurence Scott, Jr., Treasurer
U.S. Senator John Seymour Committee
c/o Hawkins & Scott
12789 High Bluff Drive/270
San Diego, California 92130-2016

940435619226
In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 30 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

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DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

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**INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS**

1. With regard to the fundraising event held at the American Commerce National Bank ("Bank") in Anaheim, California on December 5, 1991, identify the source of the list of names given to the Bank to invite persons to that event.

2. State why the Bank was asked to send out solicitations from the Seymour Committee's list instead of the Committee sending the solicitations.

3. State the reasons why the Bank found someone to reimburse it for the expenses incurred for the event instead of having the Committee pay the Bank.

4. State who paid the costs of travel to this event for Senator Seymour and Trade Representative Carla Hills. Provide copies of tickets, invoices, checks, etc. with each itinerary.

5. State whether the Seymour Committee has participated in similar events at other corporations or banks. If so, list them.

6. Provide a copy or tape of the comments or remarks made by Senator Seymour at the event.

7. Provide an itemized copy of the contributions raised from the solicitation and fundraiser.

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: U.S. Senator John Seymour Committee **MUR 3466**
F. Laurence Scott, Jr., as treasurer,

GENERATION OF MATTER

This matter was generated by a complaint filed on January 2, 1992, by George Dottl against the U.S. Senator John Seymour Committee and F. Laurence Scott, Jr., as treasurer ("Seymour Committee" or "Committee").

A. Complaint's Allegations

94043561230
The complaint raised questions regarding a meeting and a fundraiser held at the American Commerce National Bank ("Bank") on December 5, 1991, and the use of the corporation's facilities and personnel regarding the fundraiser and the solicitation for it. The complainant evidently received a written invitation dated November 27, 1991, to a meeting at the Bank on December 5, 1991, from 5:30 to 7:00 p.m. with Senator John Seymour and U.S. Trade Representative Carla Hills.¹ The invitation was addressed to "Friends of Senator John Seymour," from Gerald J. Garner, and printed on Bank stationery. The bottom of the invitation requested a "donation" of \$200 with a dinner buffet and indicated an R.S.V.P. to Linda Addeo at ext. 325. It ended with the statement:

A victorious senatorial campaign depends heavily on your contributions!

The complainant states that he called Linda Addeo at the Bank and

1. The invitation refers to Carla Hill rather than Carla Hills.

asked her if she was being paid by the Bank to handle the R.S.V.P. and she replied "yes." American Commerce National Bank is headquartered in Anaheim, California. Gerald J. Garner is chairman of the board of the Bank.

B. Responses

Counsel for the Seymour Committee submitted a letter in response to the allegations together with supporting documentation. Counsel states that the Bank regularly schedules "Town Hall" type meetings for its customers and stockholders to meet political and nonpolitical figures. Counsel states that admission to these events is without charge. Counsel adds that the chairman of the board, Gerald J. Garner, did not contemplate that the meeting featuring Senator Seymour would be a political fundraiser, but agreed to permit funds to be raised at the event. In this regard counsel notes that two separate memoranda were prepared by the Bank.

One memorandum invited customers and stockholders to the meeting with Senator Seymour and Carla Hills. Counsel provided a copy of this memorandum. It is on Bank letterhead and addressed to "our special bank customers/stockholders" from Gerald J. Garner and dated November 25, 1991. It invites the addressees to attend two separate events: a December 5, 1991, meeting from 5:30 to 7:00 p.m. with Senator Seymour and Carla Hills, and another unrelated meeting on December 18, 1991, with the Israeli Ambassador to Germany. The location for the meeting is the Bank's offices in Anaheim. The memorandum notes "free admission" and "dinner buffet" with R.S.V.P. to Linda Addeo at ext. 325. It

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invites the addressee to "come once - come twice" and "see those who make headlines." Counsel states by telephone that this invitation went to a "few hundred customers" as well as stockholders.

The second memorandum was also on Bank letterhead and addressed to "Friends of Senator John Seymour" from Gerald J. Garner and dated November 27, 1991. Counsel states that the Seymour campaign provided a "short list" of people to be invited. According to counsel, the "short list" included approximately 100 names. This memorandum is otherwise identical to the one the complainant provided and is described above in Section A.

Counsel states that the Seymour campaign assisted the Bank in conducting the event and informed the Bank that because it would be a political fundraiser, the Bank could not pay for the expenses related to the event. Counsel states that Mr. Garner understood these limitations and accordingly asked his son, an attorney with the law firm of Latham & Watkins, to pay the costs. According to counsel, Mr. Garner's son, Scott Garner, wrote a \$500 check to the Bank for these expenses. Counsel states that "all of the costs associated with the event were borne by Scott Garner, as an in-kind contribution to the Seymour campaign." In this regard, counsel adds that Gerald Garner sent the Seymour campaign a memorandum dated December 1, 1991, advising the campaign that Scott Garner had paid the \$500 in event costs, including the costs of mailing. Counsel provided a copy of this memorandum. It is dated December 1, 1991, and is addressed to John Seymour from Gerald J. Garner. It states that Scott Garner

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paid \$500 "toward expenses (including mailing) for the event" and provides Scott Garner's address. The copy of the memorandum submitted by counsel also contains handwritten notations of a phone number and a FAX number. Counsel stated by telephone that Scott Garner is not a Bank stockholder or employee.

In addition, counsel states that the Seymour campaign requested and obtained an in-kind contribution form from Scott Garner. Counsel adds that the in-kind contribution paid for stationery, photocopying, mailing and postage, the use of the facilities, and the food and refreshments. He notes that the Bank had no other expenses associated with the event.

A copy of that form was also provided by counsel. The form states that all payments for services or goods on behalf of the Seymour Committee need to be recorded as in-kind contributions and sets out the limits for such contributions as \$1,000 per individual per election and \$5,000 per PAC per election. The form further states that all in-kind contributions must reflect personal payments, not corporate ones, for services and goods and must be accompanied by documentation. The remainder of the form provides space for the contributor to sign and affirm that he or she made the in-kind contribution on behalf of the Seymour Committee and to describe the contribution. The completed form provided by counsel describes the in-kind contribution in the amount of \$500 for mailing expense and office supplies for an event identified as "Gerald Garner on 12-05-91" and identifies Scott Garner as the contributor. It is signed by Scott Garner and dated December 26, 1991.

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Counsel states that Gerald J. Garner's assistant, Linda Addeo, handled the responses for the event, "but the total time involved was considerably less than one hour." He adds that she did so voluntarily and that the work did not interfere with her other responsibilities. He states that according to Ms. Addeo, "not even one of the persons on the list provided by the Seymour campaign called to respond to the invitation." He posits that the complainant must have spoken with another assistant to Mr. Garner, who was covering the phones in Ms. Addeo's absence and was not familiar with the event or had access to a list of invitees.

Counsel further adds that according to Mr. Garner "only five to eight of the attendees were people with whom he was not familiar" with the remainder being customers or stockholders of the Bank. Counsel adds that Mr. Garner believes some of the people he was not familiar with may have been friends of customers or stockholders. Counsel states that "no one was collecting funds at the door" and "no one was solicited." He notes that Mr. Garner "is not aware of anyone who made a contribution to the Senator's campaign."

The response from the Seymour Committee was made by the treasurer. In a more cryptic fashion, it makes several of the same basic points as the response from counsel for the Bank and includes copies of the December 1, 1991, memorandum from Gerald Garner to John Seymour stating that Scott Garner had paid for the costs and a copy of the in-kind contribution form signed by Scott Garner. They are identical to the documents provided by counsel

for the Bank. The treasurer of the Seymour Committee also notes that the in-kind contribution would be reflected on the 1991 Year End Report. Counsel for the Bank provided copies of the pages for the Seymour Committee's Year End Report that disclose a \$500 in-kind contribution from Scott Garner on December 5, 1991.

C. Issues

1. Characterization of Event

The December 5, 1991, appearance by Senator Seymour at the Bank can only be treated as a partisan candidate appearance. Compare 11 C.F.R. § 114.3(c)(2) with 11 C.F.R. § 114.4(a)(2) and Advisory Opinions 1980-22 and 1992-6. Contributions were solicited in conjunction with this event. The solicitation itself was made by the chairman of the board of the Bank and printed on Bank letterhead, although it was sent to a list provided by the Seymour Committee and its costs were paid for by the chairman's son. Thus, this event became a partisan event at the time the solicitations were mailed, on or about November 27, 1991. The uncertainty whether any of the solicited persons actually attended the event or whether any contributions were actually made with respect to the event would not alter its characterization as a partisan appearance under the regulations. Furthermore, although two different groups of people were invited to the event in separate memoranda, they were invited to the same event, occurring at the same time, at the same place, and with the same speakers and dinner buffet. Therefore, the Seymour Committee's use of this event to solicit funds from some of those invited becomes controlling in characterizing the event.

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As a partisan candidate appearance, the regulations limit who may make up the audience: stockholders, executive and administrative personnel, their families, employees needed to administer the event, limited invited guests and observers, and representatives of the news media. Carla Hills would qualify as an invited guest. Two groups who apparently made up the audience present a question whether they can be subsumed within the "limited invited guest and observer" category: (1) the persons invited from the list provided by the Seymour Committee; and (2) customers of the Bank. Counsel for the Bank referred to the list provided by the Seymour Committee as a "short list" that he put at approximately 100 names, said that only five to eight persons who attended were not known to Mr. Garner and may have been guests of customers, and noted that Linda Addeo did not receive any R.S.V.P. calls from persons off the Seymour Committee list. Still, while the exact number of such persons present at the event is not known, the number invited was substantial. Counsel also estimates that the number of bank customers who were invited to this event were a "few hundred," but it is not clear how many attended. Furthermore, both the customers and the solicitees from the Seymour Committee list should not be included as "limited invited guests and observers." To do so would appear to make that term too elastic and permit situations where the number of "guests and observers" exceed the number of stockholders and executive and administrative personnel and their families, which may have been the case here.

Thus, this event would not meet the requirements of 11 C.F.R.

§ 114.3(c)(2).

2. Use of Corporate Facilities

Notwithstanding the above discussion, the question arises whether the Seymour Committee's use of Bank facilities and the reimbursement to the Bank (for all expenses related to the event including the mailing) may nevertheless fit within 11 C.F.R. §§ 114.9(a), 114.9(d), or 114.12(b).

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Section 114.9(a) permits stockholders and employees of a corporation to make use of corporate facilities in volunteer activity in connection with a federal election on an occasionally, isolated, or incidental basis without requiring reimbursement or, if such activity exceeds this level, with reimbursement in a commercially reasonable time for the usual and normal rental charge. In this case, the facts show that the Seymour Committee chose to use the Bank's facilities for a fundraiser. Also, Scott Garner, who paid the Bank for the costs of the event, is not a Bank stockholder or employee. He was described by counsel for the Bank as an attorney with Latham & Watkins and the son of the chairman of the board. Therefore, it does not appear that Section 114.9(a) is available to the Bank and Seymour Committee for the event itself since reimbursement was not made by a stockholder or employee. In addition, counsel has noted that Linda Addeo spent less than one hour in handling responses for the event, which she did voluntarily. It would appear that her involvement may meet the occasional, isolated, and incidental exception of 11 C.F.R. § 114.9(a).

Section 114.12(b) covers the use of corporate meeting rooms

that are generally made available to groups and organizations in the community. Although it appears that the Bank regularly holds its "Town Hall" type of meetings, these are bank sponsored events. At the present time, there is no information whether community groups and organizations, outside the Bank, have access to the meeting facilities. It also is not known whether if such groups have access to the facilities, the Bank provides letterhead stationery, mailings, R.S.V.P. service, and a dinner buffet to such groups and whether or how the Bank is reimbursed for such services. Therefore, on the basis of the information presently available, it does not appear that Section 114.12(b) is available to the Bank and the Seymour Committee.

Section 114.9(d) applies to the use of corporate facilities by persons other than stockholders and employees of the corporation with a requirement that the corporation be reimbursed for the usual and normal rental charge for such facilities within a commercially reasonable time. The facts indicate that the Seymour Committee initiated the idea of holding a political fundraiser as part of Senator Seymour's appearance at the December 5, 1991, event at the Bank. It worked with the Bank in this regard such as providing the list of persons to be invited and solicited. The Committee also informed the Bank that the Bank would not pay for the costs of the event. These costs were paid for by a person, who is not a Bank stockholder or employee. The December 1, 1991, memorandum to the Committee informing it that Scott Garner had paid for the costs suggests that reimbursement was made contemporaneously with the event, though

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no copy of any reimbursement check has been provided. The Committee reported the reimbursement as an in-kind contribution.

The Bank, however, did send out the solicitation on its own letterhead and from the Bank chairman, Gerald J. Garner. Furthermore, Mr. Garner also arranged for his son to reimburse the Bank for the costs of the event. Thus, the Bank was an active participant in the planning, preparation, and financing of the event along with the Seymour Committee. The Seymour Committee was a relatively passive participant in this event. The regulation at 11 C.F.R. § 114.9(d) appears to contemplate a individual's or political committee's use of corporate facilities without such active participation in the arrangements for the event by the corporation itself, which then seeks reimbursement on its own initiative from a third party as an in-kind contribution to the Committee. Thus, notwithstanding Scott Garner's reimbursement, there appears to have been corporate facilitation of this event.

Accordingly, for the reasons stated above, there is reason to believe the U.S. Senator John Seymour Committee and F. Laurence Scott, Jr., as treasurer, violated 2 U.S.C. § 441b.

24043561939

BARBARA W. REED
BARRY DAVIDSON
OF COUNSEL
GARRY L. R. WOLD
BRADLEY W. HERTZ

REED & DAVIDSON
ATTORNEYS AT LAW
777 SOUTH FIGUEROA STREET
SUITE 3400
LOS ANGELES, CALIFORNIA 90017
TELEPHONE (213) 624-6200
FACSIMILE (213) 623-1692

RECEIVED
FEDERAL ELECTION COMMISSION
JUN 22 10 50 AM '92

ORANGE COUNTY OFFICE
3151 AIRWAY AVENUE, SUITE M-1
COSTA MESA, CALIFORNIA 92626
TELEPHONE (714) 641-1688
FACSIMILE (714) 648-1003

June 17, 1992

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

RE: MUR 3466

Dear Jeff:

In a telephone discussion, you requested additional information concerning the above-referenced matter. In this letter, we provide the remaining information. First, you asked us to determine how the figure of \$500 was reached for the nonmonetary contribution. Second, you asked us a) how many customers, directors, shareholders and friends were invited to the event; and b) how many people were invited from Senator Seymour's list. Previously, we provided a copy of Scott Garner's check for \$500.

In response to your first question, the \$500 figure was arrived at by combining the costs of the catering bill (\$239.05), which we previously provided to you, soft drinks of approximately \$15.00, photocopying of 500 flyers at \$.03 per copy (\$15.00), photocopying of 300 flyers at \$.03 per copy (\$10.00), postage for 300 flyers (\$87.00) and 300 envelopes at \$.10 per envelope (\$30.00). The value of the actual expenditures more closely approximates \$400. However, to avoid even the appearance of an impropriety, Scott Garner made a \$500 nonmonetary contribution to Senator Seymour's campaign to cover any and all of the possible costs associated with the event.

Prior to the event becoming political, the Bank photocopied 500 flyers for in-house distribution. In addition, the Bank's eight directors invited people. Mr. Gerald Garner does not know how many people each director invited. Mr. Garner brought sixteen people as his personal guests. No invitations were provided to these individuals.

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OFFICE

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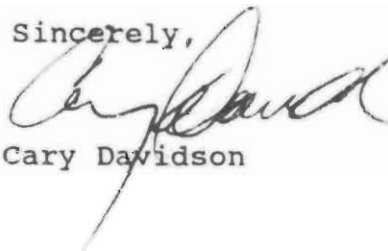
Mr. Jeff Long
Federal Election Commission
June 17, 1992
Page 2

After Mr. Garner agreed to send a fundraising flyer for Senator Seymour's campaign committee, the committee prepared a list of approximately 300 names. Those persons were sent, via U.S. mail, the flyer, a copy of which we previously provided, requesting a donation to the Senator's campaign committee.

As we have discussed in prior correspondence to you, Mr. Garner is not aware of anyone who attended the event or who made a contribution to Senator Seymour as a result of the mailing to Senator Seymour's list.

I believe that we have now responded to all of your requests for additional information. Based upon the payments made, it is apparent that the Bank fully complied with applicable laws and regulations. As a consequence, no action should be taken against the Bank in this matter.

Sincerely,



Cary Davidson

CD:jp

cc: Mr. Gerald Garner
Scott Garner, Esq.

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Seymour

U.S. SENATE

Winning for California

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COMMISSION
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July 24, 1992

Jeffrey Long, Esq.
Federal Election Commission
999 E Street NW
Washington, D. C. 20463
DELIVERED BY FAX (202)219-3880

92 JUL 27 PM 3:37

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF LEGAL COUNSEL

Re: MUR 3466
U. S. Senator John Seymour Committee
and F. Laurence Scott, Jr., as Treasurer
INTERROGATORIES AND REQUEST FOR
PRODUCTION OF DOCUMENTS

Dear Mr. Long:

This is in furtherance of my telephone conversation with you this morning concerning the above referenced matter.

I am the Campaign Finance Chairman for the Seymour Committee. I also serve as legal counsel to the Committee in certain matters. Mr. Scott was out of the state from mid-June until July 9, 1992. Consequently, he did not personally receive the Commission's letter of June 24, 1992, until July 9. Mr. Scott referred the matter to me as the legal representative of the Committee by his letter of July 9, 1992 (copy attached). I was in San Francisco on business from July 6 to July 15 and did not learn of the matter until that date.

The answers to the interrogatories which have been propounded, and the documents which have been requested must be obtained from individuals who either no longer work for the Committee, or who are employed outside of the Committee. These individuals are very difficult to contact, and, in some instances, may not be available until after August 1.

In view of the foregoing, we request an extension of time within which to respond to subject INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS.

Your favorable consideration will be appreciated.

Yours very truly,



FLOYD L. FARANO
CAMPAIGN FINANCE CHAIRMAN



July 9, 1992

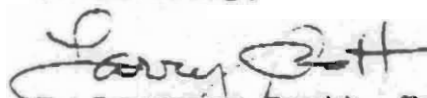
Floyd Farano
U.S. Senator John Seymour Committee
150 Paularino Avenue, Suite 275
Costa Mesa, CA 92626

Dear Floyd:

Enclosed is a copy of correspondence received from the Federal Election Commission which needs your immediate attention. I have signed the "Statement of Designation of Counsel" in case you wish for legal counsel to respond.

Please call me when you receive this material.

Yours truly,


F. Laurence Scott, Jr.
Certified Public Accountant

/po

Enclosure

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

July 27, 1992

Floyd L. Farano
U.S. Senator John Seymour Committee
150 Paularino Avenue, Suite 275
Costa Mesa, California 92626

RE: MUR 3466
U.S. Senator John Seymour
Committee and F. Laurence
Scott, as treasurer

Dear Mr. Farano:

This is in response to your letter dated July 24, 1992, which we received on July 23, 1992, requesting an extension to respond to the Interrogatories and Request for Production of Documents in the above-referenced matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on August 13, 1992.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

A handwritten signature in cursive script, reading "Jeffrey D. Long", is written over a rectangular area.

Jeffrey D. Long
Paralegal

9404356124

SANA W. REED
CARY DAVIDSON
OF COUNSEL
DARRYL A. WOLO
BRADLEY W. HERTZ

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ATTORNEYS AT LAW
777 SOUTH FIGUEROA STREET
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TELEPHONE (213) 624-8200
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ORANGE COUNTY OFFICE
3161 AIRWAY AVENUE, SUITE 111
COSTA MESA, CALIFORNIA 92626
TELEPHONE (714) 941-0000
FACSIMILE (714) 941-1003

July 29, 1992

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

VIA FACSIMILE

RE: MUR 3466

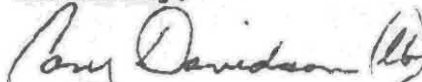
Dear Mr. Long:

On behalf of American Commerce National Bank and Scott Garner, we respectfully request a twenty (20) day extension of time to respond to the Interrogatories and Request for Production of Documents in connection with the above-referenced matter.

The reasons for requesting an extension are to enable us to obtain all of the items requested, and for us to respond fully to the propounded interrogatories. My clients have endeavored to satisfy all of your prior requests, and they are continuing to do so. Further, we will seek to demonstrate that the Commission should take no further action, and we need the additional time to prepare the supporting documents.

If you have any questions, please feel free to contact us.

Sincerely,


Cary Davidson

CD:jp

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FEDERAL ELECTION COMMISSION
OFFICE OF CLERK

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 3, 1992

Cary Davidson, Esquire
Reed & Davidson
777 South Figueroa Street
Suite 3400
Los Angeles, California 90017

RE: MUR 3466
American Commerce National
Bank

Scott Garner

Dear Mr. Davidson:

This is in response to your letter dated July 29, 1992, which we received on July 30, 1992, requesting an extension of 20 days to respond to Interrogatories and Request for Production of Documents in the above-referenced matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on August 19, 1992.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Jeffrey D. Long
Paralegal

24043561246

OBC 6110

BELL & HILTACHK

Attorneys and Counselors at Law

555 Capitol Mall
Suite 530
Sacramento CA 95814

RECEIVED
FEDERAL ELECTION COMMISSION

92 AUG 14 PM 3:44

Charles H. Bell, Jr.
Thomas W. Hiltachk

Telephone: (916) 442-7757
Facsimile: (916) 442-7759

August 13, 1992

By Federal Express

Jeffrey Long, Counsel
Office of the General Counsel
Federal Election Commission
Room 659, 999 E Street, N.W.
Washington DC 20463

Re: MUR 3466

Dear Mr. Long:

The following Response to Interrogatories and Request for Production of Documents is submitted by Respondents U.S. Senator John Seymour Committee and F. Laurence Scott, Jr., Treasurer.

Also submitted is the Respondents' designation of the undersigned as counsel in this matter.

As noted in the Responses, Respondents are continuing in their attempts to locate documents and materials that are relevant to and responsive to the Commission's above-referenced discovery request.

However, this letter is to request that the Commission take no further action in this matter. This request is made on the basis of the matters set forth below which are factual in nature. However, it is also made in the belief that the Commission, in finding reason to believe, may have relied upon an error in the General Counsel's Factual and Legal Analysis in support of reason to believe.

This factual error in the Factual and Legal Analysis is that it misidentifies as the response of the Committee and Mr. Scott what was actually the response of Mr. Gerald Garner or the American Commerce National Bank. To the extent that the Commission may have misconstrued that response as being the response of Committee and its Treasurer, that warrants review of the original decision on reason to believe.

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FEDERAL ELECTION COMMISSION

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However, Respondents submit that the Commission's staff has made something of this case that it is not: (1) the event involved no electioneering; (2) the event was not a "corporate event", under Regulation 114; and (3) even if there was a "use of corporate funds" it was de minimis, and was also the subject of contemporaneous reimbursement.

1. The Senator and Ambassador's remarks at the "Town Hall Meeting" event were non-political; there was no campaigning or soliciting of contributions at the event; and no contributions were received from persons attending the event.

24043361948
The Bank apparently invited certain persons, including some of its customers, to a non-political speaking event featuring Senator Seymour and Ambassador Hills. This event was part of the Bank's ongoing "Town Hall Meeting" program and was not a campaign political appearance. Nor were the persons invited to the "Town Hall Meeting" solicited for campaign contributions. Subsequent to the first mailing to bank customers, employees and directors, Mr. Garner and the Seymour Committee agreed that other persons would also be invited to the non-political speech, but that these persons, and these persons only, would be solicited for campaign contributions. Apparently, either none of the subsequent invitees appeared, and/or none contributed, because no funds were raised from the event. In sum, Senator Seymour and Ambassador Hills appeared at the event to discuss U.S. trade policy; some of the Bank's original invitees appeared and heard a non-political speech; none of the campaign's invitees appeared or contributed; no contributions were solicited at the event; and no funds were raised at the event.

2. The Bank's inadvertent use of Bank letterhead for invitations to the subsequent invitees does not make the event a "corporate event" for Regulation 114 purposes. Moreover, even if there was a "use of a corporate" facilities in the use of the Bank letterhead, this use was "de minimis" and the individual contributor's good faith payment of all event-related costs as an in-kind contribution negates the effect of any de minimis use and does not warrant further enforcement action.

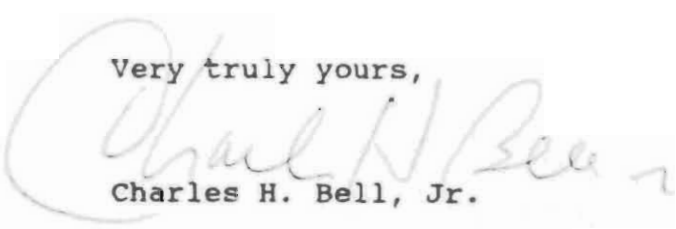
Although the Seymour Committee advised Mr. Garner that no corporate or bank funds could be spent for a campaign event, apparently he or one of his staff members inadvertently re-xeroxed the original invitation to the "Town Hall Meeting" on the same corporate letterhead as used for the original invitations and sent that xeroxed invitation to the second group of invitees. In an abundance of caution, Mr. Garner's son willingly paid for all event costs, including the imputed cost of letterhead, as an

Jeffrey Long
August 13, 1992
Page 3

in-kind contribution. In summary, to characterize this as a corporate event based upon the mere fact that someone at the Bank inadvertently utilized the same letterhead for the second mailing as had been used for the initial mailing. would elevate form over substance and ignore the compliance efforts of Respondents, the Bank and Mr. Garner in this matter.

For the foregoing reasons, Respondents respectfully request the Commission to take no further action in this matter.

Very truly yours,


Charles H. Bell, Jr.

CHB/man
1108.01

Enclosures: (1) Designation of Counsel
(2) Response to Interrogatories and
Request for Production of Documents

94043561949

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3466

NAME OF COUNSEL: CHARLES H. BELL, JR.

ADDRESS: BELL & HILTACHK

555 Capitol Mall, Suite 530

Sacramento, CA 95814

TELEPHONE: (916) 442-7757

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.

8-13-92

Date


Signature

RESPONDENT'S NAME:

U. S. Senator John Seymour Committee
F. Laurence Scott, Jr., Treasurer

ADDRESS:

150 Paularino Avenue, Suite 150

Costa Mesa, CA 92626

BUSINESS
~~HOME~~ PHONE:

BUSINESS PHONE: (714) 434-1992

24043561950

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

U.S. Senator John Seymour Committee
F. Laurence Scott, Jr., Treasurer

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)
)
)

MUR 3466

RESPONSE TO INTERROGATORIES
AND REQUEST FOR PRODUCTION OF DOCUMENTS

24043561951
The U.S. Senator John Seymour Committee and F. Laurence Scott, Jr., Treasurer, by and through their Counsel of Record, submit the following response to the Federal Election Commission's Interrogatories and Request for Production of Documents in the above-referenced matter.

Interrogatory No. 1: With regard to the fundraising event held at the American Commerce National Bank ("Bank") in Anaheim, California on December 5, 1991, identify the source of the list of names given to the Bank to invite persons to that event.

Response to Interrogatory No. 1: The Respondents are unaware of whether any U.S. Senator John Seymour Committee list was provided to the Bank to invite persons to the December 5, 1991 event in question. Respondents have communicated with the Committee's former Finance Director Jean Flournoy, who is no longer employed by the Committee and is living outside California at this time, about the interrogatory question. Mrs. Flournoy

24043561952
advised Respondents that she does not recall whether the Committee provided the Bank with a list. Respondents are aware that a Memorandum from the Bank was addressed to "FRIENDS OF SENATOR JOHN SEYMOUR". However, Respondents do not know whether that was a generic type of address or denoted a special Seymour list was provided to Mr. Garner.

Respondents are actively attempting to locate any other documents or communications relative to the event, and recognize their continuing obligation to update this response and to provide such documentation if it exists.

Interrogatory No. 2: State why the Bank was asked to send out solicitations from the Seymour Committee's list instead of the Committee sending out lists.

Response to Interrogatory No. 2: The interrogatory assumes facts that Respondents do not know to be correct. However, Respondents were fully aware of the Federal Election Campaign Act prohibitions on corporate and national bank contributions and activities in connection with federal elections, and would not have approved or authorized contributions or expenditures by the Bank in violation of the law. Respondents' own contribution solicitation documents, copies of several of which are attached as Exhibit A through C, make reference to the corporate prohibitions, as does the in-kind contribution form which is part of the FEC attachment and is referenced in the Commission's Factual and Legal Analysis (at page 4).

2404356193

Interrogatory No. 3: State the reasons why the Bank found someone to reimburse it for the expenses incurred for the event instead of having the Committee pay the Bank.

Response to Interrogatory No. 3: Respondents have been advised by former Finance Director Jean Flourney that she had assumed that Mr. Gerald Garner, the President of the Bank, was putting on this event as a personal, permissible contribution to the Committee. The Committee never authorized or approved Mr. Garner's or the Bank's use of the Bank's letterhead or facilities for purposes of sending the solicitations for this event. Respondents believe that Mr. Gerald Garner took steps to obtain the in-kind contribution in the form of a reimbursement to the Bank for expenses associated with the solicitation, after the Committee became aware that the solicitation had been sent by Mr. Garner on Bank letterhead and had advised him of the Federal Election Campaign Act prohibitions involved. Respondents have no specific knowledge of the circumstances and events leading to Mr. Scott Garner's contribution in-kind; however, we assume that Mr. Gerald Garner attempted to ensure that the Bank would not make a contribution in this situation by obtaining his son's personal, permissible contribution in-kind as a reimbursement.

Interrogatory No. 4: State who paid the costs of travel to this event for Senator Seymour and Trade Representative Carla Hills. Provide copies of tickets, invoices, checks, etc. with each itinerary.

Response to Interrogatory No. 4: Respondents have not yet been able to determine whether the Committee paid for any or all

of the Senator's travel. Respondents are actively seeking such information relative to the Senator's activities in California at or about the December 5, 1991 date.

Trade Representative Carla Hills' trip expenses were paid for by the Committee, which paid an amount invoiced to the Committee by the Republican National Committee's Speakers Bureau, which had arranged for Ms. Hills' appearance. Copies of Committee checks and invoices for the event are being obtained from storage and will be transmitted in a separate response.

Interrogatory No. 5: State whether the Seymour Committee has participated in similar events at other corporations or banks. If so, list them.

Response to Interrogatory No. 5: To the best of Respondents' knowledge, the Seymour Committee has not participated in events similar to the December 5, 1991 event. Respondents reiterate that the Committee did not authorize or approve the use of Bank letterhead for the solicitation in question.

Interrogatory No. 6: Provide a copy or tape of the comments or remarks made by Senator Seymour at the event.

Response to Interrogatory No. 6: Respondents believe that no written or taped copy of the informal comments or remarks of Senator Seymour exists. To the best of Respondents' knowledge, no such written document was prepared nor was the event taped by video or audio tape. However, Respondents have been advised that

Senator Seymour's remarks related exclusively to discussing current issues before the U. S. Senate and introducing Ambassador Hills. He did not reference his election campaign or solicit campaign funds in his remarks. Ambassador Hills' remarks related exclusively to U. S. trade policy. She did not endorse Senator Seymour for election or solicit campaign funds for Senator Seymour.

Interrogatory No. 7: Provide an itemized copy of the contributions raised from the solicitation and fundraiser.

2404056195
Response to Interrogatory No. 7: Former Finance Director Jean Flournoy has advised Respondents that the December 5, 1991 event, as a "fundraising event", was a singular failure. No funds were raised at the event. Respondents are researching Committee records to determine whether any contributions can be attributed to the event.

The names and addresses of persons with whom Respondents are communicating or seeking further information are:

1. Jean Flournoy
2. F. Laurence Scott, Jr.
3. Floyd Farano
Finance Chairman
150 Paularino Avenue, Suite 275
Costa Mesa, CA 92626

Respondents are actively attempting to locate any other documents or communications relative to the event, and recognize

their continuing obligation to update this response and to provide such documentation if it exists.

The foregoing is true and correct and of my personal knowledge, except those matters which are stated upon information and belief. If called as a witness, I could testify competently thereto.

Executed under penalty of perjury under the laws of the State of California this thirteenth day of August at Sacramento, California.


Charles H. Bell, Jr.

24043561956



U.S. SENATOR JOHN SEYMOUR

Mr. Charles H. Bell
873 Lake Frant Dr.
Sacramento, CA 95831-4333

Dear Charles,

THANK YOU! THANK YOU! THANK YOU! THANK YOU!

We ran an aggressive, hard-fought and above-board campaign that gave us an impressive primary victory. The money we spent on T.V., radio, mail, grassroots organizing and get-out-the-vote efforts was vital to our primary win and has given us much needed momentum as we go into the Fall campaign.

But I must be honest with you. Winning this hard-fought primary left us with a debt of \$200,000. And, until we replenish our financial war chest, we cannot continue to fight.

And we must fight now as we've never fought before. Because if the primary was a battle, the general election will be a full scale war!

Ten days from now our summer offensive begins. We have financial resources now. But I cannot and will not commit them until I can get us out of debt and be assured we are, once again, on a "pay as you go" basis.

There's not a moment to lose -- to paraphrase Paul Revere, "the red votes are coming".

It is absolutely imperative that we keep this U.S. Senate seat in the Republican column, safe from the clutches of someone who is a major liberal-extremist force.

She'll raise our taxes, just like she did as Mayor of San Francisco. I oppose any tax increase.

She'll push for quotas, just like she did in 1990 when she ran for Governor. I opposed the Democrats quota bill.

She'll work hard...to raise her own pay just like she did...as Mayor

(over, please)

Contributions to U.S. Senator John Seymour Committee are not deductible as charitable contributions for federal income tax purposes. Not printed or mailed at government expense. Paid for and authorized by U.S. Senator John Seymour Committee, P.O. Box 276445, Sacramento, California 95827-0445

(Tear here, please)

TO: John Seymour
U.S. Senator

"Paul Revere" Dollars

"The Red Votes Are Coming"

FROM: Mr. Charles H. Bell
873 Lake Frant Dr.
Sacramento, CA 95831-4333

Count on me!

We must spread the alarm early, not late. Dianne Feinstein is out of touch and will vote us to disaster in the U.S. Senate.

10004588

____ I've enclosed my "Paul Revere contribution" of \$250 as you've suggested.

____ I've enclosed the largest "Paul Revere contribution" I can manage right now.

____ \$1,000 ____ \$750 ____ \$500 ____ \$250 ____ Other

EXHIBIT A

of San Francisco. I voted against the U.S. Senate's midnight pay raise and returned the money to the U.S. Treasury.

She may even support Rose Bird, just like she did in San Francisco. I opposed Rose Bird and her anti-death penalty rulings.

We can't let Dianne Feinstein get her way or in our way either.

Believe me, if you think our economy and public safety are going through rough times now, just imagine what it will be like if Dianne Feinstein goes to Washington and votes the knee-jerk liberal line.

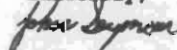
But that's just what will happen if Californians aren't reminded of the awful truths of her policies. We need "Paul Revere" dollars right now so the alarm can be spread early ... not when she's made an assault of her own.

Please send in the contribution amount I've suggested on the "Paul Revere" contribution card enclosed...because, with Dianne Feinstein, "the red votes are coming." If you can't afford that, I'm counting on you to do the very best you can.

Let's put all of our efforts into keeping liberal Dianne Feinstein where she belongs -- in San Francisco (I apologize to all of our San Francisco supporters.)

You've been wonderful to my campaign and me. Thank you for all your help.

Sincerely,



John Seymour
U.S. Senator

P.S. I'm depending on you to help me win this war with the largest contribution you can manage TODAY. And I wouldn't have it any other way. Because that means I'm depending on the best and most loyal allies a person could ask for.

Federal Law requires us to ask the following:

Occupation _____

Place of Business _____

Telephone (optional) _____

John, I acknowledge that the enclosed contribution is to help repay your primary debt.

Signature _____

Date _____

Contributions to U.S. Senator John Seymour Committee are not deductible as charitable contributions for federal income tax purposes. Not printed or mailed at government expense. Paid for and authorized by U.S. Senator John Seymour Committee. Corporate contributions are not allowed by law. Federal laws allow a maximum contribution of \$1,000 per individual for the primary and \$1,000 for the general election. Federal ID C00250480

24043561958

Friday, March 20, 1992

7:00 to 9:00 p.m.

- ☐ Yes, I (we) will be pleased to reserve _____ tickets at \$250 per person.
- ☐ I (we) cannot attend. Enclosed is a contribution in the amount of \$ _____.

Please make checks payable to:

U.S. Senator John Seymour Committee

I.D. # C00250480

Corporate checks are not permitted by Federal Law.

Name _____ Spouse _____

Address _____

City, State, Zip _____

Phone (H) _____ (B) _____

Occupation _____ Employer _____

FEDERAL ELECTION LAWS

Federal election laws allow a maximum contribution of \$1,000 per individual (qualified Federal PACs \$5,000) for the primary election, and \$1,000 per individual (qualified Federal PACs \$5,000) for the general election. The "U.S. Senator John Seymour Committee" can accept contributions for both the primary and the general elections provided the election designation be made on the contribution.

The spouse of a contributor may also give up to \$1,000 for the primary and \$1,000 for the general. Couples may give \$2,000 from common funds, but please include two signatures on your check.

Contributions to "U.S. Senator John Seymour Committee" are not tax deductible as charitable contributions for federal income tax purposes.

Paid for and authorized by "U.S. Senator John Seymour Committee."

DANA W. REED
CARY DAVIDSON
OF COUNSEL
DARRYL R. WOLD
BRADLEY W. HERTZ

REED & DAVIDSON
ATTORNEYS AT LAW
777 SOUTH FIGUEROA STREET
SUITE 3400
LOS ANGELES, CALIFORNIA 90017
TELEPHONE (213) 624-6200
FACSIMILE (213) 623-6992

ORANGE COUNTY OFFICE
3151 AIRWAY AVENUE, SUITE 200
COSTA MESA, CALIFORNIA 92626
TELEPHONE (714) 641-1888
FACSIMILE (714) 546-1001

August 19, 1992

Mr. Jeffrey Long
Enforcement Division
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RE: MUR 3466

Dear Mr. Long:

This letter supplements our February 18, May 21 and June 17 1992 letters and responds to the Federal Election Commission's (the "Commission") Factual and Legal Analysis (the "Analysis") and Interrogatories and Requests For Production of Documents from American Commerce National Bank ("ACNB") and Scott Garner. By this letter, we demonstrate that 2 U.S.C. Section 441b was not violated and that no further action should be taken on this matter.

We have reviewed the Analysis, and we believe it to be flawed because it makes reference to provisions of the Federal Election Campaign Act of 1971, as amended (the "Act") and attendant Regulations that are not relevant to the case at hand. Additionally, the factual portion of the Analysis contains a major inaccuracy as to Scott Garner's status as a stockholder of ACNB.

Finally, the dominant conclusion is incorrect because there were no corporate or national bank contributions made in the instant case. The only contribution involved was a non-monetary contribution made by an individual, Scott Garner, to the U.S. Senator Seymour Committee (the "Seymour Committee").

Characterization of Event

We believe that the section of the Analysis entitled "characterization of event" includes a significant discussion of subjects which do not pertain to the issues at hand. Specifically, the Analysis seems confused in first classifying the December 5, 1991 event (the "event") as a partisan candidate appearance (page 6) and then contradicting itself by determining that it was not a partisan candidate appearance (page 7).

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24043561960

24043561261
Mr. Jeffrey Long
Enforcement Division
Federal Election Commission
August 19, 1992
Page 2

Section 114.3(c)(2) of Title 11 of the Code of Federal Regulations provides, in relevant part, that:

"A corporation may allow a candidate or party representative to address its stockholders and executive or administrative personnel, and their families, at a meeting, convention or other function of the corporation."

We agree with the eventual conclusion stated in the Analysis that the event was not a partisan candidate appearance. However, we do not see any relevance or value in making any reference to that section of the Regulations. First, the event was not a "meeting, convention or other function of the corporation" because it was not paid for by the corporation. Instead, all of the expenses were borne by an individual, Scott Garner. Second, the class of invitees included persons not permitted to attend a partisan candidate appearance.

As we have previously explained, as initially planned, the event was entirely non-political. It was contemplated to be one of a series of "Town Hall" meetings. Then, at the behest of the Seymour Committee, an additional list of individuals was invited. At no point, however, did the event become a partisan candidate appearance. The Analysis misapplies the law regarding partisan candidate appearances to the facts in this case, because at no time did the event meet the required criteria for an event to be characterized as a partisan candidate appearance.

Use of Corporate Facilities

The question of whether the Seymour Committee used the Bank facilities is discussed at pages 8 - 10 of the Analysis. Under 11 C.F.R. Section 114.9(a)(1):

"Stockholders and employees of the corporation may, subject to the rules and practices of the corporation, make occasional, isolated or incidental use of the facilities of a corporation for individual volunteer activity in connection with a Federal election and will be required to reimburse the corporation only to the extent that the overhead or operating costs of the corporation are increased."

Mr. Jeffrey Long
Enforcement Division
Federal Election Commission
August 19, 1992
Page 3

The Analysis concludes at page 8 that this Regulation does not apply "since reimbursement was not made by a stockholder." However, Scott Garner is a stockholder of ACNB. The statements at pages 4 and 8 that Scott Garner is not a stockholder are incorrect. We informed the Commission that Scott Garner was not an officer or employee of ACNB but we did not discuss with the Commission whether Scott Garner is a stockholder.

As a stockholder, Scott Garner is permitted to make occasional, isolated or incidental use of the corporation's facilities, and he is required to reimburse the corporation only to the extent that the overhead and operating costs are increased. Scott Garner's use and reimbursement is exactly what is contemplated and permitted by 11 C.F.R. Section 114.9(a)(1).

If for some reason the Commission finds the provisions of 11 C.F.R. Section 114.9(a)(1) inapplicable to the event, then the event remains permissible by language contained in the Regulations at 11 C.F.R. Section 114.9(d). While the event was held at ACNB, it was completely paid for by Scott Garner as an in-kind contribution and was properly reported as such. As set forth in 11 C.F.R. Section 114.9(d):

"Persons, other than those specifically mentioned in paragraphs (a) and (b) of this section, who make use of any corporate . . . facilities . . . for activities in connection with a Federal election are required to reimburse the corporation . . . within a commercially reasonable time in the amount of the normal and usual rental charge . . . for the use of the facilities."

As explained in our earlier letters, the entire cost of the event and of the use of any corporate facilities was borne by Scott Garner and was reimbursed to ACNB prior to or contemporaneously with the event. A copy of Scott Garner's check, dated December 1, 1991, was attached to our May 21 letter and is provided again herewith. The Analysis acknowledges that Scott Garner fully paid for the event. Yet, it inconsistently and mistakenly concludes that 2 U.S.C. Section 441b was violated for unknown and unexplained reasons.

24043561962

Mr. Jeffrey Long
Enforcement Division
Federal Election Commission
August 19, 1992
Page 4

Active Participation

The Analysis appears to base its conclusion on the finding that ACNB was an "active participant" in the event and that 11 C.F.R. Section 114.9(d) "appears to contemplate . . . use of corporate facilities without such active participation . . .". The claim that ACNB was an active participant is without merit. ACNB did not pay for the event, did not raise any money for Senator Seymour at the event, and did not increase its overhead or operating costs as a result of the event.

Further, nowhere in 11 C.F.R. Section 114.9(d) is the distinction between "active participation" and "passive participation" made or is the term "active participant" used. In fact, a search of the Act's and the Regulations' indices reveals no definition of active participation.

2 U.S.C. Section 441b

We believe the Commission's finding extends the reach of the law beyond the conventional and accepted understanding of corporate and national bank participation and that 2 U.S.C. Section 441b was not meant to prevent the de minimis involvement of ACNB where the costs of an event were reimbursed by an individual and where the corporation or national bank did not contribute to a campaign.

The actual issue at hand is whether 2 U.S.C. Section 441b was violated. That section provides, in relevant part, that:

"It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to political office, or in connection with any primary election or political convention or caucus held to select candidates for any political convention, or for any corporation whatever, or any labor organization, to make a contribution or expenditure in connection with any election at which presidential and vice presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to, Congress are to be voted for . . ." (emphasis added).

Mr. Jeffrey Long
Enforcement Division
Federal Election Commission
August 19, 1992
Page 5

ACNB did not make a contribution or expenditure in connection with a Senatorial election and therefore did not violate Section 441b. The only contribution made in connection with the event was a \$500 non-monetary contribution from Scott Garner. This contribution was permissible and was timely and properly reported.

Moreover, when the event is looked at in its entirety, it becomes apparent that the event was not prohibited by the Act and Regulations. Absolutely no funds were raised from the event; none of the people from the Seymour Committee list responded to the invitation or attended the event; no contributions were solicited at the event; and the appearance of Senator Seymour was non-political in nature. Those who attended the event in response to Gerald Garner's first invitation were unaware that others were invited to the event or that anyone had been asked to contribute to the Seymour Committee.

MUR 2226

Guidance for resolution of this issue can be obtained from MUR 2266. In MUR 2266, it was alleged that the Citizens for Townsend Committee (the "Townsend Committee") received a prohibited contribution from the County of Baltimore (the "county"), an incorporated entity, because the Townsend Committee used county equipment and employee time for a campaign rally held on the courthouse lawn.

The county billed the Townsend Committee \$324.31. The bill was paid by the Hutchinson for Senate Committee, the principal campaign committee for Baltimore County Executive Donald P. Hutchinson's Senate bid, as an in-kind contribution to the Townsend Committee. The Commission found that the county made no contribution to the Townsend Committee, found no reason to believe that Section 441b was violated and closed the file.

The legal analysis in MUR 2226 stated that:

"The evidence provided by each of the respondents affirms that expenses for the Townsend rally were not provided as a contribution from the County, but were paid by the Hutchinson Committee. The County billed

Mr. Jeffrey Long
Enforcement Division
Federal Election Commission
August 19, 1992
Page 6

for the services and equipment used Therefore, the Office of the General Counsel concludes that no violation of 2 U.S.C. Section 441b(a) occurred in this matter. This Office recommends that the Commission find no reason to believe and close the file."

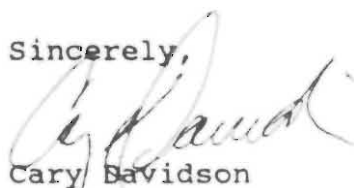
The ACNB matter is quite similar to the Townsend matter. In the ACNB matter, however, no labor costs were incurred and the reimbursement occurred prior to, or contemporaneously with, the event. The equities in the instant case suggest that it was even more properly handled than in the Townsend matter.

If the Commission had applied the reasoning it is attempting to apply in the instant matter to the Townsend matter, there would have been a corporate contribution made to the Townsend Committee merely because the event was held on county property, even though a permissible entity, which was not a corporation, paid for it. The Commission should use the same reasoning it applied in the Townsend matter in the ACNB matter and reach the same conclusion that Section 441b was not violated, and no further action should be taken.

Conclusion

Based on the foregoing, on our previous letters and on the documents and interrogatory responses we have provided, we believe that Section 441b was not violated and that this matter should be closed.

Sincerely,


Cary Davidson

cc: Mr. Gerald Garner
Scott Garner, Esq.

24043561265

BEFORE THE FEDERAL ELECTION COMMISSION

In the matter of

American Commerce National Bank

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MUR 3466

92 SEP 11 PM 3:20

AMERICAN COMMERCE NATIONAL BANK'S
RESPONSES TO INTERROGATORIES
AND REQUEST FOR PRODUCTION OF DOCUMENTS

American Commerce National Bank, by and through its Counsel of Record, submits the following responses to the Federal Election Commission's Interrogatories and Request for Production of Documents in the above-referenced matter.

Interrogatory No. 1: With regard to the event held at the American Commerce National Bank ("Bank") on December 5, 1991, in cooperation with the U.S. Senator John Seymour Committee ("Committee"), itemize all costs associated with the event, including but not limited to staff time for mailing invitations, arranging the event, and handling phone calls.

Response to Interrogatory No. 1: As set forth in our counsel's June 17, 1992 letter, the costs associated with the event are estimated as follows:

Staff time for mailing invitations: \$0

Staff time for arranging the event: \$0

Staff time for handling telephone calls: \$0

Catering: \$239.05

American Commerce National Bank Responses
Page Two

Soft Drinks: \$15

Photocopying: \$25

Postage: \$87

Envelopes: \$30

Interrogatory No. 2: Explain why the Bank offered or agreed to send out solicitations to the event using a list provided by the Seymour Committee instead of having the Committee send them.

Response to Interrogatory No. 2: The Bank did not agree to send out invitations to the event. On Gerald Garner's behalf, and at the request of the Seymour Committee, Gerald Garner agreed to send out invitations using the Seymour Committee list. Scott Garner was to pay the Bank for all expenses.

Interrogatory No. 3: Explain why the Bank president found someone to reimburse the Bank rather than have the Seymour Committee reimburse the Bank for the expense.

Response to Interrogatory No. 3: Scott Garner, rather than the Seymour Committee, reimbursed the Bank because Gerald Garner knew that a Bank could not make a contribution to the Seymour Committee. Neither Scott Garner nor Gerald Garner are sophisticated in federal election campaign law, but Scott Garner issued the check at the request of Gerald Garner.

American Commerce National Bank Responses
Page Three

Interrogatory No. 4: State whether the Bank rents its facilities to other groups, including political candidates, for similar types of events. If so, does the Bank provide services (e.g. mailing, R.S.V.P., buffet). State whether the Bank has a written policy for renting its space or providing related services. If so, provide a copy of the policy.

24043561268
Response to Interrogatory No. 4: The Bank hosts "Town Hall" meetings for the benefit of its customers at which local, state, national and international leaders and others meet with Bank customers, shareholders and others. The Bank from time to time lets community groups use its facility. The Bank has no written policy regarding the rental of its space or the provision of related services. The Bank has never charged rent for the use of its facility.

Interrogatory No. 5: State whether there was a list or sign-in sheet kept for those who attended the event, including stockholders and customers. If so, provide a copy of the list.

Response to Interrogatory No. 5: There was no sign-in sheet at the event.

Interrogatory No. 6: State when the Bank received the reimbursement check from Scott Garner and to whom it was made. State when and where the check was deposited.

Response to Interrogatory No. 6: Gerald Garner believes that he received the reimbursement check from Scott Garner on or about December 1, 1991. The check was made payable to American Commerce

American Commerce National Bank Responses
Page Four

National Bank and was deposited into American Commerce National Bank's Miscellaneous Income Account, Number 019103091, and credited on December 12, 1991.

Gerald Garner is the person capable of furnishing testimony concerning the responses given. Reed & Davidson assisted in drafting these responses.

Dated: August 20, 1992

I declare under penalty of perjury that the above is true and correct.


Gerald Garner

94043561969

BEFORE THE FEDERAL ELECTION COMMISSION

In the matter of

American Commerce National Bank

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MUR 3466

92 SEP 11 PM 3:20

SCOTT GARNER'S RESPONSES TO INTERROGATORIES
AND REQUEST FOR PRODUCTION OF DOCUMENTS

Scott Garner, by and through his Counsel of Record, submits the following responses to the Federal Election Commission's Interrogatories and Request for Production of Documents in the above-referenced matter.

Interrogatory No. 1: With regard to an event held at the American Commerce National Bank ("Bank") in Anaheim, California on December 5, 1991, state when you gave the check for expenses for the event to the Bank.

Response to Interrogatory No. 1: To the best of my recollection, I mailed the check to Gerald Garner on or about December 1, 1991, the same day or the day after I wrote the check. This check was to cover all of the expenses associated with the December 5, 1991 event to be held at American Commerce National Bank (the "Bank").

Interrogatory No. 2: State whether the check has cleared the account and has been paid. If so, provide a copy of the check.

Scott Garner Responses
Page Two

Response to Interrogatory No. 2: The check has cleared my account and has been paid. A copy of the check was provided to the Commission with my counsel's May 21, 1992 letter and is provided again herewith.

Interrogatory No. 3: Explain why you were asked to reimburse the Bank for the Seymour Committee Fundraiser.

Response to Interrogatory No. 3: The Seymour Committee asked to hold an event in conjunction with a Town Hall meeting at the Bank. Gerald Garner told me that, by law, the Bank was not permitted to pay for the event. I was therefore asked to reimburse the Bank for all of the expenses associated with the event.

Scott Garner is the person capable of furnishing testimony concerning the responses given. Reed & Davidson assisted in drafting these responses.

Dated: August 21, 1992

I declare under penalty of perjury that the above is true and correct.



Scott Garner

SCOTT GARNER
280 CHRISALTA WAY
ANAHEIM HILLS, CA 92807

0952

90-4082/1222

12/1/91

PAY TO THE
ORDER OF

American Commerce National Bank

\$ 500^{00/100}

five hundred

and ^{00/100} DOLLARS



American Commerce
NATIONAL BANK
4800 E. La Palma Ave. - Anaheim, CA 92807

FOR John Severin donation/expense

Scott Garner

94043561272

DEC 2 1991

AMERICAN COMMERCE NATIONAL BANK
ANAHEIM, CA 92807

205 88313

019103091

FDIC

Federal Deposit Insurance Corporation

P.O. Box 9349, Newport Beach, CA 92658-9349

4 Park Plaza, Irvine, CA 92714

Telephone: 714/263-7400

FAX: 714/263-7485

Linda La Pierre Ortiz, Paralegal

Legal Division
Direct Line: 714/264-7418



June 15, 1993

Mr. Jeffrey D. Long

Paralegal

Federal Election Commission (FEC)

999 E Street, N.W.

Washington, D.C. 20463

RE: American Commerce National Bank, 4576
Anaheim, CA - In Receivership
MUR 3466

Dear Mr. Long:

Please be advised that on April 30, 1993, the Office of the Comptroller of the Currency took control of the business and property of American Commerce National Bank (hereinafter "Bank"). On that same date, the Federal Deposit Insurance Corporation (the "FDIC") was appointed Receiver for the Bank.

We received from the former Bank's counsel a series of documents relating to the referenced matter.

Should you have further enquiries or need further assistance with this matter, you may contact the attorney assigned to monitor the Bank's business, Ms. Debra Jameson, Esq., Senior Attorney, at the above address.

Sincerely,

Linda La Pierre Ortiz, J.D.
Paralegal Specialist

LLO/sts

94043561973

53 JUN 22 AM 10:20

RECEIVED

100-444001

OGC 9211

JUN 30 3 55 PM '94

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of

)
) Enforcement Priority
)

GENERAL COUNSEL'S QUARTERLY REPORT

I. INTRODUCTION

This report is the second Enforcement Priority System Quarterly Report. The purpose of this Quarterly Report is to recommend that the Commission no longer pursue the identified lower priority and stale cases.

II. CASES RECOMMENDED FOR CLOSING

A. Cases Not Warranting Further Pursuit Relative to Other Cases Pending Before the Commission

A critical component of the Priority System is identifying those pending cases that do not warrant the further expenditure of resources. Each incoming matter is evaluated using Commission approved criteria

By closing such cases the Commission is able to use its limited resources to focus on more important cases.

Having evaluated incoming matters, this Office has identified 16 cases which do not warrant further pursuit relative to the other pending cases.¹ A short

1. These matters are: MUR 3920; MUR 3930; MUR 3934; MUR 3939; MUR 3942; MUR 3943; MUR 3945; MUR 3948; MUR 3953; MUR 3955; MUR 3957; MUR 3964; MUR 3965; MUR 3967; RAD 94L-22; and RAD 94L-25.

240435619/4

description of each case and the factors leading to assignment of a relatively low priority and consequent recommendation not to pursue each case is attached to this report. See Attachments 1-16. For the Commission's convenience, the narratives for externally-generated matters are immediately followed by the complaint and response(s) and the narratives for internally-generated matters are immediately followed by the referral.

B. Stale Cases

Investigations are severely impeded and require relatively more resources when the activity and evidence are old. Consequently, the Office of General Counsel recommends that the Commission focus its efforts on cases involving more recent activity. Such efforts will also generate more impact on the current electoral process and are a more efficient allocation of our limited resources. To this end, this Office has identified 42 cases that

do not warrant further investment of significant Commission resources.² Since the recommendation not to pursue the identified cases is based on staleness, this Office has not prepared separate

2. These matters are: MUR 3132; MUR 3432; MUR 3466; MUR 3470; MUR 3473; MUR 3495; MUR 3558; MUR 3575; MUR 3581; MUR 3594; MUR 3600; MUR 3625; MUR 3647; MUR 3663; MUR 3684; MUR 3698; MUR 3712; MUR 3733; MUR 3744; MUR 3749; MUR 3756; MUR 3759; MUR 3767; MUR 3776; MUR 3779; RAD 92L-26, RAD 93L-25; RAD 93L-26; RAD 93L-29; RAD 93L-31; RAD 93L-33; RAD 93L-35; RAD 93L-36; RAD 93L-38; RAD 93L-39; RAD 93NF-02; RAD 93NF-03; RAD 93NF-06; RAD 93NF-10; RAD 93NF-12; RAD 93NF-15; and RAD 93NF-20.

narratives for these cases. However, for externally-generated matters in which the Commission has made no findings, the complaint and response(s) are attached to the report and for internally-generated matters in which the Commission has made no findings, the referral is attached. See Attachments 17-53. Because the Commission has already made findings in five of the stale cases, no additional information is being attached to this report in regard to these cases.³

3. These matters are: MUR 3132, MUR 3432, MUR 3466, MUR 3495, and MUR 3733.

240435619/6

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This Office recommends that the Commission exercise its prosecutorial discretion and no longer pursue the identified cases effective August 1, 1994. This will allow the Legal Review Team adequate time to prepare the Pre-MUR and MUR files so that the cases can appear on the public record by September 1, 1994, within 30 days of the August 1, 1994, closing date. This timeframe also will enable this Office to prepare closing letters so that the letters can be mailed on August 2, 1994. Additionally, the Press Office will need time to review the files for inclusion in one of its press releases.

III. RECOMMENDATIONS

A. Decline to open a MUR and close the file in the following matters to be effective on August 1, 1994:

- 1) RAD 92L-26
- 2) RAD 93L-25
- 3) RAD 93L-26
- 4) RAD 93L-29
- 5) RAD 93L-31
- 6) RAD 93L-33
- 7) RAD 93L-35
- 8) RAD 93L-36
- 9) RAD 93L-38
- 10) RAD 93L-39
- 11) RAD 94L-22
- 12) RAD 94L-25
- 13) RAD 93NF-02
- 14) RAD 93NF-03
- 15) RAD 93NF-06
- 16) RAD 93NF-10
- 17) RAD 93NF-12
- 18) RAD 93NF-15
- 19) RAD 93NF-20

B. Take no action, close the file effective on August 1, 1994, and approve the appropriate letter in the following matters:

- 1) MUR 3470
- 2) MUR 3473
- 3) MUR 3558
- 4) MUR 3575
- 5) MUR 3581
- 6) MUR 3594
- 7) MUR 3600
- 8) MUR 3625
- 9) MUR 3647
- 10) MUR 3663
- 11) MUR 3684
- 12) MUR 3698
- 13) MUR 3712
- 14) MUR 3744
- 15) MUR 3749
- 16) MUR 3756
- 17) MUR 3759
- 18) MUR 3767
- 19) MUR 3776
- 20) MUR 3779
- 21) MUR 3920
- 22) MUR 3930
- 23) MUR 3934
- 24) MUR 3939
- 25) MUR 3942
- 26) MUR 3943
- 27) MUR 3945
- 28) MUR 3948
- 29) MUR 3953
- 30) MUR 3955
- 31) MUR 3957
- 32) MUR 3964
- 33) MUR 3965
- 34) MUR 3967

240435619/8

C. Take no further action, close the file effective on August 1, 1994, and approve the appropriate letter in the following matters:

- 1) MUR 3132
- 2) MUR 3432
- 3) MUR 3466
- 4) MUR 3495
- 5) MUR 3733

Date

6/30/94


Lawrence M. Noble
General Counsel

240435619/9

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of
Enforcement Priority

)
) Agenda Document
) #X94-72

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on July 19, 1994, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions with respect to Agenda Document #X94-72:

A. Decline to open a MUR and close the file in the following matters to be effective on August 1, 1994:

- 1) RAD 92L-26
- 2) RAD 93L-25
- 3) RAD 93L-26
- 4) RAD 93L-29
- 5) RAD 93L-31
- 6) RAD 93L-33
- 7) RAD 93L-35
- 8) RAD 93L-36
- 9) RAD 93L-38
- 10) RAD 93L-39
- 11) RAD 94L-22
- 12) RAD 94L-25
- 13) RAD 93NF-02
- 14) RAD 93NF-03
- 15) RAD 93NF-06
- 16) RAD 93NF-10
- 17) RAD 93NF-12
- 18) RAD 93NF-15
- 19) RAD 93NF-20

(continued)

24043561930

Federal Election Commission
Certification: Enforcement Priority
July 19, 1994

Page 2

- B. Take no action, close the file effective on August 1, 1994, and approve the appropriate letter in the following matters:

- 1) MUR 3470
2) MUR 3473
3) MUR 3558
4) MUR 3575
5) MUR 3581
6) MUR 3594
7) MUR 3600
8) MUR 3625
9) MUR 3647
10) MUR 3663
11) MUR 3684
12) MUR 3698
13) MUR 3712
14) MUR 3744
15) MUR 3749
16) MUR 3756
17) MUR 3759
18) MUR 3767
19) MUR 3776
20) MUR 3779
21) MUR 3920
22) MUR 3930
23) MUR 3934
24) MUR 3939
25) MUR 3942
26) MUR 3943
27) MUR 3945
28) MUR 3948
29) MUR 3953
30) MUR 3955
31) MUR 3957
32) MUR 3964
33) MUR 3965
34) MUR 3967

(continued)

24043561901

Federal Election Commission
Certification: Enforcement Priority
July 19, 1994

Page 3

- C. Take no further action, close the file effective on August 1, 1994, and approve the appropriate letter in the following matters:

- 1) MUR 3132
- 2) MUR 3432
- 3) MUR 3466
- 4) MUR 3495
- 5) MUR 3733

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

Attest:

7-20-94
Date

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

24043561932



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 2, 1994

Mr. George Dottl
5171 Kearsarge Avenue
Los Alamitos, CA 90720

RE: MUR 3466

Dear Mr. Dottl:

On December 18, 1991, the Federal Election Commission received your complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). On June 2, 1992, the Commission found reason to believe that American Commerce Bank and the U.S. Senator John Seymour Committee and F. Laurence Scott, Jr., as treasurer, violated 2 U.S.C. § 441b.

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no further action against the respondents. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on August 1, 1994. This matter will become part of the public record within 30 days.

The Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Sincerely,

Mary L. Taksar

Mary L. Taksar

24043561983



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 2, 1994

American Commerce Bank
c/o Ms. Debra Jameson, Esq.
Federal Deposit Insurance Corporation
P.O. Box 9349
Newport Beach, CA 92658-9349

RE: MUR 3466
American Commerce Bank

Dear Ms. Jameson:

On June 24, 1992, American Commerce Bank was notified that the Federal Election Commission had found reason to believe that it had violated 2 U.S.C. § 441b. On August 19, 1992, American Commerce Bank submitted a response to the Commission's reason to believe finding and interrogatories.

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no further action against American Commerce Bank. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on August 1, 1994.

The confidentiality provisions of 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

24043561934

Ms. Debra Jameson, Esq.
MUR 3466
Page 2

If you have any questions, please contact Joan McEnery at
(202) 219-3400.

Sincerely,

Mary L. Taksar

Mary L. Taksar
Attorney

24043561935



FEDERAL ELECTION COMMISSION

WASHINGTON D.C. 20463

August 2, 1994

Charles H. Bell, Jr.
Bell & Hiltachk
555 Capitol Mall, Suite 530
Sacramento, CA 95814

RE: MUR 3466
U.S. Senator John Seymour
Committee and Charles H.
Bell, Jr., as treasurer

Dear Mr. Bell:

On June 24, 1992, you were notified that the Federal Election Commission had found reason to believe that the U.S. Senator John Seymour Committee and its treasurer violated 2 U.S.C. § 441b. On August 13, 1992, you submitted a response to the Commission's reason to believe finding and interrogatories.

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no further action against the Committee and you, as treasurer. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on August 1, 1994.

The confidentiality provisions of 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

24043561936

Charles H. Bell, Jr.
MUR 3466
Page 2

If you have any questions, please contact Joan McEnery at
(202) 219-3400.

Sincerely,

Mary L. Taksar

Mary L. Taksar
Attorney

24043561987



FEDERAL ELECTION COMMISSION

WASHINGTON DC 20463

August 2, 1994

Scott Garner, Esq.
Latham & Watkins
650 Town Center Drive
20th Floor
Costa Mesa, CA 92626

RE: MUR 3466

Dear Mr. Garner:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public.

Although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receipt of your additional materials, any permissible submissions will be added to the public record when received.

If you have any questions, please contact Joan McEnery at (202) 219-3400.

Sincerely,

Mary L. Taksar

Mary L. Taksar
Attorney

24043561938



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3466

DATE FILMED 8-30-94 CAMERA NO. 2

CAMERAMAN JM H

24043561989