FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

THIS IS THE BEGINNING OF MUR # 3513

DATE FILMED 10/28/93 CAMERA NO. 2

CAMERAMAN MC

9 3 0 4 0 9 8 3 7 5 3

REPORTS ANALYSIS REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: February 14, 1992

ANALYST: David Weidman

I. COMMITTEE: Indiana Democratic Congressional Victory Committee
(C00108613)
Larry Cummings, Treasurer
P.O. Box 3366
Indianapolis, IN 46206

II. RELEVANT STATUTE: 11 CFR §102.5(a)(1)(i)

III. BACKGROUND:

Contributions Received From Unregistered Organizations

The Indiana Democratic Congressional Victory Committee ("the Committee") received fifteen (15) contributions from fourteen (14) unregistered organizations totalling $8,710.97 during the period covering January 1, 1991 through June 30, 1991 (Attachment 2).

On December 4, 1991, a Request for Additional Information ("RFAI") was sent to the Committee questioning the contributions. The RFAI requested clarification regarding the source of the funds from the unregistered organizations. If the contributions were not permissible, the Committee was advised to refund and/or transfer-out the impermissible funds (Attachment 3).

On December 26, 1991 a Second Notice was sent to the Committee for failure to respond to the RFAI (Attachment 4).

On January 8, 1992, the Committee sent its response to the Commission. The Committee states that the contributions "were inadvertently deposited in the Federal account from political organizations not registered with the Commission."1/ Accordingly, the Committee wished to inform the Commission "that our [C]ommittee has transferred-out the aggregate sum of $8,710.97 from our Federal account to our State account." Along with this explanation, the Committee sent a photocopy of the check used to transfer $8,710.97 to its State account on December 27, 1991 (Attachment 5).

The Committee's 1991 Year End Report (filed January 29, 1992) did not disclose the $8,710.97 transfer-out on December 27, 1991; however, the Year End Report did disclose a $140,668.19 transfer-out to the Indiana Democratic State Committee on December 31, 1991 (Attachment 6).

To date, no other response has been received.

IV. OTHER PENDING MATTERS INITIATED BY RAD:

None.

93040983755

1/ On January 30, 1992, one of the unregistered organizations filed a response to a Registration Notice and a Second Notice mailed on December 2, 1991, and January 16, 1992, respectively. The response from the unregistered organization noted it had sent two (2) checks to the state committee, and not the federal committee. The response also included a copy of two (2) checks that had been sent to the state committee.

COMMITTEE DOCUMENT	RECEIPTS		DISBURSEMENTS		COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
					TYPE OF FILER		
INDIANA DEMOCRATIC CONGRESSIONAL VICTORY COMMITTEE					ID #C00108613 PARTY QUALIFIED		
CONNECTED ORGANIZATION: INDIANA DEMOCRATIC PARTY							
1991 MID-YEAR REPORT	275,601		280,329		1JAN91 -30JUN91	51	91FEC/708/2828
MID-YEAR REPORT - AMENDMENT	-		-		1JAN91 -30JUN91	36	91FEC/708/2787
MID-YEAR REPORT - AMENDMENT	-		-		1JAN91 -30JUN91	3	92FEC/725/2063
MID-YEAR REPORT - AMENDMENT	267,942		288,356		1JAN91 -30JUN91	46	92FEC/726/3702
MID-YEAR REPORT - AMENDMENT	267,942		288,356		1JAN91 -30JUN91	3	92FEC/729/3290
REQUEST FOR ADDITIONAL INFORMATION					1JAN91 -30JUN91	7	91FEC/721/4473
REQUEST FOR ADDITIONAL INFORMATION 2ND					1JAN91 -30JUN91	8	92FEC/724/54[illegible]
YEAR-END	379,601		384,622		1JUL91 -31DEC91	73	92FEC/729/3294
TOTAL	647,543	0	672,978	0		227	TOTAL PAGES

ALL REPORTS HAVE BEEN REVIEWED EXCEPT THE 1991 YEAR END REPORT.

ENDING CASH ON HAND AS OF 12/31/91: $646

DEBTS AND OBLIGATIONS OWED TO/BY THE COMMITTEE AS OF 12/31/91: $0

93040983756

INDIANA DEMOCRATIC CONGRESSIONAL VICTORY COMMITTEE - C00108613
SCHEDULE A, ITEMIZED RECEIPTS LINE 11-A

07/29/91	DATE OF CONTRIBUTION	AMOUNT	PAGE 4 OF 43
Bond, Lois A. Post Office Box 1 Helmsburg, IN 47435-0000	04/29/91	120.00 YTD $	120.00
Boone County Democrat 1775 West 400 South Lebanon, IN 46052-0000	04/29/91	60.00 YTD $	60.00 LT
Boxell, Robert 6330 Northwood Drive Carmel, IN 46032-0000	04/29/91	65.00 YTD $	65.00
Boyd, William D. 2863 West 39th Street Indianapolis, IN 46208-0000	04/29/91	60.00 YTD $	60.00
Braitman, Mary Beth 5002 Washington Boulevard Indianapolis, IN 46205-0000	04/29/91	60.00 YTD $	60.00
Branson, Michael J. 4601 Garvok Court Indianapolis, IN 46237-0000	04/16/91	50.00 YTD $	50.00
Brant, Alanna R. 4017 Brookville Road Indianapolis, IN 46201-0000	04/29/91	20.00 YTD $	20.00
Bridwell, Madge Apartment 7 297 North Mill Street Plainfield, IN 46168-0000	04/01/91	5.00 YTD $	5.00

TOTAL THRU THIS PAGE $ 3,500.00

9 3 0 9 4 1 0 0 9 3 8 7 3 0 7 8 5 2 7 8 3 5

INDIANA DEMOCRATIC CONGRESSIONAL VICTORY COMMITTEE - C00108613
SCHEDULE A, ITEMIZED RECEIPTS LINE 11-A

	DATE OF CONTRIBUTION	AMOUNT	
Waldroup, Jack 312 Dubois Vincennes, IN 47591-0000	04/29/91	300.00	YTD $ 300.00
Walker, Mary Ann Rural Route 3, Box 179 Morgantown, IN 46160-0000	04/29/91	60.00	YTD $ 60.00
Walker, Ruby A. Apartment 8 615 East Thompson Road Indianapolis, IN 46227-0000	04/10/91	25.00	YTD $ 25.00
Warren County Democratic Committee Rural Route 4, Box 10 Attica, IN 47918-0000	04/29/91	360.00	YTD $ 360.00
Wedum, Ellen E. 213 Sylvia Street West Lafayette, IN 47906-0000	04/29/91	60.00	YTD $ 60.00
Weinstein, N. William 6515 Sunset Lane Indianapolis, IN 46208-0000	02/08/91	1,000.00	YTD $ 1,150.00
Weinstein, N. William 6515 Sunset Lane Indianapolis, IN 46208-0000	04/29/91	150.00	YTD $ 1,150.00
Wells, James L. 7620 Huddleston, West Drive Indianapolis, IN 46217-0000	04/29/91	150.00	YTD $ 150.00

TOTAL THRU THIS PAGE $ 53,375.21

INDIANA DEMOCRATIC CONGRESSIONAL VICTORY COMMITTEE - C00108613
SCHEDULE A ITEMIZED RECEIPTS LINE 11-C
07/29/91 | NAME OF CONTRIBUTOR | AMOUNT | PAGE 1 OF 8

ASDC - Dollars for Democrats
430 South Capitol Street, S.E.
Washington, DC 20003-0000
02/18/91
YTD $ [illegible]
[illegible]

ASDC - Dollars for Democrats
430 South Capitol Street, S.E.
Washington, DC 20003-0000
03/27/91
YTD $ [illegible]
[illegible]

ASDC - Dollars for Democrats
430 South Capitol Street, S.E.
Washington, DC 20003-0000
04/01/91
YTD $ [illegible]
[illegible]

Auditor of State of Indiana
State House
Indianapolis, IN 46204-0000
02/28/91
YTD $ [illegible]
142,[illegible]

Auditor of State of Indiana
State House
Indianapolis, IN 46204-0000
03/22/91
YTD $ [illegible]
14[illegible],605.00

Auditor of State of Indiana
State House
Indianapolis, IN 46204-0000
03/[illegible]3/91
YTD $ [illegible]
142,[illegible]

Banc One Indiana Corporation PAC
101 Monument Circle
Indianapolis, IN 46277-0000
04/03/91
YTD $ 1,000.00
1,000.00

~~Committee to Elect Bob Hellmann~~
~~[illegible] North 5th Street~~
~~Number 202~~
~~Terre Haute, IN 47807-0000~~
~~04/03/91~~
~~YTD $ [illegible]~~

TOTAL THRU THIS PAGE $ 213,[illegible]5.05

1991 Mid-year Report

INDIANA DEMOCRATIC CONGRESSIONAL VICTORY COMMITTEE - C00100613
SCHEDULE A ITEMIZED RECEIPTS LINE 11-C
07/29/91 NAME OF CONTRIBUTOR AMOUNT PAGE 2 OF 6

Delaware County Democratic Central Committee
2803 South Jefferson
Muncie, IN 47302-0000
04/18/91 2,710.00
YTD $ 4,210.00

Delaware County Democratic Central Committee
2803 South Jefferson
Muncie, IN 47302-0000
04/29/91 1,500.00
YTD $ 4,210.00

East Chicago Democratic Central Committee
4525 Indianapolis Boulevard
East Chicago, IN 46312-0000
04/29/91 120.00
YTD $ 120.00

Greenfield Democrat Fund
Post Box 477
Greenfield, IN 46140-0000
04/29/91 120.00
YTD $ 120.00

Jennings County Democratic Committee
Vernon, IN 47282-0000
04/29/91 300.00
YTD $ 300.00

Knox County Democrat Central Com.
Post Office Box 357
Vincennes, IN 47591-0000
04/29/91 120.00
YTD $ 120.00

Ohio County Democratic Central Committee
Route 1, Box 163
Rising Sun, IN 47040-0000
05/14/91 81.00
YTD $ 81.00

Posey County Democratic Central Com.
Route 1, Box 64
Poseyville, IN 47633-0000
04/16/91 1,170.00
YTD $ 1,170.00

TOTAL THRU THIS PAGE $ 216,346.05

91137214478
91137082876

1991 Mid-Year Report

INDIANA DEMOCRATIC CONGRESSIONAL VICTORY COMMITTEE - C00108613
SCHEDULE A, ITEMIZED RECEIPTS LINE 11-C

07/29/91	DATE OF CONTRIBUTION		AMOUNT	PAGE 3 OF 3
Putnam County Demo. Cent. Committee Greencastle, IN 46135-0000	04/29/91	YTD $	240.00 240.00	
[illegible] Post Office Box 407 Columbus, IN 47201-0000	04/05/91	YTD $	1,250.00 1,250.00	
Vanderburgh County Democratic Central Committee 101 South East Martin Luther King Evansville, IN 47708-0000	04/29/91	YTD $	120.00 120.00	
Vigo County Democrat Cen. Com. 6601 Dixie Bee Road Terre Haute, IN 47802-0000	04/29/91	YTD $	300.00 300.00	

TOTAL AMOUNT THIS REPORT $ 218,016.05

TOTAL THRU THIS PAGE $ 218,016.05

FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

RQ-2

DEC - 4 1991

Larry Cummings, Treasurer
Indiana Democratic Congressional
Victory Committee
P.O. Box 3366
Indianapolis, IN 46206

Identification Number: C00108613

Reference: Mid-Year Report (1/1/91-6/30/91)

Dear Mr. Cummings:

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

-The identification of each contributor, including the person's occupation and name of employer, must be provided if the person has contributed in excess of $200 in the aggregate during the calendar year. Please amend Schedule A supporting Line 11(a)(i) for each entry lacking a contributor's occupation and name of employer.

Note: If your committee has made at least one effort per solicitation, either by a written request or by an oral request documented in writing to obtain this information from the contributor, your committee may have exercised "best efforts." Under 11 CFR 104.7(b), such effort shall consist of a clear request for the information (i.e., name, mailing address, occupation, and name of employer) which request informs the contributor that the reporting of such information is required by law. If you believe that your committee satisfies the "best efforts" provision, you should provide a copy of your solicitation or an explanation of the method(s) used to obtain contribution information. Clarification regarding "best efforts" should be disclosed during each two year election cycle beginning with the first report filed in the non-election year. 11 CFR §104.3(a)(4)(i)

-Your committee's report includes computerized supporting schedules. Pursuant to 11 CFR §104.2(d), computer produced schedules may be used contingent upon prior approval of the Commission. Please submit a separate request (including an example of the proposed format) for consideration. Until your format has been approved, FEC supporting schedules should be used.

-Please clarify the receipts received from the Auditor of the State of Indiana. If the amounts represent funds from tax check-offs, then they should be reported as unitemized receipts on Line 11(a)(ii).

-On Schedule H2, you have failed to check the ratio type box for IDEA Convention (i.e., NEW, REVISED, SAME AS PREVIOUSLY REPORTED). Please amend your report to correct this omission. 11 CFR §104.10(a)(1)

-Schedule A of your report (pertinent portion(s) attached) discloses a contribution(s) from an organization(s) which is not a political committee registered with the Commission. Under 11 CFR §102.5(b), organizations which are not political committees under the Act must either: 1) establish a separate account which contains only those funds permitted under the Act, or 2) demonstrate through a reasonable accounting method that the organization has received sufficient funds subject to the limitations and prohibitions in order to make the contribution.

If your committee does not finance non-federal activity, the receipt of the referenced contribution(s) may violate the limitations and prohibitions of the Act. (2 U.S.C. §§441a(f) and 441b) If your committee engages in both federal and non-federal activity, either through a separate non-federal account, or one account that finances activity in connection with both federal and non-federal elections, your committee may be in violation of 11 CFR §102.5(a).

Please clarify whether the contribution(s) received from the referenced organization(s) is permissible. To the extent that your committee has received funds which are not permissible, the Commission recommends that you refund the impermissible amount(s) to the donor(s) in accordance with 11 CFR §103.3(b). Alternatively, if you choose to transfer the funds to an account not used to influence federal elections, the Commission advises that you inform the contributor in writing and provide the contributor with the option of receiving a refund. You may wish to seek a written authorization (either before or after the transfer-out) from the donor for any transfer-out to protect the donor's interests.

Please inform the Commission immediately in writing and provide a photocopy of your check for the refund or transfer-out. Should you choose to refund or transfer-out the funds, the Commission will presume the funds were impermissible, absent a statement from your committee to the contrary. Refunds and transfers-out should be disclosed on a supporting Schedule B for Line 28 or 22 of the report covering the period during which they are made.

If the contribution(s) in question was incompletely or incorrectly disclosed, you should amend your original report with the clarifying information.

Although the Commission may take further legal steps concerning the acceptance of prohibited contributions, prompt action by your committee in refunding or transferring-out the amounts will be taken into consideration.

-Invested funds (or funds in a savings account) should be included in your cash-on-hand figures reported on Line 8 of the Summary Page. You should not include payments made for the purpose of investment in your disbursement figures. In addition, funds withdrawn from investment accounts should not be reported as receipts. Please amend your receipt, disbursement, and cash-on-hand figures as necessary. 11 CFR §104.3(a) and (b). In addition, please amend any subsequent report(s) which may be affected by this correction.

For your information, any interest received by the committee aggregating in excess of $200 in a calendar year should be disclosed on Schedule A supporting Line 17 of the Detailed Summary Page.

-The Commission notes that the committee's "method of compliance with [the Federal Election Commission] allocation requirements was technically in violation." It is also noted that the committee has "now established a joint transfer account, effective as of June, and now each allocable activity strictly complies with the new regulations."

The Commission recommends that the Committee continue to correct any violations of the Federal Election Campaign Act in order to fully comply with the new allocation regulations.

-On Schedule H4 supporting Line 21(a) of the Detailed Summary Page, you have failed to include a unique identifying title or code for the PURPOSE/EVENT for several of your itemized fundraising expenses. 11 CFR §104.10. Please amend this report (including all affected schedules) to provide a unique identifying title or code for each PURPOSE/EVENT.

-On Schedule H4 supporting Line 21(a) of the Detailed Summary Page, you have failed to include the PURPOSE for several expenditures to various vendors. Please amend your report to include this missing information.

A written response or an amendment to your original report(s) correcting the above problem(s) should be filed with the Federal Election Commission within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 219-3580.

Sincerely,

David J. Weidman

David J. Weidman
Reports Analyst
Reports Analysis Division

Attachment 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-3

December 26, 1991

Larry Cummings, Treasurer
Indiana Democratic Congressional
Victory Committee
P.O. Box 3366
Indianapolis, IN 46206

Identification Number: C00108613

Reference: Mid-Year Report (1/1/91-6/30/91)

Dear Mr. Cummings:

This letter is to inform you that as of December 24, 1991, the Commission has not received your response to our request for additional information, dated December 4, 1991. That notice requested information essential to full public disclosure of your federal election financial activity and to ensure compliance with provisions of the Federal Election Campaign Act (the Act). A copy of our original request is enclosed.

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

If you should have any questions related to this matter, please contact David Weidman on our toll-free number (800) 424-9530 or our local number (202) 219-3580.

Sincerely,

John D. Gibson
Assistant Staff Director
Reports Analysis Division

Enclosure

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Indiana Democratic Party

One North Capitol • Indianapolis, Indiana 46204 • 317 231 7100 • Fax 317 231 7129

92 JAN 8 AM 9:46

John D. Gibson
Assistant Staff Director
Reports Analysis Division

January 6, 1992

Identification Number: C00108613
Reference: Mid-year Report (1/1/91 - 6/30/91)

Dear Mr. Gibson:

This letter is to serve as partial response to your request for information, initially dated December 4, 1991.

Our committee is preparing an amended report, which will replace in its entirety the current report, and address fully the issues raised in your request. This report should be filed with your office by January 10, 1991. Scheduling problems during the holidays contributed to this delay.

We do wish to inform immediately the Commission that our committee has transferred-out the aggregate sum of $8,710.97 from our Federal account to our State account. (see attached document) This sum reflects contributions inadvertently deposited in the Federal account from political organizations not registered with the Commission. Upon investigation, these checks were clearly to have been deposited in the State account and no additional notification of these donors was required.

In the process of our investigation, we discovered several problems with our H schedules. These have been corrected and will be reflected on our amended report. In addition, occupation/employer data was inadvertently left off the itemized report. This has been corrected.

Contributions received from the Auditor of the State of Indiana reflect proceeds from the sale of personalized automobile license plates. Thirty dollars of the fees received from these sales are split evenly between the Republican Party and the Democratic Party. This program subsequently provides a contribution of $7.50 from persons purchasing such plates to the Democratic State Committee, and $7.50 to the central committee of the county where the purchases were made. This is similar to a tax check-off plan. These monies are handled by the Auditor of the State and we are provided with breakdown figures by county as to where these plates were purchased but we are not provided, according to Indiana Law, the names or addresses of these individuals. We filed these receipts on the itemized report due to the size of the contributions involved and in keeping with our desire to disclose fully all contributions received.

If you have any additional questions at this time, prior to the submission of our amended report, please contact myself at 317/231-7100.

Sincerely,

Rodney W. Schmisseur
Director of Computer Operations
Indiana Democratic Party

Enclosure

INDIANA DEMOCRATIC STATE
CENTRAL COMMITTEE

CURRENCY	
COIN	
CHECKS	
TOTAL	8710 97

DEPOSIT TICKET DATE 27 Dec 19 91

INB.
INB National Bank
Indianapolis, Indiana

⑆074000052⑆ 05⑈619 521⑈

INDIANA DEMOCRATIC CONGRESSIONAL VICTORY COMMITTEE
P.O. BOX 3366
INDIANAPOLIS, INDIANA 46206

REMITTANCE ADVICE

2236

PAY STATE CENTRAL COM 8710 DOLS 97 CTS DOLLARS

TO THE ORDER OF	DATE	DESCRIPTION	CHECK NO	CHECK AMOUNT
Transfer to State-INB	12/27	INB transfer	2236	8710.97

THE INDIANA NATIONAL BANK
INDIANAPOLIS, INDIANA

⑈002236⑈ ⑆074000052⑆ 34⑈018 875⑈

Transfer of funds from [redacted] organizations not registered as a political committee with FEC as disclosed on initial June 30, 1991 IDCVC disclosure report.

Attachment 6

1991 Year End Report

INDIANA DEMOCRATIC CONGRESSIONAL VICTORY COMMITTEE (C00108613)
ITEMIZED DISBURSEMENTS SCHEDULE B FOR 07/01/91 THRU 12/31/91
PAGE 1 OF 1

01/28/92	PURPOSE	DATE	$ AMOUNT
Advance Printing Company, Incorporated PO Box 1377 Indianapolis, IN 46206-1377 DISBURSEMENT FOR [ ]Primary [ ]General [ ] Other BDAY92	gov bday cards	12/20/91	4,200.00
Advest, Incorporated 280 Trumbull St # 1 Hartford, CT 06103-3501 DISBURSEMENT FOR [ ]Primary [ ]General [ ] Other XFER TO STATE	transfer to ADVEST	12/17/91	10,000.00
Advest, Incorporated 280 Trumbull St # 1 Hartford, CT 06103-3501 DISBURSEMENT FOR [ ]Primary [ ]General [ ] Other XFER TO STATE	transfer to ADVEST	12/13/91	60,000.00
Advest, Incorporated 280 Trumbull St # 1 Hartford, CT 06103-3501 DISBURSEMENT FOR [ ]Primary [ ]General [ ] Other XFER TO STATE	transfer to ADVEST	07/18/91	1,020.00
Indiana Democratic State Committee 1 N Capitol Ave # 1100 Indianapolis, IN 46204-2026 DISBURSEMENT FOR [ ]Primary [ ]General [ ] Other XFER TO STATE	transfer IDP - State	12/31/91	140,658.19
Indiana National Bank 1 Indiana Sq Indianapolis, IN 46204-2001 DISBURSEMENT FOR [ ]Primary [ ]General [ ] Other ADMINISTRATIVE	BANK CHARGES	09/30/91	38.99
Sid Rust Photography 429 E Vermont St Indianapolis, IN 46202-3608 DISBURSEMENT FOR [ ]Primary [ ]General [ ] Other ADMINISTRATIVE	photography	12/20/91	321.40

TOTAL THIS PERIOD $ 216,238.58

SUBTOTAL FOR THIS PAGE 216,238.58

92037293357

RECEIVED
F.E.C.
SECRETARIAT

92 APR 15 AM 11:00

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

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

RAD Referral #92L-3
STAFF MEMBER: Mary Ann Bumgarner

SOURCE OF MUR: I N T E R N A L L Y G E N E R A T E D

RESPONDENTS: Indiana Democratic Congressional Victory Committee and Larry Cummings, as treasurer

RELEVANT STATUTES: 2 U.S.C. § 441b
11 C.F.R. § 102.5

INTERNAL REPORTS CHECKED: Committee Reports

FEDERAL AGENCIES CHECKED: None

I. **GENERATION OF MATTER**

The Reports Analysis Division ("RAD") referred the Indiana Democratic Congressional Victory Committee (the "Committee") and Larry Cummings, as treasurer, to the Office of the General Counsel on February 2, 1992, for the acceptance of contributions totaling $8,710.97 from fourteen (14) unregistered organizations. Attachment 1. This activity occurred during the period covering January 1, 1991 through June 30, 1991.

II. **FACTUAL AND LEGAL ANALYSIS**

The issue presented in this referral is whether the Committee accepted impermissible contributions in violation of 11 C.F.R. § 102.5 and 2 U.S.C. § 441b.

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The Federal Election Campaign Act of 1971, as amended (the "Act"), prohibits any corporation or labor union from making contributions or expenditures in connection with any federal election and prohibits any political committee from knowingly accepting such prohibited contributions or expenditures. 2 U.S.C. § 441b. However, Indiana state election law, the applicable state law in this matter, permits corporate contributions aggregating to $5,000.

According to Commission Regulations, political committees that finance political activity in both federal and non-federal elections may opt to establish a separate federal account. The federal account becomes the federal political committee for purposes of the Act. Only funds subject to the limitations and prohibitions of the Act shall be deposited in the federal account. No transfers may be made to the federal account from any other account maintained by the sponsoring organization for the purpose of financing activity in connection with non-federal elections. 11 C.F.R. § 102.5(a)(1)(i). If the organization uses only one account, then only funds permissible under the Act may be deposited into the account. 11 C.F.R. § 102.5(a)(1)(ii).

In addition, pursuant to 11 C.F.R. § 102.5(b)(1), an organization that is not a political committee under the Act and that makes contributions or expenditures must elect one of two options. One, it must establish a separate account to which only funds subject to the prohibitions and limitations of the Act are deposited and from which contributions and expenditures are made. Or, it must demonstrate through a reasonable accounting method that whenever such organization makes a contribution or expenditure, that organization has received sufficient funds subject to the limitations and prohibitions of the Act to cover said contribution or expenditure.

On December 4, 1991, the Reports Analysis Division ("RAD") mailed a Request for Additional Information ("RFAI") to the Committee requesting a clarification regarding the source of funds for fifteen (15) contributions reported as being received from fourteen (14) unregistered organizations. The mailing advised the Committee that if the contributions were not permissible, it must refund and/or transfer out the impermissible funds. In addition, the mailing advised the Committee that should it choose to refund or transfer the funds, the Commission would presume the funds were impermissible absent a statement from the Committee to the contrary. On December 26, 1991, a second notice was sent to the Committee for the failure to respond to the RFAI.

On January 8, 1992, the Committee responded to the RFAI and stated that it inadvertently deposited into its Federal account contributions from political organizations not registered with the Commission.[1] The Committee states that

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1. According to the referral, one of the unregistered organizations filed a response to a Registration Notice and a Second Notice. The response from the unregistered organization noted it had sent two checks to the state committee, not the federal committee. In fact, in its response to the RFAI, the Committee states that upon investigation of this matter it was

accordingly it transferred the sum of $8,710.97 from its Federal account to its state account. However, the Committee did not offer a statement or provide any evidence to indicate that the transferred funds were permissible contributions at the time they were deposited into the Federal account. The Committee submitted a photocopy of the check used to transfer the $8,710.97 to its state account on December 27, 1991.[2]

The Committee deposited into its Federal account fifteen contributions totaling $8,710.97 from fourteen unregistered committees. Each of the unregistered committees is subject to state election law that permits corporate contributions aggregating to $5,000.[3] In light of the foregoing, it appears that the Committee accepted impermissible contributions in violation of 11 C.F.R. § 102.5 and 2 U.S.C. § 441b.

Therefore, this Office recommends that the Commission find reason to believe that the Indiana Democratic Congressional Victory Committee and Larry Cummings, as treasurer, violated 2 U.S.C. § 441b and 11 C.F.R. § 102.5(a).

(Footnote 1 continued from previous page)
clear that the subject checks were intended for deposit into the Committee's state account.

2. The Committee's 1991 Year End Report did not disclose the transfer of $8,710.97 to the Committee's state account on December 27, 1991. However, the Year End Report disclosed a transfer by the Committee of $140,668.19 to the Indiana Democratic State Committee on December 31, 1991.

3. According to the Indiana State Election Board and the Secretary of State, none of the unregistered committees are incorporated.

III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

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IV. RECOMMENDATIONS

1. Open a MUR.
2. Find reason to believe that the Indiana Democratic Congressional Victory Committee and Larry Cummings, as treasurer, violated 2 U.S.C. § 441b and 11 C.F.R. § 102.5(a).
3. Approve the attached Factual and Legal Analysis and proposed conciliation agreement.
4. Approve the appropriate letter.

Lawrence M. Noble
General Counsel

4/13/92
Date

BY: LGL
Lois G. Lerner
Associate General Counsel

Attachments
1. Referral Materials
2. Factual and Legal Analysis
3. Proposed conciliation agreement

FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

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

DATE: APRIL 21, 1992

SUBJECT: RAD REFERRAL #92L-3 - FIRST GENERAL COUNSEL'S REPORT DATED APRIL 13, 1992.

The above-captioned document was circulated to the Commission on WEDNESDAY, APRIL 15, 1992 4:00 P.M. .

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

Commissioner Aikens	
Commissioner Elliott	XXX
Commissioner McDonald	
Commissioner McGarry	
Commissioner Potter	
Commissioner Thomas	

This matter will be placed on the meeting agenda for TUESDAY, APRIL 28, 1992 .

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

93040983776

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	RAD Referral #92L-3
	)	
Indiana Democratic Congressional Committee and Larry Cummings, as treasurer	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on April 28, 1992, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions with respect to RAD Referral #92L-3:

1. Open a MUR.

2. Find reason to believe that the Indiana Democratic Congressional Victory Committee and Larry Cummings, as treasurer, violated 2 U.S.C. § 441b and 11 C.F.R. § 102.5(a).

3. Approve the Factual and Legal Analysis and proposed conciliation agreement as recommended in the General Counsel's report dated April 13, 1992

93040983777

(continued)

4. Approve the appropriate letter as recommended in the General Counsel's report dated April 13, 1992.

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

Attest:

4-29-92
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 5, 1992

Larry Cummings, Treasurer
Indiana Democratic Congressional
 Victory Committee
P.O. Box 3366
Indianapolis, IN 46206

RE: MUR 3513
Indiana Democratic Congressional
Victory Committee and Larry
Cummings, as treasurer

Dear Mr. Cummings:

On April 28, 1992, the Federal Election Commission found that there is reason to believe the Indiana Democratic Congressional Victory Committee ("Committee") and you, as treasurer, violated 11 C.F.R. § 102.5(a) and 2 U.S.C. § 441b, a provision of the Federal Election Campaign Act of 1971, as amended (the "Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the Committee and you, as treasurer. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against the Committee and you, as treasurer, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

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

93040983779

If you are interested in expediting the resolution of this matter by pursuing preprobable cause conciliation and if you agree with the provisions of the enclosed agreement, please sign and return the agreement, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

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

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Mary Ann Bumgarner, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Joan D. Aikens

Joan D. Aikens
Chairman

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

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Indiana Democratic Congressional Victory Committee and Larry Cummings, as treasurer — MUR 3513

This matter was generated based on information ascertained by the Federal Election Commission (the "Commission") in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2).

The Federal Election Campaign Act of 1971, as amended (the "Act"), prohibits any corporation or labor union from making contributions or expenditures in connection with any federal election and prohibits any political committee from knowingly accepting such prohibited contributions or expenditures. 2 U.S.C. § 441b. However, Indiana state election law, the applicable state law in this matter, permits corporate and labor union contributions aggregating to $5,000.

According to Commission Regulations, political committees that finance political activity in both federal and non-federal elections may opt to establish a separate federal account. The federal account becomes the federal political committee for purposes of the Act. Only funds subject to the limitations and prohibitions of the Act shall be deposited in the federal account. No transfers may be made to the federal account from any other account maintained by the sponsoring organization for the purpose of financing activity in connection with non-federal elections. 11 C.F.R. § 102.5(a)(1)(i). If the organization uses only one account, then only funds permissible under the Act may be deposited into the account. 11 C.F.R. § 102.5(a)(1)(ii).

In addition, pursuant to 11 C.F.R. § 102.5(b)(1), an organization that is not a political committee under the Act and that makes contributions or expenditures must elect one of two options. One, it must establish a separate account to which only funds subject to the prohibitions and limitations of the Act are deposited and from which contributions and expenditures are made. Or, it must demonstrate through a reasonable accounting method that whenever such organization makes a contribution or expenditure, that organization has received sufficient funds subject to the limitations and prohibitions of the Act to cover said contribution or expenditure.

On December 4, 1991, the Reports Analysis Division ("RAD") mailed a Request for Additional Information ("RFAI") to the Committee requesting a clarification regarding the source of funds for fifteen (15) contributions reported as being received from fourteen (14) unregistered organizations. The mailing advised the Committee that if the contributions were not permissible, it must refund and/or transfer out the impermissible funds. In addition, the mailing advised the Committee that should it choose to refund or transfer the funds, the Commission would presume the funds were impermissible absent a statement from the Committee to the contrary. On December 26, 1991, a second notice was sent to the Committee for the failure to respond to the RFAI.

On January 8, 1992, the Committee responded to the RFAI and stated that it inadvertently deposited into its Federal account contributions from political organizations not registered with the Commission. The Committee states that accordingly it transferred the sum of $8,710.97 from its Federal account to its state account. However, the Committee did not offer a statement or provide any evidence to indicate that the transferred funds were permissible contributions at the time they were deposited into the Federal account. The Committee submitted a photocopy of the check used to transfer the $8,710.97 to its state account on December 27, 1991.

The Committee deposited into its Federal account fifteen contributions totaling $8,710.97 from fourteen unregistered committees. Each of the unregistered committees is subject to state election law that permits corporate and labor union contributions aggregating to $5,000. In light of the foregoing, it appears that the Committee accepted impermissible contributions in violation of 11 C.F.R. § 102.5 and 2 U.S.C. § 441b. Therefore, there is reason to believe the Indiana Democratic Congressional Victory Committee and Larry Cummings, as treasurer, violated 2 U.S.C. § 441b and 11 C.F.R. § 102.5(a).

OGC 4599

Indiana Democratic Party

One North Capitol ★ Indianapolis, Indiana 46204 ★ 317/231-7100 ★ Fax 317/231-7129

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 MAY 14 PM 4:02

May 11, 1992

Joan D. Aikens
Federal Election Commission
Washington, D.C. 20463

Re: MUR 3513
Indiana Democratic Congressional Victory Committee and Larry Cummings, as treasurer

Dear Ms. Aikens:

In response to your May 5, 1992, letter concerning the above matter, we are submitting the following chronology of events.

December 4, 1991: Indiana Democratic Congressional Victory Committee received a letter from the Reports Analysis Division, requesting a clarification regarding the source of funds for fifteen contributions reported as being from fourteen organizations. The mailing advised the Indiana Democratic Congressional Victory Committee that we could choose to transfer the funds if the contributions were not permissible.

Personnel at the Indiana Democratic Congressional Victory Commitee were under the belief that since contributions from the organizations in question were permitted in individual campaigns, they would likewise be permitted in deposits to state committees.

December 26, 1991: A second notice was sent to us as follow-up on a telephone conversation with David J. Weidman. In late December, Mr. Weidman had explained to us that "extensions" are not given for response time, but that we would receive a second notice in the mail.

January 6, 1992: Indiana Democratic Congressional Victory Committee sent (via fax machine) a copy of the transferred funds to Mr. John D. Gibson at the Federal Election Commission.

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January 8, 1992: A letter of explanation of the transferred funds was received by the Federal Election Commission, as well as an amended report reflecting those transfers. The letter of explanation states that the contributions in question were inadvertently deposited in the Federal account, and consequently were transferred-out per instructions from the Federal Election Commission.

May 5, 1992: The Indiana Democratic Congressional Victory Committee received notice from the Federal Election Commission that the Committee "violated 11 C.F.R. 102.5(a) and 2 U.S.C. 441(b)." Since the Indiana Democratic Congressional Victory Committee previously and promptly took appropriate actions to transfer-out the contributions in question, and since the Indiana Democratic Congressional Victory Committee promptly notified the Federal Election Commission of the corrective actions, we feel that any further actions are unwarranted.

Sincerely yours,

Ann M. DeLaney

Ann M. DeLaney
Executive Director

AMD/mam

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92 SEP 21 AM 11:01

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of)
)
Indiana Democratic Congressional) MUR 3513
Victory Committee and Larry)
Cummings, as treasurer)

GENERAL COUNSEL'S REPORT

The Office of the General Counsel is prepared to close the investigation in this matter as to the above named respondents, based on the assessment of the information presently available.

9/18/92
Date

Lawrence M. Noble
General Counsel

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RECEIVED
F.E.C.
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92 OCT 16 PM 3:11

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

October 16, 1992

Ms. Ann M. DeLaney, Executive Director
Indiana Democratic Party
One North Capitol
Indianapolis, Indiana 46204

RE: MUR 3513
Indiana Democratic Congressional Victory Committee and Larry Cummings, as treasurer

Dear Ms. DeLaney:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, on April 28, 1992, the Federal Election Commission found reason to believe that the Indiana Democratic Congressional Victory Committee and Larry Cummings, as treasurer, violated 2 U.S.C. § 441b and 11 C.F.R. § 102.5(a) and instituted an investigation in this matter.

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

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten copies if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

Should you have any questions, please contact Mary Ann Bumgarner, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Brief

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Indiana Democratic Congressional	)	MUR 3513
Victory Committee and Larry Cummings,	)	
as treasurer	)	

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On April 28, 1992, the Federal Election Commission (the "Commission") found reason to believe that the Indiana Democratic Congressional Victory Committee and Larry Cummings, as treasurer ("Respondents"), violated 11 C.F.R. § 102.5(a) and 2 U.S.C. § 441b, a provision of the Federal Election Campaign Act of 1971, as amended (the "Act").

II. LEGAL ANALYSIS

The Act prohibits any corporation or labor union from making contributions or expenditures in connection with any federal election and prohibits any political committee from knowingly accepting such prohibited contributions. 2 U.S.C. § 441b. However, Indiana state election law, the applicable state law in this matter, permits corporate and labor union contributions in state elections.

Pursuant to 11 C.F.R. § 102.5(a)(1), a political committee has two alternatives to ensure that prohibited monies are not used in connection with federal elections. It may establish a single account for both federal and non-federal activity, with such an account containing only contributions subject to the prohibitions and limitations of the Act. Or, it may establish a separate federal account for federal activity and a second account for state and local election activity. Pursuant to 11 C.F.R. § 102.5(a)(1)(i), only funds subject to the prohibitions and limitations of the Act may be deposited into the separate federal account.

In addition, pursuant to 11 C.F.R. § 102.5(b)(1), an organization that is not a political committee under the Act and that makes contributions or expenditures must elect one of two options. It may establish a separate account to which only funds subject to the prohibitions and limitations of the Act are deposited and from which contributions and expenditures are made. Or, it may demonstrate through a reasonable accounting method that whenever such organization makes a contribution or expenditure, that organization has received sufficient funds subject to the limitations and prohibitions of the Act to cover said contribution or expenditure.

On December 4, 1991, the Reports Analysis Division ("RAD") mailed a Request for Additional Information ("RFAI") to the Committee requesting a clarification regarding the source of funds for fifteen (15) contributions reported as being received from fourteen (14) unregistered organizations. The mailing advised the Committee that if the contributions were not permissible under the Act, it must refund and/or transfer out the impermissible funds. In addition, the mailing advised the Committee that should it choose to refund or transfer the funds, the Commission would presume the funds were impermissible absent a statement from the Committee to the contrary. On December 26, 1991, a second notice was sent to the Committee for failure to respond to the earlier RFAI.

On January 8, 1992, the Committee responded to the RFAI and stated that it inadvertently deposited into its federal account contributions from political organizations not registered with the Commission.[1] The Committee states that it accordingly transferred the sum of $8,710.97 from its federal account to its state account. However, the Committee did not offer a statement or provide any evidence to indicate that the transferred funds were permissible contributions under the Act at the time they were deposited into the federal account. The Committee submitted a photocopy of the check used to transfer the $8,710.97 to its state account on December 27, 1991.[2]

On May 11, 1992, Ann M. DeLaney, Executive Director of the Indiana Democratic Party, responded to the Commission's findings on behalf of Respondents. In her response, Ms. DeLaney provided a chronology of the events leading to the transfer of the contributions in question. Ms. DeLaney

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1. According to the referral, one of the unregistered organizations filed a response to a Registration Notice and a Second Notice. The response from the unregistered organization noted it had sent two checks to the state committee, not the federal committee. In fact, in its response to the RFAI, the Committee stated that upon investigation of this matter it was clear that the subject checks were intended for deposit into the Committee's state account.

2. The Committee's 1991 Year End Report did not disclose the transfer of $8,710.97 to the Committee's state account on December 27, 1991. However, the Year End Report disclosed a transfer by the Committee of $140,668.19 to the Indiana Democratic State Committee on December 31, 1991.

acknowledges receipt of the RFAI from RAD on December 4, 1991. However, according to Ms. DeLaney, personnel at the Committee were under "the belief that since contributions from the organizations in question were permitted in individual campaigns, they would likewise be permitted in deposits to state committees."[3] Ms. DeLaney also acknowledges receipt of the second notice from RAD dated December 26, 1991. She states that this notice was sent as a follow-up to a telephone conversation with a RAD analyst in which the analyst stated that "extensions are not given for response time, but we would receive a second notice in the mail." On January 6, 1992, Ms. DeLaney states that the Committee sent by facsimile a copy of the list of transferred funds to the Commission. On January 8, 1992, Ms. DeLaney states that a letter of explanation for the transferred funds was received by the Commission, as well as the appropriate amended reports. The letter of explanation stated that the "contributions in question were inadvertently deposited in the Federal account, and consequently were transferred-out per instructions from the Federal Election Commission." Based on the foregoing, Ms. DeLaney argues that since the Committee previously and promptly took appropriate actions to transfer the contributions in question and since the Committee appropriately notified the Commission of the corrective actions, no further actions are warranted.

3. Ms. DeLaney does not elaborate on this point and it is not clear to this Office the meaning behind this statement.

While Respondents eventually transferred the contributions in question from its federal account, it did not do so until approximately eight months after receipt of the contributions.[4] Furthermore, Respondents have not provided a statement to indicate that the transferred funds were permissible contributions at the time they were deposited into the federal account. Thus, the eventual transfer of these contributions from the federal to the state account serves only to mitigate, not erase, the violations by Respondents in this matter. Therefore, the fact remains that the Committee deposited into its federal account fifteen contributions totaling $8,710.97 from fourteen unregistered committees. Each of the unregistered committees was subject to state election law that permitted corporate and labor union contributions in state elections.

In light of the foregoing, the Committee accepted impermissible contributions in violation of 11 C.F.R. § 102.5(a) and 2 U.S.C. § 441b. Therefore, this Office recommends that the Commission find probable cause to believe that the Indiana Democratic Congressional Victory Committee and

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4. Based on the Committee's 1991 Year End Report, which covers the applicable time period in this matter, it appears that the Committee used at least some portion of the $8,710.97 in impermissible funds deposited into its federal account during April of 1991. According to that report, which covers 7/1/91 through 12/31/91, the Committee made disbursements totaling $384,622.27 and had total receipts plus cash on hand totaling $385,268.27. Thus, the Committee had only $646 in cash on hand at the end of the reporting period.

Larry Cummings, as treasurer, violated 2 U.S.C. § 441b and 11 C.F.R. § 102.5(a).

III. RECOMMENDATION

1. Find there is probable cause to believe that the Indiana Democratic Congressional Victory Committee and Larry Cummings, as treasurer, violated 2 U.S.C. § 441b and 11 C.F.R. § 102.5(a).

10/15/92
Date

Lawrence M. Noble
General Counsel

Staff Member: Mary Ann Bumgarner

93040983794

Indiana Democratic Party

One North Capitol ★ Indianapolis, Indiana 46204 ★ 317/231-7100 ★ Fax 317/231-7129

RECEIVED FEDERAL ELECTION COMMISSION MAIN COPY ROOM

OCT 27 11 18 AM '92

October 21, 1992

Lawrence M. Noble, General Counsel
Federal Election Commission
999 E Street NW
Washington, DC 20463

Re: MUR 3513
Indiana Democratic Congressional Victory Committee and Larry Cummings, as treasurer

RECEIVED FEDERAL ELECTION COMMISSION

92 OCT 27 PM 3:54

Dear Mr. Noble:

In reference to the above stated matter, I am writing to request an extension of time to submit a responsive brief. Your letter to us, dated October 16, 1992, indicated that a response is due with in 15 days, or October 31st. Since that deadline falls only three days before the general election and our staff is already working at maximum capacity, I request the maximum extension of time.

Should you have any questions, please feel free to contact me at (317) 231-7100.

Sincerely,

Ann M. Delaney

Ann M. Delaney
Executive Director

cc: Mary Ann Baumgarner

Enclosure

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 29, 1992

Ms. Ann M. DeLaney, Executive Director
Indiana Democratic Party
One North Capitol
Indianapolis, Indiana 46204

RE: MUR 3513
Indiana Democratic Congressional Victory Committee and Larry Cummings, as treasurer

Dear Ms. DeLaney:

This is in response to your letter dated October 21, 1992, which we received on October 26, 1992, requesting an extension of time to respond to the General Counsel's Brief. After considering the circumstances presented in your letter, the Office of the General Counsel has granted you an extension of twenty days to respond in this matter. Accordingly, your response is due by the close of business on November 23, 1992.

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

Sincerely,

Mary Ann Bumgarner

Mary Ann Bumgarner
Attorney

93040983796

Indiana Democratic Party

One North Capitol ★ Indianapolis, Indiana 46204 ★ 317/231-7100 ★ Fax 317/231-7129

November 9, 1992

Lawrence M. Noble, General Counsel
Federal Election Commission
999 E Street NW
Washington, DC 20463

Re: MUR 3513
Indiana Democratic Congressional Victory Committee and Larry Cummings, as treasurer

Dear Mr. Noble:

As stated in our previous correspondence concerning MUR-3513, The Indiana Democratic Congressional Victory Committee maintains that no further action is necessary since all actions mandated by the Federal Election Commission have been accurately executed within the time limits required, and the Committee appropriately notified the Commission of the corrective actions.

While most of the information contained in the "General Counsel's Brief" correctly follows the chronology of events, there are three statements that need clarification.

First, we never argued that the funds were permissible under the Federal Election Campaign Act. When the monies in question were initially deposited, it was our belief that they were permissible. This assumption was based on the fact since the same monies were permissible for individual federal candidates, they were permissible for state committees. Once the FEC notified us in December 1991 that they were not permissible, we immediately withdrew the funds, as directed by the FEC.

Second, the "General Counsel's Brief" states that the Committee "...used at least some portion of the $8710.97 in impermissible funds...". While our cash on hand on December 31, 1991 was $646, the $8710.97 transferred out was included in the disbursements figure for the period (as part of the $140,668.19 "Transfer to State" on Schedule B. Therefore, the Committee did not use any portion of the impermissible funds.

Third, the "General Counsel's Brief" states that "while Respondents eventually transferred the contributions in question from its federal account, it did not do so until approximately eight months after receipt of the contributions." As stated above, the Committee was unaware that the funds were impermissible until notified by the FEC in a letter dated December 4, 1991. After consultation with the FEC, the Committee was notified that said funds were impermissible and as a result the Committee immediately transferred the funds out of the federally-qualified account.

Finally, in 1991 there were no federal or state elections in Indiana. All the Committee's actions have been carried out in good faith, and never with any intention to avoid the law.

Respectfully submitted,

Ann M. DeLaney
Executive Director

MUR # 3513

ADDITIONAL DOCUMENTS WILL BE ADDED TO THIS FILE AS THEY BECOME AVAILABLE. PLEASE CHECK FOR ADDITIONAL MICROFILM LOCATIONS.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3513

DATE FILMED 10/28/93 CAMERA NO. 2

CAMERAMAN MC

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

✓ Microfilm

Public Rcds

Press

THE FOLLOWING DOCUMENTATION IS ADDED TO

THE PUBLIC RECORD IN CLOSED MUR 3513.

12/10/93

THE READER IS REFERRED TO ADDITIONAL MICROFILM LOCATIONS

FOR THE FOLLOWING DOCUMENTS PERTINENT TO THIS CASE

1. Memo, General Counsel to the Commission, dated September 22, 1992, Subject: Priority System Report. <u>See</u> Reel 354, pages 1590-94.

2. Memo, General Counsel to the Commission, dated April 14, 1993, Subject: Enforcement Priority System. <u>See</u> Reel 354, pages 1595-1620.

3. Certification of Commission vote, dated April 28, 1993. <u>See</u> Reel 354, pages 1621-22.

4. General Counsel's Report, In the Matter of Enforcement Priority, dated December 3, 1993. <u>See</u> Reel 354, pages 1623-1740.

5. Certification of Commission vote, dated December 9, 1993. See Reel 354, pages 1741-1746.

FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

DEC 10 1993

Ann M. DeLaney, Executive Director
Indiana Democratic Congressional
Victory Committee
One North Capitol
Indianapolis, IN 46204

RE: MUR 3513
Indiana Democratic Congressional
Victory Committee and
Douglas B. England, as treasurer

Dear Ms. DeLaney:

On May 5, 1992, the Indiana Democratic Congressional Victory Committee and its treasurer were notified that the Federal Election Commission had found reason to believe they had violated 2 U.S.C. § 441b and 11 C.F.R. § 102.5(a).

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no further action against the Indiana Democratic Congressional Committee and Douglas B. England, as treasurer. See attached narrative. Accordingly, the Commission closed its file in this matter.

The confidentiality provisions at 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 before receipt of your additional materials, any permissible submissions will be added to the public record when they are received.

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

Sincerely,

Mary Ann Bumgarner

Mary Ann Bumgarner

Attachment
Narrative

Date the Commission voted to close the file: DEC 09 1993

MUR 3513
Indiana Democratic Congressional Committee

This matter resulted from a Reports Analysis Division Referral. According to the referral, the Committee and its treasurer accepted 15 impermissible contributions from 14 unregistered organizations during 1991. The amount involved totals $8,710. The Committee stated that it inadvertently deposited the impermissible contributions into its Federal account, but transferred these contributions from that account per instructions from the Reports Analysis Division. On April 28, 1992, the Commission found reason to believe that the Indiana Democratic Congressional Victory Committee and Larry Cummings, as treasurer, violated 11 C.F.R. § 102.5(a) and 2 U.S.C. § 441b by accepting contributions totaling $8,710.97 from fourteen (14) unregistered organizations.

This matter has little or no impact on the process, reflects no indication of serious intent by respondents to violate the FECA, involves no significant issue relative to the other issues pending before the Commission, involves insubstantial amounts of money, and reflects significant remedial action.