



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 3527

DATE FILMED 6/23/93 CAMERA NO. 4

CAMERAMAN E.E.S.

93040943712

OGC4727

Kevin Sweeney
156 S. Laurel Street, #24
Ventura, CA 93001
(805) 643-2750 (h)
(805) 652-1992 (w)

mu e 3527-

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 MAY 26 PM 1:36

May 22, 1992

General Counsel
Federal Election Commission
999 E Street N.W.
Washington, DC 20463

Dear General Counsel:

In response to a May 20, 1992 letter from Retha Dixon, Docket Chief, in which she requested that I resubmit the complaint so that the jurat specifically include the phrase "subscribed and sworn to before me....," I am filing this ammended complaint. Please note that this regards an election taking place June 2.

I. Introduction

Pursuant to 2 U.S.C. §437g(a)(1) and 11 C.F.R. §111.4, I am filing this written complaint against Anita Perez Ferguson ("Ms. Ferguson"), a candidate for the United States House of Representatives from the 23rd Congressional District of California, and Anita for Congress (the "Committee"), for violations of the Federal Election Campaign Act, 2 U.S.C. §431 et seq. ("FECA"). Ms. Ferguson and/or the Committee have violated the FECA in two separate ways. I expressly request that the Federal Election Commission ("FEC") take action as quickly as possible because the violations will likely have a direct impact on the upcoming California primary election, which will take place on June 2, 1992.

93040943713

II. General Facts

The factual background is as follows. As noted, Ms. Ferguson is a candidate for the United States House of Representatives from the 23rd Congressional District of California. This is her second federal race. She also was a candidate for the United States House of Representatives from the 19th Congressional District of California in 1990. The Committee was the authorized principal campaign committee for Ms. Ferguson's 1990 campaign. While it has not been designated as such, I am informed and believe that the Committee is serving as Ms. Ferguson's principal campaign committee for Ms. Ferguson's present Congressional campaign. Its identification number is 135445.

I am informed and believe based upon Ms. Ferguson's campaign reports that she became a candidate in that she received \$5,000 or more on or about February 5, 1992. As discussed below, I am informed and believe that she has yet to designate a principal campaign committee. As discussed below, that is a violation of the FECA.

In a letter dated January 2, 1991, to the Committee, the FEC stated that the Committee had received a contribution from the Cincuentenario, Partido Popular Democratico in the amount of \$5,000, that the limit from that group was \$1,000, that \$4,000 must be refunded, and that "[a]ll refunds and redesignations must be made within sixty days of the treasurer's receipt of the contribution." I am informed and believe that, although the Committee has raised money well in excess of the \$4,000, the \$4,000 has yet to be refunded. The Committee's March 31, 1992 report shows this \$4,000 as a debt. The same report shows that she has raised funds well in excess of \$4,000 and could have refunded the \$4,000. Instead, she used the money to pay, for example, several political consultants.

The Committee and the treasurer of the Committee were the subject of a conciliation agreement and fine for violations of 2 U.S.C. §434(a)(6)(A) for failing to file 48-Hour Notices for five contributions in connection with her 1990 race for the United States House of Representatives from the 19th Congressional District of California. See In the Matter of Anita for Congress and Virginia R. Patterson, as Treasurer, MUR 3434. The Committee and the treasurer agreed to pay a \$2,000 penalty for those violations.

93040943714

III. FECA Violations

A. The Committee Has Yet to Repay a Contribution over the Legal Limit Received More Than 18 Months Ago -- Despite the Financial Wherewithal to Do So.

First of all, it appears that Ms. Ferguson and/or the Committee have violated 2 U.S.C. §441a(a) and (f) and 11 C.F.R. §110.1(b), by accepting a contribution in excess of \$1,000 and not refunding the amount in excess within 60 days.

As the FEC doubtless is aware, 2 U.S.C. §441a(a) provides in pertinent part that no person shall make a contribution to a candidate and her authorized committee with respect to any election which in the aggregate exceeds \$1,000. Section 441a(f) provides that no candidate or political committee shall knowingly accept any contribution in violation of the FECA. A contribution in excess must be refunded within 60 days. 11 C.F.R. §110.1(b),

As noted above, the committee received a \$5,000 contribution from Cincuentenario, Partido Popular Democratico on or about Oct. 24, 1990. The FEC brought this to Ms. Ferguson's attention in a letter dated January 2, 1991. In that letter, the FEC explained that the \$4,000 in excess of the limits must be refunded within 60 days.

The Committee's March 31, 1992 report makes clear both that the Committee had not refunded the \$4,000 by that date and that ample funds were available to refund the illegal contribution had Ms. Ferguson chosen to do so. Ms. Ferguson has not refunded that amount for at least 18 months. She and the Committee have violated 2 U.S.C. §441a(a) and (f).

B. Ms. Ferguson Has Failed Timely To Designate A Principal Campaign Committee.

Second, Ms. Ferguson has violated the FECA by failing to designate a principal campaign committee within 15 days of her becoming a candidate.

93040943715

93040943716

An individual becomes a candidate when, among other circumstances, she has received contributions aggregating in excess of \$5,000 or made expenditures in excess of \$5,000. 11 C.F.R. §100.3(a). Within 15 days after becoming a candidate, the candidate must designate a principal campaign committee. *Id.* at §101.1(a). That may be done either by filing a Statement of Candidacy or a letter containing the same information. *Id.* at §§101.1(a) and 102.12(a).

Based upon Ms. Ferguson's March 31, 1992, report, Ms. Ferguson received \$5,000 and therefore became a candidate on or about February 5, 1992. Thus, she should have designated her principal campaign committee by February 18. She has never filed a form Statement of Candidacy. On April 16, 1992, she filed a letter with the FEC informing the FEC that she is a candidate. That letter, however, was well past the February 18 deadline, and in any event *did not designate a principal campaign committee.*

By failing to designate a principal campaign committee by approximately February 18, 1992, Ms. Ferguson has violated the provisions of the FECA.

IV. Request for Expedited Consideration

These violations deserve the FEC's immediate attention for the following reasons:

Ms. Ferguson's failure to refund \$4,000 that she improperly obtained allows that amount to be used in an election to be held less than three weeks from now;

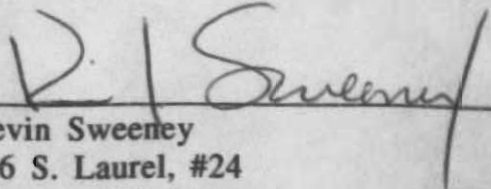
Ms. Ferguson and/or the Committee have demonstrated a pattern of continued violations, a pattern begun in connection with her 1990 campaign and continuing to this day;

It therefore is respectfully requested that action be taken quickly enough so that she is forced to take action before the election on June 2.

V. Conclusion

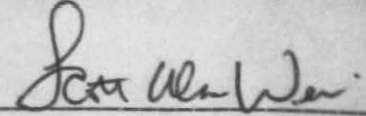
For the reasons set forth above, the FEC should find reason to believe that Ms. Ferguson and/or the Committee have violated the FECA and should take whatever steps are necessary, including injunctive action, to stop and correct these violations.

I affirm under penalty of perjury that the foregoing is true and correct to be best of my knowledge and belief.


Kevin Sweeney
156 S. Laurel, #24
Ventura, CA 93001

STATE OF CALIFORNIA, County of Ventura:

Subscribed and sworn to before me this 22 day of May, 1992.


Notary Public

My commission expires 11-20-92.



93040943717



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

May 27, 1992

Kevin Sweeney
156 S. Laurel Street #24
Ventura, CA 93001

RE: MUR 3527

Dear Mr. Sweeney:

This letter acknowledges receipt on May 26, 1992, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by Anita Perez Ferguson, Anita for Congress, and Marcelline I. Curran, as treasurer, and Cincuentenario, Partido Popular Democratico and its 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 3527. 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, reading "Jonathan A. Bernstein", is written over the typed name.

Jonathan A. Bernstein
Assistant General Counsel

Enclosure
Procedures

93040943718



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

May 27, 1992

Anita for Congress
Marcelline I. Curran, Treasurer
P.O. Box 7437
Oxnard, CA 93030

RE: MUR 3527

Dear Ms. Curran:

The Federal Election Commission received a complaint which indicates that Anita for Congress ("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 3527. Please refer to this number in all future correspondence.

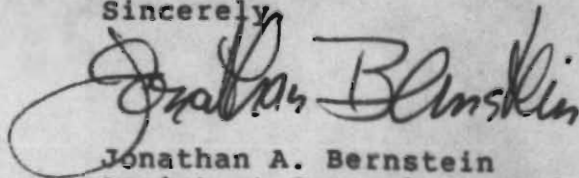
Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the Committee and you, as treasurer, in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements 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.

93040943719

If you have any questions, please contact Helen Kim, the attorney 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,

A handwritten signature in dark ink, appearing to read "Jonathan A. Bernstein". The signature is fluid and cursive, with the first name "Jonathan" and last name "Bernstein" clearly distinguishable.

Jonathan A. Bernstein
Assistant General Counsel

Enclosures

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

93040943720



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 27, 1992

Anita Perez Ferguson
1025 Rosewood Drive
Oxnard, CA 93030

RE: MUR 3527

Dear Ms. Ferguson:

The Federal Election Commission received a complaint which indicates that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3527. Please refer to this number in all future correspondence.

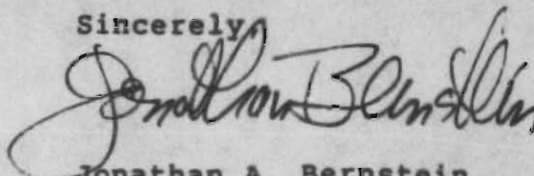
Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under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

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

23040943721

If you have any questions, please contact Helen Kim, the attorney 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,



Jonathan A. Bernstein
Assistant General Counsel

Enclosures

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

93040943722



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

May 27, 1992

Cincuentenario
Partido Popular Democratico and its Treasurer
Apartado 5788, Puerta de Tierra
Puerto Rico 00906

RE: MUR 3527

Dear Sir/Madam:

The Federal Election Commission received a complaint which indicates that Cincuentenario, Partido Popular Democratico ("Organization") 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 3527. Please refer to this number in all future correspondence.

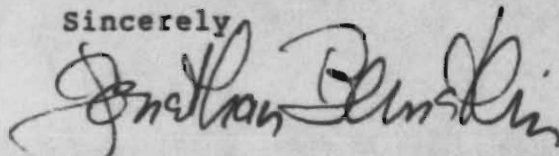
Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the Organization and you, as treasurer, in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, 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.

93040943723

If you have any questions, please contact Helen Kim, the attorney 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



Jonathan A. Bernstein
Assistant General Counsel

Enclosures

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

93040943724

PERKINS COIE

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
607 FOURTEENTH STREET, N.W. • WASHINGTON, D.C. 20005-2011 • (202) 628-6600

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

JUN 15 1 00 PM '92

June 11, 1992

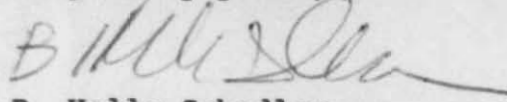
Helen Kim, Esq.
Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: MUR 3527

Dear Ms. Kim:

On behalf of Anita Perez Ferguson for Congress and Virginia R. Patterson, as Treasurer, we request an extension of time to respond to the complaint filed in this MUR. Due to the recent designation of Perkins Coie as counsel (attached), we do not have an adequate opportunity to respond. An extension of time is necessary in order to review the record, have an adequate opportunity to discuss the issues with our client, collect factual information, and prepare a comprehensive response. Therefore we are requesting an extension until July 7, 1992.

Very truly yours,



B. Holly Schadler

Attachment

BHS:mah

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 JUN 15 PM 3:21

93040943725

[09901-9700/DA921630.038]

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3527

NAME OF COUNSEL: Judith M. Corley; B. Holly Schadler

ADDRESS: C/O Perkins Cole

607 14th street N.W.

Washington, D.C. 20005-2011

TELEPHONE: (202) 638-6200

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 JUN 15 PM 3:21

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.

June 3, 1992
Date

AP Ferguson
Signature

RESPONDENT'S NAME: Anita Peren Ferguson for Congress and
Virginia R. Patterson, Treasurer

ADDRESS: P.O. Box 24361
Ventura, CA 9002

HOME PHONE: _____

BUSINESS PHONE: 805/643-0595

93040943726



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 18, 1992

B. Holly Schadler
Perkins Coie
607 Fourteenth Street, N.W.
Washington, D.C. 20005

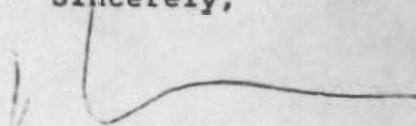
RE: MUR 3527
Anita Perez Ferguson and
Anita for Congress and
Marcelline I. Curran, as
treasurer

Dear Ms. Schadler:

This is in response to your letter dated June 11, 1992, which we received on June 15, 1992, requesting an extension until July 7, 1992 to respond to the complaint in the above captioned 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 July 7, 1992.

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

Sincerely,


Helen J. Kim
Attorney

93040943727

10/11/92 3527

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

06C-#4231

JUN 23 10 32 AM '92

COMISION ESTATAL DE ELECCIONES
ESTADO LIBRE ASOCIADO DE PUERTO RICO

LCDO. JOSE ARIEL NAZARIO
Comisionado Partido Popular Democrático

June 22, 1992

Ms. Helen Kim
Attorney
Federal Election Commission
Washington, D.C. 20463

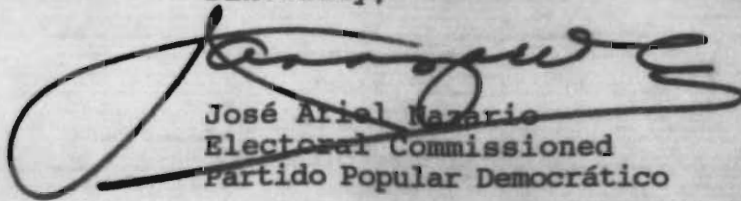
Dear Ms. Kim:

I am enclosing all the documents related to the Anita Pérez Ferguson's case. Such documents relate to the issue that was brought to our attention in January of 1991, concerning the five thousand dollars (\$5,000.00) donation given to Anita Pérez by Partido Popular Democrático. As you can observe throughout the letters, the former Secretary of Partido Popular, Edualdo Baez Galib, explained the situation to Mr. Eric S. Brown, on a letter dated on February 27, 1991.

After everything was explained throughout the correspondence and telephone conferences, the case was closed. No complaint was ever filed due to the reality that Partido Popular lack any interest to influence any federal candidacy.

If you have any questions or further explanations are requested related to this matter, please feel free to contact me. My thelephone number is (809) 725-1717.

Sincerely,


José Ariel Nazario
Electoral Commissioned
Partido Popular Democrático



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

February 14, 1991

Treasurer
Cincuentenario Partido Popular
Democratico
Apartado 5788, Puerta de Tierra
Puerto Rico, USA 00906

Dear Treasurer:

This is to inform you that as of this date, the Commission has not received your response to our letter dated January 2, 1991. Our letter notified you that a review of reports filed with the Commission indicates that your organization may have made expenditures which qualify it as a political committee. Enclosed is a copy of our original letter.

Although we have not received a response from your organization, please note that a response was received from the Anita for Congress Committee. However, Anita for Congress states your committee is registered with an assigned F.E.C. identification number. A study of the Commission's records indicate that no such registration of your Committee occurred.

If no response is received within fifteen (15) days from the date of this notice, the Commission may choose to initiate legal action to ensure compliance with the Act.

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

Sincerely,

John D. Gibson
Assistant Staff Director
Reports Analysis Division

Enclosure

93040943729

Partido Popular Democratico

March 5, 1991

Ms. Virginia R. Patterson
Treasurer
Anita for Congress
P.O. Box 22604
Santa Bárbara, California, 93121

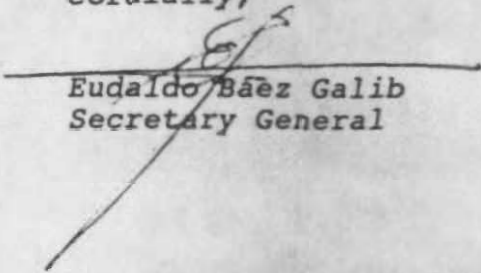
Dear Ms. Patterson:

The Federal Election Commission, recently informed us that a contribution given to the Anita for Congress Committee, exceeded the maximum allowed amount for federal candidacies.

Attached is a copy of said letter and our response. Please note our answer to the FEC, which is self explanatory. It was not the intention of the Popular Democratic Party to exceed said maximum amount, specially when it is not the policy of our Party to influence any federal election. In fact, as a local party, we do not wish to be entertained as such.

In case further information is needed, do not hesitate to get in contact with my office. Our telephone number is (809) 725-1992, x 410-310. Thank you for your cooperation.

Cordially;


Eudaldo Báez Galib
Secretary General

cc: Mr. Eric S. Brown
Federal Election Commission



Partido Popular Democrático
Oficina del Secretario

February 27, 1991

Mr. Eric S. Brown
Reports Analysis Division
Federal Election Commission
Washington, D.C. 20463

Dear Mr. Brown:

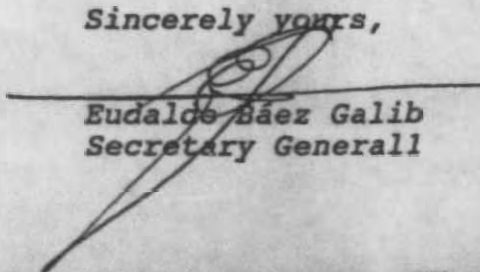
We received your letter where you inform us of a contribution made by Cincuentenario, Partido Popular Democrático, to a Committee named "Anita for Congress". Said contribution was for the amount of Five Thousand (\$5,000.00) Dollars, for which reason you state we must comply with the Federal Election Campaign Act.

Our Party is not registered with you since it is not our intention to influence federal candidacies and after investigating the situation brought by you it has been determined that the check was drawn to a name--Anita Pérez--which did not imply a federal campaign, please note that the Committee filing a financial report as recipient is "Anita for Congress", which is different to the one printed on the check.

As we do not wish to influence said candidacies, I believe our course of action should be to request of Anita Pérez, a refund of said amount or that she transfer the funds to an account not used to influence federal elections. A letter to that effect will be immediately mailed as soon as we know of her address, which we are actively investigating. A copy of that letter will be sent to your office.

A sooner response to you January 22, letter was not possible since we do not usually contribute to candidates and thus our administrative personnel is unfamiliar with this F.E.C. procedures and were at a loss in the subject. It was today that the letter was brought to my attention and for which reason I telephoned you.

Sincerely yours,


Eudalce Báez Galib
Secretary General

9304043731



Cincuentenario

Apartado 5782, Puerto de Tierra, Puerto Rico 00904

BANCO POPULAR DE PUERTO RICO
Sucursal de Puerto de Tierra
San Juan, Puerto Rico

Y LIBERIDAD 5000 DOL. 00 CTS

Páguese

Dólares \$ 5,000.00

A
La Orden
De

ANITA PEREZ

CB #2502
OCT 22 '90

[Handwritten signature]

Núm. 0177237

101-201
218

15 de octubre de 19 90

#0177237# #02150201# 012#009563#

#0000500000

2 3 4 5 6 0 4 0 3 6

93040943733

ES6000227

ES030006

ATNY 12/24/2004
07 11/20/12 12:00 PM 1200 N. 7TH ST.
SANCO POPULAR DE LA 18 900 17 10/22/90
PMTD 100605444
PUERTO RICO

066601

DT 105
0214-0980-0000
COUNTY BANK OF P.R.
COUNTY BANK

the within named payee
County Bank

FOR DOCUMENT SHIPMENTS ONLY —
INTERNATIONAL & BETWEEN THE U.S. & PUERTO RICO

Date of Shipment

MM/DD/YY

Company Name _____

~~(809) 725-1992~~

From (Sander's Name)

PARTIDO POPULAR REPUBLICANO

Street Address (No P.O. Box Allowed)

401 PENCE PL. BIRMINGHAM, ALA

Future Actions

2230

City/Town	State/Province	Country	ZIP/Postal Code
-----------	----------------	---------	-----------------

SAY IT

22

100

SERVICES (Not All Services Available To All Countries)

SPECIAL HANDLING

☐ Priority Mail	☒ Registered Mail	☐ Insured Mail	☐ Signature Required	☐ Restricted Insurance	☐ Return Receipt
☐ Standard Mail	☐ Certified Mail	☐ Signature Confirmation	☐ Adult Signature Required	☐ Restricted Insurance	☐ Return Receipt

(Mark Check One)

No. Of Pages	Weight	Year	Description of Documents	Country Of	Declared Value	Declared Value	Comments
--------------	--------	------	--------------------------	------------	----------------	----------------	----------

Order #	Qty	Part #	Description	Unit Price	Total Price	Notes
1	1	100-100	100-100	100.00	100.00	
2	1	100-100	100-100	100.00	100.00	
3	1	100-100	100-100	100.00	100.00	
4	1	100-100	100-100	100.00	100.00	
5	1	100-100	100-100	100.00	100.00	
6	1	100-100	100-100	100.00	100.00	
7	1	100-100	100-100	100.00	100.00	
8	1	100-100	100-100	100.00	100.00	
9	1	100-100	100-100	100.00	100.00	
10	1	100-100	100-100	100.00	100.00	
11	1	100-100	100-100	100.00	100.00	
12	1	100-100	100-100	100.00	100.00	
13	1	100-100	100-100	100.00	100.00	
14	1	100-100	100-100	100.00	100.00	
15	1	100-100	100-100	100.00	100.00	
16	1	100-100	100-100	100.00	100.00	
17	1	100-100	100-100	100.00	100.00	
18	1	100-100	100-100	100.00	100.00	
19	1	100-100	100-100	100.00	100.00	
20	1	100-100	100-100	100.00	100.00	
21	1	100-100	100-100	100.00	100.00	
22	1	100-100	100-100	100.00	100.00	
23	1	100-100	100-100	100.00	100.00	
24	1	100-100	100-100	100.00	100.00	
25	1	100-100	100-100	100.00	100.00	
26	1	100-100	100-100	100.00	100.00	
27	1	100-100	100-100	100.00	100.00	
28	1	100-100	100-100	100.00	100.00	
29	1	100-100	100-100	100.00	100.00	
30	1	100-100	100-100	100.00	100.00	
31	1	100-100	100-100	100.00	100.00	
32	1	100-100	100-100	100.00	100.00	
33	1	100-100	100-100	100.00	100.00	
34	1	100-100	100-100	100.00	100.00	
35	1	100-100	100-100	100.00	100.00	
36	1	100-100	100-100	100.00	100.00	
37	1	100-100	100-100	100.00	100.00	
38	1	100-100	100-100	100.00	100.00	
39	1	100-100	100-100	100.00	100.00	
40	1	100-100	100-100	100.00	100.00	
41	1	100-100	100-100	100.00	100.00	
42	1	100-100	100-100	100.00	100.00	
43	1	100-100	100-100	100.00	100.00	
44	1	100-100	100-100	100.00	100.00	
45	1	100-100	100-100	100.00	100.00	
46	1	100-100	100-100	100.00	100.00	
47	1	100-100	100-100	100.00	100.00	
48	1	100-100	100-100	100.00	100.00	
49	1	100-100	100-100	100.00	100.00	
50	1	100-100	100-100	100.00	100.00	
51	1	100-100	100-100	100.00	100.00	
52	1	100-100	100-100	100.00	100.00	
53	1	100-100				

400-5387-262

PART 1 5434 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022 2023 2024 2025 2026 2027 2028 2029 2030 2031 2032 2033 2034 2035 2036 2037 2038 2039 2040 2041 2042 2043 2044 2045 2046 2047 2048 2049 2050 2051 2052 2053 2054 2055 2056 2057 2058 2059 2060 2061 2062 2063 2064 2065 2066 2067 2068 2069 2070 2071 2072 2073 2074 2075 2076 2077 2078 2079 2080 2081 2082 2083 2084 2085 2086 2087 2088 2089 2090 2091 2092 2093 2094 2095 2096 2097 2098 2099 2100 2101 2102 2103 2104 2105 2106 2107 2108 2109 2110 2111 2112 2113 2114 2115 2116 2117 2118 2119 2120 2121 2122 2123 2124 2125 2126 2127 2128 2129 2130 2131 2132 2133 2134 2135 2136 2137 2138 2139 2140 2141 2142 2143 2144 2145 2146 2147 2148 2149 2150 2151 2152 2153 2154 2155 2156 2157 2158 2159 2160 2161 2162 2163 2164 2165 2166 2167 2168 2169 2170 2171 2172 2173 2174 2175 2176 2177 2178 2179 2180 2181 2182 2183 2184 2185 2186 2187 2188 2189 2190 2191 2192 2193 2194 2195 2196 2197 2198 2199 2200 2201 2202 2203 2204 2205 2206 2207 2208 2209 2210 2211 2212 2213 2214 2215 2216 2217 2218 2219 2220 2221 2222 2223 2224 2225 2226 2227 2228 2229 2230 2231 2232 2233 2234 2235 2236 2237 2238 2239 2240 2241 2242 2243 2244 2245 2246 2247 2248 2249 2250 2251 2252 2253 2254 2255 2256 2257 2258 2259 2260 2261 2262 2263 2264 2265 2266 2267 2268 2269 2270 2271 2272 2273 2274 2275 2276 2277 2278 2279 2280 2281 2282 2283 2284 2285 2286 2287 2288 2289 2290 2291 2292 2293 2294 2295 2296 2297 2298 2299 2300 2301 2302 2303 2304 2305 2306 2307 2308 2309 2310 2311 2312 2313 2314 2315 2316 2317 2318 2319 2320 2321 2322 2323 2324 2325 2326 2327 2328 2329 2330 2331 2332 2333 2334 2335 2336 2337 2338 2339 2340 2341 2342 2343 2344 2345 2346 2347 2348 2349 2350 2351 2352 2353 2354 2355 2356 2357 2358 2359 2360 2361 2362 2363 2364 2365 2366 2367 2368 2369 2370 2371 2372 2373 2374 2375 2376 2377 2378 2379 2380 2381 2382 2383 2384 2385 2386 2387 2388 2389 2390 2391 2392 2393 2394 2395 2396 2397 2398 2399 2400 2401 2402 2403 2404 2405 2406 2407 2408 2409 2410 2411 2412 2413 2414 2415 2416 2417 2418 2419 2420 2421 2422 2423 2424 2425 2426 2427 2428 2429 2430 2431 2432 2433 2434 2435 2436 2437 2438 2439 2440 2441 2442 2443 2444 2445 2446 2447 2448 2449 2450 2451 2452 2453 2454 2455 2456 2457 2458 2459 2460 2461 2462 2463 2464 2465 2466 2467 2468 2469 2470 2471 2472 2473 2474 2475 2476 2477 2478 2479 2480 2481 2482 2483 2484 2485 2486 2487 2488 2489 2490 2491 2492 2493 2494 2495 2496 2497 2498 2499 2500 2501 2502 2503 2504 2505 2506 2507 2508 2509 2510 2511 2512 2513 2514 2515 2516 2517 2518 2519 2520 2521 2522 2523 2524 2525 2526 2527 2528 2529 2530 2531 2532 2533 2534 2535 2536 2537 2538 2539 2540 2541 2542 2543 2544 2545 2546 2547 2548 2549 2550 2551 2552 2553 2554 2555 2556 2557 2558 2559 2560 2561 2562 2563 2564 2565 2566 2567 2568 2569 2570 2571 2572 2573 2574 2575 2576 2577 2578 2579 2580 2581 2582 2583 2584 2585 2586 2587 2588 2589 2590 2591 2592 2593 2594 2595 2596 2597 2598 2599 2600 2601 2602 2603 2604 2605 2606 2607 2608 2609 2610 2611 2612 2613 2614 2615 2616 2617 2618 2619 2620 2621 2622 2623 2624 2625 2626 2627 2628 2629 2630 2631 2632 2633 2634 2635 2636 2637 2638 2639 2640 2641 2642 2643 2644 2645 2646 2647 2648 2649 2650 2651 2652 2653 2654 2655 2656 2657 2658 2659 2660 2661 2662 2663 2664 2665 2666 2667 2668 2669 2670 2671 2672 2673 2674 2675 2676 2677 2678 2679 2680 2681 2682 2683 2684 2685 2686 2687 2688 2689 2690 2691 2692 2693 2694 2695 2696 2697 2698 2699 2700 2701 2702 2703 2704 2705 2706 2707 2708 2709 2710 2711 2712 2713 2714 2715 2716 2717 2718 2719 2720 2721 2722 2723 2724 2725 2726 2727 2728 2729 2730 2731 2732 2733 2734 2735 2736 2737 2738 2739 2740 2741 2742 2743 2744 2745 2746 2747 2748 2749 2750 2751 2752 2753 2754 2755 2756 2757 2758 2759 2760 2761 2762 2763 2764 2765 2766 2767 2768 2769 2770 2771 2772 2773 2774 2775 2776 2777 2778 2779 2780 2781 2782 2783 2784 2785 2786 2787 2788 2789 2790 2791 2792 2793 2794 2795 2796 2797 2798 2799 2800 2801 2802 2803 2804 2805 2806 2807 2808 2809 2810 2811 28

400-5387 2626



☐ **Deliver To**
Address Below

Hold and Hotly Telephone Number

F. HOLD UNION LTD.
 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915,

Corrosion Name: _____

To ~~MR. KALC~~, S. BROWN

Telephone No./TELEX No. (Important)

REPORT ANALYSIS DIVISION (202) 376-2400

FEDERAL ELECTION COMMISSION

Street Address

City/Town

State/Province

Country

W. A. ZP, Patent Co.

WASHINGTON

[illegible]

Customer agrees shipment is in good order and condition, we agree to pay all charges including Customs Duties and Taxes as applicable and to the conditions of contract as stated on the invoice or the shipping bill.

Copyright © 1999 by McGraw-Hill, Inc.

1. Old Chapter Form 0

100

Partido Popular Democrático

March 8, 1991

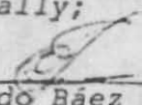
Mr. Eric S. Brown
Reports Analysis Division
Federal Election Commission
Washington, D.C. 20463

Dear Mr. Brown:

Attached is the copy of my letter to the Treasurer of Anita for Congress. I indicated in my previous letter that I would take such action.

Thank you for your attention.

Cordially;


Eudaldo Báez Galib
Secretary General

93040943735

PERKINS COIE

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
607 FOURTEENTH STREET, N.W. • WASHINGTON, D.C. 20005-2011 • (202) 638-6600

RECEIVED
FEDERAL ELECTION
COMMISSION
ADMINISTRATIVE DIVISION

JUL 7 1 56 PM '92

July 7, 1992

Helen Kim, Esq.
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: MUR 3527

Dear Ms. Kim:

This is the response of Anita for Congress ("the Committee") and Ms. Anita Perez Ferguson (collectively referred to as "Respondents") to the complaint, dated May 14, 1992, filed by Kevin Sweeney ("Complainant"). Complainant alleges that Respondents violated the Federal Election Campaign Act of 1971, as amended, by failing to:

- (1) file a Financial Disclosure Statement;
- (2) properly designate a principal campaign committee for the 1992 election; and
- (3) promptly return a campaign contribution that was in excess of the \$1000 per election limit. As discussed below, Complainant's allegations are factually inaccurate and were made for the sole purpose of discrediting Ms. Ferguson and her campaign for United States Congress.

Financial Disclosure Statement

Complainant states that Ms. Ferguson failed to properly file a Financial Disclosure Statement with the Clerk of the House of Representatives in violation of 5 U.S.C. § 101 et seq. Ms. Ferguson filed her Ethics in Government Act Statement as required with the Clerk of the House. Moreover, this claim is not properly before the Commission and, therefore, Respondents request that the Commission take no further action.

Statement of Organization

Next Complainant alleges that Respondents failed to register the Committee as Ms. Ferguson's principal campaign committee for the 1992 election. Ms. Ferguson was a candidate in 1990. She elected to use her existing Committee and

[17102-0001/DA921820.047]

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL COUNSEL
92 JUL -7 PM 2:56

93040943736

08C 5091

93040943737
Helen Kim, Esq.
July 7, 1992
Page 2

redesignate it for the 1992 campaign. A Committee staff member consulted with the FEC about the proper way to amend the statement of organization to reflect this change. The staffer was told that Ms. Ferguson may make this amendment by letter.

In accordance with these instructions, Ms. Ferguson filed a letter with the Clerk of the House stating that she was a candidate in 1992 for the House of Representatives. This letter fulfilled the regulatory requirement of designating Anita for Congress as her principal campaign committee for 1992. Respondents filed two subsequent letters appointing a new treasurer for the 1992 campaign.

Cincuentenario Partido Popular Democratico Contribution

Finally, Complainant raises questions regarding a contribution the Committee received from Cincuentenario Partido Popular Democratico. At the time the Committee received this contribution, it was not aware that the contribution was in excess of the limits. When the Committee discovered that the organization was only permitted to give \$1,000, efforts to correct the error were undertaken. The Committee reported \$4,000 as a debt outstanding on Schedule D of its FEC report to indicate the Committee's intention to refund the excess amount as soon as sufficient funds were available.

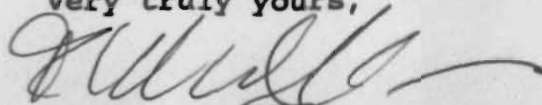
In a 1985 Advisory Opinion, the FEC set out the circumstances under which a refund of an illegal contribution may be delayed. FEC Advisory Op. 1985-8, 1 Fed. Election Camp. Fin. Guide [CCH] ¶ 5836. The FEC ruled that a candidate who did not have cash on hand to refund an excessive contribution may wait until the campaign receives sufficient funds. Id. The committee was required, however, to "disclose this outstanding obligation" on its reports to the FEC until the debt is extinguished. Id.

Similar circumstances existed here. At the time the Committee became aware that a part of the contribution must be returned, the campaign was financially unable to make the refund. In accordance with this advisory opinion, Respondents correctly listed \$4000 as a "debt and obligation" on each report filed with the FEC until the money was refunded.

Helen Kim, Esq.
July 7, 1992
Page 3

Respondents have attempted at every step of the way to comply with all applicable laws and regulations. With extremely limited resources, Respondents believe they have been successful. Therefore, Respondents respectfully request that the Commission dismiss this complaint with no further action.

Very truly yours,



Judith L. Corley
B. Holly Schadler
Counsel for Respondents

BHS:mah

93040943738

RECEIVED
F.E.C.
SECRETARIAT

93 JAN -7 PM 3: 03

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

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

MUR #3527
DATE COMPLAINT RECEIVED
BY OGC: May 26, 1992
DATE OF NOTIFICATION TO
RESPONDENTS: May 27, 1992
STAFF MEMBER: Helen J. Kim

COMPLAINANT:

Kevin Sweeney

RESPONDENTS:

Cincuentenario Partido Popular
Democratico

Anita Perez Ferguson

Anita for Congress and
Marcelline I. Curran, as treasurer

RELEVANT STATUTES:

2 U.S.C. § 431(2)
2 U.S.C. § 432(e)(1)
2 U.S.C. § 434(b)(5)(E)
2 U.S.C. § 441a(a)(1)(A)
2 U.S.C. § 441a(f)
11 C.F.R. § 103.3(b)

INTERNAL REPORTS CHECKED:

Anita for Congress Disclosure
Reports

FEDERAL AGENCIES CHECKED:

None

I. GENERATION OF MATTER

This matter arose from a complaint submitted to the Commission on May 26, 1992. The complaint alleges that Cincuentenario Partido Popular Democratico, Anita Perez Ferguson, and Anita for Congress and Marcelline I. Curran, as treasurer, violated provisions of the Federal Election Campaign Act of 1971, as amended ("the Act").

93040943739

Respondents were notified of the complaint on May 27, 1992. Cincuentenario Partido Popular Democratico ("Partido Popular") responded to the complaint on June 22, 1992. After an extension of time, Anita Perez Ferguson and Anita for Congress and Marcelline I. Curran, as treasurer, ("the Committee") responded on July 7, 1992.

II. FACTUAL AND LEGAL ANALYSIS

A. Statutory and Regulatory Provisions

The Act defines a "candidate" as an individual who seeks nomination for election, or election, to federal office. 2 U.S.C. § 431(2). An individual becomes a candidate when she, or another person on her behalf, has received contributions or made expenditures in excess of \$5,000. 2 U.S.C. § 431(2) and 11 C.F.R. § 100.3(a). Once an individual meets this threshold for candidacy, she must designate a political committee to serve as the candidate's principal campaign committee. 2 U.S.C. § 432(e)(1). This designation must be in writing and must occur within 15 days of candidacy. Id.

The Act prohibits persons from making a contribution in excess of \$1,000 to any candidate and her authorized political committees with respect to any federal election. 2 U.S.C. § 441a(a)(1)(A). The Act defines "person" to include committees, associations, or any other organization, or groups of individuals. 2 U.S.C. § 431(11).

The Act also prohibits candidates and their authorized committees from knowingly accepting contributions in excess of the

93040943740

93040943741

\$1,000 limit imposed by Section 441a(a)(1)(A). 2 U.S.C. § 441a(f). If a contribution is received that on its face exceeds the \$1,000 contribution limitation, the treasurer may seek reattribution or redesignation of the contribution by the contributor. 11 C.F.R. § 103.3(b)(3). If the treasurer cannot obtain a reattribution or a redesignation, then she must refund the contribution to the contributor within sixty days of receipt of the contribution. Id. The treasurer must report the name and address of each person who receives a contribution refund together with the date and amount of the disbursement. 2 U.S.C. § 434(b)(5)(E).

B. Discussion

Anita Perez Ferguson ran as a candidate in the 1992 general election for the House of Representatives in the 23rd Congressional District of California. Ms. Ferguson was also a candidate in the 1990 general election for House of Representatives in the 19th Congressional District of California. During both the 1990 and 1992 campaigns, Anita for Congress served as Ms. Ferguson's principal campaign committee.

Partido Popular appears to be a committee operating out of Puerto Rico, and is not registered with the Commission as a political committee. The complainant claims that in 1990, Anita Perez Ferguson and the Committee may have accepted an excessive contribution from Partido Popular, and that Ms. Ferguson failed to designate a principal campaign committee within 15 days

of her 1992 candidacy.¹ The following sections contain an analysis of the complaint's allegations. The disposition of all the respondents will be discussed together in Section C of this report.

1. Excessive Contribution

a. Anita for Congress Committee

According to its 1990 Post-General Report, the Committee reported receiving a \$5,000 contribution from Partido Popular on October 24, 1990. The Committee was later notified by letter dated January 2, 1991 from the Commission's Reports Analysis Division that this contribution appeared to exceed the \$1,000 contribution limit.

A review of its disclosure reports reveal that the Committee began reporting the excessive portion of the contribution (\$4,000) as an outstanding debt on its 1991 Mid-Year Report. The Committee continued to report the debt in its next three disclosure reports until it reported the refund of the contribution in its 1992 July Quarterly Report. The Committee reported the refund on the Detailed Summary Page of the July Quarterly, but it did not

1. In an earlier version of his complaint, the complainant claimed that Ms. Ferguson failed to file a Financial Disclosure Statement with the Clerk of the House pursuant to 5 U.S.C. § 101, and requested that the Commission refer this matter to the appropriate agency for investigation. This version of the complaint, however, was improperly notarized and was returned to the complainant. Subsequently, the complainant resubmitted his complaint, but the request to refer the failure to file the disclosure statement was omitted from the resubmitted complaint. In their response, Ms. Ferguson claims to have filed the necessary forms.

93040943742

itemize it as a disbursement. It did, however, report that the debt had been repaid.

The Committee claims that when it received the Commission's notice, it had insufficient funds to refund the contribution, and thus, began reporting the excessive portion as a debt on Schedule D of its next report until it ultimately refunded the contribution in accordance with the Commission's conclusion in Advisory Opinion 1985-8. However, in that opinion, the Commission outlined that particular procedure for refunding prohibited contributions in response to a specific request based on the Commission's conclusion in Advisory Opinion 1984-52. In Advisory Opinion 1984-52, the Commission concluded that the requesting committee must refund contributions that appeared to be legal when the committee first received them, but were later discovered to be prohibited corporate contributions. The present matter, which involves a facially excessive contribution, is factually different and thus, Advisory Opinion 1985-8 does not apply.

The procedures for refunding facially excessive contributions are outlined at 11 C.F.R. § 103.3. Section 103.3(b) obligates the treasurer of a committee to examine all contributions for evidence of illegality. The Commission noted in the Explanation and Justification for section 103.3(b) that if a contribution from a political committee exceeds \$1,000, the treasurer of the recipient committee also needs to determine whether the contributing committee is a multicandidate committee. Explanation and Justification of 11 C.F.R. § 103.3, 52 Fed. Reg.

93040943743

768 (Jan. 9, 1987). See also FEC v. Damesi for Congress Committee, 640 F. Supp. 985 (D.N.J. 1986).

If the treasurer determines that a contribution from a political committee is excessive, the receiving committee must refund the excessive portion to the contributing committee within sixty days of receipt of the contribution. See 11 C.F.R. § 103.3(b)(3). A committee must maintain enough cash on hand to prevent the use of a contribution that appears to be illegal under 11 C.F.R. § 103.3(b)(3) if the contribution is deposited into a campaign depository. See 11 C.F.R. § 103.3(b)(4).

Although the Committee eventually refunded the excessive portion of the contribution, the Committee did not make the refund within sixty days of the Committee's receipt of the excessive contribution and in fact, the Committee's "cash on hand" at the time it received the contribution shows that it may have used the excessive contribution.² Indeed, the Committee may have delayed refunding the contribution for over eighteen months even though it had sufficient funds to do so earlier.³ This Office also notes that the Committee may have refunded the contribution after the receipt of the complaint notification which was mailed on May 27,

2. For the reporting period in which it received the excessive contribution, the Committee reported receipts totaling \$41,583.00, disbursements totaling \$125,835.64, debts totaling \$37,827.98, and a cash on hand of negative \$7,520.91.

3. Because the Committee failed to itemize its disbursement for the refund, the exact date of the refund is unclear. According to Committee reports, the refund was made sometime between May 14, 1992 and June 30, 1992. The Committee's reports also indicate, however, that the Committee could have refunded the contribution as early as the end of 1991 when it reported receipts totaling \$5,014.85.

93040943744

1992. The delay in and timing of the refund raises the possibility that the refund of the contribution was prompted only by the filing of the complaint. Thus, the Committee may have knowingly accepted an excessive contribution. It also appears that the Committee failed to itemize its disbursement to Partido Popular when it finally refunded the contribution.

Therefore, this Office recommends that the Commission find reason to believe Anita for Congress and Marcelline I. Curran, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(b)(5)(E). Although the complaint also alleged that Anita Perez Ferguson accepted the excessive contribution, there is no evidence indicating that Ms. Ferguson was personally involved in receiving the excessive contribution or delaying the refund. Thus, this Office recommends that the Commission find no reason to believe Anita Perez Ferguson violated 2 U.S.C. § 441a(f).

b. Cincuentenario Partido Popular Democratico

Partido Popular asserts in its response that it did not make an excessive contribution to the Committee because it did not intend to contribute to a federal election. The response also included communications between the Reports Analysis Division ("RAD") and Partido Popular regarding the \$5,000 contribution to the Committee. By letter dated January 2, 1991, RAD notified Partido Popular that it may have made an excessive contribution to the Committee and that the contribution to a federal candidate may require Partido Popular to register with the Commission as a political committee. RAD advised that Partido Popular either register with the Commission and receive a refund of the excessive

93040943745

portion of the \$5,000 contribution or receive a full refund or direct the Committee to transfer the funds into a non-federal account.

Partido Popular sent a letter dated February 27, 1991 to RAD stating that it did not wish to influence federal elections and that it would request a refund of the entire contribution or a transfer of the amount into a non-federal account. Although Partido Popular did not state the purpose for the check, it noted that the check was made payable to Anita Perez, not the Committee. Partido Popular then sent a letter dated March 5, 1991, to the Committee explaining that it may have made an excessive contribution to the Committee and that Partido Popular did not intend to influence federal elections. The letter failed, however, to state specifically that Partido Popular wanted a refund of the entire amount. Instead, the letter referred to the attached letter that Partido Popular sent to the Commission stating it would seek a refund of the entire amount or a transfer to a non-federal account.

Consequently, the Committee reported the excessive portion rather than the entire amount as a debt and then eventually reported refunding only the excessive portion on its 1992 July Quarterly Report. The ambiguity of the request for a refund in the letter Partido Popular sent to the Committee raises at least an inference that Partido Popular may have intended to contribute to a federal election, and consequently, the disbursement to the Committee may fit within the Act's definition of "contribution." Thus, it appears that Partido Popular may have made an excessive

93040943746

contribution to the Committee. Therefore, this Office recommends that the Commission find reason to believe that Cincuentenario Partido Popular Democratico violated 2 U.S.C. § 441a(a)(1)(A).

2. Designation of Principal Campaign Committee

Regarding the complainant's allegation that Ms. Ferguson failed to designate a campaign committee within 15 days of becoming a candidate, the Committee claims that Ms. Ferguson submitted a letter on April 16, 1992 declaring her as a candidate for the 1992 election and designating her 1990 principal campaign committee to serve the same function in the 1992 election.

The Committee's disclosure reports reveal that Ms. Ferguson triggered the \$5,000 threshold for candidacy on February 5, 1992 and thus, was obligated to designate a principal campaign committee within fifteen days of that date. It appears, however, that Ms. Ferguson designated Anita for Congress as her 1992 principal campaign committee seventy-one days after she became a candidate for the 1992 election. Therefore, this Office recommends that the Commission find reason to believe that Anita Perez Ferguson violated 2 U.S.C. § 432(e)(1) for failing to designate a principal campaign committee within 15 days of becoming a candidate.

C. Disposition and Discussion of Conciliation Agreement

Although it appears that Partido Popular may have violated 2 U.S.C. § 441a(a)(1)(A), mitigating factors exist. Partido Popular did make attempts to correct the violation after it received notice from the Commission and the excessive portion was eventually refunded. Thus, this Office also recommends that the

93040943747

Commission exercise its prosecutorial discretion and take no further action against Cincuentenario Partido Popular Democratico. This Office intends to send a letter admonishing Partido Popular against engaging in similar conduct in the future.⁴

Because the Committee may have used the excessive contribution and then may have delayed making the refund, this Office recommends that the Commission pursue the Committee for the possible violations of the Act discussed above. This Office also recommends that the Commission pursue Anita Perez Ferguson for the possible Section 432(e)(1) violation. The facts in this matter appear straightforward and no additional investigation is needed. Thus, this Office recommends that the Commission enter into conciliation with Anita for Congress and Marcelline I. Curran, as treasurer, and Anita Perez Ferguson prior to a finding of probable cause to believe. The proposed conciliation agreement is attached for the Commission's approval. (Attachment 5).

4. The inference that Partido Popular made the \$5,000 contribution to influence a federal election raises the issue of whether Partido Popular is subject to the Act's registration and reporting requirements. The Act requires committees that make contributions and expenditures to influence federal elections in excess of \$1,000 to register and report with the Commission. 2 U.S.C. §§ 433(a) and 434(a). Because \$4,000 of the \$5,000 contribution was refunded, ultimately, Partido Popular only contributed \$1,000. In view of the ambiguity surrounding whether Partido Popular disbursed the funds to influence a federal election, Partido Popular's attempt to obtain a refund, and the amount of the contribution after the refund, this Office does not make any recommendations regarding 2 U.S.C. §§ 433(a) and 434(a).

III. RECOMMENDATIONS

1. Find no reason to believe that Anita Perez Ferguson violated 2 U.S.C. § 441a(f).
2. Find reason to believe that Cincuentenario Partido Popular Democratico violated 2 U.S.C. § 441a(a)(1)(A), but take no further action and close the file as it pertains to this respondent.
3. Find reason to believe that Anita for Congress and Marcelline I. Curran, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(b)(5)(E), and enter into conciliation prior to a finding of probable cause to believe.
4. Find reason to believe that Anita Perez Ferguson violated 2 U.S.C. § 432(e)(1), and enter into conciliation prior to a finding of probable cause to believe.
5. Approve the appropriate letters, attached Factual and Legal Analyses, and attached conciliation agreement.

Lawrence M. Noble
General Counsel

93040943749
Date 1/5/92

BY: [Signature]
Lois G. Werner
Associate General Counsel

Attachments

1. Committee Response
2. Partido Popular Response
3. Factual and Legal Analyses (2)
4. Conciliation Agreement

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Cincuentenario Partido Popular) MUR 3527
Democratico;)
Anita Perez Ferguson;)
Anita for Congress and)
Marcelline I. Curran, as treasurer.)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on January 12, 1993, the Commission decided by a vote of 5-0 to take the following actions in MUR 3527:

1. Find no reason to believe that Anita Perez Ferguson violated 2 U.S.C. § 441a(f).
2. Find reason to believe that Cincuentenario Partido Popular Democratico violated 2 U.S.C. § 441a(a)(1)(A), but take no further action and close the file as it pertains to this respondent.
3. Find reason to believe that Anita for Congress and Marcelline I. Curran, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(b)(5)(E), and enter into conciliation prior to a finding of probable cause to believe.

(Continued)

93040943750

Federal Election Commission
Certification for MUR 3527
January 12, 1993

Page 2

4. Find reason to believe that Anita Perez Ferguson violated 2 U.S.C. § 432(e)(1), and enter into conciliation prior to a finding of probable cause to believe.
5. Approve the appropriate letters, Factual and Legal Analyses, and conciliation agreement, as recommended in the General Counsel's Report dated January 5, 1993.

Commissioners Aikens, Elliott, McDonald, McGarry and Potter voted affirmatively for the decision; Commissioner Thomas did not cast a vote.

Attest:

1-12-93
Date

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

Received in the Secretariat:
Circulated to the Commission:
Deadline for vote:

Thurs., Jan. 7, 1993 3:03 p.m.
Thurs., Jan. 7, 1993 4:00 p.m.
Tues., Jan. 12, 1993 4:00 p.m.

dr

93040943751



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 14, 1993

Jose Ariel Nazario
Electoral Commissioned
Partido Popular Democratico
Apartado 2353
San Juan, Puerto Rico 00902-2353

RE: MUR 3527
Cincuentenario Partido
Popular Democratico

Dear Mr. Nazario:

On January 12, 1993, the Federal Election Commission found reason to believe that Cincuentenario Partido Popular Democratico ("Partido Popular") violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission also determined to take no further action and closed its file as it pertains to Partido Popular. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

The Commission reminds Partido Popular that contributing more than \$1,000 to a candidate for federal office appears to be a violation of 2 U.S.C. § 441a(a)(1)(A). Partido Popular should take immediate steps to insure that this activity does not occur in the future. Also, please note that contributing more than \$1,000 to a federal campaign triggers political committee status and an obligation to register and report with the Commission.

The file will be made public within 30 days after this matter has been closed with respect to all other respondents involved. You are advised that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) still apply with respect to all respondents still involved in this matter.

93040943752

Jose Ariel Nazario
Page 2

If you have any questions, please contact Helen J. Kim, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,



Scott E. Thomas
Chairman

Enclosure
Factual and Legal Analysis

93040943753

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Cincuentenario Partido
Popular Democratico

MUR: 3527

I. GENERATION OF MATTER

This matter arose from a complaint submitted to the Commission on May 26, 1992. The complaint alleges certain violations of the Federal Election Campaign Act of 1971, as amended ("the Act") concerning a contribution made by Cincuentenario Partido Popular Democratico ("Partido Popular") to Anita for Congress.

II. FACTUAL AND LEGAL ANALYSIS

A. Statutory and Regulatory Provisions

The Act prohibits persons from making a contribution in excess of \$1,000 to any candidate and her authorized political committees with respect to any federal election. 2 U.S.C. § 441a(a)(1)(A). The Act defines "person" to include committees, associations, or any other organization, or groups of individuals. 2 U.S.C. § 431(11).

B. Discussion

Anita Perez Ferguson ran as a candidate in the 1990 general election for House of Representatives in the 19th Congressional District of California. Anita for Congress served as Ms. Ferguson's principal campaign committee.

93040943754

Partido Popular appears to be a committee operating out of Puerto Rico, and is not registered with the Commission as a political committee. According to its 1990 Post-General Report, Anita for Congress reported receiving a \$5,000 contribution from Partido Popular on October 24, 1990. The complaint claims that the Partido Popular made an excessive contribution.

Partido Popular asserts in its response that it did not make an excessive contribution to the Committee because it did not intend to contribute to a federal election. The response also included communications between the Reports Analysis Division ("RAD") and Partido Popular regarding the \$5,000 contribution to the Committee. By letter dated January 2, 1991, RAD notified Partido Popular that it may have made an excessive contribution to the Committee and that the contribution to a federal candidate may require Partido Popular to register with the Commission as a political committee. RAD advised that Partido Popular either register with the Commission and receive a refund of the excessive portion of the \$5,000 contribution or receive a full refund or direct the Committee to transfer the funds into a non-federal account.

Partido Popular sent a letter dated February 27, 1991 to RAD stating that it did not wish to influence federal elections and that it would request a refund of the entire contribution or a transfer of the amount into a non-federal account. Although Partido Popular did not state the purpose for the check, it noted that the check was made payable to Anita Perez, not the Committee. Partido Popular then sent a letter dated March 5, 1991, to the

93040943755

Committee explaining that it may have made an excessive contribution to the Committee and that Partido Popular did not intend to influence federal elections. The letter failed, however, to state specifically that Partido Popular wanted a refund of the entire amount. Instead, the letter referred to the attached letter that Partido Popular sent to the Commission stating it would seek a refund of the entire amount or a transfer to a non-federal account.

Consequently, the Committee reported the excessive portion rather than the entire amount as a debt and then eventually refunded only the excessive portion in July, 1992. The ambiguity of the request for a refund in the letter Partido Popular sent to the Committee raises at least an inference that Partido Popular may have intended to contribute to a federal election, and consequently, the disbursement to the Committee may fit within the Act's definition of "contribution." Thus, it appears that Partido Popular may have made an excessive contribution to the Committee. Therefore, there is reason to believe that Cincuentenario Partido Popular Democratico violated 2 U.S.C. § 441a(a)(1)(A).

93040943756



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

January 14, 1993

Judith L. Corley
Perkins Coie
607 14th Street, N.W.
Washington, D.C. 20005

RE: MUR 3527
Anita Perez Ferguson
Anita for Congress and
Marcelline I. Curran, as
treasurer

Dear Ms. Corley:

On May 27, 1992, the Federal Election Commission notified your clients 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 forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint, and information supplied by your clients, the Commission, on January 12, 1993, found that there is reason to believe Anita for Congress and Marcelline I. Curran, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(b)(5)(E), provisions of the Act. On that date, the Commission also found that there is reason to believe Anita Perez Ferguson violated 2 U.S.C. § 432(e)(1) and no reason to believe that Ms. Ferguson violated 2 U.S.C. § 441a(f). The Factual and Legal Analysis, which formed a basis for the Commission's findings, is attached for your information.

Under the Act, your clients have an opportunity to demonstrate that no action should be taken against them. They may submit any factual or legal materials that they 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 your clients, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

93040943757

Judith L. Corley
Page 2

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

If your clients are interested in expediting the resolution of this matter by pursuing preprobable cause conciliation and if they 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.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless your clients notify the Commission in writing that they 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 Helen J. Kim, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,



Scott E. Thomas
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Conciliation Agreement

93040943758

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Anita Perez Ferguson
Anita for Congress and
Marcelline I. Curran,
as treasurer

MUR: 3527

I. GENERATION OF MATTER

This matter arose from a complaint submitted to the Commission on May 26, 1992. The complaint alleges that Anita Perez Ferguson and Anita for Congress ("Committee") and Marcelline I. Curran, as treasurer, violated certain provisions of the Federal Election Campaign Act of 1971, as amended ("the Act").

II. FACTUAL AND LEGAL ANALYSIS

A. Statutory and Regulatory Provisions

The Act defines a "candidate" as an individual who seeks nomination for election, or election, to federal office. 2 U.S.C. § 431(2). An individual becomes a candidate when she, or another person on her behalf, has received contributions or made expenditures in excess of \$5,000. 2 U.S.C. § 431(2) and 11 C.F.R. § 100.3(a). Once an individual meets this threshold for candidacy, she must designate a political committee to serve as the candidate's principal campaign committee. 2 U.S.C. § 432(e)(1). This designation must be in writing and must occur within 15 days of candidacy. Id.

93040943759

The Act prohibits persons from making a contribution in excess of \$1,000 to any candidate and her authorized political committees with respect to any federal election. 2 U.S.C. § 441a(a)(1)(A). The Act defines "person" to include committees, associations, or any other organization, or groups of individuals. 2 U.S.C. § 431(11).

The Act also prohibits candidates and their authorized committees from knowingly accepting contributions in excess of the \$1,000 limit imposed by Section 441a(a)(1)(A). 2 U.S.C. § 441a(f). If a contribution is received that on its face exceeds the \$1,000 contribution limitation, the treasurer may seek reattribution or redesignation of the contribution by the contributor. 11 C.F.R. § 103.3(b)(3). If the treasurer cannot obtain a reattribution or a redesignation, then she must refund the contribution to the contributor within sixty days of receipt of the contribution. Id. The treasurer must report the name and address of each person who receives a contribution refund together with the date and amount of the disbursement. 2 U.S.C. § 434(b)(5)(E).

B. Discussion

Anita Perez Ferguson ran as a candidate in the 1992 general election for the House of Representatives in the 23rd Congressional District of California. Ms. Ferguson was also a candidate in the 1990 general election for House of Representatives in the 19th Congressional District of California. During both the 1990 and 1992 campaigns, Anita for Congress served as Ms. Ferguson's principal campaign committee.

93040943760

Cincuentenario Partido Popular Democratico ("Partido Popular") appears to be a committee operating out of Puerto Rico, and is not registered with the Commission as a political committee. The complainant claims that in 1990, Anita Perez Ferguson and the Committee may have accepted an excessive contribution from Partido Popular, and that Ms. Ferguson failed to designate a principal campaign committee within 15 days of her 1992 candidacy.¹

According to its 1990 Post-General Report, the Committee reported receiving a \$5,000 contribution from Partido Popular on October 24, 1990. The Committee was later notified by letter dated January 2, 1991 from the Commission's Reports Analysis Division that this contribution appeared to exceed the \$1,000 contribution limit.

A review of its disclosure reports reveal that the Committee began reporting the excessive portion of the contribution (\$4,000) as an outstanding debt on its 1991 Mid-Year Report. The Committee continued to report the debt in its next three disclosure reports until it reported the refund of the contribution in its 1992 July Quarterly Report. The Committee reported the refund on the

1.

93040943761

Detailed Summary Page of the July Quarterly, but it did not itemize it as a disbursement. It did, however, report that the debt had been repaid.

The Committee claims that when it received the Commission's notice, it had insufficient funds to refund the contribution, and thus, began reporting the excessive portion as a debt on Schedule D of its next report until it ultimately refunded the contribution in accordance with the Commission's conclusion in Advisory Opinion 1985-8. However, in that opinion, the Commission outlined that particular procedure for refunding prohibited contributions in response to a specific request based on the Commission's conclusion in Advisory Opinion 1984-52. In Advisory Opinion 1984-52, the Commission concluded that the requesting committee must refund contributions that appeared to be legal when the committee first received them, but were later discovered to be prohibited corporate contributions. The present matter, which involves a facially excessive contribution, is factually different and thus, Advisory Opinion 1985-8 does not apply.

The procedures for refunding facially excessive contributions are outlined at 11 C.F.R. § 103.3. Section 103.3(b) obligates the treasurer of a committee to examine all contributions for evidence of illegality. The Commission noted in the Explanation and Justification for section 103.3(b) that if a contribution from a political committee exceeds \$1,000, the treasurer of the recipient committee also needs to determine whether the contributing committee is a multicandidate committee. Explanation and Justification of 11 C.F.R. § 103.3, 52 Fed. Reg.

93040943762

768 (Jan. 9, 1987). See also FEC v. Dramesi for Congress Committee, 640 F. Supp. 985 (D.N.J. 1986).

If the treasurer determines that a contribution from a political committee is excessive, the receiving committee must refund the excessive portion to the contributing committee within sixty days of receipt of the contribution. See 11 C.F.R. § 103.3(b)(3). A committee must maintain enough cash on hand to prevent the use of a contribution that appears to be illegal under 11 C.F.R. § 103.3(b)(3) if the contribution is deposited into a campaign depository. See 11 C.F.R. § 103.3(b)(4).

Although the Committee eventually refunded the excessive portion of the contribution, the Committee did not make the refund within sixty days of the Committee's receipt of the excessive contribution and in fact, the Committee's "cash on hand" at the time it received the contribution shows that it may have used the excessive contribution.² Indeed, the Committee may have delayed refunding the contribution for over eighteen months even though it had sufficient funds to do so earlier.³ This Office also notes that the Committee may have refunded the contribution after the receipt of the complaint notification which was mailed on May 27,

2. For the reporting period in which it received the excessive contribution, the Committee reported receipts totaling \$41,683.00, disbursements totaling \$125,835.64, debts totaling \$37,827.98, and a cash on hand of negative \$7,520.91.

3. Because the Committee failed to itemize its disbursement for the refund, the exact date of the refund is unclear. According to Committee reports, the refund was made sometime between May 14, 1992 and June 30, 1992. The Committee's reports also indicate, however, that the Committee could have refunded the contribution as early as the end of 1991 when it reported receipts totaling \$5,014.85.

93040943763

1992. The delay in and timing of the refund raises the possibility that the refund of the contribution was prompted only by the filing of the complaint. Thus, the Committee may have knowingly accepted an excessive contribution. It also appears that the Committee failed to itemize its disbursement to Partido Popular when it finally refunded the contribution. Although the complaint also alleged that Anita Perez Ferguson accepted the excessive contribution, there is no evidence indicating that Ms. Ferguson was personally involved in receiving the excessive contribution or delaying the refund.

Regarding the complainant's allegation that Ms. Ferguson failed to designate a campaign committee within 15 days of becoming a candidate, the Committee claims that Ms. Ferguson submitted a letter on April 16, 1992 declaring her candidacy in the 1992 election and designating her 1990 principal campaign committee to serve the same function in the 1992 election.

The Committee's disclosure reports reveal that Ms. Ferguson triggered the \$5,000 threshold for candidacy on February 5, 1992 and thus, was obligated to designate a principal campaign committee within fifteen days of that date. It appears, however, that Ms. Ferguson designated Anita for Congress as her 1992 principal campaign committee seventy-one days after she became a candidate for the 1992 election.

Based on the foregoing discussion, it appears that the Committee knowingly accepted an excessive contribution and failed to itemize a disbursement. It also appears that Anita Perez Ferguson may have failed to designate a principal

93040943764

campaign committee within fifteen days of becoming a candidate, but she may not have knowingly accepted an excessive contribution. Therefore, there is reason to believe that Anita for Congress and Marcelline I. Curran, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(b)(5)(E). There is also reason to believe Anita Perez Ferguson violated 2 U.S.C. § 432(e)(1). Furthermore, there is no reason to believe that Anita Perez Ferguson violated 2 U.S.C. § 441a(f).

93040943765

06C 8354

PERKINS COIE

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
607 FOURTEENTH STREET, N.W. • WASHINGTON, D.C. 20005-2011 • (202) 628-6600

January 29, 1993

93 JAN 29 PM 4:51

RECEIVED
FEDERAL ELECTION COMMISSION
OF THE UNITED STATES

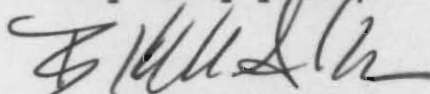
Ms. Helen Kim
Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

**Re: MUR 3527 - Anita Perez Ferguson, Anita for
Congress and Marcelline I. Curran, as Treasurer**

Dear Ms. Kim:

On behalf of Anita Perez Ferguson, Anita for Congress and Marcelline I. Curran, as Treasurer, I request an extension of time to respond to the Commission's letter dated January 14. Because of conflicting schedules, I had difficulty communicating with my client. An extension of time is necessary in order to review the record, have an adequate opportunity to discuss the issues with my client, collect factual information, and prepare a comprehensive response. Therefore I am requesting an extension until February 12, 1993.

Very truly yours,



B. Holly Schadler

BHS:mah

[17102-0001/DA930290.033]

93040943766



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 1, 1993

B. Holly Schadler
Perkins Coie
607 Fourteenth Street, N.W.
Washington, D.C. 20005-2011

RE: MUR 3527
Anita Perez Ferguson,
Anita for Congress and
Marcelline I. Curran, as
treasurer

Dear Ms. Schadler:

This is in response to your letter dated January 29, 1993, which we received on February 1, 1993, requesting an extension until February 12, 1993 to respond to the Commission's notification letter dated January 14, 1993. 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 12, 1993.

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

Sincerely,

A handwritten signature in black ink, appearing to be "Helen J. Kim", is written over a horizontal line.

Helen J. Kim
Attorney

93040943767

PERKINS COIE

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
607 FOURTEENTH STREET, N.W. • WASHINGTON, D.C. 20005-2011
(202) 628-6600 • FACSIMILE (202) 434-1690

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

93 JUN -3 PM 3:56

June 1, 1993

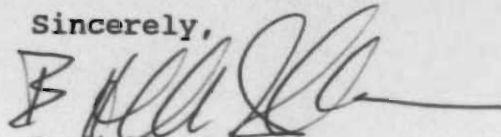
Helen J. Kim, Esq.
Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

**Re: MUR 3527 - Anita Perez Ferguson, Anita for
Congress and Marcelline I. Curran, as Treasurer**

Dear Ms. Kim:

Enclosed you will find the signed Conciliation Agreement
in MUR 3527 and a check for \$1,000 as required under the
Agreement.

Sincerely,



B. Holly Schadler
Counsel to Respondents

Enclosure

BHS:mah

[17102-0001/DA931480.039]

93040943768

RECEIVED
F.E.C.
SECRETARIAT

BEFORE THE FEDERAL ELECTION COMMISSION

93 JUN -8 PM 1:04

In the Matter of)

Anita Perez Ferguson)
Anita for Congress and)
Marcelline I. Curran, as)
treasurer)

MUR 3527

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

Attached is a conciliation agreement signed by B. Holly Schadler, counsel for Anita Perez Ferguson, Anita for Congress, and Marcelline I. Curran, as treasurer. (Attachment 1). The attached agreement contains no changes from the agreement approved by the Commission on May 18, 1993, and was accompanied by a check for the civil penalty in the amount of one thousand dollars (\$1,000). (Attachment 2).

II. RECOMMENDATIONS

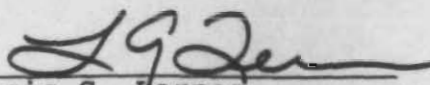
1. Accept the attached conciliation agreement with Anita Perez Ferguson, Anita for Congress, and Marcelline I. Curran, as treasurer.
2. Close the file.
3. Approve the appropriate letter.

Lawrence M. Noble
General Counsel

Date

6/8/93

BY:


Lois G. Verner
Associate General Counsel

93040943769

Attachments

1. Conciliation Agreement
2. Photocopy of civil penalty check

Staff Assigned: Helen J. Kim

93040943770

P.O. BOX 24361
Ventura Ca 93002

93040943771

97

28 May 1993

93-37249
1222

PAY TO THE ORDER OF Federal Election Commission \$ 1,000.00

One thousand and no/100s DOLLARS

A Levy
BANK OF A LEVY
MEMO MUR 3527

Al Bergman

1222037271

1690-929



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/BONNIE J. ROSS 
COMMISSION SECRETARY

DATE: JUNE 10, 1993

SUBJECT: MUR 3527 - GENERAL COUNSEL'S REPORT
DATED JUNE 8, 1993.

The above-captioned document was circulated to the Commission on Tuesday, June 8, 1993 at 4:00 p.m.

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

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

This matter will be placed on the meeting agenda for Tuesday, June 15, 1993

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

93040943772

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 3527
Anita Perez Ferguson;)
Anita for Congress and)
Marcelline I. Curran, as)
treasurer)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on June 15, 1993, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 3527:

1. Accept the conciliation agreement with Anita Perez Ferguson, Anita for Congress, and Marcelline I. Curran, as treasurer, as recommended in the General Counsel's report dated June 8, 1993.
2. Close the file.
3. Approve the appropriate letters as recommended in the General Counsel's report dated June 8, 1993.

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

Attest:

6-15-93
Date

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

93040943773



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 18, 1993

Jose Ariel Nazario
Electoral Commissioned
Partido Popular DemicratICO
Apartido 2353
San Juan, Peurto Rico 00902-2353

RE: MUR 3527
Cincuentenario Partido
Popular

Dear Mr. Nazario:

On January 14, 1993, the Federal Election Commission notified you that it had closed the file in this matter as it pertained to Cincuentenario Partido Popular. This is to advise you that the entire matter is now closed. 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 receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

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

Sincerely,

A handwritten signature in dark ink, appearing to read "Helen J. Kim", is written over a horizontal line.

Helen J. Kim
Attorney

93040943774



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 18, 1993

B. Holly Schadler
Perkins Coie
607 14th Street, N.W.
Washington, D.C. 20036

RE: MUR 3527
Anita Perez Ferguson, Anita for Congress, and
Marcelline I. Curran, as treasurer.

Dear Ms. Schadler:

On June 15, 1993, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on your client's behalf in settlement of violations of 2 U.S.C. §§ 432(e)(1), 434(b)(5)(E), and 441a(f), provisions of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed 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 receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

Please be advised that information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that Anita for Congress should amend its reports pursuant to the requirement in Section 6, ¶2 of the conciliation agreement within 30 days of the agreement's effective date. If you have any questions, please contact me at (202) 219-3690.

Sincerely,

A handwritten signature in dark ink, appearing to read "Helen J. Kim", is written over a horizontal line.

Helen J. Kim
Attorney

Enclosure
Conciliation Agreement

93040943775

93 JUN -3 PM 3:56

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Anita Perez Ferguson)
Anita for Congress and) MUR 3527
Marcelline I. Curran, as)
treasurer)

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by Kevin Sweeney. The Federal Election Commission ("Commission") found reason to believe that Anita for Congress and Marcelline I. Curran, as treasurer, ("Respondents") violated 2 U.S.C. §§ 441a(f) and 434(b)(5)(E) and that Anita Perez Ferguson ("Respondent") violated 2 U.S.C. § 432(e)(1).

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Respondent Anita for Congress is a principal campaign committee within the meaning of 2 U.S.C. § 431(5).

93040943776

2. Respondent Marcelline I. Curran is currently the treasurer of Anita for Congress; Virginia Patterson was the treasurer at the time the events, which are the subject of this matter, occurred.

3. Respondent Anita Perez Ferguson ran as a candidate in the 1992 general election for the House of Representatives in the 23rd Congressional District of California. Ms. Ferguson was also a candidate in the 1990 general election for House of Representatives in the 19th Congressional District of California. During both the 1990 and 1992 campaigns, Anita for Congress served as Ms. Ferguson's principal campaign committee.

A. 1990 Campaign: Excessive Contribution

4. The Act prohibits candidates and their authorized committees from knowingly accepting contributions in excess of the \$1,000 limit imposed by Section 441a(a)(1)(A). 2 U.S.C. § 441a(f). The "knowing acceptance" requirement of Section 441a(f) is satisfied when a recipient committee has knowledge of having accepted the contributions involved. See FEC v. John A. Dramesi For Congress, 640 F. Supp. 985 (D.N.J. 1986).

5. The treasurer must report the name and address of each person who receives a contribution refund together with the date and amount of the disbursement. 2 U.S.C. § 434(b)(5)(E).

6. Cincuentenario Partido Popular Democratico ("Partido Popular") is a committee operating out of Puerto Rico, and is not registered with the Commission as a political committee.

93040943777

7. Respondents Anita for Congress and its treasurer reported receiving a \$5,000 contribution from Partido Popular on October 24, 1990.

8. Respondents reported refunding the excessive contribution more than one and a half years later, on the 1992 July Quarterly Report which was filed after the Commission notified the respondents of the complaint. Respondents disclosed the refund on the Detailed Summary Page, but failed to itemize the refund as a disbursement.

B. 1992 Campaign: Statement of Candidacy

9. An individual becomes a candidate for federal office when she, or another person on her behalf, has received contributions or made expenditures in excess of \$5,000. 2 U.S.C. § 431(2) and 11 C.F.R. § 100.3(a). Once an individual meets this threshold for candidacy, she must designate a political committee to serve as the candidate's principal campaign committee in writing within 15 days of candidacy. 2 U.S.C. § 432(e)(1).

10. Respondent Anita Perez Ferguson received a total of more than \$5,000 in contributions toward her 1992 candidacy on February 5, 1992. Ms. Ferguson submitted a letter on April 16, 1992 declaring herself as a candidate for the 1992 election and designating her 1990 principal campaign committee to serve the same function in the 1992 election. This designation occurred seventy-one days after she became a candidate for the 1992 election.

93040943778

V. 1. Respondents knowingly accepted an excessive contribution from Partido Popular, in violation of 2 U.S.C. § 441a(f). The excessive portion of the contribution was later refunded. Respondents reported the refund, but failed to itemize it as a disbursement in violation of 2 U.S.C. § 434(b)(5)(E).

2. Respondent Anita Perez Ferguson failed to designate a principal campaign committee within fifteen days of becoming a candidate in violation of 2 U.S.C. § 432(e)(1).

VI. 1. Respondents will pay a civil penalty to the Federal Election Commission in the amount of One Thousand Dollars (\$1,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

2. Respondents Anita for Congress and Marcelline I. Curran, as treasurer, will amend the committee's reports by itemizing the refund of the excessive contribution pursuant to 2 U.S.C. § 434(b)(5)(E).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

93040943779

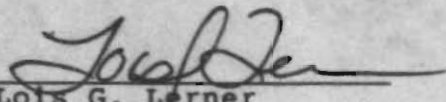
IX. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

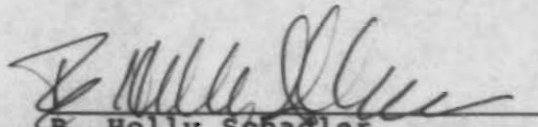
BY:


Lois G. Lerner
Associate General Counsel

Date

6/17/93

FOR THE RESPONDENTS:


B. Holly Schadler
Counsel for Respondents

Date

5/28/93

93040943780



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

JUNE 21, 1993

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Kevin Sweeney
156 S. Laurel Street, #24
Ventura, California 93001

RE: MUR 3527

Dear Mr. Sweeney:

This is in reference to the complaint you filed with the Federal Election Commission on May 26, 1992, concerning allegations of possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act").

The Commission found that there was reason to believe that Anita Perez Ferguson violated 2 U.S.C. § 432(e)(1) and that Anita for Congress and Marcelline I. Curran, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(b)(5)(E), provisions of the Act. On June 15, 1993, a conciliation agreement signed by counsel for the respondents was accepted by the Commission. Accordingly, the Commission closed the file in this matter on June 15, 1993. A copy of this agreement is enclosed for your information.

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

Sincerely,

Helen J. Kim
Attorney

Enclosure
Conciliation Agreement

CLOSED

93040943781



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3527

DATE FILMED 6/23/93 CAMERA NO. 4

CAMERAMAN E.E.S.

93040943782