



FEDERAL ELECTION COMMISSION

WASHINGTON DC 20461

THIS IS THE BEGINNING OF MUR # 3538 merged with 3526

DATE FILMED 5-25-71 CAMERA NO. 2

CAMERAMAN JMH

94030974513

OGC 4633

LAW OFFICES

ROSS & HARDIES

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

888 SIXTEENTH STREET, N.W.

WASHINGTON, D.C. 20006-4103

202-296-8600

TELECOPIER
202-296-8791

TELEX
2795 46

150 NORTH MICHIGAN AVENUE
CHICAGO, ILLINOIS 60601-7567
312-558-1000

529 FIFTH AVENUE
NEW YORK, NEW YORK 10017-4608
212-949-7075

580 HOWARD AVENUE
SOMERSET, NEW JERSEY 08875-6739
201-563-2700

DAVID M. IFSHIN

April 6, 1992

Pre-MUR 257

92 APR -7 AM 10:37

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

HAND DELIVERY

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

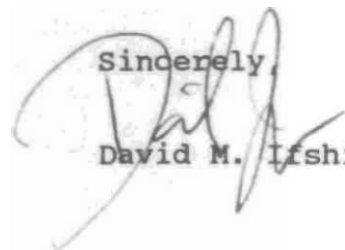
Dear Mr. Noble:

This letter is to confirm our telephone conversation of this afternoon. As we discussed, Congressman Larry Smith has asked us to represent him before the Commission in regard to correcting his disclosure reports for the last quarter of 1990. During that period, it appears that certain disbursements made from his principal campaign committee on his own behalf as well as the Democratic Party of Florida may not have been properly reported. We are in the process of gathering additional information in order to make any amendments that may be required.

Congressman Smith has instructed us to bring this to the attention of the Commission immediately. Since we recognize that the failure to disclose these expenditures during the proper period is not in accordance with Commission regulations, we request that the Office of General Counsel initiate a pre-MUR at this time to permit us to resolve this matter within the Commission's established procedures. We have scheduled a meeting with you for April 14, 1992 to discuss how best to proceed with this matter.

Sincerely,

David M. Ifshin



94030974514



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

April 22, 1992

David M. Ifshin, Esq.
Ross & Hardies
888 Sixteenth Street, N.W.
Washington, D.C. 20006-4103

RE: Pre-MUR 257

Dear Mr. Ifshin:

This is to acknowledge receipt of your letter on behalf of Congressman Larry Smith, dated April 6, 1992, pertaining to his disclosure reports for the last quarter of 1990. You will be notified as soon as the Federal Election Commission takes action on your submission.

If you have any questions, please call me at (202) 219-3690. For your information, we have attached a brief description of the Commission's procedures for handling matters such as this.

Sincerely,

A handwritten signature in cursive script, reading "Jeffrey D. Long", is written over the typed name.

Jeffrey D. Long
Paralegal Specialist

Enclosure
Procedures

94030974515

Pre mail 259

THE FLORIDA BAR

Ft. Lauderdale Office
Cypress Financial Center
5900 North Andrews Avenue
Suite 835
Ft. Lauderdale, FL 33309
305-772-2245
407-737-4906 (West Palm Beach)
305-945-9336 (Miami)

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

APR 27 10 13 AM '92

April 20, 1992

Lois Lerner
Assistant General Counsel
Federal Elections Commission
999 E. Street, N.W.
Washington, DC 20463

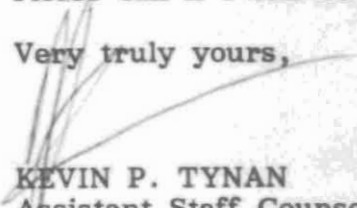
RE: Lawrence J. Smith, Esquire

Dear Ms. Lerner:

Enclosed please find a copy of the cashier's checks that we recently discussed regarding the above captioned matter. I also enclose copies of recent newspaper articles regarding the above named individual and possible election law violations.

Please call if I can be of any further assistance.

Very truly yours,


KEVIN P. TYNAN
Assistant Staff Counsel

KPT/dm

Enclosures

92 APR 27 PM 3:40

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

94030974516

94030974517



Family Bank of Hallandale

A member of First National Banking
2000 East Hallandale Blvd. West
Hallandale, FL 33009

NOTICE TO PURCHASER
THE PURCHASE OF AN INDEMNITY BOND WILL
BE REQUIRED BEFORE AN OFFICIAL CHECK
OF THIS BANK WILL BE REPLACED OR
REFUNDED IN THE EVENT IT IS LOST,
MISPLACED OR STOLEN.

26345

September 14, 1990

89-12551
870

PAY TO THE
ORDER OF Lawrence J. Smith****

\$ 6,000.00

FAMILY BANK
OF HALLANDALE **6000** AND NO. 1000

DOLLARS

CASHIER'S CHECK

11798293012005 2013104 10-19-90

REMITTER Smith/Berman trust

⑈026345⑈ ⑆067012552⑆01213411⑈90

966 ⑈0000600000⑈

64030974518
FEDERAL RESERVE BOARD OF GOVERNORS REG. CG

117952830
05-09-01 058255711
OT 90 18
0670-0268

007 16.01

054000072

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED
DATE 11/11/00 BY 1000
UCI
DO NOT WRITE, STAMP, OR SIGN OVER THIS LINE
SERVED BY THE HOUSE OF REPRESENTATIVES
501 A1 NTTS
50121 WASH DC 20540
50121 WASH DC 20540

MAIL ROOM
OF WASH
DC



Family Bank of Hallandale

A member of Suncoast Bancorp
1000 East Hallandale Blvd.
Hallandale, FL 33009

NOTICE TO PURCHASER
THE PURCHASE OF AN INDEMNITY BOND WILL
BE REQUIRED BEFORE AN OFFICIAL CHECK
OF THIS BANK WILL BE REPLACED OR
REFUNDED IN THE EVENT IT IS LOST,
MISPLACED OR STOLEN.

P 2 77149 34634438

26344

September 14, 1990

83-12551
870

PAY TO THE ORDER OF Paradise Island Enterprises*****

\$ 4,000.00

FAMILY BANK
OF HALLANDALE

124619729 2032 2034 01 09-19-90
4000 AND 00 CTS

DOLLARS

CASHIER'S CHECK

REMITTER L.J. Smith

⑈026344⑈ ⑆067012552⑆012134⑈90

966 ⑈0000400000⑈

9 4 0 3 0 9 7 4 5 1 9

ADDRESS HERE

11930792

FOR DEPOSIT ONLY
TO THE ACCOUNT OF
THE WRITING MANAGED PAYEE AT
CITY NATIONAL BANK OF MOBILE
DO NOT WRITE STAMP OR SIGNATURE IN THIS LINE
PB

SEP 17 555 84120

4056009367
CITY NATIONAL
BANK OF MOBILE
1372 N. 10th ST
MOBILE, AL 36684

SEP 18 90

1906120211061-1990

0670-0280-0
SE 10 19

0660-0010-9
129619289 09-19-90

0000034114
PROCESSED

94634438

*FEDERAL RESERVE BOARD OF GOVERNMENTAL RECORDS

94030974520

Smith gets deal on car from firm son lobbies for

By ANDREW MARTIN,
BOB KNOTTS
and RICK PIERCE
Staff Writers

U.S. Rep. Larry Smith drives a specially discounted Cadillac from Alamo Rent A Car — the firm his son lobbies for and which would have benefited from legislation the congressman sponsored three years ago.

Smith gets a Cadillac Sedan de Ville for \$424 a month.

An Alamo sales representative quoted a price of \$184 a week on Thursday for a similar car. That would amount to \$736 a month.

Smith said he did not ask Alamo for any favors on his rental car.

"I pay whatever they ask me," he said. "I asked Alamo if they leased cars and they said yes."

Smith pays for the car, which he described as a fleet car, with campaign contributions. The congressman said he has leased cars from Alamo for

years.

Some Broward County commissioners also leased cars at bargain rates with Alamo until 1990, when the state beefed up disclosure laws and the firm dropped the deal.

Checks with two South Florida congressmen — Clay Shaw, R-Fort Lauderdale, and Harry Johnston, D-West Palm Beach — showed that neither leases cars. Nor do they pay for their cars out of campaign contributions.

The legislation Smith introduced in September 1989 was aimed at preventing airports from charging exorbitant fees on car rental companies located off airport property.

Grant Smith, the congressman's son, is a registered lobbyist for Alamo and works for the company's law firm, Tripp Scott and Conklin. Tripp Scott partner Norman Tripp is part owner of Alamo.

SEE RENTAL /7B

SUN Sentinel
4/17/92

9 4 0 3 0 9 7 4 5 2 1

RENTAL

FROM PAGE 1B

Smith gets deal from auto firm is son lobbies for

Grant Smith was first registered to lobby on Alamo's behalf in July 1989, congressional records show.

The congressman said his dealings with Alamo had nothing to do with his son's employment and that his son does not lobby for Alamo in Washington. Grant Smith, reached at his office late Thursday afternoon, declined to comment.

Larry Smith, who has been embroiled in controversy over his personal and campaign finances, said the rental car legislation was no favor.

"I saw this as pro-consumer legislation," Smith said during a telephone interview Thursday evening. "I felt it was important for the consumers who use rental cars . . . to keep the costs of rental cars down."

Smith said he introduced the Ground Transportation Consumer Protection Act after numerous rental car companies approached him, including Alamo. Smith said the bill was intended to protect consumers from high rental car costs and was backed by a national consumer group.

But the bill also protected rental car companies from "unreasonable and unjustly discriminatory" fees. The bill never became law.

A political opponent criticized the congressman's arrangement with Alamo.

"There's no question about it," said Phil McConaghey, an engineer who is running against Smith. "It's a conflict. It's just another example that Larry Smith has become an aristocrat in Congress."

Smith has been under fire since the House ethics committee announced that he had bounced 161 checks through the House bank but did not say how much the checks were for. Smith now contends he bounced 90 checks worth about \$49,000.

Washington Bureau Staff Writer Kathy Hensley Trumbull contributed to this report.

94030974522

Financial questions tame Smith's bravado

By PAUL ANDERSON
And TOM FIEDLER
Herald Staff Writers

WASHINGTON — After a decade in Congress, much of the bluster has suddenly blown out of Larry Smith.

For the first time in his career, the outwardly brash and inwardly sentimental Hollywood Democrat faces a rocky re-election bid — not to mention an investigation — because of questions about his personal finances.

This proud, bombastic man has become the butt of a Jay Leno joke, a regular target of unfavorable television news reports and, to a group seeking to

limit politicians' terms, the exemplar of what's wrong with Congress.

"When you look up 'arrogance' in the dictionary," said Philip Handy, chairman of Citizens for Limited Political Terms, "Larry Smith's picture is next to it."

In a lengthy interview with The Herald last week, the 51-year-old congressman was alternately defiant, philosophical, angry and tearful about the fix he's in. He styled himself the victim of a news media frenzy. And he insisted that, despite his problems, he will seek re-election to a



UNDER FIRE: Scrutiny of his financial dealings has put five-term U.S. Rep. Larry Smith on the defensive.

PLEASE SEE SMITH, 16A

Smith now target of investigation by state bar

By BOB KNOTTS
and ANDREW MARTIN
Staff Writers

U.S. Rep. Larry Smith, already entangled in growing questions about his financial dealings, is the target of an investigation by The Florida Bar, which reviews possible ethical violations by lawyers.

An attorney for The Bar declined to say why the five-term congressman from Hollywood is under investigation.

"It means we have an allegation or allegations that were directed to us that we are investigating," said Kevin Tynan, assistant staff counsel. "All I can tell you is the existence of an open file."



The *Sun-Sentinel* has learned that Smith may have been in violation of Florida Bar rules for several years by being named as a partner in a Hollywood law firm for which he did not work. If The Bar finds him guilty, the penalty could range from public admonition to disbarment.

The *Sun-Sentinel* has learned, though, that Smith may have been in violation of Florida Bar rules for several years during which he was named as a partner in a Hollywood law firm for which he did not work.

As recently as November 1990,

Smith's name was prominently displayed on letters from the law office of Brian Berman, who was disbarred last year.

A Nov. 12, 1990, letter was written on "Smith & Berman, P.A." stationery and lists Smith first among attorneys

in the firm. Smith, a Democrat, was also included in the firm's name on checks, bank statements and other papers, public documents show.

But in a sworn statement before The Florida Bar a year ago, Berman said Smith had been his law partner only briefly nine years earlier. "He is not my partner," Berman said.

"He was for, I think, one day in 1982."

Bar rules on this issue, approved by the state Supreme Court, are short and explicit: "The name of a lawyer holding a public office shall not be used in the name of a law firm or in communications on its behalf during any substantial period in which the lawyer is

SEE BAR /6A

Sun Sentinel
Pron + page
4/11/92

9 4 0 3 0 9 7 4 5 2 4

BAR

FROM PAGE 1A

Smith now target of investigation by Florida bar

not actively practicing with the firm."

If The Bar finds him guilty, the penalty could range from public admonition to disbarment.

Steven Feinman, a lawyer who worked for Berman from 1984 to 1991, said he could not explain Smith's connection to the firm.

"During my entire tenure there, Mr. Smith never had any connection," Feinman said. "From time to time he may have walked in the door to say hello... very infrequently, maybe once every six months."

By 1991, Smith's name had been removed from the firm's letterhead. But the 1991-92 white pages list Smith's law office at the same phone number and address as Berman.

In January 1991, the federal Ethics Reform Act took effect, prohibiting members of Congress from allowing their name to be used by law firms.

Smith's spokesman in Washington said the representative would not be available to comment on the investigation or explain why his name was connected with the law firm. Berman could not be reached for comment despite several attempts to contact him.

Berman was disbarred in October, retroactive to June 1991, after a series of complaints about him spending clients' trust ac-

count money on himself. The Broward County State Attorney's Office is investigating allegations he spent more than \$200,000 of a client's money, sources said.

Smith also faces questions about a swap of \$10,000 checks with Berman in September 1990, questions Smith would not discuss with the *Sun-Sentinel* earlier this week.

Smith converted a \$10,000 personal check from Berman into two cashier's checks, bank officials confirmed. Smith has said he paid Berman \$10,000 from a campaign account to act as a lobbyist on his behalf in the state Legislature but that Berman backed out of the deal and repaid the money.

Records show, though, that Berman paid Smith the \$10,000 first, on Sept. 7. It is unclear what Smith did with the money, but Federal Election Commission records do not indicate he redeposited it in his campaign account.

Records show that Smith gave Berman a \$10,000 check from his campaign account on Sept. 10.

Smith has asked the FEC to investigate the matter, which may block officials from talking about the controversy until after the November election.

Smith, who is running for reelection, has refused to respond in detail to questions about his financial dealings. He admitted bouncing 90 checks, worth about \$49,000, on his House bank account.

A House ethics committee report, which Smith disputes, said he wrote 161 bad checks from 1988 to 1991.

94030974525

LAW OFFICES

ROSS & HARDIES

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

888 SIXTEENTH STREET, N.W.

WASHINGTON, D.C. 20006-4103

202-296-8600

TELECOPIER
202-296-8791

TELEX
2795 46

150 NORTH MICHIGAN AVENUE
CHICAGO, ILLINOIS 60601-7567
312-558-1000

529 FIFTH AVENUE
NEW YORK, NEW YORK 10017-4608
212-949-7075

580 HOWARD AVENUE
SOMERSET, NEW JERSEY 08873
201-563-2700

DAVID M. IFSHIN

April 22, 1992

BY MESSENGER

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

Ms. Lois G. Lerner
Associate General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C.

PRE-MUR 257

Dear Mr. Noble and Ms. Lerner:

After meeting with Congressman Larry Smith to discuss the facts preliminarily set forth in our letter to you of April 6, 1992, we write to provide you with some additional information concerning the receipt and expenditure of funds from the Larry Smith For Congress Committee ("Committee"). More specifically, we refer to a check drawn on the Committee account, dated September 10, 1990, payable to Brian Berman, Esq.

At the time of the check in question, Mr. Berman was a licensed attorney who practiced in Hollywood, Florida. Congressman Smith had maintained his law office in the same building as did Mr. Berman before he was first elected to Congress, and he had sold the assets of his law practice to Mr. Berman before entering the U.S. House of Representatives.

In early September 1990, Congressman Smith agreed to retain Mr. Berman to do legal and consulting work in connection with expected congressional reapportionment in Florida. The September 10, 1990 check on the Committee account, in the amount of ten thousand dollars (\$10,000.00), was a retainer for Mr. Berman pursuant to that agreement. To the best of his recollection, Congressman Smith met with Mr. Berman in Hollywood, Florida on

92 APR 24 PM 12:57

24030974526

Mr. Lawrence M. Noble
Ms. Lois G. Lerner
April 22, 1992
Page 2

Monday, September 10, 1990, and gave him the check at that time. His travel records show that he returned to Washington, D.C. early on the morning of Tuesday, September 11, 1992.

In a telephone conversation within a day or two after Congressman Smith had tendered the check, Mr. Berman revealed that he was having financial problems with his law practice; he stated that his difficulties might affect his ability to complete the anticipated representation and he expressed concern that representation of Congressman Smith during the reapportionment process under such circumstances might unnecessarily burden the Congressman with negative publicity. Based on Mr. Berman's disclosures, Congressman Smith terminated his agreement with Mr. Berman and requested that the previously paid retainer be refunded.

Congressman Smith picked up Mr. Berman's check on Friday, September 14, 1990, when he returned to South Florida. Mr. Berman had mentioned to Congressman Smith that the amount of funds in his account might not be sufficient to cover all of his outstanding checks, and he had advised Congressman Smith to immediately negotiate the refund check at Mr. Berman's bank. Based upon Mr. Berman's advice, Congressman Smith took the check to the Family Bank of Hallandale, Dania Branch, on that date.

As you may know, media accounts of the transaction have noted that Mr. Berman's check was dated September 7, 1990 and, thus, appears to have been written prior to the Committee check to Mr. Berman. We want to make clear to you that Congressman Smith has a firm recollection of the chronology set forth above; we are thus convinced that Mr. Berman's check was dated in error, and we are attempting to gather documentation to demonstrate that the facts we have set forth herein are accurate.

When Congressman Smith presented Mr. Berman's check at the bank, he received two cashier's checks in return¹. One cashier's check was made payable directly to a third party, while the other cashier's check was made payable to Lawrence J. Smith. A significant portion of the total amount was utilized for personal, rather than for Committee, expenses. It was Congressman Smith's intention that these funds would be repaid to the Committee following Congressman Smith's refinancing of his

¹ We have obtained copies of those checks from the bank and will produce them to the Commission during the normal course of discovery proceedings associated with this action.

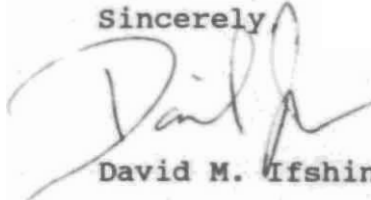
94030974527

Mr. Lawrence M. Noble
Ms. Lois G. Lerner
April 22, 1992
Page 3

personal residence. While a portion of the funds were, indeed, used for campaign purposes, it does not appear that these expenditures were properly recorded on Committee reports filed with the Commission. We are in the process of reconstructing those campaign related expenditures, but are prepared to proceed, for purposes of this action under the assumption that the expenditures were not properly disclosed and that Congressman Smith used a portion of the funds for personal purposes.

We are continuing to attempt to reconstruct the relevant records, and we will keep you advised of our progress in this regard. Thank you for your cooperation in this matter.

Sincerely



David M. Ifshin

94030974528



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

May 6, 1992

David H. Ifshin, Esquire
Ross & Hardies
888 Sixteenth Street, N.W.
Washington, D.C. 20006-4103

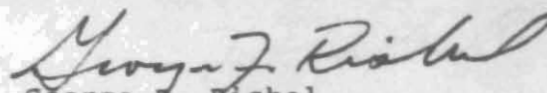
RE: Pre-MUR 257

Dear Mr. Ifshin:

On April 22, 1992, we sent you a letter acknowledging the receipt of your submission on behalf of Congressman Larry Smith. In order to insure that future notifications relating to Congressman Smith and his principal campaign committee are directed to you as counsel, I have enclosed two designation of counsel forms. One should be completed by Congressman Smith and one by the treasurer of his principal campaign committee and returned at your earliest convenience.

If you have any questions regarding this matter or letter, please contact me or Jeff Long at (202) 219-3400.

Sincerely,


George F. Rishel
Assistant General Counsel

Enclosures
Designation of Counsel Forms

94030974529

THE FLORIDA BAR

Ft. Lauderdale Office
Cypress Financial Center
5900 North Andrews Avenue
Suite 835
Ft. Lauderdale, FL 33309
305-772-2245
407-737-4906 (West Palm Beach)
305-945-9336 (Miami)

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

MAY 11 11 56 AM '92

May 5, 1992

George Rishel, Esquire
Assistant General Counsel
Federal Elections Commission
999 E. Street, N.W.
Washington, DC 20463

RE: Lawrence J. Smith, Esquire

Dear Mr. Rishel:

Enclosed please find a copy of the canceled checks and the bank statement that we recently discussed regarding the above captioned matter. I also enclose copy of a recent newspaper article regarding the above named individual and possible election law violations.

Please call if I can be of any further assistance.

Very truly yours,

KEVIN P. TYNAN
Assistant Staff Counsel

KPT/dm

Enclosures

92 MAY 11 PM 3:27

94030974530

SMITH & BERMAN, P.A.
TRUST ACCOUNT
2218 HOLLYWOOD BLVD.
HOLLYWOOD, FLORIDA 33020-6718

1205

9/6/90

Intercounty

Twenty and no/100

Bank of Hallandale
2001 Hallandale Road
P.O. Box 11112
Hallandale, Florida 33012

2800001090

SMITH & BERMAN, P.A.
TRUST ACCOUNT
2218 HOLLYWOOD BLVD.
HOLLYWOOD, FLORIDA 33020-6718

1206

9/6/90

Chick of Court

One hundred twenty eight and no/100

Bank of Hallandale
2001 Hallandale Road
P.O. Box 11112
Hallandale, Florida 33012

2800001090

SMITH & BERMAN, P.A.
TRUST ACCOUNT
2218 HOLLYWOOD BLVD.
HOLLYWOOD, FLORIDA 33020-6718

1207

9/6/90

Intercounty

Twenty and no/100

Bank of Hallandale
2001 Hallandale Road
P.O. Box 11112
Hallandale, Florida 33012

Admiral vs Queen #4958

2800001090

SMITH & BERMAN, P.A.
TRUST ACCOUNT
2218 HOLLYWOOD BLVD.
HOLLYWOOD, FLORIDA 33020-6718

1208

9/7/90

Saltzman Development Corp.

Twenty Eight and no/100

Bank of Hallandale
2001 Hallandale Road
P.O. Box 11112
Hallandale, Florida 33012

2800001090

1929 200 201

U20200344

208 5614

FT. LAUDERDALE FL 3067006298C

SMITH & BERMAN, P.A.
TRUST ACCOUNT
2210 HOLLYWOOD BLVD.
HOLLYWOOD, FLORIDA 33220-4703

1209

Lawrence J. Smith
One Thousand and no/100
9/11/90
\$ 1000.00
Bank of Hallandale
2991 Ravenswood Road
Ft. Lauderdale, Florida 33312
0001209-00570125526 2800001090

SMITH & BERMAN, P.A.
TRUST ACCOUNT
2210 HOLLYWOOD BLVD.
HOLLYWOOD, FLORIDA 33220-4703

1212

Smith & Berman
Six Hundred and no/100
9/10/90
\$ 600.00
Bank of Hallandale
2991 Ravenswood Road
Ft. Lauderdale, Florida 33312
0001212-00570125526 2800001090

SMITH & BERMAN, P.A.
TRUST ACCOUNT
2210 HOLLYWOOD BLVD.
HOLLYWOOD, FLORIDA 33220-4703

1213

William A. Wells
Twenty five thousand and no/100
9/10/90
\$ 25,000.00
Bank of Hallandale
2991 Ravenswood Road
Ft. Lauderdale, Florida 33312
0001213-00570125526 2800001090

SMITH & BERMAN, P.A.
TRUST ACCOUNT
2210 HOLLYWOOD BLVD.
HOLLYWOOD, FLORIDA 33220-4703

SAVINGS
OF AMERICA
458-02

1214

Michael & Mary Robinson
Twenty five thousand and no/100
9/10/90
\$ 25,000.00
Bank of Hallandale
2991 Ravenswood Road
Ft. Lauderdale, Florida 33312
0001214-00570125526 2800001090

SMITH & BERMAN, P.A.
TRUST ACCOUNT
2210 HOLLYWOOD BLVD.
HOLLYWOOD, FLORIDA 33220-4703

90377436

9/12/90

Board of County Commissioners
Six and no/100
\$ 6.00
Bank of Hallandale
2991 Ravenswood Road
Ft. Lauderdale, Florida 33312
0001215-00570125526 2800001090

647049

5530-530-41-45

1003 9/25/41

263443
No. 00

015503-031
0067-1-2532
2003-21000

001000024

238610

0645941

870-0289-0

PAY TO THE ORDER OF
 Bank of America
 3000 N. 1st St.
 #067012119
 P.O. DEPOSIT ONLY
 8000000000000000
 A PROFESSIONAL ASSOCIATION
 ATTORNEYS AT LAW
 1000000000000000
 0101001950007

26951424

687012418
 HENDER PARK
 687012418
 687012418

12 Sep 80

Robert E. Brown
Mary Applebourn

U2C40.0320

DEPOSIT CREDIT
BOARD OF COUNTY COMMISSIONERS
BROWARD COUNTY

10660005814
SOUTHEAST IN. MARIANA
4/21/79 1000152-958
1285338

SE 30024
2005-05-02
0570-0000

SMITH & BERMAN, P.A.
TRUST ACCOUNT
2310 HOLLYWOOD BLVD.
HOLLYWOOD, FLORIDA 33020-8703

1209

Pay to the order of

Lawrence J. Smith

9/7/90

\$ 10000.00

Dollars



Family Bank of Hallandale
5991 Ravenwood Road
Ft. Lauderdale, Florida 33312

For

00012090 0067012552

2800001098

0001000000

94030974535

015503 091490
0067 2552
2003 1000000 CC

SE '90 17

0670-0269

26344 90.06
15000

26345

C/C

Doc 9/25/91
50351

5530 530-41-145

FILE IT

Congress LD
025301500
647049

20176177

BROWARD FINAL

The Miami Herald

TUESDAY, MAY 5, 1992

CONTENTS COPYRIGHT © 1992 THE MIAMI HERALD

25 CENTS

Smith campaign funds paid casino

By RONNIE GREENE
Herald Staff Writer

Using money that originated with his re-election campaign, U.S. Rep. Larry Smith paid a \$4,000 gambling debt he ran up during a long weekend in the Bahamas, the congressman's attorney said Monday.

Lawyer Neal Sonnett confirmed the transaction after The Miami Herald asked him and the congressman about a payment to the Paradise Island Resort, one of the world's largest casinos and one of the Bahamas' most expensive destinations.

"He regrets it very much. This was a very isolated incident," Sonnett said. "I

'He's embarrassed by it. It was poor judgment on his part.'

NEAL SONNETT, Rep. Larry Smith's attorney

think he recognizes it was a stupid thing to do. He's embarrassed by it. It was poor judgment on his part."

Smith declined an interview about the payment. But he directed Sonnett to answer questions, against the lawyer's advice.

The money Smith used to pay his gambling debt came from a \$10,000 check swap between the congressman's cam-

paign and Smith's former law partner, Brian Berman, in September 1990.

The men have previously explained the exchange by saying Berman was going to represent Smith on congressional reapportionment matters, but that they changed their minds and agreed to settle their accounts.

Their explanation, however, did not square with public records. Instead of pay-

ing the \$10,000 back to the campaign where it came from, Berman wrote his check to Smith personally.

Sonnett said Smith decided to treat that \$10,000 check like a loan. The congressman took the check to a Family Bank of Hallandale branch, where he converted it into two easier-to-negotiate cashier's checks.

"The misjudgment here was in utilizing what were campaign funds for a personal loan," Sonnett said. "Larry made a spur-of-the-moment decision to temporarily

PLEASE SEE SMITH, 17A



REGRETS MISTAKE: Rep. Larry Smith has repaid account.

9 4 0 3 0 9 7 4 5 3 6

Smith paid \$4,000 casino debt out of his re-election funds

SMITH, FROM 1A

utilize that as a loan. He used it to pay some outstanding debts that he had."

One of the cashier's checks was for \$4,000 and was made out to Paradise Island Enterprises, the firm that runs the famous twin hotels and 30,000-square-foot casino where slot machines never close. Smith and his wife, Shiela, went there in August 1990.

A costly vacation

"This was a personal vacation. He took a couple of days off, over a long weekend," Sonnett said. "Larry is not a gambler. Perhaps if he had been, he wouldn't have suffered that kind of a loss."

The other cashier's check, for \$6,000, was made out to Smith personally, the lawyer said. Sonnett said he is still documenting where that money went, but some went for campaign expenses and some for personal expenses.

Smith returned the entire \$10,000 to his campaign last month, Sonnett said. The reimbursement is too late to be reflected in the latest campaign records.

A 10-year congressman, Smith, 51, announced in a television commercial last week that he will not seek re-election this fall.

He has been widely popular with his constituents in South Broward and large parts of West



Larry Smith returned the entire \$10,000 to his campaign last month, his lawyer said. The reimbursement is too late to be reflected in the latest campaign records.

Dade. He gained a reputation as a leading advocate of Israel, and fought administration efforts to sell arms to Saudi Arabia and Kuwait. He is an outspoken advocate of gun control.

A human error, lawyer says

"This is admittedly poor judgment and an unfortunate incident, but not enough to tarnish an outstanding career in the Congress," Sonnett said. "And I think the people in his district will understand he is human. He experiences the same kind of financial pressures other people experience. And occasionally he makes mistakes, just like other human beings do."

"He's had an exemplary record. There's never been any whisper of scandal."

The Florida Bar and Federal Election Commission are investigating Smith's dealings with Berman, who was disbarred by the Florida Supreme Court last year

after bouncing more than \$2 million of checks on client trust accounts.

Members of Congress are allowed great discretion in spending campaign money.

"There's nothing in the statute that details what campaign funds may or may not be spent for," said Fred Eiland, the FEC's press officer. "The requirement is full public disclosure, so the contributors and voters will know what the money is being spent for."

The Bar inquiry is believed to focus on whether Smith improperly accepted money from a Berman law office trust account, commonly used for holding a client's funds, and whether he allowed his name to be affiliated with the firm after he stopped practicing there.

Smith is cooperating with both the Bar and FEC, Sonnett said, and has not tried to conceal the transactions.

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

MAY 26 9 41 AM '92

LAW OFFICES

ROSS & HARDIES

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

888 SIXTEENTH STREET, N.W.

WASHINGTON, D.C. 20006-4103

202-296-8600

TELECOPIER
202-296-8791

TELEX
2795 46

150 NORTH MICHIGAN AVENUE
CHICAGO, ILLINOIS 60601-7567
312-558-1000

529 FIFTH AVENUE
NEW YORK, NEW YORK 10017-4608
212-949-7075

580 HOWARD AVENUE
SOMERSET, NEW JERSEY 08873
201-563-2700

May 20, 1992

Mr. George Rishel
Assistant General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

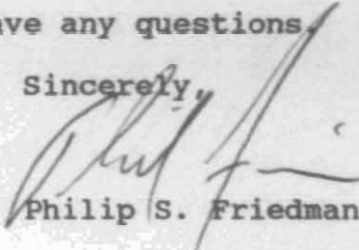
Re: Pre-MUR 257

Dear Mr. Rishel:

Enclosed please find the two executed designation of counsel forms you requested in the above referenced matter.

Please call me if you have any questions.

Sincerely,


Philip S. Friedman

Enclosures

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

92 MAY 26 PM 3:45

94030974538

STATEMENT OF DESIGNATION OF COUNSEL

MUR Pre-MUR 257

NAME OF COUNSEL:

David M. Ifshin, Esq.

ADDRESS:

Ross & Hardies

888 16th St., N.W.

Washington, DC 20006

TELEPHONE:

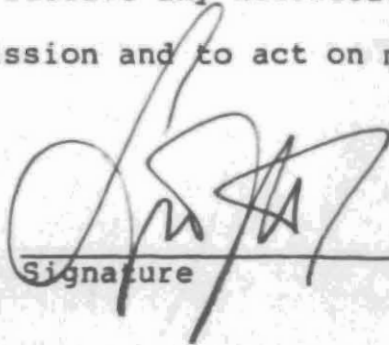
202/296-8600

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

Date

5/14/92

Signature



RESPONDENT'S NAME:

The Honorable Lawrence J. Smith

ADDRESS:

113 Cannon ROB

Washington, DC 20515

HOME PHONE:

BUSINESS PHONE:

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 MAY 26 PM 3:45

94030974539

STATEMENT OF DESIGNATION OF COUNSEL

MUR Pre-MUR 257

NAME OF COUNSEL: David M. Ifshin, Esq.

ADDRESS: Ross & Hardies

888 16th St., N.W.

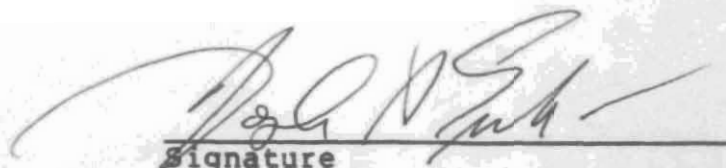
Washington, DC 20006

TELEPHONE:

202/296-8600

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.

5/13/94
Date


Signature

RESPONDENT'S NAME: Mr. Joseph Epstein

ADDRESS: Treasurer, Larry Smith for Congress Committee

700 S.E. Third Avenue

Suite 400

HOME PHONE:

Ft Lauderdale, FL 33316

BUSINESS PHONE:

305-764-7717

92 MAY 26 PM 3:45

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

94030974540

92 JUN -3 AM 10: 02

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

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

Pre-MUR 257

STAFF MEMBERS George F. Rishel
Jeffrey D. Long
Tonda Mott

SOURCE: SUA SPONTE SUBMISSION

RESPONDENTS: Representative Lawrence J. Smith

Larry Smith for Congress (92) and
Joseph A. Epstein, CPA, as treasurer

RELEVANT STATUTES: 2 U.S.C. § 432(e)
2 U.S.C. § 432(h)
2 U.S.C. § 434(b)
2 U.S.C. § 439a
11 C.F.R. Part 113

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

This matter was generated by a sua sponte submission by counsel for Representative Lawrence J. Smith and filed on April 7, 1992. Counsel made a further submission on April 24, 1992. Attachment 1. In addition, news articles were published in April relating to the subject matter of the submission. Attachment 2. Moreover, counsel for the Florida Bar [on his own initiative] contacted this Office regarding its investigation that also touched on the subject matter of this submission and voluntarily provided certain information. Attachment 3.

Rep. Smith is a Member of Congress, representing the 16th Congressional District of Florida, covering portions of Broward and Dade Counties. Rep. Smith was first elected to the House of

94030974541

Representatives in 1982. His current principal campaign committee is Larry Smith for Congress (92) with Joseph A. Epstein, CPA, as treasurer ("Smith Committee"). On April 29, 1992, The Washington Post and other newspapers reported that Rep. Smith had announced that he would not run for re-election.¹

II. FACTUAL AND LEGAL ANALYSIS

A. Sua Sponte Submission

The subject matter of this submission relates to transactions involving Rep. Smith, Brian Berman, and Rep. Smith's 1990 principal campaign committee (Larry Smith for Congress (90)). Brian Berman was an attorney in Hollywood, Florida, in 1990. The 1990 Smith Committee disclosed a disbursement of \$10,000 to Brian Berman on September 10, 1990, for "consulting." Attachment 4.

In the initial submission, dated April 6, 1992, counsel for Rep. Smith states that during the last quarter of 1990, certain disbursements made from Rep. Smith's committee "on his own behalf as well as the Democratic Party of Florida may not have been properly reported." Counsel noted that additional information was still being gathered but that Rep. Smith had asked counsel to bring the situation to the Commission's attention and asked that

1. In the 1989-90 election cycle, Rep. Smith's principal campaign committee reported total receipts of approximately \$527,994 and total disbursements of approximately \$275,873 with cash on hand as of December 31, 1990, of \$413,843.09. The committee showed ending cash on hand of \$413,495.41 as of September 30, 1990, the close of the reporting period covering the events in question in this submission. The current committee shows an ending cash on hand of approximately \$414,455 as of March 31, 1992, according to the FEC database.

94030974542

a Pre-MUR be initiated. This submission was designated Pre-MUR 257 and sent forward for assignment of April 16, 1992. A copy of this letter has previously circulated to the Commission on April 23, 1992.

On April 24, 1992, counsel for Rep. Smith submitted a more detailed letter, dated April 22, 1992. The letter refers to the Smith Committee's \$10,000 check dated September 10, 1990, payable to Brian Berman and in relevant part states:

At the time of the check in question, Mr. Berman was a licensed attorney who practiced in Hollywood, Florida. Congressman Smith had maintained his law office in the same building as did Mr. Berman before he was first elected to Congress, and he had sold the assets of his law practice to Mr. Berman before entering the U.S. House of Representatives.

In early September 1990, Congressman Smith agreed to retain Mr. Berman to do legal and consulting work in connection with expected congressional reapportionment in Florida. The September 10, 1990 check on the Committee account, in the amount of ten thousand dollars (\$10,000.00), was a retainer for Mr. Berman pursuant to that agreement. To the best of his recollection, Congressman Smith met with Mr. Berman in Hollywood, Florida on Monday, September 10, 1990, and gave him the check at that time. His travel record shows that he returned to Washington, D.C. early on the morning of Tuesday, September 11, 1992 [sic 1990].

In a telephone conversation within a day or two after Congressman Smith had tendered the check, Mr. Berman revealed that he was having financial problems with his law practice; he stated that his difficulties might affect his ability to complete the anticipated representation and he expressed concern that representation of Congressman Smith during the reapportionment process under such circumstances might unnecessarily burden the Congressman with negative publicity. Based on Mr. Berman's disclosures, Congressman Smith terminated his agreement with Mr. Berman and requested that the previously paid retainer be refunded.

Congressman Smith picked up Mr. Berman's check on Friday, September 14, 1990, when he returned to South Florida. Mr. Berman had mentioned to Congressman Smith that the amount of funds in his account might not be sufficient to cover all of his outstanding checks, and he had advised Congressman Smith to immediately

24030974543

negotiate the refund check at Mr. Berman's bank. Based upon Mr. Berman's advice, Congressman Smith took the check to the Family Bank of Hallandale, Dania Branch, on that date.

As you may know, media accounts of the transaction have noted that Mr. Berman's check was dated September 7, 1990 and, thus, appears to have been written prior to the Committee check to Mr. Berman. We want to make clear to you that Congressman Smith has a firm recollection of the chronology set forth above; we are thus convinced that Mr. Berman's check was dated in error, and we are attempting to gather documentation to demonstrate that the facts we have set forth herein are accurate.

When Congressman Smith presented Mr. Berman's check at the bank, he received two cashier's checks in return. [Counsel notes that he has obtained copies of those checks and will produce them to the Commission during the normal course of discovery proceedings associated with this action.] One cashier's check was made payable directly to a third party, while the other cashier's check was made payable to Lawrence J. Smith. A significant portion of the total amount was utilized for personal, rather than for Committee, expenses. It was Congressman Smith's intention that these funds would be repaid to the Committee following Congressman Smith's refinancing of his personal residence. While a portion of the funds were, indeed, used for campaign purposes, it does not appear that these expenditures were properly recorded on Committee reports filed with the Commission. We are in the process of reconstructing those campaign related expenditures, but are prepared to proceed, for purposes of this action under the assumption that the expenditures were not properly disclosed and that Congressman Smith used a portion of the funds for personal purposes.

We are continuing to attempt to reconstruct the relevant records, and we will keep you advised of our progress in this regard.

Attachment 1.

B. Cashiers' Checks

Counsel for the Florida Bar voluntarily provided copies of the front and back of two cashier's checks it subpoenaed from the Family Bank of Hallandale that represent the two cashier's checks Rep. Smith obtained with the \$10,000 check he received from Berman. The checks are sequentially numbered, 26344 and 26345;

94030974544

both are dated September 14, 1990; and both are drawn on the Family Bank of Hallandale. Check No. 26344 is made payable to Paradise Island Enterprises in the amount of \$4,000 with the name "L.J. Smith" in the Remitter line.² The back of this check indicates that it was deposited in a Miami bank on September 17, 1990. Check No. 26345 is made payable to Lawrence J. Smith in the amount of \$6,000 with the name "Smith/Berman trust" in the Remitter line. The back of this check indicates that it was deposited with Jack Russ, Sergeant at Arms, House of Representatives on October 15, 1990.

C. News Articles

In addition to the sua sponte submission and cashier's checks, this Office has also located news articles relating to the subject matter of this Pre-MUR or received them from counsel for the Florida Bar.

The first article is an undated one, provided by counsel for the Florida Bar, that appeared in the Miami Herald under the

2. The Florida Secretary of State's Corporations Division had no listing of Paradise Island Enterprises as a corporation or registered fictitious name. There are two resorts on Paradise Island in The Bahamas called Paradise Island Fun Club and Paradise Island Resort & Casino. Rep. Smith's annual financial disclosure statement filed with the House of Representatives discloses that he received round trip airfare from Washington, D.C., to Nassau plus food and lodging for himself on February 8-9, 1990, from Television and Radio PAC [the separate segregated fund of the National Association of Broadcasters], from which he also received a \$2,000 honoraria on March 2, 1990. The Nassau airport appears to be the nearest commercial airport to Paradise Island. The Million Dollar Directory lists a Paradise Island, Ltd., in Miami, Florida, that is a subsidiary of Resorts International, Inc., an operator of resorts and casinos. The \$4,000 cashier's check indicates that it was deposited into a Miami bank.

94030974545

94030974546
title "Financial questions tame Smith's bravado," based primarily on a "lengthy" interview with Rep. Smith. The article notes several questions regarding Rep. Smith's finances before focusing on the \$10,000 checks exchanged with Brian Berman. The article notes that the news story regarding the checks was broken by a reporter, Michael Putney, with WPLG-TV, who reportedly found a copy of Berman's \$10,000 check to Rep. Smith in the files relating to Berman's disbarment in 1991. The article indicates that the report of this check prompted the Florida Bar to begin an investigation to determine if the Berman check had been written on a client trust account.

Another news article appeared in the April 8, 1992, edition of the Miami Herald concerning a state investigation regarding Brian Berman. The article states that Brian Berman had been disbarred in 1991 by the Florida Supreme Court after the Florida Bar reported he had allegedly bounced \$2 million worth of checks on client trust accounts and then lied to the Bar in an attempt to explain the shortages. The article states that Berman is also under scrutiny for a \$10,000 check he wrote to Rep. Smith but that the two inquiries are separate. The article states that Berman and Smith were law partners for a short time in the early 1980s. The article refers to the \$10,000 payment from the Smith Committee to Berman on September 10, 1990, and then notes that three days prior to that Berman had written a \$10,000 check to Rep. Smith personally. The article further notes that the parties, in explaining the transaction, said that Rep. Smith had retained Berman for legal work regarding redistricting but then

called off the agreement and "decided to square their accounts." The article states that there is no record of Rep. Smith reimbursing the \$10,000 to his committee. It quotes Rep. Smith as conceding that some expenditures in 1990 may not have been reported in a manner consistent with the procedures of the Federal Election Commission.

Counsel for the Florida Bar also provided a copy of a news article that appeared in the April 11, 1992, edition of the Fort Lauderdale Sun Sentinel. This article indicated that Rep. Smith was the target of a Florida Bar investigation. It notes that there may have been a bar rule violation by the inclusion of Rep. Smith's name in the name of Berman's law firm. It notes that the firm's stationery carried the title "Smith & Berman, P.A." and listed Rep. Smith first among attorneys in the firm as well as on checks, bank statements, and other documents. It noted an affidavit by Berman stating that Rep. Smith had been his law partner only briefly nine years earlier. The article further states that by 1991 Rep. Smith's name had been removed from the letterhead, but the 1991-92 white pages continued to list Rep. Smith's law office at the same phone number and address as Berman.³ The article also discusses the \$10,000 checks exchanged

3. According to the Corporations Division of the Florida Secretary of State, Smith & Berman, P.A., was incorporated on June 4, 1984. On December 19, 1990, it filed a name change to Brian M. Berman, P.A. The latter corporation was dissolved on October 11, 1991, for failure to file its annual report. Although the current crisscross directory for Hollywood, Florida, lists four persons at 2310 Hollywood Boulevard: Brian M. Berman, Steven A. Feinman, Andrea R. Gershberg, Lawrence J. Smith as well as Smith & Berman, P.A., at the same telephone number, we understand from counsel for the Florida Bar that this listing is

94030974547

between Rep. Smith and Berman in September 1990, but does not add any new information.

A fourth article appeared in the Miami Herald on April 12, 1992, entitled "Smith stonewalls on check probe." That article focused on what it called "a long list of lingering questions" regarding the exchange of checks between Berman and Rep. Smith. The article reviews several of these questions. It notes that Berman's \$10,000 check to Rep. Smith was dated September 7, while the Smith Committee's check to Berman was dated September 10, and asks why Berman would be reimbursing Smith before Berman was first paid for his "consulting." It then notes that the payment to Berman came from Rep. Smith's campaign committee's account, while Berman's check was made payable to Rep. Smith personally and asks why the checks were written this way if there was a reimbursement and why the \$10,000 check made payable to Rep. Smith was not endorsed over to the Smith Committee.

The article further notes that the check Berman wrote to Rep. Smith was drawn on the "Smith & Berman P.A. Trust Account," which appears to be an account where the firm kept its client's money and asks why Berman wrote the check on this account and why Rep. Smith accepted. Next, the article states that officials at the bank where the check was drawn and cashed told the newspaper that Rep. Smith endorsed the check and converted the sum into two cashier's checks on September 14, 1990, and then asks how the

(Footnote 3 continued from previous page)
inaccurate. Andrea Gershberg moved to Central Florida several years ago. Steven A. Feinman disassociated himself from Berman's practice before Berman's disbarment.

94030974548

money was spent. The article also asks what services Berman was to provide and why he was picked for reapportionment issues when he is not well known among Florida lawmakers who decide reapportionment issues. It further notes a \$5,000 payment to Tom Spulak, a Washington lawyer and former Florida Senate aide, for legal and political analysis. The article adds that the Florida Bar has also initiated an investigation related to Rep. Smith.⁴

A May 7, 1992, article in The Washington Post reports that Rep. Smith's attorney in Florida, Neil Sonnett, had said that the \$4,000 cashier's check made payable to Paradise Island Enterprises paid off a personal gambling debt. See Footnote 2. The article also quotes Sonnett as saying that when Rep. Smith received the \$10,000 check from Brian Berman he made an "unfortunate, spur of the moment decision to treat it as a loan." Sonnett is further quoted as saying that he had not found any documentation that Rep. Smith recorded the transaction as a debt to his committee. Sonnett further states that Rep. Smith had

4. An article appeared in The Washington Post on April 23, 1992, but mainly repeats the principal factual information contained in the two earlier Miami Herald articles.

Another Sun Sentinel article was published on April 17, 1992, and discusses allegations that Rep. Smith's campaign committee is paying discounted rates for the lease of a Cadillac Sedan de Ville from Alamo Rent A Car, a firm for which Rep. Smith's son allegedly lobbies. The article states that Rep. Smith's committee is paying \$424 a month, while an Alamo representative quoted the reporter a price of \$184 a week or \$736 a month. The information in this article would appear to suggest that the committee may have received an in-kind contribution from Alamo through a discounted lease arrangement. It further appears to suggest that Rep. Smith may have been making personal use of the car without reimbursing his campaign committee. For this reason, this Office will preliminarily look into this issue, including examining the reports of the Smith Committee for the past several years, and make a further report to the Commission.

94030974549

returned the funds to his committee "last month," evidently referring to April 1992.

Based on the above information, this Office concludes that there is reason to believe several violations of the Act may have occurred. The check from Berman, purportedly intended as a refund of the \$10,000 payment to Berman from the campaign fund, was apparently not deposited back into the campaign depository but converted by Rep. Smith into cashier's checks and used for personal and perhaps campaign purposes. Counsel for Rep. Smith acknowledges that funds disbursed from his campaign committee to Berman were returned to Rep. Smith personally and, at least in part, used for personal expenses and were not properly reported. Thus, it appears that there has been a violation of 2 U.S.C. § 439a involving the conversion of excess campaign funds to personal use,⁵ a violation of 2 U.S.C. § 432(h) in that all campaign receipts were not deposited into the campaign depository and all disbursements, other than petty cash, were not made from that depository, and a violation of 2 U.S.C. § 434(b) in that campaign disbursements were not fully or properly reported.

The Act provides that a candidate who receives a contribution or loan and makes any disbursement in connection with any campaign for federal office does so as agent of his principal campaign committee. 2 U.S.C. § 432(e). The application of this

5. As noted earlier, Rep. Smith was first elected to Congress in 1982 and, thus, is not covered by the grandfathering provision of Section 439a. As such, he cannot convert any of the funds of his principal campaign committee to personal use because he is not a "qualified Member." See 11 C.F.R. §§ 113.1(f) and 113.2(e).

94030974550

94030974551
provision makes the apparent violations of 2 U.S.C. § 432(h) and 434(b) attributable to Rep. Smith's principal campaign committee. Section 439a, however, refers to "amounts received by a candidate" that are in excess of the amounts needed to defray campaign expenses. Commission regulations further define "excess campaign funds" to mean amounts received by a candidate as contribution "which he or she determines" are in excess of the amounts necessary to defray campaign expenses. 11 C.F.R. § 113.1(e). Because the Act and regulations place the determination that a campaign has excess campaign funds and their use on the candidate personally, the proposed finding with respect to Section 439a should be made with respect to Rep. Smith personally.

Accordingly, we recommend that the Commission find reason to believe Lawrence J. Smith violation 2 U.S.C. § 439a, and Larry Smith for Congress (92) and Joseph A. Epstein, as treasurer, violated 2 U.S.C. §§ 432(h) and 434(b).

The Act also addresses violations of law that are knowing and willful. See 2 U.S.C. §§ 437g(a)(5)(C) and 437g(d). During the House debates on the Conference Report for the 1976 Amendments, Congressman Hays stated that the phrase "knowing and willful" referred to "actions taken with full knowledge of all of the facts and a recognition that the action is prohibited by law." 122 Cong. Rec. H3778 (daily ed. May 3, 1976). The knowing and willful standard has also been addressed by the courts. In Federal Election Commission v. John A. Dramesi for Congress Committee, 640 F.Supp. 985 (D. N.J. 1986), the court noted that

the knowing and willful standard requires knowledge that one is violating the law. A U.S. Circuit Court of Appeals has found that a knowing and willful violation may be established "by proof that the defendant acted deliberately and with knowledge that the representation was false." United States v. Hopkins, 916 F.2d 207, 214 (5th Cir. 1990). The court further said that an inference of a knowing and willful violation may be drawn "from the defendants' elaborate scheme for disguising" their actions and that they "deliberately conveyed information they knew to be false to the Federal Election Commission." Id. at 214-15.

94030974552
This office recognizes that this matter is a sua sponte submission and that we would not normally recommend a finding of a knowing and willful violation in a sua sponte submission. Nevertheless, the facts, as presently known in this matter, support a finding of a knowing and willful violation. The circumstances suggest that Rep. Smith was aware that he could not convert campaign funds to personal use, but nevertheless deliberately embarked on a series of transactions that, in effect, converted campaign funds to personal use. These transactions were disguised and not disclosed on the reports of the Committee.

Accordingly, we also recommend that the Commission find reason to believe Lawrence J. Smith knowingly and willfully violated 2 U.S.C. § 439a.

D. Proposed Investigation

The additional information contained in the news articles plus the copies of the two cashier's checks suggest an

9 4 0 3 0 9 7 4 5 5 3

explanation for the series of events that occurred that differs from the explanation presented in the sua sponte submission. There are a number of inconsistencies, contradictions, and gaps evident from the above review. With this in mind, this Office proposes to conduct a thorough investigation to obtain as much documentary evidence as possible, to locate and interview witnesses, and to seek documentary and testimonial evidence from the Respondents. The purpose of this investigation will be to obtain hard data and evidence relating to the sequence of events and the flow of the funds that are relevant to violations of the Act.

Counsel for Rep. Smith notes in his submission that they possess copies of checks and other documents that they are willing to provide as part of the normal discovery process in this matter. Although counsel's submission indicates a willingness to cooperate in the investigation of this matter, we believe that the Commission should issue a subpoena for the information in view of the knowing and willful recommendation. We also note that Rep. Smith has apparently retained a well-known criminal defense attorney, Neil Sonnett, to represent him in Florida. There is a possibility that Rep. Smith is facing inquiry regarding these transactions in Florida as well as before the Commission. Therefore, we conclude that a subpoena would be the more appropriate method to obtain the documents. The attached subpoenas ask Rep. Smith to produce all documents in his possession relating to these transactions and his principal campaign committee to produce documents and bank statements

relating to the \$10,000 payment to Berman. We further recommend that the Commission approve a subpoena to Rep. Smith to appear for a deposition.

We also recommend the Commission approve a subpoena for deposition to Brian Berman as a nonrespondent witness. If it can be obtained, Berman's testimony will be helpful to more fully understand the sequence in which the events occurred. News reports indicate that Berman has been difficult to locate or contact recently. Therefore, we are planning to retain the services of a tracing service to locate Berman and, if necessary, a private process server to serve the subpoena. We will also contact counsel for the Florida Bar and counsel for the Broward County state's attorney's office to see if they can assist in locating Berman.

We also recommend the Commission approve a subpoena to the Family Bank of Hallandale as a nonrespondent witness for the bank records for the months of August, September, and October 1990 for the Smith & Berman, P.A. trust account in order to verify when the \$10,000 check from Berman to Rep. Smith was written, when it cleared the account, and whether the \$10,000 check from the Smith Committee was deposited into this account, as well as any further documentation the bank may possess regarding the issuing of the two cashier's checks.

As noted above, the \$6,000 cashier's check made payable to Rep. Smith was apparently deposited into his account at the so-called "House Bank" operated by the Sergeant At Arms. The check was written in September 1990 and deposited in October

94030974554

1990. Counsel for Rep. Smith suggests that a portion of these funds were spent for campaign purposes. Therefore, if counsel continues to insist that a portion of the \$10,000 received from Berman was spent on campaign expenses (which could only come from the \$6,000 cashier's check deposited into Rep. Smith's House bank account, not the \$4,000 one to pay a gambling debt), we will inform counsel that such records must be produced to substantiate this claim.⁶

9 4 0 3 0 9 7 4 5 5 5
Furthermore, it is apparent from news reports that retired Judge Malcolm Wilkey, a special prosecutor appointed by the Attorney General, is investigating the operations of the "House Bank" and has subpoenaed its records. We do not know at this time if his investigation relates, or will lead, to Rep. Smith and the deposit of the \$6,000 cashier's check. In MUR 2406, the Commission approved the sending of a letter to Independent Counsel Lawrence Walsh, who was investigating issues arising from the Iran-Contra affair, seeking information from his office relating to Carl Channell, a respondent in MUR 2406. This request was made because of the inability to obtain documentary evidence from the Respondents or the congressional Iran-Contra investigating committees. Walsh's office did provide us with

6. In our review of the Rules of the House, it appears that a subpoena to the Sergeant At Arms for records of Rep. Smith's bank account for the relevant period of time would require notification to the House. See Rule L, Rules of the House of Representatives, H.R. Doc. No. 256, 101st Cong., 1st Sess. ¶ 946 (1991). Attachment 5. Such notification would, in our view, compromise the confidentiality of the investigation. Therefore, we do not recommend making any request or issuing a subpoena to the Sergeant At Arms for these records at this time.

limited information. At this time, we do not anticipate a similar obstacle to obtaining the documentary evidence needed for this matter. Therefore, we are not recommending that the Commission make a similar request to Judge Wilkey at this time.

III. RECOMMENDATIONS

1. Open a MUR.
2. Find reason to believe that Lawrence J. Smith knowingly and willfully violated 2 U.S.C. § 439a.
3. Find reason to believe that Larry Smith for Congress (92) and Joseph A. Epstein, as treasurer, violated 2 U.S.C. §§ 432(h) and 434(b).
4. Approve the attached subpoenas to Lawrence J. Smith, and Larry Smith for Congress (92) and Joseph A. Epstein, as treasurer.
5. Approve the attached subpoenas to Brian Berman, and the Family Bank of Hallandale, as nonrespondent witnesses.
6. Approve the attached Factual and Legal Analysis.
7. Approve the appropriate letters.

Date

6/3/92

Lawrence M. Noble
General Counsel

Attachments:

1. Sua Sponte Submission
2. News articles
3. Florida Bar Association Materials
4. Smith Committee report excerpts
5. Rule L, Rules of the House of Representatives
6. Factual and Legal Analysis (1)
7. subpoenas (4)

94030974556

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Representative Lawrence J. Smith;
Larry Smith for Congress (92) and
Joseph A. Epstein, CPA, as treasurer.

Pre-MUR 257

(MUR
3538)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on June 8, 1992, the Commission decided by a vote of 4-0 to take the following actions in Pre-MUR 257:

1. Open a MUR.
2. Find reason to believe that Lawrence J. Smith knowingly and willfully violated 2 U.S.C. § 439a.
3. Find reason to believe that Larry Smith for Congress (92) and Joseph A. Epstein, as treasurer, violated 2 U.S.C. §§ 432(h) and 434(b).
4. Approve the subpoenas to Lawrence J. Smith, and Larry Smith for Congress (92) and Joseph A. Epstein, as treasurer, as recommended in the General Counsel's Report dated June 3, 1992.

(Continued)

94030974557

5. Approve the subpoenas to Brian Berman, and the Family Bank of Hallandale, as nonrespondent witnesses, as recommended in the General Counsel's Report dated June 3, 1992.
6. Approve the Factual and Legal Analysis, as recommended in the General Counsel's Report dated June 3, 1992.
7. Approve the appropriate letters, as recommended in the General Counsel's Report dated June 3, 1992.

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

Attest:

6-8-92
Date

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

Received in the Secretariat: Wed., June 3, 1992 10:02 a.m.
Circulated to the Commission: Wed., June 3, 1992 4:00 p.m.
Deadline for vote: Mon., June 8, 1992 4:00 p.m.

dr

94030974558



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 19, 1992

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

David M. Ifshin, Esq.
Ross & Hardies
888 16th Street, N.W.
Washington, D.C. 20006

RE: MUR 3538
(formerly Pre-MUR 257)
Larry Smith for Congress (92)
and Joseph A. Epstein, as
treasurer

Dear Mr. Ifshin:

On June 8, 1992, the Federal Election Commission found that there is reason to believe Larry Smith for Congress (92) (the "Committee") and Joseph A. Epstein, as treasurer, violated 2 U.S.C. §§ 432(h) and 434(b), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against your client. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Statements should be submitted under oath. All responses to the enclosed Subpoena to Produce Documents must be submitted within 30 days of your receipt of this subpoena. Any additional materials or statements you wish to submit should accompany the response to the subpoena.

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

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time.

94030974559

Larry Smith for Congress (92)
and Joseph A. Epstein, as treasurer
Page 2

so that it may complete its investigation of the matter.
Further, requests for pre-probable cause conciliation will not
be entertained after briefs on probable cause have been mailed
to the respondent.

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

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

If you have any questions, please contact Tonda M. Mott,
the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Joan D. Aikens

Joan D. Aikens
Chairman

Enclosures
Subpoena
Factual and Legal Analysis

94030974560

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
)
) MUR 3538
)

SUBPOENA TO PRODUCE DOCUMENTS

TO: Larry Smith for Congress (92) and
Joseph A. Epstein, as treasurer

Pursuant to 2 U.S.C. § 437d(a)(3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby subpoenas the documents listed on the attachment to this subpoena.

Notice is given that these documents must be submitted to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, within 30 days of your receipt of this subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

94030974561

MUR

Larry Smith for Congress (92) and
Joseph A. Epstein, as treasurer
Page 2

WHEREFORE, the Chairman of the Federal Election Commission
has hereunto set her hand in Washington, D.C. on this *18th*
day of *June*, 1992.

Joan D. Aikens
Joan D. Aikens, Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons
Marjorie W. Emmons
Secretary to the Commission

Attachment
Document Request (3 pages)

94030974562

MUR

Larry Smith for Congress (92) and

Joseph A. Epstein, as treasurer

Page 3

INSTRUCTIONS

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

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

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

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

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

Unless otherwise indicated, the discovery request shall refer to the time period from August 1, 1990 to the present.

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

94030974563

MUR

Larry Smith for Congress (92) and
Joseph A. Epstein, as treasurer
Page 4

DEFINITIONS

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

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

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

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

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

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

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

94030974564

MUR

Larry Smith for Congress (92) and
Joseph A. Epstein, as treasurer
Page 5

1. Produce all documents relating to the making and delivering of a \$10,000 check, made payable to Brian Berman, which was drawn on an account of the Larry Smith for Congress Committee (90), on or about September 10, 1990. Produced documents should include, but should not be limited to, bank statements for all months which show bank activities relating to the above named check, copies of the front and back of said check, and any correspondence relating to said check.

2. Identify the account on which the above named check was drawn, and all other accounts used by the Larry Smith for Congress Committee (90).

3. Produce all documents relating to any funds paid by Lawrence J. Smith into any account of the Larry Smith for Congress Committee between April 1, 1992 and the present. Produced documents should include, but should not be limited to, bank statements, deposit slips, and the front and back of any such checks.

94030974565

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Lawrence J. Smith MUR 3538
Larry Smith for Congress (92)
and Joseph A. Epstein, as treasurer

I. GENERATION OF MATTER

9 4 0 3 0 9 7 4 5 6 6
This matter was generated by a sua sponte submission by counsel for Representative Lawrence J. Smith and filed on April 7, 1992. Counsel made a further submission on April 24, 1992. Rep. Smith is a Member of Congress, representing the 16th Congressional District of Florida. Rep. Smith was first elected to the House of Representatives in 1982. His current principal campaign committee is Larry Smith for Congress (92) with Joseph A. Epstein, as treasurer ("Smith Committee").¹

II. FACTUAL AND LEGAL ANALYSIS

The subject matter of this submission relates to transactions involving Rep. Smith, Brian Berman, and Rep. Smith's 1990 principal campaign committee (Larry Smith for Congress (90)). Brian Berman was an attorney in Hollywood, Florida, in 1990. The 1990 Smith Committee disclosed a disbursement of \$10,000 to Brian Berman on September 10, 1990, for "consulting."

In the initial submission, dated April 6, 1992, counsel for

1. In the 1989-90 election cycle, Rep. Smith's principal campaign committee reported total receipts of approximately \$527,994 and total disbursements of approximately \$275,873 with cash on hand as of December 31, 1990, of \$413,843.09. The committee showed ending cash on hand of \$413,495.41 as of September 30, 1990, the close of the reporting period covering the events in question in this submission. The current committee shows an ending cash on hand of approximately \$414,455 as of March 31, 1992, according to the FEC database.

Rep. Smith states that during the last quarter of 1990, certain disbursements made from Rep. Smith's committee "on his own behalf as well as the Democratic Party of Florida may not have been properly reported." Counsel noted that additional information was still being gathered but that Rep. Smith had asked counsel to bring the situation to the Commission's attention and asked that a Pre-MUR be initiated.

On April 24, 1992, counsel for Rep. Smith submitted a more detailed letter, dated April 22, 1992. The letter refers to the Smith Committee's \$10,000 check dated September 10, 1990, payable to Brian Berman and in relevant part states:

At the time of the check in question, Mr. Berman was a licensed attorney who practiced in Hollywood, Florida. Congressman Smith had maintained his law office in the same building as did Mr. Berman before he was first elected to Congress, and he had sold the assets of his law practice to Mr. Berman before entering the U.S. House of Representatives.

In early September 1990, Congressman Smith agreed to retain Mr. Berman to do legal and consulting work in connection with expected congressional reapportionment in Florida. The September 10, 1990 check on the Committee account, in the amount of ten thousand dollars (\$10,000.00), was a retainer for Mr. Berman pursuant to that agreement. To the best of his recollection, Congressman Smith met with Mr. Berman in Hollywood, Florida on Monday, September 10, 1990, and gave him the check at that time. His travel record shows that he returned to Washington, D.C. early on the morning of Tuesday, September 11, 1992 [sic 1990].

In a telephone conversation within a day or two after Congressman Smith had tendered the check, Mr. Berman revealed that he was having financial problems with his law practice; he stated that his difficulties might affect his ability to complete the anticipated representation and he expressed concern that representation of Congressman Smith during the reapportionment process under such circumstances might unnecessarily burden the Congressman with negative publicity. Based on Mr. Berman's disclosures, Congressman Smith terminated his agreement with Mr. Berman and requested that the previously paid retainer be refunded.

94030974567

Congressman Smith picked up Mr. Berman's check on Friday, September 14, 1990, when he returned to South Florida. Mr. Berman had mentioned to Congressman Smith that the amount of funds in his account might not be sufficient to cover all of his outstanding checks, and he had advised Congressman Smith to immediately negotiate the refund check at Mr. Berman's bank. Based upon Mr. Berman's advice, Congressman Smith took the check to the Family Bank of Hallandale, Dania Branch, on that date.

As you may know, media accounts of the transaction have noted that Mr. Berman's check was dated September 7, 1990 and, thus, appears to have been written prior to the Committee check to Mr. Berman. We want to make clear to you that Congressman Smith has a firm recollection of the chronology set forth above; we are thus convinced that Mr. Berman's check was dated in error, and we are attempting to gather documentation to demonstrate that the facts we have set forth herein are accurate.

When Congressman Smith presented Mr. Berman's check at the bank, he received two cashier's checks in return. One cashier's check was made payable directly to a third party, while the other cashier's check was made payable to Lawrence J. Smith. A significant portion of the total amount was utilized for personal, rather than for Committee, expenses. It was Congressman Smith's intention that these funds would be repaid to the Committee following Congressman Smith's refinancing of his personal residence. While a portion of the funds were, indeed, used for campaign purposes, it does not appear that these expenditures were properly recorded on Committee reports filed with the Commission. We are in the process of reconstructing those campaign related expenditures, but are prepared to proceed, for purposes of this action under the assumption that the expenditures were not properly disclosed and that Congressman Smith used a portion of the funds for personal purposes.

We are continuing to attempt to reconstruct the relevant records, and we will keep you advised of our progress in this regard.

In addition to the sua sponte submission, additional information has been published in various news reports.

The first article is an undated one that appeared in the Miami Herald under the title "Financial questions tame Smith's bravado," based primarily on a "lengthy" interview with

94030974568

Rep. Smith. The article notes several questions regarding Rep. Smith's finances before focusing on the \$10,000 checks exchanged with Brian Berman. The article notes that the news story regarding the checks was broken by a reporter, Michael Putney, with WPLG-TV, who reportedly found a copy of Berman's \$10,000 check to Rep. Smith in the files relating to Berman's disbarment in 1991. The article indicates that the report of this check prompted the Florida Bar to begin an investigation to determine if the Berman check had been written on a client trust account.

Another news article appeared in the April 8, 1992, edition of the Miami Herald concerning a state investigation regarding Brian Berman. The article states that Brian Berman had been disbarred in 1991 by the Florida Supreme Court after the Florida Bar reported he had allegedly bounced \$2 million worth of checks on client trust accounts and then lied to the Bar in an attempt to explain the shortages. The article states that Berman is also under scrutiny for a \$10,000 check he wrote to Rep. Smith but that the two inquiries are separate. The article states that Berman and Smith were law partners for a short time in the early 1980s. The article refers to the \$10,000 payment from the Smith Committee to Berman on September 10, 1990, and then notes that three days prior to that Berman had written a \$10,000 check to Rep. Smith personally. The article further notes that the parties, in explaining the transaction, said that Rep. Smith had retained Berman for legal work regarding redistricting but then called off the agreement and "decided to square their accounts."

94030974569

The article states that there is no record of Rep. Smith reimbursing the \$10,000 to his committee. It quotes Rep. Smith as conceding that some expenditures in 1990 may not have been reported in a manner consistent with the procedures of the Federal Election Commission.

Another news article appeared in the April 11, 1992, edition of the Fort Lauderdale Sun Sentinel. This article indicated that Rep. Smith was the target of a Florida Bar investigation. It notes that there may have been a bar rule violation by the inclusion of Rep. Smith's name in the name of Berman's law firm. It notes that the firm's stationery carried the title "Smith & Berman, P.A." and listed Rep. Smith first among attorneys in the firm as well as on checks, bank statements, and other documents. It noted an affidavit by Berman stating that Rep. Smith had been his law partner only briefly nine years earlier. The article further states that by 1991 Rep. Smith's name had been removed from the letterhead, but the 1991-92 white pages continued to list Rep. Smith's law office at the same phone number and address as Berman.² The article also discusses the \$10,000 checks exchanged between Rep. Smith and Berman in September 1990, but does not add any new information.

A fourth article appeared in the Miami Herald on April 12, 1992, entitled "Smith stonewalls on check probe." That article

2. According to the Corporations Division of the Florida Secretary of State, Smith & Berman, P.A., was incorporated on June 4, 1984. On December 19, 1990, it filed a name change to Brian M. Berman, P.A. The latter corporation was dissolved on October 11, 1991, for failure to file its annual report.

94030974570

focused on what it called "a long list of lingering questions" regarding the exchange of checks between Berman and Rep. Smith. The article reviews several of these questions. It notes that Berman's \$10,000 check to Rep. Smith was dated September 7, while the Smith Committee's check to Berman was dated September 10, and asks why Berman would be reimbursing Smith before Berman was first paid for his "consulting." It then notes that the payment to Berman came from Rep. Smith's campaign committee's account, while Berman's check was made payable to Rep. Smith personally and asks why the checks were written this way if there was a reimbursement and why the \$10,000 check made payable to Rep. Smith was not endorsed over to the Smith Committee.

The article further notes that the check Berman wrote to Rep. Smith was drawn on the "Smith & Berman P.A. Trust Account," which appears to be an account where the firm kept its client's money and asks why Berman wrote the check on this account and why Rep. Smith accepted. Next, the article states that officials at the bank where the check was drawn and cashed told the newspaper that Rep. Smith endorsed the check and converted the sum into two cashier's checks on September 14, 1990, and then asks how the money was spent. The article also asks what services Berman was to provide and why he was picked for reapportionment issues when he is not well known among Florida lawmakers who decide reapportionment issues. It further notes a \$5,000 payment to Tom Spulak, a Washington lawyer and former Florida Senate aide, for legal and political analysis. The article adds that the Florida

94030974571

Bar has also initiated an investigation related to Rep. Smith.³

A May 7, 1992, article in The Washington Post reports that Rep. Smith's attorney in Florida, Neil Sonnett, had said that the \$4,000 cashier's check made payable to Paradise Island Enterprises paid off a personal gambling debt. See Footnote 2. The article also quotes Sonnett as saying that when Rep. Smith received the \$10,000 check from Brian Berman he made an "unfortunate, spur of the moment decision to treat it as a loan." Sonnett is further quoted as saying that he had not found any documentation that Rep. Smith recorded the transaction as a debt to his committee. Sonnett further states that Rep. Smith had returned the funds to his committee "last month," evidently referring to April 1992.

Based on the above information, there is reason to believe several violations of the Act may have occurred. The check from Berman, purportedly intended as a refund of the \$10,000 payment to Berman from the campaign fund, was apparently not deposited back into the campaign depository but converted by Rep. Smith

3. An article appeared in The Washington Post on April 23, 1992, but mainly repeats the principal factual information contained in the two earlier Miami Herald articles.

Another Sun Sentinel article was published on April 17, 1992, and discusses allegations that Rep. Smith's campaign committee is paying discounted rates for the lease of a Cadillac Sedan de Ville from Alamo Rent A Car. The article states that Rep. Smith's committee is paying \$424 a month, while an Alamo representative quoted the reporter a price of \$184 a week or \$736 a month. Although this subject was not included in the submission, the information in this article would appear to raise an issue whether the committee may have received an in-kind contribution from Alamo through a discounted lease arrangement and whether Rep. Smith may have been making personal use of the car without reimbursing his campaign committee.

94030974572

94030974573
into cashier's checks and used for personal and perhaps campaign purposes. Counsel for Rep. Smith acknowledges that funds disbursed from his campaign committee to Berman were returned to Rep. Smith personally and, at least in part, used for personal expenses and were not properly reported. Thus, it appears that there has been a violation of 2 U.S.C. § 439a involving the conversion of excess campaign funds to personal use,⁴ a violation of 2 U.S.C. § 432(h) in that all campaign receipts were not deposited into the campaign depository and all disbursements, other than petty cash, were not made from that depository, and a violation of 2 U.S.C. § 434(b) in that campaign disbursements were not fully or properly reported.

Accordingly, there is reason to believe Lawrence J. Smith violated 2 U.S.C. § 439a, and Larry Smith for Congress (92) and Joseph A. Epstein, as treasurer, violated 2 U.S.C. § 432(h) and 434(b).

The Act also addresses violations of law that are knowing and willful. See 2 U.S.C. §§ 437g(a)(5)(C) and 437g(d). During the House debates on the Conference Report for the 1976 Amendments, Congressman Hays stated that the phrase "knowing and willful" referred to "actions taken with full knowledge of all of the facts and a recognition that the action is prohibited by law." 122 Cong. Rec. H3778 (daily ed. May 3, 1976). The knowing and

4. As noted earlier, Rep. Smith was first elected to Congress in 1982 and, thus, is not covered by the grandfathering provision of Section 439a. As such, he cannot convert any of the funds of his principal campaign committee to personal use because he is not a "qualified Member." See 11 C.F.R. §§ 113.1(f) and 113.2(e).

willful standard has also been addressed by the courts. In Federal Election Commission v. John A. Dramesi for Congress Committee, 640 F.Supp. 985 (D. N.J. 1986), the court noted that the knowing and willful standard requires knowledge that one is violating the law. A U.S. Circuit Court of Appeals has found that a knowing and willful violation may be established "by proof that the defendant acted deliberately and with knowledge that the representation was false." United States v. Hopkins, 916 F.2d 207, 214 (5th Cir. 1990). The court further said that an inference of a knowing and willful violation may be drawn "from the defendants' elaborate scheme for disguising" their actions and that they "deliberately conveyed information they knew to be false to the Federal Election Commission." Id. at 214-15.

The circumstances as presently known in this matter suggest that Rep. Smith was aware that he could not convert campaign funds to personal use, but nevertheless deliberately embarked on a series of transactions that, in effect, converted campaign funds to personal use. These transactions were disguised and not disclosed on the reports of the Committee.

Accordingly, there is also reason to believe Lawrence J. Smith knowingly and willfully violated 2 U.S.C. § 439a.

94030974574



FEDERAL ELECTION COMMISSION

WASHINGTON D.C. 20463

June 19, 1992

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

David M. Ifshin, Esq.
Ross & Hardies
888 16th Street, N.W.
Washington, D.C. 20006

RE: MUR 3538
(formerly Pre-MUR 257)
Congressman Lawrence J. Smith

Dear Mr. Ifshin:

On June 8, 1992, the Federal Election Commission found that there is reason to believe Lawrence J. Smith knowingly and willfully violated 2 U.S.C. § 439a, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against your client. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Statements should be submitted under oath. All responses to the enclosed Subpoena to Produce Documents must be submitted within 30 days of your receipt of this subpoena. Any additional materials or statements you wish to submit should accompany the response to the subpoena.

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

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter.

94030974575

Lawrence J. Smith
Page 2

Further, requests for pre-probable cause conciliation will not be entertained after briefs on probable cause have been mailed to the respondent.

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

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

If you have any questions, please contact Tonda M. Mott, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Joan D. Aikens

Joan D. Aikens
Chairman

Enclosures
Subpoena
Factual and Legal Analysis

94030974576

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
)
) MUR 3538
)

SUBPOENA

TO: Representative Lawrence J. Smith

Pursuant to 2 U.S.C. § 437d(a)(3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby subpoenas you to appear for deposition with regard to transactions involving you, your principal campaign committee (Larry Smith for Congress), and Brian Berman. Notice is hereby given that the deposition is to be taken on August 12, 1992, in Room 651 at 999 E Street, N.W., Washington, D.C. 20463, beginning at 10:00 a.m. and continuing each day thereafter as necessary.

Further, pursuant to 2 U.S.C. § 437d(a)(3), you are hereby subpoenaed to produce the documents listed on the attachment to this subpoena. Legible copies which, where applicable, show both sides of the documents, may be substituted for originals. The documents must be submitted to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, by July 19, 1992.

94030974577

MUR
Representative Lawrence J. Smith
Page 2

WHEREFORE, the Chairman of the Federal Election Commission
has hereunto set her hand in Washington, D.C., on this

18th day of *June*, 1992.

Joan D. Aikens
Joan D. Aikens, Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons
Marjorie W. Emmons
Secretary to the Commission

Attachment
Document Request (3 pages)

24030974578

MUR

Representative Lawrence J. Smith

Page 3

INSTRUCTIONS

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

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

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

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

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

Unless otherwise indicated, the discovery request shall refer to the time period from August 1, 1990 to the present.

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

94030974579

DEFINITIONS

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

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

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

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

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

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

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

94030974580

MUR

Representative Lawrence J. Smith

Page 5

1. Produce all documents relating to your receipt of a \$10,000 check from Brian Berman in September 1990.

2. Produce all documents relating to the subsequent actions taken by you in regards to the above named check, including, but not limited to, the purchasing, delivering, or depositing of two cashier's checks from the the proceeds of said check.

3. Produce all documents relating to campaign expenditures made from the proceeds of the above named check.

4. Produce all documents relating to your delivery of a \$10,000 check to Brian Berman in September 1990.

94030974581

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Lawrence J. Smith MUR 3538
Larry Smith for Congress (92)
and Joseph A. Epstein, as treasurer

I. GENERATION OF MATTER

This matter was generated by a sua sponte submission by counsel for Representative Lawrence J. Smith and filed on April 7, 1992. Counsel made a further submission on April 24, 1992. Rep. Smith is a Member of Congress, representing the 16th Congressional District of Florida. Rep. Smith was first elected to the House of Representatives in 1982. His current principal campaign committee is Larry Smith for Congress (92) with Joseph A. Epstein, as treasurer ("Smith Committee").¹

II. FACTUAL AND LEGAL ANALYSIS

The subject matter of this submission relates to transactions involving Rep. Smith, Brian Berman, and Rep. Smith's 1990 principal campaign committee (Larry Smith for Congress (90)). Brian Berman was an attorney in Hollywood, Florida, in 1990. The 1990 Smith Committee disclosed a disbursement of \$10,000 to Brian Berman on September 10, 1990, for "consulting."

In the initial submission, dated April 6, 1992, counsel for

1. In the 1989-90 election cycle, Rep. Smith's principal campaign committee reported total receipts of approximately \$527,994 and total disbursements of approximately \$275,873 with cash on hand as of December 31, 1990, of \$413,843.09. The committee showed ending cash on hand of \$413,495.41 as of September 30, 1990, the close of the reporting period covering the events in question in this submission. The current committee shows an ending cash on hand of approximately \$414,455 as of March 31, 1992, according to the FEC database.

94030974582

Rep. Smith states that during the last quarter of 1990, certain disbursements made from Rep. Smith's committee "on his own behalf as well as the Democratic Party of Florida may not have been properly reported." Counsel noted that additional information was still being gathered but that Rep. Smith had asked counsel to bring the situation to the Commission's attention and asked that a Pre-MUR be initiated.

On April 24, 1992, counsel for Rep. Smith submitted a more detailed letter, dated April 22, 1992. The letter refers to the Smith Committee's \$10,000 check dated September 10, 1990, payable to Brian Berman and in relevant part states:

At the time of the check in question, Mr. Berman was a licensed attorney who practiced in Hollywood, Florida. Congressman Smith had maintained his law office in the same building as did Mr. Berman before he was first elected to Congress, and he had sold the assets of his law practice to Mr. Berman before entering the U.S. House of Representatives.

In early September 1990, Congressman Smith agreed to retain Mr. Berman to do legal and consulting work in connection with expected congressional reapportionment in Florida. The September 10, 1990 check on the Committee account, in the amount of ten thousand dollars (\$10,000.00), was a retainer for Mr. Berman pursuant to that agreement. To the best of his recollection, Congressman Smith met with Mr. Berman in Hollywood, Florida on Monday, September 10, 1990, and gave him the check at that time. His travel record shows that he returned to Washington, D.C. early on the morning of Tuesday, September 11, 1992 [sic 1990].

In a telephone conversation within a day or two after Congressman Smith had tendered the check, Mr. Berman revealed that he was having financial problems with his law practice; he stated that his difficulties might affect his ability to complete the anticipated representation and he expressed concern that representation of Congressman Smith during the reapportionment process under such circumstances might unnecessarily burden the Congressman with negative publicity. Based on Mr. Berman's disclosures, Congressman Smith terminated his agreement with Mr. Berman and requested that the previously paid retainer be refunded.

94030974583

Congressman Smith picked up Mr. Berman's check on Friday, September 14, 1990, when he returned to South Florida. Mr. Berman had mentioned to Congressman Smith that the amount of funds in his account might not be sufficient to cover all of his outstanding checks, and he had advised Congressman Smith to immediately negotiate the refund check at Mr. Berman's bank. Based upon Mr. Berman's advice, Congressman Smith took the check to the Family Bank of Hallandale, Dania Branch, on that date.

As you may know, media accounts of the transaction have noted that Mr. Berman's check was dated September 7, 1990 and, thus, appears to have been written prior to the Committee check to Mr. Berman. We want to make clear to you that Congressman Smith has a firm recollection of the chronology set forth above; we are thus convinced that Mr. Berman's check was dated in error, and we are attempting to gather documentation to demonstrate that the facts we have set forth herein are accurate.

When Congressman Smith presented Mr. Berman's check at the bank, he received two cashier's checks in return. One cashier's check was made payable directly to a third party, while the other cashier's check was made payable to Lawrence J. Smith. A significant portion of the total amount was utilized for personal, rather than for Committee, expenses. It was Congressman Smith's intention that these funds would be repaid to the Committee following Congressman Smith's refinancing of his personal residence. While a portion of the funds were, indeed, used for campaign purposes, it does not appear that these expenditures were properly recorded on Committee reports filed with the Commission. We are in the process of reconstructing those campaign related expenditures, but are prepared to proceed, for purposes of this action under the assumption that the expenditures were not properly disclosed and that Congressman Smith used a portion of the funds for personal purposes.

We are continuing to attempt to reconstruct the relevant records, and we will keep you advised of our progress in this regard.

In addition to the sua sponte submission, additional information has been published in various news reports.

The first article is an undated one that appeared in the Miami Herald under the title "Financial questions tame Smith's bravado," based primarily on a "lengthy" interview with

94030974584

Rep. Smith. The article notes several questions regarding Rep. Smith's finances before focusing on the \$10,000 checks exchanged with Brian Berman. The article notes that the news story regarding the checks was broken by a reporter, Michael Putney, with WPLG-TV, who reportedly found a copy of Berman's \$10,000 check to Rep. Smith in the files relating to Berman's disbarment in 1991. The article indicates that the report of this check prompted the Florida Bar to begin an investigation to determine if the Berman check had been written on a client trust account.

Another news article appeared in the April 8, 1992, edition of the Miami Herald concerning a state investigation regarding Brian Berman. The article states that Brian Berman had been disbarred in 1991 by the Florida Supreme Court after the Florida Bar reported he had allegedly bounced \$2 million worth of checks on client trust accounts and then lied to the Bar in an attempt to explain the shortages. The article states that Berman is also under scrutiny for a \$10,000 check he wrote to Rep. Smith but that the two inquiries are separate. The article states that Berman and Smith were law partners for a short time in the early 1980s. The article refers to the \$10,000 payment from the Smith Committee to Berman on September 10, 1990, and then notes that three days prior to that Berman had written a \$10,000 check to Rep. Smith personally. The article further notes that the parties, in explaining the transaction, said that Rep. Smith had retained Berman for legal work regarding redistricting but then called off the agreement and "decided to square their accounts."

94030974585

The article states that there is no record of Rep. Smith reimbursing the \$10,000 to his committee. It quotes Rep. Smith as conceding that some expenditures in 1990 may not have been reported in a manner consistent with the procedures of the Federal Election Commission.

Another news article appeared in the April 11, 1992, edition of the Fort Lauderdale Sun Sentinel. This article indicated that Rep. Smith was the target of a Florida Bar investigation. It notes that there may have been a bar rule violation by the inclusion of Rep. Smith's name in the name of Berman's law firm. It notes that the firm's stationery carried the title "Smith & Berman, P.A." and listed Rep. Smith first among attorneys in the firm as well as on checks, bank statements, and other documents. It noted an affidavit by Berman stating that Rep. Smith had been his law partner only briefly nine years earlier. The article further states that by 1991 Rep. Smith's name had been removed from the letterhead, but the 1991-92 white pages continued to list Rep. Smith's law office at the same phone number and address as Berman.² The article also discusses the \$10,000 checks exchanged between Rep. Smith and Berman in September 1990, but does not add any new information.

A fourth article appeared in the Miami Herald on April 12, 1992, entitled "Smith stonewalls on check probe." That article

2. According to the Corporations Division of the Florida Secretary of State, Smith & Berman, P.A., was incorporated on June 4, 1984. On December 19, 1990, it filed a name change to Brian M. Berman, P.A. The latter corporation was dissolved on October 11, 1991, for failure to file its annual report.

94030974586

focused on what it called "a long list of lingering questions" regarding the exchange of checks between Berman and Rep. Smith. The article reviews several of these questions. It notes that Berman's \$10,000 check to Rep. Smith was dated September 7, while the Smith Committee's check to Berman was dated September 10, and asks why Berman would be reimbursing Smith before Berman was first paid for his "consulting." It then notes that the payment to Berman came from Rep. Smith's campaign committee's account, while Berman's check was made payable to Rep. Smith personally and asks why the checks were written this way if there was a reimbursement and why the \$10,000 check made payable to Rep. Smith was not endorsed over to the Smith Committee.

The article further notes that the check Berman wrote to Rep. Smith was drawn on the "Smith & Berman P.A. Trust Account," which appears to be an account where the firm kept its client's money and asks why Berman wrote the check on this account and why Rep. Smith accepted. Next, the article states that officials at the bank where the check was drawn and cashed told the newspaper that Rep. Smith endorsed the check and converted the sum into two cashier's checks on September 14, 1990, and then asks how the money was spent. The article also asks what services Berman was to provide and why he was picked for reapportionment issues when he is not well known among Florida lawmakers who decide reapportionment issues. It further notes a \$5,000 payment to Tom Spulak, a Washington lawyer and former Florida Senate aide, for legal and political analysis. The article adds that the Florida

24030974587

Bar has also initiated an investigation related to Rep. Smith.³

A May 7, 1992, article in The Washington Post reports that Rep. Smith's attorney in Florida, Neil Sonnett, had said that the \$4,000 cashier's check made payable to Paradise Island Enterprises paid off a personal gambling debt. See Footnote 2. The article also quotes Sonnett as saying that when Rep. Smith received the \$10,000 check from Brian Berman he made an "unfortunate, spur of the moment decision to treat it as a loan." Sonnett is further quoted as saying that he had not found any documentation that Rep. Smith recorded the transaction as a debt to his committee. Sonnett further states that Rep. Smith had returned the funds to his committee "last month," evidently referring to April 1992.

Based on the above information, there is reason to believe several violations of the Act may have occurred. The check from Berman, purportedly intended as a refund of the \$10,000 payment to Berman from the campaign fund, was apparently not deposited back into the campaign depository but converted by Rep. Smith

3. An article appeared in The Washington Post on April 23, 1992, but mainly repeats the principal factual information contained in the two earlier Miami Herald articles.

Another Sun Sentinel article was published on April 17, 1992, and discusses allegations that Rep. Smith's campaign committee is paying discounted rates for the lease of a Cadillac Sedan de Ville from Alamo Rent A Car. The article states that Rep. Smith's committee is paying \$424 a month, while an Alamo representative quoted the reporter a price of \$184 a week or \$736 a month. Although this subject was not included in the submission, the information in this article would appear to raise an issue whether the committee may have received an in-kind contribution from Alamo through a discounted lease arrangement and whether Rep. Smith may have been making personal use of the car without reimbursing his campaign committee.

94030974589
into cashier's checks and used for personal and perhaps campaign purposes. Counsel for Rep. Smith acknowledges that funds disbursed from his campaign committee to Berman were returned to Rep. Smith personally and, at least in part, used for personal expenses and were not properly reported. Thus, it appears that there has been a violation of 2 U.S.C. § 439a involving the conversion of excess campaign funds to personal use,⁴ a violation of 2 U.S.C. § 432(h) in that all campaign receipts were not deposited into the campaign depository and all disbursements, other than petty cash, were not made from that depository, and a violation of 2 U.S.C. § 434(b) in that campaign disbursements were not fully or properly reported.

Accordingly, there is reason to believe Lawrence J. Smith violated 2 U.S.C. § 439a, and Larry Smith for Congress (92) and Joseph A. Epstein, as treasurer, violated 2 U.S.C. § 432(h) and 434(b).

The Act also addresses violations of law that are knowing and willful. See 2 U.S.C. §§ 437g(a)(5)(C) and 437g(d). During the House debates on the Conference Report for the 1976 Amendments, Congressman Hays stated that the phrase "knowing and willful" referred to "actions taken with full knowledge of all of the facts and a recognition that the action is prohibited by law." 122 Cong. Rec. H3778 (daily ed. May 3, 1976). The knowing and

4. As noted earlier, Rep. Smith was first elected to Congress in 1982 and, thus, is not covered by the grandfathering provision of Section 439a. As such, he cannot convert any of the funds of his principal campaign committee to personal use because he is not a "qualified Member." See 11 C.F.R. §§ 113.1(f) and 113.2(e).

willful standard has also been addressed by the courts. In Federal Election Commission v. John A. Dramesi for Congress Committee, 640 F.Supp. 985 (D. N.J. 1986), the court noted that the knowing and willful standard requires knowledge that one is violating the law. A U.S. Circuit Court of Appeals has found that a knowing and willful violation may be established "by proof that the defendant acted deliberately and with knowledge that the representation was false." United States v. Hopkins, 916 F.2d 207, 214 (5th Cir. 1990). The court further said that an inference of a knowing and willful violation may be drawn "from the defendants' elaborate scheme for disguising" their actions and that they "deliberately conveyed information they knew to be false to the Federal Election Commission." Id. at 214-15.

The circumstances as presently known in this matter suggest that Rep. Smith was aware that he could not convert campaign funds to personal use, but nevertheless deliberately embarked on a series of transactions that, in effect, converted campaign funds to personal use. These transactions were disguised and not disclosed on the reports of the Committee.

Accordingly, there is also reason to believe Lawrence J. Smith knowingly and willfully violated 2 U.S.C. § 439a.

24030974590



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 19, 1992

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Records Custodian
Family Bank of Hallandale
5991 Ravenswood Road
Fort Lauderdale, Florida 33312

RE: MUR 3538

Dear Records Custodian:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. The Commission has issued the attached subpoena which requires you to provide certain information in connection with an investigation it is conducting. The Commission does not consider you a respondent in this matter, but rather a witness only.

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

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this subpoena. However, you are required to submit the information within 30 days of your receipt of this subpoena.

If you have any questions, please contact me at (800) 424-9530.

Sincerely,

Tonda M. Mott
Attorney

Enclosure
Subpoena

24030974591

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
)
) MUR 3538
)

SUBPOENA TO PRODUCE DOCUMENTS

TO: Records Custodian
Family Bank of Hallandale
5991 Ravenswood Road
Fort Lauderdale, FL 33312

Pursuant to 2 U.S.C. § 437d(a)(3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby subpoenas the documents listed on the attachment to this subpoena.

Notice is given that these documents must be submitted to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, within 30 days of your receipt of this subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

94030974592

MUR
Family Bank of Hallandale
Page 2

WHEREFORE, the Chairman of the Federal Election Commission
has hereunto set her hand in Washington, D.C. on this *18th*
day of *June*, 1992.

Joan D. Aikens
Joan D. Aikens, Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons
Marjorie W. Emmons
Secretary to the Commission

Attachment
Document Request (3 pages)

94030974593

INSTRUCTIONS

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

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

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

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

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

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1990, to the present.

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

94030974594

MUR

Family Bank of Hallandale

Page 4

DEFINITIONS

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

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

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

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

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

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

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

94030974595

MUR

Family Bank of Hallandale

Page 5

1. Produce copies of all documents relating to the issuance of Cashiers' checks Number 26344 and 26345 by the Family Bank of Hallandale on September 14, 1990.

2. Produce copies of all checks drawn on the Smith & Berman P.A. Trust Account, the account number of which is believed to be #2800001090, and all checks deposited into said account for the months of August, September, and October 1990.

3. Produce copies of all bank statements for the Smith & Berman P.A. Trust Account, the account number of which is believed to be #2800001090, covering the months of August, September, and October 1990.

4. Produce copies of all signature cards for the Smith & Berman P.A. Trust Account, the account number of which is believed to be #2800001090, that were valid and effective during August, September, and October 1990.

94030974596

MAY 20 10 17 AM '92

EARL RODNEY
8600 NW SOUTH RIVER DRIVE
SUITE 101
MIAMI, FLORIDA 33166-7434
Tel. (305) 885-1234

MUR 3526

92 MAY 20 PM 3:16

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

May 12, 1992

Office of General Counsel
Federal Election Commission
Washington, DC 20463

Gentlemen:

Re: Complaint regarding Congressman Laurence Smith
"Larry Smith for Congress"

As a concerned citizen, I request that the Federal Election Commission investigate certain possible improprieties in the Campaign Funds of Congressman Laurence Smith (FL-16).

My information has been derived from published articles in The Miami Herald which allege improper uses of campaign funds, including but not limited to, using them to settle casino gambling debts.

Enclosed, for you use, are true and correct copies of three articles written by Miami Herald Staff Writer Ronnie Greene. These articles were published on various dates:

April 9, 1992
April 11, 1992
May 5, 1992

Various other articles have appeared in the Fort Lauderdale Sun Sentinel, but I do not have copies. I would refer you to Ronnie Greene of the Miami Herald for further details.

Very truly yours,

Earl Rodney
Earl Rodney

Subscribed and sworn to before me on this 12 day of

May, 1992.

Walter L. Meyer



94030974597

FINAL EDITION

The Miami Herald

TUESDAY, MAY 5, 1992

CONTENTS COPYRIGHT © 1992 THE MIAMI HERALD

35 CENTS

Smith campaign funds paid casino

By RONNIE GREENE
Herald Staff Writer

Using money that originated with his re-election campaign, U.S. Rep. Larry Smith paid a \$4,000 gambling debt he ran up during a long weekend in the Bahamas, the congressman's attorney said Monday.

Lawyer Neal Sonnett confirmed the transaction after The Miami Herald asked him and the congressman about a payment to the Paradise Island Resort, one of the world's largest casinos and one of the Bahamas' most expensive destinations.

"He regrets it very much. This was a very isolated incident," Sonnett said. "I

'He's embarrassed by it. It was poor judgment on his part.'

NEAL SONNETT, Rep. Larry Smith's attorney

think he recognizes it was a stupid thing to do. He's embarrassed by it. It was poor judgment on his part."

Smith declined an interview about the payment. But he directed Sonnett to answer questions, against the lawyer's advice.

The money Smith used to pay his gambling debt came from a \$10,000 check swap between the congressman's cam-

paign and Smith's former law partner, Brian Berman, in September 1990.

The men have previously explained the exchange by saying Berman was going to represent Smith on congressional reapportionment matters, but that they changed their minds and agreed to settle their accounts.

Their explanation, however, did not square with public records. Instead of pay-

ing the \$10,000 back to the campaign where it came from, Berman wrote his check to Smith personally.

Sonnett said Smith decided to treat that \$10,000 check like a loan. The congressman took the check to a Family Bank of Hallandale branch, where he converted it into two easier-to-negotiate cashier's checks.

"The misjudgment here was in utilizing what were campaign funds for a personal loan," Sonnett said. "Larry made a spur-of-the-moment decision to temporarily

PLEASE SEE SMITH, 17A

REGRETS MISTAKE: Rep. Larry Smith has repaid account.

Smith paid \$4,000 casino debt out of his re-election funds

SMITH, FROM 1A

utilize that as a loan. He used it to pay some outstanding debts that he had."

One of the cashier's checks was for \$4,000 and was made out to Paradise Island Enterprises, the firm that runs the famous twin hotels and 30,000-square-foot casino where slot machines never close. Smith and his wife, Sheila, went there in August 1990.

A costly vacation

"This was a personal vacation. He took a couple of days off, over a long weekend," Sonnett said. "Larry is not a gambler. Perhaps if he had been, he wouldn't have suffered that kind of a loss."

The other cashier's check, for \$6,000, was made out to Smith personally, the lawyer said. Sonnett said he is still documenting where that money went, but some went for campaign expenses and some for personal expenses.

Smith returned the entire \$10,000 to his campaign last month, Sonnett said. The reimbursement is too late to be reflected in the latest campaign records.

A 10-year congressman, Smith, 51, announced in a television commercial last week that because "Washington doesn't work anymore" he would not seek re-election this fall.

He has been widely popular



Larry Smith returned the entire \$10,000 to his campaign last month, his lawyer said. The reimbursement is too late to be reflected in the latest campaign records.

with his constituents in South Broward and large parts of West Dade. He gained a reputation as a leading advocate of Israel, and fought administration efforts to sell arms to Saudi Arabia and Kuwait. He is an outspoken advocate of gun control.

A human error, lawyer says

"This is admittedly poor judgment and an unfortunate incident, but not enough to tarnish an outstanding career in the Congress," Sonnett said. "And I think the people in his district will understand he is human. He experiences the same kind of financial pressures other people experience. And occasionally he makes mistakes, just like other human beings do."

"He's had an exemplary record. There's never been any whisper of scandal."

The Florida Bar and Federal Election Commission are investi-

gating Smith's dealings with Berman, who was disbarred by the Florida Supreme Court last year after bouncing more than \$2 million of checks on client trust accounts.

Members of Congress are allowed great discretion in spending campaign money.

"There's nothing in the statute that details what campaign funds may or may not be spent for," said Fred Eiland, the FEC's press officer.

The Bar inquiry is believed to focus on whether Smith improperly accepted money from a Berman law office trust account, commonly used for holding a client's funds, and whether he allowed his name to be affiliated with the firm after he stopped practicing there.

Smith is cooperating with both the Bar and FEC, Sonnett said, and has not tried to conceal the transactions.

...ly negotiable than personal

Notations on the check issued to Smith by his former law partner, Brian Berman, on Sept. 7, 1990, show it was exchanged for two bank checks seven days later. Cashier's checks such as those that Smith received are more eas-

Earlier in the week, he issued a statement that said all expenditures from his campaign fund "were made for entirely permis-

PLEASE SEE SMITH, 28

92 MAY 20 PM 3:17

FEDERAL ELECTION COMMISSION
OFFICE OF THE CHIEF CLERK

MIAMI HERALD - 4-9-92

SMITH, FROM 18



Berman was disbarred by the Florida Supreme Court last year.

Notations on the \$10,000 check issued by Brian Serman to U.S. Rep. Larry Smith show the congressman went to a branch of the Family Bank of Hallandale and converted it into two cashiers' checks, according to Dante branch head teller Carol Mazza, who reviewed the check at The Miami Herald's request.

[illegible]

1 Berman writes the \$10,000 check to Smith on Sept. 7, 1990.

2 Smith endorses the check and provides identification.

3 A bank employee records a notation that two consecutively numbered cashier checks were issued from this check.

1 Electronic stamp shows the check transaction occurred on Sept. 14, 1990, at a branch of the Family Bank of Hollandale.

after the Florida Bar reported he bounced \$2 million worth of checks on client trust accounts. Berman has not returned messages this week.

The Broward state attorney's office opened an investigation of Berman based on an allegation forwarded by the Bar that he cheated a client out of money.

Bar investigating Rep. Smith

By **RONNIE GREENE**
Herald Staff Writer

The Florida Bar is investigating U.S. Rep. Larry Smith, who is embroiled in controversy over \$10,000 checks he swapped with his former law partner, the organization said Friday.



Smith

on the investigation.

He and Brian M. Berman were partners in the Hollywood law firm of Smith & Berman in the 1980s. Although the men say the association ended when Smith went to Congress, records show Berman issued a \$10,000 check

to Smith from the "Smith & Berman P.A. Trust Account" on Sept. 7, 1990.

Three days later, Smith's election campaign issued a check to Berman for the identical amount. And on Sept. 14, 1990, Smith endorsed Berman's trust account check and converted it into two cashier's checks at a Broward bank, The Miami Herald reported this week.

The Bar would not divulge details of its investigation of Smith on Friday, nor would it say whether the inquiry focuses on Berman's use of a law firm trust account to pay Smith.

A lawyer's trust account is a place where client money is held.

"It's money entrusted to an attorney, normally by clients," said Luain Hensel, an assistant staff lawyer for the Bar.

Berman was disbarred by the Florida Supreme Court last year after the Bar reported he had bounced more than \$2 million in checks on client trust accounts. The Broward state attorney's office is investigat-

ing a complaint that Berman cheated a client and has asked to see the entire Bar file on his case.

Berman, who has not returned several pages on his beeper, could not be reached for comment.

The men have explained their check swap by saying that Smith planned to retain Berman to represent him on congressional reapportionment matters, but they canceled the deal and squared their accounts.

Smith's records do not show, however, that the \$10,000 was returned to the campaign where it originated. And neither man has explained why Berman's check — said to be a reimbursement — was written first.

The congressman issued a statement Monday saying that his campaign money went for "permissible purposes." But he acknowledged some "may not have been reported in a manner consistent with the procedures of the Federal Election Commission."

He had his attorney ask the election commission to examine the matter.

92 MAY 20 PM 3:17

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

May 26, 1992

Earl Rodney
8600 NW South River Drive
Suite 101
Miami, FL 33166-7434

RE: MUR 3526

Dear Mr. Rodney

This letter acknowledges receipt on May 20, 1992, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by Larry Smith for Congress(92), and Joseph A. Epstein, as treasurer. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 3526. 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 dark ink, which appears to read "George F. Rishel", is written over the typed name.

George F. Rishel
Assistant General Counsel

Enclosure
Procedures

94030974602



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 26, 1992

Joseph A. Epstein, Treasurer
Larry Smith for Congress(92)
1621 Eastlake Way
Ft. Lauderdale, FL 33326

RE: MUR 3526

Dear Mr. Epstein:

The Federal Election Commission received a complaint which indicates that Larry Smith for Congress(92) ("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 3526. Please refer to this number in all future correspondence.

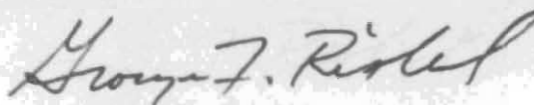
Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the Committee and you, as treasurer, in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements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

94030974603

If you have any questions, please contact Tonda Mott, the attorney assigned to this matter, at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,



George F. Rishel
Assistant General Counsel

Enclosures

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

cc: The Honorable Lawrence J. Smith

94030974604



FEDERAL ELECTION COMMISSION

WASHINGTON, D C 20463

May 26, 1992

The Honorable Lawrence J. Smith
3511 N. 52 Avenue
Hollywood, FL 33021

RE: MUR 3526

Dear Mr. Smith:

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 3526. Please refer to this number in all future correspondence.

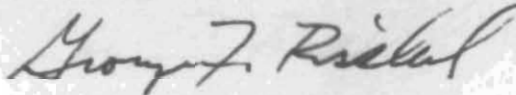
Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under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

94030974605

If you have any questions, please contact Tonda Mott, the attorney assigned to this matter, at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,



George F. Rishel
Assistant General Counsel

Enclosures

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

94030974606

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

JUN 12 11 51 AM '92

LAW OFFICES

ROSS & HARDIES

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

888 SIXTEENTH STREET, N.W.

WASHINGTON, D.C. 20006-4103

202-296-8600

TELECOPIER
202-296-8791

TELEX
2795 46

150 NORTH MICHIGAN AVENUE
CHICAGO, ILLINOIS 60601-7567
312-558-1000

529 FIFTH AVENUE
NEW YORK, NEW YORK 10017-4608
212-949-7075

580 HOWARD AVENUE
SOMERSET, NEW JERSEY 08873
201-563-2700

DAVID M. IFSHIN

June 9, 1992

Ms. Tonda Mott
Assistant General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 3526

Dear Ms. Mott:

We are in receipt of the complaint filed with the Commission against Congressman Larry Smith that has been assigned the above MUR number.

As we discussed on the phone, Congressman Smith requested sua sponte on April 6, 1992, that the Commission open a pre-MUR to correct his disclosure reports for the last quarter of 1990. On April 22, 1992, Congressman Smith provided additional information concerning the receipt and expenditure of funds from the Larry Smith for Congress Committee. That information set forth the very same facts and circumstances contained in the newspaper articles that form the basis of the allegations set forth in the above referenced MUR.

Please be advised that in responding to MUR 3526 we request that you refer to the facts set forth in our letters to the Commission of April 6 and April 22, 1992 in pre-MUR 257. As the allegations made in MUR 3526 concern the same facts and circumstances set forth by Congressman Smith in pre-MUR 257, we also request that the Commission join and consolidate MUR 3526 with pre-MUR 257.

Thank you for your cooperation in this matter. Should you have any questions, please give either me or Philip Friedman a call.

Sincerely,


David M. Ifshin

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 JUN 11 PM 3:28

94030974607

RECEIVED
F.E.C.
SECRETARIAT

92 JUN 18 PM 5:08

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

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

MUR # 3526
DATE COMPLAINT RECEIVED
BY OGC: May 20, 1992
DATE OF NOTIFICATION TO
RESPONDENTS: May 26, 1992
STAFF MEMBERS: George Rishel
Tonda Mott
Jeffrey Long

COMPLAINANT: Earl Rodney

RESPONDENTS: Representative Lawrence J. Smith

Larry Smith for Congress (92) and
Joseph A. Epstein, as treasurer

RELEVANT STATUTES: 2 U.S.C. § 432(e)
2 U.S.C. § 432(h)
2 U.S.C. § 434(b)
2 U.S.C. § 439a
11 C.F.R. Part 113

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

This matter was generated by a complaint filed with the Commission on May 20, 1992, by Earl Rodney (the "Complainant") against Representative Lawrence J. Smith, and Larry Smith for Congress (92) and Joseph A. Epstein, as treasurer (collectively, the "Respondents"). The Complainant requests that the Commission "investigate certain possible improprieties in the Campaign Funds of Congressman Laurence [sic] Smith."

94030974608

The Complainant alleges that the Respondents "improperly use[d] campaign funds, including, but not limited to, using them to settle gambling debts." The Complainant bases the allegations on information "derived from published articles in The Miami Herald," copies of which were provided.

On June 11, 1992, this Office received the response from Counsel for Respondents.

II. FACTUAL AND LEGAL ANALYSIS

This complaint contains allegations identical to the circumstances and information provided to the Commission on April 7, 1992, in a sua sponte submission which was designated as Pre-MUR 257. See, First General Counsel's Report, dated June 3, 1992. Counsel responded to this matter (MUR 3526) by referencing to the information provided by the Respondents in Pre-MUR 257. Attachment 1. Counsel further requested that this matter be merged with Pre-MUR 257.

Prior to receipt of the complaint in this matter, this Office prepared a report and recommendations in Pre-MUR 257. Based on that report, the Commission voted, on June 8, 1992, to open a MUR in regards to Pre-MUR 257 (now MUR 3538). The Commission further found reason to believe that Lawrence J. Smith knowingly and willfully violated 2 U.S.C. § 439a, and found reason to believe that Larry Smith for Congress (92) and Joseph A. Epstein, as treasurer, violated 2 U.S.C. §§ 432(h) and 434(b).

94030974609

In light of the action of the Commission in opening a MUR in the sua sponte submission, the two matters, MUR 3538 and MUR 3526, should now be merged. This will allow for more efficient handling of the two matters. Therefore, this Office recommends that this complaint-generated matter be merged with the existing matter and findings in MUR 3538, retaining the MUR number from that original submission.

III. RECOMMENDATIONS

1. Merge MUR 3538 with MUR 3526.

Lawrence M. Noble
General Counsel

Date

6/18/92

BY:

Lois G. Lerner
Associate General Counsel

Attachments

1. Response and request for merger

Staff assigned: George F. Rishel
Tonda M. Mott
Jeffrey D. Long

94030974610

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Representative Lawrence J. Smith;) MUR 3526
Larry Smith for Congress (92) and)
Joseph A. Epstein, as treasurer.)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on June 24, 1992, the Commission decided by a vote of 6-0 to merge MUR 3538 with MUR 3526, as recommended in the General Counsel's Report dated June 18, 1992.

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

Attest:

6-24-92
Date

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

Received in the Secretariat: Thurs., June 18, 1992 5:08 p.m.
Circulated to the Commission: Fri., June 19, 1992 12:00 p.m.
Deadline for vote: Wed., June 24, 1992 4:00 p.m.

dr

94030974611



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

July 1, 1992

David M. Ifshin, Esq.
Ross & Hardies
888 16th Street, N.W.
Washington, DC 20006

RE: MUR 3526
(now MUR 3538)

Dear Mr. Ifshin:

On May 26, 1992, the Federal Election Commission ("the Commission") notified your clients, Larry Smith for Congress (92) and Joseph A. Epstein, as treasurer, of a complaint filed with the Commission alleging possible violations of the Federal Election Campaign Act of 1971. The matter was designated as MUR 3526, and a copy of the complaint was forwarded at the time of notification.

On June 18, 1992, the Commission merged MURs 3526 and 3538. This matter is now known as MUR 3538. Please refer to this number in all future correspondence.

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

Sincerely,

A handwritten signature in dark ink, appearing to read "Tonda M. Mott", is written over a horizontal line.

Tonda M. Mott

94030974612



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

July 1, 1992

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Brian Berman
P.O. Box 220037
Hollywood, Florida 33022

RE: MUR 3538

Dear Mr. Berman:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. The Commission has issued the attached which requires you to provide certain information in connection with an investigation it is conducting. The Commission does not consider you a respondent in this matter, but rather a witness only.

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

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this subpoena. However, you are required to submit the information within 30 days of your receipt of this subpoena.

If you have any questions, please contact me at (800) 424-9530.

Sincerely,

Tonda M. Mott
Attorney

Enclosure
Subpoena

94030974613

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
)
)

MUR 3538

SUBPOENA

TO: Brian Berman

Pursuant to 2 U.S.C. § 437d(a)(3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby subpoenas you to appear for deposition with regard to transactions involving you, Lawrence J. Smith, and his principal campaign committee, Larry Smith for Congress. Notice is hereby given that the deposition is to be taken on August 10, 1992 in Room 651 at 999 E Street, N.W., Washington, D.C. 20463, beginning at 10:00 a.m. and continuing each day thereafter as necessary.

Further, pursuant to 2 U.S.C. § 437d(a)(3), you are hereby subpoenaed to produce the documents listed on the attachment to this subpoena. Legible copies which, where applicable, show both sides of the documents, may be substituted for originals. The documents must be submitted to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, by July 30, 1992.

94030974614

MUR
Brian Berman
Page 2

WHEREFORE, the Chairman of the Federal Election Commission
has hereunto set her hand in Washington, D.C., on this

30th day of June, 1992.

Joan D. Aikens
Joan D. Aikens, Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons
Marjorie W. Emmons
Secretary to the Commission

Attachment
Document Request (3 pages)

94030974615

INSTRUCTIONS

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

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

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

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

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

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1990, to the present.

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

94030974616

DEFINITIONS

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

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

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

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

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

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

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

94030974617

MUR

Brian Berman

Page 5

1. Produce all documents relating to your receipt and deposit of a check for \$10,000 from the Larry Smith for Congress committee in September 1990.

2. Produce all documents relating to the making and delivery of a \$10,000 check payable to Lawrence J. Smith in September 1990 and drawn on the Smith & Berman P.A. Trust Account at the Family Bank of Hallandale.

94030974618

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 JUL 30 PM 3:22

Family
BANK OF HALLANDALE

OGC 5951

MDR 3538

Hollywood Branch

JULY 24, 1992

OFFICE OF THE GENERAL COUNSEL
FEDERAL ELECTION COMMISSION
ATTN TONDA MOTT
999 E STREET N.W.
WASHINGTON, D.C. 20463

RE: BRIAN BERMAN

DEAR MS. MOTT;

WE CANNOT LOCATE THE SIGNATURE CARD FOR ACCOUNT NUMBER 2800001090
IN THE NAME OF SMITH & BERMAN P.A.

I WILL CONTINUE TO LOOK FOR THIS ITEM AND AS SOON IT IS LOCATED I
WILL SEND THE COPY TO YOU.

IF YOU SHOULD HAVE ANY QUESTIONS, FEEL FREE TO CONTACT ME AT
305-964-6464. BETWEEN THE HOURS OF 9:00 AM AND 4:00 PM EST.

SINCERELY,

Cheryl Carreras
CHERYL CARRERAS
OPERATIONS DEPARTMENT
CUSTODIAN OF RECORDS

94030974619

Smith & Berman
Trust Account
2800 001090

Date
7-18-90

Attention
Jackie Mills

First Florida Bank
P.O. Box 31265
Tampa, FL

Southern Vital Record Center, a division of Dataplex Corporation, regrets to inform you that we are unable to locate the following items you requested:

9-14-90 Unable to copy check or deposits for this
days work due to film is too light.

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF LEGAL COUNSEL
92 JUL 30 10 11 AM '92

Best Prints Possible

- | | |
|---|---|
| ☐ Account Name/No. Needed | ☐ On-Us Transit Determination Needed |
| ☐ Amount of Item Needed | ☐ Items Not In Tape Total |
| ☐ Tape Total Needed | ☐ Statement Cycle Date/No. Needed |
| ☐ Statement Drop Date Needed | ☐ Batch Number Needed |
| ☐ Item Not on Date Given | ☐ Proof Number Needed |
| ☐ Item Not Between Items Given | ☐ Blank Film (Roll #) |
| ☐ Posting Date Needed | ☐ Fogged Film (Roll #) |

If we can be of further assistance, please feel free to call.

Sincerely, Phyllis Res

DATAPLEX
CORPORATION

92 JUL 30 PM 3:22



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 19, 1992

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Records Custodian
Family Bank of Hallandale
5991 Ravenswood Road
Fort Lauderdale, Florida 33312

RE: MUR 3538

Dear Records Custodian:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. The Commission has issued the attached subpoena which requires you to provide certain information in connection with an investigation it is conducting. The Commission does not consider you a respondent in this matter, but rather a witness only.

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

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this subpoena. However, you are required to submit the information within 30 days of your receipt of this subpoena.

If you have any questions, please contact me at (800) 424-9530.

Sincerely,

Tonda M. Mott
Attorney

Enclosure
Subpoena

94030974621

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
)
) MUR 3538
)

SUBPOENA TO PRODUCE DOCUMENTS

TO: Records Custodian
Family Bank of Hallandale
5991 Ravenswood Road
Fort Lauderdale, FL 33312

Pursuant to 2 U.S.C. § 437d(a)(3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby subpoenas the documents listed on the attachment to this subpoena.

Notice is given that these documents must be submitted to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, within 30 days of your receipt of this subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

94030974622

MUR
Family Bank of Hallandale
Page 2

WHEREFORE, the Chairman of the Federal Election Commission
has hereunto set her hand in Washington, D.C. on this 18th
day of June, 1992.

Joan D. Aikens
Joan D. Aikens, Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons
Marjorie W. Emmons
Secretary to the Commission

Attachment
Document Request (3 pages)

94030974623

INSTRUCTIONS

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

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

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

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

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

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1990, to the present.

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

94030974624

MUR

Family Bank of Hallandale

Page 4

DEFINITIONS

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

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

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

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

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

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

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

94030974625

MUR

Family Bank of Hallandale

Page 5

✓ 1. Produce copies of all documents relating to the issuance of Cashiers' checks Number 26344 and 26345 by the Family Bank of Hallandale on September 14, 1990.

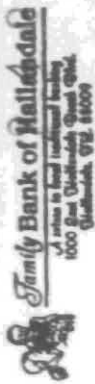
2. Produce copies of all checks drawn on the Smith & Berman P.A. Trust Account, the account number of which is believed to be #2800001090, and all checks deposited into said account for the months of August, September, and October 1990.

3. Produce copies of all bank statements for the Smith & Berman P.A. Trust Account, the account number of which is believed to be #2800001090, covering the months of August, September, and October 1990.

✓ 4. Produce copies of all signature cards for the Smith & Berman P.A. Trust Account, the account number of which is believed to be #2800001090, that were valid and effective during August, September, and October 1990.

Cannot locate
card before
name change

94030974626



Family Bank of Hallandale
1000 S.W. 1st Street
Hallandale, FL 33009

309

NOTICE TO PURCHASER
THE PURCHASE OF AN INSTANT CASH CHECK
REQUIRES SIGNATURE OF PURCHASER
IF THIS BANK WILL BE REPLACED OR
REFUNDED IN THE EVENT IT IS LOST.
REPLACED OR STOLEN.

P 2 77149 34634138

26344

92-1231

September 14, 1990

PAY TO THE ORDER OF

Paradise Island Enterprises*****

\$ 4,000.00

124619729 2032 2034 01 09-19-90

FAMILY BANK OF HALLANDALE 4,000 AND 00/100 CTS

DOLLARS

CASHIER'S CHECK

L.J. Smith
REMITTER

[Signature]

⑈026344⑈ ⑈067012552⑈012134⑈⑈90

966 ⑈0000400000⑈

CORSE HERE

1193 0792

FOR DEPOSIT ONLY
TO THE ACCOUNT OF
THE WITHIN NAMED PAYEE AT
CITY NATIONAL BANK OF MIAMI

DO NOT WRITE, STAMP OR SIGN. ⑈0000-21-0001⑈ THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE

5555 17 SEP 90
04120

⑈05600⑈567⑈
CITY NATIONAL
BANK OF MIAMI
13975 N.W. 57th ST
MIAMI, FL 33014

SEP 18 90

0000000000
4TT4200000

0660-0010-9
124619729 09-19-90

SE 90 19

0670-0289-0

24634436

18-SEP-1990 11:20:219047

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF LEGAL COUNSEL

92 JUL 30 PM 3:23

*FEDERAL RESERVE BOARD OF GOVERNORS REG. CC



Family Bank of Hallandale

A member of First National Banking
1000 East Hallandale Blvd. Hallandale, FL 33009

NOTICE TO PURCHASER
THE PURCHASE OF AN INDEMNITY BOND WILL
BE REQUIRED BEFORE AN OFFICIAL CHECK
OF THIS BANK WILL BE REPLACED OR
REFUNDED IN THE EVENT IT IS LOST,
MISPLACED OR STOLEN.

26345

September 14, 1990

83-12551
870

PAY TO THE ORDER OF Lawrence J. Smith****

\$ 6,000.00

FAMILY BANK
OF HALLANDALE

6000 AND 00 CENTS

DOLLARS

CASHIER'S CHECK

117952530 2005 2013 09 10-18-90

REMITTER Smith/Berman trust

⑈026345⑈ ⑈067012552⑈0121341⑈90

966 ⑈0000600000⑈

9 4 0 3 0 9 7 4 6 2 8

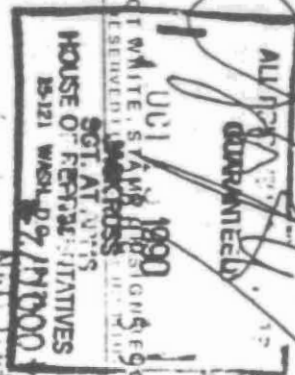
117952530 10-18-90

OT '90 18

0670-0255

OCT 16 91

054000072



UCI 1990
DO NOT WRITE, STAMP, OR SIGN OVER THIS LINE
HOUSE OF REPRESENTATIVES
15121 WASH. DC 20515
Sgt. AT ARMS
OFFICE OF THE CLERK
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

DO NOT WRITE, STAMP, OR SIGN OVER THIS LINE

ENDORSE HERE

94030974629

CONGRESS SD
02530150

[Handwritten signature]

6402174

FBI

5530530-41-55

15/5/4
15/5/4
15/5/4

[Handwritten signature]

26345

26345

015503 09.14.90
0067 12.25.52
2003 10.00.00

0670-0269-0

SE 90 17

CC

APR 08 1991

THE FLORIDA BAR
FT. LAUDERDALE OFFICE



SMITH & BERMAN, P.A.
TRUST ACCOUNT
2310 HOLLYWOOD BLVD.
HOLLYWOOD, FLORIDA 33020-8703

1209

Pay to the order of

Lawrence J. Smith

9/7/90

\$ 10000.00

Dollars



Bank of Hallandale
3991 Ravenswood Road
Pt. Lauderdale, Florida 33312

[Signature]

⑈001209⑈ ⑈067012552⑈

28000010000

⑈0001000000⑈

94030974630

101 4 154 2800001090 PAGE 1
LAST STATEMENT 07-31-90
THIS STATEMENT 08-31-90

DIRECT INQUIRIES TO:
FAMILY BANK OF HALLANDALE
5991 RAVENSWOOD RD
FT LAUDERDALE FL 33312
TELEPHONE (305) 989-8989

SMITH & BERMAN P.A.
TRUST ACCOUNT
2310 HOLLYWOOD BLVD
HOLLYWOOD FL 33020-6703

55

ENCLOSED YOU WILL FIND THE BUSINESS AND PERSONAL
ACCOUNT INFORMATION BROCHURE WHICH REFLECTS THE
CHANGES IN OUR FEE SCHEDULE.
THE SERVICE CHARGE CHANGES WILL BECOME EFFECTIVE
SEPT 07 1990.

THANK YOU FOR CHOOSING FAMILY BANK
FOR YOUR BANKING NEEDS.

SUMMARY OF ACCOUNTS AVERAGE BALANCE CURRENT BALANCE
CHECKING ACCOUNT 28000010901 \$54,830.18 \$218,550.25

CHECKING ACCOUNT NUMBER 2800001090 *****
***** FEDERAL TAX ID NUMBER ON FILE 59-2223234 *****

LIST OF CHECKS BEING PAID IN CHECK NUMBER ORDER
BEGINNING WITH CHECK NO. 1112

AMOUNT	DATE	NUM.	AMOUNT	DATE	NUM.	AMOUNT	DATE	NUM.
15.90	08/09	1	12.00	08/22	11281	49629.83	08/27	1146
7500.00	08/27	1	48.00	08/21	11291	3660.77	08/22	1148
250.00	08/14	11121	96.00	08/20	11301	611.00	08/31	11491112
12.00	08/13	11131	13.00	08/16	11311	12.00	08/31	11501113
256.18	08/01	11141	124.00	08/22	11321	6.00	08/30	11511114
10.00	08/06	11151	40.00	08/17	11331	520.25	08/29	11521115
5000.00	08/07	11171	70.00	08/24	11341	10.50	08/30	11531117
6.00	08/14	11181	20.00	08/17	11351	241.00	08/31	11541118
1.00	08/17	11191	1.00	08/20	11361	3168.50	08/30	11551119
6.00	08/14	11201	5.00	08/29	11391	443.80	08/30	11571120
324.00	08/28	11211	1000.00	08/16	11401	691.20	08/30	11581121
5000.00	08/07	11221	7500.00	08/21	11411	350.00	08/30	11591122
5678.97	08/13	11231	5000.00	08/21	11421	680.00	08/28	11601123
50.00	08/15	11241	1000.00	08/21	11431	2909.72	08/24	11611124
250.00	08/21	11251	1000.00	08/30	11431	2500.00	08/23	11621125
25.00	08/13	11261	2000.00	08/21	11441	6000.00	08/23	11631126
141.00	08/16	11271	75.00	08/28	11451	40000.00	08/27	11641127
						000000020093928	1128	000000020064975
						0000000220009493	1129	000000020039697
						000000020043674	1130	000000020006042
						000000020003256	1131	000000020086071
						000000020060264	1132	000000020063994
						000000020004938	1133	000000020113200
						000000020043265	1134	000000020107012
						000000020044315	1135	000000020113199
						000000020111354	1136	000000020004617
						000000020044316	1139	000000020064384
						000000020040650	1140	000000020102650
						000000020045869	1141	000000020034987
						000000020008620	1142	000000020046711
						000000020064683	1143	000000020040567
						000000020039402	1143	000000020084663
						000000020002135	1144	000000020040568
						000000020040568	1145	000000020040568
						000000020122788	1145	000000020122788

94030974634

LDL 4 154 2800001090 PAGE 2

LAST STATEMENT 07-31-90

THIS STATEMENT 08-31-90

SMITH & BERMAN P.A.
***** CONTINUED *****

AMOUNT	DATE	NUM.	AMOUNT	DATE	NUM.	AMOUNT	DATE	NUM.
154.00	08/31	11671	2000.00	08/28	11721	1000.00	08/28	11781
9000.00	08/28	11691	40.00	08/30	11731	2000.00	08/30	11851
1500.00	08/28	11701	172.08	08/30	11761	1170	0000000	20040373
500.00	08/27	11711	2309.69	08/29	11771	1171	0000000	20027791
						1172	0000000	20040709
						1173	0000000	20085247
						1175	0000000	20097241
						1176	0000000	20082979
						1177	0000000	20065889

61 CHECKS FOR \$172,610.39

DEPOSITS, CREDITS, DEBITS AND CHARGES

DATE	DEPOSITS/CRS.	DEBITS/CHGS.	TRANSACTION DESCRIPTION	
8/071	193.551		DEPOSIT	000000020060544
8/071	11,000.001		DEPOSIT	000000020060542
8/071	5,000.001		REVERSED CHECK	000000020043265
			CHECK 1117	
8/101		11,000.001	DEPOSIT ITEM RETURN	000000020126079
8/101	11,000.001		CREDIT MEMO	000000020126029
8/101		6.001	DEBIT MEMO	000000020126028
8/161	121,780.401		DEPOSIT	000000020102615
8/171	10,316.001		DEPOSIT	000000020124053
8/211	4,332.001		DEPOSIT	000000020047418
8/211	1,000.001		REVERSED CHECK	000000020040567
			CHECK 1143	
8/211	2,000.001		REVERSED CHECK	000000020040568
			CHECK 1144	
8/211	7,500.001		REVERSED CHECK	000000020034987
			CHECK 1141	
8/231	104.001		DEPOSIT	000000020093686
8/241	15,000.001		DEPOSIT	000000020125544
8/271	9,000.001		DEPOSIT	000000020027655
8/281	2,309.691		DEPOSIT	000000020048359
8/311	200,000.001		WIRE TRANSFER	000000020122629
	\$400,535.641	\$11,006.001	TOTAL OTHER TRANSACTIONS	

DAILY BALANCE OF ACCOUNT

1,374.82	08/011	1,508.50	08/151	91,154.41	08/24
1,364.82	08/061	122,134.90	08/161	42,524.58	08/27
7,558.37	08/071	132,389.90	08/171	30,255.27	08/28
7,542.47	08/091	132,292.90	08/201	27,420.33	08/29
7,536.47	08/101	131,326.90	08/211	19,538.25	08/30
1,820.50	08/131	127,530.13	08/221	218,550.25	08/31
1,558.50	08/141	119,134.13	08/231		

2 3 6 7 4 6 3 2

101 4 154 2800001090 PAGE 3

LAST STATEMENT 07-31-90

THIS STATEMENT 08-31-90

SMITH & BERMAN P.A.

***** CONTINUED *****

BEGINNING BALANCE	CREDITS POSTED	DEBITS POSTED	ENDING BALANCE
\$1,631.00	\$400,535.64	\$183,616.39	\$218,550.25

9 4 0 3 0 9 7 4 6 3 3

LAST STATEMENT 08-31-90

THIS STATEMENT 09-28-90

DIRECT INQUIRIES TO:
FAMILY BANK OF HALLANDALE
5991 RAVENSWOOD RD
ET LAUDERDALE FL 33312
TELEPHONE (305) 989-8989

SMITH & BERMAN P.A.
TRUST ACCOUNT
2310 HOLLYWOOD BLVD
HOLLYWOOD FL 33020-6703

53

THE BANK HAS REDUCED ITS FUNDS AVAILABILITY SCHEDULE
MAKE FUNDS FROM DEPOSITED LOCAL AND NON-LOCAL CHECKS
AVAILABLE TO OUR DEPOSITORS ON AN EXPEDITED BASIS.
PLEASE CHECK OUR POLICY WHICH IS REFLECTED ON LOBBY
NOTICES AND IN BROCHURES AVAILABLE IN ANY OF OUR
CONVENIENT OFFICES AND IN THE BROCHURE ENCLOSED IN THIS
STATEMENT.

BEGINNING OCT 1 1990 OUR HALLANDALE BRANCH AND
DAVIE BRANCH WILL CLOSE AT 6:00PM ON FRIDAY NIGHTS.
THESE BRANCHES ARE LOCATED AT:
1000 E HALLANDALE BCH BLVD IN HALLANDALE AND
4491 SOUTH STATE RD 7 IN DAVIE

SUMMARY OF ACCOUNTS AVERAGE BALANCE CURRENT BALANCE

CHECKING ACCOUNT 28000010901 \$56,512.84 \$16,141.95

***** CHECKING ACCOUNT NUMBER 2800001090 *****
***** FEDERAL TAX ID NUMBER ON FILE 59-2223234 *****

LIST OF CHECKS BEING PAID IN CHECK NUMBER ORDER
BEGINNING WITH CHECK NO. 1137

AMOUNT	DATE	INUM.	AMOUNT	DATE	INUM.	AMOUNT	DATE	INUM.
20.00	09/05	1137	3500.00	09/05	1182	3300.00	09/05	1197
80.00	09/05	1138	135.00	09/05	1184	4.00	09/24	1198
1983.94	09/10	1147	6.00	09/17	1186	6.55	09/14	1199
15.00	09/14	1156	128.00	09/10	1187	12.00	09/18	1200
130.00	09/04	1164	60.00	09/06	1188	1.00	09/13	1201
189.00	09/25	1165	12.00	09/25	1189	941.74	09/10	1202
189.00	09/28	1165	1.00	09/13	1190	20.21	09/28	1203
5.00	09/06	1168	1.00	09/17	1191	6.00	09/17	1204
228.51	09/04	1175	40772.92	09/07	1193	40.00	09/13	1205
55.00	09/05	1179	146296.34	09/04	1194	128.00	09/18	1206
3.00	09/26	1180	10568.24	09/13	1195	20.00	09/19	1207
35.00	09/06	1181	2000.00	09/05	1196	2600.00	09/13	1208

9-4-0-3-0-9-7-4-6-3-4

LAST STATEMENT 08-31-90

THIS STATEMENT 09-28-90

SMITH & BERMAN P.A.

***** CONTINUED *****

AMOUNT	DATE	NUM.	AMOUNT	DATE	NUM.	AMOUNT	DATE	NUM.
10000.00	09/17	12091	790.00	09/18	12191	7.50	09/26	12251209
600.00	09/10	12121	215010.00	09/14	12201	60.00	09/25	12261212
71155.27	09/13	12131	2500.00	09/14	12211	612.50	09/25	12271213
25646.88	09/13	12141	79222.70	09/18	12221	200000.00	09/20	12281214
6.00	09/24	12151	3000.00	09/18	12231	200000.00	09/25	12281215
35.00	09/17	12171	1000.00	09/21	12241	107480.90	09/27	12291217
7.50	09/19	12181	1000.00	09/28	12241	15000.00	09/28	12301218

57 CHECKS FOR \$1,146,628.20

DEPOSITS, CREDITS, DEBITS AND CHARGES

DATE DEPOSITS/CRS DEBITS/CHGS TRANSACTION DESCRIPTION

09/07		3,000.00	DEBIT MEMO	000000020112033
09/10	3,000.00		DEPOSIT	000000020038027
09/10	10,000.00		DEPOSIT	000000020038029
09/11	105,000.00		DEPOSIT	000000020070242
09/13	230.90		DEPOSIT	000000020119148
09/14	4,000.00		DEPOSIT	000000020133371
09/14	4,500.00		DEPOSIT	000000020133375
09/14	28,850.51		DEPOSIT	000000020133373
09/14	50,371.19		DEPOSIT	000000020133378
09/14	200,000.00		DEPOSIT	000000020142611
09/17		500.00	DEBIT MEMO	000000020176960
09/18	715.50		DEPOSIT	000000020213845
09/18		500.00	DEBIT MEMO	000000020207203
09/19	1,000.00		DEPOSIT	000000020243068
09/20	200,000.00		REVERSED CHECK	000000020250488
09/20		25.00	RETURN ITEM FEE	010740921113346
09/21			FOR RETURN OF CHECK	
09/21	1,000.00		REVERSED CHECK	010740924123429
09/24		1,000.00	DEPOSIT ITEM RETURN	000000020321851
09/25	189.00		REVERSED CHECK	000000020008480
09/25			CHECK 1165	
09/25	612.50		REVERSED CHECK	000000020000673
09/25			CHECK 1227	
09/25	200,000.00		REVERSED CHECK	000000020005388
09/25			CHECK 1228	
09/25		25.00	RETURN ITEM FEE	010740926112455
09/25			FOR RETURN OF CHECK	
09/25			CHECK 1165	

9 4 0 3 0 9 7 4 6 5

LAST STATEMENT 08-31-90

THIS STATEMENT 09-28-90

SMITH & BERMAN P.A.

***** CONTINUED *****

DATE	DEPOSITS	CRS.	DEBITS/CHGS.	TRANSACTION DESCRIPTION	
09/25			25.00	RETURN ITEM FEE	010740926112455
				FOR RETURN OF CHECK	
				# 1227	
09/25			25	RETURN ITEM FEE	010740926112455
				FOR RETURN OF CHECK	
				# 1228	
09/25	3.00			REVERSED CHECK	000000020028593
				CHECK 1180	
09/26	7.50			REVERSED CHECK	000000020028572
				CHECK 1225	
09/26			25.00	RETURN ITEM FEE	010740927121610
				FOR RETURN OF CHECK	
				# 1180	
09/26			25.00	RETURN ITEM FEE	010740927121610
				FOR RETURN OF CHECK	
				# 1225	
09/27	150.00			DEPOSIT	000000020066312
09/27	107,480.90			REVERSED CHECK	000000020054572
				CHECK 1229	
09/27			25.00	RETURN ITEM FEE	010740928110203
				FOR RETURN OF CHECK	
				# 1229	
	\$917,111.00		\$5,175.00	TOTAL OTHER TRANSACTIONS	

DAILY BALANCE OF ACCOUNT

218,550.25	09/01	23,496.81	09/13	139.26	09/24
71,895.40	09/04	93,686.96	09/14	7.74	09/25
62,805.40	09/05	83,138.96	09/17	57.74	09/26
62,705.40	09/06	201.76	09/18	67.26	09/27
18,932.48	09/07	1,174.26	09/19	16,141.95	09/28
28,278.80	09/10	1,149.26	09/20		
133,278.80	09/11	1,149.26	09/21		

BEGINNING BALANCE	CREDITS POSTED	DEBITS POSTED	ENDING BALANCE
\$218,550.25	\$917,111.00	\$1,151,803.20	\$16,141.95

94030974636

101 4 154 2800001090 PAGE 1
LAST STATEMENT 09-28-90
THIS STATEMENT 10-31-90

DIRECT INQUIRIES TO:
FAMILY BANK OF HALLANDALE
5991 RAVENSWOOD RD
FT LAUDERDALE FL 33312
TELEPHONE (305) 989-8989

SMITH & BERMAN P.A.
TRUST ACCOUNT
2310 HOLLYWOOD BLVD
HOLLYWOOD FL 33020-6703

20

THE BANK HAS REDUCED ITS FUNDS AVAILABILITY SCHEDULE
MAKE FUNDS FROM DEPOSITED LOCAL AND NON-LOCAL CHECKS
AVAILABLE TO OUR DEPOSITORS ON AN EXPEDITED BASIS.
PLEASE CHECK OUR POLICY WHICH IS REFLECTED ON LOBBY
NOTICES AND IN BROCHURES AVAILABLE IN ANY OF OUR
CONVENIENT OFFICES AND IN THE BROCHURE ENCLOSED IN THIS
STATEMENT.

BEGINNING OCT 1 1990 OUR HALLANDALE BRANCH AND
DAVIE BRANCH WILL CLOSE AT 6:00PM ON FRIDAY NIGHTS.
THESE BRANCHES ARE LOCATED AT:
1000 E. HALLANDALE BCH BLVD IN HALLANDALE AND
4491 SOUTH STATE RD 7 IN DAVIE

SUMMARY OF ACCOUNTS	AVERAGE BALANCE	CURRENT BALANCE
CHECKING ACCOUNT 28000010901	\$156,540.95	\$25,975.61

***** CHECKING ACCOUNT NUMBER 2800001090 *****
***** FEDERAL TAX ID NUMBER ON FILE 59-2223234 *****

LIST OF CHECKS BEING PAID IN CHECK NUMBER ORDER
BEGINNING WITH CHECK NO. 1108

AMOUNT	DATE	INUM.	AMOUNT	DATE	INUM.	AMOUNT	DATE	INUM.
31.00	10/19	1108	753.16	10/16	1235	1000.00	10/17	1259
3.00	10/01	1180	350.00	10/09	1236	1000.00	10/25	1259
67.00	10/03	1216	350.00	10/15	1237	317.27	10/12	1260
7.50	10/01	1225	1500.00	10/16	1238	427.05	10/16	1261
20000.00	10/09	1231	27969.67	10/12	1241	75060.78	10/12	1262
8999.05	10/15	1232	3234.22	10/12	1242	718.50	10/24	1265
617.50	10/03	1233	4500.00	10/10	1243	4880.12	10/25	1266
13082.49	10/15	1234	100.00	10/10	1257	10000.00	10/22	1267
13082.49	10/22	1234	3000.00	10/10	1258	10000.00	10/30	1267

27 CHECKS FOR \$201,050.80

9-4-0-0-9-7-4-6-3-7

LAST STATEMENT 09-28-90

THIS STATEMENT 10-31-90

SMITH & BERMAN P.A.

***** CONTINUED *****

DEPOSITS, CREDITS, DEBITS AND CHARGES

DATE	DEPOSITS/CRS	DEBITS/CHGS	TRANSACTION DESCRIPTION	
09/28	189.00		REVERSED CHECK	000000020073335
			CHECK 1165	
09/28	1,000.00		REVERSED CHECK	000000020073573
			CHECK 1224	
09/28	15,000.00		REVERSED CHECK	000000020077819
			CHECK 1230	
09/28		25.00	RETURN ITEM FEE	010741001113829
			FOR RETURN OF CHECK	
			# 1165	
09/28		25.00	RETURN ITEM FEE	010741001113829
			FOR RETURN OF CHECK	
			# 1224	
09/28		25.00	RETURN ITEM FEE	010741001113829
			FOR RETURN OF CHECK	
			# 1230	
10/01	1,000.00		DEPOSIT	000000020035106
10/03	7,600.00		DEPOSIT	000000020081317
10/05	2,500.00		DEPOSIT	000000020134995
10/09	20,000.00		REVERSED CHECK	000000020009677
			CHECK 1231	
10/09		25.00	RETURN ITEM FEE	010741010112006
			FOR RETURN OF CHECK	
			# 1231	
10/10	49,863.80		DEPOSIT	000000020072523
10/11	1.00		DEPOSIT	000000020108650
10/11	20,000.00		DEPOSIT	000000020108656
10/11	575,000.00		DEPOSIT	000000020118636
10/12	75,060.78		REVERSED CHECK	000000020124683
			CHECK 1262	
10/15		20,065.00	WIRE TRANSFER	000000020020815
10/15	13,082.49		REVERSED CHECK	000000020009856
			CHECK 1234	
10/17	1,000.00		REVERSED CHECK	000000020079969
			CHECK 1259	
10/19		575,000.00	DEPOSIT ITEM RETURN	000000020150680
10/22	10,000.00		REVERSED CHECK	000000020003100
			CHECK 1267	
10/22	13,082.49		REVERSED CHECK	000000020005944
			CHECK 1234	
10/22		25.00	RETURN ITEM FEE	010741023110659
			FOR RETURN OF CHECK	
			# 1267	
10/22		25.00	RETURN ITEM FEE	010741023110659
			FOR RETURN OF CHECK	
			# 1234	

8 CHECKS 4 7 9 0 3 0 4 9

LAST STATEMENT 09-28-90

THIS STATEMENT 10-31-90

SMITH & BERMAN P.A.

***** CONTINUED *****

DATE DEPOSITS/CRS DEBITS/CHGS TRANSACTION DESCRIPTION

10/24	20,000.00		DEPOSIT	000000020088805
10/29		20,000.00	DEPOSIT ITEM RETURN	000000020033356
10/30	4,003.80		DEPOSIT	000000020062049
10/30	20,000.00		DEPOSIT	000000020062051
10/30	10,000.00		REVERSED CHECK	000000020047627
			CHECK 1267	

\$858,383.36 \$615,215.00 TOTAL OTHER TRANSACTIONS

DAILY BALANCE OF ACCOUNT

27.95	09/29	647,266.85	10/11	8,570.43	10/22
961.55	10/01	615,745.63	10/12	27,851.93	10/24
7,877.05	10/03	586,331.64	10/15	21,971.81	10/25
19,377.05	10/05	583,651.43	10/16	1,971.81	10/29
10,002.05	10/09	583,651.43	10/17	25,975.61	10/30
52,265.85	10/10	8,620.43	10/19		

BEGINNING	CREDITS	DEBITS	ENDING
BALANCE	POSTED	POSTED	BALANCE
\$16,141.95	\$858,383.36	\$816,265.80	\$25,975.61

9-4-0-9-7-4-6-3-9

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

LAW OFFICES

ROSS & HARDIES

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

888 SIXTEENTH STREET, N.W.

WASHINGTON, D.C. 20006-4103

202-296-8600

TELECOPIER
202-296-8791

TELEX
2795 46

150 NORTH MICHIGAN AVENUE
CHICAGO, ILLINOIS 60601-7567
312-558-1000

529 FIFTH AVENUE
NEW YORK, NEW YORK 10017-4508
212-949-7075

580 HOWARD AVENUE
SOMERSET, NEW JERSEY 08873
908-563-2700

OGC 5937

92 JUL 29 PM 4:10

July 29, 1992

Ms. Tonda Mott
Assistant General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

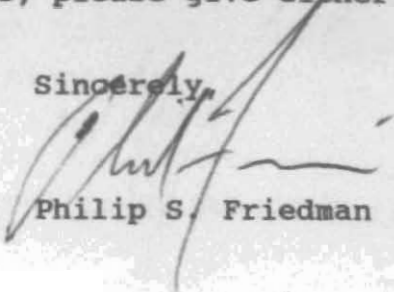
Re: MUR 3538

Dear Ms. Mott:

Enclosed please find the response of Representative Lawrence J. Smith to the subpoena for documents issued by the Commission in the above referenced matter as well as the response of the Larry Smith for Congress Committee (92) and Joseph A. Epstein, as treasurer, to the separate subpoena for documents issued to them.

Should you have any questions, please give either me or David Ifshin a call.

Sincerely,


Philip S. Friedman

Enclosures

94030974640

UNITED STATES OF AMERICA
BEFORE THE FEDERAL ELECTION COMMISSION

IN THE MATTER OF

)
)
)
MUR 3538

RESPONSE TO SUBPOENA TO PRODUCE DOCUMENTS

Larry Smith for Congress (92) and Joseph A. Epstein, as treasurer, pursuant to 2 U.S.C. § 437d(a)(3) hereby respond to the Federal Election Commission's subpoena to produce documents as follows:

1. Produce all documents relating to the making and delivering of a \$10,000 check, made payable to Brian Berman, which was drawn on an account of the Larry Smith for Congress Committee (90), on or about September 10, 1990. Produced documents should include, but should not be limited to, bank statements for all months which show bank activities relating to the above named check, copies of the front and back of said check, and any correspondence relating to said check.

RESPONSE

Larry Smith for Congress (92) and Joseph A. Epstein, as treasurer hereby produce documents responsive to this request to the extent that they exist, are relevant, not privileged and are within the Congressman's possession.

2. Identify the account on which the above named check was drawn, and all other accounts used by the Larry Smith for Congress Committee (90).

RESPONSE

Larry Smith for Congress (92) and Joseph A. Epstein, as treasurer hereby produce documents responsive to this request to the extent that they exist, are relevant, not privileged and are within the Congressman's possession.

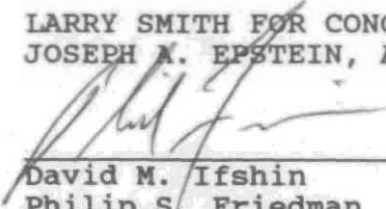
94030974641

3. Produce all documents relating to any funds paid by Lawrence J. Smith into any account of the Larry Smith for Congress Committee between April 1, 1992 and the present. Produced documents should include, but should not be limited to, bank statements, deposit slips, and the front and back of any such checks.

RESPONSE

Larry Smith for Congress (92) and Joseph A. Epstein, as treasurer hereby produce documents responsive to this request to the extent that they exist, are relevant, not privileged and are within the Congressman's possession.

LARRY SMITH FOR CONGRESS (92) AND
JOSEPH A. EPSTEIN, AS TREASURER



David M. Ifshin
Philip S. Friedman
ROSS & HARDIES
888 16th Street, N.W.
Washington, D.C. 20006
(202) 296-8600

94030974642

94030974643

Documents Responsive to Smith for Congress
and Joseph A. Epstein Subpoena Request No. 1

94030974644

Documents Responsive to Smith for Congress
and Joseph A. Epstein Subpoena Request No. 2

FDIC

CONGRESS
STEIN
SUITE 400
LAUDERDALE, FL 33316

CUSTOMER NUMBER 4011124500 PAGE NUMBER 1

8-31-90 9-28-90
STATEMENT PERIOD

TRANSFLORIDA NOW HAS 6 BRANCHES IN HORDWARD COUNTY
COOPER CITY SUNRISE LAUDERHILL DANIA-HOLLYWOOD
434-5111 748-7788 484-BANK 925-6556
PLANTATION NORTH PLANTATION
475-9242 581-6600

*****A C C O U N T S U M M A R Y*****

PREVIOUS BALANCE	NUMBER/TOTAL CREDITS	NUMBER/TOTAL DEBITS	FEEs	NEW BALANCE
01 BUSINESS CHECKING	ACCOUNT NO. -	400019903		
14,376.39	5	69,141.57	43	13,140.02
			.00	65,377.94

*****A C C O U N T D E T A I L*****

DATE	DESCRIPTION	AMOUNT	DAILY BALANCE
9-10	DEPOSIT	355.00	13,797.72
9-10	DEPOSIT	10,000.00	13,526.88
9-18	DEPOSIT	1,133.78	13,389.38
9-25	DEPOSIT	1,800.00	23,390.71
9-25	DEPOSIT	5,852.79	11,192.26
9-12			11,092.26
9-13			10,482.63
9-14			10,194.63
9-17			8,779.23
9-18			9,713.06
9-19			9,510.95
9-20			9,210.95
9-21			9,178.95
9-24			8,759.65
9-25			66,302.44
9-26			65,387.94
9-28			65,377.94

CHECK NO.	AMOUNT	DATE	CHECK NO.	AMOUNT	DATE
7497	1,891.34	9-11	7498	10,000.00	9-11
7499	1,280.35	9-17	7500	276.00	9-14
7554	10.00	9-28	7565	25.00	9-13
7590	20.00	9-05	7598	20.00	9-05
7605	100.00	9-05	7606	142.00	9-13
7612	189.61	9-19	7618	12.00	9-14
7619	250.00	9-10	7620	130.84	9-05
7621	416.67	9-04	7622	162.00	9-04
7623	137.50	9-07	7624	50.00	9-12
7625	50.00	9-12	7626	106.53	9-11
7627	27.17	9-10	7628	24.67	9-11
7629	175.91	9-11	7630	100.00	9-13
7631	26.50	9-10	7632	50.00	9-10
7633	19.30	9-24	7634	42.63	9-13
7635	300.00	9-13	7642	200.00	9-18
7643	12.50	9-19	7644	45.00	9-17
7645	90.00	9-17	7647	110.00	9-25
7648	55.00	9-26	7649	150.00	9-24
7650	150.00	9-20	7651	99.50	9-26
7652	150.00	9-20	7653	250.00	9-24
7654	32.00	9-21	7655	380.00	9-26

94030974646

Documents Responsive to Smith for Congress
and Joseph A. Epstein Subpoena Request No. 3



Transflorida Bank
9100 Griffin Road,
Cooper City, Florida 33328

MEMBER F.D.I.C.

STATEMENT DATE
04/30/92

LARRY SMITH FOR CONGRESS
C/O JOSEPH A EPSTEIN
700 SE 3 AVE SUITE 400
FT LAUDERDALE FL 33316

4011124501

ACCOUNT NO.

CYCLE

PG 1
86

*** CHECKING *** BUSINESS-REGULAR

ACCOUNT NUMBER	4011124501	TAX ID NUMBER	59-2242526
PREVIOUS STATEMENT BALANCE AS OF 03/31/92			38,628.64
PLUS 27 DEPOSITS AND OTHER CREDITS			42,010.20
LESS 59 CHECKS AND OTHER DEBITS			58,007.55
CURRENT STATEMENT BALANCE AS OF 04/30/92			22,631.29

*** CHECK TRANSACTIONS ***

SERIAL	DATE	AMOUNT	SERIAL	DATE	AMOUNT	SERIAL	DATE	AMOUNT
008367*	04/14	1,546.78	008517*	04/14	25.00	008538	04/21	50.00
008368	04/28	43,000.00	008518	04/14	15.00	008539	04/16	203.00
008442*	04/28	50.00	008519	04/10	51.94	008540	04/20	5.23
008486*	04/01	95.50	008520	04/10	265.00	008541	04/24	495.00
008487	04/07	17.50	008521	04/29	120.08	008542	04/21	46.19
008488	04/02	177.50	008522	04/13	31.40	008544*	04/21	180.00
008491*	04/02	1,105.60	008523	04/09	36.77	008545	04/30	5,000.00
008493*	04/02	10.46	008524	04/08	100.00	008546	04/23	129.71
008502*	04/02	25.00	008525	04/27	90.00	008547	04/21	34.79
008503	04/02	185.00	008526	04/29	100.00	008548	04/21	162.07
008504	04/02	250.00	008527	04/13	50.00	008549	04/30	70.00
008505	04/02	1,000.00	008528	04/16	20.00	008551*	04/30	13.18
008507*	04/08	30.00	008530*	04/13	100.00	008552	04/27	14.18
008508	04/17	159.00	008531	04/13	148.40	008553	04/29	60.00
008510*	04/20	42.50	008532	04/22	197.16	008554	04/27	180.00
008511	04/09	60.00	008533	04/15	580.00	008556*	04/30	8.90
008512	04/08	424.00	008534	04/22	68.90	008566*	04/22	21.75
008513	04/02	36.00	008535	04/15	149.46	008567	04/24	13.00
008514	04/07	48.00	008536	04/15	147.10	008568	04/24	13.00
008515	04/02	471.00	008537	04/15	277.50			

*** CHECKING ACCOUNT TRANSACTIONS ***

DATE	DEPOSIT	DESCRIPTION	DEBITS	CREDITS
04/06	DEPOSIT			50.00
04/06	DEPOSIT			290.00
04/06	DEPOSIT			368.00
04/06	DEPOSIT			750.00
04/06	DEPOSIT			828.00
04/06	DEPOSIT			1,218.00
04/06	DEPOSIT			1,745.00
04/06	DEPOSIT			4,883.00
04/06	DEPOSIT			8,486.00
04/08	DEPOSIT			588.00
04/08	DEPOSIT			2,066.00
04/10	DEPOSIT			671.00
04/10	DEPOSIT			728.20
04/13	DEPOSIT			835.00
04/13	DEPOSIT			506.00
04/15	DEPOSIT			2,000.00
04/15	DEPOSIT			43.00
04/15	DEPOSIT			600.00
04/15	DEPOSIT			665.00
04/15	DEPOSIT			1,800.00
04/22	DEPOSIT			580.00
04/22	DEPOSIT			738.00
04/22	DEPOSIT			790.00
04/27	DEPOSIT			53.00
04/27	DEPOSIT			279.00
04/27	DEPOSIT			450.00

NOTE: SEE REVERSE SIDE FOR IMPORTANT INFORMATION

OVER

3



Transflorida Bank
9100 Griffin Road,
Cooper City, Florida 33328

PAGE 2

MEMBER F.D.I.C.

STATEMENT DATE
04/30/92

4011124501

ACCOUNT NO.

CYCLE

PG 2

*** CHECKING ACCOUNT TRANSACTIONS ***

DATE	DESCRIPTION	DEBITS	CREDITS
04/27	DEPOSIT		10,000.00

*** BALANCE BY DATE ***

03/31	38,628.64	04/01	38,533.14	04/02	35,272.58	04/06	53,890.58
04/07	53,825.08	04/08	55,925.08	04/09	55,828.31	04/10	57,745.57
04/13	59,921.77	04/14	58,334.99	04/15	60,288.93	04/16	60,065.93
04/17	59,906.93	04/20	59,859.20	04/21	59,386.15	04/22	61,206.34
04/23	61,076.63	04/24	60,555.63	04/27	71,053.45	04/28	28,003.45
04/29	27,723.37	04/30	22,631.29				

TRANSFLORIDA HAS 8 OFFICES TO SERVE YOUR FINANCIAL NEEDS
COOPER CITY DANIA-HOLLYWOOD LAUDERHILL SUNRISE
N PLANTATION BOYNTON BEACH WELLINGTON PLANTATION

Transflorida Bank

NOTE: SEE REVERSE SIDE FOR IMPORTANT INFORMATION

(3)

**MORTGAGE
LOANS...
We make 'em!**

BANK SYMBOL, TRANSACTION NUMBER, DATE AND
AMOUNT OF DEPOSIT ARE SHOWN BELOW

DEPOSITED WITH
TRANSFLORIDA BANK

THIS IS YOUR RECEIPT
ALWAYS OBTAIN A REGISTERED RECEIPT
WHEN MAKING A DEPOSIT

DEPOSITS MAY NOT BE AVAILABLE
FOR IMMEDIATE WITHDRAWAL

006507 • 042732
*4011124501 AN
0132 *10000000 0

LTS

GS TFB T-33 (Rev. 4/89)



**Transflorida
Bank**

ap. 4/24/92
3:30 P.M.

9 4 0 DEPOSIT TICKET 4 63-1058 070149

LARRY SMITH FOR CONGRESS

Transflorida Bank

9100 DUFFIN ROAD
COOPER CITY, FLORIDA 33098



DATE	CURRENCY	COIN	CHECKS LIST EACH SEPARATELY	DOLLARS	CENTS
4-24-92			1000	1000	
APR 27 1992					
PAID					
APR 27 1992					
006507 • 042732					
0067 1-383					
0132 *10000000					
TOTAL					10,000 -

Checks and other items are received for deposit
subject to the provisions of the Uniform Commercial
Code or other applicable collection agreement

00670105831 0011124501 131

00502 10584 4011124501

0001000000

(3)

94030974650

Documents Responsive to Smith for Congress
and Joseph A. Epstein Subpoena Request No. 3
and Smith Subpoena No. 4

Pay to the order of *James Smith & Co*
James Smith & Co
James Smith & Co

Received by the Secretary of the
 Department of the Interior
 Washington, D. C.

Investment Securities Incorporated
4451 Sheraton Street
Plymouth IL 60541-2401

04/24/92

HW 207000

9(000) 00

EXACTLY 2000000

Lawrence J Smith &
Stella Smith JTWR05

234567890 1234 5678 90 12 34 567890

Abstract

9 4 0 3 0 9 7 4 6 5 2

Handwritten: King to the ...
Lump ...
~~The ...~~

LAWRENCE J. SMITH
SHEILA SMITH

PAY TO THE
ORDER OF

One thousand and no/100 dollars 025000.00

128092

15 MONTHS

DOLLARS

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

ADD 128092 34054 34055 032004 128092

FOR

94030974653

94030974654

03765 010 02 042992
U.P. CONGRESSIONAL FCU

80-12515000-244710

0520-0027-0520-0010-9
0520-0027-0520-0010-9
26823337 0042244712
130421838 0660-0010-9

TRANSFLORIDA
BANK
COOPER CITY, FL
067010583

APR 27 1992

PAY TO THE ORDER OF
TransFlorida Bank
FOR DEPOSIT ONLY
LARRY SMITH FOR CONGRESS

00011245017000

94030974655

Pay to the order of
Larry Smith for Congress
[Signature]
PAYEE'S
Reserved for Future

this says
Trans Florida Bank
Coo? or City. FL.
067010683
4/24/92

←
PAY TRANSFLORIDA
Trans Florida Bank
FOR DEPOSITS
LARRY SMITH
40 067010683
APR 27 92

PRUDENTIAL SECURITIES INC.	DATE: 7/21/92	# Pages: 2
To: <i>Dobbie</i>	From: <i>Bob Bank</i>	
Co./Dept: <i>Hollywood</i>	RECORD CENTER	
Fax #: ()	Phone #: (312) 776-6138	
Subj. / Comments:		

1-800-424-1000
4-228-992
1-800-424-1000

940309.7.4656

MORTGAGE
LOANS...
We make 'em!

FDIC

GS TFB T-33 (Rev. 4/89)



Transflorida
Bank

Dep. 4/24/92
3:30 P.M.

BANK SYMBOL, TRANSACTION NUMBER, DATE AND
AMOUNT OF DEPOSIT ARE SHOWN BELOW

DEPOSITED WITH
TRANSFLORIDA BANK

THIS IS YOUR RECEIPT
ALWAYS OBTAIN A REGISTERED RECEIPT
WHEN MAKING A DEPOSIT

DEPOSITS MAY NOT BE AVAILABLE
FOR IMMEDIATE WITHDRAWAL

DC6507 • 042732
*01:1245.01 AN
0132 *10000.00 D

LIS

UNITED STATES OF AMERICA
BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

92 JUL 29 PM 4:10.

IN THE MATTER OF

)
)
)

MUR 3538

RESPONSE TO SUBPOENA TO PRODUCE DOCUMENTS

Representative Lawrence J. Smith, pursuant to 2 U.S.C. § 437d(a)(3) hereby responds to the Federal Election Commission's subpoena to produce documents as follows:

1. Produce all documents relating to your request of a \$10,000 check from Brian Berman in September 1990.

RESPONSE:

Representative Smith hereby produces documents responsive to this request to the extent that they exist, are relevant, not privileged and are within the Congressman's possession.

2. Produce all documents relating to the subsequent actions taken by you in regards to the above named check, including, but not limited to, the purchasing, delivering, or depositing of two cashier's checks from the proceeds of said check.

RESPONSE:

Representative Smith hereby produces documents responsive to this request to the extent that they exist, are relevant, not privileged and are within the Congressman's possession.

94030974657

3. Produce all documents relating to campaign expenditures made from the proceeds of the above named check.

RESPONSE:

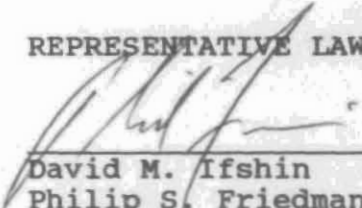
Representative Smith will produce documents responsive to this request to the extent that they exist, are relevant, not privileged and are within the Congressman's possession. At present, no such documents have been located.

4. Produce all documents relating to your delivery of a \$10,000 check to Brian Berman in September 1990.

RESPONSE:

Representative Smith hereby produces documents responsive to this request to the extent that they exist, are relevant, not privileged and are within the Congressman's possession.

REPRESENTATIVE LAWRENCE J. SMITH



David M. Ifshin
Philip S. Friedman
ROSS & HARDIES
888 16th Street, N.W.
Washington, D.C. 20006
(202) 296-8600

94030974658

94030974659

Documents Responsive to Smith Subpoena Request No. 1

EXPEDITE

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR

Complainant,

vs

No 91-50,855 (17E)

BRIAN M. BERMAN

Defendant

DEPOSITION OF BRIAN M. BERMAN

Fort Lauderdale Florida

April 5 1991

2:10 o'clock P.M.

APPEARANCES

LUAIN T. HENSEL, ESQUIRE
appearing on behalf of The Florida Bar

ROGER G. STANWAY, ESQUIRE,
appearing on behalf of Brian M. Berman

ALSO PRESENT

Mark Widlonsky, C.P.A.
Sheldon I. Leventhal, C.P.A.

COPY

EXPEDITE

1 you paid your Bar dues on August 22nd, 1990 So we're
2 talking about that time frame, I assume. I assume you
3 executed this document at or about the time you sent
4 it into The Bar Would that be fair?

5 A I would imagine so, yes

6 Q Okay So we're talking about August, at
7 that point in time, did you believe that you kept all
8 of the required trust records and followed all of the
9 required trust accounting procedures?

10 A I believe so, but I have found out that I
11 didn't.

12 MS HENSEL: I have here a check -- Excuse
13 me let's back up I'd like to mark this
14 document that we just talked about, the dues
15 statement as Florida Bar Exhibit Number One

16 (Thereupon, The Florida Bar Exhibit Number
17 One was marked for Identification)

18 BY MS HENSEL:

19 Q I have check number 1209, dated September 7
20 1990, drawn on Smith and Berman, P.A. trust account,
21 Bank of Hollandale, made payable to Lawrence J. Smith
22 in the amount of \$20,000 Mr. Berman, is that your
23 signature?

24 A Yes

25 Q What was the purpose of this check?

EXPEDITE

1 A. Well, first of all, I think there was a
2 deposit into the account, if you can let me see the
3 account for September.

4 MR. LEVENTHAL: September of --

5 THE WITNESS: No. It's the Family Bank

6 MS. HENSEL: Family Bank of Hollandale.
7 September 1990.

8 MR. WIDLANSKY: That one is right there, I
9 think

10 THE WITNESS: Without checking my records, I
11 believe the \$10,000 was deposited on the 10th
12 which is the in-coming money. This check wasn't
13 deposited until the 14th, I think

14 MS. HENSEL: Lawrence J. Smith being your
15 law partner?

16 THE WITNESS: Lawrence J. Smith is not my
17 law partner

18 MS. HENSEL: Is he a client?

19 MR. STANWAY: United States Congressman.

20 THE WITNESS: And just for the record,
21 Lawrence J. Smith was never my law partner

22 BY MS. HENSEL:

23 Q Is he not the Smith referred to in Smith and
24 Berman, P. A.?

25 A. Yes, he is. He is not my partner

EXPEDITE

1 Q. And he never was?

2 A. He was for, I think, one day in 1982.

3 Q. All right. You just testified that \$10,000
4 came in on September the 10th?

5 A. No. I think that's when it was deposited.
6 I think it was -- I think that it was -- This may have
7 been a weekend or something. It fell over until
8 Monday

9 Q. I'm sorry, Mr. Berman. I'm not real good at
10 numbers. I'm not understanding you.

11 A. The \$10,000 check was given to me as a
12 retainer. I believe it was for the re-districting.

13 Q. Were you given a retainer by Mr. Smith?

14 A. Not by Mr. Smith. By -- I don't know what --
15 I don't know what account, but it came through his
16 office.

17 Q. All right. And before that money came in,
18 you wrote him a check for 10,000, being this check
19 dated 9/7; is that correct?

20 A. I wrote it, but I don't think he went to the
21 bank until after the other money was deposited.

22 Q. So that 10,000 came in and went out right
23 back to him; is that what happened?

24 A. He decided not to go through with it, I
25 believe

EXPEDITE

1 Q. He who?

2 A. Mr. Smith.

3 Q Okay

4 MR STANWAY: Can we see the check, please?

5 MS HENSEL: We're going to mark that as
6 Florida Bar Exhibit Number Two

7 (Thereupon, Florida Bar Exhibit Number Two
8 was marked for Identification)

9 THE WITNESS: If you can let me look at the
10 deposit slip for Family Bank maybe I can tell
11 you the date of it

12 BY MS HENSEL:

13 Q Mr Berman, that is --

14 A The date of the deposit -- Pardon me?

15 Q Go ahead

16 A The date of the deposit was 9/10, but I
17 think that's because it was a weekend

18 Q Who gave you that money?

19 A I don't have a copy of the check, but I
20 believe it came through his office

21 Q And this check number 1209 that we've just
22 talked about and marked as Florida Bar Exhibit Number
23 Two, that is, in fact, your signature on that check?

24 A Yes.

25 Q I want to go back for a moment, if we can,

EXPEDITE

1 to the Barnett Bank account. We talked earlier about
2 the \$35,000 deposit that the Zeldons gave you that
3 went into your trust account. And on that same day,
4 \$35,000 went out to other clients. Isn't it true that
5 you used the Zeldon's money to pay those other
6 clients?

7 MR STANWAY: Objection He previously
8 answered that You asked him

9 MS HENSEL: And what did he answer?

10 MR STANWAY: His answer was he needs the
11 records to go through and determine exactly
12 where the money -- You know, you're tying it
13 together And also the accountant indicated
14 that he wanted to verify exactly what deposits
15 were made into that account and whether they
16 were in transit or in process to determine
17 exactly what occurred We don't know for sure

18 MS HENSEL: Okay

19 MR STANWAY: Isn't that a fair --

20 MS HENSEL: Well, we'll try it another way
21 We've established the \$35,000 came in on
22 November the 1st.

23 MR STANWAY: Correct

24 MS HENSEL: Okay. Now your bank statements
25 indicate that another \$334,000 went into your

EXPEDITE

CERTIFICATE

STATE OF FLORIDA)

SS

COUNTY OF BROWARD)

I, Wendy S. Wooden, a Shorthand Reporter and
Notary Public in and for the State of Florida at

Large, do hereby certify that I reported the
deposition of BRIAN M. BERMAN, a witness called by The
Bar in the above-styled cause; that the witness was
duly sworn by me to tell the whole truth; that the
foregoing pages, numbered 1 to 106, inclusive,
constitute a true record of the deposition of said
witness as stenographically recorded by me; and that
this transcript was prepared under my supervision

I further certify that I am not an attorney
or counsel of any of the parties, nor a relative or
employee of any attorney or counsel connected with the
action, nor financially interested in the action

WITNESS my hand and official seal in the
City of Fort Lauderdale, County of Broward, State of
Florida, this 8th day of April, 1991

Wendy S. Wooden

Wendy S. Wooden
Shorthand Reporter
Notary Public, State of Florida at Large
My Commission Expires: February 16, 1993



94030974667

Documents Responsive to Smith Subpoena Request No. 2



Nassau, Bahamas

2875 N.E. 191 Street - North Miami Beach, Florida 33180
Telephone (305) 893-7400 - U.S. & Florida 1-800-821-1139
Post Office Box 630668 - Miami, Florida 33163

August 31, 1990

Mr. Lawrence J. Smith
4747 Hollywood, Blvd.
Hollywood, Fl. 33021

Dear Mr. Smith:

This is a statement of your marker account at Paradise Island Resort and Casino.

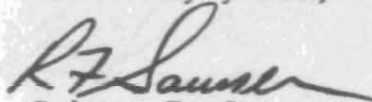
Enclosed you will find a photocopy of your marker(s), totaling \$4,000. This amount is due by 9/10/90. If you have any questions regarding this statement, please call me at 1-800-821-1139.

For your convenience I have enclosed an addressed return envelope. Please make your check payable to:

Paradise Enterprises, Ltd., or P.E.L.

Thank you for your patronage and we hope that we may serve you again in the future.

Sincerely yours,


Robert F. Sausser
Collection Manager

RFS:ml
Encl.

94030974668

PURCHASER'S RECEIPT - RETAIN FOR YOUR RECORDS



Family Bank of Hallandale
A service to local traditional banking
1000 East Hallandale Road, West
Hallandale, FL 33409

NOTICE TO PURCHASER
THE PURCHASE OF AN INDEMNITY BOND WILL
BE REQUIRED BEFORE AN OFFICIAL CHECK
OF THIS BANK WILL BE REPLACED OR
REFUNDED IN THE EVENT IT IS LOST,
MISPLACED OR STOLEN.

26344

September 14 90

63-12551
670

PAYABLE TO

Paradise Island Enterprises*****

4,000.00

NOT NEGOTIABLE

CASHIER'S CHECK

L.J. Smith

MEMORANDUM

REMITTER

FOR

TO P.I.
9/14/90

⑈026344⑈ ⑆067012552⑆01213411⑈90

EFFECTIVE 8/27/90



Paradise Island, Bahamas

ATTENTION CREDIT CUSTOMERS!

Markers are counterchecks drawn against your checking account. If you are not sure which account, please ask a Credit Executive.

Items not redeemed at the Cage will be deposited according to the following schedule, with statements sent only to customers owing \$2,500 or more.

MARKER AMOUNT	DEPOSIT TIMES
0 - 2,499	7 CALENDAR DAYS
2,500 - 9,999	14 CALENDAR DAYS
10,000 - 19,999	30 CALENDAR DAYS
20,000 - ABOVE	45 CALENDAR DAYS

When cashing out chips while markers are still owing, it is required that the chips be applied to the marker balance before receiving any cash.

If you have any questions regarding our payment policies, please see a Credit Executive before departure, or contact our Miami-Florida Collection Office at 1-(800)-821-1139.

94030974669



94030974670

Larry Smith 26 Aug 1990 No 230511
PATRON NAME (PLEASE PRINT) DATE

ADDRESS PHONE A.B.A. NUMBER

CITY STATE

PAY TO THE ORDER OF ISSD AUG 26 PARADISE ENTERPRISES LIMITED \$1000.00
ONE THOUSAND DOLLARS AND NO CENTS U.S. FUNDS

I REPRESENT THAT I HAVE RECEIVED CASH FOR THE ABOVE AMOUNT AND THAT SAID AMOUNT IS ON DEPOSIT IN SAID BANK OR TRUST COMPANY IN MY NAME. IT IS FREE FROM CLAIMS AND IS SUBJECT TO THIS CHECK.

BANK

BRANCH ACCT. NO.

CITY STATE

DO NOT WRITE BELOW THIS LINE

FOR DEPOSIT ONLY TO THE
A/C OF THE WITHIN NAMED PAYEE

AUG 20 1990

City National Bank of Miami
A/C # 3058-2111

DEPOSIT ONLY
to the Order of
Within Named Payee

530438

1 2 9 4 7 6 0 3 0 4 6

HARRY SMITH
PATRON NAME (PLEASE PRINT)

Aug 25 19 90 N° 217947
1990 AUG 25 PM 11:26 A.B.A. NUMBER

ADDRESS PHONE

CITY STATE

PAY TO THE ORDER OF

PARADISE ENTERPRISES LIMITED \$2000.00
U.S. FUNDS

Two Thousand
I REPRESENT THAT I HAVE RECEIVED CASH FOR THE ABOVE AMOUNT AND THAT SAID AMOUNT IS ON DEPOSIT IN SAID
BANK OR TRUST COMPANY IN MY NAME. IT IS FREE FROM CLAIMS AND IS SUBJECT TO CHECK

BANK

BRANCH

ACCT. NO.

CITY

STATE

DO NOT WRITE BELOW THIS LINE

94030974672

9 4 0 3 0 9 7 4 6 7 3

FOR DEPOSIT ONLY TO THE
A/C OF THE WITHIN NAMED PAYEE

AUG 25 1990

City Natl Bank, Miami
A/C # 880021-1841

FOR DEPOSIT ONLY
Paid to the Order of
Within Named Payee

LARRY SMITH FOR CONGRESS

P.O. BOX 6174
HOLLYWOOD, FL 33061

7498

9/10/90 63-1058/670 40

PAY TO THE
ORDER OF

Bryan Bowman
Ten Thousand

PAID

\$ 10,000.00

DOLLARS

SEP 11 1990 037 3858 01 09-11-90



TransFlorida Bank

8100 GULF PIN ROAD
COOPER CITY, FLORIDA 33093

0670-10583

TRANSFLORIDA BANK

FOR

Counseling Dept. Secured

⑈007798⑈ ⑈1067010583⑈ 40111245⑈01

⑈0001000000⑈

94030974674

94030974675

ENDORSE CHECK HERE

X 

Pay To The Order Of
FAMILY BANK OF HALLANDALE
#067012552

DO NOT SIGN **For Deposit Only**
SMITH & BROWN, P.A.
TRUST ACCOUNT
2800001090

SEP 11 1990

0023 8 5 9 8

HALLANDALE
1001 E. HALLANDALE
BENCH BLVD
HALLANDALE, FL 33009
305-458-2211
> 067012552 <
154

10 SEP 90

FOR FINANCIAL INSTITUTION USAGE ONLY

SE 10 10 0650-00 10-9
0670-0269-1-50
009200100

200000020

94030974676

Documents Responsive to Smith Subpoena Request Nos. 1 and 2



Family Bank of Hallandale
 1000 East Hallandale Blvd.
 Hallandale, FL 33009

NOTICE TO PURCHASER
 THE PURCHASE OF AN INSTANTANEOUS BOND WILL
 BE REQUIRED BEFORE AN OFFICIAL CHECK
 OF THIS BANK WILL BE REPLACED OR
 REFUND IN THE EVENT IT IS LOST.
 MISPLACED ON STOLEN.

P 2 T7349 24634438

26344

September 14, 90

89-12551
 670

PAY TO THE ORDER OF Paradise Island Enterprises*****

\$ 4,000.00

FAMILY BANK
 OF HALLANDALE

24634438 203E 2034 01 05-15-90

4000 AND 10 CTS

DOLLARS

CASHIER'S CHECK

ROUTED TO L.J. Smith

#026344# 7:0670125521:012131

955 #00004000000#

[Signature]

1193 0792

FOR DEPOSIT ONLY
 TO THE ACCOUNT OF
 THE WITHIN NAMED PAYEE AT
 CITY NATIONAL BANK OF MIAMI

DO NOT WRITE STAMP ON BACK. #0000-21-1001 HIS LINE

5555 17 SEP 90
 84120

2066 004 367
 CITY NATIONAL
 BANK OF MIAMI
 13975 N.W. 25 CT
 MIAMI, FL 33014

SEP 18 90

1706120241:0661-455-81

05-61-60 566519527
 6-0100-0990

61 00 SE

0670-0289-0

0000034114
 PROCESSED

SCHNEIDER

77947600046

9 4 0 3 0 9 7 4 6 7 8
FOR DEPOSIT ONLY TO THE
A/C OF THE WITHIN NAMED PAYEE

AUG 20 1990

City National Bank
Miami
A/C # 3058-001

DEPOSIT ONLY
Pay to the Order of
Within Named Payee

330.30

FEDERAL RESERVE BOARD OF GOVERNORS, INC. CC

UNISE HENR

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED
DATE 11/11/00 BY 60322 UC1
NOT WHITE STAFF AND SIGNATURE OF THIS LINE
RESERVED FOR CROSS INDEXING

HOUSE OF REPRESENTATIVES
1000 500
WASH D.C.
054000072

117982630 10-18-90
OT 90 18
0670-0268

#247110443

#20100402

4030974679

Family Bank of Hallandale
A member of Hallandale Banking
2000 West Hallandale Street West
Hallandale, FL 33009

NOTICE TO PURCHASER
THE PURCHASE OF AN INDEMNITY BOND WILL
BE REQUIRED BEFORE AN OFFICIAL CHECK
OF THIS BANK WILL BE REPLACED OR
REFUNDED IN THE EVENT IT IS LOST,
MISPLACED OR STOLEN.

26345

September 14, 1990

83-12581
870

PAY TO THE ORDER OF Lawrence J. Smith****

\$ 6,000.00

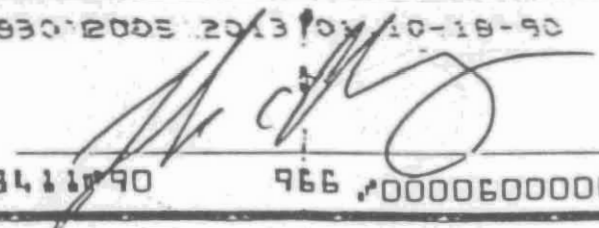
FAMILY BANK OF HALLANDALE **6000 AND NO/100 CTS**

DOLLARS

CASHIER'S CHECK

117982930 12005 2013 10-18-90

REMITTER Smith/Berman trust



⑈026845⑈ ⑈067012552⑈01213411⑈90

966 ⑈0000600000⑈

94030974680

Harry Smith
PATRON NAME (PLEASE PRINT)

8-26-90

No 230439

ADDRESS PHONE

CITY STATE

A.B.A. NUMBER

PAY TO THE ORDER OF

PARADISE ENTERPRISES LIMITED \$1000.00

ONE THOUSAND DOLLARS AND NO CENTS

U.S. FUNDS

I REPRESENT THAT I HAVE RECEIVED CASH FOR THE ABOVE AMOUNT AND THAT SAID AMOUNT IS ON DEPOSIT IN SAID BANK OR TRUST COMPANY IN MY NAME. IT IS FREE FROM CLAIMS AND IS SUBJECT TO THIS CHECK.

BANK

BRANCH

ACCT. NO.

CITY

STATE

DO NOT WRITE BELOW THIS LINE

4681

SEPTEMBER 1990 EVENTS ATTENDED
SEPTEMBER DISTRICT
Page 5

SEPTEMBER 19, 1990 (WEDNESDAY)

20 1:59 PM
FLIGHT
LV: DCA PANAM #435
AR: MIA 4:19 PM
LJS ONLY

SEPTEMBER 20, 1990 (THURSDAY)

21 5:10 PM
FLIGHT
LV: MIA USAIR #1126
AR: GVL 6:13 PM
LJS/SHEILA

SEPTEMBER 22, 1990 (SATURDAY)

22 11:00 AM TO 4:00 PM
DANIA DEMOCRATIC CLUB PICNIC

FPL Grounds
Port Everglades

STOP BY

23 12:00 PM
STATE PARTY MEETING OF COUNTY CHAIR'S
Orlando Airport Marriott
CONTACT: Joel Gunter 904-222-3411

24 3:15 PM
FLIGHT
LV: MCO PANAM #2098
AR: MIA 4:18 PM
LJS ONLY

SEPTEMBER 1990 EVENTS ATTENDED
SEPTEMBER DISTRICT
Page 6

SEPTEMBER 22, 1990 (SATURDAY) - CONTINUED

25 7:00 PM
WILENTZ ANNIVERSARY PARTY

SEPTEMBER 24, 1990 (MONDAY)

26 1:00 PM
MEETING W/DEAN DOYLE & DEAN GUDRIDGE
enter at main administration entrance #7 (1st bldg on right)
U of Miami/School of Law Room 360
1311 Miller Drive (old law bldg)
MIAMI.
CONTACT: Maurene 284-2392

27 2:00 PM
GOLD COAST BOARD MEETING

28 5:30 PM
FLIGHT
LV: MIA EAL #
AR: DCA 3:00 PM
LJS ONLY

SEPTEMBER 27, 1990 (THURSDAY)

29 3:05 PM
FLIGHT
LV: DCA EAL #187
AR: FTL 5:33 PM
LJS ONLY

SEPTEMBER 1990 EVENTS ATTENDED
SEPTEMBER DISTRICT
Page 7

SEPTEMBER 28, 1990 (FRIDAY)

30 3:00 PM

HAIRCUT W/MEGAY

Victor/Victoria 680-2717

SEPTEMBER 30, 1990 (SUNDAY)

31 8:15 AM

FLIGHT

LV: MIA PANAM #492

AR: DCA 10:42 AM

LUS ONLY

32 8:15 AM

FLIGHT

LV: MIA PANAM #492

AR: DCA 10:42 AM

LUS ONLY

94030974683



WORLD WIDE TRAVEL, INC.

1620 EYE ST. N.W.
SUITE 616 • WASHINGTON, DC 20006
(202) 659-8710 CORPORATE ONLY
(202) 659-6430 GENERAL

WASHINGTON HARBOUR
SUITE 135 • 3000 K. ST. N.W.
WASHINGTON, DC 20007
(202) 944-4335

TOLL-FREE 1-800-262-6777

INVOICE

SALES PERSON: 46
CUSTOMER NO: 001333

ITINERARY/INVOICE NO. 0013352

DATE: 29 AUG 90

BOOKED

PAGE: 1

TO: 113 CANNON H.O.B.
WASHINGTON DC 20015
ROOM 113

THANK YOU FOR FAVORING US WITH YOUR TRAVEL BUSINESS. WE MUST PAY THE AIRLINES EACH WEEK FOR ALL TICKETS ISSUED. WE WILL APPRECIATE RECEIVING PAYMENT FOR YOUR TICKETS PROMPTLY.

PLEASE REMIT FROM THIS INVOICE

FOR: SMITH/LAWRENCE J

REFERENCE: 161781950

11 SEP 90 - TUESDAY
AIR FOR AMERICAN
LV MIAMI INTERNL
OR WASHINGTON NATL
RESERVED SEATS

FLT: 492 ECONOMY
815H
0420

SNACK
EUP: 727 STRETCH
NON-STOP

12 SEP 90 - THURSDAY
AIR FOR AMERICAN
LV WASHINGTON NATL
OR MIAMI INTERNL
RESERVED SEATS

FLT: 492 ECONOMY
800H 1:45
0420 4:19

DINNER
EUP: 727 STRETCH
NON-STOP

AIR TICKETS PA/218723937

FOR SMITH LAWRENCE J
BILLED TO 0X372079336551019

304.00

SUB TOTAL
LESS AMOUNT BILLED TO US

304.00
304.00

TOTAL AMOUNT

.00

HAVE A PLEASANT TRIP
DIRECT 800 NUMBER MON - FRI 900AM - 530PM EST
1-800-685-7147

184799

UNITED STATES HOUSE OF REPRESENTATIVES

(Please Use Typewriter
or Ballpoint Pen)

VOUCHER

HON. Lawrence J. Smith, M.C.

FLORIDA
State

District 16

DATE(S) SERVICES			PAYEE Name, Address and Zip Code)	DESCRIPTION OF ARTICLES OR SERVICES (Include Quantity and Unit Price, if Applicable)	
(Mo.)	(Day)	(Yr.)			DO NOT WRITE IN THESE SPACES 44982
	TO				
(Mo.)	(Day)	(Yr.)	SSN OF STAFF EMPLOYEE	PAYEE'S INVOICE NUMBER	AMOUNT
09	13	90			\$
(Mo.)	(Day)	(Yr.)			DO NOT WRITE IN THESE SPACES 44982
	TO				
(Mo.)	(Day)	(Yr.)	SSN OF STAFF EMPLOYEE	PAYEE'S INVOICE NUMBER	AMOUNT
09	13	90			\$ 157.08
(Mo.)	(Day)	(Yr.)			DO NOT WRITE IN THESE SPACES 44982
	TO				
(Mo.)	(Day)	(Yr.)	SSN OF STAFF EMPLOYEE	PAYEE'S INVOICE NUMBER	AMOUNT
09	11	90			\$ 152.00
(Mo.)	(Day)	(Yr.)			DO NOT WRITE IN THESE SPACES 44982
	TO				
(Mo.)	(Day)	(Yr.)	SSN OF STAFF EMPLOYEE	PAYEE'S INVOICE NUMBER	AMOUNT
09	11	90			\$
(Mo.)	(Day)	(Yr.)			DO NOT WRITE IN THESE SPACES 44982
	TO				
(Mo.)	(Day)	(Yr.)	SSN OF STAFF EMPLOYEE	PAYEE'S INVOICE NUMBER	AMOUNT
09	11	90			\$
(Mo.)	(Day)	(Yr.)			DO NOT WRITE IN THESE SPACES 44982
	TO				
(Mo.)	(Day)	(Yr.)	SSN OF STAFF EMPLOYEE	PAYEE'S INVOICE NUMBER	AMOUNT
09	11	90			\$
(Mo.)	(Day)	(Yr.)			DO NOT WRITE IN THESE SPACES 44982
	TO				
(Mo.)	(Day)	(Yr.)	SSN OF STAFF EMPLOYEE	PAYEE'S INVOICE NUMBER	AMOUNT
09	11	90			\$
(Mo.)	(Day)	(Yr.)			DO NOT WRITE IN THESE SPACES 44982
	TO				
(Mo.)	(Day)	(Yr.)	SSN OF STAFF EMPLOYEE	PAYEE'S INVOICE NUMBER	AMOUNT
09	11	90			\$
(Mo.)	(Day)	(Yr.)			DO NOT WRITE IN THESE SPACES 44982
	TO				
(Mo.)	(Day)	(Yr.)	SSN OF STAFF EMPLOYEE	PAYEE'S INVOICE NUMBER	AMOUNT
09	11	90			\$
(Mo.)	(Day)	(Yr.)			DO NOT WRITE IN THESE SPACES 44982
	TO				
(Mo.)	(Day)	(Yr.)	SSN OF STAFF EMPLOYEE	PAYEE'S INVOICE NUMBER	AMOUNT
09	11	90			\$
(Mo.)	(Day)	(Yr.)			DO NOT WRITE IN THESE SPACES 44982
	TO				
(Mo.)	(Day)	(Yr.)	SSN OF STAFF EMPLOYEE	PAYEE'S INVOICE NUMBER	AMOUNT
09	11	90			\$
(Mo.)	(Day)	(Yr.)			DO NOT WRITE IN THESE SPACES 44982
	TO				
(Mo.)	(Day)	(Yr.)	SSN OF STAFF EMPLOYEE	PAYEE'S INVOICE NUMBER	AMOUNT
09	11	90			\$
(Mo.)	(Day)	(Yr.)			DO NOT WRITE IN THESE SPACES 44982
	TO				
(Mo.)	(Day)	(Yr.)	SSN OF STAFF EMPLOYEE	PAYEE'S INVOICE NUMBER	AMOUNT
09	11	90			\$
(Mo.)	(Day)	(Yr.)			DO NOT WRITE IN THESE SPACES 44982
	TO				
(Mo.)	(Day)	(Yr.)	SSN OF STAFF EMPLOYEE	PAYEE'S INVOICE NUMBER	AMOUNT
09	11	90			\$
(Mo.)	(Day)	(Yr.)			DO NOT WRITE IN THESE SPACES 44982
	TO				
(Mo.)	(Day)	(Yr.)	SSN OF STAFF EMPLOYEE	PAYEE'S INVOICE NUMBER	AMOUNT
09	11	90			\$
(Mo.)	(Day)	(Yr.)			DO NOT WRITE IN THESE SPACES 44982
	TO				
(Mo.)	(Day)	(Yr.)	SSN OF STAFF EMPLOYEE	PAYEE'S INVOICE NUMBER	AMOUNT
09	11	90			\$
(Mo.)	(Day)	(Yr.)			DO NOT WRITE IN THESE SPACES 44982
	TO				
(Mo.)	(Day)	(Yr.)	SSN OF STAFF EMPLOYEE	PAYEE'S INVOICE NUMBER	AMOUNT
09	11	90			\$
(Mo.)	(Day)	(Yr.)			DO NOT WRITE IN THESE SPACES 44982
	TO				
(Mo.)	(Day)	(Yr.)	SSN OF STAFF EMPLOYEE	PAYEE'S INVOICE NUMBER	AMOUNT
09	11	90			\$
(Mo.)	(Day)	(Yr.)			DO NOT WRITE IN THESE SPACES 44982
	TO				
(Mo.)	(Day)	(Yr.)	SSN OF STAFF EMPLOYEE	PAYEE'S INVOICE NUMBER	AMOUNT

GRAND TOTAL : 309.00

I CERTIFY (1) that the above articles have been received in good condition and are of the quality and in the quantity above specified, or the services were performed as stated; (2) that they are in accordance with the orders therefor; (3) that the prices charged are just, reasonable, and in accordance with agreement; and (4) that they are for use in or by my office in the discharge of my duties.

9/27/90
(Date)

Member's signature

ORIGINAL - To Finance Office

CPO: 1999 89-014 (m)

94030974686

Documents Responsive to Smith Subpoena Request No. 4

Long Street for (90)
Other Accounts -

BANK	
TRANSFLORIDA BANK	OPERATING ACCOUNT SINCE INCEPTION OF COMPANY. ALL DISBURSEMENTS HAVE BEEN FROM THIS ACCOUNT.
GOLD COAST SAVINGS BANK	CERTIFICATE OF DEPOSIT / MONEY MARKET
AMERICAN SAVINGS BANK	MONEY MARKET / CD
NORTHSHORE BANK	MONEY MARKET
FIDELITY SECURITIES	MONEY MARKET / CD
GUARANTY SAVINGS	CD
FIRST NATIONAL BANK - HOLLYWOOD	MONEY MARKET
UNITED BANK	MONEY MARKET
CAPITAL BANK	CD

(2)

94030974687

DATE	DATE	DESCRIPTION	AMOUNT
7161	✓ 12/1	Cash	300 -
7205	✓ 1/1	Brands Hatch	527 -
7216	✓ 1/24	DSG	500 -
7227	✓ 1/30	LSS	800
7228	✓ 2/0	Am Exp	215 7
7229	✓ 3/5	Am Exp.	1088 00
7230	✓ 3/15	LSS	81 4
7231	✓ 4/4	Am Exp.	2220. 24
7232	✓ 4/4	LSS	11 50
7233	✓ 4/18	The DUB Carter	620 00
7234	✓ 4/24	Mobile Fidelity Sound Lab	197 70
7235	✓ 4/26	Postmaster	29 63
7236	✓ 5/9	Bentley	654 2
7399	✓ 5/17	Am Exp	2175. 71
7400	✓ 5/17	LSS	248. 09
7401	✓ 5/18	Postmaster	100 -
7402	✓ 5/16	Cheryl Knott for Congress	500 -
7403	✓ 5/17	Barbara for Congress	500 -
7404	✓ 5/17	Bill Hefner for Congress	500 -
7405	✓ 5/17	Telecommunications Fund	500 -
7406	✓ 5/18	STUBBS - COMMODORE V. Tracy Perry	670 00
7407	✓ 5/31	Brands Hatch - Telephone Equip for Congress	603 52
7409	✓ 6/11	Am Express	1022 21
7490	✓ 8/6	"	1838 00
7491	✓ 8/2	"	2734 42
7492	✓ 8/2	John Unshell for Congress	500 -
7493	✓ 8/2	John Unshell for Congress	500 -
7494	✓ 8/2	John Unshell for Congress	500 -
7495	✓ 8/2	John Unshell for Congress	500 -
7496	✓ 8/2	John Unshell for Congress	500 -
7497	✓ 8/2	John Unshell for Congress	500 -
7498	✓ 8/2	John Unshell for Congress	500 -
7499	✓ 8/2	John Unshell for Congress	500 -
7500	✓ 8/2	John Unshell for Congress	500 -
7501	✓ 8/2	John Unshell for Congress	500 -
7502	✓ 8/2	John Unshell for Congress	500 -
7503	✓ 8/2	John Unshell for Congress	500 -
7504	✓ 8/2	John Unshell for Congress	500 -
7505	✓ 8/2	John Unshell for Congress	500 -
7506	✓ 8/2	John Unshell for Congress	500 -
7507	✓ 8/2	John Unshell for Congress	500 -
7508	✓ 8/2	John Unshell for Congress	500 -
7509	✓ 8/2	John Unshell for Congress	500 -
7510	✓ 8/2	John Unshell for Congress	500 -
7511	✓ 8/2	John Unshell for Congress	500 -
7512	✓ 8/2	John Unshell for Congress	500 -
7513	✓ 8/2	John Unshell for Congress	500 -
7514	✓ 8/2	John Unshell for Congress	500 -
7515	✓ 8/2	John Unshell for Congress	500 -
7516	✓ 8/2	John Unshell for Congress	500 -
7517	✓ 8/2	John Unshell for Congress	500 -
7518	✓ 8/2	John Unshell for Congress	500 -
7519	✓ 8/2	John Unshell for Congress	500 -
7520	✓ 8/2	John Unshell for Congress	500 -
7521	✓ 8/2	John Unshell for Congress	500 -
7522	✓ 8/2	John Unshell for Congress	500 -
7523	✓ 8/2	John Unshell for Congress	500 -
7524	✓ 8/2	John Unshell for Congress	500 -
7525	✓ 8/2	John Unshell for Congress	500 -
7526	✓ 8/2	John Unshell for Congress	500 -
7527	✓ 8/2	John Unshell for Congress	500 -
7528	✓ 8/2	John Unshell for Congress	500 -
7529	✓ 8/2	John Unshell for Congress	500 -
7530	✓ 8/2	John Unshell for Congress	500 -
7531	✓ 8/2	John Unshell for Congress	500 -
7532	✓ 8/2	John Unshell for Congress	500 -
7533	✓ 8/2	John Unshell for Congress	500 -
7534	✓ 8/2	John Unshell for Congress	500 -
7535	✓ 8/2	John Unshell for Congress	500 -
7536	✓ 8/2	John Unshell for Congress	500 -
7537	✓ 8/2	John Unshell for Congress	500 -
7538	✓ 8/2	John Unshell for Congress	500 -
7539	✓ 8/2	John Unshell for Congress	500 -
7540	✓ 8/2	John Unshell for Congress	500 -
7541	✓ 8/2	John Unshell for Congress	500 -
7542	✓ 8/2	John Unshell for Congress	500 -
7543	✓ 8/2	John Unshell for Congress	500 -
7544	✓ 8/2	John Unshell for Congress	500 -
7545	✓ 8/2	John Unshell for Congress	500 -
7546	✓ 8/2	John Unshell for Congress	500 -
7547	✓ 8/2	John Unshell for Congress	500 -
7548	✓ 8/2	John Unshell for Congress	500 -
7549	✓ 8/2	John Un	



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 12, 1992

MEMORANDUM

TO: Richard Pullen
Accounting Officer

THROUGH: Lois G. Lerner
Associate General Counsel

FROM: Tonda M. Mott
Staff Attorney

SUBJECT: Request for Witness Fee and Mileage - MUR 3538

On August 19, 1992, a deposition will be conducted in Ft. Lauderdale, Florida. It is therefore requested that one check be issued for the witness fee in the amount indicated below:

<u>Name</u>	<u>Miles</u>	<u>Mileage</u> <u>(Miles x .25 cents)</u>	<u>Witness Fee</u>	<u>TOTAL</u>
Brian Berman	N/A		\$40.00	\$40.00

94030974689

OGC 6102

P.O. Box 37
Hollywood, Florida 33022
August 13, 1992

Tonda M. Mott, Esq.
Federal Election Commission
Washington, D.C. 20463

Re: MUR 3538

FAX ONLYRECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF THE CLERK
92 AUG 14 AM 11:39

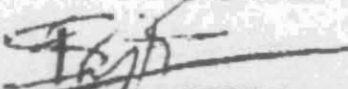
Dear Ms. Mott:

Attached hereto please find copies of the following:

1. Deposit slip
2. Check, front and back, payable to Lawrence J. Smith

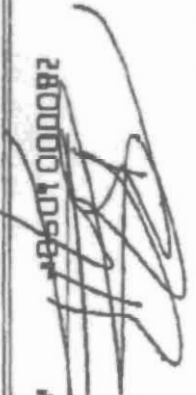
Thank you.

Very truly yours,


BRIAN M. BERMAN

Note: Four pages faxed, including this letter.

94030974690

	
SMITH & BERMAN, P.A. TRUST ACCOUNT 2318 HOLLYWOOD BL. VD. HOLLYWOOD, FLORIDA 33020-5703	
Pay to the order of <u>Lawrence S. Smith</u>	
\$ <u>10000.00</u>	
Ten thousand and no/100 Dollars	
	
Judy Bank of Hallandale 5991 Rancannon Road Ft. Lauderdale, Florida 33312	
#001209#	#067012552#
2800001058#	#00010000000#

94030976692

94030974693

FOR AWARD TO BE

Congress ID

07530150

[Handwritten signature]

267049

PLDC 14

5530 530-41-145

0003

4/25/41

5035

[Handwritten initials]

26345

26344

1350

015503

0067

2003

091490

2552

1000000

SE '90 17

0870-0250

22017677

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

AUG 10 11 55 AM '92



U.S. Department of Justice

Federal Bureau of Investigation

In Reply, Please Refer to
File No.

P. O. Box 592418, MIA
Miami, Florida 33159
August 5, 1992

Lois Lerner
Associate General Counsel
FEDERAL ELECTION COMMISSION
999 E STREET NW
WASHINGTON, D.C. 20463

(MUR 3538)
RE: LARRY J. SMITH,
U.S. REPRESENTATIVE

92 AUG 10 PM 3:13

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF LEGAL COUNSEL

Dear Ms. Lerner:

Pursuant to a telephone conversation between Staff Attorney Tonda Mott and Special Agent Jacqueline Boucher on the above date, this office is requesting a copy of a canceled check drawn on Larry Smith's campaign account. The check is dated September 10, 1990, in the amount of \$10,000.00 with Brian Berman named as payee.

Should you require any further information in connection with the same, please do not hesitate to contact this office.

Thank you in advance for your assistance.

Sincerely yours,

JAMES A. OPPY
Acting Special Agent in Charge

By: *Steven H. Gurley*
STEVEN H. GURLEY
Supervisory Special Agent

94030974694



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 13, 1992

SENSITIVE

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

SUBJECT: Request by FBI-Miami for information in MUR 3538

I. Introduction

On August 5, 1992, the Office of the General Counsel received a request, by facsimile, from the Miami Office of the Federal Bureau of Investigation, for a copy of a canceled check written on the campaign account of the Respondent in MUR 3538. See, Attachment 1. In its investigation in MUR 3538, this Office previously requested and received a copy of the check from the Respondent through Interrogatories.

II. Discussion

Under 2 U.S.C. §§ 437c(b)(1) and 437d(e), the Commission is vested with exclusive jurisdiction over civil enforcement of the Federal Election Campaign Act of 1971, as amended ("the FECA or the Act.") The Act further provides for the confidentiality of Commission investigations. 2 U.S.C. § 437g(a)(12).

The investigation of MUR 3538 is ongoing and thus must remain confidential under Section 437g(a)(12). FBI-Miami has requested a document which is now part of the investigative file.

Disclosure of the document, at this time, would reveal information regarding the Commission's investigation. Moreover, such disclosure could jeopardize the Commission's investigation and the cooperation which we have thus far received from the Respondent. The document is not in the exclusive possession of the Commission files, and can be obtained elsewhere by the requesting agency by means of a subpoena. Therefore, the Office of the General Counsel recommends that the Commission deny the request of FBI-Miami and approve the proposed letter.

94030974695

III. Recommendation

Approve the attached letter.

Attachments:

1. FBI Letter
2. Proposed response letter

Staff Assigned: Tonda M. Mott

94030974696

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Miami Office of the Federal Bureau
of Investigation - Request for
Information.

)
)
) MUR 3538
)
)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on August 18, 1992, the Commission decided by a vote of 5-0 to approve the letter in MUR 3538, as recommended in the General Counsel's Memorandum dated August 13, 1992.

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

Attest:

8-18-92
Date

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

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

Thurs., August 13, 1992 11:48 a.m.
Thurs., August 13, 1992 4:00 p.m.
Tues., August 18, 1992 4:00 p.m.

dr

94030974697



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 24, 1992

James A. Oppy
Acting Special Agent in Charge
Federal Bureau of Investigation
P.O. Box 592418, MIA
Miami, Florida 33159

Dear Mr. Oppy:

The Commission has reviewed your August 5, 1992, letter requesting a copy of a canceled check drawn on Larry Smith's campaign account.

Under 2 U.S.C. §§ 437c(b)(1) and 437d(e), the Commission is vested with exclusive jurisdiction over civil enforcement of the Federal Election Campaign Act of 1971, as amended ("the FECA or the Act.") The Act further provides for the confidentiality of Commission investigations. 2 U.S.C. § 437g(a)(12).

The requested document is part of the investigative files of a matter which is ongoing and thus must remain confidential under Section 437g(a)(12). The Commission cannot make its investigations public without the written consent of the person with respect to whom such investigation is made. 2 U.S.C. § 437g(a)(12)(A). No such written consent has been made in this matter. Therefore, the Commission cannot grant your request at this time.

If you have any further questions about this matter, please do not hesitate to contact me at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

Lois G. Lerner

BY: Lois G. Lerner
Associate General Counsel

94030974698

BEFORE THE FEDERAL ELECTION COMMISSION

IN THE MATTER OF: :

MUR 3538 :
:_____
:

216 Southeast 6th Street
Fort Lauderdale, Florida

August 19, 1992

10:00 o'clock a.m.

APPEARANCES:

OFFICE OF THE GENERAL COUNSEL FOR THE
FEDERAL ELECTION COMMISSION
BY: TONDA M. MOTT, ESQUIRE

- and -

KENNETH E. KELLNER, ESQUIRE

ROGER G. STANWAY, ESQUIRE

Appearing on behalf of Brian M. Berman.

DEPOSITION

OF

BRIAN M. BERMAN

9403097699

92 OCT -2 PM 3:37

FEDERAL ELECTION COMMISSION

I N D E X

WITNESS

DIRECT

Brian M. Berman

2

EXHIBITS

EXHIBIT

PAGE IN EVIDENCE

1	Check	6
2	Check	9
3	Check	9
4	Check	10
5	Check	11
6	Check	17
7	Deposit Slip	18

940309700

940309701

1 Deposition of BRIAN M. BERMAN, a witness of
2 lawful age, for the purpose of discovery and for use as
3 evidence in the above-entitled matter, wherein, pending
4 before the Federal Election Commission, pursuant to notice
5 heretofore filed before ERIC BRAY, RPR, a Notary Public in
6 and for the State of Florida at Large, at 216 Southeast
7 6th Street, Fort Lauderdale, Florida, on the 19th day of
8 August, 1992, commencing at 10:00 o'clock a.m.

9
10 Thereupon:

11 BRIAN M. BERMAN
12 a witness of lawful age, having been first duly sworn,
13 testified on his oath as follows:

14 DIRECT EXAMINATION

15 BY MS. MOTT:

16 Q Mr. Berman, please state your full name.

17 A Brian M. Berman.

18 Q And your counsel is here with you today?

19 A Yes.

20 Q Would you state his name for the record.

21 A Roger Stanway.

22 Q And is anyone else representing you in this
23 matter besides Mr. Stanway?

24 A Not that I know of.

25 Q Has anyone else previously represented you?

1 A In regards to what?

2 Q To this matter.

3 A No.

4 MS. MOTT: For the record, my name is Tonda
5 Mott, and I represent the Office of the General
6 Counsel of the Federal Election Commission.

7 With me is Kenneth Kellner, also from the
8 Office of the General Counsel.

9 This deposition is being taken pursuant to
10 Federal Election Commission Subpoena issued in
11 connection with an investigation under Section
12 437g of Title 2 of the United States Code.

13 The Commission has jurisdiction over the
14 Federal Election Campaign Act of 1971, as
15 amended.

16 I want to remind you that you are merely
17 here as a witness in this investigation. It is
18 not involving you, however, the Statute does
19 provide that the confidentiality of this
20 investigation must be maintained until the
21 Commission closes its file on this matter, and
22 that provision does apply to you as a witness.

23 MR. STANWAY: Confidentiality as far as
24 divulging anything that occurs here?

25 MS. MOTT: That is correct.

1 MR. STANWAY: To any outside source like
2 the newspapers?

3 MS. MOTT: That is correct.

4 This investigation has been designated as
5 the matter under review or MUR 3538.

6 I will run through a couple of quick
7 instructions --

8 MR. STANWAY: Repeat that again.

9 MS. MOTT: MUR 3538. That is a matter
10 under review, that is the designation for this
11 investigation.

12 THE WITNESS: That is on top of the
13 Subpoena.

14 MS. MOTT: That is right, that is on top
15 of the Subpoena.

16 I will be asking you some questions
17 seeking information regarding this
18 investigation, and the questions that I ask will
19 not necessarily be limited to your involvement,
20 but may involve other people.

21 Please make sure that you verbally answer
22 all questions so the Court Reporter can get the
23 information.

24 If you do not understand a question, will
25 you let me know, and I do have a tendency to

1 speak kind of fast, in case you have not
2 noticed, so I will be glad to repeat anything.

3 If you at any time realize that you gave
4 an incomplete or inaccurate answer, will you
5 let me know, and we can go back and change
6 that.

7 THE WITNESS: Yes.

8 MS. MOTT: Again, I am reminding you to
9 verbally answer the questions.

10 THE WITNESS: Fine.

11 CONTINUED EXAMINATION BY MS. MOTT:

12 Q Mr. Berman, tell me what documents you
13 reviewed in preparation for this deposition?

14 A I do not understand what documents -- I
15 sent you some documents, those are the documents I have.

16 Q Those are the only documents you reviewed
17 for today?

18 A Yes.

19 Q Could you please state your address for the
20 record.

21 A PO Box 3700, Hollywood, Florida.

22 Q And do you reside in Hollywood as well?

23 A I reside different places.

24 Q Just because of the time frame this
25 involves, which is quite a while back, I brought for you a

1 calendar in case you want to refer to the time period we
2 are talking about, which is the 1990 calendar.

3 Let me show you a document.

4 Could this be marked as Exhibit Number One.

5 (Whereupon, document referred to was
6 marked Exhibit Number One in evidence.)

7 CONTINUED EXAMINATION BY MS. MOTT:

8 Q Mr. Berman, I was asking you if you could
9 tell me what this document is.

10 A It appears to be a copy of a check from the
11 Smith & Berman P.A. account to Lawrence J. Smith.

12 Q And do you recognize this?

13 A Yes.

14 Q And this is -- what account is this on?

15 A Smith & Berman, P.A. Trust Account.

16 Q And is that an account of yours or your
17 company?

18 A It was an account of Smith & Berman, P.A.

19 Q Is the Berman you?

20 A Yes.

21 Q And whose signature appears on this check?

22 A Mine.

23 Q And could you tell me what the date is on
24 the check?

25 A September 7th of 1990.

1 Q And when was the check written?

2 A I do not remember.

3 Q Could you tell me the purpose of this
4 check?

5 A The check was a return of a retainer that
6 was given to Smith & Berman by Larry Smith Campaign
7 Account.

8 Q And what date was this check given?

9 MR. STANWAY: Excuse me, I do not
10 understand the question.

11 MS. MOTT: What date was this check
12 give by you to Mr. Smith?

13 THE WITNESS: I do not remember.

14 CONTINUED EXAMINATION BY MS. MOTT:

15 Q Do you have anything in your possession
16 that could help you to remember that, such as a personal
17 calendar, phone log, anything like that?

18 A No.

19 Q Could you describe for us the circumstances
20 surrounding this, and by that, I mean, you stated -- could
21 you read back exactly what he said about the purpose of
22 the check.

23 (Whereupon, the Court Reporter read back
24 the last answer.)

25

1 CONTINUED EXAMINATION BY MS. MOTT:

2 Q Mr. Berman, could you just describe for us
3 the circumstances surrounding the retainer given to you by
4 Mr. Smith?

5 A The retainer, as I recall, was for work to
6 be done in redistricting in Florida, specifically, his
7 district.

8 Q And how did it come about that he retained
9 you for that work?

10 A (No oral response.)

11 Q No you understand the question?

12 A He retained me for the work, and we spoke
13 about it, and he retained me.

14 Q When was it that you spoke about it?

15 A I would imagine it would have been around
16 the beginning of September, or sometime during this
17 period.

18 Q Did you talk to him on the telephone or in
19 person?

20 A I do not remember.

21 Q Again, let me ask you, you have no business
22 documents that might indicate, a phone log, personal
23 calendars, as to when you might have spoken with him or
24 met with him?

25 A No.

1 Q Mr. Berman, let me mark this as Exhibit
2 Number Two.

3 (Whereupon, document referred to was
4 marked Exhibit Number Two in evidence.)

5 CONTINUED EXAMINATION BY MS. MOTT:

6 Q Mr. Berman, I am showing you what has been
7 marked as Exhibit Two and ask if you recognize that.

8 A This appears to be a copy of a check drawn
9 on Smith & Berman, P.A. Trust Account to Intercounty.

10 Q And what is the check number on this check?

11 A 1207.

12 Q What is the date this check was written?

13 A 9-6.

14 Q And this was written on the same account
15 as the check in Exhibit Number One?

16 A Yes.

17 Q Actually, hang on to Exhibit One, I want to
18 ask you the check number on that check.

19 A 1209.

20 MS. MOTT: Mark this as Exhibit Number
21 Three.

22 (Whereupon, document referred to was
23 marked Exhibit Number Three in evidence.)

24 CONTINUED EXAMINATION BY MS. MOTT:

25 Q Mr. Berman, can I ask you: Do you

9403097708

1 recognize that document?

2 A This appears to be a copy of a check drawn
3 on Smith & Berman Trust Account dated September 7th.

4 Q And is it the same account as the two
5 previous checks?

6 A Yes.

7 Q And what is the check number on this check?

8 A I do not know.

9 Q You do not know because you cannot make it
10 out?

11 A I cannot make it out.

12 Q Could you make it out from the original
13 copy, here?

14 A I know -- maybe it is 1208.

15 Q And again, I am sorry, but the date on that
16 one again is?

17 A September 7th.

18 MS. MOTT: Mark this as Number Four.

19 (Whereupon, document referred to was
20 marked Exhibit Number Four in evidence.)

21 CONTINUED EXAMINATION BY MS. MOTT:

22 Q Would you look at Exhibit Number Four, Mr.
23 Berman, and could you please describe to me what Exhibit
24 Number Four is.

25 A This appears to be a check drawn on Smith &

1 Berman Trust Account to Smith & Berman.

2 Q And what is the check number on this check?

3 A I do not know.

4 Q Again, do you want to look at the original?

5 A Yes, 1212.

6 Q What was the date that this check was
7 written?

8 A September 10th.

9 MS. MOTT: Mark this Number Five.

10 (Whereupon, document referred to was
11 marked Exhibit Number Five in evidence.)

12 CONTINUED EXAMINATION BY MS. MOTT:

13 Q And could you tell us about this check, Mr.
14 Berman?

15 A This appears to be a check written on Smith
16 & Berman Trust Account to Goodman & Webber, P.A. Trust
17 Account.

18 Q What is the check number on this check?

19 A 1213.

20 Q What?

21 A 1213.

22 Q What date is it written?

23 A September 11th.

24 Q Okay.

25 Mr. Berman, if you could describe for me

1 your usual procedure in writing checks from this account.

2 A I do not quite understand.

3 MR. STANWAY: I really do not want to
4 object, but it is extremely difficult to do that
5 because the problem with the situation that you
6 are getting into is, and you have to focus in on
7 these checks, but there were no specific
8 procedures; this is a trust account that he
9 wrote checks in and out of for expenses, for
10 closings, and --

11 MS. MOTT: Let's limit the questioning to
12 these checks before us right now, how is that?

13 MR. STANWAY: That is fine.

14 CONTINUED EXAMINATION BY MS. MOTT:

15 Q When you were writing these checks, what
16 was your normal procedure of your writing these checks?

17 A I would write a check when a check needed
18 to be written.

19 Q And what type of checkbook were these from?

20 A (No oral response.)

21 Q And by that, I mean were they single pages,
22 or --

23 A Three on a page, that is it.

24 Q And did you usually write them in the order
25 the checks came out?

1 A What?

2 Q And when you turned the page to a new page
3 of three checks, did you start at the top and write the
4 first one, then wrote the second one, and then the third
5 one?

6 A Sometimes.

7 Q And under what circumstances would you not?

8 A When I missed a check or when I turned to
9 the wrong page or whatever.

10 Q And do you have a copy of that check
11 register?

12 A Somewhere.

13 MS. MOTT: Counsel, I ask that that be
14 provided to our office --

15 MR. STANWAY: Let me tell you the problem.

16 The problem with this is that I asked him
17 to produce the records that he had, and I got
18 some of the copies of the checks that are
19 around this period of time.

20 A lot of these records went to the Florida
21 Bar, and I do not know whether some of those
22 records are still with the Florida Bar --

23 MS. MOTT: The originals of that?

24 MR. STANWAY: A lot of the original records
25 were not, and I do not know if we ever got some

1 of these records back. Again, what we had to
2 do, just for your information, and this may help
3 you understand what we were involved in, here.

4 There are trust accounting procedures that
5 you can read per the Florida Bar, and I am sure
6 wherever you are licensed, it has the same
7 requirements.

8 There are numerous trust account
9 requirements. You have accounts receivables,
10 accounts payable ledger cards, ledger books, and
11 everything else that was required, and Mr.
12 Berman did not have those records or did not
13 keep those records at the time of these
14 transactions, and I am focusing in on these
15 transactions.

16 MS. MOTT: That is fine.

17 MR. STANWAY: As a result of that, we had
18 to go back and reconstruct records which Mr.
19 Berman did for the Florida Bar, because we had
20 a rule to show cause why we should not be held
21 in contempt by the Supreme Court of Florida for
22 not finding those records and they automatically
23 suspend you if you do not have your proper
24 trust accounting records.

25 We reconstructed those records, and a lot

1 of those records were reconstructed like last
2 year, a year and a half after the fact, and
3 the accuracy would be dependent upon his memory
4 at the time, and what he was able to glean from
5 the records he had. So we submitted all these
6 records to the Florida Bar, and they have those
7 records.

8 MS. MOTT: They currently have those?

9 MR. STANWAY: I know they never returned
10 them --

11 THE WITNESS: They returned some.

12 MR. STANWAY: What records we have we gave
13 you, but I will say that any records you need,
14 if you tell me, we will try to get.

15 MS. MOTT: Let's do this: If you would
16 try to locate the register for just this
17 particular period of checks, and if you could
18 locate that for me, if you could go ahead, you
19 still have my number and everything --

20 THE WITNESS: Yes.

21 MS. MOTT: If you can get those to me --

22 MR. STANWAY: So you need the check ledger
23 sheet, where the checks were written from --

24 MS. MOTT: Right.

25 THE WITNESS: The check stubs?

1 MS. MOTT: Exactly.

2 If you cannot locate those, let me know
3 as well, and I will --

4 MR. STANWAY: I do not think I have any
5 better copies of those checks than you have --

6 MS. MOTT: I do not doubt that.

7 MR. STANWAY: If you want copies of those,
8 better copies of those, I do not have them --

9 MS. MOTT: Do you have records besides the
10 ones that were sent to us and the copies of
11 these checks?

12 MR. STANWAY: All I got were copies of the
13 checks that were around these checks, and that
14 is all I got. And that is what you got --

15 MS. MOTT: We may actually get a copy, a
16 better copy --

17 MR. STANWAY: What I am saying is, for
18 example, looking at Check #1208, you can read
19 1208, it a lot better copy than the copy you
20 have, so I may have a few more, maybe I have
21 a few more checks.

22 I do not have the check stubs that these
23 are related to, nor do I know where those are
24 located.

25 MS. MOTT: Then what we will do is I

940309715

1 will get a better copy of these checks from
2 you and go ahead and try to locate the check
3 stubs.

4 MR. STANWAY: When do you want these?
5 Will you be down here up until today or
6 tomorrow?

7 MS. MOTT: We are leaving at 5:30.

8 MR. STANWAY: If I find them, I will fax
9 them up there.

10 MR. KELLNER: You can mail it to us
11 next week.

12 MR. STANWAY: If I find them, they will be
13 in boxes and boxes.

14 MS. MOTT: Let's get all this paperwork out
15 of the way. Let's mark this next exhibit.

16 (Whereupon, document referred to was
17 marked Exhibit Number Six in evidence.)

18 CONTINUED EXAMINATION BY MS. MOTT:

19 Q Mr. Berman, let me show you this and ask if
20 you recognize this.

21 A This appears to be a copy of a check given
22 to me from Larry Smith for Congress, which is a retainer
23 for the redistricting.

24 Q And what is the check number?

25 A 7498.

1 Q This is written on the Larry Smith for
2 Congress account?

3 A Yes.

4 Q And do you recognize the signature on that?

5 A I have seen Mr. Smith's signature, I would
6 imagine that is it, but I am not a handwriting expert.

7 Q And what is the date of this check?

8 A September 10th.

9 Q Okay.

10 If you could explain to me what occurred
11 when you received this check, as far as what you did with
12 it.

13 A I deposited it.

14 Q And this would be a copy of the deposit
15 slip that you sent to us, is that correct?

16 A Yes.

17 MS. MOTT: Mark this as Number Seven.

18 (Whereupon, document referred to was
19 marked Exhibit Number Seven in evidence.)

20 CONTINUED EXAMINATION BY MS. MOTT:

21 Q Mr. Berman, is this a copy of the deposit
22 slip where you deposited the check?

23 A It appears to be, yes.

24 Q What account was this deposited into?

25 A Smith & Berman, P.A. Trust Account.

940309717

1 Q Now that we have gotten that out of the
2 way, if you will go back for me and tell me exactly how
3 this particular work was initiated and how you went about
4 getting these checks.

5 A I spoke to him about doing the work.

6 Q What kind of work was that?

7 A Redistricting.

8 We spoke about the retainer, he gave me a
9 retainer of ten thousand dollars, and subsequent to that,
10 I had been having some problems, so I decided against
11 going forward with it, so I gave him back his retainer.

12 Q When did you talk to him and decide to give
13 him back his retainer?

14 A I do not remember the date, but it was the
15 day after he gave me the check.

16 Q Let me go ahead and give you Exhibit Six
17 and Exhibit One to have in front of you so maybe this will
18 help you remember --

19 A Fine.

20 Q When did you receive the retainer check?

21 A I just do not remember.

22 Q And again, do you have any documents --

23 A No.

24 Q Personal notes?

25 A No.

1 Q Was there any written agreement for these
2 services?

3 A No.

4 Q Did you personally receive the check from
5 Mr. Smith, or was it sent to you in the mail?

6 A I do not remember if I personally received
7 it or if it came in the mail, but I got it because I
8 endorsed it and deposited it.

9 Q Do you remember if you personally gave him
10 the reimbursement check, or whether that was sent in the
11 mail?

12 A I do not think it was sent in the mail.

13 Q So do you think you gave it to him
14 personally?

15 A I really do not remember, but I do not
16 think it was sent in the mail.

17 Q Was there any written agreement about the
18 reimbursement?

19 A No.

20 Q Mr. Berman, had you previously done any
21 reapportionment-type work?

22 A No.

23 Q What type of law do you usually practice?

24 A I have a general practice.

25 Q And what was the name of your firm at that

1 time?

2 A At which time?

3 Q In September of 1990.

4 A Smith & Berman, P.A.

5 Q And do you recall -- strike that.

6 How long has it been known as Smith &

7 Berman, P.A.?

8 A Since -- well, let me do it a different
9 way.

10 It's name originally was Smith, Berman &
11 Rahl, P.A., and it was formed in 1982.

12 Within two years after that, Rahl, for some
13 reason - no need to get into that - was dropped from the
14 firm, and the name then changed to Smith & Berman, P.A.

15 Q That was in 19 --

16 A Probably '84.

17 Q And where there any other partners
18 associated with the firm?

19 A No.

20 Q In 1990, in September of 1990, were there
21 any other partners?

22 A No. There were not any partners.

23 Q Was Mr. Smith a partner?

24 A No.

25 Q Was he ever a partner in the firm?

1 A In 1982 he was a partner, I think, for two
2 hours.

3 Q But the name of the firm remained Smith &
4 Berman, P.A.?

5 A Yes.

6 Q In September of 1990 --

7 A Yes.

8 Q Could you explain that for me.

9 A Explain what?

10 Q Why Mr. Smith's name remained as part of
11 the firm name in 1990 if he was not a partner of the firm?

12 A Because the firm was formed in 1982, and
13 that was the name of the firm.

14 He was not a stockholder or anything like
15 that --

16 Q Did you ever share space with Mr. Smith?

17 A Yes.

18 Q And how long was that, what time period was
19 that?

20 A You mean after the thing was formed or
21 before?

22 Q Well, ever, I guess.

23 A Maybe for six months.

24 Q That was in --

25 A 1980 or '91, and I would not say share is

1 the right word, I rented space from him.

2 Q Did Mr. Smith's name appear on any other
3 documents of the firm besides, obviously, the letterhead?

4 A The letterhead.

5 Q And it appeared on the letterhead in
6 September of 1990?

7 A Yes.

8 Q You say there were no other partners.

9 Where there any associate attorneys
10 affiliated with the firm in September of 1990?

11 A Yes.

12 Q Would you give me their names?

13 A Steven Feinman.

14 Q Anyone else?

15 A No, I do not think so.

16 Q Any other employees of the firm?

17 A Secretaries.

18 Q And could you give me their names?

19 A Joan Redlhammer, Jenny Koesters.

20 Q Can you spell that?

21 A K-o-e-s-t-e-r-s.

22 There was a receptionist --

23 Q Do you recall the receptionist's name?

24 A No.

25 Q And those were the secretaries?

1 A Yes.

2 Q Since September of 1990, there was
3 yourself, the one associate and the secretaries?

4 A I believe so.

5 Q And was Mr. Smith doing any legal work out
6 of the firm?

7 A No.

8 MR. STANWAY: You are talking about the
9 period of September --

10 MS. MOTT: September of 1990, that is
11 correct --

12 MR. STANWAY: So these questions are
13 focused around that time --

14 MS. MOTT: That is correct.

15 CONTINUED EXAMINATION BY MS. MOTT:

16 Q Aside from September of 1990, did you have
17 any other business dealings with Mr. Smith?

18 A Regarding what?

19 Q Did you ever do any legal work for him?

20 A I do not remember. I could have, but I do
21 not know.

22 Q When you say you could have, you do not
23 remember any specific --

24 A I think at one time -- I think one time he
25 refinanced his house and we did that for him.

1 Q That would have been when?

2 A I do not know, before this.

3 Q Before this?

4 A Yes.

5 Q Could you just explain for me how you knew
6 Mr. Smith, whether personally or professionally --

7 A Well, he lived two blocks from me, and I
8 have known him for about fifteen or sixteen years.

9 Q Do you have any personal financial dealings
10 with him?

11 A I do not know what you mean by personal
12 financial dealings.

13 Q Did you ever loan money to him?

14 A No.

15 Q Did you ever sell him real estate or --

16 A No --

17 MR. STANWAY: Again, why are we delving in
18 that, that has no relevancy in these
19 proceedings.

20 MS. MOTT: What I am trying to understand
21 is exactly what the relationship is or was
22 between Mr. Berman and Mr. Smith during this
23 time period where Mr. Smith's name is on records
24 of the firm --

25 MR. STANWAY: Okay. Why don't you ask him

1 that question, if that is the question you are
2 trying to get to.

3 MS. MOTT: Okay.

4 MR. STANWAY: The rest of these items,
5 personal financial dealings and everything else
6 may have occurred over the years which do not
7 have any relevancy to anything that occurred on
8 September 9, 1990.

9 MS. MOTT: Well, we think they might have,
10 so we want to know what the relationship between
11 the two men was, and clearly, if he knew Mr.
12 Smith for sixteen years, we want to understand
13 how this particular transaction in September of
14 1990 came about. And we feel that his
15 relationship with Mr. Smith is relevant.

16 THE WITNESS: You can ask me the question.
17 I will answer the best I can.

18 CONTINUED EXAMINATION BY MS. MOTT:

19 Q If you would explain to me the
20 relationship that you and Mr. Smith had that culminated
21 in this transaction.

22 A There was no relationship that we had that
23 culminated in this transaction.

24 He wanted me to do some work in
25 redistricting, and I wanted to get into that area if I

1 could, and that is why we did this when we did.

2 What happened was that he had a firm by the
3 name of Larry Smith or Lawrence J. Smith, P.A., and I was
4 a sole practitioner, and we merged the firms, and that was
5 back in 1982 --

6 Q There was a merger back in 1982?

7 A Yes, that is where the name originally came
8 from. And Smith, Berman & Rahl, P.A., Rahl being his
9 associate at that time, and so we added -- I decided to
10 add her name to it, and then it did not work out, so I
11 took it back.

12 Q Did the two of you ever actually practice
13 together?

14 A Yes, between October 15th or thereabouts of
15 1982 and the time he went to Congress, which was January
16 of '83, at which time he was inducted in Congress.

17 Q At that point, what happened to his
18 interest in the firm?

19 A He never an interest in the firm.

20 Q I am confused.

21 A The merger agreement was such that I was to
22 buy the assets of the firm, of his firm.

23 Q And you purchased those assets in 1982?

24 A Yes.

25 Q Where did that take place?

1 A Where did it take place?

2 Q Yes.

3 A Hollywood.

4 Q Would there be any documents regarding that
5 merger?

6 A There was, yes, there was a document.

7 MS. MOTT: Can we get those?

8 MR. STANWAY: You want a copy of that?

9 MS. MOTT: Please. Again, I am trying to
10 understand what the business aspect of this was,
11 and why in 1990, the Smith name continued to be
12 on the trust account letterhead, etcetera --

13 MR. STANWAY: I would suggest that --

14 THE WITNESS: I would rather not get into
15 all of this because I do not know what it has to
16 do -- if we can go off the record, I would like
17 to make a comment, and I would rather go off the
18 record --

19 MS. MOTT: Let's go off the record.

20 (Whereupon, an off the record discussion
21 was had.)

22 MS. MOTT: Back on the record.

23 Just so you will know, Mr. Berman, first of
24 all, I want to reiterate that you are a witness
25 in this, and we are not investigating Mr.

1 Berman, and the investigation that the
2 Commission does is very strict about
3 confidentiality and none of this -- this all
4 remains confidential. So hopefully, that will
5 put you at ease somewhat.

6 What we are trying to do here is just focus
7 in on the early part of September 1990 and see
8 if we can start somewhere.

9 If you can take a look at that calendar,
10 Mr. Berman, and try to recall the events that
11 led up to when you spoke to Mr. Smith, whether
12 it was on the telephone or --

13 THE WITNESS: As I told you before, I
14 do not remember when I spoke to him, but I
15 spoke to him.

16 The only thing that I can tell you is that
17 had to get a check back from me prior to the
18 14th, and that was the day it was cashed.

19 CONTINUED EXAMINATION BY MS. MOTT:

20 Q The check that you gave to him is dated
21 9-7?

22 A Yes.

23 Q But do you remember when the check was
24 actually given to him?

25 A No.

1 Q Sometime prior to the 14th?

2 A Well, it had to be --

3 MR. STANWAY: Wait a second, Brian, don't
4 guess. If you know --

5 THE WITNESS: Because on the 14th,
6 according to the bank if I read this right,
7 that is when the check was cashed, or whatever,
8 that happened on the 14th.

9 CONTINUED EXAMINATION BY MS. MOTT:

10 Q Do you recall if anyone else knew about the
11 transaction besides Mr. Smith and yourself?

12 A I do not think anyone else knew about the
13 transaction.

14 Q Keeping in mind we are talking about the
15 time period from the beginning of September.

16 What type of records would you have kept
17 involving the discussion with Mr. Smith about the
18 transaction or the agreement?

19 A None.

20 Q There were no records on this transaction?

21 A It is all in my head.

22 Q You did not keep any kind of telephone log
23 or personal diary?

24 A No.

25 Q Notes?

1 A No. I kept it all in my head.

2 Q And you say you recall talking to Mr. Smith
3 on the phone regarding this?

4 A I said I spoke to him, I said I do not
5 recall whether it was in person or on the phone, but I
6 spoke to him about doing the redistricting.

7 Q And did he contact you?

8 A I would imagine so. It was for his
9 benefit.

10 Q Do you keep any kind of records of clients,
11 and by that I guess I mean, would you have opened any kind
12 of file?

13 A I would have opened a file eventually if
14 there was something to put in the file, but just opening a
15 file, no, I did not do that.

16 Q So the check that you received from the
17 Smith Committee --

18 A Yes.

19 Q -- what day did you receive that on?

20 A I do not remember, but it had to be before
21 the 10th, because that is the day of the deposit.

22 Q Do you recall what Mr. Smith said to you
23 when you discussed this agreement?

24 A It was something, I believe, to the affect
25 that to do some work for him in the state regarding the

1 redistricting that they were going through, that they
2 were going to go through.

3 Q Mr. Berman, let me ask you this: As far as
4 processing your checks and again, we are talking about
5 within this time frame, did you actually do the book work
6 on that or did you have an accountant?

7 A I had an accountant, but he did not do the
8 book work.

9 Q You actually wrote or wrote out the checks?

10 A Yes.

11 Q And did you keep, mathematically, I guess,
12 keep the checkbook, or was that part of the --

13 A Excuse me, what do you mean did I keep the
14 checkbook?

15 Q When you wrote out a check --

16 A Yes.

17 Q -- you wrote it out. Did you do the
18 tallying of what was in there?

19 A Yes.

20 Q So what was the accountant's involvement?

21 A He did not take care of the trust account
22 checks.

23 Q At all?

24 A Not at that time.

25 MS. MOTT: Do you have any questions?

1 MR. KELLNER: Yes.

2 I would like to ask a couple of questions.

3 FURTHER DIRECT EXAMINATION

4 BY MR. KELLNER:

5 Q You believe that Mr. Smith contacted you to
6 discuss doing redistricting work for him.

7 A I believe so.

8 Q And what do you mean by redistricting work?

9 A What do I mean?

10 Q What kind of work did he want you to do?

11 A The state, at that time, was going to
12 redistrict the districts, and no one knew at that time,
13 nor until a few months ago, where the new districts were.

14 He was of the opinion that I believe he
15 wanted to keep intact as much or all of the district he
16 had --

17 Q And what did he want you to do?

18 A To see if I could help him do that.

19 Q Did you talk about this with him?

20 A That is what we spoke about, and that is to
21 the best of my recollection, you know, I do not remember
22 exactly, but that is to the best of my recollection.

23 Q And you do not recall if you spoke to him
24 on the phone, is that right?

25 A You can ask me this question about the

1 phone for forty times, but I do not remember if I spoke to
2 him on the phone or if I spoke to him in person.

3 I would imagine, and I do not know, I
4 really do not know how I spoke to him, but I would just --

5 Q Where did you usually meet with him?

6 A Where did I usually meet with him?

7 Q Where did you usually meet with Mr. Smith?

8 A Well, let me see, sometimes I had breakfast
9 with him, sometimes I had lunch with him, sometimes I had
10 dinner with him, sometimes he came to my house and
11 sometimes I went to his house and sometimes I went to his
12 office or sometimes he came to my office.

13 Q Was this the only legal work he ever
14 contracted you to do?

15 A No.

16 Q What other work have you done for him?

17 A I believe I said before that he refinanced
18 his house and I did the work on that.

19 Q Was your relationship solely on a business
20 relationship?

21 A I knew Mr. Smith outside of business.

22 Q We will leave it at that.

23 And you discussed your fee with Mr. Smith?

24 A I discussed my retainer.

25 Q And how was the ten thousand dollar amount

1 arrived at?

2 A Because I thought it would take that to get
3 started on it, and I believed at the time that the
4 expenses, etcetera, would be a lot because the people are
5 not here, they are in Tallahassee, and we would have to go
6 up there and you have to stay there and you have to see
7 people here and see people there, all that.

8 Q What happened after you received the
9 retainer?

10 A I thought about it, and I decided that
11 because there were some problems, some other problems,
12 some other problems I had, that I did not want to do it.

13 Q And what did you do?

14 A I gave him back the money.

15 Q Prior to giving back the money, did you
16 contact him?

17 A Yes, I spoke to him.

18 Q Do you recall if that was by phone?

19 A No, I do not.

20 Q And what did you tell him?

21 A That I had second thoughts about it, and I
22 decided to give him back the money.

23 Q What did he say?

24 A I think he said something to the effect
25 that he was sorry that we could not go through with it,

1 but he understood, and that was the end of it, but I am
2 sure there was more, but that is it.

3 Q Did you contact any other clients for the
4 same reason?

5 A For what reason?

6 MR. STANWAY: Wait a second. I presume
7 that question needs a preface to it; i.e., a
8 client that gave him money, if he returned any
9 money to any other client because of the same
10 reasons --

11 MR. KELLNER: That is what I am getting
12 at.

13 MR. STANWAY: It is a two-step question,
14 you have to go two tiers, you kind of short-
15 cutted it and it is not making much sense --

16 MR. KELLNER: I did bunch it into one
17 question. Let me rephrase it and see if I
18 can clarify it.

19 CONTINUED EXAMINATION BY MS. MOTT:

20 Q Did you return any money to other clients
21 for the same reason?

22 A I do not remember.

23 Q Do you have any or did you have any
24 contact with Mr. Smith after that meeting or phone call
25 in which you told him that you were going to refund the

1 money?

2 A Yes.

3 Q What was the nature of those meetings?

4 A I do not remember.

5 Q How often did you meet with him or talk
6 with him?

7 A As often as I wanted to, I guess.

8 Q Did you ever discuss this matter with him?

9 A After it was done?

10 Q Yes, the matter of the ten thousand --

11 A After it was done?

12 Q Yes, that is correct.

13 A No.

14 Q Did you ever discuss this investigation
15 with him?

16 A He knows about the investigation, but no, I
17 have no discussed it with him.

18 Q You and him never talked about it?

19 A He knows he is being investigated, I know
20 he is being investigated, so maybe in conversation we may
21 have talked about it, but not talked about it, if you know
22 what I mean.

23 Q What did he say to you about the
24 investigation?

25 A I do not think he said anything about it,

1 just that he was under investigation. It is in the
2 papers.

3 FURTHER DIRECT EXAMINATION

4 BY MS. MOTT:

5 Q Let me show you again Exhibit Number One,
6 Mr. Berman.

7 A Okay.

8 Q Was this check written on September 7th,
9 1990?

10 A I do not know.

11 MR. STANWAY: Is your question: Does he
12 have an independent recollection whether this
13 check was written on September 7th, 1990, is
14 that what you are asking or whether this
15 document itself is -- this document itself is
16 the best evidence that it was written on
17 9-7-90 --

18 MS. MOTT: I am asking whether he knows
19 if this was written on 9-7-90 --

20 MR. STANWAY: Whether he has an independent
21 recollection?

22 MS. MOTT: Correct.

23 MR. STANWAY: He previously answered that
24 question, this has previously been asked and
25 answered and he responded no.

1 MS. MOTT: Okay.

2 CONTINUED EXAMINATION BY MS. MOTT:

3 Q I am showing you Exhibit Number Two.

4 Was this check, to your knowledge, written
5 on September 6th of 1990?

6 A I do not know. Same with the other
7 exhibits.

8 Q So you are telling me that you do not
9 recall anything about writing any of the checks?

10 A That is not what I said.
11 You asked me if I recall if they were
12 written on the date it says on the check, but I do not
13 recall if they were written on that date.

14 Q On Exhibit Three, you do not recall whether
15 this was written on September 7th?

16 A No, I do not.

17 Q And Exhibit Four, do you recall if that was
18 written on September 10th of 1990?

19 A No.

20 Q And Exhibit Five, do you recall if that was
21 written on September 11th of 1990?

22 A No.

23 (Whereupon, a short recess was taken.)

24 CONTINUED EXAMINATION BY MS. MOTT:

25 Q You told me that no one else knew about the

1 transaction in September of 1990 besides yourself and Mr.
2 Smith, is that correct?

3 A That is to the best of my knowledge.

4 Q After the transaction took place, did you
5 speak to anyone else about it?

6 A No, I do not think so.

7 Q You also indicated that you were the one
8 who wrote and kept the books on the trust account, is that
9 correct?

10 A That is correct.

11 Q And were there any other records besides
12 the check registry on that account?

13 A No.

14 Q And did anyone else have access to those
15 records besides yourself?

16 A What records?

17 Q The check registry and checking account?

18 A No.

19 Q Was anyone else authorized to sign or issue
20 checks on that account besides yourself?

21 A No one could sign checks -- what do you
22 mean by issue?

23 Q Did you have to sign the checks?

24 A Yes, I did.

25 Q Okay.

94030971739

1 Did you discuss with anyone besides
2 counsel, this investigation with anyone besides counsel,
3 and let me specifically ask, aside from what you already
4 said you discussed with Mr. Smith, did you discuss this
5 matter with anyone else?

6 A Can we take a short break, I have to ask
7 Roger a question?

8 MS. MOTT: Sure.

9 (Whereupon, a short recess was taken.)

10 MR. STANWAY: Back on the record.

11 Let the record reflect that there was a
12 broaching of a subject at one time with my
13 office about a joint defense agreement, and
14 there was some discussions with reference to
15 that dealing with this situation and other
16 situations, but it was all done in the
17 attorney/client privileged area, and he had
18 counsel there, but it was all done through me
19 and by counsel, there --

20 MS. MOTT: When you say joint --

21 MR. STANWAY: There may have been with
22 other counsel. There was a joint defense
23 agreement --

24 MS. MOTT: When you say joint defense
25 agreement, are you talking about Mr. Berman --

1 MR. STANWAY: I am not familiar with it,
2 but it was a discussion about that, that took
3 place concerning a mutual defense agreement that
4 would be entered into between Mr. Berman and Mr.
5 Smith's counsel --

6 MS. MOTT: When was this?

7 MR. STANWAY: This was a month or two ago,
8 three months ago when this whole thing appeared
9 in the paper, there were some issues that were
10 not only related to this, but it was related to
11 other issues with the Florida Bar, etcetera --

12 MS. MOTT: I see. So when you say other
13 counsel, who else was there?

14 MR. STANWAY: There was counsel in
15 Washington that was calling --

16 MS. MOTT: David Ifshin?

17 MR. STANWAY: Correct. And also a Neil
18 Sonnett (phonetic), who was counsel from Miami,
19 who was involved, and this was all done in the
20 context of the attorney/client privilege --

21 MS. MOTT: And you were there as well?

22 MR. STANWAY: Yes, and I absolutely -- I
23 am not waiving his privilege.

24 MS. MOTT: And was either Mr. Sonnett or
25 Mr. Ifshin representing Mr. Berman?

1 MR. STANWAY: No, they were representing
2 Mr. Smith, as far as I knew. There was
3 discussions with reference to that issue.

4 MS. MOTT: And how is it that this came
5 about, this meeting?

6 MR. STANWAY: You're asking me, you are
7 trying to have me go on the record, and I cannot
8 become a witness. I am proffering that to you
9 as a basis of an objection that I am getting
10 into as attorney/client privilege --

11 MS. MOTT: So you are objecting to the
12 question --

13 MR. STANWAY: I am objecting on the basis
14 of attorney/client privilege --

15 MS. MOTT: Okay, let's go ahead.

16 CONTINUED EXAMINATION BY MS. MOTT:

17 Q Mr. Berman, at this meeting, besides
18 yourself, who else was there?

19 Mr. Stanway was there and Mr. Neil Sonnett
20 was there.

21 A Yes.

22 Q Was anyone else there?

23 A No.

24 Q Was Mr. Smith there?

25 A No.

94030971742

1 Q Was Mr. Ifshin there?

2 A He was on the phone, he was in phone
3 contact, I think, with Mr. Sonnett at the meeting or prior
4 to the meeting.

5 Q And how about Phil Friedman, was he there?

6 A I have no idea who Phil Friedman is.

7 MR. STANWAY: You got me on that name.

8 CONTINUED EXAMINATION BY MS. MOTT:

9 Q And how is it, Mr. Berman, that this
10 meeting came about?

11 Was it at your request?

12 A No, I think Mr. Sonnett asked for the
13 meeting.

14 Q Mr. Sonnett?

15 A Yes.

16 Q Did you consult with anyone besides your
17 counsel on the documents that you sent to our office?

18 A No.

19 MS. MOTT: Just for the record, I want
20 to make sure that we are in agreement, Mr.
21 Stanway, that three documents which we asked for
22 you are going to produce --

23 MR. STANWAY: I have provided you, and I
24 will repeat them if the record --

25 MS. MOTT: That is fine.

1 MR. STANWAY: I need to have a copy of that
2 back, those are the checks that you have
3 referred to that you need better copies of.

4 Those are the best copies we have, and you
5 can make a copy of that.

6 MS. MOTT: Okay.

7 MR. STANWAY: The merger agreement, we will
8 be happy to provide you a copy if Mr. Berman has
9 it. Otherwise, it's reasonably acceptable
10 through the Florida Bar because they have a
11 copy, and we will attempt to get you a copy.

12 As far as the ledger cards, if we have
13 those check stubs -- are these for these
14 specific checks?

15 MS. MOTT: For these specific checks that
16 became an exhibit --

17 MR. STANWAY: The check stubs relating to
18 those, if we have those in our possession, we
19 will provide you with copies of those. And
20 again, I believe if they are not in our
21 possession, they are with the Florida Bar and
22 have been submitted to the Florida Bar.

23 MR. KELLNER: Could we have some of the
24 preceding dates and two weeks in advance in
25 either direction.

1 One of the things we are concerned about
2 when a check was written is that we want also
3 to see the sequence of checks --

4 THE WITNESS: I would rather not because,
5 first of all, those checks have nothing to do
6 with you, and to go two weeks back, you know --

7 MS. MOTT: I am comfortable with these.

8 MR. KELLNER: Fine.

9 MS. MOTT: These are fine.

10 MR. STANWAY: We will get you those.

11 CONTINUED EXAMINATION BY MS. MOTT:

12 Q Let me ask you: What records were
13 requested and received by the Florida Bar?

14 A That they would have in their possession?

15 MR. STANWAY: Excuse me, if you read the
16 Rule, the Florida Bar Rules for trust accounts,
17 it details, it specifies in there what has to
18 be produced, and you have to review the
19 Florida Bar file, it details and specifies in
20 there exactly what was acquired from Mr. Berman,
21 and those records were submitted.

22 We were under a rule to show cause by the
23 Supreme Court of Florida with reference to
24 producing those records, and if we did not
25 produce those records, he was under a

1 mandatory suspension. But as far as I know,
2 they should be, most of those records should be
3 with the Florida Bar.

4 The Florida Bar may have returned some of
5 the records to us, but I have not been privied
6 to receiving any records back, though, we had
7 a deposition up there where this -- which I
8 think you probably have a copy of, do you not?

9 MS. MOTT: Which deposition?

10 MR. STANWAY: A deposition taken with the
11 Florida Bar --

12 MS. MOTT: I think we have excerpts.

13 MR. STANWAY: Excerpts relating to the ten
14 thousand dollar check?

15 MS. MOTT: (No oral response.)

16 MR. STANWAY: That was the deposition where
17 we submitted a bunch of records to them or
18 some of the records to them, and subsequently,
19 we submitted other records to them, a whole
20 plethora of records which I feel you may
21 wish to consult with them.

22 And, again, Richard Liss is the branch
23 staff counsel in Fort Lauderdale.

24 MS. MOTT: Thank you.
25

94030970746

1 CONTINUED EXAMINATION BY MS. MOTT:

2 Q Is there anything that you would like to
3 add to the record, Mr. Berman?

4 A No.

5 MS. MOTT: Mr. Stanway?

6 MR. STANWAY: Not really. We understand
7 the process that you are going through, that he
8 is a witness here with reference to what
9 occurred on this specific date, and I just want,
10 as far as the ground rules are concerned, you
11 are probably going to have this printed up --

12 MS. MOTT: Yes, let's go ahead and go
13 through that.

14 What we will do is your counsel will
15 receive a copy of the transcript, and Mr.
16 Berman will have an opportunity to review it
17 and make any corrections he feels do not
18 accurately reflect what occurred here, and
19 at that point, you are to sign the transcript
20 and send it back to our office --

21 MR. STANWAY: I want to make sure that
22 that is at the Election Commission's
23 expense?

24 MR. KELLNER: We will make a copy
25 available to you, and if you come here to

1 review it and make any changes you would like
2 after it comes to us, we will talk about it.
3 Then if you want a copy of it --

4 MR. STANWAY: We would like it. What
5 I would like to do is get an agreement to get a
6 copy of it for us, because we are an independent
7 witness, and we are taking out time here,
8 and he obviously is out of business, and I do
9 not have the money to put out to do this, and
10 I do not know how expensive it will be. But
11 I would like to get a copy, we would like a
12 copy, do you agree?

13 MS. MOTT: Yes.

14 MR. STANWAY: In addition, if need other
15 information from us, I will stand ready to
16 cooperate and give you whatever information you
17 need.

18 MS. MOTT: I want to thank you, Mr. Berman,
19 and I need, on the record, to go ahead and give
20 you the witness fee check, the check for being
21 here today.

22 Have fun. This is for being reimbursed
23 for your mileage, it is not that much, but I
24 would like at this point to adjourn this
25 deposition.

1 I do not foresee having to come down here
2 and speak to you again, but this is an ongoing
3 investigation, and we really do not know at this
4 point -- I will adjourn the deposition at this
5 point and remind you again that although I said
6 a zillion times that it is confidential, this
7 needs to remain confidential.

8 MR. STANWAY: Can we discuss the
9 investigation at all?

10 We are not under any confidentiality rule,
11 we are a witness --

12 MS. MOTT: Off the record.

13 (Whereupon, an off the record discussion
14 was had.)

15 (Whereupon, the deposition was concluded.)

16 STIPULATION

17 It is hereby stipulated by and between
18 counsel for the respective parties that the reading,
19 signing and notice of filing of the foregoing deposition
20 be, and the same are, hereby waived.

21 AND FURTHER DEPONENT SAITH NOT.
22
23
24
25

CERTIFICATE OF REPORTER

STATE OF FLORIDA)
) SS:
 BROWARD COUNTY)

I, ERIC BRAY, RPR, Notary Public in and for
 the State of Florida at Large:

DO HEREBY CERTIFY that the foregoing
 deposition was taken before me at the time and place
 therein designed; that the deponent was by me duly sworn;
 that my shorthand notes were thereafter reduced to
 typewriting under my supervision, and the foregoing pages,
 numbered 1 through 50, are a true record of the testimony
 given by the witness.

I FURTHER CERTIFY that I am not a relative
 or employee of any of the parties, nor relative or
 employee of such attorney or counsel, or financially
 interested in the foregoing action.

WITNESS MY HAND AND SEAL this 20 day
 of September, 1992, in the City of Fort Lauderdale, County
 of Broward, State of Florida.

Eric Bray
 Notary Public in and for the
 State of Florida at Large.
 My commission expires: 8-6-94



94030974751

1201777

SE 07 17
0870-0280-0

015503 091490
0067 1-2552
2003 1000000 CC

26344 1510
26345

4/25/41
0003

5530 530-41-45

PLATE 14

07530150
Congress ID
4/20/49

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 OCT -2 PM 3:36

E # 1

SMITH & BERMAN, P.A. TRUST ACCOUNT 2516 HOLLYWOOD BLVD. HOLLYWOOD, FLORIDA 33020-5705		1209	9/7/80	\$ 10000.00	Dollars
Signature: Lawrence J. Smith		Signature: [Signature]			
Printed: Lawrence J. Smith		Printed: [Signature]			
Bank of Hollendale 2991 Riverwood Road P.O. Leelandale, Florida 33112		Bank of Hollendale			
F001209# 4067012552#		F0000001000#			

Ex # 2

SMITH & BERMAN, P.A.
TRUST ACCOUNT
239 HOLLYWOOD BLVD
HOLLYWOOD, FL 33024 303-4703

1207

Twenty Five
Hundred and no/100

First Bank of Hollywood
5001 Broadway Road
Ft. Lauderdale, Florida 33312

Payable to Order \$ 49.50

00014050 000100135524

100000000000

[Signature]

100000000000
100000000000
100000000000

94030974752

Saltzman Developer
Mark Saltzman - Pros
Mark Saltzman 360/375209

2306290000

0062470190074 11760840074

0-800-762-2269

428000

505.701.755.20

380000 10110

City Bank of Hollywood
3001 Lyngwood Road
Hollywood, Florida 33021

Salt - a Development every
body is Abundant and well

9/7 1890

SMITH & BERNARD, P.A.
TRUST ACCOUNT
2818 HOLLYWOOD BLVD
HOLLYWOOD, FLORIDA 33020-6701

066F-478-FF

00000000 9601379764

41926

5x#2

Small Ben a
2900 00 1100

Bureau

10 SEP 20

01 A 21

SMITH & BERNMAN, P.A.
TRUST ACCOUNT
3700 HOLLWOOD BLVD.
HOLLWOOD, FLORIDA 33023-0700

卷之四

~~Heard~~ and my

© 2012 Pearson Education, Inc. All rights reserved. Printed in the United States of America. This publication is protected by copyright. Permission is granted to reproduce copies of this publication for personal or internal use, on the condition that the copier pay the stated per-copy fee through the Copyright Clearance Center, Inc., 222 Rosewood Drive, Danvers, MA 01923. For those organizations that have been granted a photocopy licence by CCC, a separate system of payment has been arranged. The fee code for users of the Copyright Clearance Center Transactional Reporting Service is 0890-5631/12 \$12.00.

Ex #4

ENDORSE CHECK HERE

[Signature]

Pay To The Order Of
FAMILY BANK OF HALLANDALE
#007012552

DO NOT SIGN *San Diego, CA*
SMITH & BENTLEY, P.A.
TRUST ACCOUNT
2800001090

94030974756

SEP 11 1990

0023898

100 E. HALLANDALE
BEACH BLVD
HALLANDALE, FL 33009
305-458-2211
> 007012552 <
154

10 SEP 90

FOR FINANCIAL INSTITUTION USE ONLY

05-11-90
00-00-00
00-00-00
01.00.00
SE 10
007012552

2200000028

LARRY SMITH FOR CONGRESS

P.O. BOX 8174
HOLLYWOOD, FL 33081

7498

9/10/90 03-1058/670 40

PAY TO THE
ORDER OF

Pay to the order of
Trans Florida Bank



Trans Florida Bank
9100 GULFVIEW ROAD
CORPORATE CITY, FLORIDA 33508

SEP 11 1990
0670-10583
TRANSFLORIDA BANK

SEP 11 1990

0037 3058 01 09-11-90

DOLLARS

10,000.00

FOR

Cash on hand

007012552

000010000000

000010000000

Ex#6

LAW OFFICES

ROSS & HARDIES

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

888 SIXTEENTH STREET, N.W.
WASHINGTON, D.C. 20006-4103
202-296-8600

TELECOPIER
202-296-8791

TELEX
2795 46

150 NORTH MICHIGAN AVENUE
CHICAGO, ILLINOIS 60601-3567
312-558-1000

529 FIFTH AVENUE
NEW YORK, NEW YORK 10017-4608
212-949-7078

580 HOWARD AVENUE
SOMERSET, NEW JERSEY 08873
908-563-2700

92 SEP 17 11 30 AM '92

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE

September 17, 1992

HAND DELIVERED

Ms. Lois Lerner
Associate General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 3526

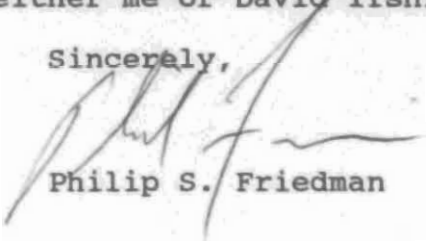
Dear Ms. Lerner:

Congressman Larry Smith, whom the Federal Election Commission (FEC) is scheduled to depose on Friday, September 18, 1992, has recently been apprised that the United States Attorney for the Southern District of Florida is conducting a grand jury investigation based, in part, on the same facts and circumstances in the above referenced MUR.

Although Congressman Smith wishes to proceed with the scheduled deposition, he has reluctantly agreed to accept our advice that he refrain from being deposed at this time on the grounds that we will instruct him to invoke his constitutional privileges in responding to any deposition inquiries. Under such circumstances, we believe that postponement of the deposition until the resolution of the grand jury proceedings is the most appropriate procedure and accordingly confirm our telephone conversation with you in which we agreed to postpone the FEC's deposition of Congressman Smith.

Thank you for your cooperation in this matter. Should you have any questions, please give either me or David Ifshin a call.

Sincerely,


Philip S. Friedman

94030974759



RECEIVED
FEDERAL ELECTION
COMMISSION
MAIN COPY ROOM

JAN 22 10 33 AM '93

U.S. Department of Justice

United States Attorney
Southern District of Florida

299 East Broward Boulevard
Fort Lauderdale, Florida 33301
(305) 356-7392

January 15, 1993

Ms. Tonda Mott
999 E. Street NW
Washington, DC 20463

MUR 3538

RE: Grand Jury Subpoena

Dear Ms. Mott:

Enclosed please find a Grand Jury Subpoena for February 5, 1993 at 9:30 AM. If you have any questions, please feel free to call me at (305) 356-7259.

Sincerely,

ROBERTO MARTINEZ
UNITED STATES ATTORNEY

By:

Roberta K. Flowers
ROBERTA K. FLOWERS
Assistant United States Attorney
U.S. Courthouse/Federal Building
299 E. Broward Boulevard
Fort Lauderdale, Florida 33301

Enclosure

94030974760

United States District Court

SOUTHERN

DISTRICT OF

FLORIDA

TO:

Tonda Mott
999 E. Street NW
Washington, DC 20463

SUBPOENA TO TESTIFY BEFORE GRAND JURY

SUBPOENA FOR:

☒ PERSON ☒ DOCUMENTS OR OBJECT(S)

YOU ARE HEREBY COMMANDED to appear and testify before the Grand Jury of the United States District Court at the place, date, and time specified below.

PLACE

UNITED STATES COURTHOUSE/FEDERAL BLDG.
299 East Broward Boulevard
Fort Lauderdale, FL 33301

ROOM

ROOM 203B

DATE AND TIME

Feb. 5, 1993
9:30 AM

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):*

SUBPOENA CONTROL NO. 9234

All documents relating to the FEC investigation of Lawrence Jack Smith.

Please contact the below listed Assistant U.S. Attorney concerning all matters relating to this Subpoena.

Please refer to the above listed Subpoena Control Number in all correspondence relating to this Subpoena.

☐ Please see additional information on reverse

This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.

CLERK

T.G. [Signature]

DATE

(BY) DEPUTY CLERK

1/12/93

This subpoena is issued upon application of the United States of America

NAME, ADDRESS, AND PHONE NUMBER OF ASSISTANT U.S. ATTORNEY

Roberta K. Flowers
Assistant United States Attorney
299 East Broward Blvd.
Ft Laud., FL 33301 305/356-7255

*If not applicable, enter "none."

To be used in lieu of AO110

FORM 100-22



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

January 26, 1993

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

SUBJECT: Subpoena to testify before the Grand Jury - MUR 3538

I. Introduction

On January 22, 1992, the Office of the General Counsel received a subpoena for Tonda Mott to testify before the Grand Jury in the United States District Court for the Southern District of Florida. Attachment 1. The subpoena also requires that this Office produce "[a]ll documents relating to the FEC investigation of Lawrence Jack Smith." Id.; see, MUR 3538.

II. Factual Background of MUR 3538

This matter was generated on April 7, 1992, by a sua sponte submission by counsel for then-Congressman Lawrence J. Smith ("Respondent" or "Smith"). On June 8, 1992, the Commission found reason to believe that Smith knowingly and willfully violated 2 U.S.C. § 439a, and that Larry Smith for Congress (92) and Joseph A. Epstein, as treasurer, violated 2 U.S.C. §§ 432(h) and 434(b).

On August 19, 1992, as part of the investigation, Tonda Mott deposed Brian M. Berman, a witness in this matter. At that time, this Office did not believe that Mr. Berman was providing truthful testimony. The investigation by the Florida U.S. Attorney has since confirmed this suspicion. The deposition of Mr. Berman must be re-taken in order to establish the truth.

The deposition of Respondent was scheduled for September 18, 1992. On September 17, 1992, counsel for Respondent informed this Office by letter that, in light of an investigation by the United States Attorney for the Southern District of Florida, Respondent was invoking his constitutional privileges and would not appear for the scheduled deposition. This Office has had no further contact from counsel for Respondent.

94030974762

94030974763

Memo to the Commission
MUR 3538
page 2

This Office has postponed making a recommendation in this matter pending the investigation by the U.S. Attorney. Following the re-taking of Mr. Berman's deposition, this Office may ultimately recommend that this matter be referred to the Department of Justice.

III. Discussion

Mr. Berman now admits that he lied in his testimony in our investigation. He is cooperating with the Florida U.S. Attorney in their efforts to indict Smith for subordination of perjury. Therefore, testimony regarding the fact that Mr. Berman lied under oath in our investigation is crucial to the U.S. Attorney's case.

This Office believes that the confidentiality requirements of the Act, 2 U.S.C. § 437g(a)(12)(A), would not preclude either production of the requested documents or testimony before the grand jury. This Office has previously advised the Commission that reporting information to the Department of Justice pursuant to 2 U.S.C. § 437d(a)(9), and referring cases to the Department under 2 U.S.C. § 437g(a)(5)(C), would not make such investigation "public" within the meaning of Section 437g(a)(12)(A). See, MUR 2735 (merged into MUR 2992), Memorandum to the Commission, dated January 4, 1988. Similarly, compliance with a subpoena from a federal grand jury, whose proceedings are conducted in secret by statute, would not be precluded by the Act's confidentiality provision. See also, 11 C.F.R. § 111.21(c) (construing the confidentiality provision as allowing for the appropriate introduction of evidence in proceedings in the federal courts); cf. MUR 3538, Memorandum to the Commission, dated August 13, 1992 (Miami-FBI requested a copy of a document from our files, but did not issue a subpoena for it).

Accordingly, because a grand jury subpoena has been issued, this Office recommends that the Commission authorize this Office to provide the requested documents from the file in MUR 3538 and authorize the testimony of Tonda Mott.¹

1. This Office will, of course, also provide all publicly available documents such as FEC reports requested by the Grand Jury.

Memo to the Commission
MUR 3538
page 3

IV. Recommendation

1. Authorize the General Counsel to provide the requested documents from the investigatory file of MUR 3538, in response to the Grand Jury subpoena received in this Office on January 22, 1993.
2. Authorize the testimony of Tonda Mott, in response to the Grand Jury subpoena received in this Office on January 22, 1993.

Attachment

1. Subpoena to testify before Grand Jury

Staff Assigned: Tonda M. Mott

94030974764

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Subpoena to testify before the) MUR 3538
Grand Jury.)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on January 28, 1993, the Commission decided by a vote of 6-0 to take the following actions in MUR 3538:

1. Authorize the General Counsel to provide the requested documents from the investigatory file of MUR 3538, in response to the Grand Jury subpoena received in this office on January 22, 1993.
2. Authorize the testimony of Tonda Mott, in response to the Grand Jury subpoena received in this office on January 22, 1993.

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

Attest:

1-28-93
Date

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

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

Tues., Jan. 26, 1993 3:47 p.m.
Tues., Jan. 26, 1993 4:00 p.m.
Thurs., Jan. 28, 1993 4:00 p.m.

dr

94030974765

93 MAR - 1 AM 10:48

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

) MUR 3538
-----)

Fort Lauderdale, Florida
February 4, 1993
10:45 o'clock a.m.

APPEARANCES:

FEDERAL ELECTION COMMISSION
By: Tonda M. Mott, ESQUIRE

LAW OFFICES OF BOGENSCHUTZ & DUTKO, P.A.
By: Mary H. McCleary, ESQUIRE

* * *

DEPOSITION

OF

BRIAN BERMAN

ORIGINAL
FOR COURT PURPOSES ONLY

JACK BESONER AND ASSOCIATES

94030970766

I N D E X

WITNESS

DIRECT

BRIAN BERMAN

By Ms. Mott

3

E X H I B I T S

FOR IDENTIFICATION

PAGE NO.

LINE NO.

Exhibit 1

9

20

Exhibit 2

10

14

Exhibit 3

15

16

94030974767

Deposition of a witness of lawful age,
taken by the Federal Election Commission, for the
purpose of discovery and for use as evidence in the
above-entitled matter, pursuant to notice
heretofore filed, before SONIA E. CLAIR, a Notary
Public in and for the State of Florida at Large,
taken in the City of Fort Lauderdale, County of
Broward, State of Florida, on the 4th day of
February 1993, commencing at 10:45 o'clock a.m.

* * *

THEREUPON:

BRIAN BERMAN,

a witness of lawful age, being called as a witness
by the Federal Election Commission, having been
first duly sworn, testified under oath as follows:

DIRECT EXAMINATION

BY MS. MOTT:

Q Could you please state your full name?

A Brian M. Berman.

MS. MOTT: Counsel representing you today
is?

MS. McCLEARY: Mary McCleary with the law
offices of Bogenschutz & Dutko.

BY MS. MOTT:

Q Mr. Berman, has anyone else ever

1 represented you in this matter?

2 A Yes.

3 Q Who is that?

4 A Roger Stanway.

5 Q My name is Tonda Mott. I represent the
6 General Counsel of the Federal Electing Commission
7 Jurisdiction of the Federal Act of 1971 as amended.

8 The deposition we are taking today is a
9 continuation of an earlier deposition taken on
10 August 19, 1992. It's our understanding that some
11 of the answers that were given in that deposition
12 may have been incomplete or inaccurate, and we are
13 here today to clear up any confusion that might
14 have resulted from that; is that correct,
15 Mr. Berman?

16 A Yes.

17 Q This deposition is being taken pursuant
18 to a Federal Election Commission subpoena issued in
19 connection with our investigation under Section
20 437G of Title Two of the United States Code.

21 This investigation has been designated as
22 a matter under review or Mur 3538. The statute
23 provides that the confidentiality of this
24 investigation must be maintained until we have
25 closed our file on the investigation. Although we

1 don't consider you to be a respondent in this, you
2 are here merely as a witness, this confidentiality
3 provision applies to you as well. Do you
4 understand that, Mr. Berman?

5 A Yes.

6 Q Let me just run through a couple of
7 instructions. I am going to be asking you a series
8 of questions seeking information regarding this
9 particular Mur. The questions I ask will not
10 necessarily be limited to your involvement, but may
11 also include another person.

12 Please, make sure that you verbally
13 answer all the questions, so the court reporter can
14 take it down. If you don't understand a question
15 let me know and I can rephrase it or repeat it. If
16 at any time you realize that you have given an
17 incomplete or inaccurate statement, let me know and
18 we can go back and fix it at that time. Okay?

19 A Okay.

20 Q As I indicated earlier, you were deposed
21 on this matter on August 19, 1992; is that correct?

22 A Yes.

23 Q Can you tell me what documents you
24 reviewed in preparation for this deposition today?

25 A None.

1 Q Would you please state for the record
2 your address.

3 A P.O. Box 37 Hollywood, Florida.

4 Q Do you reside in Hollywood as well?

5 A No.

6 Q The address that you have given, can you
7 be contacted at that address?

8 A No, it's a P.O. box. I have a beeper
9 number that I can give you, that I could be
10 contacted at. [REDACTED]

11 Q Mr. Berman, are you presently employed?

12 A No.

13 Q Were you employed in September of 1990?

14 A Yes.

15 Q Where were you employed at that time?

16 A I was president of Smith & Berman, P.A.

17 Q What type of firm was that?

18 A A law firm.

19 Q That was located where?

20 A Hollywood, Florida.

21 Q Were there any partners in the firm with
22 you?

23 A No.

24 Q Were there any associates with you?

25 A Yes.

1 Q What were their names?

2 A Steven Feinman.

3 Q Anyone else?

4 A No.

5 Q Could you tell me what the current status
6 of the firm is? I guess what I am asking is, does
7 it still exist?

8 A No.

9 Q Do you know Mr. Lawrence J. Smith?

10 A Yes.

11 Q How is it that you know Mr. Smith?

12 (Thereupon, a discussion off the record
13 was held.)

14 BY MS. MOTT:

15 Q How is it that you know Mr. Smith?

16 A I have known him since 1976 or '77.

17 Q Did you know him personally?

18 A Yes.

19 Q And did you know him professionally?

20 A Yes.

21 Q Was Mr. Smith ever associated with Smith,
22 Smith & Berman, P.A.?

23 A He was associated with the firm for a
24 period of maybe a day.

25 Q Could you explain that further?

1 A In 1982, prior to him being elected to
2 Congress for the first term, for his first term,
3 his firm and I merged. The name of the firm at
4 that time was called Smith, Berman & Rahl, because
5 he had an associate. At that time he was
6 associated with the firm for a day or a couple of
7 days or something.

8 Q How long did Mr. Smith's name remain
9 associated with the firm?

10 A His name remained with the firm until
11 January the 1st of 1991.

12 Q Was he actively practicing out of the
13 firm from 1982 until 1991?

14 A No.

15 MS. MOTT: Could we have this marked
16 Exhibit Number 1?

17 (Thereupon, Exhibit Number 1 was marked
18 for Identification.)

19 BY MS. MOTT:

20 Q Mr. Berman, if you can take a look at
21 this and explain to me --

22 MS. MOTT: For the record, this is check
23 number 1209 drawn on Smith & Berman, P.A.
24 account.

25 BY MS. MOTT:

1 Q Mr. Berman, could you please explain to
2 me what this check, the transaction involving this
3 check?

4 A Yes. This was a check that I gave to
5 Larry Smith sometime between September the 7th and
6 September the 10th of 1990, and he gave me a check
7 for \$10,000 drawn on, I believe it was his campaign
8 account.

9 MS. MOTT: Could we have this marked
10 Exhibit Number 2?

11 (Thereupon, Exhibit Number 2 was
12 marked for Identification.)

13 MS. McCLEARY: Exhibit Number 2 is check
14 number 7498, drawn on the account of Larry
15 Smith for Congress, and payable to the order
16 of Brian Berman.

17 BY MS. MOTT:

18 Q Is this --

19 A This is the check that he gave me.

20 Q Could you tell me which check was given
21 first?

22 A They were given at the same time.

23 Q Could you explain exactly the transaction
24 that took place?

25 A Yes. He spoke to me and asked me if I

1 could do him a favor. That is, if he gave me a
2 check for \$10,000, if I could give him a check for
3 \$10,000. I said that would be fine. So at the
4 time he gave me this, I gave him my check. I told
5 him he had to hold my check until his check had
6 cleared.

7 His check was deposited on the 10th of
8 September. When he spoke to me about it, it was
9 either the 7th of September or the 6th of
10 September, somewhere prior to me writing this
11 check. I wrote this check, he gave me his check, I
12 deposited his check, and he held my check until his
13 check cleared.

14 Q Did he explain to you why he wanted to
15 exchange checks?

16 A No. He just told me, he asked me if I
17 could do him a favor and exchange a check. I did
18 not know until later the use of the check.

19 Q Did you know the check that Mr. Smith was
20 going to give you was going to be drawn on his
21 campaign committee account?

22 A You mean before he gave it to me?

23 Q Yes.

24 A No.

25 Q Did you ever contract with him to do any

1 legal work on the basis of these checks?

2 A You mean the thing on the bottom of his
3 check that says consulting?

4 MS. MOTT: For the record, yes, there is
5 a notation on the bottom of the check which is
6 marked Exhibit 2 that reads, "Consulting
7 reapportionment services."

8 BY MS. MOTT:

9 Q Was there ever an agreement between
10 Mr. Smith and yourself regarding any
11 reapportionment services?

12 A No. It was just an exchange of checks.
13 He put that on there so if anybody would ask, it
14 would look like something.

15 Q That was on the check when you received
16 it?

17 A They --

18 Q The notation.

19 A Yes. Well, I believe it was, because I
20 believe I made a copy of the check before it was
21 deposited. I think I gave it to you. Do you have
22 a copy without this?

23 MS. McCLEARY: In other words, you are
24 saying that it did have the notation on it or
25 it did not?

1 THE WITNESS: It did.

2 MS. McCLEARY: It did have the notation
3 on it at the time that you first received it?

4 THE WITNESS: Yes, I believe that it did.
5 If she has a copy of this check before it was
6 deposited, then it would show that it had that
7 on. Then I would know that that's right.

8 MS. McCLEARY: As opposed to it being
9 later added?

10 THE WITNESS: I think it was on it when I
11 got it.

12 BY MS. MOTT:

13 Q Mr. Berman, did Mr. Smith personally hand
14 you the check or was it sent by mail?

15 A Personally.

16 Q And did you personally give him the check
17 that you wrote back to him?

18 A At the same time.

19 Q So they were simultaneously?

20 A Yes. That's my recollection. That's why
21 I know it had to have happened between the 7th and
22 the 10th. I think the 7th was a Friday, if I am
23 not mistaken, and the 10th was a Monday.

24 Q Let me give you a calendar here that you
25 can refer to. I know this was awhile ago. If you

1 would like to refer to that at any point, please
2 feel free. It's a 1990 calendar.

3 A The 7th was a Friday and the 10th was a
4 Monday.

5 Q So sometime between Friday the 7th of
6 September 1990 and Monday the 10th of September
7 1990 the exchange of the checks took place; is that
8 correct?

9 A Yes. It could have been Friday.

10 Q Do you recall specifically -- Strike
11 that. Did you meet with Mr. Smith at your office
12 when the checks were exchanged?

13 A I think so. I know it wasn't at his
14 office. It was either at my office, his house, or
15 my house.

16 Q At the time that you exchanged these
17 checks, did you have any reason to believe that
18 there was anything illegal or that there was
19 anything illegal about the exchange of the checks?

20 A I didn't know the purpose that he wanted
21 to use, to exchange them. I was doing -- I was
22 just doing him a favor. That was it.

23 Q Do you now know the purpose that he used
24 the checks for?

25 A If what the paper said was correct, I

1 know the purpose that he used part of the check
2 for, but not the other part.

3 Q Did you and he ever discuss at the time
4 that the checks were exchanged, did you discuss
5 what the purpose of the checks were?

6 A No.

7 Q Did you discuss the purpose of the checks
8 at any time after the exchange?

9 A No. I didn't find out what he used them
10 for until I read about it in the paper.

11 MS. MOTT: Please, mark this Exhibit
12 Number 3.

13 (Thereupon, Exhibit Number 3 was marked
14 for Identification.)

15 MS. MOTT: Exhibit Number 3, for the
16 record, is a copy of a deposit slip to, I
17 believe --

18 MS. McCLEARY: To the Smith & Berman,
19 P.A. trust account in the amount of \$10,000.

20 BY MS. MOTT:

21 Q Mr. Berman, is this the deposit slip for
22 the check that was written to you by Mr. Smith?

23 A That's a copy of it, yes.

24 Q This deposit slip shows that it was
25 deposited on the 10th; is that correct?

24030974779

1 A It was dated on the 10th. I think I was
2 at the bank before two o'clock.

3 Q Do you have an independent knowledge of
4 when the other check was deposited by, the check
5 that you wrote was deposited by Mr. Smith?

6 A It wasn't. It wasn't deposited.

7 Q Do you know what happened to that check?

8 A Well, I found out that it was cashed. It
9 was cashed and made into a cashier's check.

10 Q How did you find that out?

11 A I read about it in the newspaper.

12 Q Referring to what has been marked Exhibit
13 1, the check that you wrote to Mr. Smith, that is
14 your signature that appears on the check; is that
15 correct?

16 A Yes.

17 Q Referring to what has been marked as
18 Exhibit Number 2, do you recognize the check that
19 was written to you from Larry Smith for Congress,
20 do you recognize the signature on that check?

21 A It appears to be Larry Smith's signature.

22 (Thereupon, a short recess was taken.)

23 BY MS. MOTT:

24 Q Do you have anything else that you would
25 like to add to the record, Mr. Berman?

1 A No.

2 MS. McCLEARY: No.

3 BY MS. MOTT:

4 Q Mr. Berman, let me ask you, are the
5 questions that you have provided today accurate and
6 complete?

7 A Yes.

8 Q Do the answers to these questions
9 supersede any previous answers that you may have
10 given in this matter?

11 A You are referring to the previous
12 deposition?

13 Q Yes, the previous deposition.

14 A Yes.

15 Q Thank you. What we will do is have you
16 arrange with the court reporter to review the
17 transcript to assure its accuracy.

18 You will be receiving a witness fee. I
19 will mail that to you at your post office box
20 address in the amount of \$40 plus reimbursement for
21 mileage. You tell me how far.

22 A Forget the mileage.

23 Q Again, same thing as before, I don't
24 foresee having to go into this again. What we do
25 is, rather than conclude a deposition, we adjourn

1 it for today and continue it in the event that we
2 need to speak to Mr. Berman again.

3 MS. McCLEARY: To your knowledge, have
4 you completed everything that you need to ask
5 him today?

6 MS. MOTT: To my knowledge, we won't be
7 needing to talk to him again. No one has
8 anything to add to the record?

9 MS. McCLEARY: Just that the copy will be
10 provided to our office and maintained under
11 our control.

12 MS. MOTT: The deposition is closed at
13 this point.

14
15 (Thereupon, the deposition was adjourned
16 sine die.)
17
18
19
20
21
22
23
24
25

1 CERTIFICATE

2 STATE OF FLORIDA)

3) SS

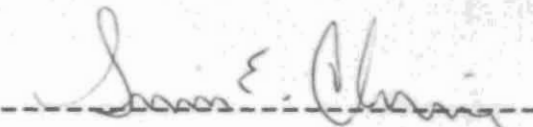
4 COUNTY OF BROWARD)

5 I, SONIA E. CLAIR, a Notary Public in and
6 for the State of Florida at Large,

7 DO HEREBY CERTIFY that the foregoing
8 deposition was taken before me at the time and
9 place therein designated; that the deponent was by
10 me duly sworn; and the foregoing pages 1 through 18
11 inclusive, are a true and correct record of the
12 testimony given by the witness.

13 I FURTHER CERTIFY that I am not a
14 relative or employee of any of the parties, nor
15 relative or employee of such attorney or counsel,
16 or financially interested in the foregoing action.

17 WITNESS MY HAND AND SEAL this 10th day of
18 February, 1993 in the City of Fort Lauderdale,
19 County of Broward, State of Florida.

20
21 
22 Notary Public
State of Florida at Large

23 My Commission Expires: February 1, 1997
24
25

94030974783

READING AND SIGNING

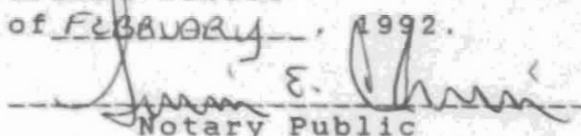
I have read the above transcript, pages 1 through 2, and I find: (MARK ONE)

☒ The transcript is true, correct, and completely accurate.

☐ The transcript is true, correct, and accurate, except as set forth in my List of Corrections attached hereto, citing page and line and reason for the correction realizing that, for this purpose, I am still under oath.

2/23/93
(DATE) 
NAME

Sworn to and subscribed before me this 23 day of FEBRUARY, 1992.


Notary Public

My Commission expires:

94030974784

SMITH & BERMAN, P.A.
TRUST ACCOUNT
 2815 HOLLYWOOD BLVD.
 HOLLYWOOD, FLORIDA 33020-0700

Pay to the order of James J. Smith

For deposit only

Bank of Hollywood
 3901 Sunsetwood Road
 Ft. Lauderdale, Florida 33312

1209

9/10/80

10000.00

Dollars

#001209# #067012552#

2800001098#

#0001000000#

94030974785

EXHIBIT
 7
 2-4-93

Congress ID
 02530150

PLDC 17

5530 530-41-145

0003 4/25/41

26345

26344

015503 - 091490

00671-2552

2003 +1000000 CC

0920-0280

41 DA 35

94030974786

LARRY SMITH FOR CONGRESS
P.O. BOX 8174
HOLLYWOOD, FL 33081

7498

63-1058/870 40

9/10/90

\$ 10,000.00

PAY TO THE ORDER OF *Bryan German*

Ten Thousand

SEP 11 1990

0670-10583

TRANSFLORIDA BANK

FOR *Candace Kay*

007698 4067010583

000100000000

EXHIBIT

2

2-4-93

Pay To The Order Of

FAMILY BANK OF HALLANDALE

SEP 11 1990

0023898

SEP 11 1990

0670-10583

TRUST ACCOUNT

2800081090

SEP 10 1990

0670-10583

000100000000

First Bank of Hollandale
591 Riverwood Road
P.O. Box 1000
Hollandale, Florida 33417

755	12000
-----	-------

0E17 40607 000082

3

2-4-93

93 JUL -9 PM 12:54

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

SENSITIVE

Lawrence J. Smith;)

MUR 3538

Larry Smith for Congress and)

Joseph A. Epstein, as treasurer)

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter was generated by a sua sponte submission by counsel for then-Congressman Lawrence J. Smith, filed on April 7, 1992. Additionally, on May 20, 1992, this Office received a complaint, filed by Earl Rodney, which consisted of allegations relating to this matter and was based on various newspaper articles.¹

On June 8, 1992, the Commission found reason to believe that Lawrence J. Smith knowingly and willfully violated 2 U.S.C. § 439a, involving the conversion of excess campaign funds to personal use. On the same day, the Commission also found reason to believe that Larry Smith for Congress and Joseph A. Epstein, as treasurer, (the "Committee") violated 2 U.S.C. § 432(h), in that all campaign receipts were not deposited into the campaign depository, and that the Committee violated 2 U.S.C. § 434(b), in that campaign disbursements were not fully or properly reported.

1. On June 24, 1992, the Commission merged this complaint-generated matter (MUR 3526) into the existing sua sponte matter.

94030974788

Concurrent with our investigation, the circumstances of this matter were also being investigated by the United States Attorney of the Southern District of Florida, whose investigation resulted in an indictment. On May 25, 1993, Larry Smith pleaded guilty to two felony counts.² One count involved tax violations by Smith. The second count involved Smith knowingly and willfully causing another to make a false statement to the Federal Election Commission by reporting a disbursement of \$10,000 from the Larry Smith for Congress Committee account as having been made to Brian Berman for consulting when, in fact, Smith knew that the information was false. See, Attachment 1.

On May 26, 1993, counsel for Larry Smith contacted Associate General Counsel for Enforcement to request pre-probable cause conciliation. This report summarizes our investigation, and makes recommendations regarding counsel's request for conciliation.

II. ANALYSIS

In September of 1990, Smith gave a \$10,000 check, drawn on the Committee's account, to Brian Berman, an attorney and former partner of Smith in Hollywood, Florida. The check was dated September 10, 1990, and "consulting reapportionment services" appeared in the note section of the check. The Smith Committee disclosed in its reports to the FEC a disbursement of \$10,000 to

2. Sentencing is scheduled for July 30, 1993. Under the Federal Sentencing Guidelines, Smith can receive from 0-18 months in prison and up to \$250,000 in fines.

Brian Berman on September 10, 1990, for "consulting."

At the same time, Smith also received from Berman a \$10,000 check, dated September 7, 1990, which was made out to Smith personally. With this check, Smith subsequently obtained two cashier's checks. One cashier's check was made payable to Paradise Island Enterprises in the amount of \$4,000 with the name "L.J. Smith" in the remitter line. This payment represented repayment of a gambling debt. The second cashier's check was made payable to Lawrence J. Smith in the amount of \$6,000 with the name "Smith/Berman trust" in the remitter line, and was subsequently cashed at the House Bank. In the spring of 1992, these transactions were called into question by various newspaper articles, which in turn prompted the sua sponte submission and complaint in this matter.

Counsel for Respondents maintained in the sua sponte submission that the transactions resulted from an agreement "to retain Mr. Berman to do legal and consulting work in connection with expected congressional reapportionment in Florida" and that the \$10,000 check written from the Committee's account "was a retainer for Mr. Berman pursuant to that agreement." See, General Counsel's Report, dated June 3, 1992, Attachment 1, p. 2. Counsel stated that, however, "based on Mr. Berman's disclosures [of financial difficulties], Congressman Smith terminated his agreement with Mr. Berman and requested that the previously paid retainer be refunded." Id., p. 3. Smith maintained that the \$10,000 check which he received from Berman was a refund of the retainer fee. Smith did concede in his sua

94030974790

sponte submission that "a significant portion of the total amount [received from Berman] was utilized [by Smith] for personal, rather than for Committee, expenses." See, General Counsel's Report, dated June 3, 1992, Attachment 1, p. 3.

In his initial deposition in August 1992, Berman's story of the events coincided with the story maintained by Smith. Nevertheless, like Smith, Berman was unable to explain the inconsistencies and logical flaws of the story, such as why the check for the refund of a retainer fee was dated prior to the check which was supposedly a retainer fee.

After Berman became involved in the grand jury proceedings in Florida, his counsel contacted this Office, stating that some of the information Berman had previously provided was inaccurate and he wished to be re-deposed. In the second deposition,³ Berman stated that there had never been an agreement between himself and Smith for reapportionment services as had been noted on Smith's check. Deposition of Brian Berman, February 4, 1993, p. 11. Berman stated that Smith "put [the notation] on there so if anybody would ask, it would look like something," but that, in fact, "it was just an exchange of checks." Id. Berman stated that Smith had "asked me if I could do him a favor and exchange a check." Id., p. 10. Berman affirms that the two check were "given at the same time." Id., p. 9. Berman contends that he did not know, until later, Smith's intentions regarding the exchange of checks. Id., pp. 10 and 13.

3. Copies of both deposition transcripts are available in the Office of the General Counsel.

94030974791

This version of the story appears to be what actually occurred. Indeed, on May 25, 1993, Larry Smith plead guilty to one count of tax evasion and one count in violation of 18 U.S.C. §§ 2 and 1001, for making false statements to the Federal Election Commission. See, Attachment 1. The information obtained in our investigation and that of the U.S. Attorney's Office establishes that the actual events surrounding the two \$10,000 checks differs markedly from the explanation presented in Respondents' sua sponte submission.

The facts, as we now know them, clearly support the finding of a knowing and willful violation by Smith. Smith was aware that he could not convert campaign funds to personal use, but nevertheless deliberately embarked on a series of transactions that, in fact, converted campaign funds to personal use. These transactions were disguised and not properly disclosed on the reports of the Committee. Furthermore, Smith provided false information to the Commission in his sua sponte submission, in an attempt to conceal the truth.

Counsel for Respondents has requested pre-probable cause conciliation. This Office believes such would be proper at this time because the investigation is complete, the investigation fully supports the Commission's earlier findings, and Respondents appear to be willing to admit to all wrongdoing. Therefore, we recommend that the Commission enter into pre-probable cause conciliation with Lawrence J. Smith and Larry Smith for Congress and Joseph A. Epstein, as treasurer.

94030974792

III. DISCUSSION OF CONCILIATION PROVISIONS AND CIVIL PENALTY

94030974793

IV. RECOMMENDATIONS

1. Enter into conciliation with Lawrence J. Smith, and Larry Smith for Congress and Joseph A. Epstein, as treasurer, prior to a finding of probable cause to believe.
2. Approve the attached conciliation agreements and the appropriate letters.

Lawrence M. Noble
General Counsel

Date

7/9/93

BY:


Lois G. Lerner
Associate General Counsel

Attachments

1. Plea agreement
2. Conciliation agreements (2)

94030974794



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

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

DATE: JULY 15, 1993

SUBJECT: MUR 3538 - GENERAL COUNSEL'S REPORT
DATED JULY 9, 1993.

The above-captioned document was circulated to the
Commission on Monday, July 12, 1993 at 11:00 a.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	<u>XXX</u>
Commissioner Potter	_____
Commissioner Thomas	_____

This matter will be placed on the meeting agenda
for Tuesday, July 20, 1993.

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

94030974795

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 3538
Lawrence J. Smith;)
Larry Smith for Congress and)
Joseph A. Epstein, as treasurer)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on July 20, 1993, do hereby certify that the Commission decided by a vote of 4-2 to take the following actions in MUR 3538:

1. Enter into conciliation with Lawrence J. Smith, and Larry Smith for Congress and Joseph A. Epstein, as treasurer, prior to a finding of probable cause to believe.
2. Approve the conciliation agreements and the appropriate letters as recommended in the General Counsel's report dated July 9, 1993

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

Attest:

7-22-93
Date

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

94030974796



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

David M. Ifshin
Ross & Hardies
888 Sixteenth Street, N.W.
Washington, D.C. 20006-4103

RE: MUR 3538

Dear Mr. Ifshin:

On June 8, 1992, the Federal Election Commission found reason to believe that Lawrence J. Smith knowingly and willfully violated 2 U.S.C. § 439a. On the same date, the Commission also found reason to believe that the Larry Smith for Congress Committee violated 2 U.S.C. §§ 432(h) and 434(b). At your request, on July 20, 1993, the Commission determined 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 are conciliation agreements that the Commission has approved in settlement of this matter. If your clients agree with the provisions of the enclosed agreements, please sign and return them, along with the civil penalties, 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.

If you have any questions or suggestions for changes in the agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact me at (202) 219-3400.

Sincerely,

Tonda M. Mott
Attorney

Enclosure
Conciliation Agreements (2)

94030974797

LAW OFFICES

ROSS & HARDIES

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

888 SIXTEENTH STREET, N.W.

WASHINGTON, D.C. 20006-4103

202-296-8600

TELECOPIER
202-296-8791

DAVID M. IFSHIN

OGC 9734

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIN COPY ROOM

AUG 18 12 56 PM '93

180 NORTH MICHIGAN AVENUE
CHICAGO, ILLINOIS 60601-7567
312-558-1000

PARK AVENUE TOWER
85 EAST 85TH STREET
NEW YORK, NEW YORK 10022-3219
212-421-5555

580 HOWARD AVENUE
SOMERSET, NEW JERSEY 08875-8739
908-563-2700

August 16, 1993

VIA FACSIMILE

Ms. Tonda Mott
Office of the General Counsel
Federal Election Commission
Washington, D.C. 20463

mur 3538

Dear Ms. Mott:

This letter is to confirm our telephone conversation in which we requested on behalf of Larry Smith and the Larry Smith for Congress Committee an extension of time to respond to the Commission's proposed Conciliation Agreements.

A meaningful review of the Conciliation Agreements was necessarily delayed pending Mr. Smith's recent sentencing in a related criminal proceeding in Florida. Accordingly, Mr. Smith and his counsel need additional time to confer and to prepare a response to the Commission's proposed agreements. As suggested on our telephone call, Mr. Smith and the Committee request an extension of time to August 30, 1993.

Thank you for your cooperation and understanding in granting this extension. If you have any questions or concerns, please give me a call.

Sincerely,

David M. Ifshin

94030974798

93 AUG 18 PM 3:14

RECEIVED
FEDERAL ELECTION
COMMISSION



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

AUGUST 18, 1993

David M. Ifshin, Esq.
Ross & Hardies
888 Sixteenth Street, N.W.
Washington, D.C. 20006-4103

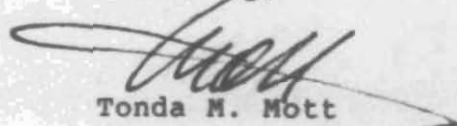
RE: MUR 3538

Dear Mr. Ifshin:

This is in response to your letter dated August 16, 1993, which we received via facsimile on that date, requesting an extension until August 30, 1993 in order to respond to the conciliation agreements which were approved by the Commission on July 22, 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 August 30, 1993.

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

Sincerely,



Tonda M. Mott
Attorney

94030974799

OGC# 0074

STATEMENT OF DESIGNATION OF COUNSELMATTER: LAWRENCE J. SMITH MUR 3538

NAME OF COUNSEL:

NEAL R SONNETT, ESQONE BISCAYNE TOWER, SUITE 2600TWO SOUTH BISCAYNE BLVDMIAMI, FL 33131-1802

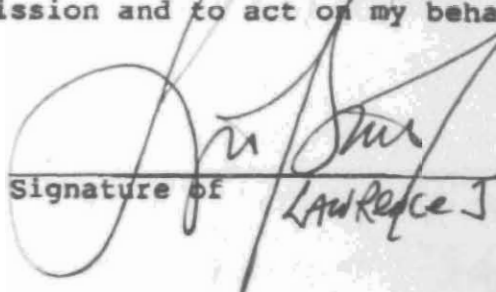
TELEPHONE

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

Date

9/27/93

Signature of


LAWRENCE J. SMITH

RESPONDENT'S NAME:

LAWRENCE J. SMITH

ADDRESS:

3511 N. 52nd AveHOLLYWOOD, FL 33021

HOME PHONE:

305/966-4848

BUSINESS PHONE:

305/985-4171

94030974800

93 OCT - 6 PM 12:12

RECEIVED
F.E.C.
SECRETARIAT

94 MAR -7 PM 3:43

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Lawrence J. Smith)

Larry Smith for Congress and)
Joseph A. Epstein, as treasurer)

MUR 3538

SENSITIVE

GENERAL COUNSEL'S REPORT

I. INTRODUCTION

This report presents recommendations to assure that this matter conforms to the court's opinion in FEC v. NRA Political Victory Fund, et al., No. 91-5360 (D.C. Cir. Oct. 22, 1993), and makes additional recommendations pertaining to the conciliation of this matter.

I. BACKGROUND

On June 8, 1992, the Commission found reason to believe that Lawrence J. Smith knowingly and willfully violated 2 U.S.C. § 439a, involving the conversion of excess campaign funds to personal use. On the same day, the Commission also found reason to believe that Larry Smith for Congress and Joseph A. Epstein, as treasurer, (the "Committee") violated 2 U.S.C. § 432(h), in that all campaign receipts were not deposited into the campaign depository, and that the Committee violated 2 U.S.C. § 434(b), in that campaign disbursements were not fully or properly reported.¹ (Mr. Smith and the Committee will herein be collectively referred to as "Respondents").

1. On June 24, 1992, the Commission voted to merge MUR 3526, a complaint with similar allegations, into MUR 3538.

94030974801

On July 22, 1993, the Commission decided to enter into negotiations with Respondents prior to a finding of probable cause to believe.

For the Commission's information, this Office has attached the certifications in this matter dated June 8, 1992; June 24, 1992; and July 22, 1993.² Attachment 1.

III. RECOMMENDED ACTIONS IN LIGHT OF FEC v. NRA

Consistent with the Commission's November 9, 1993 decisions concerning compliance with the NRA opinion, and based on the complaints filed in this matter and responses thereto, this Office recommends that the Commission revoke its earlier determinations involving this matter to:

- (1) open a MUR;
- (2) find reason to believe that Lawrence J. Smith knowingly and willfully violated 2 U.S.C. § 439a.
- (3) find reason to believe that Larry Smith for Congress and Joseph A. Epstein, as treasurer, violated 2 U.S.C. §§ 432(h) and 434(b).
- (4) approve the factual and legal analysis, as recommended in the General Counsel's Report dated June 3, 1992.
- (5) enter into conciliation with Lawrence J. Smith and Larry Smith for Congress and Joseph A. Epstein, as treasurer, prior to a finding of probable cause to believe.

2. This Office has not included certifications in this matter dated August 18, 1992 and January 28, 1993, as they pertain only to procedural aspects of a concurrent investigation by the FBI and U.S. Attorney's Office in Miami.

94030974802

This Office will notify the Respondents of the Commission's actions, and given the unique circumstances engendered by the NRA decision, conciliation negotiations will be limited to a maximum of thirty (30) days.

IV. DISCUSSION

94030974803

94030974804

94030974805

In light of the information now available, this Office recommends that the Commission approve the attached conciliation agreement for Mr. Smith's violation of 2 U.S.C. § 439a

For the purpose of conforming to NRA, this Office further recommends that the Commission approve the attached conciliation agreement for the Committee

V. RECOMMENDATIONS

- (1) open a MUR;
- (2) find reason to believe that Lawrence J. Smith knowingly and willfully violated 2 U.S.C. § 439a.
- (3) find reason to believe that Larry Smith for Congress and Joseph A. Epstein, as treasurer, violated 2 U.S.C. §§ 432(h) and 434(b).
- (4) approve the factual and legal analysis, as recommended in the General Counsel's Report dated June 3, 1992.
- (5) enter into conciliation with Lawrence J. Smith and Larry Smith for Congress and Joseph A. Epstein, as treasurer, prior to a finding of probable cause to believe.

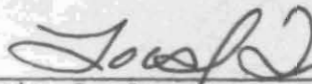
94030974806

(6) approve the attached proposed conciliation agreements,
and the appropriate letter.

Lawrence M. Noble
General Counsel

3-7-94
Date

BY:


Lois G. Lerner
Associate General Counsel

Attachments

1. Certifications
2. Letter from Counsel, dated October 21, 1993
3. Financial information, dated December 27, 1993
4. Proposed conciliation agreements (2)

Staff Assigned: Tonda M. Phalen

94030974807



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

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

DATE: MARCH 11, 1994

SUBJECT: MUR 3538 - GENERAL COUNSEL'S REPORT
DATED MARCH 7, 1994.

The above-captioned document was circulated to the
Commission on Tuesday, March 8, 1994 at 11:00 a.m.

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

Commissioner Aikens	<u>XXX</u>	<u>FOR THE RECORD ONLY</u>
Commissioner Elliott	<u> </u>	
Commissioner McDonald	<u> </u>	
Commissioner McGarry	<u> </u>	
Commissioner Potter	<u> </u>	
Commissioner Thomas	<u> </u>	

94030974808

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Lawrence J. Smith;
Larry Smith for Congress and
Joseph A. Epstein, as treasurer.

)
)
) MUR 3538
)
)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on March 11, 1994, the Commission decided by a vote of 4-1 to take the following actions in MUR 3538:

1. Open a MUR.
2. Find reason to believe that Lawrence J. Smith knowingly and willfully violated 2 U.S.C. § 439a.
3. Find reason to believe that Larry Smith for Congress and Joseph A. Epstein, as treasurer, violated 2 U.S.C. §§ 432(h) and 434(b).
4. Approve the factual and legal analysis, as recommended in the General Counsel's Report dated June 3, 1992.

(continued)

94030974809

5. Enter into conciliation with Lawrence J. Smith and Larry Smith for Congress and Joseph A. Epstein, as treasurer, prior to a finding of probable cause to believe.
6. Approve the proposed conciliation agreements, and the appropriate letter, as recommended in the General Counsel's Report dated March 7, 1994.

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

Attest:

3-11-94
Date

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

Received in the Secretariat: Mon., Mar. 07, 1994 3:43 p.m.
Circulated to the Commission: Tues., Mar. 08, 1994 11:00 a.m.
Deadline for vote: Fri., Mar. 11, 1994 4:00 p.m.

bjr

94030974810



FEDERAL ELECTION COMMISSION

MARCH 17, 1994

David M. Ifshin, Esq.
Ross & Hardies
888 Sixteenth Street, N.W.
Washington, D.C. 20006-4103

RE: MUR 3538

Dear Mr. Ifshin:

On June 8, 1992, the Federal Election Commission found that there is reason to believe Lawrence J. Smith knowingly and willfully violated 2 U.S.C. § 439a, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). On the same day, the Commission found that there is reason to believe Larry Smith for Congress and Joseph A. Epstein, as treasurer, (the "Committee") violated 2 U.S.C. §§ 432(h) and 434(b).

On July 20, 1993, the Commission entered into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe.

As you may be aware, on October 22, 1993, the D.C. Circuit declared the Commission unconstitutional on separation of powers grounds due to the presence of the Clerk of the House of Representatives and the Secretary of the Senate or their designees as members of the Commission. FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993), petition for cert. filed, (U.S. No. 93-1151, Jan. 18, 1994). Since the decision was handed down, the Commission has taken several actions to comply with the court's decision. While the Commission petitions the Supreme Court for a writ of certiorari, the Commission, consistent with that opinion, has remedied any possible constitutional defect identified by the Court of Appeals by reconstituting itself as a six member body without the Clerk of the House and the Secretary of the Senate or their designees. In addition, the Commission has adopted specific procedures for revoting or ratifying decisions pertaining to open enforcement matters.

94030974811

David M. Ifshin, Esq.
MUR 3538
page 2

In this matter, on March 11, 1994, the Commission revoted to find reason to believe that Lawrence J. Smith knowingly and willfully violated 2 U.S.C. § 439a, and Larry Smith for Congress and Joseph A. Epstein, as treasurer, violated 2 U.S.C. §§ 432(h) and 434(b), and to approve the Factual and Legal Analysis previously mailed to you. You should refer to that document for the basis of the Commission's decision. If you need an additional copy, one will be provided upon request.

Furthermore, the Commission revoted to enter into conciliation negotiations prior to a finding of probable cause to believe

If your clients agree with the provisions of the enclosed agreements, please sign and return them to the Commission. Please make the checks for the civil penalties payable to the Federal Election Commission. Given the unique circumstances engendered by the NRA decision, conciliation negotiations, prior to a finding of probable cause to believe, will be limited to a maximum of 30 days.

If you have any further questions, please contact the attorney assigned to this matter, Tonda M. Phalen, at (202) 219-3400.

For the Commission,


Trevor Potter
Chairman

Enclosure
Conciliation Agreements (2)

24030974812

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Lawrence J. Smith) MUR 3538
)
Larry Smith for Congress and)
Joseph A. Epstein, as treasurer)

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On June 8, 1992, the Commission found reason to believe that Lawrence J. Smith knowingly and willfully violated 2 U.S.C. § 439a, involving the conversion of excess campaign funds to personal use. On the same day, the Commission also found reason to believe that Larry Smith for Congress and Joseph A. Epstein, as treasurer, (the "Committee") violated 2 U.S.C. §§ 432(h) and 434(b). (Mr. Smith and the Committee will herein be collectively referred to as "Respondents").

On July 22, 1993, the Commission decided to enter into negotiations with Respondents prior to a finding of probable cause to believe. On March 11, 1994, the Commission re-voted its earlier determinations in order to conform with the court's opinion in FEC v. NRA Political Victory Fund, et al., no. 91-5360 (D.C. Cir. Oct. 22, 1993).

94030974813

II. DISCUSSION

counsel for Mr. Smith has asked that he be allowed to sign the agreement instead of Mr. Smith. This report discusses counsel's request and the issues it raises.

While the Commission has previously accepted agreements signed by counsel for an individual, as a respondent, there is no precedent for circumstances similar to this matter. This is a knowing and willful violation, and the Commission has already imposed a specific requirement that Mr. Smith, personally, pay the civil penalty for his violation, rather than allowing the Committee to pay it. The reasoning behind this requirement was to assure that Mr. Smith take personal responsibility for his knowing and willful violation. This Office believes that the same rationale applies to requiring that Mr. Smith sign the agreement. As was the case with the determination regarding who could pay the civil penalty, this Office believes that allowing counsel to sign the agreement for Mr. Smith would be inappropriate both because of the nature of the violation (i.e., personal use of campaign funds) and because the violation was knowing and willful.

Further, this Office is concerned that in not signing the agreement Mr. Smith will attempt to disavow his personal responsibility for the violation. Mr. Smith has already shown

24030974814

an unwillingness to take responsibility for the legal implications of his conduct.

94030974815

III. RECOMMENDATIONS

(1) Require Lawrence J. Smith to personally sign the conciliation agreement for his knowing and willful violation of 2 U.S.C. § 439a.

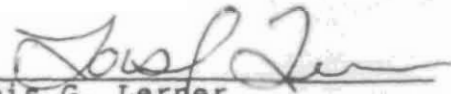
(2) Approve the appropriate letter.

Lawrence M. Noble
General Counsel

Date

4/8/94

BY:


Lois G. Lerner
Associate General Counsel

Staff Assigned: Tonda M. Phalen

94030974816

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 3538
Lawrence J. Smith;)
Larry Smith for Congress and)
Joseph A. Epstein, as treasurer)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on April 12, 1994, do hereby certify that the Commission decided by a vote of 4-1 to take the following actions in MUR 3538:

1. Require Lawrence J. Smith to personally sign the conciliation agreement for his knowing and willful violation of 2 U.S.C. § 439a.
2. Approve the appropriate letter as recommended in the General Counsel's report dated April 8, 1994.

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

Attest:

4-12-94
Date

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

94030974817



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20461

April 13, 1994

David M. Ifshin, Esq.
Philip S. Friedman, Esq.
Ross & Hardies
888 Sixteenth Street, N.W.
Washington, D.C. 20006-4103

RE: MUR 3538

Dear Messrs. Ifshin and Friedman:

In response to your inquiry regarding whether you can sign the agreement for Lawrence J. Smith, please be advised that the Commission determined on April 12, 1994 that Mr. Smith must personally sign the conciliation agreement for his knowing and willful violation of 2 U.S.C. § 439a. Enclosed are copies of the conciliation agreements for both Mr. Smith and Larry Smith for Congress and its treasurer, which were previously approved by the Commission and were previously sent to you.

Please obtain the appropriate signatures and return the signed agreements to the Commission. Please make the checks for the civil penalties payable to the Federal Election Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to 30 days, you should respond as soon as possible.

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

Sincerely,

Tonda M. Phalen
Staff Attorney

Enclosures
Conciliation Agreements (2)

94030974818

OGC 1113



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

APR 26 2 46 PM '94

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

April 26, 1994

TWO WAY MEMORANDUM

TO: OGC, Docket

FROM: Philomena Brooks
Accounting Technician

SUBJECT: Account Determination for Funds Received

We recently received a check from Larry J. Smith, check number 613, dated April 23, 1994, and in the amount of \$5,000.00. Attached is a copy of the check and any correspondence that was forwarded. Please indicate below the account into which it should be deposited, and the MUR number and name.

TO: Philomena Brooks
Accounting Technician

FROM: OGC, Docket aa

In reference to the above check in the amount of \$5,000.00, the MUR number is 3538 and in the name of Lawrence J. Smith. The account into which it should be deposited is indicated below:

- ☒ Budget Clearing Account (OGC), 95F3875.16
- ☐ Civil Penalties Account, 95-1099.160
- ☐ Other: _____

Anita Alexander
Signature

4-26-94
Date

94030974819

LAWRENCE J. SMITH 1-93
SHEILA SMITH

613

67-252
673

4/23/94

PAY TO THE
ORDER OF

Federal Elections Commission

\$5000.⁰⁰/ks

Five Thousand ⁰⁰/ks

DOLLARS



First National Bank
of Hollywood
3900 Hollywood Boulevard
Hollywood, FL 33021

[Signature]

MEMO

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

APR 26 2 46 PM '94

OGC 1112



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 26, 1994

APR 26 2 45 PM '94

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

TWO WAY MEMORANDUM

TO: OGC, Docket

FROM: Philomena Brooks
Accounting Technician

SUBJECT: Account Determination for Funds Received

We recently received a check from Larry Smith
for Congress, check number 9310, dated
April 25, 1994, and in the amount of \$5,000.00.
Attached is a copy of the check and any correspondence that
was forwarded. Please indicate below the account into which
it should be deposited, and the MUR number and name.

TO: Philomena Brooks
Accounting Technician

FROM: OGC, Docket aa

In reference to the above check in the amount of
\$5,000.00, the MUR number is 3538 and in the name of
Larry Smith for Congress. The account into
which it should be deposited is indicated below:

- ☒ Budget Clearing Account (OGC), 95F3875.16
- ☐ Civil Penalties Account, 95-1099.160
- ☐ Other: _____

Anita Alexander
Signature

4-26-94
Date

94030974821

9310

LARRY SMITH FOR CONGRESS

P. O. BOX 6174
HOLLYWOOD, FLORIDA 33081

April 25 19 94 ⁶³⁻¹⁰⁵² 01
670

PAY
TO THE
ORDER OF

Federal Election Commission

\$ 5,000.-

DOLLARS

Five thousand and 00/100



Transflorida Bank

9100 GRIFFIN ROAD
COOPER CITY, FLORIDA 33328

[Signature]

FOR

⑈009310⑈ ⑆067010583⑆ 4011124501⑈

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

APR 26 2 45 PM '94

94030974822

APR 28 10 54 AM '94

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of)
Lawrence J. Smith) MUR 3538
Larry Smith for Congress and)
Joseph A. Epstein, as treasurer)

GENERAL COUNSEL'S REPORT

I. BACKGROUND

To assure conformance with the court's opinion in FEC v. NRA Political Victory Fund, et al., No. 91-5360 (D.C. Cir. Oct. 22, 1993), on March 11, 1994, the Commission re-voted its earlier reason to believe findings against Lawrence J. Smith and Larry Smith for Congress and Joseph A. Epstein, as treasurer (hereinafter, "Respondents"), on the basis of the allegations contained in a sua sponte submission and a complaint originally designated as MUR 3526.¹ Further, the Commission voted to enter into conciliation prior to a finding of probable cause to believe with Respondents on those issues, and approved conciliation agreements.

II. DISCUSSION

1. The Commission previously merged the two matters on June 24, 1992.

94030974823

Therefore, this Office recommends that the Commission accept the signed agreements of Lawrence J. Smith and Larry Smith for Congress and Joseph A. Epstein, as treasurer.

III. RECOMMENDATIONS

- (1) Accept the signed agreement of Lawrence J. Smith.
- (2) Accept the signed agreement of Larry Smith for Congress and Joseph A. Epstein, as treasurer.
- (3) Close the file.

Lawrence M. Noble
General Counsel

Date

4/26/94

BY:


Lois G. Lerner
Associate General Counsel

Attachments

1. A copy of the signed conciliation agreement from Lawrence J. Smith and a copy of the civil penalty check.
2. A copy of the signed conciliation agreement from Larry Smith for Congress and Joseph A. Epstein, as treasurer, and a copy of the civil penalty check.

Staff: Tonda M. Phalen

94030974824

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Lawrence J. Smith;) MUR 3538
Larry Smith for Congress and)
Joseph A. Epstein, as treasurer.)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on May 3, 1994, the Commission decided by a vote of 4-0 to take the following actions in MUR 3538:

1. Accept the signed agreement of Lawrence J. Smith, as recommended in the General Counsel's Report dated April 26, 1994.
2. Accept the signed agreement of Larry Smith for Congress and Joseph A. Epstein, as treasurer, as recommended in the General Counsel's Report dated April 26, 1994.
3. Close the file.

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

Attest:

5-4-94
Date

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

Received in the Secretariat: Thurs., April 28, 1994 10:54 a.m.
Circulated to the Commission: Thurs., April 28, 1994 4:00 p.m.
Deadline for vote: Tues., May 03, 1994 4:00 p.m.

bjr

94030974825



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MAY 10, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Earl Rodney
8600 NW South River Drive
Suite 101
Miami, FL 33166-7434

RE: MUR 3538

Dear Mr. Rodney:

This is in reference to the complaint you filed with the Federal Election Commission on May 20, 1992, concerning possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by Lawrence J. Smith, and Larry Smith for Congress and Joseph A. Epstein, as treasurer ("the Committee").

The Commission found that there was reason to believe Lawrence J. Smith knowingly and willfully violated 2 U.S.C. § 439a, a provision of the Act, and that the Committee violated 2 U.S.C. §§ 434(b) and 434(h), provisions of the Act. The Commission then conducted an investigation in this matter. On May 4, 1994, conciliation agreements signed by the respondents were accepted by the Commission. Accordingly, the Commission closed the file in this matter on the same day. Copies of these agreements are enclosed for your information.

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

Sincerely,

Tonda M. Phalen
Staff Attorney

Enclosures
Conciliation Agreements (2)

94030974826



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MAY 10, 1994

David M. Ifshin, Esq.
Ross & Hardies
888 Sixteenth Street, N.W.
Washington, D.C. 20006-4103

RE: MUR 3538

Dear Mr. Ifshin:

On May 4, 1994, the Federal Election Commission accepted the signed conciliation agreements and civil penalties submitted on your clients' behalf in settlement of violations of provisions of the Federal Election Campaign Act of 1971, as amended ("the Act").

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

Sincerely,

Tonda M. Phalen
Staff Attorney

Enclosures
Conciliation Agreements (2)

94030974827

APR 26 10 12 AM '94

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of
Lawrence J. Smith

)
) MUR 3538
)

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that Lawrence J. Smith violated 2 U.S.C. §§ 439a.

NOW, THEREFORE, the Commission and the Respondent, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent 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. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

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

1. Lawrence J. Smith served as a United States Congressman for the 16th Congressional District of Florida from 1982 through 1992, which includes the time period of the violations herein.

2. Larry Smith for Congress ("the Committee") is a

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

APR 26 2 26 PM '94

94030974828

political committee within the meaning of 2 U.S.C. § 431(4).

3. The Committee serves as the principal campaign committee for Lawrence J. Smith.

4. The Act prohibits conversion of excess campaign funds "by any person to any personal use, other than to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office." 2 U.S.C. § 439a. Commission regulations define "excess campaign funds" to mean amounts received by a candidate as contribution "which he or she determines" are in excess of the amounts necessary to defray campaign expenses. 11 C.F.R. § 113.1(e).

5. Commission regulations further state that a Congressional Member "who serves in the 103d Congress or a later Congress may not convert to personal use any excess campaign or donated funds, as of the first day of such service. 11 C.F.R. § 113.2(e)(5). Only "Grandfathered Members" (those in office on January 8, 1980) may convert an amount equal to the campaign's unobligated balance on hand as of November 30, 1989.

6. The Act addresses violations of law that are knowing and willful. See, 2 U.S.C. §§ 437g(a)(5)(C) and 437g(d). The phrase "knowing and willful" indicates that "actions [were] taken with full knowledge of all of the facts and a recognition that the action is prohibited by law." 122 Cong. Rec. H3778 (daily ed. May 3, 1976).

7. The knowing and willful standard requires knowledge that one is violating the law. Federal Election Commission v.

94030974829

John A. Dramesi for Congress Committee, 640 F. Supp. 985 (D. N.J. 1986). A knowing and willful violation may be established "by proof that the defendant acted deliberately and with knowledge that the representation was false." United States v. Hopkins, 916 F.2d 207, 214 (5th Cir. 1990). An inference of a knowing and willful violation may be drawn "from the defendants' elaborate scheme for disguising" their actions and that they "deliberately conveyed information they knew to be false to the Federal Election Commission." Id. at 214-15.

8. Sometime between September 7, 1990 and September 10, 1990, Respondent exchanged a check in the amount of \$10,000, which was written from the designated depository account of his principal campaign committee, for a check in the amount of \$10,000, which was written by Brian Berman to Respondent personally.

9. On September 14, 1990, Respondent endorsed the check from Brian Berman, converting it into two cashier's checks. One cashier's check in the amount of \$4,000 was made payable to Paradise Island Enterprises with "L.J. Smith" in the remitter line, as repayment of a gambling debt. The second cashier's check in the amount of \$6,000 was made payable to Respondent.

10. On October 18, 1990, Respondent cashed the cashier's check made payable to him by endorsement to Jack Russ, Sergeant at Arms, House of Representatives.

11. The \$10,000 was utilized by Respondent for personal, rather than Committee, expenses. Respondent does not qualify as

94030974830

a "Grandfathered Member" under Section 439a; thus, he is prohibited from converting any excess funds of his campaign committee to personal use.

12. Respondent caused another to provide false information in the Committee's reports to the Commission, in regards to the above transactions, by stating that the purpose of the \$10,000 disbursement by the Committee to Brian Berman was for "consulting," when in fact Respondent knew that the \$10,000 to Brian Berman was not for consulting, but rather was used to obtain campaign funds for personal use.

13. Respondent also provided false information to the Commission, in regards to the above transactions, in the form of a sua sponte submission for investigation, in which he stated that the \$10,000 check from the Committee to Brian Berman was a retainer fee for consulting services, and the \$10,000 check from Brian Berman to him personally was a refund of the retainer fee, when in fact Respondent knew that the \$10,000 check to Brian Berman was not for consulting, but rather was used to obtain campaign funds for personal use.

V. Respondent knowingly and willfully converted campaign funds to personal use, in violation of 2 U.S.C. § 439a.

VI. The Commission has determined that the appropriate civil penalty for Respondent's violation is twenty thousand dollars (\$20,000), pursuant to 2 U.S.C. § 437g(a)(5)(A). However, the Commission recognizes that unusual circumstances exist in this matter, e.g. Respondent's guilty plea, conviction,

94030974831

and time served for criminal violations concerning activities related to those outlined in this agreement; Respondent's long-term tax obligations under the criminal plea agreement; and, Respondent's felony suspension from law practice and resulting unemployment. Therefore, the Commission agrees to accept five thousand dollars (\$5,000), paid from Lawrence J. Smith's personal funds, as payment in full for Respondent's violation of 2 U.S.C. § 439a.

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.

IX. Respondent 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.

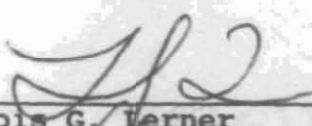
94030974832

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

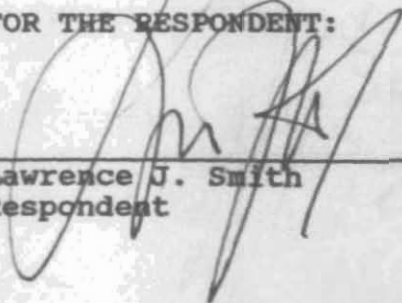
BY:


Lois G. Verner
Associate General Counsel

Date

5/6/94

FOR THE RESPONDENT:


Lawrence J. Smith
Respondent

Date

4/25/94

94030974833

APR 26 10 12 AM '94

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

) MUR 3538

Larry Smith for Congress and)
Joseph A. Epstein, as Treasurer)

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that Larry Smith for Congress and Joseph A. Epstein, as treasurer, violated 2 U.S.C. §§ 432(h) and 434(b).

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

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. Larry Smith for Congress ("the Committee") is the principal campaign committee for Lawrence J. Smith, who served as the United States Congressman for the 16th Congressional District

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

APR 26 2 45 PM '94

94030974834

of Florida from 1982 through 1992.

2. The Committee is a political committee within the meaning of 2 U.S.C. § 431(4).

3. Joseph A. Epstein is the treasurer of the Committee.

4. The Act requires accurate and timely reporting of all receipts to and disbursements from the political committee, including loans or repayment of loans. 2 U.S.C. § 434(b).

5. The Act requires that all campaign receipts be deposited into the designated campaign depository, in accordance with the Act and regulations. 2 U.S.C. § 432(h). All funds received must be deposited into the designated account within 10 days of receipt. 11 C.F.R. § 103.3. The Act requires that a candidate who receives any contribution or loan, or makes any disbursement, in connection with any campaign for federal office, does so as agent of his principal campaign committee. 2 U.S.C. § 432(e).

6. On October 15, 1990, Respondents reported a \$10,000 disbursement made on or about September 10, 1990, from the designated campaign account to Brian Berman with the stated purpose as "consulting." Respondents inaccurately reported to the Commission, in that they failed to report the true transaction involved in this disbursement.

7. Sometime between September 7, 1990 and September 10, 1990, Lawrence Smith exchanged a check in the amount of \$10,000, which was written from the designated depository account of the Committee, for a check in the amount of \$10,000, which was

94030974835

written by Brian Berman to Lawrence Smith personally.

8. On September 14, 1990, Lawrence Smith endorsed the check from Brian Berman, converting it into two cashier's checks. One cashier's check in the amount of \$4,000 was made payable to Paradise Island Enterprises with "L.J. Smith" in the remitter line, as repayment of a gambling debt. The second cashier's check in the amount of \$6,000 was made payable to Lawrence J. Smith. On October 18, 1990, Lawrence Smith cashed the \$6,000 cashier's check by endorsing it to Jack Russ, Sergeant at Arms, House of Representatives.

9. Lawrence Smith did not deposit the \$10,000 receipt into the designated campaign account of the Committee until April 27, 1992, after the Commission began its investigation of this matter.

V. 1. Respondents did not fully or properly report campaign disbursements, in violation of 2 U.S.C. § 434(b).

2. Respondents did not timely deposit all campaign receipts into the designated campaign depository, in violation of 2 U.S.C. § 432(h).

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

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

94030974836

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.

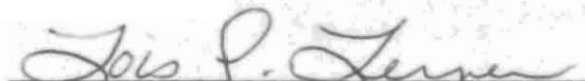
IX. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

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:

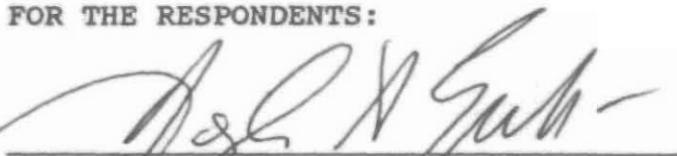
Lawrence M. Noble
General Counsel

BY:


Lois G. Lerner
Associate General Counsel

5/10/94
Date

FOR THE RESPONDENTS:


Joseph A. Epstein
Treasurer

4/25/94
Date

24030974837



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3538 Merged with 3526

DATE FILMED 5-25-91 CAMERA NO. 2

CAMERAMAN JMH

94030974838