



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 3970

DATE FILMED 2-7-95 CAMERA NO. 8

CAMERAMAN JMH

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AK005025

May 18, 1994

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

THROUGH: JOHN C. SURINA
STAFF DIRECTOR

FROM: ROBERT J. COSTA
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: CITIZENS FOR BACCHUS 92 - MATTERS REFERRAL TO THE
OFFICE OF GENERAL COUNSEL

On May 13, 1994, the Commissioners approved the final audit report on Citizens for Bacchus 92. The report contained the attached findings regarding the receipt of excessive contributions (Attachment 1) and failure to file 48 hour notices (Attachment 2). Both findings meet the threshold for referral to your office.

Workpapers and copies of the refund checks are available for your review if necessary. Should you have any questions regarding any matters in the referral, please contact Ray Lisi or Tom Hunter at 219-3720.

Attachments as stated

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Apparent Excessive Contributions

Section 441a(a)(1) of Title 2 of the United States Code states that no person shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$1,000.

Section 431(1)(A) of Title 2 of the United States Code defines, in part, "election" to include a general, special, primary, or run-off election.

The Committee maintained a record of contributions in a computerized database. Each record contained the contributor's name, address, the amount of the contribution, and a date. According to a Committee official, the information entered into the database was obtained from the contributor checks and/or solicitation devices received with the contributions. The Committee did not retain copies of the contributor's checks or solicitation devices once the information was entered onto the database. A Committee official stated that when entering the contributor information, the data entry staff was inconsistent with regard to entering the date of the contributions. In some instances it appeared the check date was entered, and at other times the deposit date was entered.

Our review of contributions recorded on the database identified 11 excessive contributions. These contributions exceeded the contributor's limitations by \$6,025 with regard to the primary election. (See Exhibit 1.)

The Audit staff did not find any evidence that the Committee attempted to reattribute or redesignate any of the contributions pursuant to Section 110.1(k)(3)(i) or Section 110.1(b)(5) of Title 11 of the Code of Federal Regulations.

At the exit conference, the Committee was provided with schedules detailing the excessive contributions. Committee officials stated that they were unaware that it was necessary to obtain redesignation letters for contributions to be redesignated to the general election. In addition, they stated that refunds of any excessive contributions would be made.

According to copies of refund checks provided by the Committee, refunds totaling \$4,525 ^{1/} were made on July 13, 1993, relative to 9 contributions. The Committee did not provide any

^{1/} The Committee refunded \$1,000 to one contributor although the excessive amount was only \$500.

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additional documentation on the 2 remaining excessive contributions totaling \$2,000.

In the interim audit report the Audit staff recommended that the Committee provide evidence that the remaining \$2,000 in unrefunded contributions were not excessive. Absent such evidence the audit staff recommended the Committee refund the excessive contributions and provide evidence of the negotiated refund checks (copies of front and back) for all refunded contributions for the Audit staff's review.

In response to the interim audit report, the Committee provided copies of negotiated refund checks for the 9 contributions totaling \$4525. In addition copies of the fronts of the 2 remaining refund checks totaling \$2,000 were also provided. In a letter which accompanied the check copies, the Committee's treasurer stated that copies of the two remaining negotiated refund checks would be provided once they become available.

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CITIZENS FOR BACCHUS 92
SCHEDULE OF APPARENT EXCESSIVE CONTRIBUTIONS

<u>Name of Contributor</u>	<u>Date of Contribution Recorded on Database</u>	<u>Amount of Contribution</u>	<u>Aggregate Amount</u>	<u>Excessive Portion</u>
Dawn Friedkin	6/18/91	\$1,000.00		
	6/19/91	\$1,000.00	\$2,000.00	\$1,000.00
Dan Richardson	1/14/92	\$ 500.00		
	5/18/92	\$ 500.00		
	8/21/92	\$ 200.00	\$1,200.00	\$ 200.00 */
William Goodman	6/1/91	\$ 500.00		
	7/3/91	\$ 500.00		
	12/7/91	\$1,000.00	\$2,000.00	\$1,000.00
William Wilson	7/1/91	\$1,000.00		
	12/2/91	\$ 250.00		
	8/24/92	\$ 250.00	\$1,500.00	\$ 500.00 */
Anil Deshpande	7/3/91	\$ 500.00		
	6/27/92	\$ 500.00		
	6/27/92	\$ 500.00	\$1,500.00	\$ 500.00 **/
Sammy Cacciatore	6/4/91	\$ 375.00		
	12/7/91	\$ 500.00		
	8/7/92	\$ 100.00		
	8/11/92	\$ 125.00	\$1,100.00	\$ 100.00 */
Morris Rowe	6/19/91	\$1,000.00		
	11/6/91	\$ 500.00		
	11/10/91	\$ 250.00		
	5/18/92	\$ 250.00	\$2,000.00	\$1,000.00 */

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ATTACHMENT 1
Exhibit 1
Page 2 of 2

<u>Name of Contributor</u>	<u>Date of Contribution Recorded on Database</u>	<u>Amount of Contribution</u>	<u>Aggregate Amount</u>	<u>Excessive Portion</u>
Carey Gleason	6/19/91	\$1,000.00		
	11/6/91	\$ 300.00	\$1,300.00	\$ 300.00 */
Jim Nance	6/4/91	\$ 375.00		
	12/8/91	\$1,000.00	\$1,375.00	\$ 375.00 */
Patricia Ambinder	6/11/92	\$1,750.00	\$1,750.00	\$ 750.00 */
William Gleason	6/19/91	\$1,000.00		
	11/5/91	\$ 300.00	\$1,300.00	\$ 300.00 */
TOTAL EXCESSIVE CONTRIBUTIONS				<u>\$6,025.00</u> */

*/ Refunded on 7/13/93

*/ \$1,000 Refunded on 7/13/93

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48 Hour Notification of Contributions

Section 104.5(f) of Title 11 of the Code of Federal Regulations states if any contribution of \$1,000 or more is received by any authorized committee of a candidate after the 20th day, but more than 48 hours before 12:01 a.m. of the day of the election, the principal campaign committee of that candidate shall notify the Commission within 48 hours of receipt of the contribution. The notification shall be in writing and shall include the name of the candidate and office sought by the candidate, the identification of the contributor, and the date of receipt and amount of the contribution. The notification shall be in addition to the reporting of these contributions on the post-election report.

Our review of the Committee's contributions from political committees and individuals identified 43 contributions totaling \$84,125 subject to the 48 hour notice requirements based on the date recorded in the database. (See Exhibit 1.) Of this amount the Committee failed to file any notices for 17 contributions totaling \$23,000. For the remaining 26 contributions totaling \$61,125 the Committee did file notices, however they were not filed within 48 hours of the date recorded on the database.

With respect to the primary election, the Committee filed six 48 hour contribution notices which were received 4 to 9 days after the date recorded on the database. In addition, the contribution date contained in the notices was not the date recorded on the database. In each case the date contained in the notice was later than the date recorded on the database giving the appearance of a timely notice. With respect to the general election, the Committee's notice was received November 6, 1992, and detailed 20 contributions totaling \$50,500. The notice did not contain the dates of the contributions, and was received between 11 and 23 days later than the dates recorded on the database.

At the exit conference, the Committee was provided with schedules detailing the irregularities. Subsequent to the completion of fieldwork, the Committee responded with the following explanation:

"Due to redistricting, the campaign office was moved to Cocoa, Florida. This is fifty miles away from the location of the original office and the bank we used for the campaign account. A new campaign post office box was opened in

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Cocoa, and we maintained the one in Orlando. Contributions were received through the Orlando box, the Cocoa box and at events directly. Checks were sent to the assistant treasurer by mail or by a staffer, if one was heading to Orlando.

Most of the 48 hour notices were made timely. Apparently some were not. The arrangement was cumbersome and resulted in delays. To ease the process, we did, for a short period of time, deposit monies in a Brevard County branch bank. However, we discontinued use of the Brevard account when back-up documents were not getting sent to the assistant treasurer with the deposit information.

We are taking steps to solve these problems, which were caused by the unexpected results of redistricting occurring well into the campaign. We have begun banking in Brevard County and are in the process of closing the Orlando post office box. Every effort will be made to fully comply with this requirement."

The Committee's contention that most of the 48 hour notices were filed timely is incorrect. As discussed above, of the 43 contributions subject to the 48 hour contribution notice requirements, based on the receipt date recorded on the database, 26 were not filed timely by the Committee. Also, the above response does not address the 17 contributions subject to the 48 hour contribution notice requirement which were not filed at all; why there were no dates on the notices filed for the general election; and why the dates on the six 48 hour notices filed for the primary election were different than the dates recorded on the database giving the appearance of a timely notice.

In the interim audit report, the Audit staff recommended that the Committee provide further explanations regarding the:

- o Failure to file 48 hour notices for 17 contributions totaling \$23,000;
- o late filing of notices for 26 contributions totaling \$61,125;
- o incorrect dates disclosed in the 48 hour notices filed for the primary election; and
- o absence of dates on the notice filed for the general election.

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In addition, the Audit staff recommended the Committee implement procedures to insure compliance with the 48 hour contribution notice requirements in the future.

In response to the interim audit report, the Committee's treasurer stated that steps have been taken to insure compliance with the 48 hour contribution notice requirements in the future. These steps include moving the committee's checking account and post office box closer to the campaign headquarters; the Committee's treasurer attending an FEC seminar to improve his understanding of the regulations; creating a standard form for recording the receipt of contributions which require 48 hour notice; establishing procedures to FAX the notices; and consolidating all fundraising data on computer in the Committee's campaign office.

The Committee treasurer further stated that there was no further explanation for the failure to file the required notices, however redistricting which required the candidate to both personally move and move his campaign headquarters contributed to the problem.

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CITIZENS FOR BACCHUS 92
SCHEDULE OF CONTRIBUTIONS SUBJECT TO 48 HOUR NOTICE

<u>Contributor Name</u>	<u>Date Recorded on Contribution Database</u>	<u>Dollar Amount of Contribution</u>
MEBA Political Action Fund	8/25/92	\$1,000.00 a/
AICPA PAC	8/25/92	\$1,000.00 a/
Mortgage Bankers PAC	8/26/92	\$1,000.00 a/
Service Employees PAC	8/26/92	\$1,000.00 a/
APSCME	8/28/92	\$1,000.00 a/
Kathryn Orfanporilas	8/26/92	\$1,000.00 a/
Edward Quinlan	8/27/92	\$1,000.00 a/
Rose Quinlan	8/27/92	\$1,000.00 a/
Janet Romagna	8/26/92	\$1,000.00 a/
Andre Shye	8/27/92	\$1,000.00 a/
Linda Wagner	8/26/92	\$1,000.00 a/
American Optometric Assn.	10/28/92	\$1,000.00 a/
Nat'l PAC, Inc.	10/28/92	\$1,000.00 a/
Machinists Nonpartisan Political League	10/29/92	\$5,000.00 a/
NARFE	10/29/92	\$3,000.00 a/
Rajin Chandra	10/20/92	\$1,000.00 a/
Mike Kopetski	10/28/92	\$1,000.00 a/
GTE Service Corp.	8/19/92	\$1,000.00 b/
Fire PAC	8/20/92	\$1,000.00 b/
First Union Employees Good Government Fund	8/21/92	\$2,000.00 b/
Laborers' Political Action League	8/26/92	\$1,000.00 b/
Sierra Club	8/25/92	\$2,000.00 b/
Realtors PAC	8/21/92	\$3,625.00 b/
Bankers Trust New York Corp. Political Action Committee	10/15/92	\$1,000.00 c/
AICPA PAC	10/15/92	\$1,000.00 c/
United Autoworkers	10/16/92	\$5,000.00 c/
United Steelworkers	10/16/92	\$5,000.00 c/
Transportation Political Education League	10/16/92	\$2,500.00 c/
Fire PAC	10/18/92	\$2,500.00 c/
The Morgan Co's PAC	10/18/92	\$1,500.00 c/
Political Participation Fund	10/18/92	\$1,000.00 c/
League of Conservative Voters	10/19/92	\$3,000.00 c/
Credit Union Legislative Action Council PAC	10/22/92	\$1,000.00 c/
US Sugar PAC	10/22/92	\$1,000.00 c/

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<u>Contributor Name</u>	<u>Date Recorded on Contribution Database</u>	<u>Dollar Amount of Contribution</u>
National Association of Letter Carriers	10/23/92	\$5,000.00 <u>c/</u>
Americans for Free International Trade PAC	10/23/92	\$2,000.00 <u>c/</u>
American Federation of Teachers	10/24/92	\$5,000.00 <u>c/</u>
PAC of the American Hospital Association	10/24/92	\$1,000.00 <u>c/</u>
Active Ballot Club UFCWU	10/26/92	\$5,000.00 <u>c/</u>
American Medical PAC	10/27/92	\$5,000.00 <u>c/</u>
Great Western PAC	10/27/92	\$1,000.00 <u>c/</u>
Michael Halpern	10/20/92	\$1,000.00 <u>c/</u>
Virginia Steele	10/20/92	\$1,000.00 <u>c/</u>

TOTAL \$84,125.00

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- a/ Notices not filed by the Committee
b/ Notices were untimely filed for the primary election
c/ Notices were untimely filed for the general election

FEDERAL ELECTION COMMISSION

999 E Street, N.W.
Washington, D.C. 20463

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

MUR 3970

Date Activated: May 18, 1994

Law Clerk: L. Raushenbush

SOURCE: INTERNALLY GENERATED

RESPONDENTS: Citizens for Bacchus '92 and Jack Oppenheimer,
as treasurer

RELEVANT STATUTES: 2 U.S.C. § 434(a)(6)(A)
2 U.S.C. § 438(b)
2 U.S.C. §§ 441(a)(1)(a) and (f)
11 C.F.R. § 103.3(b)(3)
11 C.F.R. § 104.5(f)

I. GENERATION OF MATTER

This matter was generated by an audit of Citizens for Bacchus '92 ("Committee"), undertaken in accordance with 2 U.S.C. § 438(b).^{1/} Jack Oppenheimer is treasurer of the Committee. The Audit Division's referral of matters from the audit is attached. Attachment 1.

II. FACTUAL AND LEGAL ANALYSIS

A. Excessive Contributions

The Federal Election Campaign Act of 1971, as amended ("the Act"), provides that no person may make contributions to any candidate and his or her authorized political committees with respect to any election for Federal office which, in the

^{1/} James L. Bacchus won the 1992 General Election in the 15th Congressional District in the State of Florida with 51 percent of the vote.

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The Audit Division reviewed contributions made to the Committee and identified eleven contributions to the Committee which exceeded the contributors' limitations by a total of \$6,025. The contributions were made between June 4, 1991 and October 24, 1992. At the exit conference, the Committee was

presented with schedules detailing the excessive contributions, and the Committee stated that refunds of the excessive contributions would be made. Refunds totaling \$4,525 for nine of the eleven excessive contributions were made on July 13, 1993. Attachment 1 at 2. In addition, by May 26, 1994, refunds had been made with regard to the remaining \$2,000 in excessive contributions. Attachment 1 at 12. Thus, the Committee has refunded all of the excessive contributions apparently made to it during the period subject to audit review, but failed to do so in a timely manner pursuant to 11 C.F.R. § 103.3(a)(3). Accordingly, there is reason to believe Citizens for Bacchus '92 and Jack Oppenheimer, as treasurer, violated 2 U.S.C. § 441a(f) by accepting \$6,025 in excessive contributions.

B. Failure to File 48 Hour Disclosure Notices

The Act requires campaign committees of candidates for federal office to notify in writing either the Secretary of the Senate, the Clerk of the U.S. House of Representatives or the Commission, and the Secretary of State, as appropriate, of each contribution totaling \$1,000 or more, received by any authorized committee of the candidate after the 20th day but more than 48 hours before any election. 2 U.S.C. § 434(a)(6)(A); 11 C.F.R. § 104.5. The Act further requires notification to be made within 48 hours after the receipt of the contribution and to include the name of the candidate and office sought, the date of receipt, the amount of the contribution, and the identification of the contributor. Id.

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The notification of these contributions shall be in addition to all other reporting requirements. 2 U.S.C. § 434(a)(6)(B).

The Primary and the General Elections in the state of Florida were held on September 1, 1992 and November 3, 1992, respectively. Pursuant to the Act, the Committee was required to notify the Commission, in writing, of all contributions of \$1,000 or more received from August 12 to August 29, 1992, and October 14 to October 31, 1992, within 48 hours of their receipt. A review of the Committee's 1992 Year End Report identified 43 contributions of \$1,000 or more that were received during the 48 hour filing period for which the Committee did not submit timely 48 Hour Notices.^{3/}

When the Committee was provided with schedules during the exit conference detailing the irregularities, the Committee offered in explanation that redistricting, which required relocation of the campaign office, affected the Committee's ability to timely file the notices. However, the Committee failed to explain why notices were not filed at all for 17 of the contributions. Attachment 1 at 7.

Based on the foregoing discussion, there is reason to believe that Citizens for Bacchus '92 and Jack Oppenheimer, as treasurer violated 2 U.S.C. § 434(a)(6)(A) by failing to report 43 campaign contributions of \$1,000 or more, received after the

^{3/} The 43 contributions at issue totalled \$84,125. The Committee failed to file any notices for 17 of the 43 contributions totalling \$23,000. The Committee filed untimely notices for the other 26 contributions: six, totalling \$10,625, in connection with the primary election; and 20, totalling \$50,500, in connection with the general election.

20th day, but more than 48 hours before the primary/general election, within 48 hours of receipt of the contributions.

Attachment 1 at 6.

IV. DISCUSSION OF CONCILIATION AND CIVIL REMEDY

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V. **RECOMMENDATIONS**

1. Find reason to believe that Citizens for Bacchus '92 and Jack Oppenheimer, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(a)(6)(A).
2. Enter into conciliation prior to a finding of probable cause to believe with Citizens for Bacchus '92 and Jack Oppenheimer, as treasurer.
3. Approve the attached Factual and Legal Analysis, proposed conciliation agreement, and the appropriate letter.

Lawrence M. Noble
General Counsel

11/9/94
Date

BY:

Kim Bright-Coleman
Kim Bright-Coleman
Associate General Counsel

Attachments:

1. Referral Materials/Supplemental information furnished by Committee.
2. Factual and Legal Analysis
3. Proposed Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 3970
Citizens for Bacchus '92 and Jack)
Oppenheimer, as treasurer.)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on November 15, 1994, the Commission decided by a vote of 6-0 to take the following actions in MUR 3970:

1. Find reason to believe that Citizens for Bacchus '92 and Jack Oppenheimer, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(a)(6)(A).
2. Enter into conciliation prior to a finding of probable cause to believe with Citizens for Bacchus '92 and Jack Oppenheimer, as treasurer.
3. Approve the Factual and Legal Analysis, proposed conciliation agreement, and the appropriate letter, as recommended in the General Counsel's Report dated November 9, 1994.

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

Attest:

11-16-94
Date

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

Received in the Secretariat: Wed., Nov. 09, 1994 3:42 p.m.
Circulated to the Commission: Thurs., Nov. 10, 1994 12:00 p.m.
Deadline for vote: Wed., Nov. 16, 1994 4:00 p.m.

bjr

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 28, 1994

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Jack Oppenheimer, Treasurer
Citizens for Bacchus '92
P.O. Box 531146
Orlando, FL 32853

RE: MUR 3970
Citizens for Bacchus '92 and Jack
Oppenheimer, as treasurer.

Dear Mr. Oppenheimer:

On November 15, 1994, the Federal Election Commission found that there is reason to believe Citizens for Bacchus '92 ("Committee") and you, as treasurer, violated 2 U.S.C. §441a(f) and 434(a)(6)(A), 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.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

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

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

Letter to Jack Oppenheimer
Page 2

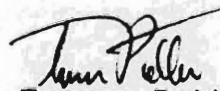
Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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

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

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

For the Commission,


Trevor Potter
Chairman

Enclosures

Factual and Legal Analysis
Procedures
Designation of Counsel Form
Conciliation Agreement

cc: Representative James L. Bacchus
432 Congressional House Office Building
Washington, D.C. 20515-0915

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**FEDERAL ELECTION COMMISSION
FACTUAL & LEGAL ANALYSIS**

MUR 3970

RESPONDENTS: Citizens for Bacchus '92 and
Jack Oppenheimer, as treasurer.

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

I. EXCESSIVE CONTRIBUTIONS

The Federal Election Campaign Act of 1971, as amended ("the Act"), provides that no person may make contributions to any candidate and his or her authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$1,000. 2 U.S.C. § 441a(a)(1)(A). The Act prohibits candidates and their political committees from knowingly accepting any contributions in excess of the Section 441a(a) limitations. 2 U.S.C. § 441a(f). Pursuant to 11 C.F.R. § 103.3(b), the treasurer of a political committee shall be responsible for examining all contributions received for evidence of illegality and for ascertaining whether the contribution, when aggregated with other contributions from the same contributor, exceeds the contribution limitations. Contributions which on their face exceed the contribution limitations of the Act, and contributions which do not exceed the limits on their face but which exceed the contribution limits when aggregated with other contributions from the same contributor, may

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either be deposited into a campaign depository or returned to the contributor. 11 C.F.R. § 103.3(b)(3). If a redesignation or reattribution is not obtained, the treasurer shall, within sixty (60) days of the treasurer's receipt of the contribution, refund the contribution to the contributor. Id. The Audit Division found that eleven individuals made contributions in excess of their individual contribution limitations, as set forth below.

<u>Contributor</u>	<u>Contribution Date</u>	<u>Amount</u>	<u>Excessive Portion</u>
Dawn Friedkin	June 18, 1991	\$1,000	
	June 19, 1991	\$1,000	\$1,000
Dan Richardson	January 14, 1992	\$500	
	May 18, 1992	\$500	
	August 21, 1992	\$200	\$200
William Goodman	June 1, 1991	\$500	
	July 3, 1991	\$500	
	December 7, 1991	\$1,000	\$1,000
William Wilson	July 1, 1991	\$1,000	
	December 7, 1991	\$250	
	August 24, 1992	\$250	\$500
Anil Deshpande	July 3, 1991	\$500	
	June 27, 1992	\$500	
	June 27, 1992	\$500	\$500
Sammy Cacciatore	June 4, 1991	\$375	
	December 7, 1991	\$500	
	August 7, 1992	\$100	
	August 11, 1992	\$125	\$100
Morris Rowe	June 19, 1991	\$1,000	
	November 6, 1991	\$500	
	November 10, 1991	\$250	
	May 18, 1992	\$250	\$1,000
Carey Gleason	June 19, 1991	\$1,000	
	November 6, 1991	\$300	\$300
Jim Nance	June 4, 1991	\$375	
	December 8, 1991	\$1,000	\$375

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Patricia Ambinder	June 11, 1991	\$1,750	\$750
William Gleason	June 19, 1991	\$1,000	
	November 5, 1991	\$300	\$300 ¹

Each contribution was signed only by the individual contributor and the excessive portions of the contributions were not refunded, properly reattributed or redesignated in a timely manner by the Committee. Therefore, there is reason to believe that the Citizens for Bacchus '92 and Jack Oppenheimer, as treasurer, accepted excessive contributions totalling \$6,025 in violation of 2 U.S.C. § 441a(f).

B. Failure to File 48 Hour Disclosure Notices

The Act requires principle campaign committees of candidates for federal office to notify in writing either the Secretary of the Senate, the Clerk of the U.S. House of Representatives or the Commission, as appropriate, and the Secretary of State, of each contribution totaling \$1,000 or more, received by any authorized committee of the candidate after the 20th day but more than 48 hours before any election. 2 U.S.C. § 434(a)(6)(A). The Act further requires notification to be made within 48 hours after the receipt of the contribution and to include the name of the candidate and office sought, the date of receipt, the amount of the contribution, and the identification of the contributor. Id. The notification of these contributions shall be in addition to all other reporting requirements. 2 U.S.C. § 434(a)(6)(B).

1. According to copies of refund checks provided by the Committee, nine out of eleven contributions totalling \$4,025 were refunded by July 13, 1993. The remaining two excessive contributions were refunded by May 26, 1994.

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In the state of Florida, the Primary election was held on September 1, 1992, and the General Election was held on November 3, 1992. Pursuant to the Act, the Respondents were required to notify the Commission, in writing, of all contributions of \$1,000 or more received from August 12, and August 29, 1992 and October 14, and October 31, 1992, within 48 hours of their receipt. A review of the Committee's 1992 Year End Report identified a failure to file 17 contributions received during the filing period, totalling \$23,000. In addition, notices were filed late for 26 contributions totalling \$61,125. The Committee, therefore, failed to submit 48 Hour Notices for a total of \$84,125 in contributions.

When the Committee was provided with schedules during the exit conference detailing the irregularities, the Committee offered in explanation that redistricting, which required relocation of the campaign office, affected the Committee's ability to timely file the notices. However, the Committee failed to explain why notices were not filed at all for 17 out of 48 of the contributions.

Based on the foregoing, there is reason to believe that Citizens for Bacchus '92 and Jack Oppeheimer, as treasurer violated 2 U.S.C. § 434(a)(6)(A) by failing to report campaign contributions of \$1,000 or more, received after the 20th day, but more than 48 hours before the general election, within 48 hours of receipt of the contributions in the amount of \$84,125.

BEFORE THE FEDERAL ELECTION COMMISSION

DEC 21 4 15 PM '94

In the Matter of)

Citizens for Bacchus '92)
and Jack Oppenheimer, as)
treasurer.)

MUR 3970

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On November 15, 1994, the Commission found that there is reason to believe Citizens for Bacchus '92 ("Committee") and Jack Oppenheimer, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(a)(6)(A). At that time, the Commission also determined to enter into conciliation with the Committee prior to a finding of probable cause to believe.

II. DISCUSSION

Respondents do not dispute that the Committee accepted eleven contributions which exceeded the contributors' limitations by a total of \$6,025,^{1/} nor do they dispute that the Committee failed to file timely 48 hour notices for 43 contributions of \$1,000 or more that were received during the 48 hour filing period. Respondents state, however, that redistricting late in the 1992 campaign temporarily resulted in the Committee having

^{1/} All the excessive contributions have been refunded by the Committee.

multiple offices and post office boxes which affected the Committee's ability to file timely the 48 hour notices at issue. See Attachment 2. We note, in addition, that Respondents have cooperated fully throughout the audit and enforcement processes.

III. RECOMMENDATIONS

1. Accept the attached conciliation agreement with Citizens for Bacchus '92 and Jack Oppenheimer, as treasurer.
2. Close the file.

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3. Approve the appropriate letter.

Lawrence M. Noble
General Counsel

12/21/94
Date

BY: Kim Bright-Coleman (by HEP)
Kim Bright-Coleman
Associate General Counsel

Attachments

1. Conciliation Agreement
2. Response of Respondent dated December 9, 1994.

Staff Assigned: Lorraine E. Raushenbush

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 3970
Citizens for Bacchus '92 and)
Jack Oppenheimer, as treasurer.)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on January 5, 1995, the Commission decided by a vote of 6-0 to take the following actions in MUR 3970:

1. Accept the conciliation agreement with Citizens for Bacchus '92 and Jack Oppenheimer, as treasurer, as recommended in the General Counsel's Report dated December 21, 1994.
2. Close the file.
3. Approve the appropriate letter, as recommended in the General Counsel's Report dated December 21, 1994.

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

Attest:

1-6-95
Date

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

Received in the Secretariat: Wed., Dec. 21, 1994 4:13 p.m.
Circulated to the Commission: Thurs., Dec. 22, 1994 11:00 a.m.
Deadline for vote: Thurs., Jan. 05, 1995 4:00 p.m.

bjr

25043624913



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 19, 1995

Linda Hennessee
1184 N. Pitt Street, #3
Alexandria, VA 22314

RE: MUR 3970

Dear Ms. Hennessee:

On January 5, 1995, the Federal Election Commission accepted the signed conciliation agreement submitted on your client's behalf in settlement of a violation of 2 U.S.C. § 434(a)(6)(A) and 441(a)(1)(a), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). Accordingly, the file has been closed in this matter.

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

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

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the

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Letter to Linda Hennessee
Page 2

civil penalty is due within 30 days of the conciliation
agreement's effective date. If you have any questions, please
contact me at (202) 219-3690.

Sincerely,



Lorraine E. Raushenbush
Attorney

Enclosure

25043624975

BEFORE THE FEDERAL ELECTION COMMISSION

DEC 11 9 19 AM '94

In the Matter of)
)
Citizens for Bacchus '92 and) MUR 3970
Jack Oppenheimer, 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 Citizens for Bacchus '92 and Jack Oppenheimer, as treasurer ("Respondents"), violated 2 U.S.C. §§ 434(a)(6)(A) and 441(a)(1)(a).

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. Citizens for Bacchus '92 is a political committee within the meaning of 2 U.S.C. § 431(4), and is the authorized principal campaign committee for James L. Bacchus's 1992 congressional

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campaign.

2. Jack Oppenheimer is the treasurer of the Citizens for Bacchus Committee.

Failure To File 48 Hour Disclosure Notice

3. The Federal Election Campaign Act of 1971, as amended ("the Act"), requires principal campaign committees of candidates for federal office to notify in writing either the Secretary of the Senate, the Clerk of the U.S. House of Representatives or the Commission, as appropriate, and the Secretary of State, of each contribution totaling \$1,000 or more, received by any authorized committee of the candidate after the 20th day but more than 48 hours before any election. 2 U.S.C. § 434(a)(6)(A). The Act further requires notification to be made within 48 hours after the receipt of the contribution and to include the name of the candidate and office sought, the date of receipt, the amount of the contribution, and the identification of the contributor. Id. The notification of these contributions shall be in addition to all other reporting requirements. 2 U.S.C. § 434(a)(6)(B).

4. Between August 12-29, 1992 and October 14-31, 1992, Respondents received 43 contributions of \$1,000 or more totalling \$84,125. Respondents did not file timely 48 Hour Notices for these contributions.

Excessive Contributions

5. The Act provides that no person may make contributions to any candidate and his or her authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$1,000. 2 U.S.C. § 441a(a)(1)(A). The Act

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prohibits candidates and their political committees from knowingly accepting any contributions in excess of the Section 441a(a) limitations. 2 U.S.C. § 441a(f). The treasurer of a political committee shall be responsible for evidence of illegality and for ascertaining whether the contributions, when aggregated with other contributions from the same contributor, exceed the contribution limitations of the Act and contributions which do not exceed the limits on their face but which exceed the contribution limits when aggregated with other contributions from the same contributor may either be deposited into a campaign depository or returned to the contributor. 11 C.F.R. § 103.3(b)(3).

6. Between June 4, 1991 and October 24, 1992, Respondents accepted \$6,025 in contributions from eleven individuals in excess of their individual contribution limitations.

V. 1. Respondents violated 2 U.S.C. 434(a)(b)(A) by failing to report forty-three campaign contributions of \$1,000 or more received after the 20th day, but more than 48 hours before the general election, within 48 hours of receipt of the contributions.

2. Respondents violated 2 U.S.C. § 441a(a)(1)(A) by accepting \$6,025 in excessive contributions from eleven individuals.

VI. Respondents will pay a civil penalty ⁹⁵⁰⁰ to the Federal Election Commission in the amount of 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.

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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. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirement 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:

Kim Bright-Coleman
Kim Bright-Coleman
Associate General Counsel

1/19/95
Date

FOR THE RESPONDENTS:

Linda D. Whnessee
(Name)
(Position)

12/13/94
Date

25943624919



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Rosa
Rauschenbush

Jan 31, 1995

Feb 1
Jan 31 2 32 PM '95

TWO WAY MEMORANDUM

TO: OGC, Docket

FROM: Rosa E. Swinton
Accounting Technician

SUBJECT: Account Determination for Funds Received

We recently received a check from *Citizens for Bacchus*
for 1994 Campaign Act, check number *384*, dated *1/23/95*, and in the amount of *\$9,500.00*.
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: Rosa E. Swinton
Accounting Technician

FROM: OGC, Docket *By aa*

In reference to the above check in the amount of
\$9,500.00, the MUR number is *3970* and in the name of
Citizens for Bacchus '92. 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

2-02-95
Date

05013624930

CITIZENS FOR BACCHUS FOR 1994
CAMPAIGN ACCOUNT
P.O. BOX 361235
MELBOURNE, FL 32936

384

PAY TO THE
ORDER OF

Federal Election Commission

1/23

19 95

63-319/631
14

\$ *9500*⁰⁰/₁₀₀

Ninety five hundred and 00/100

DOLLARS



887-019
430 Shevard Avenue
Cocoa, Florida 32922-7000

FOR

Rada H. Hennessey

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©CLARK HARRIS



FEDERAL ELECTION COMMISSION

WASHINGTON D C 20463

THIS IS THE END OF MUR # 3970

DATE FILMED 2-7-95 CAMERA NO. 2

CAMERAMAN JMH

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