



FEDERAL ELECTION COMMISSION

WASHINGTON D.C. 20463

THIS IS THE BEGINNING OF MUR # 4147

DATE FILMED 8/23/95 CAMERA NO. 1

CAMERAMAN SES

95043664913

SUMNER R. WAITE
1348 N. Hunterston Pt.
Crystal River, FL 34429

November 4, 1994

Office of General Counsel
Federal Election Commission
Washington, DC 20463

MUR 4147

Nov 10 11 40 AM '94

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

Gentlemen,

This complaint is submitted by the writer based solely on a report made at a public meeting and subsequent conversations with persons that advised the writer they had been in attendance at the time of violation. However, from information they provided, your commission by a slight deviation from your normal sequencing can obtain written documentation.

The violation that occurred was the improper acceptance by Rep. Karen Thurman of a Corporate "in kind" donation by United Parcel Service a Corporation doing business in the State of Florida.

1. Monday October 24, 1994 Rep. Thurman scheduled a campaign visit and speech at the UPS processing facility in Brooksville, FL at the invitation of UPS.

2. UPS directed it's drivers at this facility to report 15 minutes ahead of their normal start time and to attend the speech. The drivers were advised that the 15 minutes would be paid at overtime rate.

3. During the aforementioned meeting a female UPS executive, from other than the Brooksville facility, was overheard to comment "we always give an advantage to an incumbent" (approx. quote). Such a statement, when verified by the commission will be prima facie that UPS willfully, deliberately, and with knowledge aforethought decided to violate Federal Law regarding giving of Corporate Assets (drivers paid time) to the benefit of a Congressional candidate.

It is the writer's position that both Rep. Thurman (by knowingly accepting the donation of the drivers time) and UPS by their providing of the drivers time have equally violated Federal Law regarding campaign donations. Since there is no way in which this violation can be mitigated in time to equalize the position of both candidates in this Congressional race, a fine would be in order for both parties in the amount of the improper payments made, tripled for punitive damages owing to the willfulness involved.

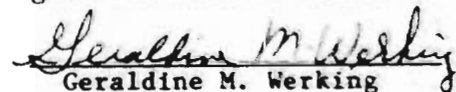
If the Commission will modify their procedure to include a subpoena for the timecards for the above date (to prevent destruction thereof) at the same time as the submission a copy of this letter to UPS (respondent) it will produce the written records needed to carry out the Commission's resolution of this matter.

Sincerely,

State Of Florida
County of Citrus

Signed and Sworn to before me


GERALDINE M. WERKING
Notary Public, State of Florida
My comm. expires Sept 23, 1995
Comm. No. CC 145684


Geraldine M. Werking

95043664974



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 15, 1994

Sumner R. Waite
1348 N. Hunterston Pt.
Crystal River, FL 34429

Dear Mr. Waite:

This is in response to your letter dated November 4, 1994, alleging violations of the Federal Election Campaign Act of 1971, as amended ("the Act") by United Parcel Service and Representative Karen Thurman.

The Act requires that all complaints be signed and sworn to in the presence of a notary public, and notarized. Although your complaint was sworn to and notarized, the notary public failed to affix her notary seal. Florida State law requires that the notary's seal be affixed to all notarized documents. Under Florida State law, the seal must be of rubber stamp, include the notary public's name, date of expiration of commission, and commission number.

We regret the inconvenience that these requirements may cause you, but we are not statutorily empowered to proceed with the handling of a compliance action unless all the statutory requirements are fulfilled. See 2 U.S.C. § 437g.

Please note that this matter will remain confidential for a 15 day period to allow you to correct the defects in your complaint. If the complaint is corrected and refiled within the 15 day period, the respondents will be so informed and provided a copy of the corrected complaint. The respondents will then have an additional 15 days to respond to the complaint on the merits. If the complaint is not corrected, the file will be closed and no additional notification will be provided to the respondents.

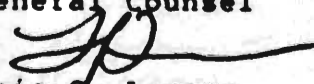
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Sumner Waite
Page 2

If you have any questions concerning this matter, please
contact Maura Callaway at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel



BY: Lois G. Lerner
Associate General Counsel

cc: United Parcel Service
The Honorable Karen Thurman

950436649 / 6

SUMNER R. WAITE
1348 N. Hunterston Pt.
Crystal River, FL 34429

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

November 4, 1994

Office of General Counsel
Federal Election Commission
Washington, DC 20463

MUR 25191597AM '94

SENSITIVE

Gentlemen,

This complaint is submitted by the writer based solely on a report made at a public meeting and subsequent conversations with persons that advised the writer they had been in attendance at the time of violation. However, from information they provided, your commission by a slight deviation from your normal sequencing can obtain written documentation.

The violation that occurred was the improper acceptance by Rep. Karen Thurman of a Corporate "in kind" donation by United Parcel Service a Corporation doing business in the State of Florida.

1. Monday October 24, 1994 Rep. Thurman scheduled a campaign visit and speech at the UPS processing facility in Brooksville, FL at the invitation of UPS.

2. UPS directed it's drivers at this facility to report 15 minutes ahead of their normal start time and to attend the speech. The drivers were advised that the 15 minutes would be paid at overtime rate.

3. During the aforementioned meeting a female UPS executive, from other than the Brooksville facility, was overheard to comment "we always give an advantage to an incumbent" (approx. quote). Such a statement, when verified by the commission will be prima facie that UPS willfully, deliberately, and with knowledge aforethought decided to violate Federal Law regarding giving of Corporate Assets (drivers paid time) to the benefit of a Congressional candidate.

It is the writer's position that both Rep. Thurman (by knowingly accepting the donation of the drivers time) and UPS by their providing of the drivers time have equally violated Federal Law regarding campaign donations. Since there is no way in which this violation can be mitigated in time to equalize the position of both candidates in this Congressional race, a fine would be in order for both parties in the amount of the improper payments made, tripled for punitive damages owing to the willfulness involved.

If the Commission will modify their procedure to include a subpoena for the timecards for the above date (to prevent destruction thereof) at the same time as the submission a copy of this letter to UPS (respondent) it will produce the written records needed to carry out the Commission's resolution of this matter.

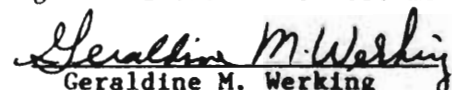
Sincerely,



GERALDINE M. WERKING
Notary Public, State of Florida
My comm. expires Sept. 23, 1995
Comm. No. CC 145684

State Of Florida
County of Citrus

Signed and Sworn to before me


Geraldine M. Werking

95043664917



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20461

November 25, 1994

Sumner R. Waite
1348 N. Hunterston Pt.
Crystal River, FL 34429

RE: MUR 4147

Dear Mr. Waite:

You recently received a letter from the Federal Election Commission, dated November 15, 1994, acknowledging receipt of your November 4, 1994, submission alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). The letter indicated that your submission did not meet the statutory requirements for a complaint because it lacked the required notary seal. Upon further review, it has been determined that your letter was properly notarized under applicable Florida state law and, as such, your submission does meet the statutory requirements for a proper complaint. The respondent(s) will be notified of the complaint within five days.

Your letter requests that the Commission include a subpoena for documents with the complaint notification to United Parcel Service, Inc. ("UPS"). The Commission does not have the authority to open an investigation of a complaint, including issuing subpoenas, until reason to believe findings are made. 2 U.S.C § 437g(a)(a) requires that respondents be given 15 days to respond prior to the Commission making any such findings in a complaint. As such, the Commission does not have the authority to issue subpoenas with initial complaint notification letters.

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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 4147. Please refer to this number in all future communications. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosure
Procedures

95043664979



FEDERAL ELECTION COMMISSION
WASHINGTON DC 20461

November 25, 1994

CT Corporation System, Registered Agent
United Parcel Service, Inc.
1200 South Pine Island Road
Plantation, FL 33324

RE: MUR 4147

Dear Sir or Madam:

The Federal Election Commission received a complaint which indicates that United Parcel Service, Inc. 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 4147. Please refer to this number in all future correspondence.

United Parcel Service, Inc. previously received a copy of the complaint and a letter from the Federal Election Commission, dated November 15, 1994, to Sumner R. Waite, the complainant, which indicated that his November 4, 1994, letter did not meet the statutory requirements for a complaint. Upon further review, it has been determined that the submission was properly notarized under applicable Florida state law and, as such, meets the requirements for a proper complaint.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against United Parcel Service, Inc. 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.

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The complainant requested that the Commission include a subpoena for documents with this complaint notification. The Commission does not have the authority to open an investigation of a complaint, including issuing subpoenas, until reason to believe findings are made. 2 U.S.C § 437g(a)(a) requires that respondents be given 15 days to respond prior to the Commission making any such findings in a complaint. As such, the Commission does not have the authority to issue subpoenas at this point in the process.

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

If you have any questions, please contact Joan McEnery at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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



FEDERAL ELECTION COMMISSION

WASHINGTON DC 20463

November 25, 1994

Joseph Matus, Treasurer
Thurman for Congress
P.O. Box 5058
Gainesville, FL 34450

RE: MUR 4147

Dear Mr. Matus:

The Federal Election Commission received a complaint which indicates that Thurman for Congress ("Committee") and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4147. 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.

95043664982

If you have any questions, please contact Joan McEnery at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

95043664933



FEDERAL ELECTION COMMISSION

WASHINGTON D.C. 20461

November 25, 1994

**Representative Karen Thurman
12097 Palmetto Way
Dunnellon, FL 34430**

RE: MUR 4147

Dear Ms. Thurman:

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 4147. Please refer to this number in all future correspondence.

You previously received a copy of the complaint and a letter from the Federal Election Commission, dated November 15, 1994, to Sumner R. Waite, the complainant, which indicated that his November 4, 1994, letter did not meet the statutory requirements for a complaint. Upon further review, it has been determined that the submission was properly notarized under applicable Florida state law and, as such, meets the requirements for a proper complaint.

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.

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

If you have any questions, please contact Joan McEnery at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

WILEY, REIN & FIELDING

1776 K STREET, N.W.
WASHINGTON, D. C. 20006
(202) 429-7000

JAN WITOLD BARAN
(202) 429-7330

December 7, 1994

FACSIMILE
(202) 429-7049
TELEX 248349 WYRN UR

Mary L. Taksar, Esq.
Central Enforcement Docket
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 4147 (United Parcel Service of
America, Inc.)

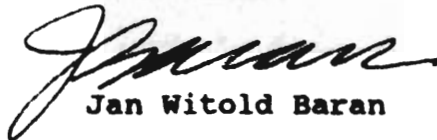
Dear Ms. Taksar:

This office represents United Parcel Service of America, Inc. of Atlanta, Georgia (hereafter "UPS"). Enclosed please find an executed Statement of Designation of Counsel form confirming our representation.

Your November 15, 1994, letter to CT Corporation System, Registered Agent for UPS, was referred to and received by our client on November 28, 1994. I respectfully request an extension of twenty (20) days up to and including January 20, 1995, within which to file a response on behalf of UPS. The extension is necessary in order for me to consult with our client and to obtain information relevant to the response. Various national and religious holiday schedules also contribute to the need for an extension.

Your favorable consideration of this request will be appreciated.

Sincerely,


Jan Witold Baran

Encl.

cc: Mr. Thomas W. Delbrook

DEC 8 1 41 PM '94

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FEDERAL ELECTION
COMMISSION
OFFICE OF CLERICAL

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STATEMENT OF DESIGNATION OF COUNSEL

NR 4147

NAME OF COUNSEL: Jan Witold Baran, Esq.

ADDRESS: Wiley, Rein & Fielding

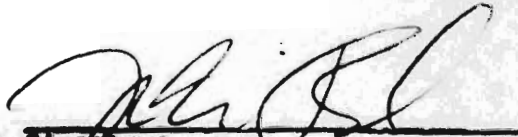
1776 K Street, N.W.

Washington, D.C. 20006

TELEPHONE: (202) 429-7330

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 _____


Signature
THOMAS W. DELBROOK
ASSISTANT SECRETARY

RESPONDENT'S NAME: United Parcel Service of America, Inc.

ADDRESS: _____

HOME PHONE: _____
BUSINESS PHONE: _____

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

December 9, 1994

Mr. Jan Baran
Wiley, Rein & Fielding
1776 K St., N.W.
Washington, D.C. 20006

RE: MUR 4147

Dear Mr. Baran:

This is in response to your letter dated December 7, 1994, which we received on December 8, 1994, requesting an extension of twenty days until January 20, 1994 to respond to the complaint filed against your client United Parcel Service of America, Inc.. 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 January 20, 1994.

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

Sincerely,

Mary Taksar

Mary Taksar, Attorney
Central Enforcement Docket

95043664988

Karen L. Thurman
9067 SE 190th Avenue Road
Dunnellon, Florida 34432

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

DEC 12 12 33 PM '94

December 9, 1994

Ms. Mary L. Taksar, Attorney
Central Enforcement Docket
Federal Election Commission
Washington, D. C. 20463

RE: MUR 4147

Dear Ms. Taksar:

Please let this letter serve as notice that I specifically dispute the portions of the complaint which suggest that: (1) my visit to the UPS facility in Brooksville, Florida, was of a campaign nature; and (2) that I knowingly accepted the UPS drivers' time with the awareness that they were being compensated.

At no time during my visit to the Brooksville facility on October 24, 1994, was my candidacy, nor any other candidate for the 5th Congressional District mentioned. No materials promoting my candidacy were distributed, nor in evidence. I did not at any time solicit support for my candidacy. My visit to the facility consisted of a tour of the office area, a talk with the employees and a tour of the loading dock.

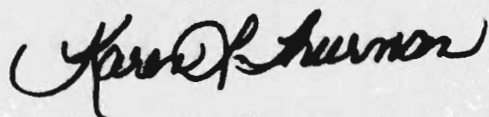
My talk with the UPS employees consisted of a discussion of legislation considered in the 103rd Congress which was pertinent to the local community and a question and answer period. Prior to my invitation to visit the Brooksville facility, on October 24, 1994, I twice was invited and visited another UPS facility within the 5th District. The first occasion was on Monday, April 12, 1994, and the second was on Wednesday, June 28, 1994. My October 24, 1994, visit, like the previous two, was a part of my job as a U. S. Representative. My discussion with this group differed in no way to that which I have with a chamber of commerce, a civic association or students in a public classroom.

At no time was I aware that the UPS employees may have been compensated for their attendance. I did not knowingly accept the donation of the employees' time because my attendance was solely in the conduct of my job as a U. S. Representative, which was to provide information about legislative issues.

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Please note the change in my address as listed above. I stand ready to provide any additional information the Commission may require.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Karen L. Thurman".

Karen L. Thurman

95043664220

WILEY, REIN & FIELDING

1776 K STREET, N. W.
WASHINGTON, D. C. 20006
(202) 429-7000

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

JAN 23 9 50 AM '95

JAN WITOLD BARAN
(202) 429-7330

January 20, 1995

FACSIMILE
(202) 429-7049
TELEX 248349 WYRN UR

Lawrence M. Noble, Esq.
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Attn: Mary L. Taksar, Esq.

Re: MUR 4147

Dear Mr. Noble:

This Response, including the attached affidavit, is submitted on behalf of United Parcel Service of America, Inc. ("Respondent") in response to a complaint filed by Sumner R. Waite and designated Matter Under Review ("MUR") 4147. For the reasons set forth herein, the Federal Election Commission ("FEC" or "Commission") should find no reason to believe that Respondent violated any provision of the Federal Election Campaign Act of 1971, as amended ("the Act").

FACTS

The complaint in this matter is concededly not based on the personal knowledge of the complainant, but rather on alleged hearsay representations made to him regarding a purported "campaign visit" by Representative Karen Thurman at

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95043664992

a UPS processing facility in Brooksville, Florida. Despite the fact that the complainant calls the Congresswoman's visit a "campaign visit" he does not allege or describe any campaign activity at this visit. Rather, it is alleged that an unidentified individual was "overheard to comment 'we always give an advantage to an incumbent.'" (approx. quote)."

Attached is an affidavit sworn to by Donald Koser, Center Manager of the UPS Brooksville Center who invited Representative Thurman to visit the Brooksville Facility, was responsible for planning her visit, and who describes her visit in detail. Affidavit of Donald Koser before the Federal Election Commission (hereinafter "Koser Aff.") at ¶¶ 1 & 6-11.

Specifically, rather than being a "campaign event" as alleged in the complaint, the October 24, 1994 facility visit by Representative Thurman to the UPS Brooksville Facility was a fact-finding event intended to educate Representative Thurman regarding the operation of this UPS facility. Id. ¶ 6. This event was one in a series of fact-finding events held throughout the year which UPS sponsors as part of its Congressional Awareness Program. Id. ¶ 3. These events typically involve demonstrations of UPS equipment and technology, an opportunity to discuss issues with UPS employees, and the observation of a typical UPS Exit Routine

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January 20, 1995
Page 3

(i.e. - the routine by which all UPS drivers leave the facility for their daily deliveries). Id.

Representative Thurman was given an air scan demonstration, a DIAD/DVA Technology Demonstration, a Destinations Trace Demonstration, and she observed the Driver Exit Routine at the Brooksville Center fact-finding event. Id. ¶¶ 1, 6, & 8. Representative Thurman also had the opportunity to talk with UPS employees regarding important constituent issues. Id. ¶ 8. Two of the key subjects covered by Representative Thurman were Water Management and Gun Control. Id. But for a question from the audience, there was no mention or discussion of Representative Thurman's re-election campaign. Id. ¶ 9. There was no request for contributions to Representative Thurman's campaign either by Representative Thurman or by anyone associated with UPS. Id. ¶ 11. "[N]o contributions were collected at this [fact-finding] event." Id. And there was no advocacy of Representative Thurman's election or defeat. Id. Indeed, there are no allegations to the contrary. The entire fact-finding visit lasted approximately one hour and ten minutes. Id. ¶ 10.

DISCUSSION

Under the Act it is unlawful for any corporation to "make a contribution or expenditure in connection with any

Lawrence M. Noble, Esq.
January 20, 1995
Page 4

election to political office." 2 U.S.C. § 441b. The Commission's longstanding analysis of when a corporation makes a prohibited "contribution" or "expenditure" was fleshed out in Orloski v. Federal Election Commission, 795 F.2d 156 (D.C. Cir. 1986).

As the Court explained, the Commission has issued several advisory opinions which found that "corporate funding of events sponsored by congressmen who are candidates for reelection is not prohibited by section 441b(a) if those events are non-political." Id. at 160. See Advisory Opinion 1980-89, Fed. Election Camp. Fin. Guide (CCH) ¶ 5537 (1980); Advisory Opinion 1980-22, Fed. Election Camp. Fin. Guide (CCH) ¶ 5479 (1980); Advisory Opinion 1980-16, Fed. Election Camp. Fin. Guide (CCH) ¶ 5474 (1980). These advisory opinions are based on the recognition that "the Act does not prohibit all corporate donations; rather it only prohibits 'contributions and expenditures.'" Id. at 160. Further, in order to be a contribution or expenditure under the Act, the funds must be "'for the purpose of influencing any election.'" Id. Thus, the issue is one of whether an event is political or non-political.

The Commission has adopted the following two part test for determining whether an event is non-political:

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January 20, 1995
Page 5

An event is non-political if (1) there is an absence of any communication expressly advocating the nomination or election of the congressman appearing or the defeat of any other candidate, and (2) there is no solicitation, making, or acceptance of a campaign contribution for the congressman in connection with the event.

Id. Indeed, The Commission has continued to abide by these standards, issuing a series of Advisory Opinion recognizing that incumbents may engage in numerous and various activities in their capacities as officeholders without those activities being campaign related. See, e.g., Advisory Opinion 1994-15, Fed. Election Camp. Fin. Guide (CCH) ¶ 6118 (1994) and Advisory Opinions cited and referenced therein.

The event at issue in this matter, a fact-finding visit by Representative Thurman to the UPS Brooksville facility, was completely within the parameters of the Act as explained in Orloski and by the Commission in its Advisory Opinions. As attested to by Donald Koser, the Center Manager of the Brooksville facility, there were no communications in connection with this event advocating Representative Thurman's election or the defeat of any other candidate, nor, in fact, was there any allegation that such an activity took place. Koser Aff. at ¶ 11. Moreover, there were no solicitations, making, or acceptance of any campaign contributions for the congressman in connection with the

95043664995

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Page 6

event, and again, there was no allegation that any such activity took place. Id. Rather, the event was carried out as part of UPS' Congressional Awareness Program and was meant to educate Representative Thurman about UPS. Id. ¶¶ 3, 6. Indeed, Mr. Koser, who organized the event was quite specific with Representative Thurman that this was not to be a campaign event. Id. ¶ 7. As a result, UPS did not make any contribution or expenditure in connection with any election and did not violate any provision of the Act.¹

Furthermore, the event was and is entirely permissible pursuant to the House Ethics Rules and was a legitimate fact-finding event by the Congresswoman. Fact-finding tours are those which allow Members of Congress "to become better informed regarding subject matters closely related to their

¹ Even if this event had been conceived and carried out as a "campaign event," which as seen above, it was not, it would still have been permissible under the Commission's own guidelines for "Nonpartisan candidate and party appearances on corporate premises," i.e., those events which include general employees as well as executive and administrative personnel. 11 C.F.R. § 114.4(a)(2). In addition to prohibiting election advocacy as well as solicitations in conjunction with an event, of which there were none here, that regulation also requires that "all candidates for that seat must be given the same opportunity to appear" Id. § 114.4(a)(2)(i). There is no allegation that Representative Thurman's general election opponent wished to address the employees at this UPS facility or that UPS would not have permitted that individual to address the employees had such a request been made.

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Lawrence M. Noble, Esq.
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official duties." House Ethics Manual, The Committee on Standards of Official Conduct, 102nd Cong., 2d Sess. 38-39 (1992). "For example, an oil company may sponsor an inspection tour of its offshore drilling platform, or a lumber company may arrange a demonstration of new logging methods in a remote area." Select Committee on Ethics Advisory Opinion No. 8, House Ethics Manual, The Committee on Standards of Official Conduct, 102nd Cong., 2d Sess. 72 (1992). This is exactly what occurred here. Through a series of demonstrations Representative Thurman became more well acquainted with the technological innovations used by UPS.

Furthermore, "the responsibility rests with the Member . . . to determine whether a particular event or activity is directly related to official duties." Id. at 39. Moreover, the gift rules are truly inapplicable to this situation because they permit the Member to accept travel expenses, food and lodging (necessary expenses), none of which were provided in connection with this fact-finding visit. See id. ¶ 10.

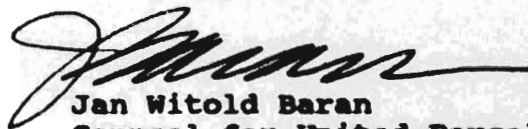
Thus, this fact-finding event was meant to be and was carried out as part of Representative Thurman's official duties.

Lawrence M. Noble, Esq.
January 20, 1995
Page 8

CONCLUSION

For the reasons stated above, the Commission should find no reason to believe that United Parcel Service of America, Inc. violated the Act.

Sincerely,



Jan Witold Baran
Counsel for United Parcel
Service of America, Inc.

cc: Thomas W. Delbrook

95043664998

DRAFT**BEFORE THE FEDERAL ELECTION COMMISSION**

State of Florida)

MUR 4147

____ County)

AFFIDAVIT OF DONALD KOSER

Donald Koser, first being duly sworn, deposes and says:

1. I am Donald Koser. I am the Center Manager of the United Parcel Service of America, Inc. ("UPS") Brooksville, Florida Processing Facility. I have been the Brooksville Center Manager since August 1994. Prior to that I was the UPS Port Richey Center Manager for approximately three years.

2. I am familiar with the Complaint filed by Sumner R. Waite with the Federal Election Commission styled Matter Under Review ("MUR") 4147 which alleges that UPS made an in-kind contribution by permitting Representative Karen Thurman to conduct an alleged "campaign" event at the UPS Brooksville Facility. However, UPS did not sponsor, and Representative Thurman did not participate in any campaign event at the Brooksville facility.

3. UPS conducts a nationwide grass roots Congressional Awareness Program involving Members of Congress. An important goal of this program is to educate Members of Congress regarding UPS such that they are familiar with the operation of the company and the needs of their

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individual constituents. One means of accomplishing this goal is to invite Members of Congress to UPS facilities for fact-finding tours during which they are provided with demonstrations of the particular facilities including equipment and technology demonstrations. Members are given the opportunity to talk with UPS employees regarding both the operation of the facilities as well as issues of import to the employees, and they often observe a typical exit routine. Through these established procedures UPS is able to address issues of concern to the company with Members of Congress.

4. Both the Brockville Center as well as the Port Richey Center are in Representative Thurman's District. Approximately two years ago, I was assigned to be the UPS Congressional Contact Person for Representative Thurman for the purpose of carrying out this grass roots program in Representative Thurman's district. Over the course of the two years I have had several personal meetings with Representative Thurman and/or her staff as well as several other communications with her office.

5. As the Center Manager of the Port Richey Center I invited Representative Thurman to visit that facility to become familiar with the facility and to give UPS employees at that facility an opportunity to meet with their Member of Congress. Representative Thurman toured the Port Richey Center in June, 1993, and we had a very successful visit.

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6. Based on the success of Representative Thurman's visit to the Port Richey Center I invited her to the Brooksville Center for the purpose of providing her with a technology demonstration which would allow UPS to educate Representative Thurman regarding the operation of this particular facility as well as to meet with the UPS employees at the Brooksville Center. Representative Thurman accepted this invitation and it occurred on October 24, 1994.

7. Prior to the start of Representative Thurman's visit I discussed the visit with her aide, Anne Morgan, as well as with the Congresswoman herself. I explained that this was not to be a campaign visit in any manner. Both of them agreed with me and explained that it was not their intent for this to be a campaign visit nor did Representative Thurman intend to address any campaign issues.

8. Representative Thurman's visit to the Brooksville Center started with a "Total Track Demonstration." Specifically, Representative Thurman was given an air scan demonstration, a DIAD/DVA technology demonstration and a destination trace demonstration. Next, Representative Thurman met with various UPS employees with whom she spoke for a short period of time. To my knowledge, Representative Thurman's reelection was not discussed with any of these individuals. Representative Thurman was then introduced to a large group of drivers and executives. She gave a short speech and then answered questions regarding

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important constituent issues. At no time did she solicit campaign funds, discuss her campaign or the fact that she was running for reelection. Rather, she started her speech by stating that she was happy to have a relationship with UPS because she respected the fact that UPS was a forerunner in the parcel delivery business. She also told a story regarding a constituent with a package tracking problem and explained that because she had become familiar with UPS's processing she was able to help the constituent. Two other key issues discussed during this question and answer session were Water Management and Gun Control.

9. During the question and answer session one individual asked Representative Thurman why she was visiting our facility during campaign time. Rather than permitting Representative Thurman to answer this question, the District Manager, Jovita Carranza, explained that the visit had been planned as part of UPS' grass roots program, not as a campaign visit, and that the purpose of the program was to educate Members of Congress about UPS. She further explained that this was the reason the Congresswoman, as an incumbent, was invited to visit the facility, nothing more. Ms. Carranza did not state, as alleged in the complaint, that UPS gave an "advantage" to incumbents nor is this true. There was no further discussion of this issue. Thus, other than this one question neither the campaign nor any campaign issues were raised.

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10. After the question and answer period concluded, Representative Thurman observed the Driver Exit Routine after which she left. The entire visit took approximately one hour and ten minutes. Coffee, bagels, and donuts were served at the event. However, Representative Thurman was not provided with any travel, food, or lodging expenses in connection with this event.

11. As stated above, this was not a campaign event. First, there was no discussion of Representative Thurman's re-election campaign. Second, there were no requests, written or oral, for contributions by members of the audience to Representative Thurman's re-election campaign either by UPS, any stockholders, executive or administrative employees or by UPS PAC. In fact, there was no solicitation of contributions at all at this event. Third, no contributions were collected at this event. Fourth, there was no advocacy by UPS, any stockholders, executive or administrative personnel or by UPS PAC, of Representative Thurman's election or defeat at the event. Nobody supported or opposed Representative Thurman's re-election or that of any other candidate, group of candidates, or political party in conjunction with this event. Finally, to my knowledge, Representative Thurman's opponent made no request to visit the Brooksville Facility.

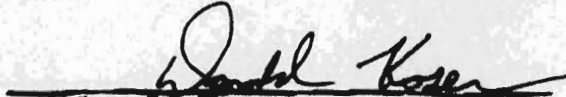
12. I would also note that no employee was paid overtime specifically to attend this event. Rather, it is

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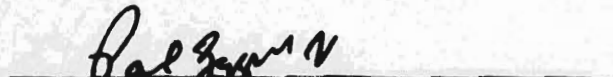
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standard UPS policy to pay time and one-half after the expiration of the standard eight-hour work day.

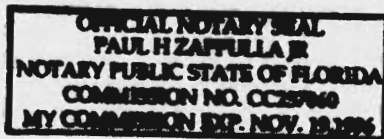
The above is true and correct to the best of my knowledge, information and belief.


Donald Koser

Signed and sworn to before me
this 18 day of January, 1995


Notary Public

My Commission Expires:



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PERKINS COIE

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

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

APR 10 11 33 AM '95

April 6, 1995

By Certified Mail

Mary L. Taksar, Esq.
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
6th Floor
Washington, D.C. 20463

**Re: MUR 4147 - Thurman for Congress and Joseph Matus, as
treasurer**

Dear Ms. Taksar:

Thurman for Congress and Joseph Matus, as treasurer, recently received a letter from you dated November 25, 1994, regarding a complaint filed by Sumner R. Waite. Representative Thurman also received a similar letter and responded to the allegations in the complaint through a letter dated December 4, 1994. Pursuant to my conversation with you, it is my understanding that while this letter was sent to Mr. Matus at the same time, it was returned by the Post Office to the Commission, "addressee unknown". It was then resent by your office to Mr. Matus in late February.

Mr. Matus and the Committee intend that the December 4, 1994 letter from Representative Thurman also serve as their response to this complaint. On the basis of this response, we request that the Commission take no further action in this matter.

As Representative Thurman's response indicates there is no basis whatsoever for the allegations made in the complaint. Representative Thurman's visit to the UPS facility was made in her capacity as an office holder to discuss legislation considered in the 103rd Congress which was pertinent to the local community. The allegations made in the complaint are groundless and this matter should be dismissed with no further action.

[04031-0001-DA950950.055]

Mary L. Taksar, Esq.
April 6, 1995
Page 2

If you have any questions, please contact me at (202) 4343-1634.

Sincerely,



B. Holly Schadler

Enclosure

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STATEMENT OF DESIGNATION OF COUNSEL

NR 41-7

NAME OF COUNSEL: Robert F. Bauer/B. Holly Schadler

ADDRESS:

Perkins Coie

607 14th Street, N.W., Suite 800

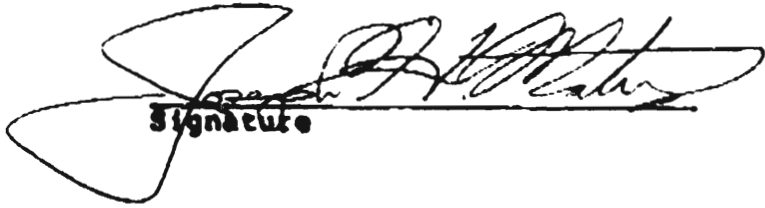
Washington, D.C. 20005-2011

TELEPHONE:

(202) 628-6600

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.

4/2/95
Date


Signature

RESPONDENT'S NAME:

JOSEPH H. MARIS

ADDRESS:

3204 Cherry Hills G

Cherry, MD 20705

HOME PHONE:

301-273-2798

BUSINESS PHONE:

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COMMISSION
OFFICE OF GENERAL
COUNSEL

SUMNER R. WAITE
1348 N. Hunterston Pt.
Crystal River, FL 34429

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April 7, 1995

Mary L. Taksar, Attorney
Office of General Counsel
Federal Election Commission
Washington, DC 20463

Dear Ms. Taksar;

By your letter of November 25, 1994 you advised me of the assignment of MUR 4147 to my complaint under Federal Election Campaign Act of 1971.

To date I have heard nothing further and would appreciate being advised of the status of this matter.

Thank you,

Sumner R. Waite

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FEDERAL ELECTION
COMMISSION
SECRETARIAT

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

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FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

MUR 4147

DATE COMPLAINT FILED: November 10, 1994

DATE OF NOTIFICATION: November 25, 1994

DATE ACTIVATED: May 15, 1995

STAFF MEMBER: Dominique Dillenseger

COMPLAINANT: Sumner R. Waite

RESPONDENTS: United Parcel Service of America, Inc.
The Honorable Karen Thurman
Thurman for Congress and Joseph Matus, as treasurer

RELEVANT STATUTES: 2 U.S.C. § 441b(a) and (b)(2)
11 C.F.R. § 114.1(a)(1)
11 C.F.R. § 114.2(a) and (b)

INTERNAL REPORTS CHECKED: Disclosure Documents

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

MUR 4147 was generated by a complaint dated November 4, 1994, from Sumner Waite ("the Complainant"). Attachment 1. According to the Complaint, on October 24, 1994, Representative Karen Thurman made a campaign visit and speech at a United Parcel Service ("UPS") processing facility in Brooksville, Florida. The Complainant alleges that Representative Thurman knowingly accepted improper corporate "in-kind" contributions from UPS in the form of compensation UPS paid its drivers (overtime rate) for reporting to work 15 minutes early to attend the speech. Id. The Complainant further alleges that during this visit, "a female UPS executive from other than the Brooksville facility, was overheard to comment 'we always give an advantage to the incumbent' (approx. quote)."

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Id. The Complainant contends that "[s]uch a statement, when verified by the commission will be prima facie [sic] that UPS willfully, deliberately, and with knowledge aforethought decided to violate Federal Law regarding giving of Corporate Assets (drivers paid time) to the benefit of a Congressional candidate."

Id. Finally, the Complainant requests that both UPS and Representative Thurman be made to pay a fine "in the amount of improper payments made, tripled for punitive damages owing to the willfulness involved." Id.

The allegations in the complaint are not based on the personal knowledge or observations of the Complainant, but on information relayed to the Complainant by persons who allegedly attended this event. Id. The Complainant did not provide identifying information on these persons.

On November 25, 1994, this Office notified the United Parcel Service, Inc., Representative Karen Thurman, and Thurman for Congress and Joseph Matus, as treasurer ("the Committee") of the complaint and each has filed a response.¹ See Attachments 2, 3, and 4.

II. FACTUAL AND LEGAL ANALYSIS

The Act generally prohibits corporations from making contributions or expenditures in connection with a federal election. 2 U.S.C. § 441b(a) and 11 C.F.R. § 114.2(a) and (b).

1. In a letter dated April 6, 1995, counsel for the Committee indicated that the December 4, 1994, response from Representative Karen Thurman will also serve as the Committee's response to the complaint. Attachment 4.

For purposes of 2 U.S.C. § 441b(a), the term "contribution or expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value to any candidate, campaign committee, or political party or organization in connection with any election. 2 U.S.C. § 441b(b)(2). Further, candidates and their authorized committees are prohibited from knowingly accepting corporate contributions. 2 U.S.C. § 441b(a).

On a number of occasions, the Commission has considered whether activities involving the participation of a Federal candidate, including participation in a corporate-sponsored event, result in a contribution or expenditure on behalf of the candidate. See, e.g., AO 1992-5 [¶ 6049]; AO 1988-27 [¶ 5934]; AO 1986-37 [¶ 5875]; AO 1986-26 [¶ 5866]; AO 1982-56 [¶ 5695]; AO 1981-37 [¶ 5623]; AO 1980-22 [¶ 5479]; AO 1978-56 [¶ 5373]; AO 1978-15 [¶ 5304]; AO 1977-54 [¶ 5301]; and AO 1977-42 [¶ 5313]. The Commission has found that a contribution or expenditure results if the event involves: (1) the solicitation, making or acceptance of contributions to the candidate's campaign, or (2) communications expressly advocating the nomination, election or defeat of any candidate. AO 1992-5 [¶ 6049]. The Commission may also determine that an event is campaign-related even in the absence of solicitations for contributions or express advocacy regarding candidates. AO 1992-6 [¶ 6043]; AO 1990-5 [¶ 5982]; AO 1988-27 [¶ 5934]; AO 1986-37 [¶ 5875]; AO 1986-26 [¶ 5866]; AO 1984-13 [¶ 5759]; and AO 1983-12 [¶ 5718].

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The Commission has also found that an event involving a Federal officeholder who is also a candidate for re-election is not campaign-related if the officeholder's participation is in his or her capacity as a member of Congress and not as a candidate for Congress; in that case, corporate funding of such an event would not result in a contribution or expenditure to the officeholder's campaign. For example, in Advisory Opinion 1992-5, Congressman James P. Moran, a 1992 candidate for re-election in Virginia's 8th Congressional District, requested an opinion regarding his appearances on two cablecast public affairs forums, A Capital Report from Congressman James P. Moran and A Conversation with Congressman Jim Moran.² 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 6049, at 11,796 (March 13, 1992). The Commission determined that the "production and broadcasting of the programs [did] not constitute either a contribution or expenditure on [the Committee's] behalf." Id. at 11,797. The Commission reasoned that the broadcast of A Capital Report from Congressman James P. Moran made "no mention ... of [Congressman Moran's] campaign or election to Federal office nor did the program contain any otherwise promotional elements such as banners or campaign decorations. Furthermore, the program did not include any message that solicit[ed] contributions. The content of the program was

2. Congressman Moran asserted that the local cable companies would maintain complete editorial and financial control over the programs and that the programs related exclusively to issues before Congress. Further, the Congressman and his committee did not receive a financial benefit from these programs.

strictly limited to issues before the Congress or issues of relevance to [Congressman Moran's] district."³ Id. at 11,796-97. See also AO 1994-15 [¶ 6118].

Similarly, in Advisory Opinion 1980-22, the American Iron and Steel Institute, an incorporated trade association, and its incorporated member companies intended to plan and sponsor a series of "town meetings." 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5479, at 10,542 (April 15, 1980). Senators and Congressmen would attend to discuss the "future of the steel industry." The Commission concluded that, "[f]rom the situation described in the request, it appeared that the cost to the Institute or member companies of sponsoring the forum would not be a 'contribution' or 'expenditure' for purposes of the Act and thus either the Institute or the member companies [could] finance the 'town meetings.'" Id. at 10,543. The Commission reached this conclusion because "neither the introductory comments by the sponsor nor subsequent remarks by the legislators [would] relate to campaign activity, but rather, all remarks [would] be strictly limited to issues facing the steel industry." The Commission further understood that this would include the "premeeting publicity as well as the meeting itself." Thus, the Commission assumed that the purpose of the "town meetings" was "primarily to serve as a forum for discussion of problems of the steel industry

3. The same reasoning was extended to the other program, A Conversation with Congressman Jim Moran, based upon a "fact sheet" of the proposed series. Id. at 11,797.

and that the overall context of these meetings would be limited to effecting that primary purpose." Further, the Commission "assumed and conditioned its conclusion on the avoidance of any campaign contribution solicitations, or advocacy supporting or opposing any candidate for Federal office, in connection with the 'town meetings.'" Id.

United Parcel Service of America, Inc.

In its response of January 20, 1995, UPS argues that Representative Thurman's visit to UPS was not a campaign event but a legitimate fact-finding visit and that consequently "UPS did not make any contribution or expenditure in connection with any election and did not violate any provision of the Act."

Attachment 2. UPS also points out that the complaint is not based on the Complainant's personal knowledge, "but rather on alleged hearsay representations made to him regarding a purported 'campaign visit'" although the Complainant "does not allege or describe any campaign activity." Id. at 1-2. Instead, he relies on "an unidentified individual" who allegedly overheard a comment. Id. at 2.

To support the position that the visit was not a campaign event, UPS submits the Affidavit of Donald Koser, Center Manager of the UPS Brooksville Center, who invited Representative Thurman to the facility and was responsible for planning her visit. Id. at 9. In his affidavit, Mr. Koser explains that Representative Thurman was invited to tour UPS as part of its "nationwide grass roots Congressional Awareness Program involving Members of

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Congress." Affidavit of Donald Koser at ¶ 3. Mr. Koser avers that "[a]n important goal of this program is to educate Members of Congress regarding UPS such that they are familiar with the operation of the company and the needs of their individual constituents." Id. Members of Congress are invited on fact-finding tours of the UPS facilities and given equipment and technology demonstrations. Id. In addition, "Members are given the opportunity to talk with UPS employees regarding both the operation of the facilities as well as issues of import to the employees, and they often observe a typical exit routine." Id.

Mr. Koser further explains that as "the UPS Congressional Contact Person for Representative Thurman for the purpose of carrying out this grass roots program in Representative Thurman's district," he has met and communicated with Representative Thurman and her staff several times during the past two years. Id. at ¶ 4. For example, Mr. Koser points out that when he was Center Manager of UPS' Fort Richey Center, he invited Representative Thurman to tour the Center "to become familiar with the facility and to give UPS employees at that facility an opportunity to meet with their Member of Congress." Id. at ¶ 5. He states that Representative Thurman toured that facility in June 1993, and that "[b]ased on the success" of her visit to that facility, he invited her to tour the Brooksville Center. Id. at ¶¶ 5-6.

Mr. Koser described Representative Thurman's visit to the Brooksville Center as follows:

Representative Thurman's visit to the Brooksville

Center started with a "Total Track Demonstration." Specifically, Representative Thurman was given an air scan demonstration, a DIAD/DVA technology demonstration and a destination trace demonstration. Next, Representative Thurman met with various UPS employees with whom she spoke for a short period of time. To my knowledge, Representative Thurman's reelection was not discussed with any of these individuals. Representative Thurman was then introduced to a large group of drivers and executives. She gave a short speech and then answered questions regarding important constituent issues. At no time did she solicit campaign funds, discuss her campaign or the fact that she was running for reelection. Rather, she started her speech by stating that she was happy to have a relationship with UPS because she respected the fact that UPS was a forerunner in the parcel delivery business. She also told a story regarding a constituent with a package tracking problem and explained that because she had become familiar with UPS's processing she was able to help the constituent. Two other key issues discussed during this question and answer session were Water Management and Gun Control.

During the question and answer session one individual asked Representative Thurman why she was visiting our facility during campaign time. Rather than permitting Representative Thurman to answer this question, the District Manager, Jovita Carranza, explained that the visit had been planned as part of UPS' grass roots program, not as a campaign visit, and that the purpose of the program was to educate Members of Congress about UPS. She further explained that this was the reason the Congresswoman, as an incumbent, was invited to visit the facility, nothing more. Ms. Carranza did not state, as alleged in the complaint, that UPS gave an "advantage" to incumbents nor is this true. There was no further discussion of this issue. Thus, other than this one question neither the campaign nor any campaign issues were raised.

After the question and answer period concluded, Representative Thurman observed the Driver Exit Routine after which she left. The entire visit⁴ took approximately one hour and ten minutes.

Id. at ¶¶ 8-10.

4. Mr. Koser states that refreshments were served at the event but that Representative Thurman "was not provided with any travel, food, and lodging expenses in connection with the event." Affidavit of Donald Koser at ¶ 10.

On the issue of compensation to the drivers, Mr. Koser states that "no employee was paid overtime specifically to attend this event" but that "it is standard UPS policy to pay time and one-half after the expiration of the standard eight-hour work day." Id. at ¶ 12. In sum, Mr. Koser avers that this was not a campaign event because at no time during the visit did anyone solicit or collect campaign contributions, discuss Representative Thurman's re-election or campaign issues, or advocate the election or defeat of Representative Thurman or any other candidate. Id. at ¶ 11.

UPS also argues that Representative Thurman's visit was permissible under the House Ethics Rules as a "legitimate fact-finding event." Attachment 2, p. 6. Quoting from the House Ethics Manual, UPS explains that: "Fact-finding tours are those which allow Members of Congress 'to become better informed regarding subject matters closely related to their official duties.' "For example, an oil company may sponsor an inspection tour of its offshore drilling platform, or a lumber company may arrange a demonstration of new logging methods in a remote area." Id. at 6-7. UPS explains that "[t]his is exactly what occurred here. Through a series of demonstrations Representative Thurman became more well acquainted with the technological innovations used by UPS." Id. at 7.

Representative Karen Thurman; Thurman for Congress and Joseph Matus, as treasurer.

In her response of December 9, 1994, Representative Thurman

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denies that her October 24, 1994, visit to the UPS facility was of a campaign nature or that she was aware that the UPS employees were compensated for their attendance. Attachment 3, p. 1.

Representative Thurman explains that her visit to the Brooksville facility, like her previous two visits to another UPS facility in 1994, "was a part of [her] job as a U.S. Representative." Id. Representative Thurman states that her "visit to the facility consisted of a tour of the office area, a talk with employees and a tour of the loading dock." Id. She describes her talk as consisting of "a discussion of legislation considered in the 103rd Congress which was pertinent to the local community and a question and answer period." Id. Finally, Representative Thurman states that "[a]t no time during [her] visit . . . was [her] candidacy, nor any other candidate for the 5th Congressional District mentioned" and "[n]o materials promoting [her] candidacy were distributed, nor in evidence." Id.

Based on the information provided by Mr. Koser in his affidavit and by Representative Thurman, it appears that the October 24, 1994, visit to the UPS facility in Brooksville was a "fact-finding" visit and not campaign-related. Moreover, the Complainant does not allege nor is there any evidence of any campaign activity. The complaint rests solely on what the Complainant himself describes as an "approx. quote" allegedly overheard by an individual who is not identified by the Complainant. Finally, Complainant's allegation that the drivers were paid overtime to attend this event is inconsequential; any

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payment of overtime compensation in this case would not be a violation of the Act because the event was not campaign-related.

In light of the foregoing, UPS' funding of this event did not constitute a contribution or expenditure in connection with any election and was not in violation of the Act. Accordingly, this Office recommends that the Commission find no reason to believe that United Parcel Service of America, Inc.; The Honorable Karen Thurman; and Thurman for Congress and Joseph Matus, as treasurer, violated 2 U.S.C. § 441b(a) and close the file in this matter.

III. RECOMMENDATIONS

1. Find no reason to believe that United Parcel Service of America, Inc. violated 2 U.S.C. § 441b(a).
2. Find no reason to believe that The Honorable Karen Thurman violated 2 U.S.C. § 441b(a).
3. Find no reason to believe that Thurman for Congress and Joseph Matus, as treasurer, violated 2 U.S.C. § 441b(a).
4. Approve the appropriate letters.
5. Close the file.

Lawrence M. Noble
General Counsel

Date

7/26/95

BY:


Lois G. Lerner
Associate General Counsel

Attachments

1. Complaint, dated November 4, 1994
2. Response, UPS, dated January 20, 1995
3. Response, Rep. Karen Thurman, dated December 9, 1995
4. Response, Thurman for Congress, dated April 6, 1995

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

United Parcel Service of America, Inc.;
The Honorable Karen Thurman;
Thurman for Congress and Joseph Matus,
as treasurer.

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) MUR 4147
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CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on August 01, 1995, the Commission decided by a vote of 6-0 to take the following actions in MUR 4147:

1. Find no reason to believe that United Parcel Service of America, Inc. violated 2 U.S.C. § 441b(a).
2. Find no reason to believe that The Honorable Karen Thurman violated 2 U.S.C. § 441b(a).
3. Find no reason to believe that Thurman for Congress and Joseph Matus, as treasurer, violated 2 U.S.C. § 441b(a).

(continued)

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Federal Election Commission
Certification for Mur 4147
August 1, 1995

Page 2

4. Approve the appropriate letters, as recommended in the General Counsel's Report dated July 26, 1995.
5. Close the file.

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

Attest:

August 1, 1995
Date

for Delores Hardy
for Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat:	Thurs., July 27, 1995	11:15 a.m.
Circulated to the Commission:	Thurs., July 27, 1995	4:00 p.m.
Deadline for vote:	Tues., Aug. 01, 1995	4:00 p.m.

mwd

95043665021



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 7, 1995

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Sumner R. Waite
1348 N. Hunterston Pt.
Crystal River, FL 34429

RE: MUR 4147

Dear Mr. Waite:

On August 1, 1995, the Federal Election Commission reviewed the allegations of your complaint dated November 4, 1994, and found, based upon information provided in your complaint and information provided by United Parcel Service of America, Inc., Representative Karen L. Thurman, and Thurman for Congress and Joseph Matus, as treasurer, that there is no reason to believe these Respondents violated 2 U.S.C. § 441b(a). Accordingly, the Commission closed the file in this matter.

The Federal Election Campaign Act of 1971, as amended ("the Act") allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Sincerely,

Lawrence M. Noble
General Counsel

Lois G. Lerner by AAS

BY: Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report (without attachments)

95043665022



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 7, 1995

The Honorable Karen L. Thurman
9067 SE 190th Avenue Road
Dunnellon, Florida 34432

RE: MUR 4147

Dear Representative Thurman:

On November 25, 1994, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On August 1, 1995, the Commission found, based upon information in the complaint and information provided by you, that there is no reason to believe you violated 2 U.S.C. § 441b(a). Accordingly, the Commission closed its file in this matter.

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

Sincerely,

Lawrence M. Noble
General Counsel

Lois G. Lerner by AAS

BY: Lois G. Lerner
Associate General Counsel

Enclosure

General Counsel's Report (without attachments)



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 7, 1995

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

RE: MUR 4147
Thurman for Congress;
Joseph Matus, Treasurer

Dear Ms. Schadler:

On November 25, 1994, the Federal Election Commission notified Thurman for Congress and Joseph Matus, as treasurer, your clients, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On August 1, 1995, the Commission found, based upon information in the complaint and information provided by your clients, that there is no reason to believe that Thurman for Congress and Joseph Matus, as treasurer, violated 2 U.S.C. § 441b(a). Accordingly, the Commission closed its file in this matter.

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

Sincerely,

Lawrence M. Noble
General Counsel

Lois G. Lerner by AJS

BY: Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report (without attachments)

Celebrating the Commission's 20th Anniversary

YESTERDAY TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

95043665024



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 7, 1995

Jan Witold Baran, Esq.
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

RE: MUR 4147
United Parcel Service of
America, Inc.

Dear Mr. Baran:

On November 25, 1994, the Federal Election Commission notified United Parcel Service of America, Inc., your client, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On August 1, 1995, the Commission found, based upon information in the complaint and information provided by your client, that there is no reason to believe that United Parcel Service of America, Inc. violated 2 U.S.C. § 441b(a). Accordingly, the Commission closed its file in this matter.

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

Sincerely,

Lawrence M. Noble
General Counsel

Lois G. Lerner

BY: Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report (without attachments)

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95043665025



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4147

DATE FILMED 8/22/95 CAMERA NO. 1

CAMERAMAN SES

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