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September 29, 1997

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**BY HAND**

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

Re: National Policy Forum -- MUR4250

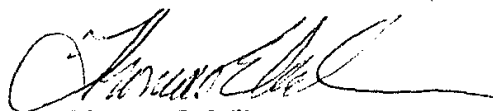
Dear Mr. Noble:

The Department of Justice is conducting an investigation into the same transactions that are implicated in the investigation of the Federal Election Commission ("Commission") in the above-referenced matter under review. The National Policy Forum ("NPF") is cooperating fully with the Department of Justice in its investigation.

We are enclosing for your information a courtesy copy of NPF's formal motion to the Commission to stay MUR4250 pending resolution of the Department of Justice inquiry. It is our understanding that Tom Josefiak of the RNC has already spoken to you generally about this situation. That being the case, we wanted to make sure that you were aware of NPF's formal motion promptly upon its filing.

Should you have any questions, please let us know.

Sincerely,



Thomas E. Wilson

Enclosure

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**In the Matter of**  
**The National Policy Forum**

**MUR 4250**

**THE NATIONAL POLICY FORUM'S MOTION  
TO STAY ADMINISTRATIVE PROCEEDINGS**

The National Policy Forum ("NPF"), hereby moves for a stay of all administrative proceedings associated with the subpoena which the Federal Election Commission ("Commission") served on NPF on or about July 29, 1997 in the above-referenced matter under review. Since the Commission found reason to believe in MUR 4250, the United States Department of Justice has commenced a parallel criminal investigation wherein it is making inquiry into the very same issues which the Commission has under review in this matter. If the Commission continues its administrative proceedings, it could undermine the integrity of the Department of Justice's criminal investigation and prejudice the rights of NPF. In addition, there is no indication that the stay here requested would prejudice the Commission's administrative proceeding. Accordingly, the Commission should stay all administrative action in this matter as relates to NPF until the Department of Justice completes its parallel criminal inquiry. Alternatively, the Commission should stay further administrative proceedings until the Department of Justice determines the direction of its criminal investigation.

**Factual Background**

On July 28, 1997, the Commission issued a subpoena to produce documents and

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interrogatories to NPF in MUR 4250. NPF was notified through its attorneys on July, 29, 1997. On August 12, 1997, NPF requested an extension of time to respond to the subpoena and interrogatories. On August 12, 1997, the Commission granted NPF an extension of time until September 18, 1997 to comply with the terms of the subpoena.

Since the Commission issued its subpoena and interrogatories, the United States Department of Justice has started a parallel criminal investigation of issues which the Commission is examining in this matter. Obviously that inquiry implicates the interests of NPF. NPF is cooperating fully with the Department of Justice in its criminal investigation and will continue to do so in the months ahead.

#### Argument

Because there is an on-going, parallel criminal investigation of issues that the Commission is reviewing in this matter, the Commission should stay MUR 4250.

Federal courts have broad discretion to stay administrative and civil matters pending the outcome of parallel criminal proceedings "when the interests of justice seem to require such action ... ." United States v. Kordel, 397 U.S. 1, 12 n.27 (1970). Courts must decide whether to enter a stay "in light of the particular circumstances of the case." SEC v. Dresser Indus., 628 F.2d 1368, 1375 (D.C. Cir. 1980). In deciding to grant stays, courts have relied upon a number of separate grounds, including concerns that

[the] noncriminal proceeding, if not deferred, might undermine the [defendant's] Fifth Amendment privilege against self-incrimination, expand rights of criminal discovery beyond the limits of the Federal Rule of Criminal Procedure 16(b), expose the basis of the defense of prosecution in advance of criminal trial, or otherwise prejudice the case.

Id. at 1375-76.

Courts have also stayed civil proceedings on the ground that it is inappropriate to force a party to contend with a criminal and civil proceeding concerning the same transaction or occurrence at the same time. For example, in Texaco Inc. v. Borda, 383 F.2d 607 (5th Cir. 1967), the court of appeals upheld the district court's decision to stay a civil antitrust action against a group of individuals and companies who were targets of an on-going criminal proceeding arising out of the same alleged conduct. In upholding a stay of the civil action until the criminal action was resolved, the appeals court concluded:

'Upon a consideration of all factors involved in this case ... a balancing of the equities, so to speak, in my opinion, justify a stay, at least until after a trial of the criminal action. The indicted defendants should not be unduly hampered, as I believe they would be if they had to fight on two fronts at the same time.'

Id. at 608-609 (quoting district court opinion below).

Courts are also much more likely to enter stays when there is no indication that a stay will prejudice the administrative or civil action. See, e.g., Borda, 383 F.2d at 609 ("It may well be that the trial of the criminal case will reduce the scope of discovery in the civil action. And perhaps it might also simplify the issues."); Dresser, 628 F.2d at 1380 (declining to stay SEC administrative action pending a parallel criminal action because the SEC "must often act quickly, lest the false or incomplete statements of corporations mislead investors and infect markets ... For the SEC to stay its hand might well defeat its purpose."); See also id. at 1376 (administrative stays are appropriate when they "would not seriously injure the public interest").

In light of the foregoing, the Commission should stay MUR 4250 as it relates to NPF until the Department of Justice completes its parallel criminal inquiry. Requiring NPF to respond to administrative subpoenas in MUR 4250 while subject to a Department of Justice criminal

investigation raises serious constitutional concerns. In addition, forcing NPF to respond to criminal and administrative inquiries at the same time is highly burdensome and potentially prejudicial. Most importantly, there is no indication that staying MUR 4250 as it may relate to NPF would adversely affect the Commission's investigation and ultimate disposition of this matter.

**Conclusion**

In light of the foregoing, the Commission should stay MUR 4250 as it relates to NPF until the Department of Justice completes its on-going, parallel criminal investigation. At the very least, the Commission should stay administrative proceedings until the Department of Justice determines the direction of the criminal action.

Respectfully submitted,



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Attorneys for The National Policy Forum

September 29, 1997

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