



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4335

DATE FILMED 9/6/96 CAMERA NO. 2

CAMERAMAN SES

96043743223

CLIFF OXFORD
1482 Fallsbrook Court
Acworth, Georgia 30101

April 8, 1996

MUR 4335

APR 10 3 26 PM '96

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20004

Dear Commissioners:

I have reason to believe that Michael Coles of 2450 Kirk Lane, Kennesaw, Georgia 30144 has violated the provisions of the Federal Election Campaign Act (hereinafter, "the Act") (1) by failing to designate a principal campaign committee within 15 days after he became a candidate for Congress, (2) by failing to cause such a principal campaign committee to register with the Commission by filing a Statement of Organization, (3) by failing to establish a separate campaign checking account for the deposit of campaign receipts and the payment of campaign expenditures, (4) by commingling campaign funds and personal funds, and (5) by not having a legally qualified campaign committee as of March 31, 1996 and thereby violating the requirement to file a report of campaign contributions and expenditures for the first calendar quarter of the 1996 election year, during which time he was a candidate for Congress.

In light of the large amount already expended by Mr. Coles in his Congressional campaign (in excess of \$50,000), the even larger amount contributed to that campaign (in excess of \$300,000 by Mr. Coles' own account), and Mr. Coles' repeated declarations over the past seven weeks or more that he is running for Congress, these violations are of the most serious nature in that they subvert the entire principal of disclosure which underlies federal regulation of campaign finances.

Mr. Coles has broken these laws knowingly and willingly. He has violated the very first rules governing congressional campaigns enumerated in the first paragraph of the first section of the first chapter of the Commission's "Campaign Guide for Congressional Candidates and Committees." Thus, he cannot claim as a defense that he has merely violated obscure provisions of which he was unaware. Moreover, when Mr. Coles met with me on March 28, 1996, the following exchange occurred:

Michael Coles: Have you filed your FEC reports?

Cliff Oxford: Yes.

Michael Coles: I haven't filed any of that shit yet.

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These offenses clearly constitute either an intentional violation of, or a flagrant disregard for, federal campaign finance law.

By failing to register and disclose such extensive campaign activities, Mr. Coles has done nothing less than attempt to set himself above the law.

This letter constitutes an official complaint, and I respectfully request that an investigation be conducted immediately.

An individual becomes a candidate, and thus triggers the registration and reporting requirements of the Act, when he or she raises or spends more than \$5,000 for a campaign. 2 U.S.C. § 431(2). Funds received or payments made "solely for the purpose of determining whether an individual should become a candidate" are exempt from the definitions of "contribution" and "expenditure" under the Act and do not trigger these requirements. 11 C.F.R. §§ 100.7(b)(1)(i), 100.8(b)(1)(i). However, this exemption does not apply once an individual has indicated that he or she has decided to become a candidate. 11 C.F.R. §§ 100.7(b)(1)(ii), 100.8(b)(1)(ii). And federal law is crystal clear that an individual "has decided to become a candidate" when "the individual makes . . . oral statements that refer to him or her as a candidate for a particular office." 11 C.F.R. §§ 100.7(b)(1)(ii)(C), 100.8(b)(1)(ii)(C).

Michael Coles clearly indicated that he had decided to become a candidate when he called David J. Worley during the week of February 19, 1996 and stated that he was running for Congress. See Worley Affidavit, attached hereto. His March 9, 1996 campaign remarks at the Cobb County Democratic Breakfast and his March 19, 1996 remarks at a meeting of the Cherokee County Democratic Party further confirm his candidate status at that early date. See Johnnie McKenzie, Patrick McKenzie, and Oxford Affidavits, attached hereto.

Furthermore, I have been informed -- and it is widely known in political circles -- that Mr. Coles retained a number of political consultants and campaign staff members in the latter half of February or the beginning of March 1996. These include the political polling firm Cooper & Secrest Associates, the political media firm Shrum, Devine & Donilon, campaign manager Kate Head, and press secretary Beth Shipp, inter alia. Mr. Coles himself informed me on March 28, 1996 that he had already caused two polls to be done for his campaign. See Oxford Affidavit. The accumulation of such an extensive campaign team and the instigation of such campaign activities in February and/or March further substantiate Mr. Coles' status as an active and confirmed candidate.

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As a result of these statements and actions by Mr. Coles, the so-called "testing the waters" exemption has been inapplicable to his activities for more than six weeks.

Therefore, once Coles spent or raised more than \$5,000 for his campaign, he was a candidate subject to the registration and reporting requirements of the Act.

Michael Coles stated on March 28, 1996 that he had already spent in excess of \$50,000 on his campaign for Congress and that his campaign contributions would surpass \$300,000 later that same day. See Oxford Affidavit. He was, thus, well above the \$5,000 threshold making him a candidate and triggering registration and reporting requirements under the Act.

Coles was required to designate a principal campaign committee within 15 days after becoming a candidate by raising or spending \$5,000. 11 C.F.R. §§ 101.1(a) and 102.12(a).

Mr. Coles' failure to file the reports required by federal law make it impossible to ascertain the precise date upon which his contributions or expenditures exceeded \$5,000 without investigatory authority. However, given the nature and size¹ of the contributions and expenditures which Coles has undertaken to date,² and his statement that he had not made any of the required filings related to his Congressional campaign,³ the Commission clearly has cause to believe that Mr. Coles failed to designate a principal campaign committee within 15 days after becoming a candidate as required by 11 C.F.R. §§ 101.1(a) and 102.12(a).

¹ By Coles' own account, as of March 28, his expenditures were more than 10 times greater than the initial filing threshold. Moreover, if Coles' statement that his contributions to his campaign would go over the \$300,000 mark later that day was not a mere idle boast, then his contributions amounted to more than 60 times the amount triggering registration and reporting requirements. See Oxford Affidavit.

² Coles' expenditures to date have apparently included, but may not be limited to, consultants' fees, staff, overhead, and polling expenses. These undoubtedly exceeded \$5,000 on the date that he paid for his first poll, and may have done so earlier if he paid retainers to either his pollster or media firm prior to that date. Since Coles indicated that he had already undertaken a second poll and spent more than \$50,000 as of March 28, his first poll and/or first \$5,000 in spending on other campaign activities would clearly have been accomplished well before that date.

See Oxford Affidavit.

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Evidence of the date upon which Mr. Coles exceeded \$5,000 in expenditures may be obtained by the Commission through formal means from Coles' campaign consultants, campaign staff, and vendors as well as from Coles personally. Such evidence would include contracts signed and financial records of payment and receipt of retainer and consulting fees, polling charges, salaries, hotel bills and expense reimbursements, *inter alia*.⁴

Due to the vast expanse of time by which Coles appears to have failed to meet the requirement to designate a committee, it is probable that he has violated the provision requiring a Statement of Organization from that committee as well. 11 C.F.R. § 102.1(a) requires that the principal campaign committee register within 10 days after it has been designated by the candidate. Coles' failure to file a timely Statement of Candidacy would appear to have placed his campaign in violation of this Statement of Organization requirement.

Coles' extensive campaign expenditures without forming, designating, or registering a campaign committee also make it likely that he has violated the requirement that a separate campaign account must be established once an individual becomes a candidate. 11 C.F.R. §§ 102.10 and 103.3(a).

Campaign funds must not be commingled with personal funds of any individual. 11 C.F.R. § 102.15. Coles' failure to comply with the basic registration and reporting requirements of federal campaign finance law place him in violation of this provision of federal law as well if, as is likely, his extensive campaign expenditures have come directly from personal funds. (Since Coles has neither designated nor registered a campaign committee, it is unlikely that he set up a separate campaign account for such a committee.)

Finally, the fact that Michael Coles became a candidate for Congress and expended in excess of \$50,000 in furtherance of his candidacy during the first calendar quarter of 1996 would obligate his principal campaign committee as of March 31, 1996 to file a quarterly report by April 15. 11 C.F.R. § 104.5(a)(1)(iii).

⁴ Cooper & Secrest may be contacted for inquiries and requests for production of documents at (703) 683-7990, 228 S. Washington Street #330, Alexandria, Virginia 22314. Shrum, Devine & Donilon may be contacted at (202) 337-9600, 2141 Wisconsin Avenue, Suite J, Washington, D.C. 20007. Ms. Head and Ms. Shipp may be reached at the Coles for Congress campaign headquarters (770) 751-1996. Ms. Shipp may also be reached at (770) 424-6330, Room 130, the Windsor Inn, 2655 Cobb Parkway, Kennesaw, Georgia 30152, which hotel may also possess relevant evidence if Ms. Shipp's expenses there were paid directly by Mr. Coles and/or the campaign.

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Coles' failure to even have a legally designated and registered principal campaign committee as of March 31, 1996 means that he is in automatic violation of this provision: his violations of federal law are so gross that his campaign does not even have the necessary vehicle to file a proper report by April 15 should this complaint or subsequent action by the Commission prompt him to do so.

By expending vast sums of money and actively campaigning for Congress for such an extended period of time without abiding by the laws which govern all federal candidates and campaigns, Michael Coles has clearly and flagrantly violated federal election law.

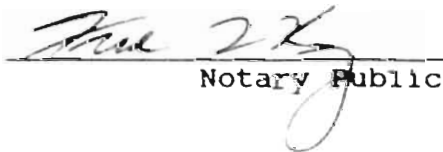
Absent prompt action by the Commission, there is every reason to believe that such illegal acts will continue through this election season and in future years. I therefore request your immediate attention to this complaint.

Sincerely,



Cliff Oxford

Sworn to and subscribed before me
this 5th day of April 1996.


Notary Public

26043743228

STATE OF GEORGIA

COUNTY OF DeKalb

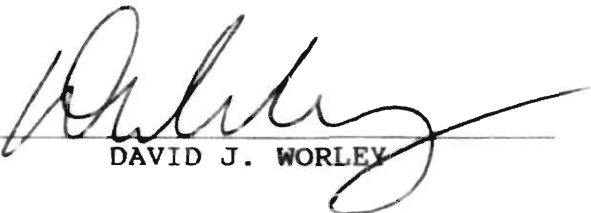
A F F I D A V I T

PERSONALLY APPEARED before me, an officer duly authorized by law to administer oaths, DAVID J. WORLEY, who after being first duly sworn, states:

1. My name is David J. Worley, and I am competent in all respects to testify regarding matters set forth herein. I am an attorney, and my office is located at 1000 Equitable Building, 100 Peachtree Street, Atlanta, Georgia 30303. I give this Affidavit voluntarily.

2. I received a telephone call at my office during the week of February 19, 1996 from Michael Coles. During the course of this phone call, Mr. Coles told me that he was running for Congress.

The foregoing is true and correct to the best of my knowledge and belief.


DAVID J. WORLEY

Sworn to and subscribed before
me this 5th day of April, 1996.


Notary Public

Notary Public, DeKalb County, Georgia
My Commission Expires 11/1/97

26043743229

STATE OF GEORGIA

COUNTY OF FULTON

AFFIDAVIT

PERSONALLY APPEARED before me, an officer duly authorized by law to administer oaths, JOHNNIE MCKENZIE, who after being first duly sworn, states:

1. My name is Johnnie McKenzie, and I am competent in all respects to testify regarding matters set forth herein. I give this Affidavit voluntarily.

2. I was present at the Cobb County Democratic Breakfast held the morning of Saturday March 9, 1996 at Kiefer's Restaurant. At this breakfast meeting, I personally observed Michael Coles state that he was running for Congress.

The foregoing is true and correct to the best of my knowledge and belief.

Johnnie McKenzie
JOHNNIE MCKENZIE

Sworn to and subscribed before
me this 6th day of April, 1996.

Paul C. Lewis
Notary Public

96043743230

STATE OF GEORGIA

COUNTY OF FULTON

A F F I D A V I T

PERSONALLY APPEARED before me, an officer duly authorized by law to administer oaths, PATRICK MCKENZIE, who after being first duly sworn, states:

1. My name is Patrick McKenzie, and I am competent in all respects to testify regarding matters set forth herein. I give this Affidavit voluntarily.

2. I was present at the Cobb County Democratic Breakfast held the morning of Saturday March 9, 1996 at Kiefer's Restaurant. At this breakfast meeting, I personally observed Michael Coles state that he was running for Congress.

3. I was present at the Cherokee County Democratic Committee meeting on the evening of March 19, 1996. At this meeting, I personally observed Michael Coles state that he was running for Congress.

The foregoing is true and correct to the best of my knowledge and belief.

Patrick N. McKenzie

PATRICK MCKENZIE

Sworn to and subscribed before
me this 6th day of April, 1996.

Paul L. Jones
Notary Public

96043743231

STATE OF GEORGIA

COUNTY OF FULTON

A F F I D A V I T

PERSONALLY APPEARED before me, an officer duly authorized by law to administer oaths, CLIFF OXFORD, who after being first duly sworn, states:

1. My name is Cliff Oxford, and I am competent in all respects to testify regarding matters set forth herein. I give this Affidavit voluntarily.

2. I was present at the Cobb County Democratic Breakfast held the morning of Saturday March 9, 1996 at Kiefer's Restaurant. At this breakfast meeting, I personally observed Michael Coles state that he was running for Congress.

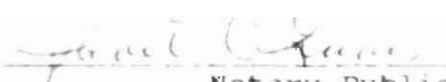
3. I was present at the Cherokee County Democratic Committee meeting on the evening of March 19, 1996. At this meeting, I personally observed Michael Coles state that he was running for Congress.

4. At Michael Coles' request, I met with him the morning of Thursday March 28, 1996 at the Le Peep Restaurant on Windy Hill Road in Cobb County, Georgia. During the course of this meeting, Mr. Coles informed me that he had already spent in excess of \$50,000 on his campaign for Congress, that he would be putting an additional \$250,000 into his campaign later that day, and that he had already caused two polls to be done and would have the results of the second poll the following Tuesday, and that he had not yet made or caused to be made any campaign filings related to his campaign for Congress.

The foregoing is true and correct to the best of my knowledge and belief.


CLIFF OXFORD

Sworn to and subscribed before
me this 11th day of April, 1996.


Notary Public

260437432



FEDERAL ELECTION COMMISSION

Washington, DC 20463

April 11, 1996

Cliff Oxford
1482 Fallsbrook Court
Acworth, GA 30101

RE: MUR 4335

Dear Mr. Oxford:

This letter acknowledges receipt on April 10, 1996, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). The respondent(s) will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 4335. 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,

A handwritten signature in black ink, appearing to read "Lerner", is written over a horizontal line.

Lois G. Lerner
Associate General Counsel

Enclosure
Procedures

26043743233



FEDERAL ELECTION COMMISSION

Washington, DC 20463

April 11, 1996

Susan Knight Bentley, Treasurer
Coles for Congress, Inc.
2450 Kirk Lane
Kennesaw, GA 30152

RE: MUR 4335

Dear Ms. Knight:

The Federal Election Commission received a complaint which indicates that Coles for Congress, Inc. ("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 4335. 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.

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

Sincerely,



Lois G. Lerner

Associate General Counsel

Enclosures

1. Complaint
2. Procedures
3. Designation of Counsel

2 6 0 4 3 7 4 3 2 3 5



FEDERAL ELECTION COMMISSION

Washington, DC 20463

April 11, 1996

Michael J. Coles
2450 Kirk Lane
Kennesaw, GA 30152

RE: MUR 4335

Dear Mr. Coles:

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 4335. Please refer to this number in all future correspondence.

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

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

26043743236

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

Sincerely,



Lois G. Lerner
Associate General Counsel

Enclosures

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

2 6 0 4 3 7 4 3 2 3 7

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

Apr 30 2 07 PM '96

EPSTEIN BECKER & GREEN, P.C.

ATTORNEYS AT LAW

1227 25TH STREET, N.W.

WASHINGTON, D.C. 20037-11561

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MIAMI, FLORIDA 33133
(305) 886-1100

510 KING STREET, SUITE 301
ALEXANDRIA, VIRGINIA 22314-31321
(703) 684-1204

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NEW YORK, NEW YORK 10177-00771
(212) 361-4500

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ONE RIVERFRONT PLAZA
NEWARK, NEW JERSEY 07102-84011
(201) 842-1900

75 STATE STREET
BOSTON, MASSACHUSETTS 02109
(617) 342-4000

April 30, 1996

P.C. NEW YORK, WASHINGTON, D.C., NEW JERSEY
CONNECTICUT, VIRGINIA AND TEXAS ONLY

HAND-DELIVERED

Lois G. Lerner
Associate General Counsel
Office of the General Counsel
FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Room 657
Washington, D.C. 20463

**RE: M.U.R. 4335: RESPONDENTS COLES FOR CONGRESS, INC. AND SUSAN
KNIGHT BENTLEY, AS TREASURER**

Dear Ms. Lerner:

Our firm has been retained to represent Coles for Congress, Inc. ("the Committee") and Susan Knight Bentley, as Treasurer ("the Respondents") in connection with the above-referenced matter. In that regard, enclosed please find a Statement of Designation of Counsel which was executed on Thursday, April 25, 1996 by Ms. Bentley, the Committee's Treasurer.

It is our understanding that our clients' response to the complaint is due to be filed with your office by the close-of-business today. We respectfully request a twenty-day extension of time, until May 20, 1996, in which to file a response to this meritless complaint. As our firm has only recently been retained to represent Respondents in this matter, this extension-of-time is necessary for us to be able to submit a complete and thorough response.

Thank you for your assistance. If you have any questions, please do not hesitate to contact me at (202) 861-1877.

Sincerely,


Leslie J. Kerman

260437438

STATEMENT OF DESIGNATION OF COUNSEL

MUR: 4335

NAME OF COUNSEL: Leslie J. Kerman, Esquire

ADDRESS: Epstein Becker & Green, P.C.

1227 25th Street, N.W., Suite 700

Washington, D.C. 20037

TELEPHONE: (202) 861-1877

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

4/25/96
Date

Susan Knight Bentley Treasurer
Signature

RESPONDENT'S NAME: Coles for Congress, Inc. and Susan Knight Bentley, as Treasurer

ADDRESS: 2617 Sandy Plains, #C

Marietta, Georgia 30066

HOME PHONE: N/A

BUSINESS PHONE: (770) 509-1790

96043743239



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 30, 1996

**Leslie J. Kerman, Esquire
Epstein Becker & Green, P.C.
1227 25th Street, N.W., Suite 700
Washington, D.C. 20037**

**RE: MUR 4335
Coles for Congress, Inc.
Susan Knight Bentley, as treasurer**

Dear Ms. Kerman:

This is in response to your letter dated April 30, 1996, requesting an extension until May 20, 1996, to respond to the complaint filed in the above-noted matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on May 20, 1996.

If you have any questions, please contact the Central Enforcement Docket at (202) 219-3400.

Sincerely,

A handwritten signature in cursive script that reads "Frances B. Hagan".

**Frances B. Hagan, Paralegal Specialist
Central Enforcement Docket**

9604374340

EPSTEIN BECKER & GREEN, P.C.

ATTORNEYS AT LAW

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**ONE RIVERFRONT PLAZA
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(904) 881-0586**

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MIAMI, FLORIDA 33133
(305) 856-1100**

**510 KING STREET, SUITE 301
ALEXANDRIA, VIRGINIA 22314-3132†
(703) 684-1204**

† P.C. NEW YORK, WASHINGTON, D.C., NEW JERSEY,
CONNECTICUT, VIRGINIA AND TEXAS ONLY

June 5, 1996

VIA FACSIMILE (202/219-3923)
& HAND-DELIVERED

**Ms. Frances B. Hagan
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Room 657
Washington, D.C. 20463**

**RE: M.U.R. 4335: RESPONDENTS COLES FOR CONGRESS, INC.
AND SUSAN KNIGHT BENTLEY, AS TREASURER**

Dear Ms. Hagan:

I am writing to you in connection with the meritless complaint filed with your office on April 10, 1996 by Cliff Oxford. Mr. Oxford is Michael J. Coles' opponent in the July 9, 1996 primary for the Democratic nomination for Congress from Georgia's Sixth District.

Coles for Congress, Inc. and Susan Knight Bentley, as Treasurer (collectively "the Committee"), flatly denies the allegations set forth in the complaint. The Committee submits that its filings with the Commission to date are accurate, timely and complete. As the Committee's April 15, 1996 Quarterly Report (and amendment thereto of April 22, 1996) reflect, the Committee's first receipts were two in-kind loans from the candidate Michael J. Coles on March 25, 1996. The Committee's Statement of Organization, as well as Mr. Coles' Statement of Candidacy, were then filed on April 1, 1996 (postmark date) -- well within the time period prescribed by the Commission's regulations. Mr. Oxford's unsubstantiated charges concerning other financial activity by the Committee in the first quarter of 1996 -- including alleged large expenditures/contributions by Mr. Coles -- are false.

JUN 6 10 59 AM '96

**RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL**

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Ms. Frances B. Hagan
June 5, 1996
Page Two

Thus, the Committee requests that the Commission vote to find no reason-to-believe with respect to this matter.

Please do not hesitate to contact me at 202/861-1877 if you have any questions. Thank you for your assistance with this matter.

Sincerely,



Leslie J. Kerman
Counsel

Coles for Congress, Inc. and Susan Knight Bentley, as Treasurer

9 6 0 4 3 7 4 3 2 4 2

EPSTEIN BECKER & GREEN, P.C.**ATTORNEYS AT LAW****1827 28TH STREET, N.W.****WASHINGTON, D.C. 20037-1101****(202) 661-0000****TELECOPIER: (202) 296-2882****DIRECT LINE****690 PARK AVENUE
NEW YORK, NEW YORK 10077-0077
(212) 281-4000****1675 CENTURY PARK EAST
LOS ANGELES, CALIFORNIA 90067-0001
(310) 556-0001****512 LANDMARK SQUARE
STAMFORD, CONNECTICUT 06901-27047
(203) 346-3737****ONE RIVERFRONT PLAZA
NEWARK, NEW JERSEY 07102-84017
(201) 642-1000****75 STATE STREET
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(617) 348-4000****2 EMBARCADERO
SAN FRANCISCO, CALIFORNIA 94111-0004
(415) 398-3000****12750 MERT DRIVE
DALLAS, TEXAS 75229-2007
(214) 450-3400****116 SOUTH MONROE STREET
TALLAHASSEE, FLORIDA 32301-1000
(904) 881-0000****2400 SOUTH DIXIE HIGHWAY, SUITE 100
MIAMI, FLORIDA 33130
(305) 896-1100****810 KING STREET, SUITE 301
ALEXANDRIA, VIRGINIA 22304-3001
(703) 664-2004****June 18, 1996****P.C. NEW YORK, WASHINGTON, D.C., NEW JERSEY,
CONNECTICUT, VIRGINIA AND TEXAS ONLY****VIA FACSIMILE (202/219-3923)****Frances B. Hagan
Office of the General Counsel
FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Room 657
Washington, D.C. 20463****RE: M.U.R. 4335: RESPONDENT MICHAEL J. COLES****Dear Ms. Hagan:**

To the best of our knowledge, Michael J. Coles has not received a letter from the Commission, notifying him that he is a Respondent in M.U.R. 4335. However, it is our understanding that the Commission may consider Mr. Coles as a Respondent in this matter. Accordingly, enclosed please find a Statement of Designation of Counsel for Mr. Coles (facsimile copy, as we have not yet received the hard copy with an original signature).

I will call you tomorrow to discuss this matter further.

Sincerely,


Leslie J. Kerman

Enclosure (1)

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

JUN 18 4 54 PM '96

9 6 0 4 3 7 4 3 2 4 3

STATEMENT OF RESIGNATION OF COUNSEL**MUR: 4335**

NAME OF COUNSEL: Leslie J. Korman
ADDRESS: Epstein Becker & Green, P.C.
1227 28th Street, N.W., Suite 700
Washington, D.C. 20037
TELEPHONE: (202) 851-1877

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FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

JUN 10 4 54 PM '96

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

6-11-96
Date

[Signature]
Signature

RESPONDENT'S NAME: Michael J. Cain
ADDRESS: 2420 Kirk Lane
Kennett, Georgia 30144
HOME PHONE: N/A
BUSINESS PHONE: (770) 522-1722

96043743244

EPSTEIN BECKER & GREEN. P.C.

ATTORNEYS AT LAW

1227 25TH STREET, N.W.

WASHINGTON, D.C. 20037-1156†

(202) 661-0900

TELECOPIER: (202) 296-2882

DIRECT LINE

**280 PARK AVENUE
NEW YORK, NEW YORK 10177-0077†
(212) 381-4500**

**1878 CENTURY PARK EAST
LOS ANGELES, CALIFORNIA 90067-2801
(310) 556-8881**

**SIX LANDMARK SQUARE
STAMFORD, CONNECTICUT 06901-2704†
(203) 348-3737**

**ONE RIVERFRONT PLAZA
NEWARK, NEW JERSEY 07102-8401†
(201) 842-1900**

**78 STATE STREET
BOSTON, MASSACHUSETTS 02109
(617) 342-4000**

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(415) 399-3500**

**12750 MERIT DRIVE
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(214) 490-3143**

**116 SOUTH MONROE STREET
TALLAHASSEE, FLORIDA 32301-1830
(904) 681-0696**

**2400 SOUTH DIXIE HIGHWAY, SUITE 100
MIAMI, FLORIDA 33133
(305) 888-1100**

**810 KING STREET, SUITE 301
ALEXANDRIA, VIRGINIA 22314-3132†
(703) 684-1204**

**†P.C. NEW YORK, WASHINGTON, D.C., NEW JERSEY,
CONNECTICUT, VIRGINIA AND TEXAS ONLY**

June 19, 1996

HAND-DELIVERED

**Frances B. Hagan
Office of the General Counsel
FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Room 657
Washington, D.C. 20463**

RE: M.U.R. 4335: RESPONDENT MICHAEL J. COLES

Dear Ms. Hagan:

Enclosed please find a Statement of Designation of Counsel for Michael J. Coles in the above-referenced matter. The Statement contains the original signature of Mr. Coles. This Statement was received this morning by our office.

Thank you for your attention to this matter.

Sincerely,


Leslie J. Kerman

Enclosure (1)

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OFFICE OF GENERAL
COUNSEL

JUN 19 12 58 PM '96

26043743245

STATEMENT OF DESIGNATION OF COUNSEL**MUR:** 4335**NAME OF COUNSEL:** Leslie J. Keruan**ADDRESS:** Epstein Becker & Green, P.C.
1227 25th Street, N.W., Suite 700
Washington, D.C., 20037**TELEPHONE:** (202) 861-1877

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

6-11-96
Date
Signature**RESPONDENT'S NAME:** Michael J. Coles**ADDRESS:** 2450 Kirk Lane
Kennesaw, Georgia 30144**HOME PHONE:** N/A**BUSINESS PHONE:** (770) 509-1790

JUN 19 12 58 PM '96

RECEIVED
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COUNSEL

96043743246

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ATTORNEYS AT LAW

1227 25TH STREET, N.W.

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(202) 861-0900

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(201) 642-1900

75 STATE STREET
BOSTON, MASSACHUSETTS 02109
(617) 342-4000

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12750 MERIT DRIVE
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(214) 490-3143

116 SOUTH MONROE STREET
TALLAHASSEE, FLORIDA 32301-1930
(904) 881-0898

2400 SOUTH DIXIE HIGHWAY, SUITE 100
MIAMI, FLORIDA 33133
(305) 856-1100

510 KING STREET, SUITE 301
ALEXANDRIA, VIRGINIA 22314-3132†
(703) 684-1204

July 1, 1996

† P.C. NEW YORK, WASHINGTON, D.C., NEW JERSEY,
CONNECTICUT, VIRGINIA AND TEXAS ONLY

**VIA FACSIMILE (202/219-3923)
& HAND-DELIVERED**

Ms. Frances B. Hagan
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Room 657
Washington, D.C. 20463

RE: M.U.R. 4335: RESPONDENT MICHAEL J. COLES

Dear Ms. Hagan:

This constitutes the response of Michael J. Coles to the meritless complaint filed with your office by Cliff Oxford. Mr. Oxford is Mr. Coles' opponent in the July 9, 1996 primary for the Democratic nomination for Congress from Georgia's Sixth District.

The complaint alleges that Mr. Coles violated the provisions of the Federal Election Campaign Act ("the Act"): "(1) by failing to designate a campaign committee within 15 days after he became a candidate for Congress, (2) by failing to cause such a principal campaign committee to register with the Commission by filing a Statement of Organization, (3) by failing to establish a separate campaign checking account for the deposit of campaign receipts and the payment of campaign expenditures, (4) by commingling campaign funds and personal funds, and (5) by not having a legally qualified campaign committee as of March 31, 1996 and thereby violating the requirement to file a report of campaign contributions and expenditures for the first calendar quarter of the 1996 election year, during which time he was a candidate for Congress." Mr. Coles flatly denies these unsubstantiated allegations.

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1. ALLEGATION REGARDING FILING OF STATEMENT OF CANDIDACY

Mr. Coles filed his Statement of Candidacy in a timely fashion. Specifically, Mr. Coles signed his Statement of Candidacy on March 29, 1996. The Statement then was mailed to the House Office of Records and Registration ("the House") via first-class mail, postmarked April 1, 1996. The Statement was received by the Commission from the House on April 5, 1996. See Attachment A.

Mr. Oxford appears to allege that Mr. Coles became a "candidate" under the Act prior to March 21, 1996 (i.e., fifteen days prior to the receipt of Mr. Coles' Statement of Candidacy by the Commission). This is simply false. Neither Mr. Coles nor his campaign committee received nor expended more than \$5,000 prior to March 21, 1996. Mr. Coles' first campaign-related disbursements were both made on March 25, 1996 – a payment of \$26,320.00 to Cooper & Secrest for a benchmark assessment poll (a "testing-the-waters" expense designed to assist Mr. Coles in deciding whether to become a congressional candidate) and another "testing-the-waters" payment in connection with air transportation to Washington, D.C. to attend several meetings to discuss a possible House candidacy. See Attachment B, copies of invoices from Coopers & Secrest Associates, Inc. for benchmark assessment poll.

Mr. Coles absolutely did not decide to become a candidate until sometime after March 24, 1996 (the field date of the benchmark poll). His activity prior to his late March/early April, 1996 decision to become a candidate was strictly "testing-the-waters" activity, as permitted by the Act and the Commission's regulations. Notwithstanding the self-serving submissions of Mr. Oxford and his political allies, to the best of his recollection Mr. Coles did not make any statements prior to March 21, 1996 in which he affirmatively referred to himself as a candidate, as opposed to a possible candidate.

2. ALLEGATION REGARDING FILING OF STATEMENT OF ORGANIZATION

This allegation is meritless. Coles for Congress, Inc. ("the Committee") filed its Statement of Organization on the same day that Mr. Coles filed his Statement of Candidacy, which was well before the Statement of Organization was required to be filed under the Act. See Attachment C.

3. ALLEGATIONS REGARDING CAMPAIGN CHECKING ACCOUNT AND COMMINGLING OF FUNDS

These allegations, for which Mr. Oxford provides no evidence whatsoever, are meritless and irresponsible. Upon its inception, the Committee established a campaign checking account for campaign receipts and disbursements. Moreover, Mr. Coles never commingled his personal funds with campaign contributions.

4. ALLEGATION REGARDING FIRST QUARTER, 1996 FEC REPORT

As it was not registered with the Commission until after March 31, 1996, the Committee was not required to file a First Quarter, 1996 FEC Report. However, in the interest of full disclosure, the Committee voluntarily filed a First Quarter, FEC 1996 Report prior to the April 15, 1996 filing deadline. Thus, Mr. Oxford's allegation is baseless.

Ms. Frances B. Hagan
July 1, 1996
Page Three

For the reasons detailed above, Mr. Coles respectfully requests that the Commission vote to find no reason-to-believe in this matter.

Please do not hesitate to contact me at 202/861-1877 if you have any questions. Thank you for your assistance with this matter.

Sincerely,



Leslie J. Kerman

On Behalf of Respondent Michael J. Coles

96043743249

Attachments (3)

GAB6

STATEMENT OF CANDIDACY

Read the instructions for instructions

FILE WITH
FEDERAL ELECTION
COMMISSION
PUBLIC NOTICE
FEB 1996

APR 5 1 30 PM '96

1. Name of Candidate: John J. Gable

2. Address (number and street): 1000 1st St NW ☐ Check if address changed

3. Party Affiliation: Democrat

4. Office Sought: Congress

5. State & District of Candidacy: GA 6

DESIGNATION OF PRINCIPAL CAMPAIGN COMMITTEE

6. I hereby designate the following named political committee as my Principal Campaign Committee for the 76 election(s).
(year of election)

NOTE: This designation should be filed with the appropriate office listed below.

(a) Name of Committee (in full): Boles for Congress, Inc

(b) Address (number and street): 2427 Park Lane

(c) City, State and ZIP Code: Atlanta GA 30315

DESIGNATION OF OTHER AUTHORIZED COMMITTEES

(Including Joint Fundraising Representatives)

7. I hereby authorize the following named committee which is NOT my principal campaign committee, to receive and expend funds on behalf of my candidacy:

NOTE: This designation should be filed with the principal campaign committee

(a) Name of Committee (in full):

(b) Address (number and street):

(c) City, State and ZIP Code:

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

Signature of Candidate

Date

3/22/96

NOTE: Submission of false, erroneous, or incomplete information may subject the person filing this Statement to the penalties of 2 U.S.C. § 437g.

CANDIDATES FOR THE OFFICE OF:

President mail to

U.S. Senate mail to

U.S. House of Representatives mail to

For further information contact

Federal Election Commission
995 E Street, N.W.
Washington, DC 20463

Secretary of the Senate
Office of Public Records
222 Hart Senate Office Bldg
Washington, DC 20510-7116

Chief of the House of Representatives
Office of Records and Registration
1036 Longworth Office Bldg
Washington, DC 20515-6612

Federal Election Commission
Toll-free 800-424-9531
Local 202-299-3422

**Federal Election Commission
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The Commission has added this page to the end of this filing to indicate how it was received.

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and Registration

DATE OF RECEIPT

4-5-96

☐ Received from the Senate Office of Public
Records

DATE OF RECEIPT

☐ Other (Specify):

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and/or DATE OF RECEIPT

JMU
PREPARER

4-5-96
DATE PREPARED

20043743251
060191

Michael Coles for Congress
c/o American Cookie Company
4685 Frederick Drive
Atlanta, GA 30336

COOPER & SECREST ASSOCIATES, Inc.
228 South Washington Street
Suite 330
Alexandria, Virginia 22314
(703) 683-7990

INVOICE

#96023

Date	Description	PAID	Amount
3-11-1996	Professional services related to the conduct of a benchmark assessment poll among likely general election voters in GA's 6th C.D. Questionnaire Length: 25 minutes Sample Size: 500 Field Date: March 24, 1994 <i>paid 3-25-96</i> <i>[Signature]</i> Total due: \$18,550.00 TERMS: \$9275 due by Mar. 14, 1996 \$9275 due by Mar. 22, 1996 <u>Thank you!</u> *(excludes pass-through sample acquisition cost, estimated to be \$500.00)		

SUB TOTAL \$18,550.00

TAX

TOTAL \$18,550.00

PLEASE RETURN YELLOW COPY WITH PAYMENT

2550.00
1050

26043743252

Michael Coles for Congress
c/o American Cookie Company
4685 Frederick Drive
Atlanta, GA 30336

COOPER & SACREST ASSOCIATES, Inc.
228 South Washington Street
Suite 930
Alexandria, Virginia 22314
(703) 683-7990

INVOICE

Date	Description	PAID	Amount
3-22-96	Additional benchmark poll questionnaire length.		
			
	Total due:		\$7,500.00
	TERMS: Due on receipt, with initial invoice balances.		
	<u>THANK YOU!</u>		
		SUB TOTAL	\$7,500.00
		TAX	
		TOTAL	\$7,500.00

PLEASE RETURN YELLOW COPY WITH PAYMENT

96043743253

Michael Coles for Congress
c/o American Cookie Company
4685 Frederick Drive
Atlanta, GA 30336

COOPER & SECREST ASSOCIATES, Inc.
228 South Washington Street
Suite 330
Alexandria, Virginia 22314
(703) 683-7990

INVOICE

Travel

Date	Description	PAID	Amount
3-14-96	Travel related to poll and campaign planning.		
	Flight: \$721.00		
	Car: \$56.00		
	Per diem: \$300		
	Total due:		\$1,077.00
	TERMS: Due on receipt.		
	Thank you!		
		SUB TOTAL	\$1,077.00
		TAX	
		TOTAL	\$1,077.00

PLEASE RETURN YELLOW COPY WITH PAYMENT

96043743254

STATEMENT OF ORGANIZATION

(See reverse side for instructions)

1. NAME OF COMMITTEE IN FULL <i>Democratic Party of Georgia</i>	☐ (Check if name is changed)	2. DATE <i>1/29/96</i>
3. NUMBER AND STREET ADDRESS <i>266 Martin Ridge Dr.</i>	☐ (Check if address is changed)	3. FEC IDENTIFICATION NUMBER <i>35152</i>
4. CITY, STATE AND ZIP CODE <i>Marietta GA 30152</i>	4. IS THIS A PARTY COMMITTEE? ☐ YES ☒ NO	

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FEB 1 1996
5 1 30 PM '96

5. TYPE OF COMMITTEE (Check one):

- ☒ (a) This committee is a principal campaign committee. (Complete the candidate information below.)
- ☐ (b) This committee is an authorized committee, and is NOT a principal campaign committee. (Complete the candidate information below.)
- | | | | |
|--|--|-------------------------------|--------------------------------|
| Name of Candidate
<i>Michael J. Collins</i> | Candidate Party Affiliation
<i>Democrat</i> | Office Sought
<i>GA 11</i> | State/District
<i>GA 11</i> |
|--|--|-------------------------------|--------------------------------|
- ☐ (c) This committee supports/opposes only one candidate _____ (name of candidate) and is NOT an authorized committee.
- ☐ (d) This committee is a _____ (National, State or subordinate) committee of the _____ Party. (Democratic, Republican, etc.)
- ☐ (e) This committee is a separate segregated fund.
- ☐ (f) This committee supports/opposes more than one Federal candidate and is NOT a separate segregated fund or a party committee.

6. Name of Any Connected Organization or Affiliated Committee	Mailing Address and ZIP Code	Relationship

Type of Connected Organization

- ☐ Corporation ☐ Corporation with Capital Stock ☐ Labor Organization ☐ Membership Organization ☐ Trade Association ☐ Cooperative

7. Custodian of Records: Identify by name, address (phone number - optional) and position of the person in possession of committee books and records

Full Name: *Patricia H. Hurd* Mailing Address: *2457 Kirk Lane, Marietta, GA 30152* Title or Position: *Treasurer*

8. Treasurer: List the name and address (phone number - optional) of the treasurer of the committee, and the name and address of any designee agent (e.g., assistant treasurer).

Full Name: *Susan Knight Bentley* Mailing Address: *266 Martin Ridge Dr. Marietta, GA 30064* Title or Position: *Treasurer/Secretary*

9. Banks or Other Depositories: List all banks or other depositories in which the committee deposits funds, holds accounts, rents safety deposit boxes or maintains funds.

Name of Bank, Depository, etc.: *Charter Bank & Trust* Mailing Address and ZIP Code: *269 Roswell St. Marietta, GA 30060*

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

TYPE OR PRINT NAME OF TREASURER <i>Sue Bentley</i>	SIGNATURE OF TREASURER <i>Sue Bentley</i>	DATE <i>3/29/96</i>
---	--	------------------------

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g. A CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 30 DAYS.

For further information contact:
Federal Election Commission
Toll-free 800-424-9530
Local 202-219-3420

FESAN045

FEC FORM 1

(revised 4/87)

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4-5-96

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Records

DATE OF RECEIPT

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JmN

PREPARED

Jm 4-5-96

DATE PREPARED

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

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FEDERAL ELECTION
COMMISSION
SECRETARIAT

AUG 29 25 AM '96

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

MUR: 4335

DATE COMPLAINT FILED: 4/10/96

DATE OF NOTIFICATION: 4/11/96

DATE ACTIVATED: 5/30/96

STAFF MEMBER: Frances B. Hagan

COMPLAINANT: Cliff Oxford

RESPONDENTS: Coles for Congress, Inc.
Susan Knight Bentley, Treasurer
Michael J. Coles

RELEVANT STATUTES: 2 U.S.C. §§ 433 and 434
2 U.S.C. § 432(b)
2 U.S.C. § 432(e)
2 U.S.C. § 432(h)

INTERNAL REPORTS CHECKED: Disclosure Indexes and Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

Complainant Cliff Oxford, candidate for U.S. House of Representatives in the Sixth Congressional District of Georgia, alleges that his primary election opponent Michael J. Coles became a candidate as early as February 1996, but failed to file a Statement of Candidacy or register a political committee.¹ Complainant alleges that Mr. Coles asserted his candidate status privately to an individual on or about February 19, 1996, and publicly at two local Democratic Party meetings on March 9 and 19, 1996. Complainant provided four sworn affidavits

¹ Michael J. Coles won the primary election held July 9, 1996, garnering 86% of the vote

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(including his own) attesting that on those dates, Mr. Coles stated he was "running for Congress." Complainant alleges that Mr. Coles hired political consultants and campaign staff in late February or early March and conducted two political polls, thereby triggering the \$5,000 threshold for candidacy.

Complainant alleges that Mr. Coles failed to designate a campaign depository, and that by making "extensive campaign expenditures" from personal funds, Mr. Coles commingled campaign funds with personal funds. Complainant further alleges that Mr. Coles failed to register a political committee and report receipts and expenditures.

II. FACTUAL AND LEGAL ANALYSIS

2 U.S.C. § 432(e) requires that a candidate designate a principal campaign committee within 15 days of becoming a candidate. 2 U.S.C. § 431(2) states that an individual becomes a candidate by receiving contributions or making expenditures aggregating in excess of \$5,000. Commission Regulations exempt from the definition of "contribution" or "expenditure" funds received or payments made "solely for the purpose of determining whether an individual should become a candidate." If the individual subsequently becomes a candidate, such receipts and payments are subject to the reporting requirements of the Act. 11 C.F.R. §§ 100.7(b)(1)(i) and 100.8(b)(1)(i). This exemption does not apply when an individual has decided to become a candidate. 11 C.F.R. §§ 100.7(b)(1)(ii) and 100.8(b)(1)(ii). One way an individual indicates that such a decision has been made is to make statements that refer to him or her as a candidate for a particular office. 11 C.F.R. §§ 100.7(b)(1)(ii)(C) and 100.8(b)(1)(ii)(C).

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11 C.F.R. § 100.8(a)(2) states that a written contract, including a media contract, promise, or agreement to make an expenditure is an expenditure as of the date such contract, promise or obligation is made.

2 U.S.C. § 433 requires registration by a political committee. 2 U.S.C. § 431(4)(A) defines the term "political committee" as any committee, club, association, or other group of persons that receives contributions or makes expenditures in excess of \$1,000 during a calendar year. 2 U.S.C. § 434 requires that a political committee file reports of receipts and expenditures. 2 U.S.C. 432(h) requires that a political committee designate a campaign depository. 2 U.S.C. § 432(b)(3) requires that all campaign funds be segregated from personal funds of an individual.

FEC records show that on April 5, 1996, Mr. Coles filed a Statement of Candidacy, and his principal campaign committee filed a Statement of Organization. Counsel for respondents asserts that these first filings were timely and that all complainant's allegations are "meritless." Counsel for respondents labels the early expenses "testing-the-waters," beginning with the first polling disbursements dated March 25, 1996. However, Mr. Coles does not counter the affidavits regarding his previous verbal statements of candidacy with a sworn statement of his own. Counsel simply notes "to the best of his recollection Mr. Coles did not make any statements prior to March 21, 1996 in which he affirmatively referred to himself as a candidate"² According to the response, Mr. Coles "absolutely did not decide to become a candidate until sometime after March 24, 1996"

A Coles for Congress, Inc. ("Committee") quarterly report filed with the FEC on April 18, 1996, and amended April 23, 1996, indicates the candidate initially funded his new

² March 21, 1996 is 15 days before the Statement of Candidacy was filed with the FEC on 4/5/96

Committee by making personal loans totaling \$32,083.56 in the form of payments to vendors. In memo entries itemizing these payments, the amended report shows that on March 25, 1996, Mr. Coles made the first expenditures for the Committee, paying the political consulting firm Cooper & Secrest Associates, Inc., \$26,520 for "opinion research." However, an invoice for \$18,550.00 from the consulting firm establishes March 11, 1996, as the initial agreement date for professional polling services. See 11 C.F.R. § 100.8(a)(2).³ Additional invoices to the same firm for travel and polling are dated March 14 and 22, 1996. Attachment B, pp. 6-8.

Based on this evidence, the campaign's contributions and expenditures exceeded \$5,000 by March 11, 1996, thereby triggering the requirement to designate a principal campaign committee within 15 days, absent a determination that Mr. Coles was merely "testing the waters" at that time. Given the affidavits averring that Mr. Coles referred to himself as a candidate, and the lack of a sworn rebuttal statement, it appears that Mr. Coles became a candidate earlier than counsel contends. 2 U.S.C. §§ 432(e) and 431(2). See also 11 C.F.R. § 101.1(a). Therefore, a Statement of Candidacy designating a principal campaign committee was due by March 26, 1996. Because the candidate and Committee failed to timely register and file the required reports, it appears that respondent Michael J. Coles violated 2 U.S.C. § 432(e), and the Coles for Congress Committee, Inc., and Susan Knight Bentley, as treasurer, violated 2 U.S.C. §§ 433, and 434.⁴ However, as the respondents have since filed the reports (although apparently 10 days late), and considerable resources would be necessary to reconcile the precise date of candidacy,

³ Also on 3/25/96, Mr. Coles paid Doug Murphy/Future Care Consultants, Inc., \$4,500 as "advance reimbursement for use of corporate plane" payment in excess of FEC Regulations."

⁴ The allegation concerning 2 U.S.C. § 432(h) is encompassed in the violation of Section 433, regarding the tardy designation of a campaign depository.

the Office of the General Counsel recommends that the Commission find reason to believe that the violations occurred, but take no further action regarding them. We will include an admonition in the notification letter.

In addition, as the Committee reported only in-kind receipts, and the reported expenditures were made from the candidate's personal funds, there is no apparent commingling of Committee funds with personal funds. Thus, we recommend that the Commission find no reason to believe that the Committee and its treasurer violated 2 U.S.C. § 432(b)(3). Finally, this Office recommends that the Commission close the file in this matter.

III. RECOMMENDATIONS

1. Find reason to believe that Michael J. Coles violated 2 U.S.C. § 432(e), but take no further action.
2. Find reason to believe that Coles for Congress, Inc., and Susan Knight Bentley, as treasurer, violated 2 U.S.C. §§ 433 and 434, but take no further action.
3. Find no reason to believe that Coles for Congress, Inc., and Susan Knight Bentley, as treasurer, violated 2 U.S.C. § 432(b)(3).
4. Approve the appropriate letter.
5. Close the file.

Lawrence M. Noble
General Counsel

Date

8/1/96

BY:



Lois G. Lerner
Associate General Counsel

Attachments:

- A. Committee response
- B. Candidate response.

2604374326

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Coles for Congress, Inc. and)
Susan Knight Bentley, Treasurer;)
Michael J. Coles.)

MUR 4335

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on August 7, 1996, the Commission decided by a vote of 5-0 to take the following actions in MUR 4335:

1. Find reason to believe that Michael J. Coles violated 2 U.S.C. § 432(e), but take no further action.
2. Find reason to believe that Coles for Congress, Inc., and Susan Knight Bentley, as treasurer, violated 2 U.S.C. §§ 433 and 434, but take no further action.
3. Find no reason to believe that Coles for Congress, Inc., and Susan Knight Bentley, as treasurer, violated 2 U.S.C § 432(b)(3).

(continued)

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Federal Election Commission
Certification for MUR 4335
August 7, 1996

Page 2

4. Approve the appropriate letter, as recommended in the General Counsel's Report dated August 1, 1996.
5. Close the file.

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

Attest:

8-8-96
Date

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

Received in the Secretariat: Fri., August 2, 1996 9:25 a.m.
Circulated to the Commission: Fri., August 2, 1996 12:00 p.m.
Deadline for vote: Wed., August 7, 1996 4:00 p.m.

bjr

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 20, 1996

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Cliff Oxford
1482 Fallsbrook Court
Acworth, GA 30101

RE: MUR 4335
Michael J. Coles
Coles for Congress, Inc.
Susan Knight Bentley, as treasurer

Dear Mr. Oxford:

This is in reference to the complaint you filed with the Federal Election Commission on April 10, 1996, concerning Michael J. Coles, Coles for Congress, Inc. and Susan Knight Bentley, as treasurer.

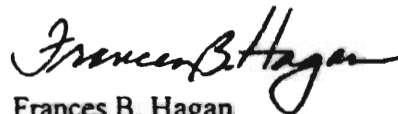
Based on that complaint, on August 7, 1996, the Commission found that there was reason to believe Michael J. Coles violated 2 U.S.C. § 432(e), a provision of the Federal Election Campaign Act of 1971, as amended, and instituted an investigation of this matter. At the same time, the Commission found reason to believe that Coles for Congress, Inc., and Susan Knight Bentley, as treasurer, violated 2 U.S.C. §§ 433 and 434. However, after considering the circumstances of this matter, the Commission determined to take no further action against the respondents, and closed the file in this matter on August 7, 1996. In addition, the Commission found no reason to believe that Coles for Congress, Inc., and Susan Knight Bentley, as treasurer, violated 2 U.S.C. § 432(b)(3).

Mr. Cliff Oxford
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This matter will become part of the public record within 30 days. The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

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

Sincerely,



Frances B. Hagan
Paralegal Specialist

Enclosure:
General Counsel's Report

96043743265



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 20, 1996

**Leslie J. Kerman, Esquire
Epstein Becker & Green, P.C.
1227 25th Street, N.W., Suite 700
Washington, D.C. 20037**

**RE: MUR 4335
Michael J. Coles
Coles for Congress, Inc.
Susan Knight Bentley, Treasurer**

Dear Ms. Kerman:

On August 7, 1996, the Federal Election Commission found reason to believe that your client, Michael J. Coles, violated 2 U.S.C. § 432(e), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). At the same time, the Commission found reason to believe that Coles for Congress, Inc., and Susan Knight Bentley, as treasurer, violated 2 U.S.C. §§ 433 and 434. However, after considering the circumstances of this matter, the Commission also determined to take no further action regarding these issues. In addition, the Commission found no reason to believe that Coles for Congress, Inc., and Susan Knight Bentley, as treasurer, violated 2 U.S.C. § 432(b)(3) and closed its file. The General Counsel's Report which formed a basis for the Commission's finding is attached for your information.

The Commission reminds you that failure to timely file a Statement of Candidacy or to timely register and file the required reports is a violation of 2 U.S.C. §§ 432(e), 433 and 434. Your clients should take steps to ensure that this activity does not occur in the future.

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.

Celebrating the Commission's 20th Anniversary

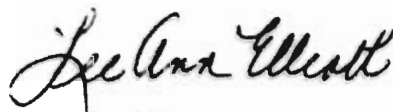
YESTERDAY TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

96043743266

Leslie J. Kerman, Esquire
Page 2

If you have any questions, please contact Frances B. Hagan, the staff member assigned to this matter, at (202) 219-3400.

Sincerely,



Lee Ann Elliott
Chairman

Enclosure:
General Counsel's Report

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4335

DATE FILMED 9/6/96 CAMERA NO. 2

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