

FEDERAL ELECTION COMMISSION WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # <u>4366</u> DATE FILMED <u>2-84-57</u> CAMERA NO. <u>4</u> CAMERAMAN <u>Jun (J</u>

#### REPORTS ANALYSIS REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: February 17, 1995

95L-02

ANALYST: Nick Federspiel

I. COMMITTEE:

Phil Schiliro for Congress Committee (C00271270) Joseph Michael Schiliro, Treasurer 1002 Wood Park Drive Baldwin, New York 11510

II. RELEVANT STATUTE: 2 U.S.C. \$434(a)(6) 11 CFR \$104.5(f)

III. BACKGROUND

Failure to File Forty-Eight Notifications

The Phil Schiliro for Congress Committee ("the Committee") has failed to file eighteen (18) of the required 48-Mour Notifications ("48-Mour Notices") for contributions totalling \$34,500 received prior to the 1994 General Election.

The candidate was involved in the 1994 General Election held on November 8, 1994. Prior Notice was sent to the Committee on October 3, 1994 (Attachment 2). The Notice includes a section titled "48 Hour Notices on Contributions." This section reads "Notices are required if the committee receives contributions (including contributions and loams from the candidate's personal funds; and endorsements or guarantees of bank loans) of \$1,000 or more, during the period of October 20 through November 5. The notices must reach the appropriate federal and state filing offices within 48 hours of the committee's receipt of the contribution(s)."

Schedule A of the 30 Day Post-General Report indicates that the Committee has failed to file eighteen (19) 48-Hour Notices for contributions received during the aforementioned period (Attachment 3). The following is a list of the contributions for which no 48-Hour Notices were filed: PHIL SCHILIRO FO CONGRESS COMMITTEE REPORTS ANALYSIS OGC REFERRAL PAGE 2

Contributor Name	Date	Amount
(as reported by committee)	warman the	Constant of the second
Thes Adelson	10/29/94	\$1,000
Cleveland Christophe	10/28/94	\$1,000
Kathleen Dolan	11/04/94	\$1,000
George Konheim	10/28/94	\$1,000
Edward Meyer	10/29/94	\$1,000
Lillian Rios	11/04/94	\$1,000
AFSCHE	10/28/94	\$5,000
AIDS PAC	10/28/94	\$1,500
Cataract & Refractive Surgery	10/28/94	\$3,500
Handgun Control, Inc.	10/29/94	\$1,000
Investment Management PAC	11/01/94	\$5,000
Local 138 Political Fund	10/29/94	\$1,000
Manor Healthcare Fund	10/28/94	\$3,000
Motion Picture Association	10/29/94	\$1,000
Nonprescription Drug		The second second
Manufacturers	10/28/94	\$1,000
Rural Letter Carriers	10/28/94	\$1,500
United Mine Workers PAC	10/28/94	\$4,000
Warner Lambert, PAC	10/29/94	\$1,000

On December 23, 1994, an Information Notice was sent to the Committee (Attachment 4). The Information Notice notes that the Committee may have failed to file one or more of the required 48-Hour Notices for "last minute" contributions of \$1,000 or more. The notice recommends that the Committee review its procedures for checking contributions received during the aforementioned time period. Additionally, the notice states that although the Commission may take legal action, any response would be taken into consideration.

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SCHILIRO, PHILIP HICHAEL HOUSE OG DEND	CHATLE PARTY		the second s	YORK	1994	ELECTION	IDW	H2NY04046
1. STATEMENT OF CANDIDATE					700194			94HSE/540/367
1994 STATEMENT OF CANDIDATE					TUL IN			Panae/ 340/ 30/
2. PRINCIPAL CAMPAIGN COMMITTEE								
PHIL SCHILING FOR CONGRESS CONNITTEE					D #C0027	1270 HOUS	E	
1993 NID-YEAR REPORT	1,479		2.991	1. 1.4	the second s	-30JUN93		93HSE/500/349
YEAR-END	0		214			-31DEC93		94HSE/507/248
1994 STATEMENT OF CREANIZATION - ANENDINE	NT				700794			94HSE/540/36
STATEMENT OF ORGANIZATION - AND ONE	NT				1400794			94HSE/547/14
48 HOUR CONTRIBUTION NOTICE					2400794			94HSE/550/01
48 HOUR CONTRIBUTION NOTICE					2500194			94HSE/550/28
48 HOUR CONTRIBUTION NOTICE					2600194		3	94HSE/551/27
48 HOUR CONTRIBUTION NOTICE					2800194		1	94HSE/554/46
48 HOUR CONTRIBUTION NOTICE					2800194			94HSE/554/48
48 HOUR CONTRIBUTION NOTICE					20094		3	94HSE/556/08
48 HOUR CONTRIBUTION NOTICE					7NOV94			94HSE/556/33
48 HOUR CONTRIBUTION NOTICE	1211		1.000		7110194			95HSE/566/35
APRIL QUARTERLY	0		246			-31HAR94		94HSE/516/05
HID-YEAR REPORT	0		0	1000		-30JUN94		94HSE/535/14
OCTOBER QUARTERLY		7,000		20		- 1SEP94		94HSE/546/000
OCTOBER QUARTERLY - AMENDME	SIT.					-305EP94		95HSE/566/22
PRE-GENERAL		137,625		89,819		-1900194		94HSE/552/31
REQUEST FOR ADDITIONAL INFORMATION						-1900794		94FEC/953/28
REQUEST FOR ADDITIONAL INFORMATION	200					-190CT94		95FEC/955/19
POST-GENERAL		290,614		341,915		-28NOV94		94HSE/558/09
1'ST LETTER INFORMATIONAL NOTICE				1.0		-28NOV94		94FEC/954/44
YEAR-END		8,332		12,750	2910194	-31DEC94	5	95HSE/568/01
TOTAL 3 AUTHORIZED COMMITTEES	1,479	443,571	3,451	444,504			135	TOTAL PAGES

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r 0 3. AUTHORIZED COMMITTEES 4. JOINT FUNDRAISING COMMITTEES AUTHORIZED BY THE CAMPAIGN

ALL REPORTS HAVE BEEN REVIEWED. ENDING CASH ON HAND AS OF 12/31/94: OUTSTANDING DEBTS AND OBLIGATIONS AS OF 12/31/94:

\$799.64. \$0.00.

# **REPORT NOTICE**

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# FEDERAL ELECTION COMMISSION

CONGRESSIONAL CONNITTEES

October 3, 1994

#### 1994 GENERAL ELECTION CANDIDATE CONNITTEES

REPORT	REPORTING PERIOD*	REG./CERT. NAILING DATE**	FILING
Pre-General	10/01/94 - 10/19/94	10/24/94	10/27/94
Post-General	10/20/94 - 11/28/94	12/08/94	12/08/94

#### WHO MUST FILE

All 1994 general election principal campaign committees of congressional candidates (including unopposed candidates) who seek election in the November 8, 1994, General Election must file the Pre- and Post-General Election Reports. If the campaign has an authorized committee(s), in addition to the principal campaign committee, the principal campaign committee must also file a consolidated report on Form 3Z and attach the report(s) of the authorized committee(s).

#### 48 BOUR NOTICES ON CONTRIBUTIONS

Notices are required if the committee receives contributions (including contributions and loans from the candidate's personal funds; and endorsements or guarantees of bank loans) of \$1,000 or more, during the period of October 20 through November 5. The notices must reach the appropriate federal and state filing offices within 48 hours of the committee's receipt of the contribution(s).

#### LABEL

Committees should affix the peel-off label from the envelope to Line 1 of the report. Corrections should be made on the label.

#### COMPLIANCE

TREASURERS ARE RESPONSIBLE FOR FILING ALL REPORTS AND 48 HOUR NOTICES ON TIME. FAILURE TO DO SO IS SUBJECT TO ENFORCEMENT ACTION. COMMITTEES USING NON-FEC FORMS FOR REPORTS OR FILING ILLEGIBLE REPORTS OR NOTICES WILL BE REQUIRED TO REFILE.

\*The period begins with the close of the last report filed by the committee. If the committee has filed no previous reports, the period begins with the date of the committee's first activity.

\*\*Reports sent by registered or certified mail must be postmarked by the mailing date; otherwise, they must be received by the filing date.

FOR INFORMATION, Call: 800/424-9530 or 202/219-3420

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14.1 Schiling For Congress	Committee	000 21	71370
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Placelpt For: Primary X General Coher (apoch/):	CONSVLTANT Aggregate Year-to-Date > \$ 1000		
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Lus Angeles. CA 900 617 Receipt For: Primery X General Other (apacity):	Cocupation Attarney Aggregate Year-to-Date > \$ 1000		1,00
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401 E WEIST Street 10C New York, NY 10028 Receipt For: Primary X General	Compation Home Maker	11/5/44	1000
Other (specify):	Aggregate Year-to-Date > \$1000		Sec. Sec.
D. Full Name, Halling Address and ZP Code Michael Ashkin 1110 Seawane Drive	Name of Employer Darby Group Company	Des (month, day, year) 10/21/94	Amount of Receipt this
Hewlett Harbor NY 11557 Receipt For: Primary Y General Other (specify):	Occupation Chairman Aggregate Year-to-Date > \$ 1000		1,000
E Pull Home, Halling Address and ZP Code Shelia Ashkin	Name of Employer	Date (month, day, year)	Amount of Receipt this
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P. Put Home, Mailing Address and 20 Ca Robert Erickson 2101 Shoreline Alameda, CA Processifier: Prime	Drive 487 Here d'Employer Kaiser Foundati 14501 Occupation	10 m Dets (month, day, year) 10/29/94	Amount of Ea Receipt this Pe 250
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1994 30 DAY POST GENERAL REPORT

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Contributions fr Inds / Persons PAGE of 15 Any information copied from such Reports and Statements may not be odd or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit constitutions have such committee. NAME OF COMMITTEE (In Full) Phil Schiliso for Longress Committee C002712700 A. Pull Huma, Halling As Amount of Each Mindy Jacobs Best Effort 11/5/44 1000 Occupation Receipt Per: X General Primary Aggregate Year-to-Date >\$ 1000 Other (specify): Date (manth, day, year) B. Pull Hame, Hailing Address and 20 Code Name of Employer Amount of Each Receipt this Period David Johnson Song Music 35 East Zoth Street 7 4 3 / 2 00-00-00000-00-00 10/26/04 1000 New York, NY 10003 Occupation Senior VP X General Receipt For: Primary Appregate Year-to-Date > \$ 1000 Other (specify): C. Pull Hame, Mailing Address and ZIP Code Date (month, day, year) Name of Employer Amount of Each Receipt this Period William Morris Alan Kannof 10 Penny Lune Agena 1/1/94 250 1.583 Scarsdule, NY Occupation Excentive Receipt For: × General Other (specify): Aggregate Year-to-Date > \$ 250 D. Pull Name, Mailing Address and ZIP Code Name of Employer Date (month, day, year) Amount of Each **Receipt this Period** Gail Koplan 11/1/44 23 Honey Brook 250 08540 Occupation Princeton NJ X General Homemaker Pacaint For: Primary Aggregate Year-to-Date > \$ 250 3 Other (specify): Date (month, day, year) E. Pull Home, Halling Address and ZIP Code Name of Employer Amount of Each T Michael Kitzmiller **Receipt this Pariod** Duncan Smith 6109 Franklin Gibcon Rd S 11/1/94 Kitzmiller 500 Trucys Lunding MD 20179 Occupatio Consultant lessint For: Primary X General 5 Other (specify): Appregate Year-to-Date > \$ 500 Full Home, Malling Address and 28 Code Name of Employer Date (manth, day, year) upla' George Konheim 9100 Wilshire Blod. Suite 414 10/28/94 1000.-Beverly Hills CA 91212 Occupation Refired Receipt For: X General Primary Other (specify): Aggregate Year-to-Date > \$ 1000 G. Pull Hams, Halling Address and ZIP Code Date (month, day, year) Name of Employer Betsy Kotcher 335 West Pine 11/5/94 250 Long Beach NY 11561 Occupation Homemaker Receipt For: Primary X General te Year-to-Date >\$ 250 Other (specify): SUBTOTAL of Receipts This Page (optional)) . 4250 TOTAL This Period (last page this line number only) ......

SCHEDULE A

ITEM D RECEIPTS ATTACHM 100 15 PAGE Contributions fi Inds/ Prisons May information copied from such Reports and Statements may not be sold or used by any per purposed, other than using the name and address of any political committee to solicit commutati ting contributions of for commercial the purpose of soli OF COMMITTEE (In Full) Phil Schiltro for Congress Connittee 0055175003 A. Pull Harns, Hall Amount of Edward Meyer Grey Advertising Third Avenue 10/20/04 177 1000 New York, NY 10017 Occupatio K General Chairman Receipt Per: Primary Aggregate Year-to-Date > \$ 1000 Other toposity: B. Pull Name, Halling Address and ZIP Code Name of Employed Date (month, day, year) Marilynne Mikulich self 4-460- BUIN- HO. FO 4958 Heather Drive 6-211 11/4/94 Dearborn, ME 4 1000 48126 Occupation Covultant Receipt Per; Ceneral General Aggregate Year-to-Date > \$ 1000 Other (specify): C. Pull Hame, Halling Address and ZIP Code Name of Employer Amount of Bash Date (marth, day, year) Dovid Nixner DEM Associates 356 Huntley Drive 10/28/1 500 West Hollywood, CA 90048 Cooupation President. Receipt For: General Appregate Year-to-Date > \$ 500 Other (specify): D. Pull Name, Hulling Address and ZIP Code Name of Employer Date (month, day, year) Amount of Each Receipt this Period Dorothy Moss Brs+ Effort 3809 Jocolyn Street NW 10/21/44 300 Occupation Washington. DC 20015 Receipt For: Primary Ma X General M Aggregate Year-to-Date > \$ 300 Other (specify): E. Pull Hame, Halling Address and ZIP Code Name of Employer Date (marth, day, year) Amount of Easth localet this Paris 4 Jane Nathanson 0 10900 Wilshire Blvd. 15th Floor 14/94 Los Angeles, CA 90024 1000 Occupation 2 Homemaker nint For: X General 0 Aggregate Year-to-Date > \$ 1 0 0 0 Other (specify): F. Pull Name, Halling Address and ZIP Code Name of Employer Date (menth, day, year) Amount of Each scalat this Each Marc Nathanson Falcon Communication 10900 Wilshire Blvd. 15th Floor 11/4/94 Los Angeles, CA 40024 1000 Occupation . Executive X General Aggregate Year-to-Date > \$ 1000 Other (specify): G. Pull Name, Mailing Address and ZP Code Name of Employer Date (month, day, year) Amount of Bach Receipt this Perto Janet Newport FHP 11/4/44 6333 Crooked Oak Lanc 500 Fulls Church, VA 22042 Occupation Executive X General Accregate Year-to-Date > \$ Other (a) 500 SUSTOTAL of Receipts This Page (optional) 5300 TOTAL This Period (last page this line number only).

1994 30 DAY POST GENERAL REPORT

1994 30 DAY POST GENERAL REPORT SCHEDULE A ITEMMEED RECEIPTS Amo HMENT# 3 Contribution fr. Inds/Prisons PA of 15 Any information copied from such Reports and Stalements may not be acid or used by any person for the polipose of soliciting contributions or for commence purposes, other than using the name and address of any political committee to solicit contributions from such committee. NAME OF COMMITTEE In Full Congress Committee 0056171000 tor Name of Employ Date (manth, day, year) A. Full Hame, Hailing Address and 20 Code Amount of Sash Receipt this Parle Rios Lillian 8045 Leesburg Pike Ste 650 11/4/94 1000 Vienna VA 22182 Occupation X General Receipt For. Homemaker Aggregate Year-to-Date > \$1000 Other (specify): 8. Full Name, Mailing Address and 20 Code Name of Employer Date (month, day, year) Amount of Each " Receipt this Period Calbag Metals Warrin Roserfeld 374 2495 NW Nicolai 10/21/94 1000 Portland OR 97210 Occupation President Receipt For: Primary K General Aggregate Year-to-Date > \$ 1000 Other (specify): C. Full Name, Halling Address and ZIP Code Name of Employer Date (month, Amount of Each Receipt this Period Evan Roth day, year) Nilliam + Connolly 215 1 California Stice + NW 10/21/94 Washington, DC Zooos 250 Occupation AHorrey X General Receipt For: Primery Aggregate Year-to-Date > \$ 250 Other (specify): Name of Employer D. Full Name, Mailing Address and ZIP Code Dete (month, day, year) Amount of Each Irine Rothbaum Receipt this Period Refired 2505 E 3814 10/22/94 1000 Occupation Tulsa UK 74105 Receipt For: Primary X General Aggregate Year-to-Date > \$ 1005 Other (specify): M E. Full Name, Mailing Address and ZIP Code Name of Employer Date (month, day, year) Amount of Each AIG Trading Co. 4 Incoles this Paste Robert Rubin 1 Greenwich Plaza 0 10/20/44 Greenwich, cT 1000' 06830 Occupation N Primery VP Receipt For: X General Evec. L.VC Other (specity): Aggregate Year-to-Date > \$ 1000 0 F. Full Name, Halling Address and ZIP Code Name of Employer Date (month, day, year) Amount of Each Receipt this Period Richard Sandler Maton - Sandler E44 Moraga Drive 10/20/91 500 Los Arcelec. CA 90049 Occupation Afterney Coneral Primery Receipt For: Aggregate Year-to-Date > \$ 500 Other (specily): G. Full Name, Mailing Address and ZIP Code Name of Employer Dats (month, Amount of Each Receipt this Period day, year) Steven Schlussel Friend Schwartz + 80 Morchead Ocks 10/29/94 Schlass.1 Port Wushington NY 250 11050 Occupation General Receipt For: Attorney Primary Aggregate Year-to-Date > \$ 250 Other (specify): SUBTOTAL of Receipts This Page (optional) ... 5000 TOTAL This Period (last page this line number only) ... 4-00172

-	Phil Sch. lino for Congress			712 700
	Psychologists for Action Po. Box 38129	Name of Employer	Date (ment), day, year) 10/26/44 10/27/44	Amount of Each Resulpt this Parks /000 /000
	Colorado Springs CO 90937 Receipt For: Primary X General	Occupation	11/27/94 11/5/94	1000
	Cither (specify):		5000	Amount of Frank
	Americans for Democratic Action	Name of Employer	Date (manth, day, year)	Amount of Each Receipt this Perio
	1511 KStreet NW Suile 941	B. 194	11/1/94	500
	Washington, DC 20005 Receipt For: Primary X General	Occupation		
5	Other (specily):	Appregate Year-to-Date \$ 5	500	
	C. Put Name, Halling Address and ZP Code ADPac 1111-14th Street NW Suite 1100	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Perio
	Washington. DC 20005	Occupation	10/21/94	1000
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R	D. Full Name, Halling Address and ZIP Code AFLAC PAC	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Perio
	AFLAC center American Family Life, GA 31999	Concerner - L	10/26/9-1	1000
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	Nashington OC 20036 Receipt For: Primary X General	Occupation	10/28/94	5000.
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4	Other (specily):	Aggregate Year-to-Date \$		Q
	AGSHF Civic Action	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Parls
1	1832 New Hompshire the Stefoo Washington DC 20086	Occupation	10/27/04	500
1	Washington DC 20056 Receipt For: Primary X General			
	Other (specify):		500	
	C. Full Home, Mulling Address and ZIP Code AHM PAC	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Perio
	1201 New York Ave NW She 600 Washington, BC 2005-3131 Process For X General	Occupation	10/26/94	350
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A Full Harm, Halling Address and 20 Code AIDS PAC 1836 Vernon Street NW Washington, DC 20009	Name of Employer	Date (manth, day, year)	C 1500 3500
Resolut Per: Primary 🔀 General Other (specify):	Aggregate Year-to-Date > 8		0300 4
ADA PAC 1505 Prince Street Suik 300	Name of Employer	10/21/G4	Amount of Eac Receipt this Peri
Alexandria VA 22314 Receipt For: Primary K General	Occupation		5000
Other (specify):	Appregate Year-to-Date \$	5000	
C. Full Hame, Halling Address and ZIP Code ASA PAC 520 Northwest Highway	Name of Employer	Date (month, day, year) 10/27/44	Amount of Eac Receipt this Peri
Pork Ridge IL 60068 Receipt For: Primery & General			2300
Other (specify):	Aggregate Year-to-Date \$		
D. Full Home, Malling Address and ZIP Code ATU SOOS Wisconsin Auchue NW Waihington, DC 20016	Name of Employer	0000 (month. day. year) 10/28/94	Amount of Each Receipt this Peri 500
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E. Pull Neme, Halling Address and ZIP Code			
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Formington, CT 06032	Occupation	11/a/a4	1200.
Other (specify):	Aggregate Year-to-Cate \$		
Bear Stearns Political Comm 245 Park Avenue	Name of Employer	Date (menth, day, year)	Amount of Each Receipt this Peri
NEW York, NY 10167 Receipt For: Primary Seneral	Occupation	11/4/94	2200
Other (specify):	Apprepaie Year-to-Date \$	2500	
a Full Home, Halling Address and ZIP Code Building Trades : Construction	Name of Employer	Data (month, day, year)	Amount of Eac Placelyt this Peri
815 1046 Street NW PM (003) Washington, DC 20006 Receipt For: Primary & General	Occupation	11/5/44	5000
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Phil Schiling for Porsi	all Committee	(202	71270
& Put Hama, Halling Address and 20 Code	Name of Employer	Date (martin, day, year)	Amount of Passain the
1317 F sticet NW Stc. 400		10/01/01	
Washington, DC 20004	Occupation	10/24/94	500
Receipt For: Primary General			
Coher (specify): B. Pull Hanse, Malling Address and 23P Code	Aggregate Year-to-Date \$	Date (month,	Amount of
E.L. DAC		day, year)	Peceipt this
PO. Box 4689	and the second second	11/2/94	500
Clearwater FL 34618	Occupation		500
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15 30 DAY POST GENERAL REPOR. Cont. from other Political SCHEDULE A CHMENT# 3 lomms. £ 10 of 15 Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or fer commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee. NAME OF COMMITTEE (In Full) CODJ712700 1Smmiller lorgelis Schilie for Phil in Address and 20 Code Cale (manih) day, year) Amount of Bash Receipt this Period Grup Health Association 1129 20th Stirch NW + 600 10/28/94 500 Washington. OL 20026 Competien General Panalat Fer: Primary Appregate Year-to-Date > \$ 50 0 Other (specify): B. Pull Name, Halling Address and ZIP Code Name of Employer Date (month, day, year) Amount of Each **Receipt this Period** Firemank Fund Insurance 101 Connecticut AUC. NW 94 1/4/94 500 Washington, DC 20026 Occupation ٠ Primary Receipt For: L General Aggregate Year-to-Date > \$ 500 Other (specify): C. Pull Name, Halling Address and ZP Code Name of Employe Amount of Each Date (month, day, year) Receipt this Pe Handgun Contiol, Inc 10/22/94 2000. 1225 Eye Sticet, Ste 1100 1000 Washington DC 20005 Occupation 10/20/94 743 General Receipt For. L Primary Other (specify): Aggregate Year-to-Date > \$ 3000 D. Full Hame, Mailing Address and ZIP Code Name of Employer Date (month, day, year) Amount of Each Receipt this P Hollywood women's PAC 3679 Motor Avc. # 300 11/9/94 1000 Vus Angeles ct Occupation 90634 L'General Receipt For: Primary N Aggregate Year-to-Date > \$ 100 0 Other (specify): E. Full Name, Halling Address and ZIP Code Date (manth. day, year) Amount of Each Receipt this Period Name of Employer 4 HRCF 5 P.D BOX 1396 11/4/94 5000 . N Wushington. PL 20013 Occupation Ceneral Receipt For: Primary 0 Appregate Year-to-Date > \$ 5000 Other (specify): Date (month, day, year) F. Full Hame, Mailing Address and ZIP Code Name of Employer Amount of Each **Receipt this Period** IUPALE PAC 1016 Duke Street 11/1/144 500 Alexandrin, VA 22814 Occupation General Receipt For. Primery Approprie Year-to-Date > \$ 500 Other (specily): Date (month, day, year) Amount of Eads G. Full Name, Halling Address and ZIP Code Name of Employer Receipt this P Investment Management PAL 1401 H Street NW Ste. 1200 11/1/44 5000 Washington. OC 20005 Occupation General Receipt For. Primary Aggregate Year-to-Date > \$ 5000 Other (specify): SUBTOTAL of Receipts This Page (optional) 15500 TOTAL This Period (test page this line number only). -----

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1994 30 DAY POST GENERAL REPORT ED RECEIPTS ATT SCHEDULE A THE MENT# 3 itical Committees Pag Conts. from other 2 of 15 Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee. NAME OF COMMITTEE ON PAR l'ommi Hec CO02712700 Phil Schiliro Concress for Name of Employer Data (manth, day, year) A. Pull Hame, Halling Address and 23 Amount of Bach MCA PAL 100 Universal City Plaza 11/144 4000 Universal City CA ALLOT Occupation General Primery Receipt For: Aggregate Year-to-Date > \$ 4000 Other (specify): B. Pull Name, Malling Address and ZIP Code Name of Employer Date (month, day, year) Amount of Each Receipt this Period Medico Containment Services 491 Edward Ross Drive 11/4/94 1000 ELMWIDD. NJ 01407 Occupation General Primery Receipt For. Aggregate Year-to-Date > \$ 1000 Other (specify): C. Pull Name, Malling Address and ZIP Code Name of Employer Date (month, day, year) Amount of Each Triands of George Miller Receipt this Period 1.0. Bix 5814 1/1/44 500 Concord, CA 14524 Occupation. 500 B General Plecelpt For: Primery Aggregate Year-to-Date > \$ 500 Other (specify): D. Full Name, Mailing Address and ZIP Code Name of Employer Date (month, day, year) Amount of Each Mincola Democrutic Committee Receipt this Period N6 Road 300 Kndrew 10/29/9-1 100 Mincola NY Occupation 11501 V General Pacaint For. Primary Aggregate Year-to-Date > \$ 100 M Other (specify): Amount of Each Receipt this Period E. Full Name, Mailing Address and ZIP Code Name of Employer Date (month, day, year) T Re-Elect Congressman Moukley .) 99 Summer Sticet ste 1250 10/20/94 1000 . Occupation Boston MA 02110 2 General Primery aipt For: 5 Aggregate Year-to-Date > \$ (000 Other (specify): P. Pull Name, Mailing Address and ZIP Code Name of Employer Date (month, day, year) neart of Ei sipt this Pr Motion Picture Association 10/00/44 1600 Eve Sticet NW 1000 Washington, OC Zooco Occupation Receipt For: V General Primery Aggregate Year-to-Date > \$ 2.000 Other (specify): Date (month, day, year) G. Full Name, Mailing Address and ZIP Code Name of Employer Amount of Each Receipt this Period NAPPH. PAC 10/21/94 1319 F Street NW Suite 1000 1000 Washington DC 20004 Occupation V General Aggregate Year-to-Date >\$ 1060 Other (specify): SUBTOTAL of Receipts This Page (optional) ..... 8600 TOTAL This Period (last page this line number only) ...... 4-00172

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1994 30 DAY FORM GENERALD HARVE SCHEDULE A ITEMIZED RECEIPTS ATTACHMENT# 3 PAG 5 of 15 Conts. from other Political Committee. PAG ints may not be sold or used by any per son for th Any information copied from such Reports and S purposes, other than using the name and address of any political committee to solicit contributions from such committee. NAME OF COMMITTEE IN FUIL C002712700 Congress Committee Schilira A. Full Name, Mailing Address and ZIP Ca Date (marti day, year) Amount of Each Receipt this Period UFCW MAS K Strect NW 10/22/44 5000 Washington DC 20006 Occupation V General Primary Receipt For: Aggregate Year-to-Date > \$ 5000 Other (specify): B. Full Name, Mailing Address and ZIP Code Dele (manih, dey, year) Amount of Receipt this Per Name of Employer United Mine Workers PAC 900 15th Street NW 94 10/28/94 4000 Hashington DL 21005 Occupation N600. WIN. HO. Peoplet For Primary General Aggregate Year-to-Date > \$ 4000 Other (specify): C. Full Home, Mailing Address and ZIP Code Name of Employer Date (month, dey, year) Receipt this Period VIACOM, INC PAL 1515 Broudway 11/5/94 2500 New York NY 10036 Occupation Receipt For: General Primary Aggregate Year-to-Date > \$ 2500 Other (specify): D. Full Name, Mailing Address and ZIP Code Name of Employer Date (month, Amount of Each day. year) **Receipt this Period** VILTORY USA 300 Capitol Mall Suite 350 11/9/94 1000 Sectements (A 95814 Occupation Receipt For. Primary General Other (specify): Aggregate Year-to-Date > \$ 1000 M Amount of Eacl Receipt this Paris E. Full Name, Malling Address and ZIP Code Name of Employer Date (month, day, year) Warner Lanbert, PAC 4 10/29/14 1667 12 Stiect NW Ste 1270 0 1000 . Werkington, & 20006 Occupation N Receipt For General Primary Other (specify): Appregate Year-to-Date > \$ 1000 0 F. Pull Name, Halling Address and ZIP Code Amount of Eat Name of Employer Date (month, day, year) Washington PAC 10/29/94 444 N Contol Street NW 500 Walkington DC 20001 Receipt For. Primery Occupation General Aggregate Year-to-Date > \$ 500 Other (specify): G. Full Name, Mailing Address and ZIP Code Name of Employer Date (month, Amount of Each day, year) **Receipt this Period** WINE INStitute 925 Market Street 11/1/44 146 0 500 SenFrancisco, CA 9405 Occupation V General Receipt For: Appregate Year-to-Date > \$ 500 Other (specify): SUBTOTAL of Receipts This Page (optional) . 14500 TOTAL This Period (last page this line number only) ... 4-00172

Identification Number: C00271270

FEDERAL ELECT

Reference: 30 Day Post-General Report (10/20/94-11/20/94)

Dear Mr. Schiliro:

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This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemisation follows:

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-Schedule A of your report indicates that your committee may have failed to file one or more of the required 48 hour notices regarding "last minute" contributions received by your committee after the close of books for the 12 Day Pre-General Report. A principal campaign committee must notify the Commission, in writing, within 48 hours of any contribution of \$1,000 or more received between two and twenty days before an election. These contributions are then reported on the next report required to be filed by the committee. To ensure that the Commission is notified of last minute contributions of \$1,000 or more to your campaign, it is recommended that you review your procedures for checking contributions specived darian the aforementioned time period. Although the commission may take local action.

May second of clarification should be filled With the Clork of the Bouse of Representatives, 1034 Lapprot th Bouse Office Building, Washington, DC 20515. If you need assistance, please Seel free to contact as on our boll-lyee pumber, (000) 424-9539 By local number is (202) 219-1500.

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ATTACHMENT#

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FEDERAL ELECTION COMMISSION WASHINGTON, D.C. 20463

August 3, 1995

Joseph Michael Schiliro, Treasurer Phil Schiliro for Congress Committee 1002 Wood Park Drive Baldwin, NY 11510

> RE: RAD Referral Joseph Michael Schiliro, Treasurer Phil Schiliro for Congress Committee

Dear Mr. Schiliro:

On July 20, 1995, the Federal Election Commission received your Report of Receipts and Disbursements. You requested that the Commission permit the Phil Schiliro for Congress Committee ("Committee") to terminate pursuant to 2 U.S.C. § 433(d) and Section 102.3 of the Commission's Regulations. The Reports Analysis Division has referred the Committee to the Office of the General Counsel for possible enforcement action. Therefore your termination request has been denied.

The Committee must continue to file all the required reports with the Commission until this matter has been resolved. The Commission will notify you when your request to terminate has been granted and the Committee is no longer required to file reports with the Commission. If you have any questions, please contact Alva E. Smith at (202) 219-3400.

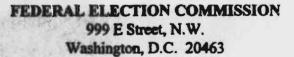
many S. Tahan

Mary L. Taksar, Attorney Central Enforcement Docket

cc: Reports Analysis Division

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW DEDICATED TO KEEPING THE PUBLIC INFORMED





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### FIRST GENERAL COUNSEL'S REPORT

RAD REFERRAL: 95L-2 DATE ACTIVATED: 4/25/96

STAFF MEMBERS Mark Allen Susan Mitchell

# SOURCE: INTERNALLY GENERATED

RESPONDENTS: Phil Schiliro for Congress Committee and Joseph M. Schiliro, as treasurer

RELEVANT STATUTE: 2 U.S.C. § 434(a)(6)(A)

# GENERATION OF MATTER

The Office of General Counsel received a referral from the Reports Analysis Division ("RAD") on June 6, 1995 (Attachment 1). The basis for the referral is the failure of the Phil Schiliro for Congress Committee to file eighteen 48 Hour notifications ("48 Hour Notices") for contributions totaling \$34,500. Philip Schiliro lost the 1994 General Election in New York's 4th District receiving thirty-seven percent (37%) of the vote.

# II. FACTUAL AND LEGAL ANALYSIS

Based on the Factual and Legal Analysis, see Attachment 2, this Office recommends the Commission find reason to believe the Phil Schiliro for Congress Committee and Joseph Schiliro, as treasurer, violated 2 U.S.C. § 434(a)(6)(A).

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# DISCUSSION OF CONCILIATION AND CIVIL PENALTY

In addition to the reason to believe recommendation, this Office recommends that the Commission offer to enter into conciliation with the respondents prior to a finding of probable cause to believe. Attached for the Commission's approval is a proposed conciliation agreement

#### IV. RECOMMENDATIONS

- 1. Open a MUR.
- 2. Find reason to believe that Phil Schiliro for Congress Committee and Joseph M. Schiliro, as treasurer, violated 2 U.S.C. § 434(a)(6)(A).
- 3. Approve the attached Factual and Legal Analysis and proposed conciliation agreement.
- Approve the appropriate letter. 4.

Lawrence M. Noble General Counsel

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BY:

Associate General Counsel

Attachments:

- 1. Referral Materials
- 2. Factual and Legal Analysis
- 3. Proposed Conciliation Agreement

#### BEFORE THE FEDERAL ELECTION CONMISSION

In the Matter of

Phil Schiliro for Congress Committee and Joseph N. Schiliro, as treasurer. #951-02

#### CERTIFICATION

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I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on May 17, 1996, the Commission decided by a vote of 5-0 to take the following actions in RAD REFERRAL #95L-02:

1. Open a MUR.

- Find reason to believe that Phil Schiliro for Congress Committee and Joseph M. Schiliro, as treasurer, violated 2 U.S.C. \$ 434(a)(6)(A).
- Approve the Factual and Legal Analysis and proposed conciliation agreement, as recommended in the General Counsel's Report dated May 13, 1996.
- Approve the appropriate letter, as recommended in the General Counsel's Report dated May 13, 1996.

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

Attest:

5-17-96

ona

Secretary of the Commission

Received in the Secretariat: Mon., M

Non.,	May	13,	1996	4:30	p.m.
Tues.,	May	14,	1996	11:00	8.8.
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#### FEDERAL ELECTION COMMISSION WASHINGTON, D.C. 20463

May 22, 1996

Joseph M. Schiliro, Treasurer Phil Schiliro for Congress Committee 1002 Wood Park Drive Baldwin, NY 11510

RE:

MUR 4366 Phil Schiliro for Congress Committee and Joseph Schiliro, as treasurer

Dear Mr. Schiliro:

On May 17, 1996, the Federal Election Commission found that there is reason to believe Phil Schiliro for Congress Committee and you, as treasurer, violated 2 U.S.C. § 434(a)(6)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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

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

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

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

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW DEDICATED TO KEEPING THE PUBLIC INFORMED Joseph Schiliro, Treasurer Page 2

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

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Susan Mitchell, the staff member assigned to this matter, at (202) 219-3400.

Sincerely,

Lee and Ellest ee Ann Elliott

Lee Ann Elliott Chairman

Enclosures

Factual and Legal Analysis Procedures Designation Counsel Form Conciliation Agreement

# FEDERAL ELECTION COMMISSION

#### FACTUAL AND LEGAL ANALYSIS

# RESPONDENTS: Phil Schiliro for Congress Committee and Joseph Schiliro as treasurer

MUR: 4366

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

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires principal campaign committees of candidates for federal office to notify in writing either the Secretary of the Senate, the Clerk of the U.S. House of Representatives or the Commission, as appropriate, and the Secretary of State, of each contribution totaling \$1,000 or more, received by any authorized committee of the candidate after the 20th day but more than 48 hours before any election. 2 U.S.C. § 434(a)(6)(A). The Act further requires notification to be made within 48 hours after the receipt of the contribution and to include the name of the candidate and office sought, the date of receipt, the amount of the contribution, and the identification of the contributor. Id. The notification of these contributions shall be in addition to all other reporting requirements. 2 U.S.C. § 434(a)(6)(B). On October 3, 1994, the Commission sent a notice to the Phil Schiliro for Congress Committee ("the Committee") regarding the 48 hour reporting requirements.

The General Election in New York was held on November 8, 1994. Pursuant to the Act, the Committee was required to notify the Commission, in writing, of all contributions of \$1,000 or more received from October 20, 1994 to November 5, 1994, within 48 hours of their receipt. A review of the Committee's 1994 30 Day Post-General Report identified eighteen (18) contributions received between October 20, 1994 and November 5, 1994, of \$1,000 or more, and totaling \$34,500 for which the Committee did not submit 48 Hour Notices. Such reporting does not satisfy the requirements of 2 U.S.C. § 434(a)(6)(A), which provides that principal campaign committees shall file 48 Hour Notices disclosing contributions received shortly before an election.

Therefore, there is reason to believe that the Phil Schiliro for Congress Committee and Joseph M. Schiliro, as treasurer, violated 2 U.S.C. § 434(a)(6)(A) by failing to report campaign contributions of \$1,000 or more, received after the 20th day, but more than 48 hours before the general election, within 48 hours of receipt of the contributions. June 19, 1996

HAND DELIVERED

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The Honorable Lee Ann Elliot Chairman Federal Election Commission 999 E Street, N.W. Washington, D.C. 20463

Dear Chairman Elliot:

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I am writing in response to your May 22 letter regarding MUNE: 4366 (Phil Schiliro for Congress Committee). I appreciate your bringing this matter to my attention and accept your offer to enter into Preprobable Cause Conciliation negotiations.

In the Analysis you attached with your letter, it is noted that my Campaign Committee was "required to notify the Commission, in writing, of all contributions of \$1,000 or more received from October 20, 1994 to November 5, 1994, within 48 hours of their receipt." The Analysis concludes that the Commission had identified 18 contributions during this period "totaling \$34,500 for which the Committee did not submit 48 Hour Notices."

After receiving your letter, I reviewed my campaign records and discovered my Committee received 120 contributions totaling \$195,500 from October 20 to November 5. As you may know, I did not become a candidate for Congress until September 30, 1994, which explains why so many of my contributions were received during this period.

Although my campaign had an extraordinarily late starting date, we made every effort to comply with the FEC's regulations. We developed and implemented a system for filing 48 Hour Reports and submitted all other required filings in a timely manner.

I am enclosing with this letter copies of all the 48 Hour Reports my committee faxed to the FEC. As you will see, the 48 Hour Report for October 28-29 contains 16 of the 18 contributions that the Commission concluded weren't filed. This report, however, was prepared and filed with the Commission following the exact procedures used for all other 48 Hour Reports. The Honorable Lee Ann Elliot June 19, 1996 Page Two

I have not been able to locate 48 Hour entries for 2 of the 120 contributions that were received from October 20 to November 5. Although these contributions don't seem to be listed on the 48 Hour Reports I am submitting, they were included on the postelection report the Committee filed with the Commission.

In light of the foregoing, it is apparent that the Committee substantially complied with the Commission's 48 Hour reporting requirements. If a violation occurred, it was de minimis and involved only 2 contributions totalling \$6,000 out of 120 reportable contributions totalling \$195,500. Accordingly, I respectfully request that the Commission take no further action in this matter.

Thank you for your assistance.

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Sincerely, Philip M. Schiliro

1954 Valley Wood Road McLean, Virginia 22101

518-481-6627

foxed : 10/24

# 48 HOUR NOTICE OF CONTRIBUTIONS/LOANS RECEIVED

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To be used to woort all contributions (including loans) of \$1000 or more, received within 20 days of the election I. NAME OF COMMITTEE IN FULL Phil Schilir. for Congress Committee ADDRESS INJINE IN STREET 1002 Wood Park Drive Baldwin 2 NUE OF CHORATE , NY IISID 3. OFFICE SOUGHT Phil Schiliro NY - 4th REP A. FEC IDENTIFICATION NUMBER s may not be sold or used by any C002712700 A. Full Name, Malling Address and ZIP Code Date (month. Name of Employer Amount dev. year) FRANCES Bochm 10/20/94 \$1000 1 Willow Lane Hewlett Harbor, NY 11557 Occupation E Full Name, Mailing Address and ZP Code Name of Employer Date (month. Amount day. years Robert Rubin 10/20/94 \$1000 1 Greenwich Plaza Occupation Greenwich, CT 06830 C. Full Name, Mailing Address and ZIP Code Name of Employer Date (month) Amount day, year) Committee to Preserve Social Security 10/20/44 \$ 2000 2000 K Strut # 800 Unshington, DC, 20006 Occupation D. Full Huma, Mailing Address and ZIP Code Dete (month. Name of Employer Amount CRY VERT ACA Par 10/21/94 \$5000 1505 Prince Street Ste 300 000.00000 Alexandria VA 22314 Dese (monen. day, year) E. Full Name, Malling Address a Amount Name of Employer Warren Rosenfeld 1/21/94 \$1000 2495 No Nicolai Occupation Portine Oregon 97210 SEGNATURE (Optioner) For battle ar in Federal Election Co 10/21 100 E Street, HW. Weekington, DC 20463 Tol Free 800-124-9530, Local 202-219-34 FEC FO

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To be used to report all contributions (inclusing loans) of \$1000 or more, reasoned within 20 days of the election, 1. NAME OF COMMITTEE IN PULL. Phil Schiliro for Congress Committee ADDRESS (number and street 1002 Wood Park Drive Baldwin, NY 11510 1 CHARLE SOUGHT Phil Schiliro REP NY-4th A. FEC IDENTIFICATION MUMIER the and Statements may not be seld or used by any : C002712700 A Full Name, Mailing Address and ZP Code SZO ASA PAC SZO Northeest 14gh Name of Employer Date (month. Amount day. year) \$2500.-10/27/94 Park Ridge, IL Occupation 60068 Date (month. B. Full Name, Mailing Address and ZIP Code Name of Employer Amount day. year) AAP PLAN PAC 10/07/14 2000 --P.O. Box 38129 Colorado Springs. Co 80937 Occupation C. Full Name, Mailing Address and ZIP Code Date (month. Name of Employer Amount Fund for a Democratic Leadership day. year) 300 Capitol dell Suite 350 1000,-19/22/94 Sairamento, CA 95814 Occupation D. Full Name, Mailing Address and ZIP Code Dese (month, day, year) Name of Employer Matsi for Congress Committee \$1000, 10/07/44 300 Capital Mall Stc. 350 Sucraminto CA 95814 Occupation of Date (month, Amount E. Full Name, Mailing Address and ZIP Cade Name of Employer day. year) Leadership America 10/27/12 \$2000.-321 D Street NE Washington, DC Occupation 20002 SIGNATURE (optional) DATE For further into Federal Election Con 10 100 999 E Sinut, HW, Washington, DC 20463 Tol Free 800-424-9530, Local 208-219-3420 45 FEC FOR! (1

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FEDERAL ELECTION COMMISSION WASHINGTON, D.C. 20463

July 3, 1996

#### VIA FACSIMILE & FIRST CLASS MAIL

Philip M. Schiliro 1954 Valley Wood Road McLean, Virginia 22101

RE: MUR 4366

Phil Schiliro for Congress Committee and Joseph Schiliro, as treasurer

Dear Mr. Schiliro:

On May 17, 1996, the Commission determined to enter into negotiations directed toward reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe.

Subsequently, on June 24, 1996, I received your June 19, 1996 cover letter and the 48 Hour Notices that were hand delivered to this Office in an effort to show that the Schiliro for Congress Committee timely filed their required 48 Hour Notices. You had previously provided the letter and 48 Hour Notices to the Commission's Public Disclosure Division, but as I indicated in our telephone conversation on June 25, 1996, the cover letter could not be placed on the public record because it mentioned confidential concilitation information. See 2 U.S.C. § 437g(a)(4)(B). The 48 Hour Notices will be placed on the public record as an amendment to the 1994 30-IDay Post General Report.

In your June 19, 1996 cover letter you indicated that your Committee filed by facsimile 16 of the 18 48 Hour Notices at issue for contributions received on October 28 and 29, 1994. My review of the records indicates that your Committee did file 48 Hour Notices with the Clerk of the U.S. House of Representatives but not for the 18 contributions at issue. Further review of the records revealed correspondence dated January 31, 1995, in which you responded to a Commission request for additional information regarding 48 Hour Notices by stating that a staff error caused a small percentage of reports to be improperly filed. Per our June 25, 1996 discussion, we should receive from you by July 8, 1996 a detailed affidavit that would indicate the 48 Hour Notification filing procedures your committee had in place shortly before the 1994 general election and/or a facsimile cover sheet that would help confirm the facsimile transmission at issue.

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

Sincerely,

Susan M. Mitchell

Susan M. Mitchel Paralegal July 3, 1996

Ms. Susan Mitchell Federal Election Commission 999 E Street, N.W. Washington, D.C. 20515

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Dear Ms. Mitchell:

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I have just received your letter of July 3, 1996 requesting that I file additional information regarding NUR 4366 (Phil Schiliro for Congress Committee) by July 8, 1996 with the Federal Election Commission. Although the Independence Day holiday makes it impossible to comply with this request, I believe I could provided the appropriate information by July 12 and will make every effort to do so.

Thank you for your assistance.

sincerely, 'M

Philip<sup>0</sup>M. Schiliro 1954 Valley Wood Road McLean, Virginia 22101



FEDERAL ELECTION COMMISSION MAIL ROOM

July 11, 1996

Ms. Susan Mitchell Federal Election Commission 999 E Street, N.W. Washington, D.C. 20515

Dear Ms. Mitchell:

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I am writing in response to your July 3 letter for additional information regarding MUR 4366 (Phil Schiliro for Congress Committee). Pursuant to your request, I am enclosing a detailed affidavit from George Abar, who served as the Committee's Campaign Manager in 1994, that fully describes the 48 Hour filing procedures the Committee had in place before the 1994 general election.

Although I do not have copies of the facsimile cover sheets for any of the 48 Hour Reports the Committee submitted to the FEC, I did enclose with my June 19 letter copies of the actual 48 Hour Reports that were sent. Although I cannot explain why the Commission has no record of the October 28-29 report, I have submitted a copy of the original report and a detailed explanation of how these reports were prepared. It would make no sense for the Committee to have taken the time to prepare this report but then not transmit it to the Commission, especially since all other required Reports were sent in a timely manner.

In your letter you also referred to a January 31, 1995 letter I sent to the Commission (in response to a December 23, 1994 Commission letter). The Commission's December 23 letter provided no specific information as to which 48 Hour Contribution notices were not sent. It merely concluded that the Committee "may have failed to file one or more of the required 48 hour notices." Accordingly, my January 31 letter affirms that the Committee followed proper filing procedures and concedes that a small percentage of contributions were improperly filed (indeed, my review--based on the actual reports--now seems to show that the Committee failed to file a proper notice for 2 of the 120 contributions received from October 20 to November 5).

I hope this information is helpful, and will provide any additional documentation that you deem appropriate.

Sincerely,

Philip M. Schiliro

1954 Valley Wood Road McLean, Virginia 22101

#### Wednesday, July 10, 1996

Outlined below is a summary of the Schiliro campaign's system for filing of 48-hour reports with the Federal Elections Commission (FBC). The campaign was to elect Phil Schiliro to the US House of Representatives from New York's 4th Congressional District in 1994.

I served as campaign manager for the Schiliro campaign.

The Schiliro campaign created and maintained a comprehensive system to comply with all FEC reporting rules, including the filing of 48-hour reports. This was a priority for the campaign at the specific request of Phil Schiliro. I can recall two occasions that Schiliro stated he felt it was important the campaign comply with all FEC reporting rules. First, when I interviewed for the job of campaign manager Schiliro stated it was important to him the campaign comply with all FEC reporting rules and the campaign create an accounting system to ensure it did so. Second, after the accounting system was put in place, Schiliro again stated he felt it was important the campaign comply with all FEC reporting rules.

The campaign's accounting system included special procedures for 48 hour reports. From approximately October 20, 1994 through November 5, 1994 the campaign was required to file 48hour reports. During this time, contributions were delivered to campaign headquarters by regular mail, private delivery (e.g. FedEx, UPS), staff and supporters. Once at the headquarters they were delivered to me or a second individual and we stored them in a secure place. At the end of the day, the contributions, which, to my memory, were all checks, were photocopied, recorded and prepared for deposit. The campaign collected information about each contribution from the checks and accompanying correspondence and entered it into a database computer program. Accompanying correspondence included letters, completed reply cards and so forth. This information, when available and required, included name, address, city, state, zip code, date, employer, occupation and contribution amount. The contributions were reviewed and batches or lists of all contributions that met the criteria to be filed on a 48-hour reports were created. The necessary information for these contributions was then hand-copied to a 48-hour report. The campaign made a final review of the 48-hour report and contributions for additions or edits, made any corrections and faxed them to the FEC. The person operating the fax was directed to watch the fax carefully and to be as certain as possible it was transmitted completely. This process was undertaken daily with 48-hour reports being filed as required.

Affirmed:

Jeoge A. Alm

George Abar 1939 17th Street, NW #3 Washington, DC 20009

Subscribed to and sworn before me this 10 th day of July, 1996.

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My Commission expires: 3 14 99



FEDERAL ELECTION COMMISSION MAIL ROOM

#### Aug 1 9 56 AM 36

July 24, 1996

Ms. Susan Mitchell Federal Election Commission 999 E Street, N.W. Washington, D.C. 20515

Dear Ms. Mitchell:

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I am writing with regard to MUR 4366 (Phil Schiliro for Congress Committee) and pursuant to your request that I indicate to the Commission a possible resolution to this matter.

As you know, in my June 19, 1996 letter I accepted the Commission's offer to enter into Preprobable Cause Conciliation negotiations but noted that if a violation occurred, it was clearly inadvertent and de minimis in nature. Accordingly, I requested that the Commission take no further action in this matter. I enclosed with that letter copies of all the original 48 Hour Reports filed with the Commission, and with my July 11, 1996 letter enclosed a sworn affidavit from the Committee's campaign manager attesting to the detailed procedures the Committee followed in filing 48 Hour Reports (enclosed for your convenience is another copy of that affidavit).

In order to respond to your most recent request, I want to share with the Commission additional information that is relevant to this matter.

I had no intention of running for Congress in 1994 and, in fact, only became a candidate on September 30, 1994 after the original Democratic nominee unexpectedly withdrew from the ballot. This extraordinarily late start forced the Campaign to compress a year of work into just five weeks. This effort included, of course, raising and spending all funds and establishing a system to comply with FEC regulations.

The Committee did this. Notwithstanding the inherent difficulties of this challenge, the Committee raised over \$500,000 (\$120,000 during the 48 Hour Notice period) and prepared and filed every required FEC Report with complete information and in a timely manner. In contrast, my opponent in the 1994 campaign (whose campaign had begun in early 1994) never filed a single 48 Hour Report and violated the Commission's requirements for filing a 12-Day Pre-Election Report. My opponent won the election. Ms. Susan Mitchell July 24, 1996 Page Two

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Since the Commission brought this matter to my attention, I have made every effort to investigate any errors my Committee may have made and have indicated that I accept responsibility for any errors. In my June 19, 1996 letter, I noted that the 48 Hour Report for October 28-29 contained 16 of the original 18 contributions that the Committee believed weren't filed, and enclosed a copy of that report. I concluded in that letter that "If a violation occurred, it was de minimis and involved only 2 contributions totalling \$6,000 out of 120 reportable contributions totalling \$195,500."

Although I cannot explain why the Commission has no record of receiving the October 28-29 Report, I want to reiterate that it would have made no sense for the Committee to have taken the time to prepare the report but then not transmit it to the Commission, especially since all other required Reports were sent in a complete and timely manner.

I also want to make clear to the Commission that I am not now and have no intention of running for Congress again in this or any other year. My campaign committee is inactive and has no funds.

I did all I could to comply with FEC regulations during my campaign and have subsequently cooperated fully with your inquiry into this matter. If the Commission still believes a violation was committed, then I accept full responsibility for that error, but respectfully request that the Commission take no further action.

Sincerely, Anilip M. Schiliro 1954 Valley Wood Road McLean, Virginia 22102

#### Wednesday, July 10, 1996

Outlined below is a summary of the Schiliro campaign's system for filing of 48-hour reports with the Federal Elections Commission (FEC). The campaign was to elect Phil Schiliro to the US House of Representatives from New York's 4th Congressional District in 1994.

I served as campaign manager for the Schiliro campaign.

The Schiliro campaign created and maintained a comprehensive system to comply with all FEC reporting rules, including the filing of 48-hour reports. This was a priority for the campaign at the specific request of Phil Schiliro. I can recall two occasions that Schiliro stated he felt it was important the campaign comply with all FEC reporting rules. First, when I interviewed for the job of campaign manager Schiliro stated it was important to him the campaign comply with all FEC reporting rules and the campaign create an accounting system to ensure it did so. Second, after the accounting system was put in place, Schiliro again stated he felt it was important the campaign comply with all FEC reporting rules.

The campaign's accounting system included special procedures for 48 hour reports. From approximately October 20, 1994 through November 5, 1994 the campaign was required to file 48hour reports. During this time, contributions were delivered to campaign headquarters by regular mail, private delivery (e.g. FedEx, UPS), staff and supporters. Once at the headquarters they were delivered to me or a second individual and we stored them in a secure place. At the end of the day, the contributions, which, to my memory, were all checks, were photocopied, recorded and prepared for deposit. The campaign collected information about each contribution from the checks and accompanying correspondence and entered it into a database computer program. Accompanying correspondence included letters, completed reply cards and so forth. This information, when available and required, included name, address, city, state, zip code, date. employer, occupation and contribution amount. The contributions were reviewed and batches or lists of all contributions that met the criteria to be filed on a 48-hour reports were created. The necessary information for these contributions was then hand-copied to a 48-hour report. The campaign made a final review of the 48-hour report and contributions for additions or edits, made any corrections and faxed them to the FEC. The person operating the fax was directed to watch the fax carefully and to be as certain as possible it was transmitted completely. This process was undertaken daily with 48-hour reports being filed as required.

Affirmed:

Junje A. Ala-

George Abar 1939 17th Street, NW #3 Washington, DC 20009

Subscribed to and swom before me this 10 th day of July, 1996.

Louis 1 Klam

My Commission expires: 3 14 99

#### BEFORE THE FEDERAL ELECTION COMMISSION

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In the Matter of

Phil Schiliro for Congress Committee and Joseph M. Schiliro, as treasurer

#### **GENERAL COUNSEL'S REPORT**

#### I. BACKGROUND

The Phil Schiliro for Congress Committee and Joseph M. Schiliro, as treasurer, ("the Committee") failed to file eighteen 48 Hour notifications for contributions totaling \$34,500 received shortly before the 1994 general election. On May 17, 1996, the Commission found reason to believe that the Committee violated 2 U.S.C. § 434(a)(6)(A). The Committee has requested that the Commission take no further action in this matter is matter, and this report recommends that the Commission reject the Committee's request and notifies the Commission of our intention to move on to briefs.

#### II. ANALYSIS

In response to the reason to believe and pre-probable cause conciliation notification, the Committee asserted by letter dated June 19, 1996 that it had in fact filed sixteen of the missing eighteen 48 Hour notices. Attachment 1. The Committee concludes that its failure to file only two notices is de minimus and accordingly requests that the Commission take no further action. This Office responded by letter dated July 3, 1996 stating that a review of the public record did not reveal that the Committee had filed any of the eighteen missing 48 Hour notices. Attachment 2. In addition, this Office asked the Committee to provide a detailed affidavit indicating the Committee's procedures for filing 48 Hour notices and/or a facsimile cover sheet to help confirm that the Committee had in fact filed the notices at issue.

MUR 4366

The Committee responded by letter dated July 11, 1996 and provided an affidavit by campaign manager George Abar. Attachment 3. In the affidavit, Mr. Abar describes a system for processing incoming contributions that involved obtaining the requisite information and transferring the information by hand onto 48 Hour notices. According to Mr. Abar,

[t]he campaign made a final review of the 48-hour report and contributions for additions or edits, made any corrections and faxed them to the FEC. The person operating the fax was directed to watch the fax carefully and to be as certain as possible it was transmitted completely.

The process for reviewing contributions and collecting the required information does not appear to have been followed, however. For example, although the Committee states that it collected information such as the occupation and employer of contributors, the Committee disclosed only three of 52 individual contributors' occupation and employer, required by 2 U.S.C. § 434(a)(6)(A), on the 48 Hour notices it did file. See section 431(13)(A) (definition of "identification"). Attachment 1, pages 3-14 and 19-30. Further, the Committee did not provide any facsimile cover sheets or transmission confirmations regarding the missing 48 Hour notices, and appears to have relied instead on simply observing the pages flow through the fax machine.

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Thus, in light of the absence of evidence that the Committee did file the 48 Hour reports at issue or other compelling reason not to pursue this matter, this Office recommends that the Commission reject the no further action request by the Phil Schiliro for Congress Committee and Joseph M. Schiliro, as treasurer.

#### III. RECOMMENDATIONS

1. Reject the no further action request by the Phil Schiliro for Congress Committee and Joseph M. Schiliro, as treasurer.

BY:

2. Approve the appropriate letter.

Lawrence M. Noble General Counsel

818/96 Date

-Man-

Lois G. Lefner Associate General Counsel

### Attachments

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- 1. Response dated June 19, 1996
- 2. Letter to Committee dated July 3, 1996
- 3. Response dated July 11, 1996
- 4. Response dated July 24, 1996

Staff assigned: Mark Allen

#### BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

MUR 4366 Phil Schiliro for Congress Committee and Joseph M. Schiliro, as treasurer.

#### CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on August 15, 1996, the Commission decided by a vote of 4-0 to take the following actions in MUR 4366:

- 1. Reject the no further action request by the Phil Schiliro for Congress Committee and Joseph M. Schiliro, as treasurer.
- 2. Approve the appropriate letter, as recommended in the General Counsel's Report dated August 8, 1996.

Commissioners Elliott, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Aikens did not cast a vote.

Attest:

8-16-96 Date

z zu. Cm rjorie W. Emmons

Secretary of the Commission

Received in the Secretariat:	Fri.,	Aug.	09,	1996	2:56 p.m.
Circulated to the Commission:	Mon.,	Aug.	12,	1996	4:00 p.m.
Deadline for vote:	Thurs.,	Aug.	15,	1996	4:00 p.m.

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FEDERAL ELECTION COMMISSION SEP 3 10 50 AH '96 Washington, DC 20463

August 30, 1996

## SENSITIVE

RECEIVED EDERAL FLECTION COMMISSION SECRETARIAT

Joseph M. Schiliro, Treasurer Phil Schiliro for Congress Committee 1002 Wood Park Drive Baldwin, NY 11510

RE: MUR 4366

Phil Schiliro for Congress Committee and Joseph M. Schiliro, as treasurer

Dear Mr. Schiliro:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, on May 17, 1996 the Federal Election Commission found reason to believe that Phil Schiliro for Congress Committee ("Committee") and Joseph M. Schiliro, as treasurer, violated 2 U.S.C. § 434(a)(6)(A). On August 15, 1996, the Commission rejected your request to take no further action in this matter.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten copies if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days. Joseph M. Schiliro, Treasurer Page 2

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

Should you have any questions, please contact Eric Brown, the staff member assigned to this matter, at (202) 219-3400.

Sincerely,

JAN Noble (#2) Lawrence M. Noble

Lawrence M. Noble General Counsel

Enclosure Brief

cc: Philip M. Schiliro

#### **BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of

Phil Schiliro for Congress Committee and Joseph M. Schiliro, as treasurer **MUR 4366** 

#### **GENERAL COUNSEL'S BRIEF**

#### I. STATEMENT OF THE CASE

This matter was generated from information ascertained by the Federal Election Commission ("Commission") in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2). The Commission found reason to believe that the respondents, the Phil Schiliro for Congress Committee and Joseph Schiliro, as treasurer, violated 2 U.S.C. § 434(a)(6)(A). In this brief, the General Counsel sets forth the legal and factual issues in this matter, and provides a recommendation regarding whether there is probable cause to believe a violation has occurred. See 11 C.F.R. § 111.16(a).

#### II. THE LAW

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

#### III. THE FACTS

The General Election in New York was held on November 8, 1994. Pursuant to the Act, the Committee was required to notify the Commission, in writing, of all contributions of \$1,000 or more received from October 20, 1994 to November 5, 1994, within 48 hours of their receipt. A review of the Committee's 1994 30 Day Post-General Report identified eighteen (18) contributions received between October 20, 1994 and November 5, 1994 of \$1,000 or more, totaling \$34,500, for which the Committee did not submit 48-Hour Notices.

#### IV. THE ANALYSIS

Based on the foregoing legal and factual information, there is probable cause to believe that by failing to report campaign contributions of \$1,000 or more, received after the 20th day, but more than 48 hours before the General Election, within 48 hours of receipt of the contribution, the respondents violated 2 U.S.C. § 434(a)(6)(A).

In response to the reason to believe notification, the Committee asserted that it had in fact filed sixteen of the missing eighteen 48-Hour Notices. A review of the public record did not reveal that the Committee had filed any of the eighteen missing 48-Hour Notices; thus this Office asked the Committee to provide a detailed affidavit indicating the Committee's procedures for filing 48-Hour Notices and/or a facsimile cover sheet to help confirm that the Committee had in fact filed the notices at issue.

The Committee provided an affidavit by campaign manager George Abar in which Mr. Abar describes a system for processing incoming contributions that involved obtaining the requisite information and transferring the information by hand onto 48-Hour Notices. According to Mr. Abar,

[t]he campaign made a final review of the 48-hour report and contributions for additions or edits, made any corrections and faxed them to the FEC. The person operating the fax was directed to watch the fax carefully and to be as certain as possible it was transmitted completely.

The process for reviewing contributions and collecting the required information does not appear to have been followed, however. For example, although the Committee states that it collected information such as the occupation and employer of contributors, the Committee disclosed only three of 52 individual contributors' occupation and employer, required by 2 U.S.C. § 434(a)(6)(A). on the 48-Hour Notices it did file. Further, the Committee did not provide any facsimile cover sheets or transmission confirmations regarding the missing 48-Hour Notices, and appears to have relied instead on simply observing the pages flow through the fax machine.

Thus, in light of the absence of evidence that the Committee did file the 48-Hour Notices at issue, this Office recommends that the Commission find probable cause to believe that Phil Schiliro for Congress Committee and Joseph M. Schiliro, as treasurer, violated 2 U.S.C.

§ 434(a)(6)(A).

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#### V. GENERAL COUNSEL'S RECOMMENDATION

Find probable cause to believe that the Phil Schiliro for Congress Committee and Joseph M. Schiliro, as treasurer, violated 2 U.S.C. § 434(a)(6)(A).

8/29/9% Date

Lawrence M. Noble

General Counsel

SEP 23 11 25 M 'SS

September 19, 1996

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

Dear Mr. Noble:

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I am writing with regard to your letter regarding MUR 4366 (Phil Schiliro for Congress Committee) and requesting an extension of time for my response.

There are two reasons for this extension request. First, as an employee of U.S. Representative Henry Waxman, I was required to be in Los Angeles from September 5-11. As a result, there was a significant delay in receiving your letter (which was dated August 30 but not postmarked until September 3).

Second, the congressional session is nearing a close and, as is always the case, there are tremendous demands on staff to assist in completing the legislative schedule. Accordingly, it is very difficult for me to find the time necessary to provide the information you have requested within the fifteen day period.

Thank you for your assistance.

Sincerely, hilip M. Schiliro

1954 Valley Wood Road McLean, Virginia 22101



FEDERAL ELECTION COMMISSION Washington, DC 20463

September 24, 1996

Philip M. Schiliro Phil Schiliro for Congress Committee 1954 Valley Wood Road McLean, VA 22101

RE: MUR 4366

Phil Schiliro for Congress Committee and Joseph M. Schiliro, as treasurer

Dear Mr. Schiliro:

This is in response to your letter dated September 19, 1996, which we received on September 23, 1996, requesting an extension of time to file a responsive brief in the abovecaptioned matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted a twenty day extension. Accordingly, your response is due by the close of business on October 11, 1996.

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

Sincerely,

Un & Brown

Eric S. Brown Paralegal Specialist



October 4, 1996

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

Dear Mr. Noble:

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Please find enclosed three copies of my brief in response to the brief prepared by the General Counsel's office regarding MUR 4366 (Phil Schiliro for Congress Committee). As you requested, I am also sending ten copies of this brief to the Secretary of the Commission.

Sincerely, Philip<sup>ON</sup>. Schiliro

1954 Valley Wood Road McLean, Virginia 22101

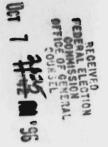
#### **BEFORE THE FEDERAL ELECTION COMMISSION**

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In the Matter of

Phil Schiliro for Congress Committee and Joseph M. Schiliro, as Treasurer MUR 4366



#### **RESPONSE TO GENERAL COUNSEL'S BRIEF**

Phil Schiliro for Congress Committee and Joseph M. Schiliro, as Treasurer ("the Committee), respectfully submits this response to the General Counsel's brief. The General Counsel recommends that the Commission find probable cause to believe that the Committee failed to file 48 hour notices as required by 2 U.S.C. § 434(a)(6)(A). However, as shown below, the Committee properly reported at least 118 out of 120 contributions subject to 48 hour reporting requirements. Therefore, the Commission should not find probable cause to believe that the Committee violated 2 U.S.C. § 434(a)(6)(A). Moreover, even if the Commission were to find probable cause to believe that a violation occurred, it would not be an efficient use of the Commission's enforcement resources to pursue this matter further. Therefore, the Commission should take no further action with respect to this matter.

#### I. Background

Phil Schiliro became a candidate for Congress on September 30, 1994, shortly after the Democratic nominee for the 4th Congressional District of New York unexpectedly withdrew from the race. The 1994 general election was held on November 5th. As such, Mr. Schiliro had little more than one month to organize his campaign and his campaign committee.

Despite the difficulty of mounting a competitive campaign in such a compressed time schedule, Mr. Schiliro made extensive efforts to comply with the Federal Election Campaign Act ("FECA") and the Commission's regulations ("regulations"). George Abar, the Committee's Campaign Manager, stated in a sworn affidavit that Mr. Schiliro repeatedly instructed him to ensure compliance with the FECA and the regulations. (Abar Affidavit, Exhibit 1). In fact, Mr. Schiliro emphasized his commitment to compliance during Mr. Abar's job interview, and restated that commitment during the course of the campaign.

In response to Mr. Schiliro's instructions, Mr. Abar established and implemented an accounting system with special procedures for handling contributions that were subject to 48 hour reporting requirements. (Abar Affidavit, Exhibit 1). All contributions were collected in a central repository. At the end of each day, contributions were reviewed and prepared for deposit. Contributions then were entered in a computerized database, along with any information available from the face of the contribution and the accompanying correspondence. During this process, contributions subject to 48 hour reporting requirements were identified and recorded on a hand-written report. Finally, the campaign reviewed the report and faxed it to the Commission. Id.

According to the Committee's 30 day post-election report, the Committee received 120 contributions that were subject to 48 hour reporting requirements. These contributions totaled \$195,500. There is no dispute that the Committee properly reported at least 102 of those contributions, totaling \$161,000. However, the Commission's records do not contain 48 hour reports for 18 contributions totaling \$34,500 that the Committee received on October 28 and 29, 1994 -- just one week before the election.

Based on the apparent discrepancy between the Committee's post-election report and the Commission's 48 hour records, on May 17, 1996, the Commission found reason to believe that

the Committee did not file 48 hour reports for the 18 contributions received on October 28 and 29, 1994.<sup>1</sup>

Upon notification of the Commission's determination, the Committee sought and was granted pre-probable cause conciliation. During negotiations, Mr. Schiliro asked staff counsel for the Commission what evidence the Committee could provide the Commission to establish that it had filed the 48 hour reports in question. At the direction of staff counsel, the Committee supplied the Commission with two items: (1) an affidavit from the Committee's campaign manager outlining the Committee's reporting procedures: and (2) an original 48 hour report that the Committee faxed to the Commission on or about October 30, 1994, reporting 16 of the questioned contributions totaling \$28,500.

#### II. Discussion

#### A. The Committee Properly Filed A 48 Hour Report for Sixteen Contributions totaling \$28,500 Received on October 28 and 29, 1994

As noted previously, the Commission found reason to believe that the Committee failed to file 48 hour reports for 18 contributions. The General Counsel's brief recommends a similar probable cause finding. This recommendation ignores evidence the Committee submitted during pre-probable cause conciliation -- at the General Counsel's request -- that the Committee filed the requisite reports for at least 16 of the 18 contributions in issue. In particular, the Committee demonstrated that it filed a 48 hour report for sixteen contributions totaling \$28,500 received on October 28 and 29, 1994.

<sup>&</sup>lt;sup>1</sup> It is significant that the Commission initiated this MUR based on information that the Committee itself disclosed within 30 days after the election -- just one month after the 48 hour reports were due -- without any prompting by the Commission.

Upon receiving the Commission's reason to believe notification, Mr. Schiliro contacted counsel for the Commission and sought guidance how to demonstrate that the Committee properly filed its 48 hour reports. Counsel advised Mr. Schiliro to submit an affidavit detailing the Committee's compliance procedures and/or a fax cover sheet indicating that the Committee had filed the reports in question. Mr. Schiliro promptly complied with this request, submitting: (1) an affidavit from George Abar, the Committee's campaign manager, describing the Committee's procedure for reporting 48 hour contributions; and (2) a 48 hour report for October 28 and 29, 1994, that listed 16 of the 18 contributions in issue in this MUR. The report accounted for \$28,500 of the \$34,500 in questioned 48 hour contributions.

By any reasonable standard, the evidence submitted by the Committee satisfied the General Counsel's request with respect to the 16 contributions identified on the report. As an initial matter, Mr. Abar described a system in which contributions were collected centrally, analyzed nightly by senior campaign officials, and recorded in a computerized database. Mr. Abar also described the "special procedures" that he implemented for 48-hour reporting.

The campaign's accounting system included special procedures for 48 hour reports. ... The contributions were reviewed and batches or lists of all contributions that met the criteria to be filed on a 48-hour report[] were created. The necessary information for these contributions was then hand-copied to a 48 hour report. The campaign made a final review of the 48-hour report and contributions for additions or edits, made any corrections and faxed them to the FEC. The person operating the fax was directed to watch the fax carefully and to be as certain as possible it was transmitted completely. This process was undertaken daily with 48-hour reports being filed as required.

Abar Affidavit, Exhibit 1.

To confirm Mr. Abar's affidavit, the Committee submitted a hand-written 48 hour report covering the dates October 28 and 29, 1994. As noted previously, the report details 16 of the 18 contributions that the General Counsel's office has questioned. Those 16 contributions account

for \$28,500 of the \$34,500 in 48 hour contributions in issue in this matter. Therefore, the Committee provided precisely the evidence that the General Counsel's office sought with request all but two of the 48 hour contributions that the Committee received.

The General Counsel's office concedes -- as it must -- that the Committee supplied the evidence it requested. (G.C. Brief at 2-3). Even so, the General Counsel's brief completely ignores the 48 hour report submitted by the Committee. Incredibly -- in a MUR concerning the filing of 48 hour reports -- the General Counsel's brief <u>never even mentions</u> the most relevant possible evidence, the report itself. This failing completely undermines the brief, and suggests that the brief is designed to support a preconceived result rather than to analyze the evidence fairly.<sup>2</sup>

The only "argument" the brief does make further highlights the weakness of the General Counsel's position. The brief asserts that:

The process for reviewing contributions and collecting the required information does not appear to have been followed [because] the Committee disclosed only three of 52 individual contributors' occupation and employer ... on the 48-Hour Notices it did file.

(G.C. Brief at 3). This argument is puzzling. As a preliminary matter, the General Counsel's argument ignores the obvious -- a Committee can only report the information that it possesses. If contributors did not provide occupation and employer information, the Committee could not possibly obtain that information in the short time before filing 48 hour reports. The brief also

<sup>&</sup>lt;sup>2</sup>The General Counsel's office presumably will respond that the Committee cannot prove it submitted the report contemporaneously. It is true that the Committee cannot provide a fax cover sheet for this (or any other) 48 hour report. However, Mr. Schiliro will state under oath that he found the report in question in a file with all the reports that the Commission acknowledges it did receive. Moreover, there is no reason to believe that the Committee want to the trouble of preparing a report, but failed to submit it. On the contrary, the evidence supports the Committee's position that it submitted this report in the same fashion that it submitted all the others. It also bears mention that October 30, 1994 -- the day on which the report most likely was filed -- was a Saturday, which increases the likelihood that a properly filed report was misplaced. As such, the General Counsel's insistence that the Committee submit a fax cover sheet is excessively rigid.

fails to mention that the Committee sent follow-up letters to all contributors who did not provide occupation or employer information and reported that information in subsequent reports. Thus, it is unfair to assert that the absence of this information reflects a failing on the Committee's part. Moreover, even if the General Counsel could attribute some failing to the Committee -- which it cannot -- the brief is silent why it would matter whether the Committee provided occupation and employer information on the 48 hour reports "it did file." This MUR concerns reports that the Committee allegedly failed to file. As such, the General Counsel's argument clearly represents a makeweight without persuasive value.

#### B. The Commission Should Take No Further Action in This Matter

#### 1. The Committee Made Every Reasonable Effort to Comply with the FECA and the Commission's Regulations

Although Mr. Schiliro's campaign began just one month before election day, the Committee made every reasonable effort to comply with the reporting requirements of the FECA and the regulations. As noted previously, Mr. Schiliro attached sufficient importance to compliance that he raised the subject during the employment interview for his campaign manager and on additional occasions thereafter. In fact, Mr. Abar described compliance as "a priority for the campaign at the specific request" of Mr. Schiliro. (Abar Affidavit, Exhibit 1).

Due to the "priority" Mr. Schiliro attached to compliance and reporting, the Committee devoted considerable attention to the development of an accounting system. For example, the Committee obtained specialized software to assist in compliance. In addition, Mr. Abar personally supervised the compliance process.

There is no doubt that the Committee's accounting and compliance system worked properly with respect to the vast majority of contributions. Although the Committee raised more

than \$500,000 in just one month, the only reporting error alleged by the Commission involved eighteen contributions totaling \$34,500 received on October 28 and 29, 1994. As discussed previously, the evidence shows that the Committee filed 48 hour reports for sixteen of the contributions in issue. At most, therefore, the Committee filed proper 48 hour reports for all but 2 contributions totaling \$6.000 (out of 120 contributions totaling \$195,500 that were subject to 48 hour reporting requirements).

Ironically, this MUR provides the best evidence of the efficacy of the Committee's accounting and reporting system. The General Counsel's brief acknowledges that this MUR arose only because the 18 contributions in question appeared on the Committee's 30 Day Post General Election Report. In other words, this MUR arose solely because the Committee properly reported the contributions in issue.

#### 2. There Is No Remedial Reason to Take Further Action in This Matter

Even if the Committee violated the 48 hour reporting requirement -- which has not been established -- no remedial purpose would be served by pursuing this matter further. Therefore, the Commission should take no further action in this matter.

First, as discussed above, any violations that occurred were unintentional. Although Mr. Schiliro faced enormous obstacles in organizing a competitive campaign in just one month, he made compliance with the Act and regulations an important priority for the Committee. Mr. Abar, the Campaign Manager, has stated under oath that Mr. Schiliro instructed him to comply carefully with the Act and regulations, and that he implemented a computer-based system to do so. Although Mr. Abar's system apparently permitted a single 48 hour report concerning 2

contributions to slip through the cracks, this kind of <u>de minimis</u> oversight hardly necessitates further enforcement efforts by the Commission.<sup>3</sup>

Second, Mr. Schilino is not a candidate for federal office and does not intend to seek federal office in the future. Consequently, there is no need to deter Mr. Schiliro from future violations.

#### III. Conclusion

For the foregoing reasons, the Commission should decline to find probable cause to believe that the Phil Schling for Congress Committee violated 2 U.S.C. §434(a)(6)(A). Even if the Commission finds probable cause, however, there is no remedial purpose in pursuing this

<sup>&</sup>lt;sup>3</sup> In fact, it is highly unlikely that the Commission would have initiated this MUR if the only violation involved failure to report two 48 hour contributions out of 120. This is particularly true in light of the fact that the Committee fully reported those contributions on its 30 day post-election report.

matter further. Mr. Schiliro made substantial efforts to comply with the Act and regulations. Any failure to do so was inadvertent and relatively minor. Moreover, Mr. Schiliro has no intention of seeking office in the future. Consequently, the Commission should take no further action in this matter and direct its scarce enforcement resources elsewhere.

#### Wednesday, July 10, 1996

Outlined below is a summary of the Schiliro campaign's system for filing of 48-hour reports with the Federal Elections Commission (FEC). The campaign was to elect Phil Schiliro to the US House of Representatives from New York's 4th Congressional District in 1994.

I served as campaign manager for the Schiliro campaign.

The Schiliro campaign created and maintained a comprehensive system to comply with all FEC reporting rules, including the filing of 48-hour reports. This was a priority for the campaign at the specific request of Phil Schiliro. I can recall two occasions that Schiliro stated he felt it was important the campaign comply with all FEC reporting rules. First, when I interviewed for the job of campaign manager Schiliro stated it was important to him the campaign comply with all FEC reporting rules and the campaign create an accounting system to ensure it did so. Second, after the accounting system was put in place, Schiliro again stated he felt it was important the campaign comply with all FEC reporting rules.

The campaign's accounting system included special procedures for 48 hour reports. From approximately October 20, 1994 through November 5, 1994 the campaign was required to file 48hour reports. During this time, contributions were delivered to campaign headquarters by regular mail, private delivery (e.g. FedEx, UPS), staff and supporters. Once at the headquarters they were delivered to me or a second individual and we stored them in a secure place. At the end of the day, the contributions, which, to my memory, were all checks, were photocopied, recorded and prepared for deposit. The campaign collected information about each contribution from the checks and accompanying correspondence and entered it into a database computer program. Accompanying correspondence included letters, completed reply cards and so forth. This information, when available and required, included name, address, city, state, zip code, date, employer, occupation and contribution amount. The contributions were reviewed and batches or lists of all contributions that met the criteria to be filed on a 48-hour reports were created. The necessary information for these contributions was then hand-copied to a 48-hour report. The campaign made a final review of the 48-hour report and contributions for additions or edits, made any corrections and faxed them to the FEC. The person operating the fax was directed to watch the fax carefully and to be as certain as possible it was transmitted completely. This process was undertaken daily with 48-hour reports being filed as required.

Affirmed:

Jerge A. Ala

George Abar 1939 17th Street, NW #3 Washington, DC 20009

Subscribed to and swom before me this 10 to day of July, 1996.

Notary Public

My Commission expires: 3 14 99

#### BEFORE THE FEDERAL ELECTION COMMISSION

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Oct 23

SENSITIVE

**MUR 4366** 

In the Matter of

Phil Schiliro for Congress Committee and Joseph M. Schiliro, as treasurer

#### **GENERAL COUNSEL'S REPORT**

#### I. BACKGROUND

The Phil Schiliro for Congress Committee and Joseph M. Schiliro, as treasurer, ("the Committee") failed to file eighteen (18) 48 Hour Notices for contributions totaling \$34,500 received before the 1994 general election. On May 17, 1996, the Commission found reason to believe that the Committee violated 2 U.S.C. § 434(a)(6)(A) and entered into pre-probable cause conciliation. The candidate, Philip Schiliro, responded to the Commission's notification by providing copies of sixteen (16) 48 Hour Notices allegedly filed by facsimile and an affidavit from the Committee's campaign manager describing their 48 Hour Notice filing procedures. On July 11 and July 24, 1996, Mr. Schiliro requested that the Commission take no further action in this matter. On August 15, 1996, the Commission rejected this request, and on August 30, 1996, this Office sent a probable cause brief to the Committee. Mr. Schiliro responded to the brief on October 7, 1996. Attachment A. This Office now recommends that the Commission find probable cause to believe that the Phil Schiliro for Congress Committee and Joseph M. Schiliro, as treasurer, violated 2 U.S.C. § 434(a)(6)(A).

#### II. ANALYSIS

The reply brief generally repeats arguments that the Commission considered when it rejected the Committee's request to take no further action. Mr. Schiliro bases a related objection on his assertion that this Office failed to weigh information in the Committee's submissions. The reply brief claims that the General Counsel's probable cause to believe recommendation "ignores evidence the Committee submitted during pre-probable cause conciliation -- at the General Counsel's request -- that the Committee filed the requisite reports for at least 16 of the 18 contributions in issue." Reply Brief at 3.

-2-

As noted in the General Counsel's Report dated August 8, 1996, during conciliation negotiations this Office offered the Committee the opportunity to provide evidence of the facsimile transmission of the missing 48 Hour Notices. In response, the Committee failed to provide such evidence, conceded that it failed to file two notices, and proffered an affidavit from the campaign manager generally describing the campaign's procedures for processing 48 Hour notifications. In the absence of confirmation of the facsimile transmissions, the General Counsel's Brief addressed the Committee's adherence to the procedures described in the campaign manager's affidavit,<sup>1</sup> stating that reports on the pubic record contradict the Committee's contention that it strictly followed the procedures described in the affidavit. As noted in the General Counsel's Brief, occupation and employer information of individual contributors required by 2 U.S.C. § 431(13)(A) was disclosed on only three of the fifty-two 48 Hour Notices filed by the Committee. This statistic was not cited to fault the Committee for

<sup>&</sup>lt;sup>1</sup> The reply brief contends that this Office insisted that the Committee submit a fax cover sheet as proof of its filing and that this insistence is "excessively rigid." Reply Brief at n.2. Commission regulations, however, provide that "necessary information and data from which ... reports may be verified" are required to be preserved for not less than three years after filing. 11 C.F.R. § 104.14(b)(1) and (3). In addition to a fax cover sheet, this may include a Committee phone bill itemizing the presumably long distance call of the transmission(s) at issue or a fax confirmation sheet printed by the fax machine showing the transmission date and time. The Committee did not provide any of these items in support of its claim that it filed 48 Hour Notices for sixteen of the eighteen contributions at issue.

an additional violation and does not defeat the Committee's commitment to compliance. Rather, the omissions were cited to contradict the Committee's claim that the affidavit proves that the 48 Hour Notices at issue in this matter were filed.

In addition, the reply brief repeats several assertions made during pre-probable cause conciliation and in the Committee's request to take no further action. The Committee contends that substantial efforts were made to comply with the Act and Commission regulations and that any violations of the Act were unintentional. In addition, Mr. Schiliro states that he is not a candidate and does not intend to seek office in the future.

The Commission previously rejected these circumstances as a basis for taking no further action.

#### Therefore,

this Office recommends that the Commission find probable cause to believe that the Phil Schiliro for Congress Committee and Joseph M. Schiliro, as treasurer, violated 2 U.S.C. § 434(a)(6)(A).

<sup>&</sup>lt;sup>2</sup> As of the 1996 Mid-Year Report, the Committee has \$0 cash on hand and \$0 in debts.

<sup>&</sup>lt;sup>3</sup> Mr. Schiliro is employed as Rep. Henry A. Waxman's Administrative Assistant and Press Assistant. <u>1996 Congressional Staff Directory/Fall</u> at 713 (47th ed. 1996). His yearly salary is approximately \$108,000. Report of the Clerk of the House, H.R. Rep. 104-139 at 1590 (1995).

#### DISCUSSION OF CONCILIATION AND CIVIL PENALTY

This Office recommends that the Commission approve the attached conciliation

#### IV. RECOMMENDATIONS

- 1. Find probable cause to believe that the Phil Schiliro for Congress Committee and Joseph M. Schiliro, as treasurer, violated 2 U.S.C. § 434(a)(6)(A).
- 2. Approve the attached conciliation agreement and the appropriate letter.

23/96 Date

Lawrence M. Noble

General Counsel

#### Attachments:

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agreement.

- A. Reply Brief
- **B.** Conciliation Agreement

#### Staff assigned: Mark Allen

Eric Brown

#### BEFORE THE FEDERAL ELECTION CONDISSION

In the Matter of

Phil Schiliro for Congress Committee MUR 4366 and Joseph M. Schiliro, as treasurer.

#### CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on October 29, 1996, the Commission decided by a vote of 5-0 to take the following actions in MUR 4366:

- Find probable cause to believe that the Phil 1. Schiliro for Congress Committee and Joseph M. Schiliro, as treasurer, violated 2 U.S.C. \$ 434(a)(6)(A).
- 2. Approve the conciliation agreement and the appropriate letter, as recommended in the General Counsel's Report dated October 23, 1996.

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

Attest:

10-29-96

W. E jorie DODE

Secretary of the Commission

Received in the Secretariat: Wed., Oct. 23, 1996 4:55 p.m. Deadline for vote:

Circulated to the Commission: Thurs., Oct. 24, 1996 11:00 a.m. Tues., Oct. 29, 1996 4:00 p.m.

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FEDERAL ELECTION COMMISSION WASHINGTON, D.C. 20463

October 30, 1996

Joseph M. Schiliro, Treasurer Phil Schiliro for Congress Committee 1002 Wood Park Drive Baldwin, NY 11510

**RE: MUR 4366** 

Phil Schiliro for Congress Committee and Joseph M. Schiliro, as treasurer

Dear Mr. Schiliro:

On October 29, 1996, the Federal Election Commission found that there is probable cause to believe the Phil Schiliro for Congress Committee and you, as treasurer, ("the Committee") violated 2 U.S.C. § 434(a)(6)(A), a provision of the Federal Election Campaign Act of 1971, as amended, in connection with the Committee's failure to file eighteen 48 Hour Notices for contributions totaling \$34,500 before the 1994 general election.

The Commission has a duty to attempt to correct such violations for a period of 30 to 90 days by informal methods of conference, conciliation, and persuasion, and by entering into a conciliation agreement with a respondent. If we are unable to reach an agreement during that period, the Commission may institute a civil suit in United States District Court and seek payment of a civil penalty.

Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If you agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission within ten days. I will then recommend that the Commission accept the agreement. Please make the check for the civil penalty payable to the Federal Election Commission.

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW DEDICATED TO KEEPING THE PUBLIC INFORMED Joseph M. Schiliro, Treas Page 2

If you have any questions or suggestions for changes in the enclosed conciliation agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact Eric Brown, the staff member assigned to this matter, at (202) 219-3400.

Sincerely,

-la la Lawrence M. Noble

**General Counsel** 

Enclosure Conciliation Agreement

cc; Philip M. Schiliro

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ax:518-486-6627

Swan Street Building, Core 1 6 Empire State Plaza, Suite 201 Albany, New York 12223-1650

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Phone (518) 474-8200

Fax: (518) 486-6627

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#### **BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of

Phil Schiliro for Congress Committee and Joseph M. Schiliro, as treasurer **MUR 4366** 

#### **GENERAL COUNSEL'S REPORT**

# SENSITIVE

#### I. Background

The Phil Schiliro for Congress Committee and Joseph M. Schiliro, as treasurer, ("the Committee") failed to file eighteen (18) 48 Hour Notices for contributions totaling \$34,500 received before the 1994 general election. On October 29, 1996, the Commission voted to find probable cause to believe that the Phil Schiliro for Congress Committee and Joseph M. Schiliro, as treasurer, violated 2 U.S.C. § 434(a)(6)(A) and approved a conciliation agreement

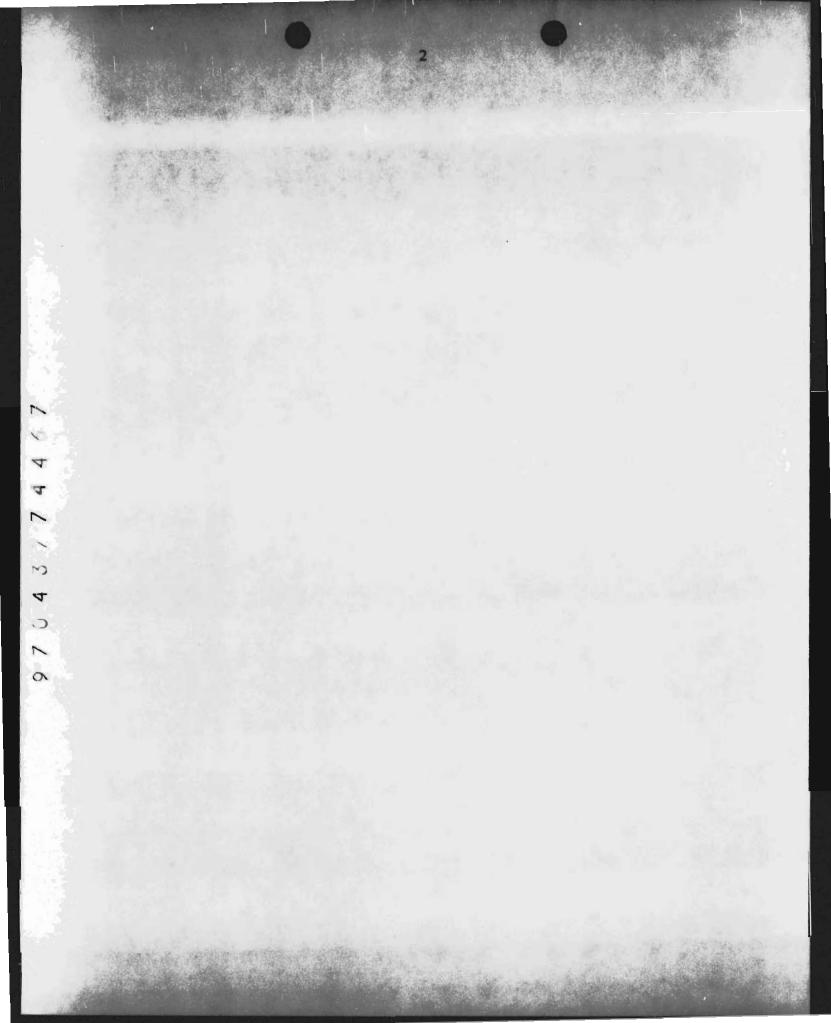
Attached for the Commission's approval is a conciliation

agreement signed by Phil Schiliro

This Office

recommends that the Commission approve this agreement and close the file in this matter.

II. Analysis



this Office recommends that the Commission accept the agreement,

and close the file in this matter.

#### III. Recommendations

Accept the conciliation agreement of the Phil Schiliro for Congress Committee and 1. Joseph M. Schiliro, as treasurer.

BY:

2. Close the file.

3.

Approve the appropriate letter.

Lawrence M. Noble General Counsel

1/13/97 Date

Lois G. Kerner

Associate General Counsel

Attachments

- 1. Conciliation Agreement
- 2. Copy of Check

Staff assigned: Eric Brown Mark Allen

#### BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Phil Schiliro for Congress Committee ) MUR 4366 and Joseph M. Schiliro, as treasurer. )

#### CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on January 17, 1997, the Commission decided by a vote of 5-0 to take the following actions in MUR 4366:

- Accept the conciliation agreement of the Phil Schiliro for Congress Committee and Joseph M. Schiliro, as treasurer, as recommended in the General Counsel's Report dated January 13, 1997.
- 2. Close the file.
- Approve the appropriate letter, as recommended in the General Counsel's Report dated January 13, 1997.

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

Attest:

1-17

Merjorie W. Emons Secretary of the Commission

Received in the Secretariat:	Tues.,	Jan.	14,	1997	11:19 a.m.
Circulated to the Commission:	Tues.,	Jan.	14,	1997	4:00 p.m.
Deadline for vote:	Fri.,	Jan.	17,	1997	4:00 p.m.

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### FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

January 22, 1997

Philip M. Schiliro 1954 Valley Wood Road McLean, VA 22101

**RE: MUR 4366** 

Phil Schiliro for Congress Committee and Joseph Schiliro, as treasurer

Dear Mr. Schiliro:

On January 17, 1997, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted in settlement of a violation of 2 U.S.C. § 434(a)(6)(A), a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter.

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

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

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact me at (202) 219-3400.

Sincerely,

us bron

Eric S. Brown Paralegal Specialist

Enclosure Conciliation Agreement

#### BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of Phil Schiliro for Congress Committee and Joseph M. Schiliro, as treasurer

**MUR 4366** 

#### **CONCILIATION AGREEMENT**

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found probable cause to believe that the Phil Schiliro for Congress Committee and Joseph M. Schiliro, as treasurer, ("Respondents") violated 2 U.S.C. § 434(a)(6)(A).

NOW, THEREFORE, the Commission and the Respondents, having duly entered into conciliation pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), do hereby agree as follows:

 The Commission has jurisdiction over the Respondents and the subject matter of this proceeding.

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

- III. Respondents enter voluntarily into this agreement with the Commission.
- IV. The pertinent facts in this matter are as follows:
  - Phil Schiliro for Congress Committee is a political committee within the meaning of 2 U.S.C. § 431(4), and is the authorized principal campaign committee for Philip Schiliro's 1994 congressional campaign.

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

4. Among the contributions that the Respondents received between October 20, 1994 and November 5, 1994, there were eighteen (18) contributions of \$1,000 or more totaling \$34,500 for which the Respondents did not submit 48 Hour Notices.

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5. Phillip M. Schiliro filed his Statement of Candidacy on October 7, 1994, for the General Election held November 8, 1994. Respondents contend that the candidate's unexpected and late entry into the race created a disproportionate number of contributions being received during the 48 Hour Notice reporting period. 6. Respondents contend that the facsimile telephone numbers for both the New York State Board of Elections and the Clerk of the House were programmed into the campaign's facsimile machine as one transmission operation. Respondents have produced phone records confirming a pattern of transmission to the New York State Board of Elections immediately followed by a transmission to the Clerk of the House.

7. Respondents contend that sixteen (16) of the unreported 48 Hour Notices totaling \$28,500 were transmitted by facsimile to the Clerk of the House and the New York State Board of Elections in accordance with Respondents' general procedures in handling such contributions. Respondents' phone records indicate that these sixteen 48 Hour Notices were transmitted to the New York State Board of Elections on Saturday, October 29, 1994 at 9:15 p.m. in accordance with 2 U.S.C. § 434(a)(6)(A). The phone records do not show, however, that the Notices were transmitted to the Clerk of the House.

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 Respondents contend that the violation regarding the sixteen (16) 48 Hour Notices on October 29, 1994 was the result of an error in technological transmission and not knowing and willful.

V. The Respondents failed to report campaign contributions of \$1,000 or more received after the 20th day, but more than 48 hours before the general election, within 48 hours of receipt of the contributions, in violation of 2 U.S.C. § 434(a)(6)(A).

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of Two Thousand dollars (\$2,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

#### FOR THE COMMISSION:

Lawrence M. Noble General Counsel

BY: Lois G. Lemer

Associate General Counsel

1-22-9 Date

FOR THE RESPONDENTS:

MSchl (Name)

(Position)

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YECEMBER 19, 1996 Date

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FEDERAL ELECTION COMMISSION WASHINGTON, D.C. 20463

## THIS IS THE END OF MUR # 4366

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