FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4427

DATE FILMED 10-31-97 CAMERA NO. 2

CAMERAMAN JMH

97043844812

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

AUG 2 9 53 AM '96

Roy J. Criss (Complainant)
11 Roseview
Mount Clemens, MI 48043
(810) 465-6709

July 22, 1996

MUR 4427

Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

On October 11, 1995 I was employed by Elgin Builders, Inc., 21411 Civic Center Drive, Suite 300, Southfield, MI 48076, as a project manager. I was layed-off from that company on April 16, 1996. On October 31, 1995 Mr. Nafa Khalaf, Vice President of Construction, handed me an Elgin Builders, Inc. check in the amount of $1,000.00, (copy of attached check number 003815, dated October 31, 1995, made out in my name). I was directed by Mr. Khalaf to provide him with my own personal check in the same amount of $1,000.00 to be made out to Clinton Gore '96 Primary Committee (copy of Roy Criss Betty L. Criss Comerica check Number 657, dated November 1, 1995 attached).

Having never been engaged with political campaigns or knowledgeable of financial matters related to such campaigns, it seemed to me to be perfectly normal to comply with the request of my new employer, through Mr. Khalaf, to provide my check in return for a company check as stated above. It was not until I read the July 11, 1996 issue of the Detroit News (copy attached) regarding the Simon C. Fireman case, did I realize that the incident with Elgin Builders, Inc. could have been in violation of Federal Law.

I have no direct knowledge of others in the Elgin firm participating in a similar transaction, however, I have reason to believe that Nafa Khalaf, Robert Schimmel, Alvin Kales (short for a longer polish name), president of Elgin, and others may also have provided personal checks in lieu of company checks. The attached "Staff Listing" of resident addresses and telephone numbers of Elgin Employees, at the time I was with the company, is enclosed for your reference. Diana King is the Elgin bookkeeper and may have been the person who was directed by Nafa Khalaf to prepare any company checks in question.

In addition to the above referenced enclosures, I have also attached my Comerica Bank deposit slips, dated November 2, 1995, for the deposit of the $1,000.00 Elgin Check issued to me.

Sincerely,

Roy J. Criss

Subscribed and Sworn to [or Affirmed] Before Me This 29th Day of July 1996

[signature]

ALBERT P. TAYLOR
Notary Public, Macomb County, MI
My Commission Expires Oct. 7, 1996

97043844813

ELGIN BUILDERS, INC.
STAFF LISTING

NAME & ADDRESS	EMPLOYMENT DATE	BIRTHDATE
KALES, ALFRED	01- 22-68	
CRISS, ROY (Betty)	10-11-95	
DABROWSKI, JOANNE	01-29-96	
GLENN, TOM	10-31-95	
HALL, TIMOTHY (Camilla)	09-25-95	
KHALAF, NAFA (Maha)	08-10-92	
KING, DIANA	01-09-95	
MCELROY, STEVE	07-05-95	

ELGIN BUILDERS, INC.
STAFF LISTING

NAME & ADDRESS	EMPLOYMENT DATE	BIRTHDATE
SADLER, JAMES (Donna)	12-18-95	
SCHIMMEL, ROBERT W	08-02-74	
WALTERS, MARTHA J.	10-02-95	
YACOUB, LAITH (Juliet)	01-28-93	

revised February 1, 1996

9 7 0 4 3 8 4 4 8 1 6

INVOICE NO.	INVOICE DATE	DESCRIPTION	GROSS AMOUNT	DISCOUNT	NET AMOUNT
ROY CRISS 11 ROSEVIEW MOUNT CLEMONS, MICHIGAN 48043		103195	10/31 1000.00	0.00	1000.00
				TOTAL =	$1,000.00
	10/31/95				
	00003815				

ELGIN BUILDERS INC.

PLEASE DETACH AND RETAIN THIS PORTION

ELGIN BUILDERS INC. 21411 CIVIC CENTER DRIVE · SUITE 300
SOUTHFIELD, MICHIGAN 48076
810/353-0980

CHECK DATE	CHECK NUMBER
10/31/95	00003815

First of America Bank - Detroit
DETROIT, MICHIGAN
9-91/720

003815

**** ONE THOUSAND & 00/100 DOLLARS

PAY THIS AMOUNT
$ 1,000.00

10/31/95 ******$1,000.00

PAY TO THE ORDER OF
ROY CRISS
11 ROSEVIEW
MOUNT CLEMONS, MICHIGAN 48043

ELGIN BUILDERS INC.

AUTHORIZED SIGNATURE

⑈003815⑈ ⑆072000915⑆ ⑈325⑈011716⑈

CLINTON/GORE '96
PRIMARY COMMITTEE, INC.

500 WOODWARD AVE
40TH FLOOR
COMERICA TOWER - ONE
DETROIT CENTER
DETROIT, MI. 48226-3426

$1,000.00 RECEIVED FROM ELGIN BUILDERS, INC FOR ROY CRISS TO MAKE DONATION TO CLINTON/GORE '96 PRIMARY COMMITTEE.

COMERICA CHECK NO. [illegible]
DATED NOV. 1, 1995.

Comerica

Checking / Savings Deposit

CP 01642 (5-94)

Date	11-2-95	Exception Date	Yr.	Mo.	Day

Name: Roy & Betty Criss

Present Address: 11 Roseview, Mt Clemens 48043

This deposit subject to Comerica Bank's terms governing the account described below.

For Credit to Account:

☒ CHECKING ☐ SAVINGS

[redacted]

Cash		
Checks	1,000	00
Sub-Total		
Less Cash Received		

Net Deposit $ 1000.00

CUSTOMER COPY

97043844817

ComeriCARD
CENTER

[redacted]

CP 00222 (8-92)

All transactions are subject to proof and verification

ROY CRISS
BETTY L. CRISS
[redacted]

657

Nov. 1 1995

Pay to the Order of CLINTON/GORE '96 PRIMARY COMMITTEE $ 1,000.00

ONE THOUSAND and NO/100 DOLLARS

[redacted] Detroit, Michigan

For

[redacted]

PROCESSED*18401108-3

BOATMEN'S NATIONAL BANK
OF ARKANSAS 082000073
11/13/95
3600201695

FOR DEPOSIT ONLY
BOATMEN'S NATIONAL BANK
ACCT # 8044 419 5
CLINTON/GORE '96 PRIMARY COMMITTEE

9704384481 8

9 7 0 4 3 8 4 4 8 1 9

Dole ally faces jail for illegal contributions

Ex-fund-raiser is fined $6 million for funneling money for campaigns through employees, others.

Washington Post and Associated Press

A top fund-raiser for Republican Bob Dole's presidential campaign has agreed to pay $6 million in personal and corporate criminal fines and face a possible prison term for illegally funneling $120,000, mostly through his employees, to the campaigns of Dole and others since 1991.

It is the largest penalty for a case of illegal political donations, a Justice Department spokesman said. Simon C. Fireman, the 70-year-old head of Aqua-Leisure Industries, which makes swim masks and pool toys, and his assistant, Carol A. Nichols, reached a plea agreement with the U.S. Attorney's office in Boston.

The conspiracy charges detail how Fireman and Nichols wired funds from a Hong Kong bank to a secret trust, passed cash to employees and made loans to others, who in turn made donations to the Republican National Committee, Citizens for Joe Kennedy Committee and Bush-Quayle '92 and Dole campaigns.

Under the agreement, which must be approved by a federal judge, Fireman will pay a $1-million fine to the U.S. Treasury, and his privately held firm will pay $5 million. The U.S. attorney also will recommend Fireman serve six months in prison.

Nichols has agreed to plead guilty to 74 counts of conspiracy to make disguised cash campaign contributions, conspiracy to structure cash transactions to obtain funds for the illegal contributions and conspiracy to impede the Federal Election Commission.

She will pay a fine of $7,500 and agreed to be placed on probation, according to the plea agreement.

Employees who made the donations will not be tried, a prosecutor said.

Fireman resigned as a vice-chairman of Dole's national finance committee after the Kansas City Star reported in April that some of his employees said they were given the cash to make $1,000 donations to the Dole presidential campaign.

Under federal law, it is illegal to make donations in the name of another person by reimbursing them or giving them the money to do so, as Fireman admitted.

The federal charges said Fireman illegally donated $69,000 to Dole's campaign last year. Nearly $39,000 was in cash donated through Aqua-Leisure employees, another $13,000 was from a loan to another businessman who also used "conduit" donors and the rest from yet another businessman Fireman persuaded to make similar illegal donations.

The Dole campaign reacted quickly to Wednesday's decision, saying that it "not only brought swift justice, but also underscores that the Dole campaign, which fully cooperated with the investigation, was not involved in Mr. Fireman's pattern of improper contributions to both Republicans and Democrats."

FEDERAL ELECTION COMMISSION
Washington, DC 20463

August 7, 1996

Roy J. Criss
1' Roseview
Mount Clemens, MI 48043

RE: MUR 4427

Dear Mr. Criss:

This letter acknowledges receipt on August 2, 1996, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). The respondent(s) will be notified of this complaint within five days.

The respondents will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 4427. Please refer to this number in all future communications. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosure
Procedures

9 7 0 4 3 8 4 4 3 2 0

FEDERAL ELECTION COMMISSION
Washington, DC 20463

August 7, 1996

Roy J. Criss
11 Roseview
Mount Clemens, MI 48043

RE: MUR 4427

Dear Mr. Criss:

The Federal Election Commission received a complaint which indicates that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4427. Please refer to this number in all future correspondence.

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

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

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

Sincerely,

Colleen T. Sealander, Attorney
Central Enforcement Docket

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

97043844822

FEDERAL ELECTION COMMISSION
Washington, DC 20463

August 7, 1996

Alfred Kales
1892 Seminole Court
Bloomfield Hills, MI 48302

RE: MUR 4427

Dear Mr. Kales:

The Federal Election Commission received a complaint which indicates that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4427. Please refer to this number in all future correspondence.

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

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

Sincerely,

Colleen T. Sealander, Attorney
Central Enforcement Docket

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

FEDERAL ELECTION COMMISSION
Washington, DC 20463

August 7, 1996

Alfred Kowalewski, Registered Agent
Elgin Builders, Inc.
21411 Civic Center Drive
Suite 300
Southfield, MI 48706

RE: MUR 4427

Dear Mr. Kowalewski:

The Federal Election Commission received a complaint which indicates that Elgin Builders, Inc. may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4427. Please refer to this number in all future correspondence.

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

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Sincerely,

Colleen T. Sealander, Attorney
Central Enforcement Docket

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

FEDERAL ELECTION COMMISSION
Washington, DC 20463

August 7, 1996

Nafa Khalaf
1612 Huron
Royal Oak, MI 48076

RE: MUR 4427

Dear Mr. Khalaf:

The Federal Election Commission received a complaint which indicates that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4427. Please refer to this number in all future correspondence.

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

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9704844327

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

Sincerely,

Colleen T. Sealander, Attorney
Central Enforcement Docket

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

FEDERAL ELECTION COMMISSION
Washington, DC 20463

August 7, 1996

Robert W. Schimmel
8649 Hidden Lake
Howell, MI 48843

RE: MUR 4427

Dear Mr. Schimmel:

The Federal Election Commission received a complaint which indicates that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4427. Please refer to this number in all future correspondence.

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

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

Sincerely,

Colleen T. Sealander, Attorney
Central Enforcement Docket

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

FEDERAL ELECTION COMMISSION
Washington, DC 20463

August 7, 1996

Lyn Utrecht, Esq.
Oldaker, Ryan & Leonard
818 Connecticut Ave., NW
Suite 1100
Washington, DC 20036

RE: MUR 4427

Dear Ms. Utrecht:

The Federal Election Commission received a complaint which indicates that your client, the Clinton/Gore '96 Primary Committee ("Committee") and Joan Pollitt, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4427. Please refer to this number in all future correspondence.

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

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

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

Sincerely,

Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures
1. Complaint
2. Procedures

FEDERAL ELECTION COMMISSION
Washington, DC 20463

August 7, 1996

Eric F. Kleinfeld, Esq.
Chief Counsel
Clinton/Gore '96
PO Box 19300
Washington, DC 20036

RE: MUR 4427

Dear Mr. Kleinfeld:

The Federal Election Commission received a complaint which indicates that your client, the Clinton/Gore '96 Primary Committee ("Committee") and Joan Pollitt, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4427. Please refer to this number in all future correspondence.

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

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

Sincerely,

Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures
1. Complaint
2. Procedures

CLINTON GORE '96

August 13, 1996

RECEIVED FEDERAL ELECTION COMMISSION OFFICE OF GENERAL COUNSEL

AUG 13 1 22 PM '96

Lawrence M. Noble, Esquire
Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

Re: MUR 4427, Clinton/Gore '96 Primary Committee, Inc.
Joan Pollitt, as Treasurer

Dear Mr. Noble:

As you know, we are counsel to the Clinton/Gore '96 Primary Committee, Inc. (The "Committee") and Joan Pollitt, Treasurer. This letter is to request an extension of time to respond to the complaint in the above-captioned MUR.

Due to previously scheduled commitments which cannot be altered at this time, both counsel to the Committee will be out-of-town during the time when the response is due. In order to have adequate time to review the activity complained of and to prepare a sufficient response, we are, thus, requesting this extension.

Accordingly, we are requesting an extension of fifteen days, until September 10, 1996, to respond to the complaint in this matter. If you have any questions, please feel free to contact us.

Sincerely,

Lyn Utrecht
Lyn Utrecht
General Counsel

Eric Kleinfeld
Eric Kleinfeld
Chief Counsel

97043844835

P.O. Box 19300 • Washington, D.C. 20036-9300 • 202 · 331 · 1996 • fax: 202 · 496 · 4849

FEDERAL ELECTION COMMISSION
Washington, DC 20463

August 19, 1996

Lyn Utrecht, Esquire
Oldaker, Ryan, Phillips & Utrecht
818 Connecticut Avenue, N.W.
Suite 1100
Washington, DC 20036

Eric F. Kleinfeld, Esquire
Chief Counsel
Clinton/Gore '96
P.O. Box 19300
Washington, DC 20036

RE MUR 4427
Clinton/Gore '96 Primary Committee, Inc. and
Joan Pollitt, as treasurer

Dear Ms. Utrecht and Mr. Kleinfeld:

This is in response to your letter dated and received August 13, 1996, requesting an extension to respond to the complaint filed in the above-noted matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on September 10, 1996.

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

Sincerely,

Colleen T. Sealander, Attorney
Central Enforcement Docket

LAW OFFICES
GRYLLS, FACCA, RICHTER & PREGLER, P.C.

JOHN K. GRYLLS, J.D.
PATRICK A. FACCA, J.D.
GERALD J. RICHTER, J.D.
BRUCE M. PREGLER, J.D.
ANDREW P. DOORNAERT, J.D.

315 S. WOODWARD, SUITE 206
ROYAL OAK, MICHIGAN 48067

TELEPHONE (810) 398-9900
FAX (810) 398-9906

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

AUG 16 12 21 PM '96

August 14, 1996

Ms. Colleen T. Sealander, Attorney
Keeper of Enforcement Docket
Federal Election Commission
Washington, DC 20463

In Re: MUR 4427

Our Client: Elgin Builders, Inc.
Our Reference Number: G068/AH14/136

Dear Ms. Sealander:

Please be advised that this office represents Mr. Alfred Kales a/k/a Kowaleski and Mr. Nafa Khalaf in regards to the complaint filed by Mr. Roy Criss. Enclosed please find the original Statements of Designation of Counsel signed by Mr. Kales and Mr. Khalaf.

Based upon a preliminary investigation by this office, it appears as if some impropriety has been engaged in by Mr. Kales and his staff. However, it is a unique situation that had never occurred in the past and will not occur in the future.

Based upon our preliminary investigation and after a consultation with our clients, we request conciliation be allowed preliminary to any finding of probable cause.

Very truly yours,

John K. Grylls

John K. Grylls

JKG/jlk
encs.

xc: Client

7 0 1 7 3 4 4 8 7

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4427

NAME OF COUNSEL: JOHN K. GRYLLS

FIRM: GRYLLS, FACCA, RICHTER & PREGLER, P.C.

ADDRESS: 315 SOUTH WOODWARD AVENUE, SUITE 206

ROYAL OAK, MI 48067

TELEPHONE: (810) 398-9900

FAX: (810) 398-9905

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

8/13/96

Date

Signature

RESPONDENT'S NAME: NAFA KHALAF

ADDRESS: 1612 HURON

ROYAL OAK, MI 48076

TELEPHONE: HOME (810) 588-9421

BUSINESS (810) 353-0980

970438448[illegible]8

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4427

NAME OF COUNSEL: JOHN K. GRYLLS

FIRM: GRYLLS, FACCA, RICHTER & PREGLER, P.C.

ADDRESS: 315 SOUTH WOODWARD AVENUE, SUITE 206

ROYAL OAK, MICHIGAN 48067

TELEPHONE:(810) 398-9900

FAX:(810) 398-9905

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

8/13/96
Date

Alfred Kales
Signature

RESPONDENT'S NAME: ALFRED KALES

ADDRESS: 1892 SEMINOLE CT.

BLOOMFIELD HILLS, MI 48302

TELEPHONE: HOME(810) 851-0467

BUSINESS(810) 353-0980

97043844839

Roy J. Criss
11 Roseview
Mount Clemens, MI 48043
(810) 465-6709

August 10, 1996

Office of the General Council
Federal Election Commission
999 E Street, N.W
Washington, DC 90463

Attention: Colleen T. Sealander, Attorney
Central Enforcement Docket

Re: MUR 4427

Dear MS Sealander,

I am in receipt of your letter dated August 7, 1996; your response, complete with enclosures, to my original complaint in the above referenced matter by my letter, dated July 22, 1996. I hereby respond to your enclosure which indicates that I, as complainant, "-may also have violated the Federal Election Campaign Act-". I believe, and request, that no action be taken against me in this matter in view of the facts stated in my original complaint of July 22, 1996, that I "Having never been engaged in political campaigns or knowledgeable of financial matters related to such campaigns, it seemed to me to be perfectly normal to comply with the request of my new employer, through Mr. Khalaf, to provide my check in return for a company check-".

I ignorantly felt no concern about my cooperation with Elgin Builders, Inc., by providing my personal check, made out to the Clinton/Gore '96 Primary Committee, in return for an Elgin check, made out to me in the same amount, until I read the July 11, 1996 account in the Detroit News about the Simon C. Fireman case. It was that newspaper article that prompted me to reveal this matter to your attention. In retrospect, it is now obvious to me that I should have learned about campaign funding issues and that I should not have placed confidence in my new employer regarding propriety in matters resulting in issuance of the campaign contributions.

Believing that I am innocent of my actions in the method of my contribution, and my willingness to cooperate with my employer, as stated above, and the fact that, as the original complainant, I brought this matter to your attention, I do not believe I require legal counsel to represent me, neither do I object that this matter be made public.

Sincerely,

Roy J. Criss

CLINTON GORE 96

September 10, 1996

SEP 10 10 43 AM '96

FEDERAL ELECTION COMMISSION OFFICE OF GENERAL COUNSEL

Lawrence M. Noble, Esquire
Office of General Counsel
Federal Election Commission
999 E St., N.W.
6th Floor
Washington, D.C. 20463

RE: MUR 4427
Clinton/Gore '96 Primary Committee, Inc. and Joan Pollitt, as treasurer

Dear Mr. Noble:

This is the response of the Clinton/Gore '96 Primary Committee (the "Committee") and Joan Pollitt, as Treasurer, to the complaint filed in the above-captioned MUR. As more fully explained below, the Committee respectfully requests that the Federal Election Commission (the "Commission" or "FEC") find no reason to believe that any violation of the Federal Election Campaign Act of 1971 (the "Act") (2 U.S.C. § 431 *et seq.*) as amended, occurred and close this matter.

Statement of the Case

Complainant alleges that Nafa Khalaf, Vice President of Elgin Builders, Inc., provided complainant with a corporate check in the amount of $1,000 made out to complainant. Complainant further alleges that he, in return, was directed by Mr. Khalaf to provide a personal check in the amount of $1,000 made payable to Clinton/Gore '96 Primary Committee, Inc. Complainant alleges that he, and possibly other unknown Elgin Builders, Inc. employees, made a $1,000 contribution at the direction of and on behalf of Elgin Builders, Inc., therefore, resulting in a prohibited contribution. Complainant makes no allegations that the Committee or any employee or agent of the Committee participated in or otherwise was aware of these alleged activities.

The Treasurer Did Not Knowingly Accept a Contribution in the Name of Another or a Corporate Contribution

The Federal Election Campaign Act (FECA) and the Federal Election Commission (FEC) regulations prohibit political committees from knowingly receiving or accepting corporate contributions (2 U.S.C. §441b(a) and 11 C.F.R. § 114.2 (d)). In addition, the Act prohibits

P.O. Box 19100 • Washington, D.C. 20036-9100 • Voice: 202 · 331 · 1996 • TTY: 202 · 530 · 2170 • Fax: 202 · 496 · 4849

political committees from knowingly accepting a contribution made by one person in the name of another person (2 U.S.C. § 441f). The Treasurer is responsible for examining all contributions for evidence of illegality and determining whether contributions are from prohibited sources (11 C.F.R. § 103.3(b)).

The Committee has instituted specific procedures to ensure the legality of all contributions. The Committee's Treasurer has established specific procedures whereby all contributions are reviewed upon receipt, prior to deposit, to immediately identify illegal and excessive contributions (See affidavit of Joan Pollitt, paragraph 2). No illegal contributions are knowingly accepted. If an illegal contribution is received by the Committee, it is immediately returned to the sender within 10 days of receipt. No such contributions are deposited into the Committee's depositories.

Complainant's personal check was received by the Committee, reviewed by Committee staff and deposited on November 9, 1995. At the time of acceptance, the Treasurer had no reason to believe that the contribution was not as represented, a personal contribution drawn from the complainant's personal checking account (See affidavit of Joan Pollitt, paragraph 3). On its face, the complainant's check exhibited only indicia of a permissible contribution and bore no evidence that it might be impermissible (*Id.*). Nothing about this contribution indicated that it may have been made either with corporate funds or in the name of another.[1] Accordingly, the contribution was deposited and reported in the Year End Report as a $1,000 personal contribution.

In addition, Mr. Khalaf, who allegedly directed complainant to make the contribution at issue, was not and is not an employee or agent of the Committee (See affidavit of Joan Pollitt, paragraph 6). The Committee did not authorize Mr. Khalaf to take these actions or to engage in any activities on behalf of the campaign (*Id.*). In fact, the Committee has had no communication with Mr. Khalaf and has never been aware of his activities until the receipt of complainant's letter. The Committee was simply the recipient of complainant's contribution.

The Contributions In Question Were Refunded
Within 30 Days Of Discovering Their Alleged Illegality

Upon receipt of complainant's allegations, the Treasurer immediately conducted an extensive review of the Committee's contribution records. The Treasurer reviewed all contributions received from complainant, all contributions received from any names represented by complainant as employees of Elgin Builders, Inc., all contributions from anyone listing Elgin Builders, Inc. as their employer, and all contributions listing an address of Elgin Builders, Inc.'s corporate address (See affidavit of Joan Pollitt, paragraph 5).

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[1] Consistent with 11 C.F.R. § 103.3(b), no genuine questions were raised with respect to complainant's contribution.

At the conclusion of the review, the Treasurer discovered three additional checks in the amount of $1,000 each made from personal checking accounts of Elgin Builders, Inc. employees. Committee records demonstrate a $1,000 personal contribution from Nafa Khalaf, Alfred Kales, and Robert Schimmel. All contributions were made from personal checking accounts, all contributors listing Elgin Builders, Inc. as their employer. Just as there was nothing on the face of complainant's check to indicate a possible impermissible contribution, so too were these three checks devoid of any indication whatsoever that they may have been impermissible (*Id.*).

FEC regulations provide that where a treasurer receives and deposits a contribution that is not known to be illegal, and later discovers evidence indicating that said contribution is illegal, the Treasurer shall refund the contribution to the contributor within thirty days of the date on which the illegality is discovered 11 C.F.R. § 103.3(b)(2)[2].

Based upon the allegations of the complaint received on August 10, 1996, and the findings of the Treasurer's subsequent review, the Committee refunded Complainant's check on August 20, 1996. Additionally, despite the fact that there is no evidence to indicate any problem with the three other checks from Elgin Builders, Inc. employees, the Committee refunded those checks as well in order to avoid any potential problem as yet unknown. Therefore, all checks were refunded within 30 days of receiving the initial allegation.

Conclusion

Accordingly, because the Committee had no involvement with and was completely unaware of the actions alleged, and because the Committee took prompt action upon notification to rectify even the appearance of a problem, the Commission should find no reason to believe with respect to the Committee. Simply put, there is no evidence or any other factual or legal basis for the Commission to take any action regarding the Committee.[3]

In conclusion, at the time of deposit, the Treasurer had no knowledge that the contribution in question was possibly impermissible. Moreover, upon discovering evidence that the contribution was allegedly illegal, the Treasurer immediately refunded all contributions

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2 See also, AO 1984-52, wherein a political committee was required to refund contributions to the corporation after determining that contributions received and deposited as personal contributions from the employees of the corporation were actually the result of a bonus from the corporation to the employee (Federal Election Campaign Finance Guide, CCH ¶5797).

3 See, e.g., MUR 3540 in which the Commission took no action against the principal campaign committee of a presidential candidate with respect to 2 U.S.C. §441f, because there was no indication that the committee was involved other than as an unknowing recipient. First General Counsel's Report, p.13.

associated with Elgin Builders, Inc. and any known employee thereof, including complainant's contribution. Said refunds occurred within 30 days of receiving the aforementioned complaint, even though there has been no determination that the complaint is correct. Therefore, as the Committee had no knowledge of an illegal contribution, and took swift and prompt action upon learning of the allegedly impermissible contribution, the complaint in this matter should be dismissed forthwith. The Committee respectfully requests that the Commission find no reason to believe that any violation of the Act or of the Commission's regulations occurred with respect to the actions taken by the Committee.

Sincerely,

Lyn Utrecht /EFK

Lyn Utrecht, Esquire
General Counsel
Clinton/Gore '96 Primary Committee, Inc.

Eric F Kleinfeld

Eric F. Kleinfeld, Esquire
Chief Counsel
Clinton/Gore '96 Primary Committee, Inc.

Attachment: Affidavit of Joan Pollitt, Treasurer

AFFIDAVIT OF JOAN POLLITT

I, Joan Pollitt, hereby declare the following:

1. I am the Treasurer of the Clinton/Gore '96 Primary Committee, Inc. (the "Committee"), and I am responsible for the duties prescribed to me under the Federal Election Campaign Act of 1971 at 2 U.S.C. § 431 *et seq.* The Committee has established a process for reviewing all contributions to determine whether they are permissible under the prohibitions and limitations of the Act.

2. All contributions are reviewed prior to deposit. If any genuine questions are raised as to the permissibility of the contribution, I take the actions prescribed in 11 C.F.R. § 103.3.

3. The Committee received complainant's contribution on or about November 9, 1995. Upon review of complainant's personal check in the amount of $1,000 the contribution was deemed legal and, when aggregated with prior contributions by complainant, his contribution did not exceed the maximum personal contribution of $1,000. Nothing on the face of the check or on any accompanying documentation indicated any possible problem under the Act. Specifically, there was no indication that the check might have come from anyone other than complainant. Therefore, the contribution was subsequently deposited.

4. Upon receipt of complainant's letter, the Committee subsequently reviewed its entire contribution records for the Primary Committee and the General Election Legal and Accounting Compliance Fund (GELAC). The Committee searched for all contributions received from complainant, contributor names matching the names of Elgin Builders employees provided by complainant, all contributions listing an address of Elgin Builders, Inc. corporate address, and all contributions received from anyone listing Elgin Builders, Inc. as their employer.

5. Upon determining that there were only three contributions from personal checking accounts listing Elgin Builders, Inc. as their employer, other than the complainant's, the Committee immediately refunded all four contributions, even though none of the contribution checks indicated that the money might have come from anyone other than the contributors.

6. No employee of Elgin Builders, Inc. or anyone associated therewith was affiliated with or an agent of the Committee and the Committee did not authorize, request or suggest the actions alleged.

I submit, under penalty of perjury, that the foregoing information is true and accurate to the best of my knowledge.

Joan Pollitt

Joan Pollitt

Signed and sworn before me this 10th day of September, 1996.

Jewelle R Hazel

JEWELLE R. HAZEL
Notary Public, District of Columbia
My Commission expires on: My Commission Expires December 14, 2000

CLINTON/GORE '96 PRIMARY COMMITTEE, INC. 301

96043844846

301:

CLINTON/GORE '96 PRIMARY COMMITTEE, INC.
P.O. BOX 2100
LITTLE ROCK, AR 72203

BOATMEN'S
NATIONAL BANK OF ARKANSAS
LITTLE ROCK, ARKANSAS
81-7-820

08-20-96	$1,000.00
DATE	AMOUNT

*****One thousand dollars and no cents******

Alfred Kales
1851 Seminole Court
Bloomfield Hills, MI 48302

TWO SIGNATURES REQUIRED IF OVER $2000.00

⑈003012⑈ ⑆082000073⑆ 008944⑉419⑉5⑈

CLINTON/GORE '96 PRIMARY COMMITTEE, INC.

3010

CLINTON/GORE '96 PRIMARY COMMITTEE, INC.
P.O. BOX 2100
LITTLE ROCK, AR 72203

BOATMEN'S
NATIONAL BANK OF ARKANSAS
LITTLE ROCK, ARKANSAS
81-7-820

08-20-96 $1,000.00
DATE AMOU

PAY ******One thousand dollars and no cents*******

TO THE ORDER OF
Nafa M. Khalaf
1612 Muron Ave.
Royal Oak, MI 48073

TWO SIGNATURES REQUIRED IF OVER $2000.

⑈003010⑈ ⑆082000073⑆ 008944⑉419⑉5⑈

97043844847

LINTON/GORE '96 PRIMARY COMMITTEE, INC. 300

300

CLINTON/GORE '96 PRIMARY COMMITTEE, INC.
P.O. BOX 2100
LITTLE ROCK, AR 72203

BOATMEN'S
NATIONAL BANK OF ARKANSAS
LITTLE ROCK, ARKANSAS
81-7-820

08-20-96 $1,000.00
DATE AMOUNT

Y *****One thousand dollars and no cents******
THE
DER

Robert Schimmel
8649 Hidden Lake
Howell, MI 48843

TWO SIGNATURES REQUIRED IF OVER $2000.00

⑈003009⑈ ⑆082000073⑆ 008944⑉419⑈5⑈

:LINTON/GORE '96 PRIMARY COMMITTEE, INC.

3008

9 6 7 0 4 3 8 4 4 8 4 9

300

CLINTON/GORE '96 PRIMARY COMMITTEE, INC.
P.O. BOX 2100
LITTLE ROCK, AR 72203

BOATMEN'S
NATIONAL BANK OF ARKANSAS
LITTLE ROCK, ARKANSAS
81-7-820

08-20-96	$1,000.00
DATE	AMOUNT

AY ******One thousand dollars and no cents*******

) THE
DER

Elgin Builders, Inc.
21411 Civic Center Drive, Ste. 300
Southfield, MI 48076

TWO SIGNATURES REQUIRED IF OVER $2000.00

⑈003008⑈ ⑆082000073⑆ 008944⑉419⑉5⑈

LAW OFFICES
GRYLLS, FACCA, RICHTER & PREGLER, P.C.

JOHN K. GRYLLS, J.D.
PATRICK A. FACCA, J.D.
GERALD J. RICHTER, J.D.
BRUCE M. PREGLER, J.D.
CHRISTEN E. HANLEY, J.D.*

315 S. WOODWARD, SUITE 208
ROYAL OAK, MICHIGAN 48067

TELEPHONE (810) 398-9900
FAX (810) 398-9905

*ALSO ADMITTED IN ILLINOIS

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

APR 21 2 40 PM '97

April 17, 1997

Mr. Brown
Federal Election Commission
Washington, D.C. 20463

In Re: Federal Election Commission
Proj: Criss
Re: MUR 4427

Our Client: Elgin Builders, Inc.
Our Reference Number: G068/AH14/136

Dear Mr. Brown:

Enclosed is a copy of the Statement of Designation of Counsel, on the above referenced matter.

Very truly yours,

John K. Grylls

/slv
enc.

xc w/enc.: Client

9 7 0 4 3 8 4 4 8 5 0

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4427

NAME OF COUNSEL: JOHN K. GRYLLS

FIRM: GRYLLS, FACCA, RICHTER & PREGLER, P.C.

ADDRESS: 315 SOUTH WOODWARD AVENUE, SUITE 206

ROYAL OAK, MI 48067

TELEPHONE: (810) 398-9900

FAX: (810) 398-9905

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

April , 1997
Date

Signature Alfred Kales

RESPONDENT'S NAME: ELGIN BUILDERS, INC.

ADDRESS: 21411 Civic Center Drive, Suite 300

Southfield, MI 48076

TELEPHONE: HOME( ) -0-

BUSINESS(810) 353-0980

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

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

MUR: 4427
DATE COMPLAINT FILED: August 2, 1996
DATE OF NOTIFICATION: August 7, 1996
DATE ACTIVATED: March 5, 1997

STAFF MEMBER: Mary L. Taksar

COMPLAINANT: Roy Criss

RESPONDENTS: Elgin Builders, Inc.
Roy Criss
Alfred Kales a/k/a/ Alfred Kowalewski
Nafa Khalaf
Robert W. Schimmel
Clinton/Gore '96 Primary Committee, Inc. and Joan Pollitt, as treasurer

RELEVANT STATUTE(S): 2 U.S.C. § 441b(a)
2 U.S.C. § 441f

INTERNAL REPORTS CHECKED: Clinton/Gore '96 Primary Committee, Inc. Disclosure Reports
FEC Contributor Index

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

This matter was generated by a complaint filed by Roy Criss on August 2, 1996. In his complaint, Mr. Criss alleges that Elgin Builders, Inc. ("Elgin") of Southfield, Michigan made corporate contributions and contributions in the name of another in violation of 2 U.S.C. §§ 441b and 441f.[1]

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[1] A staff member from this Office contacted the Corporate Registration Division of the Michigan Secretary of State's office and was informed that Elgin Builders, Inc. was incorporated in Michigan on

II. FACTUAL AND LEGAL ANALYSIS

A. Law

The Federal Election Campaign Act of 1971, as amended, ("the Act"), prohibits a corporation from making contributions or expenditures in connection with any Federal Election. 2 U.S.C. § 441b(a). The Act also prohibits any officer or director of any corporation from consenting to any contribution or expenditure by the corporation which is prohibited by Section 441b(a). 2 U.S.C. § 441b(a). For purposes of 2 U.S.C. § 441b, the term "contribution" or "expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value. 2 U.S.C. § 441b(b)(2). Additionally, a contributor employed by a corporation may not be paid for his contribution through a bonus, expense account, or other form of direct or indirect compensation. 11 C.F.R. § 114.5(b)(1).

Pursuant to 2 U.S.C. § 441f, no person shall make a contribution in the name of another or knowingly permit his name to be used to effect such a contribution, and no person (including a committee) shall knowingly accept a contribution made by one person in the name of another person. 2 U.S.C. § 441f. Contributions in the name of another include knowingly making a contribution in the name of another, knowingly permitting your name to be used to effect that contribution, or knowingly helping or assisting any person in making a contribution in the name of another. 11 C.F.R. § 110.4(b).

January 22, 1968 and is a corporation in good standing. According to a Dun and Bradstreet (D&B) report run on Elgin, the corporation is involved in constructing institutional buildings, school buildings, and multi-family dwellings, employs 18 individuals, and reports sales of $4.9 million dollars. The D&B report also indicates that Elgin performs work for the government; however, the report does not identify the level

If the treasurer of a committee in exercising his or her responsibilities under 11 C.F.R. § 103.3(b) determined at the time a contribution was received and deposited that it did not appear to be made by a corporation, labor organization, foreign national, or Federal contractor or in the name of another, but later discovers that it is illegal based on new evidence not available to the committee at the time of the receipt and deposit, the treasurer will refund the contribution to the contributor within thirty days of the date the illegality was discovered. 11 C.F.R. §103.3(b)(2).

B. Complaint

Mr. Criss indicates that while employed by Elgin, another employee, Nafa Khalaf, the Vice-President of Construction, handed him a check in the amount of $1,000 that was made payable to Mr. Criss and drawn on an Elgin account and directed him to provide a personal check in the same amount and made payable to Clinton/Gore '96 Primary Committee. According to Mr. Criss, because he has never been involved with political campaigns and was not knowledgeable about financial matters relating to campaigns, he found it perfectly normal to comply with the request of his new employer through Mr. Khalaf.

Mr. Criss further states that it was not until he read an article about the Simon C. Fireman case in a July 11, 1996, edition of the Detroit News that he realized the incident with Elgin could have been in violation of Federal law. Included in the complaint is a copy of a $1,000 check drawn on an Elgin account that was dated October 31, 1995 and made payable to Mr. Criss, a copy of a

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of government and provides no additional information regarding Elgin's possible status as a Federal contractor deposit slip for a $1,000 deposit into Mr. Criss' personal checking account at Comerica Bank on November 2, 1995, and a copy of a $1,000 check that Mr. Criss wrote from his personal checking account that was dated November 1, 1995 and made payable to Clinton/Gore '96 Primary Committee.

Mr. Criss asserts that he has no direct knowledge about others in the firm participating in a similar transaction. However, he indicates that he has reason to believe that Nafa Khalaf, Robert W. Schimmel, and Alfred Kales and others may also have provided personal checks for contributions in lieu of company checks.

C. **Elgin Builders, Inc.**

In response to the complaint, counsel for Elgin, Alfred Kales, and Nafa Khalaf indicates that based upon a preliminary investigation by counsel, "it appears as if some impropriety has been engaged in by Mr. Kales and his staff." Counsel further states that it is a unique situation that has never occurred in the past and will not occur in the future. Without providing any further explanation regarding the events at issue, counsel requests pre-probable cause conciliation for his clients. Another employee, Robert W. Schimmel, who was also named in the complaint did not respond.

This Office notes that the complainant, Roy Criss, was also notified as a respondent in this matter. Mr. Criss' response reiterates his earlier statement in the complaint that because he had never been involved with political campaigns and had no knowledge of financial matters related to such campaigns, it seemed "perfectly normal to comply with the request of my new employer, through Mr. Khalaf, to provide my check in return for a company check." Mr. Criss states that in retrospect he should have learned about campaign financing issues and not have placed confidence in his new employer regarding propriety in matters relating to campaign contributions. Mr. Criss notes that he was the individual who brought the matter to the Commission's attention and requests that given the particular circumstances, the Commission take no action with regard to him.

Contributor indices show that during the 1995-1996 election cycle, four employees of Elgin Builders, Inc. made contributions to the Clinton/Gore '96 Primary Committee, Inc. ("the Committee").[2] These four employees, Alfred Kales, Nafa Khalaf, Robert W. Schimmel, and Roy Criss each made a $1,000 contribution to the Committee on November 9, 1995.[3]

Based on the information provided by the complainant, the response submitted by counsel for Elgin, Alfred Kales, and Nafa Khalaf, and the fact that the contributions to the Committee were all made by the four Elgin employees on the same date, it appears that Elgin reimbursed four employees for contributions made to the Committee. Because the corporation reimbursed these individuals for their contributions to the Committee, the contributions were actually made by the corporation. As such, the corporation's actions were in violation of the Act's prohibitions on contributions made in the name of another and corporate contributions. The facts in this matter indicate an intent to evade FECA prohibitions against corporate contributions. Therefore, this Office recommends that the Commission find reason to believe that Elgin Builders, Inc. knowingly and willfully violated 2 U.S.C. § 441b(a) and 441f.

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[2] Contributor indices for 1993-1994, 1995-1996, and 1997-1998 indicate that no other itemizable contributions were made to Federal candidates by Elgin employees.

[3] At the time the complaint was filed, it appears that Mssrs. Kales, Khalaf, and Schimmel were still employed by Elgin Builders, Inc. However, Mr. Criss was laid off from the company on April 16, 1996.

In addition, when Nafa Khalaf asked the Elgin employees to provide personal checks in the amount of $1,000 made payable to the Clinton/Gore '96 Primary Committee in exchange for a $1,000 check made payable to the employee and drawn on an Elgin account, he consented to the making of corporate contributions, knowingly assisted others in making contributions in the name of another, and allowed his name to be used to make a contribution in the name of another. Therefore, this Office recommends that the Commission find reason to believe that Nafa Khalaf knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

Additionally, by allowing their names to be used to effect such contributions, Alfred Kales, Robert W. Schimmel, and Roy Criss were also in violation of the Act's prohibition on contributions in the name of another. Therefore, this Office recommends that the Commission find reason to believe that Alfred Kales a/k/a Alfred Kowalewski, Robert W. Schimmel, and Roy Criss violated 2 U.S.C. § 441f by knowingly permitting their names to be used to effect a contribution in the name of another.

D. **Clinton/Gore '96 Primary Committee, Inc. and Joan Pollitt, as treasurer**

In its response to the complaint, the Committee states that when Mr. Criss' personal check was received, it was reviewed by staff and deposited on November 9, 1995. The Committee indicates that at the time of acceptance, the treasurer had no reason to believe that the contribution was not a personal contribution and nothing about the contribution indicated that it may have been made either with corporate funds or in the name of another. The Committee also asserts that Mr. Khalaf was not and is not an employee or agent of the Committee and it did not authorize Mr. Khalaf to engage in any activities on behalf of the Committee.

The Committee states that upon receipt of the complaint, it immediately conducted an extensive review of its contribution records. The Committee indicates that it reviewed all contributions from Mr. Criss, contributions from anyone listing Elgin as their employer, contributions received from any names represented by the complaint as employees of Elgin, and contributions listing an Elgin corporate address. According to the Committee, the treasurer discovered three additional checks in the amount of $1,000 that were made from personal checking accounts of Elgin employees, Alfred Kales, Nafa Khalaf, and Robert W. Schimmel. The Committee asserts that these three checks were devoid of any indication that they may have been impermissible.

The Committee states that based on the allegations in the complaint and the treasurer's subsequent review, the Committee refunded Mr. Criss' check on August 20, 1996.[4] According to the Committee, although there was no evidence to indicate any problem with the checks from the three other employees, the Committee refunded the checks to the three employees in order to avoid any potential problem. The Committee notes that it refunded all contributions at issue within 30 days of receiving the complaint.

Based on the information provided by the Committee and because there is no evidence to the contrary, it appears that the Committee did not know or have reason to know that the contributions received from the four Elgin employees were actually contributions from the corporation made in the name of the four employees. A review of the Committee's disclosure reports indicates that the Committee timely refunded the

[4] It appears that this refund was made payable to Elgin Builders, Inc. A check in the amount of $1,000 made payable to Elgin Builders, Inc. and dated August 20, 1996 was attached to the Committee's response.

contributions at issue once aware of the allegations regarding the source of the contributions. Consequently, this Office is recommending that the Commission find no reason to believe that the Clinton/Gore '96 Primary Committee, Inc. and Joan Pollitt, as treasurer, violated 2 U.S.C. §§ 441b(a) and 441f.

III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

IV. RECOMMENDATIONS

1. Find reason to believe that Elgin Builders, Inc. knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f and enter into conciliation prior to a finding of probable cause to believe.

2. Find reason to believe that Alfred Kales a/k/a Alfred Kowalewski, Robert W. Schimmel, and Roy Criss violated 2 U.S.C. § 441f and enter into conciliation prior to finding of probable cause to believe.

3. Find reason to believe that Nafa Khalaf knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f and enter into conciliation prior to finding of probable cause to believe.

4. Find no reason to believe that the Clinton/Gore '96 Primary Committee, Inc. and Joan Pollitt, as treasurer violated 2 U.S.C. §§ 441b(a) and 441f and close the file in regard to Clinton Gore '96 Primary Committee, Inc. and Joan Pollitt, as treasurer.

5. Approve the attached Factual and Legal Analyses and Conciliation Agreements.

6. Approve the appropriate letters.

Lawrence M. Noble
General Counsel

5/14/97
Date

BY: [signature]
Lois G. Lerner
Associate General Counsel

Attachments:
1-3. Factual and Legal Analyses
4-6. Conciliation Agreements

FEDERAL ELECTION COMMISSION
Washington, DC 20463

<u>MEMORANDUM</u>

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/BONNIE ROSS
COMMISSION SECRETARY

DATE: MAY 20, 1997

SUBJECT: MUR 4427 - FIRST GENERAL COUNSEL'S REPORT

The above-captioned document was circulated to the Commission on **<u>Thursday, May 15, 1997</u>**.

Objection(s) have been received from the Commissioner(s) as indicated by the name(s) checked below:

Commissioner Aikens	<u>XXX</u>
Commissioner Elliott	<u>XXX</u>
Commissioner McDonald	_
Commissioner McGarry	_
Commissioner Thomas	<u>XXX</u>

This matter will be placed on the meeting agenda for **<u>Tuesday, June 10, 1997</u>**.

Please notify us who will represent your Division before the Commission on this matter.

97043844851

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 4427
Elgin Builders, Inc.;	)	
Roy Criss;	)	
Alfred Kales a/k/a Alfred Kowalewski;	)	
Nafa Khalaf;	)	
Robert W. Schimmel;	)	
Clinton/Gore '96 Primary Committee, Inc. and Joan Pollitt, as treasurer	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on June 17, 1997, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MUR 4427:

1. Find reason to believe that Elgin Builders, Inc. knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f and enter into conciliation prior to a finding of probable cause to believe.

2. Find reason to believe that Alfred Kales a/k/a Alfred Kowalewski, Robert W. Schimmel, and Roy Criss violated 2 U.S.C. § 441f and enter into conciliation prior a finding of probable cause to believe as to Alfred Kales and Robert W. Schimmel, but take no further action with regard to Roy Criss.

(continued)

3. Find reason to believe that Nafa Khalaf knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f and enter into conciliation prior to a finding of probable cause to believe.

4. Find no reason to believe that the Clinton/Gore '96 Primary Committee, Inc. and Joan Pollitt, as treasurer, violated 2 U.S.C. §§ 441b(a) and 441f and close the file in regard to Clinton/Gore '96 Primary Committee, Inc. and Joan Pollitt, as treasurer.

5. Approve the Factual and Legal Analyses and Conciliation Agreements recommended in the General Counsel's May 14, 1997 report

6. Approve the appropriate letters.

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

Attest:

6-20-97
Date

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

FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 25, 1997

Roy J. Criss
11 Roseview
Mount Clemens, MI 48043

RE: MUR 4427

Dear Mr. Criss:

On June 17, 1997, the Federal Election Commission found reason to believe that you violated 2 U.S.C. § 441f, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission also determined to take no further action. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

This matter will become part of the public record within 30 days after it has been closed with respect to all other respondents involved. The Commission reminds you that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) and 2 U.S.C. § 437g(a)(4)(B) remain in effect until the matter is closed. The Commission will notify you when the entire file has been closed.

If you have any questions, please contact Mary L. Taksar, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

John Warren McGarry

John Warren McGarry
Chairman

Enclosure
Factual and Legal Analysis

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Roy Criss MUR: 4427

This matter was generated by a complaint filed with the Federal Election Commission by Roy Criss. See 2 U.S.C. § 437g(a)(1).

The Federal Election Campaign Act of 1971, as amended, ("the Act"), prohibits a person from making a contribution in the name of another or knowingly permitting his name to be used to effect such a contribution. 2 U.S.C. § 441f. Contributions in the name of another include knowingly making a contribution in the name of another, knowingly permitting your name to be used to effect that contribution, or knowingly helping or assisting any person in making a contribution in the name of another. 11 C.F.R. § 110.4(b).

While Roy Criss was employed by Elgin, Nafa Khalaf, the Vice-President of Construction, handed him a check in the amount of $1,000 that was made payable to Mr. Criss and drawn on an Elgin account and directed him to provide a personal check in the same amount and made payable to Clinton/Gore '96 Primary Committee. Contributor indices show that during the 1995-1996 election cycle, Roy Criss made a $1,000 contribution to the Committee on November 9, 1995.

It appears that Roy Criss was reimbursed by Elgin for his $1,000 contribution to the Committee. By allowing his name to be used to effect such contribution, Roy Criss was in violation of Act's prohibition on contributions in the name of another. Therefore, there is reason to believe that Roy Criss violated 2 U.S.C. § 441f by knowingly permitting his name to be used to effect a contribution in the name of another.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 25, 1997

Lyn Utrecht, Esquire
Oldaker, Ryan & Leonard
818 Connecticut Avenue, NW
Suite 1100
Washington, DC 20036

RE: MUR 4427

Dear Mr. Utrecht:

On August 7, 1996, the Federal Election Commission notified your clients, the Clinton/Gore '96 Primary Committee ("Committee") and Joan Pollitt, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On June 17, 1997, the Commission, found on the basis of the information in the complaint, and information provided by your client, that there is no reason to believe the Committee and Joan Pollitt, as treasurer, violated 2 U.S.C. §§ 441b(a) and 441f. Accordingly, the Commission closed its file in this matter as it pertains to your clients.

This matter will become part of the public record within 30 days after it has been closed with respect to all other respondents involved. The Commission reminds you that the confidentiality provisions of 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed.

If you have any questions, please contact Mary L. Taksar, the attorney assigned to this matter at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

By Lois G. Lerner
Associate General Counsel

cc: Eric F. Kleinfeld

97043844857

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 25, 1997

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John K. Grylls, Esquire
Grylls, Facca, Richter & Pregler, P.C.
315 South Woodward Avenue, Suite 206
Royal Oak, MI 48067

RE: MUR 4427

Dear Mr. Grylls:

On August 7, 1996, the Federal Election Commission notified your clients, Elgin Builders, Inc., Alfred Kales, and Nafa Khalaf of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint and information provided by you, the Commission, on June 17, 1997, found that there is reason to believe your clients, Elgin Builders, Inc. and Nafa Khalaf, knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f provisions of the Act, and that your client, Alfred Kales, violated 2 U.S.C. § 441f. The Factual and Legal Analysis, which formed a basis for the Commission's findings, are 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. 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.

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.

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.

If you have any questions, please contact Mary L. Taksar, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

John Warren McGarry
Chairman

Enclosures
Factual and Legal Analysis
Conciliation Agreement

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Elgin Builders, Inc.
Alfred Kales a/k/a Alfred Kowalewski
Nafa Khalaf

MUR: 4427

This matter was generated by a complaint filed with the Federal Election Commission by Roy Criss. See 2 U.S.C. § 437g(a)(1).

The Federal Election Campaign Act of 1971, as amended, ("the Act"), prohibits a corporation from making contributions or expenditures in connection with any Federal Election. 2 U.S.C. § 441b(a). The Act also prohibits any officer or director of any corporation from consenting to any contribution or expenditure by the corporation which is prohibited by Section 441b(a). 2 U.S.C. § 441b(a). For purposes of 2 U.S.C. § 441b, the term "contribution" or "expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value. 2 U.S.C. § 441b(b)(2). Additionally, a contributor employed by a corporation may not be paid for his contribution through a bonus, expense account, or other form of direct or indirect compensation. 11 C.F.R. § 114.5(b)(1).

Pursuant to 2 U.S.C. § 441f, no person shall make a contribution in the name of another or knowingly permit his name to be used to effect such a contribution. 2 U.S.C. § 441f. Contributions in the name of another include knowingly making a contribution in the name of another, knowingly permitting your name to be used to effect that contribution, or knowingly helping or assisting any person in making a contribution in the name of another. 11 C.F.R. § 110.4(b).

While Roy Criss was employed by Elgin, Nafa Khalaf, the Vice-President of Construction, handed him a check in the amount of $1,000 that was made payable to Mr. Criss and drawn on an Elgin account and directed him to provide a personal check in the same amount and made payable to Clinton/Gore '96 Primary Committee. Roy Criss states in his complaint that he has reason to believe that such transactions occurred with other Elgin employees, Alfred Kales a/k/a Alfred Kowalewski, Robert W. Schimmel, and Nafa Khalaf.

Contributor indices show that during the 1995-1996 election cycle, four employees of Elgin Builders, Inc. made contributions to the Clinton/Gore '96 Primary Committee, Inc. ("the Committee). These four employees, Alfred Kales a/k/a Alfred Kowalewski, Nafa Khalaf, Robert W. Schimmel, and Roy Criss each made a $1,000 contribution to the Committee on the same day, November 9, 1995.

In response to the complaint, counsel for Elgin, Alfred Kales a/k/a Alfred Kowalewski, and Nafa Khalaf indicates that based upon a preliminary investigation by counsel, "it appears as if some impropriety has been engaged in by Mr. Kales and his staff." It appears that Elgin reimbursed four employees for contributions made to the Committee. Because the corporation reimbursed these individuals for their contributions to the Committee, the contributions were actually made by the corporation. As such, the corporation's actions were in violation of the Act's prohibitions on contributions made in the name of another and corporate contributions. The facts in this matter indicate an intent to evade FECA prohibitions against corporate contributions. Therefore, there is reason to believe that Elgin Builders, Inc. knowingly and willfully violated 2 U.S.C. § 441b(a) and 441f.

In addition, when Nafa Khalaf asked Elgin employees to provide personal checks in the amount of $1,000 made payable to the Committee in exchange for a $1,000 check made payable to the employee and drawn on an Elgin account, he consented to the making of corporate contributions, knowingly assisted others in making contributions in the name of another, and allowed his name to be used to make a contribution in the name of another. Therefore, there is reason to believe that Nafa Khalaf knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

Additionally, by allowing his name to be used to effect such contribution, Alfred Kales a/k/a Alfred Kowalewski was in violation of the Act's prohibition on contributions in the name of another. Therefore, there is reason to believe that Alfred Kales a/k/a Alfred Kowalewski violated 2 U.S.C. § 441f by knowingly permitting his name to be used to effect a contribution in the name of another.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 25, 1997

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert W. Schimmel
84 Henderson Road
Howell, MI 43843

RE: MUR 4427

Dear Mr. Schimmel:

On August 7, 1996, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to you at that time.

Upon further review of the allegations contained in the complaint, the Commission, on June 17, 1997, found that there is reason to believe that you violated 2 U.S.C. § 441f, a provision of 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. 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.

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.

If you intend to be represented by counsel, 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 notification or other communications from the Commission.

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.

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.

If you have any questions, please contact Mary L. Taksar, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

John Warren McGarry
Chairman

Enclosures
Designation of Counsel Form
Factual and Legal Analysis
Conciliation Agreement

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Robert W. Schimmel MUR: 4427

This matter was generated by a complaint filed with the Federal Election Commission by Roy Criss. See 2 U.S.C. § 437g(a)(1).

The Federal Election Campaign Act of 1971, as amended, ("the Act"), prohibits a person from making a contribution in the name of another or knowingly permitting his name to be used to effect such a contribution. 2 U.S.C. § 441f. Contributions in the name of another include knowingly making a contribution in the name of another, knowingly permitting your name to be used to effect that contribution, or knowingly helping or assisting any person in making a contribution in the name of another. 11 C.F.R. § 110.4(b).

While Roy Criss was employed by Elgin, Nafa Khalaf, the Vice-President of Construction, handed him a check in the amount of $1,000 that was made payable to Mr. Criss and drawn on an Elgin account and directed him to provide a personal check in the same amount and made payable to Clinton/Gore '96 Primary Committee. Roy Criss states in his complaint that he has reason to believe that such a transaction also occurred with Robert W. Schimmel.

Contributor indices show that during the 1995-1996 election cycle, Robert W. Schimmel made a $1,000 contribution to the Committee on November 9, 1995, the same date three other Elgin employees made contributions to the Committee.

It appears that Robert W. Schimmel was reimbursed by Elgin for his $1,000 contribution to the Committee. By allowing his name to be used to effect such contribution, Robert W. Schimmel was in violation of the Act's prohibition on contributions in the name of another.

Therefore, there is reason to believe that Robert W. Schimmel violated 2 U.S.C. § 441f by knowingly permitting his name to be used to effect a contribution in the name of another.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 30, 1997

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John K. Grylls, Esquire
Grylls, Facca, Richter & Pregler, P.C.
315 South Woodward Avenue, Suite 206
Royal Oak, MI 48067

RE: MUR 4427
Elgin Builders, Inc.,
Nafa Khalaf, Alfred Kales

Dear Mr. Grylls:

On June 25, 1997, you were notified that the Federal Election 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. On that same date you were sent a conciliation agreement offered by the Commission in settlement of this matter.

Please note that conciliation negotiations entered into prior to a finding of probable cause to believe are limited to a maximum of 30 days. To date, you have not responded to the proposed agreement. The 30 day period for negotiations will soon expire. Unless we receive a response from you within five days, this Office will consider these negotiations terminated and will proceed to the next stage of the enforcement process.

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

Sincerely,

Mary L. Taksar

Mary L. Taksar
Attorney

9 7 0 4 3 8 4 4 8 7 7

COVINGTON & BURLING
1201 PENNSYLVANIA AVENUE, N. W.
P.O. BOX 7566
WASHINGTON, D.C. 20044-7566
(202) 662-6000
FACSIMILE (202) 662-6291

CHARLES D. HALEY
DIRECT DIAL NUMBER
(202) 662-5143
CHALEY@COV.COM

LECONFIELD HOUSE
CURZON STREET
LONDON W1Y 8AS
ENGLAND
TELEPHONE 44-171-495-5655
FACSIMILE 44-171-495-3101

BRUSSELS CORRESPONDENT OFFICE
44 AVENUE DES ARTS
BRUSSELS 1040 BELGIUM
TELEPHONE 32-2-549-5230
FACSIMILE 32-2-502-1598

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL

AUG 1 1 22 PM '97

August 1, 1997

VIA HAND DELIVERY

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

Re: Designation of Counsel In MUR 4427; Request for Extension of Time to Respond

Dear Ms. Taksar:

I attach with this letter Statement of Designation of Counsel forms for Elgin Builders, Inc., Mr. Alfred Kales, and Mr. Nafa Khalaf, for Matter Under Review ("MUR") 4427 before the Federal Election Commission. Covington & Burling is now representing these three respondents in MUR 4427. From this point forward, please direct all correspondence in MUR 4427 regarding Elgin Builders, Inc., or Messrs. Kales and Khalaf, to me or to Bobby R. Burchfield of this firm at the above-referenced address.

In addition, we request that the respondents be granted until Friday, August 15, 1997, to respond to the Commission's proposed conciliation agreement. We hope that the Commission will be disposed to grant the extension given the recent change of counsel for respondents.

Should you have any questions regarding this matter, please do not hesitate to contact me at (202) 662-5143.

Sincerely,

Charles D. Haley

Charles D. Haley

Enclosures
cc: Bobby R. Burchfield, Esq.

9704384478

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4427

NAME OF COUNSEL: Bobby Burchfield, Esq.

FIRM: Covington & Burling

ADDRESS: 1201 Pennsylvania Avenue, N.W.

Washington, D.C. 20004

7-31-97 5:28pm

TELEPHONE: (202) 662-5350

FAX: (202) 778-5350

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

7/30/97
Date

Signature
By: Alfred Kales, President

RESPONDENT'S NAME: Elgin Builders, Inc.

ADDRESS: 21411 Civic Center Drive
Suite 300
Southfield, MI 48076

TELEPHONE: HOME ( )

BUSINESS (810) 353-0980

9704384879

AUG 1 12 22 PM '97

AUG-01-97 12:02 3133537223 P.02 R-381 Job-808

08-01-1997 12:04 31 223 ELGIN BUILDE INC.

JUL-30-1997 16:19 COVINGTON & BURLING 202 662 6291 P.02 P.04

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4427

NAME OF COUNSEL: Bobby Burchfield, Esq.

FIRM: Covington & Burling

ADDRESS: 1201 Pennsylvania Avenue, N.W.

Washington, D.C. 20004

7-31-97
5:28pm
Katie

TELEPHONE: (202) 662-5350

FAX: (202) 778-5350

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

7/29/97
Date

Alfred Kales
Signature

RESPONDENT'S NAME: Alfred Kales

ADDRESS: 1892 Seminole Ct.
Bloomfield Hills, Mich
48302

TELEPHONE: HOME (248) 8510467

BUSINESS (248) 3530980

TOTAL P.04

9 7 0 4 3 8 4 4 8 3 0

AUG-01-97 12:02 3133537223 P.04 R-351 Job-609

08-01-1997 12:05 31 7223 ELGIN BUILDE INC. P.04

JUL-30-1997 16:19 COVINGTON & BURLING 202 662 6291 P.03

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4427

NAME OF COUNSEL: Bobby Burchfield, Esq

FIRM: Covington & Burling

ADDRESS: 1201 Pennsylvania Avenue, N.W.

Washington, D.C. 20004

7-31-97
5:28pm
KK

TELEPHONE: (202) 662-5350

FAX: (202) 778-5350

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

7/30/97
Date

Signature

RESPONDENT'S NAME: Rafa Khalaf

ADDRESS: 1612 Huron

Royal Oak, MI 48073

TELEPHONE: HOME (248) 588-9421

BUSINESS (313) 965-0099

97043844881

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 5, 1997

BY FACSIMILE AND MAIL

Charles D. Haley, Esquire
Bobby R. Burchfield, Esquire
Covington & Burling
1201 Pennsylvania Avenue N.W.
P.O. Box 7566
Washington, D.C. 20044-7566

RE: MUR 4427
Elgin Builders, Inc., Alfred Kales,
Nafa Khalaf

Dear Messrs. Haley and Burchfield:

This is in response to your letter dated August 1, 1997 requesting an extension until Friday, August 15, 1997 to respond to the Commission's proposed conciliation agreement. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on August 15, 1997.

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

Sincerely,

Mary L. Taksar

Mary L. Taksar
Attorney

9 7 0 4 3 8 4 3 8 2

COVINGTON & BURLING
1201 PENNSYLVANIA AVENUE N.W.
P.O. BOX 7566
WASHINGTON, D.C. 20044-7566
(202) 662-6000

FACSIMILE (202) 662-629

CHARLES D. HALEY
DIRECT DIAL NUMBER
202 662-5143
CHALEY@COV.COM

LECONFIELD HOUSE
CURZON STREET
LONDON W1 8AS
ENGLAND
TELEPHONE 44-171-495-5655
FACSIMILE 44-171-495-3101

BRUSSELS CORRESPONDENT OFFICE
44 AVENUE DES ARTS
BRUSSELS 1040 BELGIUM
TELEPHONE 32-2-549-5230
FACSIMILE 32-2-502-1598

August 12, 1997

VIA HAND DELIVERY

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

Dear Ms. Taksar:

This letter follows up on your conversation with Bobby Burchfield yesterday morning. I attach with this letter (i) a form from Robert W. Schimmel designating Covington & Burling as his counsel in MUR 4427

97043844883

Please feel free to contact me with any questions or comments on this document.

Best regards.

Sincerely,

Charles D. Haley

Charles D. Haley

Enclosures
cc: Bobby R. Burchfield, Esq.

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4427

NAME OF COUNSEL: Bobby Burchfield, Esq.

FIRM: Covington & Burling

ADDRESS: 1201 Pennsylvania Avenue, N.W.

Washington, D.C. 20004

TELEPHONE: (202) 662-5350

FAX: (202) 778-5350

AUG 12 11 04 AM '97

FEDERAL ELECTION COMMISSION OFFICE OF GENERAL COUNSEL

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

8/11/97
Date

Signature

RESPONDENT'S NAME: Robert H. Schimmel

ADDRESS: 8649 Hidden Lake .. P.O. Box 702

Howell, MI 48843

TELEPHONE: HOME (517) 546-9593

BUSINESS (810) 353-0980

9704384485

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 4427
Elgin Builders, Inc.	)	
Alfred Kales (a/k/a) Alfred Kowalewski	)	
Nafa Khalaf	)	
Robert W. Schimmel	)	

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

Over the past few weeks, this Office has been engaged in extensive conciliation negotiations with respondents. Respondents are now submitting the attached conciliation agreement, which has been signed by Alfred Kales, the President of Elgin Builders, Inc. ("Elgin"), on behalf of himself and the corporation, Nafa Khalaf, and Robert W. Schimmel, for acceptance by the Commission. Respondents plan to forward a civil penalty check if the Commission accepts the agreement.

Consequently, this Office recommends that the Commission accept the respondents' attached counteroffer and close the entire file.

II. RECOMMENDATIONS

1. Accept the attached conciliation agreement with Elgin Builders, Inc., Alfred Kales a/k/a Alfred Kowalewski, Nafa Khalaf, and Robert W. Schimmel.

2. Close the file.

3. Approve the appropriate letters.

Lawrence M. Noble
General Counsel

/3/97
Date

BY: Lois G. Lerner
Associate General Counsel

Attachment
Conciliation Agreement

Staff Assigned: Mary L. Taksar

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Elgin Builders, Inc.;	)	MUR 4427
Alfred Kales (a/k/a) Alfred Kowalewski;	)	
Nafa Khalaf;	)	
Robert W. Schimmel.	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on October 10, 1997, the Commission decided by a vote of 5-0 to take the following actions in MUR 4427:

1. Accept the conciliation agreement with Elgin Builders, Inc., Alfred Kales a/k/a Alfred Kowalewski, Nafa Khalaf, and Robert W. Schimmel, as recommended in the General Counsel's Report dated October 3, 1997.

2. Close the file.

3. Approve the appropriate letters, as recommended in the General Counsel's Report dated October 3, 1997.

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

Attest:

10-10-97
Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat:	Mon.,	Oct. 06, 1997	12:27 p.m.
Circulated to the Commission:	Tues.,	Oct. 07, 1997	11:00 a.m.
Deadline for vote:	Fri.,	Oct. 10, 1997	4:00 p.m.

lrd

FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 17, 1997

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Roy J. Criss
11 Roseview
Mount Clemens, MI 48043

RE: MUR 4427
Elgin Builders, Inc.

Dear Mr. Criss:

This is in reference to the complaint you filed with the Federal Election Commission on August 2, 1997, concerning possible violations of the Federal Election Campaign Act of 1971, as amended, ("the Act"), by Elgin Builders Inc.

The Commission found that there was reason to believe that Elgin Builders, Inc. and Nafa Khalaf knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f and that Alfred Kales and Robert W. Schimmel violated 2 U.S.C. § 441f. On October 10, 1997, a conciliation agreement signed by the respondents was accepted by the Commission. Accordingly, the Commission closed the file in this matter on October 10,1997. A copy of this agreement is enclosed for your information.

As we previously notified you, on June 17, 1997, the Commission found reason to believe that you violated 2 U.S.C. § 441f but took no further action against you. In addition, on that same date, the Commission found no reason to believe that the Clinton/Gore '96 Primary Committee and Joan Pollitt, as treasurer, violated 2 U.S.C. §§ 441b(a) and 441f and closed the file in regard to these respondents.

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

Sincerely,

Mary L. Taksar

Mary L. Taksar
Attorney

Enclosure
Conciliation Agreement

FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

October 17, 1997

Lyn Utrecht, Esquire
Oldaker, Ryan, Phillips & Utrecht
818 Connecticut Avenue, N.W.
Washington, D.C. 20006

RE: MUR 4427
Clinton/Gore '96 Primary
Committee, Inc. and Joan Pollitt,
as treasurer

Dear Ms. Utrecht:

This is to advise you that this matter is now closed. 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.

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

Sincerely,

Mary L. Taksar

Mary L. Taksar
Attorney

cc: Eric Kleinfeld

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1997

Bobby R. Burchfield, Esquire
Charles D. Haley, Esquire
Covington & Burling
1201 Pennsylvania, Avenue, N.W.
P.O. Box 7566
Washington, D.C. 20044-7566

RE: MUR 4427
Elgin Builders, Inc.
Alfred Kales (a/k/a Alfred Kowalewski)
Nafa Khalaf
Robert W. Schimmel

Dear Messrs. Burchfield and Haley:

On October 10, 1997, the Federal Election Commission accepted the signed conciliation agreement that submitted on your clients' behalf in settlement of violations of 2 U.S.C. §§ 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). Accordingly, the file has been closed in this matter.

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

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

Messrs. Burchfield and Haley
MUR 4427
Page 2

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. Thank you for your responsiveness regarding this matter. If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Mary L Taksar

Mary L. Taksar
Attorney

Enclosure
Conciliation Agreement

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 4427
Elgin Builders, Inc.	)	
Nafa Khalaf	)	
Alfred Kales (a/k/a Alfred Kowalewski)	)	
Robert W. Schimmel	)	

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by Roy Criss. The Federal Election Commission ("Commission") found reason to believe that Respondents Elgin Builders, Inc. and Nafa Khalaf knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f, and that Alfred Kales (a/k/a Alfred Kowalewski) and Robert W. Schimmel violated 2 U.S.C. § 441f.

NOW THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

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

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. At the time of the events in question,

(a) Elgin Builders, Inc. ("Elgin") was a corporation within the meaning of 2 U.S.C. § 441b(a) and a person within the meaning of 2 U.S.C. § 441f;

(b) Alfred Kales (a/k/a Alfred Kowalewski) was President of Elgin and a person within the meaning of 2 U.S.C. § 441f;

(c) Nafa Khalaf was Vice-President of Construction for Elgin and a person within the meaning of 2 U.S.C. § 441f;

(d) Robert W. Schimmel was a Vice-President at Elgin and a person within the meaning of 2 U.S.C. § 441f.

2. The Federal Election Campaign Act of 1971, as amended ("the Act") prohibits corporations from making contributions or expenditures in connection with a Federal election. 2 U.S.C. § 441b(a). The Act also prohibits any officer or director of any corporation from consenting to any contribution or expenditure by the corporation which is prohibited by Section 441b. 2 U.S.C. § 441b(a). The term "contribution" or "expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value. 2 U.S.C. § 441b(b)(2). Additionally, a contributor employed by a corporation may not be paid for his contribution through a bonus, expense account, or other form of direct or indirect compensation. 11 C.F.R. § 114.5(b)(1).

3. Section 441f of the Act prohibits any person from making a contribution in the name of another person or knowingly permitting his name to be used to effect such a contribution. 2 U.S.C. § 441f. Contributions in the name of another include making a contribution in the name of another, knowingly permitting your name to be used to effect

that contribution, or knowingly helping or assisting any person in making a contribution in the name of another. 11 C.F.R § 110.4(b).

4. Based on the information before it, the Commission concluded that Nafa Khalaf asked two Elgin employees to provide a personal check in the amount of $1,000 made payable to the Clinton/Gore '96 Primary Committee, Inc., in exchange for a $1,000 check made payable to the employee and drawn on an Elgin account.

5. On November 9, 1995, four Elgin employees, Alfred Kales (a/k/a Alfred Kowalewski), Nafa Khalaf, Robert W. Schimmel, and Roy Criss, each made a $1,000 contribution to the Clinton/Gore '96 Primary Committee, Inc. by personal check.

6. Each of these four Elgin employees was reimbursed for the contribution by a check made payable to him drawn on an Elgin account.

7. On August 20, 1996, the Clinton/Gore '96 Primary Committee, Inc. refunded each of the $1,000 contributions made by respondents Kales, Khalaf, and Schimmel, and the $1,000 contribution made by Criss. Elgin contends that these contributions have been returned to Elgin.

8. Because the corporation reimbursed the four individuals for their contributions to the Committee, the contributions were actually made by the corporation. As such, the corporation's actions were in violation of the Act's prohibitions on contributions made in the name of another and on corporate contributions.

V. Elgin made corporate contributions totaling $4,000 in the names of its employees and in connection with a Federal election, in violation of 2 U.S.C. §§ 441b(a) and 441f.

VI. Nafa Khalaf permitted his name to be used to make a contribution in the name of another, assisted in the making of such contributions, and consented to the making of corporate contributions, in violation of 2 U.S.C. §§ 441b(a) and 441f.

VII. Robert W. Schimmel permitted his name to be used to make a contribution in the name of another in violation of 2 U.S.C. § 441f.

VIII. Alfred Kales (a/k/a Alfred Kowalewski) permitted his name to be used to make a contribution in the name of another, in violation of 2 U.S.C. § 441f.

IX. Reason to believe is a preliminary finding and a statutory prerequisite to an investigation as to whether there is probable cause to believe a violation occurred. In an effort to resolve this matter expeditiously, the Commission did not investigate whether any of the violations herein were committed knowingly or willfully. Respondents contend that none of the violations were committed knowingly or willfully.

X. Respondents jointly will pay a civil penalty to the Federal Election Commission in the amount of twelve thousand dollars ($12,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

XI. Elgin will disgorge four thousand dollars ($4,000), the amount of the refunded contributions, to the United States Treasury.

XII. 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.

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

XIV. Respondents shall have no more than 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.

XV. 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: ______________________ Date 10/16/97
Lois G. Lerner
Associate General Counsel

FOR THE RESPONDENTS:

ELGIN BUILDERS, INC.

______________________ Date 8/21/97
Name: Alfred Kales
Position: President

ALFRED KALES

______________________ Date 8/21/97

NAFA KHALAF

______________________ Date 8/21/97

ROBERT W. SCHIMMEL

______________________ Date 8/21/97

FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4417

DATE FILMED 10-31-97 CAMERA NO. 2

CAMERAMAN JmW