



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

**MEMORANDUM**

TO: The Commission

FROM: Lawrence H. Norton  
General Counsel

SEP 03 2002

BY: Rhonda J. Vosdigh *RJ*  
Associate General Counsel

Mark D. Shonkwiler *MS*  
Assistant General Counsel

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RE: MUR 4568, 4633, 4634 and 4736  
Recommendation to Rescind Commission Action Severing Certain  
Respondents from MURs 4568, 4633, 4634 and 4736; and To Sever  
and Transfer Certain Other Respondents from MUR 4736

**ACTION RECOMMENDED:** On a 48-hour tally vote basis, 1) re-open MUR 5294; 2) rescind the Commission action severing respondents Robert Riley, Jr., the Bob Riley for Congress Committee and Hughel Goodgame, as treasurer, and the Honorable Robert Riley from MURs 4568, 4633, 4634 and 4736; 3) Sever Respondents Peter Cloeren, Patricia Cloeren, Brian Babin, Brian Babin for Congress and Thomas Freeman, as treasurer, from MUR 4736, transfer them to MUR 5294, and 4) close the file in MUR 5294.

**DISCUSSION:**

On August 27, 2002, the Commission severed thirty-one (31) respondents from MURs 4568, 4633, 4634 and 4736; transferred their files to a newly opened MUR (which was designated as MUR 5294), which was immediately closed. This action will result in dispositive materials as to these respondents being placed on the public record. See August 22, 2002 General Counsel's Report. For reasons set forth below, this Office recommends that the Commission re-open MUR 5294 in order to rescind the action as to certain respondents who

1 should not have been severed and transferred and to sever and transfer other respondents who  
2 were omitted from the earlier action.

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4 A. Rescinding Commission Action as to the Riley Respondents

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6 The respondents who were severed and transferred to the new MUR included Robert  
7 Riley, Jr., the Bob Riley for Congress Committee and Hughel Goodgame, as treasurer, and the  
8 Honorable Robert Riley. This Office's August 22, 2002 Report recommending severing the  
9 thirty-one (31) Triad respondents from MURs 4568, 4633, 4634 and 4736 indicated that the file  
10 already had been closed as to each of the respondents. Upon further review, it has been  
11 determined that the file had never been closed as to Robert Riley, Jr. and the Bob Riley for  
12 Congress Committee and Hughel Goodgame, as treasurer. The files as to these respondents were  
13 left open because the January 2002 Conciliation Agreement entered into with these respondents  
14 contained an unusual provision, which states in pertinent part that:

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16 The file in this matter will remain open until MURs 4568, 4633,  
17 4634 and 4736 have been closed in accordance with 11 C.F.R.  
18 §111.20. During this time Respondents may supplement the  
19 record. Respondents represent they will make a submission  
20 supplementing this file.

21  
22 Section VI, paragraph 3. On March 27, 2001, at the same time that it made PCTB  
23 findings as to Robert Riley, Jr. and the Bob Riley for Congress Committee and Hughel  
24 Goodgame, as treasurer, the Commission determined to take no further action and close  
25 the file in MURs 4568, 4633, 4634 and 4736 with respect to Congressman Robert Riley.

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27 Pursuant to the conciliation agreement, the files as to Robert Riley, Jr. and the  
28 Bob Riley for Congress Committee and Hughel Goodgame, as treasurer, cannot be closed  
29 prior to complete closure of MURs 4568, 4633, 4634 and 4736. These respondents  
30 should not have been severed from the Triad MURs and transferred into MUR 5294  
31 along with respondents as to whom the file had been closed. Accordingly, this Office  
32 recommends that the Commission rescind its action severing and transferring Robert  
33 Riley, Jr. and Hughel Good game, as treasurer, from MURs 4568, 4633, 4634 and 4736.  
34 The files as to these respondents will remain open until the original Triad MURs are  
35 closed as to all respondents.

36  
37 Given the relationship between Congressman Robert Riley and the other Riley  
38 respondents as to whom the files must remain open, it also is advisable to rescind the  
39 Commission's August 27, 2002 action as to Congressman Riley. Public disclosure of the  
40 file as to Congressman Riley while the file remains open as to the other Riley respondents  
41 could mislead the public as to the resolution of the fact pattern involving the other Riley  
respondents. Accordingly, this Office recommends that the Commission rescind its

1 action severing and transferring the Honorable Robert Riley from MURs 4568, 4633,  
2 4634 and 4736. The file as to the Congressman will remain part of the original Triad  
3 MURs, and will be released along with the files as to the other Riley respondents when  
4 the original MURs are closed as to all respondents.<sup>1</sup>

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6 B. Severing and Transferring Additional Respondents from MUR 4736

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8 Due to an oversight, the August 22, 2002 General Counsel's Report failed to list  
9 Peter Cloeren, Patricia Cloeren, Brian Babin and Brian Babin for Congress and Thomas  
10 Freeman, as treasurer, as respondents to whom the file had previously been closed, and  
11 thus could be severed and transferred to a new MUR that would be closed to allow for  
12 public disclosure of the dispositive materials. These five respondents were originally  
13 named in the complaint from MUR 4783, portions of which were severed and transferred  
14 to MUR 4736 when the Commission made RTB findings on July 23, 1999. For  
15 procedural reasons, these respondents were never cross-named in MURs 4568, 4633 and  
16 4634. The Commission closed its file as to each of these five respondents in 1991 when  
17 it voted to take no further action against Peter and Patricia Cloeren and when it accepted a  
18 conciliation agreement in MUR 4736 with Brian Babin and Brian Babin for Congress and  
19 Thomas Freeman, as treasurer.

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21 For the reasons set forth previously in the August 22, 2002 General Counsel's  
22 Report, this Office recommends that Peter Cloeren, Patricia Cloeren, Brian Babin and  
23 Brian Babin for Congress and Thomas Freeman, as treasurer, be severed from MUR 4736  
24 and transferred to MUR 5254. The files as to these respondents contain material that may  
25 be relevant to the BCRA litigation.

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27 This Office also recommends that the Commission close MUR 5294. Approving  
28 the recommendations contained within this memorandum on an expedited basis is  
29 necessary to permit the closing process with respect to MUR 5294 to proceed in a timely  
30 fashion.

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32 RECOMMENDATIONS

- 33 1. Re-open MUR 5294.

**MURs 4568, 4633, 4634 and 4736, and MUR 5294  
Memorandum Recommending Rescission of Action  
To Sever and Transfer Certain Respondents; and to  
Recommend that the Commission Sever and Transfer  
Certain Additional Respondents from MUR 4736**

**4**

- 1        2.        Rescind the Commission action severing and transferring Robert Riley, Jr., and the  
2                Bob Riley for Congress Committee and Hughel Goodgame, as treasurer, and the  
3                Honorable Robert Riley from MURs 4568, 4633, 4634 and 4736.
- 4        3.        Sever Peter Cloeren, Patricia Cloeren, Brian Babin and Brian Babin for Congress and  
5                Thomas Freeman, as treasurer, from MUR 4736, transfer them to MUR 5294.
- 6        4.        Close MUR 5294.
- 7        5.        Approve the appropriate letters.
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