



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 8, 2000

Michael Kovaka, Esquire
Dow, Lohnes & Albertson, P.L.L.C.
1200 New Hampshire Avenue, NW, Suite 800
Washington D.C. 20036-6802

RE: MUR 4748
WPXI, Inc.
Pamela Spagnol
Carrie Moniot

Dear Mr. Kovaka:

On April 13, 1999, the Federal Election Commission found reason to believe that WPXI, Inc., violated 2 U.S.C. § 441b and 441f, and that Ms. Spagnol violated 2 U.S.C. § 441f. Based on information obtained through discovery, on May 23, 2000, the Commission found reason to believe that Carrie Moniot violated 11 C.F.R. § 110.4(b)(iii). At your request, also on May 23, 2000, the Commission determined to enter into negotiations directed toward reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe.

The Factual and Legal Analysis, which formed a basis for the Commission's finding as to Ms. Moniot, is attached for your information. You may submit any factual or legal materials on behalf of your clients' that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

Also enclosed is a conciliation agreement that the Commission has approved in settlement of this matter prior to a finding of probable cause to believe. If your clients agree with the provisions of the enclosed agreement, please sign and return it, 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.

Mr. Kovaka, Esq.

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If you have any questions or suggestions for changes in the proposed conciliation agreement, please contact Tamara Kapper, staff member assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Darryl R. Wold". The signature is fluid and cursive, with the first name "Darryl" being more prominent.

Darryl R. Wold
Chairman

Enclosures

Factual and Legal Analysis
Conciliation Agreement

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Carrie Moniot

MUR: 4748

I. GENERATION OF MATTER

This MUR arises from a complaint filed by Judith L. Corley, counsel for Citizens for Ron Klink. The complainant alleges that WPXI-TV ("WPXI") and employees of WPXI violated the Federal Election Campaign Act ("the Act") by making an unlawful corporate contribution and by using corporate funds to make a contribution in the name of another.

II. FACTUAL AND LEGAL ANALYSIS

A. Law

The Act prohibits corporations or any director or officer of a corporation from making a contribution or expenditure in connection with any election to a federal political office. 2 U.S.C. § 441b(a). A contribution or expenditure includes "any direct or indirect payment, distribution, loan advance, deposit, or gift of money or any services, or anything of value (except a loan of money by a bank in accordance with applicable laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party organization" 2 U.S.C. § 431(8)(A)(i).

The Act also prohibits a contributor from attempting to hide a contribution to a Federal candidate or committee by making the contribution in the name of another person. 2 U.S.C. § 441f. The Commission's regulations also state that no person shall knowingly help or assist any person in making a contribution in the name of another. 11 C.F.R. § 110.4(b)(iii).

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B. Facts

Based on the available information, the idea to make contributions to Congressmen in the WPXI viewing area originated from a memo that the station received from NBC headquarters in New York entitled "Dateline Idea Exchange," which listed stories that WPXI could produce and air during the month of November. Attached to the memo was a document containing nine local story ideas for NBC affiliate stations that was prepared by a NBC Dateline investigative producer in New York. One of the story ideas suggested to WPXI was an item titled "Members of Congress may be twice as likely to answer your letter when you enclose a check."¹ The memo and its attachments were forwarded to Carrie Moniot, WPXI Executive Producer, Special Projects Unit.

Once the idea for the story at issue was approved at a regular WPXI news department staff meeting in January 1998, Ms. Moniot drafted and approved two (2) sets of the letters that were to be sent to the five (5) Congressmen whose districts were in the WPXI viewing area (western Pennsylvania). The Congressmen were Rep. William L. Coyne (PA-14), Rep. Mike Doyle (PA-18), Rep. Philip S. English (PA-21), Rep. Ron Klink (PA-4), and Rep. Frank R. Mascara (PA-20). Ms. Moniot then proceeded to ask two WPXI employees to use their names and home addresses for the letters to the Congressmen so that it would appear that the letters and contributions were from constituents. The WPXI employees agreed to let their

¹ The concept for the news story apparently originated from a newspaper article that appeared in the *New York Daily News* on September 5, 1995, entitled "'Enclosed is a Contribution' Want Action In D.C.? Don't Forget the Check." According to the article, the newspaper conducted a "unprecedented news sting" report whereby 14 members of Congress from the state of New York were sent letters to test their responsiveness to their constituency. Two letters were sent to each member of Congress asking for information about federal programs; one set of letters contained a cover letter and a contribution for \$50, while the other set of letters contained only a letter. The article concluded that "members of [New York City's] congressional delegation are far more likely to respond to a constituent's request for assistance if it's accompanied by a campaign contribution." *New York Daily News*, Sept. 5, 1995, pg. 7.

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names be used. One of the WPXI employees signed and used his home address for the letters that did not contain a contribution. The other WPXI employee agreed to participate and eventually wrote five (5) \$50 checks from her personal checking account to each of the Congressmen, signed her name to the letters and included her home address as the return address for the set of letters that contained the \$50 contributions.

The employee followed WPXI's usual operating procedure for requesting advances and reimbursements for news story related expenses. The employee submitted a WPXI-TV/COX Broadcasting Corp. Check Request Form to the accounting department requesting \$250 for the purpose of "Campaign Contributions to PA Representatives for I-Team Story." Two days later, the employee received a \$250 check from WPXI for the story. Then on March 2, 1998, the employee wrote five (5) \$50 contribution checks from her personal checking account, and sent them along with the letters prepared by Ms. Moniot. After the checks were mailed, the employee submitted an expense voucher form to the WPXI Accounting Department to show that she did in fact use the \$250 for the intended purpose.

C. Analysis

Ms. Moniot played an important role in the making of the contributions at issue here. Ms. Moniot, as Executive Producer for the WPXI Special Projects Unit, chose the Congressional response story idea from the Dateline Idea Exchange memo to present to other WPXI news staff members for their approval at the regular January 1998 staff meeting. She drafted the letters that were to be sent to the five Congressmen and she asked WPXI staff to participate in the plan. She monitored the responses that the WPXI employees received and tried to set up interviews with the candidates to discuss their responses. Although Ms. Moniot did not have the ultimate authority to authorize whether WPXI would pursue the Congressional response story, and she is

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not an officer or director of WPXI, it appears that she did actively participate in the decision making process to pursue the story in her capacity as Executive Producer for WPXI News Special Projects Unit and initiated the entire sequence of events. Therefore, there is reason to believe that Carrie Moniot violated 11 C.F.R. § 110.4(b)(iii) by knowingly helping or assisting in the making of contributions in the name of another.

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