



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

July 7, 1999

Laurence Zakson, Esquire  
Reich, Adell, Crost & Cvitan  
501 Shatto Place, Suite 100  
Los Angeles, CA. 90020-1792

RE: MUR 4753  
Cammermeyer 2 Congress and  
Paul Fournier, as treasurer

Dear Mr. Zakson:

On June 10, 1998, the Federal Election Commission notified Cammermeyer 2 Congress ("Committee") and Paul Fournier, as treasurer, your clients, 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 your clients, the Commission, on June 23, 1999, found that there is reason to believe the Committee and Paul Fournier, as treasurer, violated 2 U.S.C. § 434(b)(3)(A), 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. 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.


In order to expedite the resolution of this matter, the Commission has also decided to offer to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Enclosed is a conciliation agreement that the Commission has approved. If you are interested in expediting the resolution of this matter by pursuing preprobable cause conciliation, and if you agree with the provisions of the enclosed agreement, please sign and return the agreement, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

Cammermeyer 2 Congress Committee  
Paul Fournier, Treasurer  
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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 matter to be made public. If you have any questions, please contact Deborah Rice, the staff member assigned to this matter, at (202) 694-1650.

Sincerely,



Scott E. Thomas  
Chairman

Enclosures  
Factual and Legal Analysis  
Conciliation Agreement

## FACTUAL AND LEGAL ANALYSIS

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

The Act also provides that when the treasurer of a political committee shows that “best efforts” have been used to obtain, maintain, and submit the information required by the Act, any report or any records of such committee shall be considered in compliance with the Act. 2 U.S.C. § 432(i). The Commission’s regulations further provide that the treasurer and committee will only be deemed to have exercised best efforts if all written solicitations for contributions include a clear request for the requisite contributor information and an accurate statement of Federal law regarding the collection and reporting of the information. 11 C.F.R. § 104.7(b)(1). The request and statement shall appear in a clear and conspicuous manner on any response material included in the

solicitation. Id. The request and statement are not clear and conspicuous if they are in small type in comparison to the solicitation, or if the printing is difficult to read or if the placement is easily overlooked. Id.

The regulations also provide that for each contribution received which aggregates in excess of \$200 per calendar year and lacks the required contributor identification information, a committee demonstrates "best efforts" by:

- (1) making at least one follow-up, stand-alone request for the missing information within 30 days of receipt of the contribution;
- (2) clearly asking for the missing information, without also soliciting a contribution;<sup>1</sup>
- (3) reporting all contributor information in possession of the committee; and
- (4) reporting previously missing information in amendments to the reports.<sup>2</sup>

11 C.F.R. §§ 104.7(b)(2), (3) and (4).

The complaint alleges that Dr. Margarethe Cammermeyer and Cammermeyer 2 Congress ("the Committee") violated the Act by failing to disclose the requisite contributor information for over sixty-three percent (63%) of contributions received from individuals on the Committee's 1998 April Quarterly Report. The complaint states that over the first three months of 1998, Dr. Cammermeyer and the Committee raised \$258,338.51 in campaign contributions and reported 377 contributions from individuals, almost all of which exceeded \$200. However, contributor information was provided for

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<sup>1</sup> If the request is written, it shall be accompanied by a pre-addressed return post card or envelope for the response material. The written or oral request shall not include any material on any other subject or additional solicitation, except that it may include language solely thanking the contributor for the contribution.

<sup>2</sup> The amendments must be submitted either with: (1) the Committee's next regularly scheduled report as an amended memo Schedule A; or (2) as an amendment to the report originally disclosing the contribution, on or before its next regularly scheduled reporting date. 11 C.F.R. § 104.7(b)(4).

the contributions on the Committee's 1998 April Quarterly Report. According to the complaint, employer information was provided for 139 contributions but was omitted for 238 contributions (58%), and the occupation information was provided for 141 contributions but was omitted for 236 contributions (60%).<sup>3</sup>

On June 19, 1998, Monica Moe, the campaign manager for Dr. Cammermeyer responded to a May 19, 1998 Request for Additional Information ("RFAI") from the Commission's Reports Analysis Division ("RAD") regarding the omission of contributor information in the 1998 April Quarterly Report. In her response to the RFAI, Ms. Moe described the Committee's method of soliciting contributions and stated that in mid-May, the Committee had contacted each individual who contributed in excess of the \$200 aggregate, via phone, fax or letter to collect the outstanding information. She included a sample solicitation letter and a follow-up letter in the response.<sup>4</sup> Ms. Moe further stated that as a result of the mid-May follow-up, the Committee collected the outstanding information from about two-thirds of the contributors and that the information obtained would be included in the Committee's amended report.

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<sup>3</sup> Contributor information was even omitted for the Committee's treasurer in the report.

<sup>4</sup> The sample solicitation and follow-up letters were dated June 15 and 19, 1999, respectively. Both letters prominently included the following language:

Federal law requires the reporting of name, address, occupation and employer of all person whose contributions aggregate over \$200 in a calendar year.

In addition to thank you language, the follow-up letter also included the following language:

Each individual whose contribution exceeds \$200 to my campaign is required by law to disclose name, complete address, occupation and employer for the Federal Election Commission reports. Please include this information on your remit or in a separate letter if needed.

In addition, Ms. Moe advised that the Committee had hired an independent contractor to handle the amendments to the 1998 April Quarterly Report and other FEC filings. She added that the Committee had improved its reporting procedures to avoid the instant problem from recurring. Finally, she asserted that the Committee had demonstrated the requisite "best efforts" under the statute.

On June 25, 1998, Ms. Moe also formally responded to the complaint at issue by requesting that no action be taken against Dr. Cammermeyer for two reasons. First, she noted that the FEC disclosure for Year End 1997 and First Quarter 1998, have been forwarded to an experienced FEC Accountant who would be submitting amended disclosure reports before June 30, 1998. Second, she asserted that the committee had exercised "best efforts" to obtain occupation and employer information. She also stated that legal counsel was retained to address all matters in question.

Available information shows that the Committee reported 371 contributions from individuals, totaling \$182,081.84, on its 1998 April Quarterly Report.<sup>5</sup> Fifty-four percent (54%) of the 371 contributions (202 contributions) totaling \$106,058.00 were in amounts over \$200 and did not show the requisite contributor information. An additional 17 contributions showed partial information.<sup>6</sup>

Although respondents assert that they satisfied the "best efforts" requirement, the available information does not support that assertion. In order to satisfy the "best efforts" safe-harbor, the treasurer is required to make at least one stand alone follow-up effort

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<sup>5</sup> The complaint identified 377 contributions totaling \$258,338 as problematic. However, those figures included six PAC contributions which showed the requisite information.

<sup>6</sup> Of these 17 contributions, 13 showed only employer information and 4 showed only occupation information.

within 30 days of receipt of each contribution to obtain the missing information. The Committee clearly did not satisfy this requirement. Respondents acknowledge that follow-up contact did not occur until mid-May, 1998. Since the contributions at issue were received between January and March 31, 1998, the mid-May contact was beyond the 30 day period required to establish "best efforts" for the contributions at issue. In addition, the "best efforts" provision further requires that the missing information be reported on an amendment on or before the next regularly scheduled reporting date or filed with the next regularly scheduled report with an amended memo Schedule A listing all missing contributor information. The Committee's next regularly scheduled reporting date was July 15, 1998, and, in their response to the complaint, Respondents stated that the Committee would submit an amended report before June 30, 1998. However, the Committee did not file the missing contributor information until December 21, 1998, over six months later, and well after the general election.

Therefore, the Committee clearly did not exercise the requisite "best efforts." Accordingly, there is reason to believe that Cammermeyer 2 Congress and Paul Fournier, as treasurer, violated 2 U.S.C. § 434(b)(3)(A) by failing to provide complete contributor identification information on its 1998 April Quarterly Report.