FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4772

DATE FILMED 9/3/98 CAMERA NO. 2

CAMERAMAN EES

U. S. Department of Justice

Washington, D.C. 20530

JUN 19 1998

By Hand

Mr. Lawrence R. Noble
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Dear Mr. Noble:

Re:
Sun-Land Products of California

We are forwarding herewith checks that have been tendered in the Federal Election Campaign Act (FECA) matters pursued by the Department of Justice in recent weeks. These checks represent amounts that each offender has offered to pay to the Commission in the hope of achieving a simultaneous "global" disposition of both the criminal and the noncriminal features of their FECA offenses. We also are forwarding copies of the plea agreements and other pertinent documents.

During our investigation, we kept your office informed, albeit in hypothetical terms. Specifically, in each matter I informed Lois Lerner of the type of FECA violation involved, its financial magnitude, the amount agreed to satisfy criminal liability, and the amount tendered in each instance to satisfy noncriminal liability under 2 U.S.C. § 437g(a). We have also informed each of these offenders that the Department of Justice lacks authority to speak for -- or to bind -- the Commission in assessing noncriminal remedies under 2 U.S.C. § 437g(a). Thus, each of these agreements addresses the possibility that the Commission may decide not to accept the proposed noncriminal sanctions.

The matters involved are:

Sun-Land Products of California funded political contributions of approximately $16,000 and $21,000 in 1992 and 1993, respectively, through the payment of $2,500 stipends to non-management directors of the company's Board. The company has agreed to plead guilty to two counts of violating 2 U.S.C. §§ 441f and 437g(d) and to pay a criminal fine of $400,000. The company has tendered an additional $80,000 to the Commission in the hope of satisfying its noncriminal liability under 2 U.S.C. § 437g(a).

While we do not have the authority to speak for the Commission and we have not done so here, as reflected in the plea agreements, we believe that the sums tendered by these offenders to satisfy their liability under 2 U.S.C. § 437g(a) are reasonable and fair in terms of the facts

Should the Commission disagree with any or all of these tendered noncriminal settlements, we respectfully request that it return the check(s) it rejects to us so that we may return them to the offenders in accordance with our agreements.

Please let me know if we can assist you further in these matters.

Sincerely,

Craig C. Donsanto
Director, Election Crimes Branch
Public Integrity Section
Criminal Division

Enclosures

WINSTON & STRAWN

35 WEST WACKER DRIVE
CHICAGO, ILLINOIS 60601-9703

200 PARK AVENUE
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1400 L STREET, N.W.
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6, RUE DU CIRQUE
75008 PARIS, FRANCE

43, RUE DU RHONE
1204 GENEVA, SWITZERLAND

ERIC W. BLOOM
(202) 371-5743

June 15, 1998

Faye Ehrenstamm, Esq.
United States Department of Justice
Public Integrity Section
Suite 12100
1400 New York Avenue, N.W.
Washington, D.C. 20530

Re: Plea Agreement Among Sun-Land Products of California, Department of Justice, and the Public Integrity Section of the Department of Justice

Dear Faye:

Enclosed is the plea agreement signed by Bob Beckwith and Dick Hibey on behalf of Sun-Land Products. I would appreciate it if you would fax and mail to me a final, fully-executed copy after you and Craig Donsanto have signed the agreement.

Also enclosed is a Sun-Land check made payable to the Federal Election Commission in the amount of $80,000. Per the terms of the agreement, you will forward to the FEC the check, a copy of the plea agreement, and your recommendation that the tendered sum be accepted as a civil remedy for any administrataive violations. Also per the terms of the agreement, neither the agreement nor the charging document will be filed or made public until after the FEC has decided whether to accept the $80,000 and enter into a conciliation agreement with Sun-Land. The agreement resolves Public Integrity's investigation of Sun-Land, the related entities, and all individuals.

Thank you for your cooperation in resolving this matter.

Sincerely,

Eric

Eric W. Bloom

RECEIVED
JUN 1 5 1998
Public Integrity Section

MICHAEL J. YAMAGUCHI
United States Attorney

CRAIG C. DONSANTO
Director, Election Crimes Branch
FAYE S. EHRENSTAMM
Senior Trial Attorney
Public Integrity Section
Criminal Division
U.S. Department of Justice
P.O. Box 27518, McPherson Square Station
Washington, D.C. 20038
Telephone: (202) 514-1412

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT FOR THE

NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. SUN-LAND PRODUCTS, Defendant.	Criminal Number: [Oakland Venue] PLEA AGREEMENT

Pursuant to Rule 11(e) of the Federal Rules of Criminal Procedure, the United States of America, by and through its undersigned counsel, and the defendant SUN-LAND PRODUCTS OF CALIFORNIA and its counsel, Richard A. Hibey and Eric W. Bloom, have agreed as follows:

1. Charges

The defendant, SUN-LAND PRODUCTS, will enter a plea of guilty to Counts One and Two of the Information filed in this case. Each count charges the defendant with making federal campaign contributions in the names of others, that is, individuals other than the true donor, in violation of the Federal Election Campaign Act, 2 U.S.C. §§ 441f and 437g(d).

2. Agreements by the Defendant

(a) The defendant agrees that this plea agreement shall be filed with the Court and become part of the record of the case.

(b) The defendant agrees to waive and does hereby waive the application of the federal statutes of limitations, 2 U.S.C. §455 and 18 U.S.C. § 3282, to Counts One and Two of this Information. This waiver was voluntarily proposed by the defendant during Rule 11 plea negotiations in order to pursue such negotiations and is now voluntarily made by the defendant.

(c) The defendant agrees to enter pleas of guilty to Counts One and Two of the Information. The defendant is pleading guilty freely and voluntarily without promise or benefit of any kind, other than contained herein, and without threats, force, intimidation, or coercion of any kind.

(d) The defendant understands that this plea agreement binds the United States Department of Justice and cannot bind any other federal, state or local prosecuting, administrative or regulatory authority.

(e) The defendant admits that its conduct violated 2 U.S.C. § 441f of the Federal Election Campaign Act (FECA), as set forth in paragraphs 4(c) and (d) of this agreement. The defendant further acknowledges that the Federal Election Commission (FEC) has the authority to seek civil remedies against it for those violations pursuant to 2 U.S.C. § 437g(a)(5). The defendant agrees to submit to the FEC's jurisdiction, to cooperate with the FEC in its compliance proceedings against it, including waiving FEC notification procedures to which it may be entitled and any statute of limitations which may be applicable to FEC compliance proceedings, and to enter into a conciliation agreement and pay $80,000 pursuant to 2 U.S.C. § 437g(a)(5). The United States and the defendant have agreed that a fine of $80,000 would be an appropriate civil disposition of this matter before the FEC in view of the charged conduct and the conditions of this plea agreement. However, the defendant has been advised and understands that this part of the plea agreement is not binding on the FEC.

(f) The defendant agrees to tender a check made payable to the FEC in the amount of $80,000 at the time this agreement is signed by the parties thereto. The Department of Justice agrees thereafter to forward this check to the FEC, along with a copy of this agreement and the Department's recommendation that the tendered sum be accepted by the Commission as a suitable disposition of the defendant's administrative liability under 2 U.S.C. § 437g(a)(5).

(g) In the event that the FEC should accept the tendered sum as an appropriate noncriminal remedy for the FECA violations admitted in this agreement, and after a conciliation agreement has been entered into by Sun-Land Products with the FEC, the criminal Information referenced herein and this agreement will thereafter be filed with the United States District Court for the Northern

District of California. In this event, no further proceedings (either criminal or administrative) other than those associated with the implementation of this plea agreement and the FEC conciliation agreement will be undertaken against Sun-Land Products by the Department of Justice or the FEC for the FECA violations elsewhere admitted in this agreement.

(h) However, in the event that the FEC should refuse to accept this sum as an appropriate noncriminal remedy for the FECA violations admitted in this agreement, the check will be returned to the defendant Sun-Land Products, and the issue of the amount of the appropriate administrative remedy will be left to the defendant and the FEC to resolve. In this event, the criminal Information referenced herein and this agreement will be filed with the United States District Court for the Northern District of California, and all other terms of this agreement shall remain in full force and effect.

3. Agreements by the Government

The Department of Justice agrees the defendant's entry and the Court's acceptance of the defendant's guilty pleas and subsequent sentencing thereon will completely resolve the Public Integrity Section's investigation into this matter. The parties further agree that, as a result of this agreement, this matter need not and will not be referred to any other federal prosecutorial office for any further criminal investigation or prosecution.

4. Nature, Elements, and Factual Basis

(a) The defendant, through its agent[s] and representative[s], has read the charges contained in Counts One and Two of the Information, and the charges have been fully explained to the defendant by its counsel.

(b) The defendant fully understands the nature and elements of the crimes with which it has been charged in Counts One and Two of the Information, together with the possible defenses thereto, and has discussed them with its counsel.

(c) The elements of the charged violation in each of the two counts, which are found in the Federal Election Campaign Act, 2 U.S.C. §§ 441f and 437g(d), are as follows: The knowing and willful making of illegal federal campaign contributions totalling at least $2,000 in any one calendar year in the name of others, that is, "conduits" or individuals other than the true donor.

(d) The defendant will plead guilty because it is in fact guilty of the crimes set forth in Counts One and Two of the Information. The defendant admits that it is guilty of the crimes charged in Counts One and Two of the Information, that is, that the defendant violated 2 U.S.C. §§ 441f and 437g(d), as defined above in paragraph 4(c) of this agreement, in each charged instance. The defendant understands that it will be adjudicated guilty of these two offenses. The defendant also agrees that the following is an accurate summary of the facts of this case, although it acknowledges that as to other facts, the parties may disagree:

Sun-Land Products of California is a for-profit corporation incorporated under the laws of California in 1982. Sun-Land Products, which is a subsidiary of Sun-Diamond Growers of

California, a not-for-profit agricultural cooperative corporation, is headquartered in Pleasanton, California, in the Northern District of California. Sun-Land processes and makes dried fruits and nuts. It is a major supplier worldwide for dried fruit and nuts, such as apricots, peaches, apples, dates, pecans, brazil nuts and almonds. Domestic and international customers include grocery chains, cereal companies, baking and other industrial users. Sun-Land Products has a Board of Directors which meets regularly in the Northern District of California.

In 1992, the Sun-Land Board of Directors approved a $2500 stipend to be paid to non-management Directors. There were 16 non-management Directors who received the stipend. The stipend was proposed purportedly to encourage political contributions by Board members. At least one agent of Sun-Land intended the stipends to provide corporate money for political contributions which would appear to be made as individual contributions to certain political campaigns and groups. These contributions, therefore, were actually corporate funds presented to political organizations through conduits. When the stipend proposal was made, at least one agent of Sun-Land was aware that, under the FECA (a) it was unlawful for any corporation to make a contribution of any amount in connection with any federal election; (b) it was unlawful for an individual or a corporate entity to contribute or cause a contribution in any amount to be made in the name of another individual, that is, through a "conduit;" and (c) it was unlawful for any person to contribute more than $1000 to the primary

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campaign and to the general campaign of a candidate for federal office or to the candidate's authorized political committees.

In proposing the $2500 stipend, Sun-Land took into account (a) federal campaign financing statutes, which set a $1000 limit on individual contributions for each of a federal candidate's primary and general election campaigns and (b) the amount of projected taxes on each individual's stipend. Sun-Land suggested that individual Board members use the stipend to make contributions to specific federal campaigns and that Sun-Land would present the contributions as a group to the specified campaigns. A number of individual contributions were received by Sun-Land, which sent them collectively to the federal campaigns identified below. Some contributions were sent directly by stipend recipients to these campaigns. At least one stipend recipient chose not to make any political contributions with that money. In several other instances, contributions were made in amounts different from that suggested by the company.

From March to May of 1992, Sun-Land sent collective individual contributions to the Bush-Quayle '92 Primary Committee Inc., a federal campaign organization required to comply with the Federal Election Campaign Act, including its reporting provisions and campaign financing limitations. Also, in that time period, some stipend recipients sent contributions directly to the Bush-Quayle '92 Primary Committee. The combined total of the contributions sent both collectively by Sun-Land and directly by individuals was $16,000. The conduits for these contributions included non-management directors who received the stipend, as well as in some cases certain family members.

In 1993, the Sun-Land Board of Directors again approved a $2500 stipend for each of its 16 non-management members for the same purposes as the 1992 stipend. In July 1993, collective contributions were presented by Sun-Land to Campaign America, a federal campaign organization required to comply with the Federal Election Campaign Act, including its reporting provisions and campaign financing limitations. Also, in that time period, some contributions were sent directly to Campaign America. The combined total of the contributions sent both collectively by Sun-Land and directly by individuals was $21,000. The conduits for these contributions included non-management directors who received the stipend, as well as in some cases certain family members.

5. Potential Sentence

The defendant understands that since the offense to which it is pleading guilty occurred after November 1, 1987, the Court is required to sentence it under the Sentencing Reform Act of 1984 and the Sentencing Guidelines adopted by the United States Sentencing Commission. Further the defendant understands that the Court may depart either above or below the applicable guideline range depending on the aggravating or mitigating facts of the defendant's case.

(a) The following is the maximum potential statutory sentence which the defendant faces in this case:

(1) A fine of $200,000 per count. 18 U.S.C. § 3571.

(2) Mandatory special assessment of $125 per count. 18 U.S.C. § 3013.

(b) Stipulation Regarding Guidelines.

(1) The defendant understands that this offense is subject to the provisions, guidelines, and amendments of the "Sentencing Reform Act of 1984", Title 18, United States Code, Sections 3661 et seq. and Title 28, United States Code, Section 994.

(2) The parties agree that, in this case, the defendant Sun-Land Products falls within Criminal History Category I of the United States Sentencing Guidelines.

(3) For purposes of this plea agreement, the government and the defendant agree that the United States Sentencing Guidelines do not contain provisions directly applicable or sufficiently analogous to the specific misdemeanor violations of Title 2 of the United States Code which are charged in the Information. Accordingly, the parties further agree that, pursuant to Section 2X5.1 of the United States Sentencing Guidelines, that the provisions of 18 U.S.C. § 3553(b) should control in this matter. The government and the defendant, therefore, agree to recommend that sentencing should be rendered by the Court pursuant to 18 U.S.C. §§ 3553 and 3571 and that the fine imposed total $400,000, which is the statutory maximum set forth in 18 U.S.C. § 3571.

(4) The defendant, therefore, understands that the maximum possible penalty provided by law as to the charges to which it is

pleading guilty is a fine of $200,000 per count, for a total of $400,000. The defendant also understands that it must pay a special assessment of $125 per count upon the counts of conviction, for a total of $250.

(5) Notwithstanding any provision of this plea agreement, it is understood by the parties that the sentencing judge is neither a party to nor bound by this agreement and is free to impose a sentence, consistent with the sentencing guidelines, up to the maximum penalties as set forth above.

(6) The defendant understands that all evidence and sentencing matters may be fully allocuted and argued by the government to the probation office and the Court. Specifically, the government reserves the right to bring all factual information to the attention of the probation office and the Court.

6. <u>Waiver of Rights</u>

(a) The defendant understands that by pleading not guilty to the charges in the Information, it would have the right to a public and speedy trial. The trial could be either a jury trial or a trial by a judge sitting without a jury. The defendant has a right to a jury trial. However, in order that the trial be conducted by the judge sitting without a jury, the defendant, the government and the judge all must agree that the trial be conducted by the judge without a jury.

(b) If the trial were a jury trial, the jury would be composed of twelve lay persons selected at random. The defendant and its attorney would have a say in who the jurors would be by removing prospective jurors for cause where actual bias or other disqualification is shown, or without cause by exercising peremptory challenges. The jury would have to agree unanimously before it could return a verdict of either guilty or not guilty. The jury would be instructed that the defendant is presumed innocent and that the jury could not convict it unless, after hearing all the evidence, the jury was persuaded of its guilt beyond a reasonable doubt.

(c) If the trial were held before a judge without a jury, the judge would find the facts and determine, after hearing all the evidence, whether or not he was persuaded of the defendant's guilt beyond a reasonable doubt.

(d) At a trial, whether by a jury or a judge, the government would be required to present its witnesses and other evidence against the defendant. The defendant would be able to confront those government witnesses and its attorney would be able to cross-examine them. In turn, the defendant could present witnesses and other evidence on its own behalf. If the witnesses for the defendant would not appear voluntarily, it could require their attendance through the subpoena power of the court.

(e) The defendant acknowledges that during negotiations of this agreement, 1) there has been an exchange of evidentiary information and materials between the parties and 2) the defendant has all the information it needed to make a voluntary and intelligent decision to plead guilty to the offenses charged in the Information. The defendant understands that if this case proceeded to trial the government would be required to turn over information in its possession that could be used to impeach government witnesses, including any law enforcement agents that may testify. The defendant understands that the government may not have disclosed such information, if it exists, at this time. In return for the agreements made by the government pursuant to this agreement, the defendant waives any right it has to this information, should it exist, and agrees not to attempt to withdraw its guilty plea or file a collateral attack upon its conviction based upon the alleged existence of such information.

(f) The defendant understands that by pleading guilty it is waiving all of the rights set forth above and the defendant's attorneys have explained those rights to its representatives and the consequences of those rights.

7. <u>Questions by Court</u>

The defendant understands that if the Court questions it, through its agent[s] and representative[s], under oath, on the record and in the presence of counsel, about the offense to which it has pleaded guilty, its answers, if false, may later be used against it or its representative in a prosecution for perjury or false statement.

8. <u>Entire Agreement</u>

The defendant and its attorneys acknowledge that no threats, promises or representations have been made, nor agreement reached, other than those set forth in this plea agreement, to induce the defendant to plead guilty.

9. Court Not a Party

It is understood by the parties that the sentencing Court is neither a party to nor bound by this agreement and the sentencing judge is free to impose the maximum penalties as set forth above.

10. Presentence Report

The defendant understands that the United States Probation Office is not a party to this agreement and will conduct an independent investigation of the defendant's activities and its background and prepare a presentence report which it will submit to the Court as its own sentencing recommendation. In addition, the government retains the right to provide to the Court and the Probation Office all information and evidence in its possession regarding the facts of this case, including both the charges to which the defendant is entering pleas of guilty and activities which may not have been charged in the Information.

By [signature]
Authorized Representative
SUN-LAND PRODUCTS
Defendant
DATED: 6/12/98

By [signature]
CRAIG C. DONSANTO
Director, Election Crimes Branch
Public Integrity Section
U.S. Department of Justice
DATED: 6-15-98

By [signature]
RICHARD A. HIBEY
ERIC W. BLOOM
Counsel for Defendant
SUN-LAND PRODUCTS
DATED: 6/15/98

By [signature]
FAYE S. EHRENSTAMM
Senior Trial Attorney
Public Integrity Section
U.S. Department of Justice
DATED: 6/15/98

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JUL

JULY 7, 1998

SENSITIVE

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

SUBJECT: Pre-MUR 364
Sun-Land Products of California

I. BACKGROUND

On June 19, 1998, the Department of Justice referred matters to the Commission which were subsequently designated Pre-MUR 364. One of the matters involves Sun-Land Products of California ("Sun-Land Products").

The Department of Justice has conducted criminal investigations involving these respondents and has entered into plea agreements with Sun-Land Products

In order to accommodate the Department of Justice's scheduling of a hearing in this matter, this Office is expediting the processing of this matter by reporting to the Commission on only the Sun-Land Products portion of the referral at this time.

(a) <u>Sun -Land Products of California</u>

Under the terms of the plea agreement, Sun-Land Products has agreed to plead guilty to two counts of violating 2 U.S.C. §§ 441f and 437g(d) and to pay a criminal fine of $400,000. In addition, Sun-Land Products has agreed to submit to the Commission's jurisdiction. Sun-Land Products has agreed to cooperate with the Commission in its compliance proceedings against it, and to enter into a conciliation agreement and pay an $80,000 civil penalty pursuant to 2 U.S.C. § 437g(a)(5). The plea agreement specifically states that the "United States and the defendant have agreed that a fine of $80,000 would be an appropriate civil disposition of this matter before the FEC in view of the charged conduct and the conditions of this plea agreement." The agreement continues on to note that "the defendant has been advised and understands that this part of the plea agreement is not binding on the FEC." A check from Sun-Land Products for $80,000 has been forwarded to the Commission by the Department of Justice.

II. FACTUAL AND LEGAL ANALYSIS

Sun-Land Products is a for-profit corporation incorporated under the laws of California in 1982. In 1992, the Board of Directors of Sun-Land Products approved a $2,500 stipend to be paid to non-management Directors purportedly to encourage political contributions by Board members. Sixteen non-management Directors received the stipend. The plea agreement states that "[a]t least one agent of Sun-Land intended the stipends to provide corporate money for political contributions which would appear to be made as individual contributions to certain political campaigns and groups." The plea agreement continues on to state that "[t]hese contributions, therefore, were actually corporate funds presented to political organizations through conduits." According to the agreement, when the stipend proposal was made, at least one agent of Sun-Land Products was aware that under the FECA it was unlawful for any corporation to make a contribution in connection with a federal election, that it was unlawful for an individual or a corporate entity to contribute or cause a contribution in any amount to be made in the name of another individual, and that it was unlawful for any person to contribute more than $1,000 to the primary or general election campaign of a candidate for federal office.

In proposing the $2,500 stipend, Sun-Land Products took into account the $1,000 limitation on contributions for a federal primary and general election and the amount of projected taxes on each individual's stipend. Sun-Land Products suggested that individual Board members use the stipend to made contributions to specific federal campaigns, and that Sun-Land would present the contributions as a group to the specified campaigns. The plea agreement notes that "[a]t least one stipend recipient chose not to make any political contributions with that money." In several other instances, contributions were made in amounts different from that suggested by Sun-Land Products.

During 1992 a number of individual contributions were received by Sun-Land Products, which sent them collectively to the Bush-Quayle '92 Primary

Committee, Inc.[1] Some stipend recipients sent their contributions directly to the Bush-Quayle '92 Primary Committee. The combined total of the contributions sent collectively by Sun-Land Products and directly by individuals was $16,000. In 1993, the Sun-Land Board of Directors approved another $2,500 stipend for each of its 16 non-management members for the same purposes as in 1992. In July 1993, collective contributions were presented by Sun-Land Products to Campaign America, a federal campaign organization. During this time period some contributions were sent directly to Campaign America. The combined total of the contributions sent directly by individuals and collectively by Sun-Land Products was $21,000.[2]

The making of contributions in the name of others, using corporate funds, was in violation of sections 441b(a) and 441f of the Federal Election Campaign Act of 1971, as amended ("the Act"). The facts contained in the plea agreement indicate that the violations were knowing and willful, since at least one agent of Sun-Land Products knew of the Act's prohibitions.

In light of these facts, this Office recommends that the Commission open a Matter Under Review and find reason to believe Sun-Land Products knowingly and willfully violated 2 U.S.C. §§ 441f and 441b(a). In addition, this Office recommends that the Commission approved the attached conciliation agreement with Sun-Land Products which provides for admissions of the violations and an $80,000 civil penalty.

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[1] From March to May of 1992, Sun-Land sent collective individual contributions to the Bush-Quayle '92 Primary Committee, Inc. The conduits for these contributions included non-management directors who received the stipend, as well as in some cases certain family members.

[2] The conduits for these 1993 contributions included non-management directors who received the stipend, as well as in some cases certain family members.

III. RECOMMENDATIONS

1. Open a MUR involving Sun-Land Products of California.

2. Find reason to believe that Sun-Land Products of California knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

3. Approve the attached Conciliation Agreement and Factual and Legal Analysis.

4. Approve the appropriate letter.

Attachments:
1. Conciliation Agreement
2. Factual and Legal Analysis

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Sun-Land Products of California.	)	Pre-MUR 364
	)	

MUR 4772

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on July 13, 1998, the Commission decided by a vote of 5-0 to take the following actions in Pre-MUR 364:

1. Open a MUR involving Sun-Land Products of California.

2. Find reason to believe that Sun-Land Products of California knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

3. Approve the Conciliation Agreement and Factual and Legal Analysis, as recommended in the General Counsel's Memorandum dated July 7, 1998.

4. Approve the appropriate letter, as recommended in the General Counsel's Report dated July 7, 1998.

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

Attest:

7-13-98
Date

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

Received in the Secretariat:	Tues.,	July 07, 1998	5:21 p.m.
Circulated to the Commission:	Wed.,	July 08, 1998	11:00 a.m.
Deadline for vote:	Mon.,	July 13, 1998	4:00 p.m.

lrd

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Eric W. Bloom, Esquire
Winston and Strawn
1400 L Street, N.W.
Washington, D.C. 20005-3502

July 17, 1998

RE: MUR 4772
Sun-Land Products of
California

Dear Mr. Bloom:

This matter was referred to the Commission by the Department of Justice. Pursuant to a plea agreement entered into by your client, Sun-Land Products of California, your client has agreed to submit to the Federal Election Commission's jurisdiction with regard to certain campaign contributions made in 1992 and 1993. Under the terms of the plea agreement, your client has agreed to pay an $80,000 civil penalty to the Federal Election Commission in connection with the violations.

Based upon the information contained in the plea agreement, on July 13, 1998, the Federal Election Commission found that there is reason to believe Sun-Land Products of California knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). Enclosed is a copy of the General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's findings.

In order to expedite the resolution of this matter, enclosed is a conciliation agreement offered in settlement of this matter prior to a finding of probable cause to believe. You should respond to this notification within ten 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.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Lois Lerner, Associate General Counsel, at (202) 694-1650.

Sincerely,

Joan D. Aikens

Joan D. Aikens
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Conciliation Agreement

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Sun-Land Products of California **MUR:** 4772

This matter was referred to the Commission by the Department of Justice. Under the terms of a plea agreement entered into by Sun-Land Products of California ("Sun-Land Products"), it has admitted that its conduct violated 2 U.S.C. § 441f and § 437g(d), and has agreed to submit to the Commission's jurisdiction. In addition, Sun-Land Products has agreed to cooperate with the Commission in its compliance proceedings against it, and to enter into a conciliation agreement and pay an $80,000 civil penalty pursuant to 2 U.S.C. § 437g(a)(5).

Sun-Land Products is a for-profit corporation incorporated under the laws of California in 1982. In 1992, the Board of Directors of Sun-Land Products approved a $2,500 stipend to be paid to non-management Directors purportedly to encourage political contributions by Board members. Sixteen non-management Directors received the stipend. The plea agreement states that "[a]t least one agent of Sun-Land intended the stipends to provide corporate money for political contributions which would appear to be made as individual contributions to certain political campaigns and groups." The plea agreement continues on to state that "[t]hese contributions, therefore, were actually corporate funds presented to political organizations through conduits." According to the agreement, when the stipend proposal was made, at least one agent of Sun-Land Products was aware that under the FECA it was unlawful for any corporation to make a contribution in connection with a federal election, that it was unlawful for an individual or a corporate entity to contribute or cause a contribution in any amount to be made in the name of another individual, and that it was unlawful for any person to contribute more than $1,000 to the primary or general election campaign of a candidate for federal office.

In proposing the $2,500 stipend, Sun-Land Products took into account the $1,000 limitation on contributions for a federal primary and general election and the amount of projected taxes on each individual's stipend. Sun-Land Products suggested that individual Board members use the stipend to made contributions to specific federal campaigns, and that Sun-Land Products would present the contributions as a group to the specified campaigns. The plea agreement notes that "[a]t least one stipend recipient chose not to make any political contributions with that money." In several other instances, contributions were made in amounts different from that suggested by Sun-Land Products.

During 1992 a number of individual contributions were received by Sun-Land Products, which sent them collectively to the Bush-Quayle '92 Primary Committee, Inc.[1] Some stipend recipients sent contributions directly to the Bush-Quayle '92 Primary Committee. The combined total of the contributions sent collectively by Sun-Land Products and directly by individuals was $16,000. In 1993, the Sun-Land Board of Directors approved another $2,500 stipend for each of its 16 non-management members for the same purposes as in 1992. In July 1993, collective contributions were presented by Sun-Land Products to Campaign America, a federal political committee. During this time period some contributions were sent directly to Campaign America. The combined total of the contributions sent directly by individuals and collectively by Sun-Land Products was $21,000. [2]

Pursuant to 2 U.S.C. § 441b(a), it is unlawful for a corporation to make a contribution or expenditure in connection with a federal election. Pursuant to 2 U.S.C. § 431(11), the term "person" includes a corporation. Under 2 U.S.C. § 441f, no person shall make a contribution or expenditure in the name of another person or knowingly permit his name to be used to effect such a contribution and no person shall knowingly accept a contribution made by one person in the name of another.

The making of contributions in the name of others, using corporate funds, was in violation of 2 U.S.C. §§ 441b(a) and 441f. The facts contained in the plea agreement indicate that the violations were knowing and willful, since at least one agent of Sun-Land Products knew of the Act's prohibitions. Therefore, there is reason to believe that Sun-Land Products of California knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

[1] From March to May of 1992, Sun-Land Products sent collective individual contributions to the Bush-Quayle '92 Primary Committee, Inc. The conduits for these contributions included non-management directors who received the stipend, as well as in some cases certain family members.

[2] The conduits for these 1993 contributions included non-management directors who received the stipend, as well as in some cases certain family members.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Sun-Land Products	)	
of California	)	MUR 4772
	)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

Attached is a conciliation agreement which has been signed by counsel for Sun-Land Products of California

II. RECOMMENDATIONS

1. Accept the attached conciliation agreement with Sun-Land Products of California.

2. Close the file.

3. Approve the appropriate letters.

Lawrence M. Noble
General Counsel

July 28, 1998
Date

BY: Lois G. Lerner
Lois G. Lerner
Associate General Counsel

Attachments:
1--Conciliation Agreement

Staff Assigned: Maura Callaway

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Sun-Land Products of California.	)	MUR 4772
	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on July 31, 1998, the Commission decided by a vote of 5-0 to take the following actions in MUR 4772:

1. Accept the conciliation agreement with Sun-Land Products of California, as recommended in the General Counsel's Report dated July 28, 1998.

2. Close the file.

3. Approve the appropriate letters, as recommended in the General Counsel's Report dated July 28, 1998.

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

Attest:

7-31-98
Date

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

Received in the Secretariat:	Tues.,	July 28, 1998	1:37 p.m.
Circulated to the Commission:	Tues.,	July 28, 1998	4:00 p.m.
Deadline for vote:	Fri.,	July 31, 1998	4:00 p.m.

vfv

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 3, 1998

Craig Donsanto
Director, Election Crimes Branch
Public Integrity Section
Criminal Division
U.S. Department of Justice
P.O. Box 27518
Central Station
Washington, D.C. 20038

RE: MUR 4772
Sun-Land Products of California

Dear Mr. Donsanto:

This is in reference to the matter involving Sun-Land Products of California which your office referred to the Federal Election Commission.

On July 13,1998, the Commission found that there was reason to believe Sun-Land Products of California knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended, and has now entered into a conciliation agreement in the matter providing for an $80,000 civil penalty. A copy of this agreement is enclosed for your information.

We appreciate your cooperation in helping the Commission meet its enforcement responsibilities under the Federal Election Campaign Act of 1971, as amended. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Conciliation Agreement

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CLOSED

August 3, 1998

Eric W. Bloom, Esquire
Winston and Strawn
1400 L Street, N.W.
Washington, D.C. 20005-3502

RE: MUR 4772
Sun-Land Products of
California

Dear Mr. Bloom:

On July 31, 1998, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on your client's 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. 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.

Eric W. Bloom
Page 2

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Conciliation Agreement

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Sun-Land Products of California	)	MUR 4772
	)	

CONCILIATION AGREEMENT

This matter was referred to the Federal Election Commission ("Commission") by the Department of Justice. The Commission found reason to believe that Sun-Land Products of California ("Respondent") knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

NOW, THEREFORE, the Commission and the Respondent, 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 Respondent 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. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

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

1. Respondent, Sun-Land Products of California, is a corporation.

2. During 1992, the Respondent's Board of Directors approved a $2,500 stipend to be paid to non-management Directors to encourage political contributions by Board members. Sixteen non-management Directors received the stipends. At least one agent of the Respondent intended the stipends to provide corporate money for political contributions which would appear to be made as individual contributions to certain political campaigns and groups.

3. When the stipend proposal was made, at least one of Respondent's agents was aware that under the Federal Election Campaign Act of 1971, as amended, it was unlawful for any corporation to make a contribution in connection with any federal election, that it was unlawful for an individual or a corporate entity to contribute or cause a contribution in any amount to be made in the name of another individual, and that it was unlawful for any person to contribute more than $1,000 to the primary or general election campaigns of a candidate for federal office.

4. Respondent suggested that the individual Board members use the stipend to make contributions to specific federal campaigns and that it would present the contributions as a group to the specified campaigns.

5. From March to May of 1992, Respondent sent collective individual contributions to the Bush-Quayle '92 Primary Committee Inc., a federal political committee. During this time period, some stipend recipients also sent

contributions directly to the Bush-Quayle '92 Primary Committee, Inc. The combined total of the contributions sent both collectively by the Respondent and directly by individuals was $16,000. The conduits for these contributions included non-management Directors who received the stipend, as well as in some cases certain family members.

6. In 1993, Respondent's Board of Directors again approved a $2,500 stipend for each of its 16 non-management members for the same purposes as the 1992 stipend. In July 1993, collective contributions were presented by the Respondent to Campaign America, a federal political committee. Also during that time period some contributions were sent directly to Campaign America. The combined total of the contributions sent both collectively by the Respondent and directly by individuals was $21,000. The conduits for these contributions included non-management directors who received the stipend, as well as in some cases certain family members.

7. At least one stipend recipient chose not to make any political contributions with the stipend. In several other instances, contributions were made in amounts different from that suggested by Sun-Land Products.

8. Pursuant to 2 U.S.C. § 441b(a), it is unlawful for a corporation to make a contribution or expenditure in connection with a federal election.

9. Pursuant to 2 U.S.C. § 431(11), the term "person" includes a corporation.

10. Pursuant to 2 U.S.C. § 441f, no person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution and no person shall knowingly accept a contribution made by one person in the name of another person.

V. Respondent, Sun-Land Products of California, knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f by using corporate funds to make contributions to federal candidates and committees in the names of others.

VI. Respondent will pay a civil penalty to the Federal Election Commission in the amount of Eighty Thousand dollars ($80,000), pursuant to 2 U.S.C. § 437g(a)(5)(B).

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

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

IX. Respondent shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirement contained in this agreement and to so notify the Commission.

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

FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

BY: L. G. Lerner   8/3/98
Lois G. Lerner   Date
Associate General Counsel

FOR THE RESPONDENT:

_______________   7/24/98
(Name)   Date
(Position) Attorney for Sun-Land Products

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AUG 5 10 ... '98

CLOSED

August 4, 1998

TWO WAY MEMORANDUM

TO: OGC Docket

FROM: Rosa E. Swinton
Accounting Technician

SUBJECT: Account Determination for Funds Received

We recently received a check from **Sun-Diamond Growers,** check number **901351,** dated **June 03, 1998,** for the amount of **,80,000.00 .** A copy of the check and any correspondence is being forwarded. Please indicate below which a account the funds should be deposited and give the MUR/Case number and name associated with the deposit.

==

TO: Rosa E. Swinton
Accounting Technician

FROM: OGC Docket

SUBJECT: Disposition of Funds Received

In reference to the above check in the amount of $80,000.00, the MUR/Case number is 4772 and in the name of Sun-Diamond Growers / Sun Land Products of California. Place this deposit in the account indicated below:

__ Budget Clearing Account (OGC), 95F3875.16

✓ Civil Penalties Account, 95-1099.160

__ Other: ________________

Kim Stevens
Signature

8-5-98
Date

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

THE FACE OF TH DOCUMENT HAS A COLORED BACKGROU - NOT A WHITE BACKGROUND

CHECK NO.

901351

SUN-DIAMOND GROWERS 901351

50-943
213

OF CALIFORNIA

DATE 06/ 03/ 98

AMOUNT $ ***80,000.00***

TO THE ORDER OF

FEDERAL ELECTION COMMISSION
285 INTERNATIONAL BLVD. N.W
WASHINGTON, D.C.

W. P. Beaton

CHEMICAL BANK
SYRACUSE, NEW YORK 13206

THE BACK OF THIS DOCUMENT CONTAINS AN ARTIFICIAL WATERMARK - HOLD AT AN ANGLE TO VIEW

⑈901351⑈ ⑆021309434⑆ 755⑈508114⑈

INVOICE NO.	DATE	VOUCHER	GROSS AMOUNT	DISCOUNT	NET AMOUNT
					80,000.00

CHECK NO.	DATE	VENDOR NO.	VENDOR NAME	TOTAL AMOUNT
901351	06 03 98		FEDERAL ELECTION COMMISSION	80,000.00

SUN-DIAMOND GROWERS
OF CALIFORNIA
P.O. BOX 9024 PLEASANTON, CALIF. 94566

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

FEDERAL ELECTION COMMISSION

WASHINGTON D.C. 20463

THIS IS THE END OF MUR # 4772

DATE FILMED 9/3/98 CAMERA NO. 2

CAMERAMAN EEP

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Date: 10/28/98

✓ Microfilm

______ Press

THE ATTACHED MATERIAL IS BEING ADDED TO CLOSED MUR 4772

9804390[illegible]850

U. S. Department of Justice

Washington, D.C. 20530

JUN 19 1998

Pre-MUR 364

JUN 19 3 03 PM '98

By Hand

Mr. Lawrence R. Noble
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Dear Mr. Noble:

Re: Ray E. Norvell and DeLuca Liquor and Wine, Ltd.; Sun-Land Products of California

We are forwarding herewith three checks that have been tendered in the Federal Election Campaign Act (FECA) matters pursued by the Department of Justice in recent weeks. These checks represent amounts that each offender has offered to pay to the Commission in the hope of achieving a simultaneous "global" disposition of both the criminal and the noncriminal features of their FECA offenses. We also are forwarding copies of the plea agreements and other pertinent documents.

During our investigation, we kept your office informed, albeit in hypothetical terms. Specifically, in each matter I informed Lois Lerner of the type of FECA violation involved, its financial magnitude, the amount agreed to satisfy criminal liability, and the amount tendered in each instance to satisfy noncriminal liability under 2 U.S.C. § 437g(a). We have also informed each of these offenders that the Department of Justice lacks authority to speak for -- or to bind -- the Commission in assessing noncriminal remedies under 2 U.S.C. § 437g(a). Thus, each of these agreements addresses the possibility that the Commission may decide not to accept the proposed noncriminal sanctions.

The matters involved are:

1) Ray E. Norvell is a manager of an incorporated Las Vegas liquor wholesaler named DeLuca Liquor and Wine, Ltd. (DeLuca). In 1995, he caused DeLuca to contribute $10,000 of its corporate assets to the presidential campaign of Bob Dole in violation of 2 U.S.C. § 441b(a). His motive was to fulfill a

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fundraising promise he had made to a friend. The illegal corporate contribution was made in the names of Mr. Norvell, his wife, four DeLuca employees and their spouses, in violation of 2 U.S.C. § 441f. Mr. Norvell has agreed to pay a criminal fine of $100,000 for these offenses. He has tendered an additional $10,000 to the Commission in the hope of satisfying his noncriminal liability under 2 U.S.C. § 437g(a).

2) DeLuca is criminally responsible for FECA violations committed with its funds by its agent, Mr. Norvell. However, we have declined prosecution of the corporation because its institutional violations were mitigated by several factors. DeLuca has tendered $50,000 to the Commission in the hope of satisfying its noncriminal liability under 2 U.S.C. § 437g(a).

3) Sun-Land Products of California funded political contributions of approximately $16,000 and $21,000 in 1992 and 1993, respectively, through the payment of $2,500 stipends to non-management directors of the company's Board. The company has agreed to plead guilty to two counts of violating 2 U.S.C. §§ 441f and 437g(d) and to pay a criminal fine of $400,000. The company has tendered an additional $80,000 to the Commission in the hope of satisfying its noncriminal liability under 2 U.S.C. § 437g(a).

While we do not have the authority to speak for the Commission and we have not done so here, as reflected in the plea agreements, we believe that the sums tendered by these three FECA offenders to satisfy their liability under 2 U.S.C. § 437g(a) are reasonable and fair in terms of the facts of each of these three cases. Should the Commission disagree with any or all of these tendered noncriminal settlements, we respectfully request that it return the check(s) it rejects to us so that we may return them to the offenders in accordance with our agreements.

Please let me know if we can assist you further in these matters.

Sincerely,

Craig C. Donsanto
Director, Election Crimes Branch
Public Integrity Section
Criminal Division

Enclosures