



FEDERAL ELECTION COMMISSION
Washington, DC 20463

June 6, 2000

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Marc E. Elias, Esq.
Judith L. Corley, Esq.
Perkins Coie, LLP
607 Fourteenth Street, NW
Washington, DC 20005-2011

RE: MUR 4788
Friends of Lois Capps;
David D. Powdrell, as treasurer

Dear Mr. Elias and Ms. Corley:

Your clients, Friends of Lois Capps and David D. Powdrell, as treasurer, were previously notified that the Federal Election Commission found reason to believe that they violated 2 U.S.C. §§ 441a(f) and 434(b), provisions of the Federal Election Campaign Act of 1971, as amended. Your clients were also sent a Subpoena to Produce Documents and Order to Submit Written Answers. In the response to the Subpoena and Order submitted on behalf of your clients, you requested that your clients be dismissed from this matter.

On May 23, 2000, the Commission considered and denied your clients' request for a dismissal. In addition, on June 2, 2000, the Commission, pursuant to its investigation of this matter, approved an additional Subpoena and Order requiring your clients to provide further information. Responses are required within 30 days of your receipt of the attached Subpoena and Order and must be submitted under oath.

If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in cursive script that reads "Dominique Dillenseger".

Dominique Dillenseger
Attorney

Enclosure
Subpoena and Order

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

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MUR 4788

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: David Powdrell, Treasurer
Friends of Lois Capps
c/o Marc E. Elias, Esq.
Judith L. Corley, Esq.
Perkins Coie, LLP
607 Fourteenth Street, N.W.
Washington, D.C. 20005-2011

Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 30 days of receipt of this Order and Subpoena.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his
hand in Washington, D.C. on this 6th day of June 2000.

For the Commission,

Darryl R. Wold
Darryl Wold
Chairman

ATTEST:

Mary W. Dove
Mary W. Dove
Acting Secretary to the Commission

Attachments:

1. Instructions and Definitions
2. Questions and Document Requests

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and is to repeat verbatim the interrogatory or document request to which it is responding. Unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from October 29, 1997 to the present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondents in this action to whom these discovery requests are addressed, including the candidate, Lois Capps, any affiliated committees, and all officers, employees, whether paid or unpaid; supervisors; volunteers; agents or persons otherwise working on behalf of or at the request of the named respondent or an affiliated committee; co-workers; subordinates; staff or attorneys thereof.

"The CDP" shall mean the California Democratic Party, including the Democratic State Central Committee of California—Federal and the Democratic State Central Committee of California—Non-Federal, and any affiliated committees, and all officers, employees, whether paid or unpaid; supervisors; volunteers; agents or persons otherwise working on behalf of or at the request of the named respondent or an affiliated committee; co-workers; subordinates; staff or attorneys thereof.

"1998 Special Election" shall refer to the special elections held on January 13, 1998 and on March 10, 1998, to fill the vacancy in the U.S. House of Representatives in the Twenty-Second Congressional District of California.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Communications" shall be deemed to include both singular and plural, and to include written, oral and electronic communications.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers, records and magnetic or electronic media of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained. If a document request calls for a document that is maintained on or in a magnetic, optical or electronic medium (for example, but not limited to computer tape, diskette, or CD-ROM), provide both "hard" (i.e., paper) and "soft" (i.e., in the magnetic or electronic medium) copies, including drafts, and identify the name (e.g., WordPerfect, Microsoft Word for Windows, Pro Write, etc.) and version numbers by which the document(s) will be most easily retrieved.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document, the author of the document, and all recipients of the document (including all persons, other than the primary recipient(s) of the document, who received copies, such as "cc" and "bcc" recipients).

"Identify" with respect to a natural person shall mean state the full name, the most recent business and residence addresses and the telephone numbers of the person, the present occupation or position of such person, the social security number of the person, and the nature of the connection or association that person has to any party in this proceeding.

If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

QUESTIONS AND DOCUMENT REQUESTS

1. Identify all persons (other than the CDP), and including, but not limited to, Armando Gutierrez & Associates and Crounse & Malchow, who were involved in any way (including, but not limited to, being responsible for, conducting, assisting or participating in) in written and oral communications, conferences, meetings or discussions with you regarding the 1998 special election. This Interrogatory excludes any person whose only involvement was making a contribution to the Capps Committee.

a. For each such communication, conference, meeting or discussion, state the date; the participants; the manner of communication (e.g., telephone conversation, meeting, writing, etc.); the location, if applicable; and the topic, and describe the nature of the information exchanged or provided.

b. Identify and produce all documents that contain, reflect, refer to, or relate to each such communication, conference, meeting or discussion. Documents produced should include, but not be limited to, contracts, proofs, drafts, notes, invoices, correspondence, faxes, telephone messages or logs, electronic mail messages, scripts, audio and video tape recordings.

2. The CDP produced several direct mail pieces and radio spots ("CDP mailings/ads") in connection with the 1998 special election. These CDP mailings/ads included, among other things, references to "Walter Capps" and the statements "Vote Democratic" and "Special Election, Tuesday, March 10th."

a. Identify all persons (other than the CDP), and including, but not limited to, Armando Gutierrez & Associates and Crounse & Malchow, who were involved in any way (including, but not limited to, being responsible for, conducting, assisting or participating in) in written and oral communications, conferences, meetings or discussions with you regarding any of the CDP mailings/ads.

b. For each such communication, conference, meeting or discussion, state the date; the participants; the manner of communication (e.g., telephone conversation, meeting, writing, etc.); the location, if applicable; and the topic, and describe the nature of the information exchanged or provided.

c. Identify and produce all documents that contain, reflect, refer to, or relate to each such communication, conference, meeting or discussion. Documents produced should include, but not be limited to, notes, invoices, correspondence, faxes, telephone messages or logs, electronic mail messages, scripts, audio and video tape recordings, memoranda, etc.

3. Identify and produce all public communications including, but not limited to, direct mailings, brochures, and media advertising (print, television and radio advertisements) made by you for the 1998 special election.