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September 28, 1998

Jennifer Boyt
Federal Election Commission
Office of the General Counsel
999 E Street, N.W.
Washington, D.C. 20463

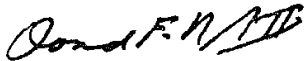
Re: MUR 4795

Dear Ms. Boyt:

Enclosed please find Respondents' response to the complaint in the above-captioned Matter Under Review.

Please do not hesitate to contact us with any questions or concerns.

Sincerely,



Benjamin L. Ginsberg
Donald F. McGahn II

BEFORE THE FEDERAL ELECTION COMMISSION

SEP 20 3 45 PM '98

FRIENDS OF LARRY PRESSLER
AND DANIEL A. NELSON, TREASURER

Re: MUR 4795

RESPONSE TO COMPLAINT

Respondents Friends of Larry Pressler and Daniel A. Nelson, Treasurer ("Respondents" or the "Committee"), by and through the undersigned counsel, hereby respond to the complaint filed in the above-captioned Matter Under Review, and respectfully request that the Commission take no further action, and dismiss the complaint.

I. BACKGROUND

Larry Pressler lost his bid for re-election to the Senate in November of 1996. Since then, his campaign committee has been winding down. Senator Pressler has no plans to run for public office again. Despite Senator Pressler's defeat, a self-styled "Democratic activist" has filed a complaint regarding the Committee. Exhibit 1 (*Sioux Falls Argus Leader* at 1D (August 28, 1998)). This complaint, which is short on facts but long on allegations, must be viewed in light of the complainant's background.

II. ANALYSIS

The complaint centers on three¹ areas: (1) that the Committee's renting of property owned by Senator Pressler and his wife was improper; (2) that the payment of \$12,000 by the Committee to the Internal Revenue service was improper; and (3) that certain refunds of

¹ Although at one point the complaint references four areas, it only contains three discernible allegations. See Complaint at 1 (referring to "[a]ll three charges").

campaign contributions somehow constitutes "fraud or conspiracy." None of the allegations has merit, and do not warrant further investigation by the Commission.

A. Property Rental

The Commission held in an Advisory Opinion ("AO") factually indistinguishable from the current matter that a candidate's campaign committee may rent property owned by the candidate. In AO 1995-8, the Commission opined that "[a] campaign committee may . . . rent for campaign use part of an office building owned by the candidate so long as it pays no more than the fair market value." AO 1995-8.

Factually, the current matter and AO 1995-8 are identical in all material respects. First, as in AO 1995-8, the property was not used in any manner as a personal residence, and thus did not violate 11 C.F.R. § 113.1(g)(1)(i)(E)(1). See Exhibit 2 (Affidavit of Larry Pressler). As in AO 1995-8, the Presslers, as owners of the property in question, retained responsibility for real estate taxes, maintenance and repair. *Id.*

Further, the amount paid by the Committee reflects the fair market value of the property. The property at issue, located at 611 2nd Street, N.E. in Washington, is not even remotely similar to the 10 x 10 foot storage space referenced in the news article attached to the complaint. It is a 1400 square foot building, with four parking spaces, and is zoned commercial. *Id.* It is used as office space and storage to organize and manage the records of the Committee dating back to 1978, which at its zenith was a \$4 million dollar operation. *Id.* Such Capitol Hill property is worth anywhere from \$10 (for empty space such as the property at issue) to \$30 per square foot (for full-service office space) per month. See Exhibit 3 (Chart reflecting property values).

In order to avoid what Commissioner Trevor Potter characterized in his concurrence to AO 1995-8 as "legal jeopardy," the Presslers elected to charge the Committee the only definite amount they could: the amount of the monthly mortgage payment, the common benchmark for deciding rental value of property. Respondents included these payments on their reports to the Commission, thus conclusively negating any accusation regarding personal gain. Thus, the Presslers have not used campaign funds for personal use, and the Committee has not received anything of value which would constitute an in-kind contribution. Accordingly, this allegation must be dismissed as a matter of law.

B. Payments to the Internal Revenue Service

Without any factual support, the complaint asserts that "these [tax] payments may have been used to meet the Presslers' personal federal tax obligations, rather than for legitimate expenses of the campaign." Complaint at 2. In fact, these payments were for interest income on the campaign's accounts and other campaign tax liability, and were all properly reported on IRS Form 1120 POL and others. See Exhibit 4 (Tax forms). Thus, the complaint's charge that this was somehow payment for personal tax liability is irresponsible and inaccurate. This allegation must also be dismissed.

C. Refund of Campaign Contributions

The third allegation concerns \$7,500 in refunds made shortly before the 1996 election, which the complaint claims are part of some larger "conspiracy" with the Lippo Group, the much-publicized banking conglomerate linked to Clinton-Gore '96 and the Democratic National Committee. Of course, the complaint offers no factual support for its far-fetched conspiracy theory.

The Committee did not, and still does not, have any information (other than the news reports linking the individuals to Lippon) that the contributions were in any way unlawful.² The contributions in question were refunded, however, due to the legion of news articles regarding the Lippon Group. Two of the refund checks were cashed. See Exhibit 5 (Copies of canceled checks). The remaining uncashed checks were subsequently voided by the campaign in its process of winding down. The contributions at issue are as follows:

| | | |
|-----------------------|---------------------------------|--------------------|
| Joseph Sund | Contribution: \$1,000, 12/23/93 | |
| | Refund: \$1,000, 10/18/96 | Check #8102 |
| | Void Refund: \$1,000, 4/15/97 | Check never cashed |
| Hylan Sund | Contribution: \$1,000, 12/23/93 | |
| | Refund: \$1,000, 10/18/96 | Check #8101 |
| | Void Refund: \$1,000, 4/15/97 | Check never cashed |
| Charles L. Dequeljoe: | Contribution: \$1,000, 12/23/94 | |
| | Refund: \$1,000, 10/18/96 | Check #8093 |
| | Void Refund: \$1,000, 4/15/97 | Check never cashed |
| Christina M. Yeh | Contribution: \$1,000, 12/23/97 | |
| | Refund: \$1,000, 10/18/96 | Check #8094 |
| | Void Refund: \$1,000, 4/15/97 | Check never cashed |
| David Yeh | Contribution: \$1,000, 12/23/93 | |
| | Refund: \$1,000, 10/18/96 | Check #8095 |
| | Void Refund: \$1,000, 4/15/97 | Check never cashed |
| Tay K. Tin | Contribution: \$500, 12/23/93 | |
| | Refund: \$500, 10/18/96 | Check #8096 |
| | Void Refund: \$500, 4/15/97 | Check never cashed |
| Angus Setiawan | Contribution: \$1,000, 12/23/93 | |
| | Refund: \$1,000, 10/18/96 | Check #8098 |
| | Void Refund: \$1,000, 4/15/97 | Check never cashed |

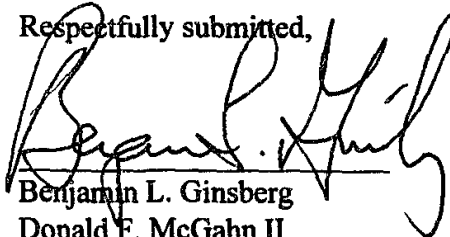
² The standard record retention policy of the Committee is to keep campaign records, including documents pertaining to contributions, "for three years after the report to which such records and accounts relate is filed." 11 C.F.R. § 102.9(c). Accordingly, the Committee has no original documents pertaining to the contributions at issue, all of which were made at the end of 1993 and reported on the Committee's year-end report filed with the Commission on or before January 31, 1994.

The complaint's allegation that the Committee never issued these checks is absurd, and is rebutted by the two cashed checks. As for the allegation that there is some sort of agreement with Lippo, Respondents explicitly deny the accusation. See Exhibit 2 (Affidavit of Larry Pressler). Accordingly, this unsubstantiated allegations must also be dismissed.

III. CONCLUSION

For the foregoing reasons, Respondents respectfully request that the Commission take no further action in the matter, and dismiss the complaint.

Respectfully submitted,



Benjamin L. Ginsberg
Donald F. McGahn II
PATTON BOGGS LLP
2550 M Street, N.W.
Washington, DC 20037
(202) 457-6000

Counsel for Respondents

Charge: Pressler misusing campaign funds

By LARRY BIVINS

Argus Leader Washington bureau
WASHINGTON — Former U.S. Sen. Larry Pressler, R-S.D., who lost his re-election bid two years ago, used leftover campaign money to pay himself more than \$8,000 for record storage, he recently reported to the Federal Election Commission.

That payment comes on top of earlier transactions — including \$12,000 for storage paid to a company that services Pressler's mortgage on a row-house here. Roger Andral, a longtime Democratic activist from Brandon, S.D., has filed a complaint against

Pressler with the FEC over those transactions.

"I am concerned that several violations of federal election law may have been committed by the 'Friends of Larry Pressler' committee, and I am filing this complaint with the expectation that an investigation and enforcement action will be taken by the Federal Election Commission," Andral said in his Aug. 15 complaint.

Pressler, a Republican who served three terms in the Senate before he was defeated by Democrat Tim Johnson two years ago, paid himself \$8,693.60 in January as a

"long term record storage fee," his filing with the FEC for the first half of 1998 shows.

The FEC prohibits converting campaign funds to personal use. FEC spokeswoman Kelly Huff confirmed that Andral had filed a complaint. She said agency policy prohibits her from further comment.

Pressler, who became a lobbyist and telecommunications consultant after his



Larry Pressler

defeat, was travelling abroad and unavailable for comment, his secretary said.

However, previously Pressler denied that his campaign used campaign funds to pay the mortgage of the Washington property.

"I have already paid out of my own pocket about \$10,000 and will have to spend another \$20,000 to \$30,000 of my own money to close my campaign," Pressler said. "Any suggestions that I am enriching myself is absurd since I will be out nearly \$30,000 to \$40,000 because there are insufficient funds in my campaign to pay campaign shut-

down expenses.

"Somebody has been shoping this story around and it almost verbatim of a story we received in February which we have a copy of but which was never published because it was inaccurate. There were 18 charges filed against me during my last campaign ... that I was misusing funds from my campaign. We answered each of those charges successfully and the story were dismissed over the past year. It was all political nonsense," Pressler said.

Andral said his action was triggered by a recent Gannett News Service report detailing

the \$12,000 storage fee payments and several other disbursements itemized in Pressler's campaign finance reports for 1997.

They included \$4,000 payments in April, July and November to Home Servicing of America. The firm is the mortgage servicing arm of Home Savings of America, an Irwindale, Calif., lender through which Pressler and his wife, Harriet, secured a \$181,600 mortgage in 1990 to purchase a three-story brick rowhouse near the Capitol.

"It was pretty obvious ...

Pressler: Campaign treasurer won't respond

Continued from 1D

that there was some creative writing going on," Andal said. "It all goes back to Larry Pressler paying Larry Pressler. I couldn't believe the FEC had not done anything."

While federal election law allows the use of campaign funds as reimbursement for storing records and other campaign-related items, it stipulates that fees should not exceed market rates.

A check with local storage companies found that the monthly rate for storage space large enough to hold the furnishings of a one-bedroom apartment is roughly \$110.

At that rate, Pressler would have paid \$1,320, compared with the \$20,000 he reported spending.

"I'm a little familiar with storage fees, and these seem to be extraordinarily high," Andal, a retired general contractor, said in an inter-

view.

"These are questions the FEC should be asking."

Daniel Nelson, a Sioux Falls businessman who was Pressler's campaign treasurer, would not discuss the campaign reports.

"You'll have to direct those questions to the senator," he said.

Larry Makinson, director of the Washington-based Center for Responsive Politics, which monitors campaign fund-raising, said Pressler's reports warrant investigation.

"This didn't look good before," he said of the 1997 report.

"When you add to it that he's paying himself for storage (again in 1998) it begs for an investigation."

Makinson likened Pressler's campaign fund spending to the case of former Sen. David Durenberger, a Republican from Min-

nesota, who pleaded guilty in 1995 to five misdemeanor charges that he billed his Senate office expense account for use of a Minnesota condominium that he owned.

Makinson said the transactions look as if Pressler is trying to do something that Congress forbids: pocket excess campaign funds.

"Congress is very explicit about this," Makinson said.

"You can't take it with you when you go, and it looks like he's trying to take it with him."

In filing his complaint, Andal cited as questionable other transactions that were reported by GNS.

Pressler's campaign committee in 1997 paid the Internal Revenue Service \$12,490 in taxes for which there was no explanation. That was in addition to the payroll taxes he paid the agency.

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BEFORE THE FEDERAL ELECTION COMMISSION

FRIENDS OF LARRY PRESSLER
AND DANIEL A. NELSON, TREASURER

Re: MUR 4795

AFFIDAVIT OF LARRY PRESSLER

I, Larry Pressler, hereby swear and/or affirm the following:

1. My name is Larry Pressler. I am over eighteen years of age. My current residence is, and has been since 1983, 115 4th Street, S.E., Washington, D.C. I have reviewed the complaint filed in the above-referenced Matter Under Review against my campaign committee, Friends of Larry Pressler and Daniel A. Nelson, Treasurer (the "Committee").

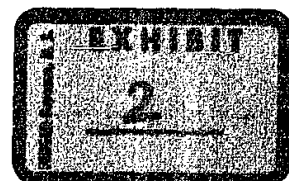
2. My wife and I jointly own property located at 611 2nd Street, N.E., Washington, D.C. (the "Property"). On the Property is an approximately 1400 square foot building, with four parking spaces. The Property is zoned commercial.

3. The Property is currently being used, and has been so used since November of 1996, as office space and storage to organize and manage the records of the Committee dating back to 1978.

4. As owners of the Property, we retained responsibility for payment of real estate taxes, maintenance and repair.

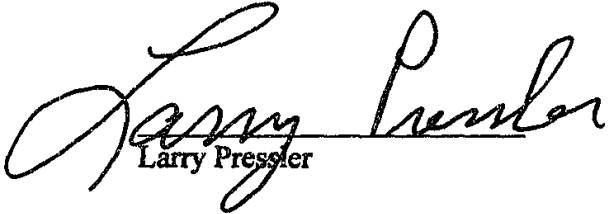
5. During all times material to this Matter Under Review, specifically since November of 1996, that property was not used as a personal residence.

6. Regarding the allegations concerning individuals allegedly affiliated with the Lippo Group, such allegations are false. The checks at issue, listed in the accompanying

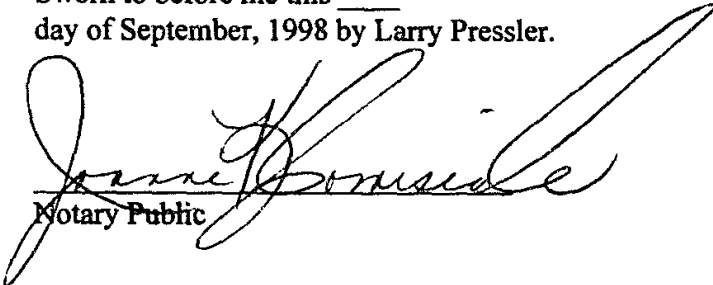


Response, were in fact issued, and there was no, and at no time has there been any, agreement, private or otherwise, made between myself, my campaign committee, and the Lippo Group.

IN WITNESS WHEREOF, I have executed this Affidavit this 25 day of September, 1998.


Larry Pressler

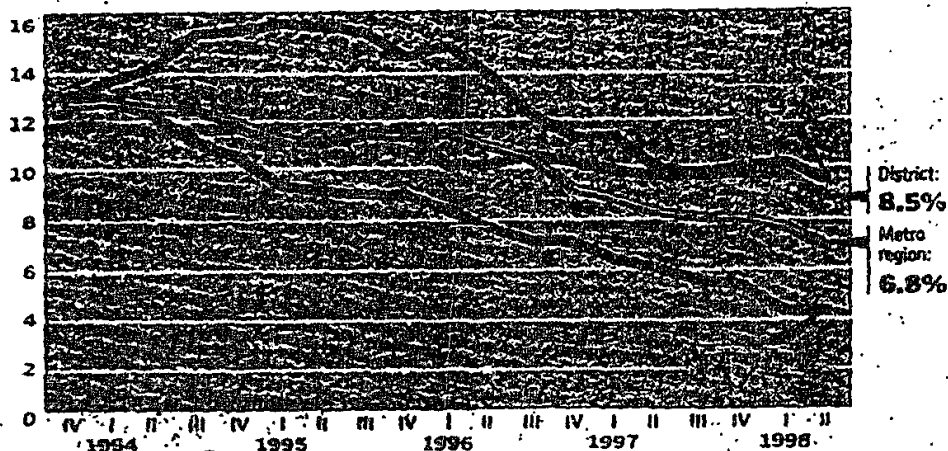
Sworn to before me this 25
day of September, 1998 by Larry Pressler.


Notary Public

My Commission Expires: August 31, 2003

The Office Market

METRO AREA VACANCY RATES



Wash. Post 8/31/98 p. 35 Business Section

OFFICE MARKET INDICATORS

As of August 3

| | District | Northern Virginia | Maryland suburbs | Metro area |
|---|----------|-------------------|------------------|------------|
| Direct space available immediately* | 7.91 | 4.18 | 5.77 | 17.85 |
| Total existing rentable space* | 101.00 | 119.67 | 72.18 | 292.85 |
| Average asking rents (annual dollars per square foot - full service) | 31.87 | 26.58 | 21.52 | 27.57 |

* In millions of square feet. Does not include flexible space; does include owner-occupied buildings.

SOURCE: Realty Information Group



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Figure 1. Schematic representation of the chemical structures of the monomers and polymers used in this study.

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FIRST BANK
OF SOUTH DAKOTA, N.A.
SIOUX FALLS, SD 57102
78-650934

10/18/96

SENATOR LARRY PRESSLER

PAY TO THE
ORDER OF

Felix Ma

\$ 1,000.00

One Thousand and 00/100 DOLLARS
FOR CREDIT OF BANK OF AMERICA
THE HONGKONG & SHANGHAI BANKING CO.
AMERICAN EXPRESS BANK N.Y.
913180000 00

Felix Ma
23210 Jusiper Avenue
Torrance, CA 90505

[Signature]

MEMO Refund

