FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4796

DATE FILMED 11-10-98 CAMERA NO. 2

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U. S. Department of Justice

Washington, D.C. 20530

JUN 19 1998

Pre-MUR 364

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RECEIVED FEDERAL ELECTION COMMISSION OFFICE OF GENERAL COUNSEL

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

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

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**U.S. Department of Justice**

*United States Attorney*
*District of Nevada*

*701 E. Bridger Ave*
*Suite 800*
*Las Vegas, Nevada 89101*

*Telephone (702)388-6336*
*Fax (702)388-6151*

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FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

June 11, 1998

Craig C. Donsanto, Esq.
Director, Election Crimes Branch
Public Integrity Section
United States Department of Justice
1400 New York Avenue, N.W., 12th Floor
Washington, D.C. 20005

Re: Ray Norvell and DeLuca Liquor & Wine, Ltd.

Dear Craig:

Enclosed are two checks, one in the amount of $10,000 from Ray Norvell and another in the amount of $50,000 from DeLuca Liquor & Wine, Ltd. Both are being sent to you for presentation to the Federal Election Commission as part of the Department's obligation to attempt to help Norvell and DeLuca Liquor resolve their civil liabilities for illegal campaign contributions.

Enclosed also is a copy of Norvell's executed plea agreement and DeLuca Liquor's agreement to resolve its civil liability with FEC.

Thanks for the assistance you provided on this matter. You are, as always, the GURU.

Sincerely,

KATHRYN E. LANDRETH
United States Attorney

Daniel R. Schiess

DANIEL R. SCHIESS
Assistant United States Attorney

DRS:llr
Encls.

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Public Integrity Section

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AGREEMENT between United States Attorney's Office for the District of Nevada and DeLuca Liquor & Wine, Ltd.

The United States, by and through Kathryn E. Landreth, United States Attorney for the District of Nevada, and Daniel R. Schiess, Assistant United States Attorney, United States Department of Justice, by and through Craig C. Donsanto, Director, Election Crimes Branch, Public Integrity Section, and DeLuca Liquor & Wine, Ltd., (DeLuca Liquor) enter into the following agreement regarding a resolution of DeLuca Liquor's criminal, civil, and administrative liability for illegal campaign contributions made by DeLuca Liquor in 1995 to the Dole for President campaign.

DeLuca Liquor recognizes that it has potential criminal, civil, and administrative liabilities arising out of certain campaign contributions it essentially made in 1995 to the Dole for President campaign and wishes to resolve its liabilities at this time. The parties have reached the following agreement to resolve these liabilities.

1. DeLuca Liquor admits to the following facts. In the spring of 1995, Ray E. Norvell, vice-president of DeLuca Liquor, made a $1,000.00 contribution to the Dole for President campaign and caused his spouse and four managers of DeLuca Liquor and affiliated entities and their spouses to each make $1,000.00 contributions to the Dole for President campaign with the understanding that DeLuca Liquor would reimburse them for their contributions. In May 1995, Mr. Norvell caused DeLuca Liquor to reimburse himself, his spouse, the four managers and their spouses for the contributions.

2. Counsels for DeLuca Liquor, Eugene E. Gozdecki and Kenneth A. Gross, have assured the United States Attorney's Office that Mr. Norvell caused DeLuca Liquor to reimburse the contributors because he was seeking to fulfill a pledge he had made to obtain contributions for the campaign and that he was not seeking anything in return for the contributions. Additionally, Mr. Gozdecki and Mr. Gross have informed the United States that Mr. Norvell should have attempted to obtain authority from his superiors regarding the contributions and that if he had done so, no authority would have been given.

3. Mr. Norvell has agreed to plead guilty to misdemeanor charges arising out of the contributions described above.

4. In light of the foregoing facts and representations and the agreement by Mr. Norvell to plead guilty to the charges, the United States Attorney's Office for the District of Nevada agrees not to prosecute DeLuca Liquor for crimes arising out of the contributions referred to above and for other crimes involving illegal contributions known to the United States Attorney's Office at this time. However, if Mr. Norvell does not enter his pleas of guilty or if he seeks to withdraw his guilty pleas, the United States Attorney's Office will be free to prosecute DeLuca Liquor for all crimes related to the contributions.

5. The parties recognize that the statute of limitations may expire on the criminal matters due to the conditional agreement of the United States not to prosecute DeLuca Liquor. Accordingly, DeLuca Liquor agrees to waive any challenge it may have regarding the expiration of the statute of limitations should the United States Attorney's Office seek to prosecute DeLuca Liquor at a future date for such crimes due to Mr. Norvell's failure to plead guilty as stated herein or attempt to withdraw such guilty pleas. In that context, DeLuca Liquor agrees that the statute of limitations would toll when DeLuca Liquor signs this agreement and would begin to run again if and when Mr. Norvell notifies this office in writing that he does not wish to enter guilty pleas as stated herein or that he intends to withdraw his guilty pleas if he enters them. The government would then have three months from that date to obtain an indictment against DeLuca Liquor

6. With respect to DeLuca Liquor's administrative and civil liabilities under the Federal Election Campaign Act (FECA), the parties agree to resolve the matter as stated below.

7. DeLuca Liquor understands that under the terms of the FECA, the Department of Justice lacks authority to bind the Federal Election Commission (FEC) in the imposition of administrative remedies under 2 U.S.C. § 437g(a)(5), and that the size of administrative remedies under FECA is a matter that is within the exclusive jurisdiction and discretion of the FEC. Nonetheless, DeLuca Liquor voluntarily desires to dispose of its entire liability for the FECA offenses for which it has admitted committing in this agreement, and the Department of Justice is willing to assist it in doing so. Accordingly, DeLuca Liquor voluntarily states that an administrative remedy in the amount of $50,000 would be an appropriate financial disposition of the noncriminal aspects of this matter, and the Department of Justice agrees that this sum is reasonable in view of the facts of this matter.

8. DeLuca Liquor agrees to tender a check in that amount made payable to the FEC at the time this agreement is executed. The Department of Justice (including the United States Attorney's Office for the District of Nevada) agrees to forward this check to the FEC, along with a copy of this agreement. In the event that the FEC should accept this sum as an appropriate noncriminal remedy for the FECA violations admitted to in this agreement, and after a conciliation agreement has been entered into by DeLuca with the Commission, no further proceedings (either criminal or administrative) will be undertaken against DeLuca Liquor by the Department of Justice (including the United States Attorney's Office for the District of Nevada) or the Commission for the FECA violations elsewhere admitted in this agreement. 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 DeLuca Liquor, and the issue of the amount of the appropriate administrative remedy will be proposed exclusively by the FEC.

9. DeLuca Liquor admits that its conduct violated 2 U.S.C. §§ 441b and 441f of the FECA, and that the FEC has the exclusive authority to seek civil penalties against him for those violations pursuant to 2 U.S.C. § 437g(a)(5). DeLuca Liquor does not admit that it acted knowingly and willfully. Solely for the purpose of resolving DeLuca Liquor's liability by agreement only, the United States agrees that DeLuca Liquor did not act knowingly and willfully. DeLuca Liquor agrees to submit to the FEC's jurisdiction, to cooperate with the FEC in its compliance proceedings against it including waiving all evidentiary privileges to which it may be entitled, to waive the applicable civil statute of limitations, and to enter into a conciliation agreement with the Commission under the provisions of 2 U.S.C. § 437g(a)(5). In the event of DeLuca Liquor's failure to comply with the terms of this paragraph, this agreement will be void and the Department of Justice (including the United States Attorney's Office for the District of Nevada) will, in that instance, have the right to prosecute DeLuca Liquor for such FECA violations.

KATHRYN E. LANDRETH
United States Attorney

DELUCA LIQUOR & WINE, LTD.

| | | | |
|---|---|---|---|
| DANIEL R. SCHIESS<br>Assistant United States Attorney | 4-23-98<br>DATE | EUGENE E. GOZDECKI, ESQ. | 4-24-98<br>DATE |
| CRAIG C. DONSANTO<br>Director, Election Crimes Branch<br>Public Integrity Section<br>U.S. Department of Justice | 4-23-98<br>DATE | KENNETH A. GROSS, ESQ.<br>Counsel for defendant NORVELL | 4/23/98<br>DATE |

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KATHRYN E. LANDRETH
United States Attorney
DANIEL R. SCHIESS
Assistant United States Attorney
701 East Bridger Avenue
Eighth Floor
Las Vegas, Nevada 89101
(702) 388-6336

JUN 19 3 01 PM '98

# UNITED STATES DISTRICT COURT

# DISTRICT OF NEVADA

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| | |
|---|---|
| UNITED STATES OF AMERICA<br>PLAINTIFF<br>vs<br>RAY E. NORVELL<br>DEFENDANT | CR-S-98-00167-PMP (LRL)<br><br>PLEA MEMORANDUM |

The United States, by and through Kathryn E. Landreth , United States Attorney for the District of Nevada, and Daniel R. Schiess, Assistant United States Attorney, United States Department of Justice, by and through Craig C. Donsanto, Director, Election Crimes Branch, Public Integrity Section, the defendant, **RAY E. NORVELL**, and the defendant's attorneys, Eugene E. Gozdecki and Kenneth A. Gross, submit this plea memorandum.

## A. PLEA AGREEMENT

The United States and the defendant have agreed to the following:

1. This plea agreement is not binding on the court.

2. The defendant will plead guilty to a two-count Information charging him with making illegal campaign contributions, a misdemeanor, in violation of 2 U.S.C. § 441b, and unlawfully causing the name of a person to be used in connection with the making of a campaign contribution, a misdemeanor, in violation of 2 U.S.C. § 441f.

3. The parties agree that the United States Sentencing Guidelines apply to this case but that under U.S.S.G § 2X5.1 there is no analogous Sentencing Guideline to the crimes charged in the Information. Accordingly, the parties agree that it is appropriate for this case to be disposed of pursuant to 18 U.S.C. § 3553(b), which allows the court to determine a sentence in light of the factors articulated in section 3553(a)(2) and sentences prescribed by the Sentencing Guidelines applicable to similar offenses and offenders and to the applicable policy statements of the Sentencing Commission. In consideration of the foregoing, the parties agree that the defendant should be sentenced to probation for one year and ordered to pay a fine in the amount of $100,000.00. The parties agree to recommend that defendant **NORVELL** be under no travel restriction while under probation.

4. In exchange for the concessions made by the United States in the instant plea agreement, the defendant knowingly and expressly waives his right to appeal any sentence that is consistent with that stated in paragraph 3 above. The defendant reserves only the right to appeal any sentence imposed to the extent, but only to the extent, that the sentence is greater than that agreed to by the parties in paragraph 3 above.

5. The defendant will pay the special assessment of $25.00 per count when he enters his plea of guilty.

6. The United States Attorney's Office for the District of Nevada will not bring any other charges against the defendant arising out of the facts of the investigation known to the United States at this time.

7. The United States Attorney's Office also agrees not to criminally prosecute DeLuca Liquor & Wine, Ltd., for crimes arising out of its corporate campaign contributions known to the United States at this time. However, should defendant **NORVELL** fail to enter his plea in this case or should he seek to withdraw his plea, the United States Attorney's Office will be free to prosecute DeLuca Liquor & Wine, Ltd., for the crimes arising out of its corporate campaign contributions known to the United States at this time.

B. GLOBAL RESOLUTION OF ADMINISTRATIVE AND CIVIL LIABILITIES WITH THE FEDERAL ELECTION COMMISSION

The defendant wishes to resolve his civil and administrative liabilities with the Federal Election Commission (FEC) in conjunction with the resolution of his criminal liability in this matter. Moreover, the defendant wishes to have the civil and administrative liability of DeLuca Liquor & Wine, Ltd., with the FEC resolved at this time as well. Accordingly, to the extent that the civil and administrative liabilities can be resolved in conjunction with the defendant's criminal liability, the parties agree to the following:

1. The defendant understands that he is not acting on behalf of DeLuca Liquor in conjunction with its resolution of its administrative and civil liabilities under the Federal Election Campaign Act (FECA), but only on behalf of himself while other individuals associated with DeLuca Liquor will act on behalf of DeLuca Liquor.

2. In the event that the civil and administrative liabilities of DeLuca Liquor cannot be resolved in conjunction with this plea memorandum, the defendant will not seek to withdraw his plea in this case.

3. The defendant admits that his conduct violated 2 U.S.C. §§ 441b and 441f of the FECA, and that the Federal Election Commission (FEC) has exclusive authority to seek civil remedies against him for those violations pursuant to 2 U.S.C. § 437g(a)(5).

4. The defendant agrees to submit to the FEC's jurisdiction, to cooperate with the FEC in its compliance proceedings against him, including waiving FEC notification procedures to which he may be entitled, all evidentiary privileges, and any statute of limitations which may be applicable to FEC compliance proceedings, and to enter into a conciliation agreement with the FEC and to pay whatever civil penalty the FEC deems appropriate pursuant to the provisions of 2 U.S.C. § 437g(a)(5). The United States and the defendant have agreed that an administrative and civil fine of $10,000 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.

5. The defendant agrees to tender a check in that amount made payable to the FEC at the time this agreement is executed. The Department of Justice agrees 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). 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, and this issue of the amount of the appropriate civil remedy will be left to the defendant and the FEC to resolve as if no attempt had been made by the Department of Justice, to assist with the resolution of this matter.

C. PENALTY

1. The maximum penalty for violating 2 U.S.C. §§ 441b and 441f is not more than one year imprisonment, a fine of not more than one hundred thousand dollars ($100,000.00), or both, for each violation.

2. The defendant is required to pay for the costs of his imprisonment, supervised release and probation, unless he establishes that he does not have the ability to pay such costs, in which case the court may impose an alternative sanction such as community service.

3. The defendant must pay a special assessment of twenty-five ($25.00) for each count of which he is convicted.

D. ELEMENTS

The FECA, 2 U.S.C. § 431 *et seq.*, in particular, 2 U.S.C. § 441b(a), prohibits corporations from making contributions or expenditures in connection with the nomination and election of candidates for federal office. Section 441b(a) also prohibits any officer of a corporation to consent to a prohibited contribution or expenditure.

. . .

Section 441f prohibits a person from making a contribution in the name of another person or knowingly permitting his or her name to be used to effect such a contribution. Section 441f is violated if a person gives funds to a straw donor, known as a "conduit," for the purpose of having the conduit pass the funds on to a federal candidate as his or her own contribution. A violation can also occur if a person reimburses a donor who has already given to a candidate, thereby converting the donor's contribution to his or her own. Under section 431(1) of FECA, the term "person" includes a corporation.

E. FACTS

In April and May 1995, defendant **NORVELL** was the vice president of DeLuca Liquor & Wine, Ltd., in Nevada. During May 1995, **NORVELL** made a $1,000.00 contribution to the Dole for President campaign and caused his spouse and four managers associated with DeLuca Liquor and their spouses to make separate $1,000.00 contributions to the Dole for President campaign. That campaign sought to have Bob Dole elected as the president of the United States.

In May 1995, **NORVELL** also caused DeLuca Liquor to reimburse himself, his spouse, the managers and their spouses for the contributions they made to the campaign.

F. ACKNOWLEDGMENT

The undersigned defendant, **RAY E. NORVELL,** acknowledges by his signature below that he has read this Memorandum of Plea Agreement, that he understands the terms and conditions, and the factual basis, set forth herein, that he has discussed these matters with his attorney, and that the matters set forth in this Memorandum, including those facts which support a plea of Guilty, are true and correct.

The undersigned defendant acknowledges that he has been advised, and understands, that by entering a plea of Guilty he is waiving, that is, giving up, certain rights guaranteed to him by law and by the Constitution of the United States. Specifically, he is giving up:

. . .

The right to proceed to trial by jury on the original charges, or to a trial by a judge if he and the United States both agree;

The right to confront the witnesses against him at such a trial, and to cross-examine them;

The right to remain silent at such trial, with such silence not to be used against him in any way;

The right, should he so choose, to testify in his own behalf at such a trial;

The right to compel witnesses to appear at such a trial, and to testify in his behalf; and,

The right to have the assistance of an attorney at all stages of such proceedings.

The undersigned defendant, his attorney, and the attorney for the United States acknowledge that this Memorandum of Plea Agreement is the entire agreement negotiated by and agreed to by and between the parties, and that no other promise has been made or implied by either the defendant, his attorney, or the attorney for the United States.

KATHRYN E. LANDRETH
United States Attorney

4-23-98
DANIEL R. SCHIESS — DATE
Assistant United States Attorney

4-23-98
CRAIG C. DONSANTO — DATE
Director, Election Crimes Branch
Public Integrity Section
U.S. Department of Justice

DELUCA LIQUOR & WINE, LTD.

4-28-98
RAY E. NORVELL — DATE
Defendant

4-24-98
EUGENE E. GOZDECKI, ESQ. — DATE
Counsel for defendant **NORVELL**

4/23/98
KENNETH A. GROSS, ESQ. — DATE
Counsel for defendant **NORVELL**

KATHRYN E. LANDRETH
United States Attorney
DANIEL R. SCHIESS
Assistant United States Attorney
701 East Bridger Avenue
Eighth Floor
Las Vegas, Nevada 89101
(702) 388-6336

JUN 19 3 01 PM '98

# *UNITED STATES DISTRICT COURT*

## *DISTRICT OF NEVADA*

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|---|---|
| UNITED STATES OF AMERICA<br>PLAINTIFF<br>vs<br>RAY E. NORVELL<br>DEFENDANT | CRIMINAL INFORMATION<br>CR-S-98-<br>VIOLATION: 2 U.S.C.§ 441b - Illegal Corporate Contributions, and 2 U.S.C. § 441f - Illegal Conduit Contributions |

At all times material to this Information:

INTRODUCTION

1. DeLuca Liquor and Wine, Ltd., ("DeLuca Liquor") was a Nevada Corporation.

2. **RAY E. NORVELL** was the vice-president in charge of the day-to-day operations of DeLuca Liquor.

3. The Federal Election Campaign Act, Title 2, United States Code, Section 431 et seq., ("The Campaign Act"), in particular, Title 2, United States Code, Section 441b(a) specifically prohibits corporations from making contributions or expenditures in connection with the nomination and election of candidates for federal office. Section 441b(a) also prohibits any officer of a corporation from consenting to a prohibited contribution or expenditure. Section 441f prohibits a person from making a contribution in the name of another person or knowingly permitting his or her name to be used to effect such a contribution. The definition of "person" in the Campaign Act

includes a corporation. A violation can occur if a person reimburses a donor who has already given to a candidate, thereby converting the donor's contribution to that of the corporation

4. In May and June 1995, **NORVELL** made a contribution to the Dole for President, Inc., campaign and caused his spouse, and four of the managerial employees of DeLuca Liquor & Wine, Ltd., ("DeLuca Liquor") and affiliated corporations and their spouses to each make $1,000.00 contributions to the Dole for President, Inc., campaign, which campaign sought to have Robert Dole elected to the office of President of the United States. **NORVELL** also caused DeLuca Liquor and an affiliated corporation to reimburse himself and the employees for the contributions that they and their spouses made, which reimbursements were in the aggregate amount of more than $10,000.00.

## THE CHARGES

THE UNITED STATES ATTORNEY CHARGES:

### COUNT ONE
(Illegal Corporate Contributions)

1. The allegations contained in paragraphs one through four of the introduction to this Information are incorporated herein as if set forth in full.

2. On or about June 7, 1995, in the State and Federal District of Nevada,

**RAY E. NORVELL**

defendant herein, knowingly and willfully caused DeLuca Liquor to make illegal campaign contributions to the Dole for President, Inc., campaign, in violation of Title 2, United States Code, Section 441b(a) and Section 437g(d).

### COUNT TWO
(Illegal Conduit Contributions)

1. The allegations contained in paragraphs one through four of the introduction to this Information are incorporated herein as if set forth in full.

. . .

. . .

2. On or about June 7, 1995, in the State and Federal District of Nevada,

**RAY E. NORVELL**

defendant herein, knowingly caused a person to make a contribution to the Dole for President, Inc., campaign in the name of another person, in violation of Title 2, United States Code, Section 441f.

DATED this 30th day of April, 1998.

KATHRYN E. LANDRETH
United States Attorney

DANIEL R. SCHIESS
Assistant United States Attorney

U. S. Department of Justice

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

JUL 17 4 45 PM '98

Washington, D.C. 20530

Pre-MUR 364

JUL 17 1998

Mr. Lawrence M. Noble
General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Dear Mr. Noble:

Re: Ray E. Norvell and DeLuca Wine and Liquor, Ltd.

This responds to a request from Associate General Counsel Lois Lerner made during a telephone conversation with me on July 14, 1998.

On June 30, 1998, we referred to the Federal Election Commission (FEC) for appropriate administrative action under 2 U.S.C. § 437g(a)(5) three matters that arose out of criminal investigations conducted by this Department. These included violations of 2 U.S.C. § 441b and § 441f by a Las Vegas businessman named Ray E. Norvell, and by the corporation which employed Mr. Norvell, DeLuca Liquor and Wine, Ltd. (DeLuca). The substance of both matters was that Mr. Norvell contributed $10,000 in corporate funds through conduits to the 1996 presidential primary campaign of Bob Dole.

Mr. Norvell pleaded guilty to two Federal Election Campaign Act (FECA) crimes under 2 U.S.C. § 437g(d) and he has agreed to pay a $100,000 fine. In the course of plea negotiations with us, Mr. Norvell tendered $10,000 as a proposed civil settlement of his liability to the FEC. DeLuca was not prosecuted. However, in the course of its negotiations with us, it tendered $50,000 as a proposed civil settlement of its liability to the FEC. In our referral letter to the Commission, we recommended that the FEC accept the tendered sums in both instances as appropriate civil remedies for the offenses involved. However, we also specifically provided in the agreements into which we entered with these two offenders that the Department of Justice could not bind the Commission in its evaluation of the appropriate noncriminal remedy for these FECA offenses.

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You have requested amplification of the factual basis for these two matters. That follows:

In 1995, Mr. Norvell wished to give $10,000 to the presidential primary campaign of Republican candidate Bob Dole. He was aware that he could lawfully contribute only $1,000 in his own name, and he did not wish to take the time to solicit contributions from others who had both an affinity for Mr. Dole's candidacy and sufficient means to make lawful contributions in their own right. Thus, Mr. Norvell contacted four subordinate employees of DeLuca and requested them each to make $1,000 contributions in their own names and an additional $1,000 contribution in the name of their spouses. These requests were accompanied by assurances from Mr. Norvell that he would make these subordinate DeLuca employees whole financially for their political contributions from funds derived from the fisc of the DeLuca corporation. This activity generated eight $1,000 contributions to the 1996 Dole campaign that were made in the names of eight conduit contributors in violation of 2 U.S.C. § 441f, and the cost of these contributions was passed back to the corporate fisc of DeLuca by Mr. Norvell in violation of 2 U.S.C. § 441b(a).

Mr. Norvell also made a $1,000 contribution to Dole in his own name, and another $1,000 contribution in the name of his wife, under similar circumstances. The cost of these two contributions was again passed back to DeLuca's corporate fisc by Mr. Norvell. The Dole campaign accepted these donations, ignorant of the facts that rendered them illegal under 2 U.S.C. § 441b and § 441f.

In committing the FECA offenses summarized above, Mr. Norvell acted knowingly and wilfully, in the sense that he was aware of what FECA forbade -- including Sections 441b and 441f -- and violated its provisions notwithstanding that knowledge. See United States v. Curran, 20 F.3d 560 (3d Cir. 1994). However, he also was on a detour from an established corporate policy that forbade this sort of political contribution activity.

I trust that this information assists the Commission in ascertaining the appropriate civil remedy for these FECA offenders under 2 U.S.C. § 437g(a)(5). If I can assist you further, please let me know.

Sincerely,

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

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FEDERAL ELECTION
COMMISSION
SECRETARIAT

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AUG 5 1998

SENSITIVE

**MEMORANDUM**

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

SUBJECT: Pre-MUR 364
DeLuca Liquor and Wine, Ltd.
Ray E. Norvell

## I. BACKGROUND

On June 19, 1998, the Department of Justice referred two separate matters to the Commission which were subsequently designated Pre-MUR 364. One matter involved Sun-Land Products of California ("Sun-Land Products"), which became MUR 4772 and closed on July 31, 1998. The other matter involves DeLuca Liquor and Wine, Ltd. ("DeLuca Liquor") and its Vice-President, Ray E. Norvell. The Department of Justice has conducted a criminal investigation involving DeLuca Liquor and Mr. Norvell and has entered into a plea agreement with Mr. Norvell and a separate agreement with DeLuca Liquor. The instant memorandum will deal solely with DeLuca Liquor and Mr. Norvell.

### (a) Ray E. Norvell

Under the terms of the plea agreement, Mr. Norvell has agreed to plead guilty to a two-count Information charging him with violating 2 U.S.C. §§ 441f and 441b(a), to pay a fine of $100,000, and be sentenced to one year probation. Pursuant to the agreement with Mr. Norvell, the United States Attorney's Office has agreed not to criminally prosecute DeLuca Liquor for "crimes arising out of its corporate campaign contributions known to the United States at this time."[1] The plea agreement states that Mr. Norvell wishes to resolve his civil and administrative liabilities with the Commission in conjunction with the resolution of his criminal liability in this matter. According to the plea agreement, Mr. Norvell wishes to have the civil and administrative liability of DeLuca Liquor with the Commission resolved simultaneously.

In the plea agreement Mr. Norvell admits that his conduct violated 2 U.S.C. §§ 441b and 441f and that the Commission "has exclusive authority to seek civil remedies against him for those violations pursuant to 2 U.S.C. § 437g(a)(5)." In addition, Mr. Norvell agrees to submit to the Commission's jurisdiction, to cooperate with the Commission in its compliance proceedings against him, "including waiving FEC notification procedures to which he may be entitled, all evidentiary privileges, and any statute of limitations which may be applicable to FEC compliance proceedings, and to enter into a conciliation agreement with the FEC and to pay whatever civil penalty the FEC deems appropriate pursuant to the provisions of 2 U.S.C. § 437g(a)(5)." The agreement states that the "United States and the defendant have agreed that an administrative and civil fine of $10,000 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 Department of Justice has forwarded a check to the Commission in the amount of $10,000 from Mr. Norvell.[2]

**(b) <u>DeLuca Liquor and Wine, Ltd.</u>**

An agreement dated April 23, 1998, between the United States Attorney's Office for the District of Nevada and DeLuca Liquor concerns a "resolution of DeLuca Liquor's criminal, civil, and administrative liability for illegal campaign contributions made by DeLuca Liquor in 1995 to the Dole for President campaign." The agreement states that "DeLuca Liquor recognizes that it has potential criminal, civil, and administrative liabilities arising out of certain campaign contributions it essentially made in 1995 to the Dole for President campaign and wishes to resolve its liabilities at this time."

Pursuant to the agreement, DeLuca Liquor agrees to submit to the Commission's jurisdiction, to cooperate with the Commission in its compliance proceedings including waiving all evidentiary privileges to which it may be

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[1] The agreement notes that should Ray Norvell fail to enter his plea in this case or should he seek to withdraw his plea, the United States Attorney's Office will be free to prosecute DeLuca Liquor for the crimes arising out of its corporate campaign contributions known to the United States at this time.

[2] The agreement states that in the event the Commission refuses to accept this sum, the check will be returned to Mr. Norvell, and this "issue of the amount of the appropriate civil penalty will be left to the defendant and the FEC to resolve as if no attempt had been made by the Department of Justice to assist with the resolution of this matter."

entitled, to waive the applicable civil statute of limitations, and to enter into a conciliation agreement with the Commission under the provisions of 2 U.S.C. § 437g(a)(5). A check from DeLuca Liquor in the amount of $50,000 has been forwarded to the Commission by the Department of Justice. In the agreement DeLuca Liquor admits that its conduct violated 2 U.S.C. §§ 441b and 441f, but "does not admit that it acted knowingly and willfully." The agreement states that "[s]olely for the purpose of resolving DeLuca Liquor's liability by agreement only, the United States agrees that DeLuca Liquor did not act knowingly and willfully." In light of Mr. Norvell's guilty plea, the United States Attorney's Office has agreed not to prosecute DeLuca Liquor for crimes arising out of the contributions at issue herein and "for other crimes involving illegal contributions known to the United States Attorney's Office at this time."[3]

## II. FACTUAL AND LEGAL ANALYSIS

In April and May of 1995 Mr. Norvell was the Vice-President of DeLuca Liquor, located in Las Vegas, Nevada. During May of 1995, Mr. Norvell made a $1,000 contribution to the Dole for President campaign and caused his spouse and four managers associated with DeLuca Liquor and their spouses to each make $1,000 contributions to the Dole for President campaign.[4] In May 1995, Mr. Norvell caused DeLuca Liquor to reimburse himself, his spouse, the four managers and their spouses for the contributions they made to the Dole campaign. The agreement between the U.S. Attorney's Office and DeLuca Liquor states that counsel for DeLuca Liquor have assured the U.S. Attorney's Office that Mr. Norvell caused DeLuca Liquor to reimburse the contributors because he was seeking to fulfill a pledge he had made to obtain contributions for the campaign and that he was not seeking anything in return for the contributions. The agreement notes that counsel for DeLuca Liquor "have informed the United States that Mr. Norvell should have attempted to obtain authority from his superiors regarding the contributions and that if he had done so, no authority would have been given."

The Commission's Audit Division has provided information to this Office showing that in May 1997, the Dole for President Committee refunded $10,000 to DeLuca Liquor because it was aware that DeLuca Liquor had reimbursed ten individuals for the contributions at issue. On August 20, 1997, the Dole for President Committee issued a check to the United States Treasury in the amount of $2,500 as a "Matching Funds Refund."(Attachment 1.) Additional information obtained from the Department of Justice on June 17, 1998, states that when the

[3] The agreement states that "if Mr. Norvell does not enter his pleas of guilty or if he seeks to withdraw his guilty pleas, the United States Attorney's Office will be free to prosecute DeLuca Liquor for all crimes related to the contributions."

[4] The Commission's Contributor Index for 1995-1996 lists a $1,000 contribution from Ray Norvell to the Dole for President Committee on June 7, 1995, and a $1,000 contribution from Carol Norvell to the Dole for President Committee on June 7, 1995.

Dole for President Committee originally accepted the donations it was ignorant of the "facts that rendered them illegal under 2 U.S.C. § 441b and § 441f." (Attachment 2.)

As an officer and agent of DeLuca Liquor, Mr. Norvell consented to the making of the contributions at issue and directed the reimbursements by DeLuca Liquor, in violation of 2 U.S.C. §§ 441b(a) and 441f. As to whether the violations were knowing and willful, the Criminal Information involving Ray Norvell states that he "knowingly and willfully caused DeLuca Liquor to make illegal campaign contributions" to the Dole campaign in violation of 2 U.S.C. §§ 441b(a) and 437g(d), and that he "knowingly caused a person to make a contribution" to the Dole campaign in the name of another person in violation of 2 U.S.C. § 441f. According to the Department of Justice's June 17 letter, "[i]n committing the FECA offenses summarized above, Mr. Norvell acted knowingly and wilfully [sic], in the sense that he was aware of what FECA forbade -- including Sections 441b and 441f -- and violated its provisions notwithstanding that knowledge." It is, therefore, the recommendation of this Office that the Commission find reason to believe that Ray E. Norvell knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

Insofar as Mr. Norvell was a corporate Vice-President who directed the activities at issue herein, this Office also recommends that the Commission find reason to believe that DeLuca Liquor violated 2 U.S.C. §§ 441b(a) and 441f. In addition, because Mr. Norvell had knowledge of the Act's prohibitions, it is this Office's view that Deluca Liquor could be found to have knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f. However, as discussed above, the agreement reached between the Department of Justice and DeLuca Liquor states that "[s]olely for the purpose of resolving DeLuca Liquor's liability by agreement only, the United States agrees that DeLuca Liquor did not act knowingly and willfully." According to Craig Donsanto at the Department of Justice, such language was included in an attempt to express the Department's position that the violations by DeLuca Liquor were not criminally knowing and willful. In light of the fact that the Commission has received a $50,000 check from DeLuca Liquor in settlement of this matter, and to avoid protracted proceedings, this Office does not recommend including knowing and willful findings against DeLuca Liquor.[5]

In addition to the reason to believe findings, this Office recommends that the Commission approve the attached conciliation agreement with DeLuca Liquor which provides for an admission of violations and a $50,000 civil penalty. This Office also recommends that the Commission approve the attached

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[5] After receiving the instant referral from the Department of Justice, this Office discussed the inclusion of this type of language with Craig Donsanto at the Department and he has agreed to not include it in future agreements.

conciliation agreement with Ray Norvell which provides for an admission of violations and a $10,000 civil penalty. This Office believes that the total amount of the civil penalties is acceptable in light of the fact that Ray Norvell has agreed to pay a $100,000 criminal fine.

Although ordinarily we would not proceed immediately with this matter under the Enforcement Priority System, this Office believes that the unusual circumstances of the matter warrant special handling. In this instance, an investigation already has been conducted by the Department of Justice, agreements have been entered into by Mr. Norvell and DeLuca Liquor, and both parties stand ready to enter into conciliation agreements with the Commission and are offering to pay a total of $60,000 in civil penalties. This matter is similar to MUR 4704 (American Family Life Assurance Company ("AFLAC") and MUR 4772 (Sun-Land Products of California) which the Office of Independent Counsel and the Department of Justice, respectively, referred to the Commission after reaching agreements with the respondents that they submit to the Commission's jurisdiction and pay a civil penalty. Accepting limited referrals such as this one where the evidence supports a finding and the respondents voluntarily agree to a civil penalty as part of that referral, is a way for the Commission to impact the process, expending only minimal resources, in a matter that would otherwise be closed without action.

## III. RECOMMENDATIONS

1. Open a MUR involving DeLuca Liquor and Wine, Ltd. and Ray E. Norvell.

2. Find reason to believe that DeLuca Liquor and Wine, Ltd. violated 2 U.S.C.§§ 441b(a) and 441f.

3. Find reason to believe that Ray E. Norvell knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

4. Enter into conciliation with DeLuca Liquor and Wine, Ltd. and Ray E. Norvell prior to findings of probable cause to believe.

5. Approve the attached Conciliation Agreements and Factual and Legal Analyses.

6. Approve the appropriate letters.

Attachments:
1. Audit Materials
2. Letter from DOJ
3. Conciliation Agreements (2)
4. Factual and Legal Analyses (2)

FEDERAL ELECTION COMMISSION
Washington, DC 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM MARJORIE W. EMMONS/LISA R. DAVIS
COMMISSION SECRETARY

DATE: AUGUST 10, 1998

SUBJECT: Pre-MUR 364 - Memorandum to the Commission
dated August 5, 1998.

The above-captioned document was circulated to the Commission on Wednesday, August 5, 1998

Objection(s) have been received from the Commissioner(s) as indicated by the name(s) checked below:

| | |
|---|---|
| Commissioner Aikens | _ |
| Commissioner Elliott | _ |
| Commissioner Mason | XXX |
| Commissioner McDonald | _ |
| Commissioner Sandstrom | _ |
| Commissioner Thomas | _ |

This matter will be placed on the meeting agenda for

Tuesday, August 18, 1998

Please notify us who will represent your Division before the Commission on this matter.

98043901013

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )
) Pre-MUR 364 MUR 4796
DeLuca Liquor and Wine, Ltd.; )
Ray E. Norvell )

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on August 18, 1998, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions with respect to Pre-MUR 364:

1. Open a MUR involving DeLuca Liquor and Wine, Ltd. and Ray E. Norvell.

2. Find reason to believe that DeLuca Liquor and Wine, Ltd. violated 2 U.S.C. §§ 441b(a) and 441f.

3. Find reason to believe that Ray E. Norvell knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

4. Enter into conciliation with DeLuca Liquor and Wine, Ltd. and Ray E. Norvell prior to findings of probable cause to believe.

5. Approve the Conciliation Agreements and Factual and Legal Analyses attached to the August 5, 1998 General Counsel's report.

(continued)

6. Approve the appropriate letters recommended in the General Counsel's August 5, 1998 report.

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

Attest:

8-19-98
Date

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

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 21, 1998

Kenneth A. Gross, Esquire
Skadden Arps, Slate, Meagher
and Flom, LLP
1440 New York Avenue, N.W.
Washington, D.C. 20005-2111

RE: MUR 4796
DeLuca Liquor and
Wine, Ltd.

Dear Mr. Gross:

This matter was referred to the Commission by the Department of Justice. Pursuant to an agreement between your client, DeLuca Liquor and Wine, Ltd., and the United States Attorney's Office for the District of Nevada, your client has agreed to submit to the Federal Election Commission's jurisdiction with regard to certain campaign contributions made in 1995. Under the terms of the plea agreement, your client has agreed to pay a $50,000 civil penalty to the Federal Election Commission in connection with the violations.

Based upon the information contained in the plea agreement, on August 18, 1998, the Federal Election Commission found that there is reason to believe DeLuca Liquor and Wine, Ltd. 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.

Kenneth A. Gross, Esquire
Page 2

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

98043901017

**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

**RESPONDENT**: DeLuca Liquor and Wine, Ltd. **MUR:** 4796

This matter was referred to the Commission by the United States Department of Justice. The Department of Justice has conducted a criminal investigation involving DeLuca Liquor and Wine, Ltd. ("DeLuca Liquor") and has entered into an agreement with DeLuca Liquor.

An agreement dated April 23, 1998, between the United States Attorney's Office for the District of Nevada and DeLuca Liquor concerns a "resolution of DeLuca Liquor's criminal, civil, and administrative liability for illegal campaign contributions made by DeLuca Liquor in 1995 to the Dole for President campaign." The agreement states that "DeLuca Liquor recognizes that it has potential criminal, civil, and administrative liabilities arising out of certain campaign contributions it essentially made in 1995 to the Dole for President campaign and wishes to resolve its liabilities at this time."

Pursuant to the agreement, DeLuca Liquor agrees to submit to the Commission's jurisdiction, to cooperate with the Commission in its compliance proceedings including waiving all evidentiary privileges to which it may be entitled, to waive the applicable civil statute of limitations, and to enter into a conciliation agreement with the Commission under the provisions of 2 U.S.C. § 437g(a)(5). A check from DeLuca Liquor in the amount of $50,000 has been forwarded to the Commission by the Department of Justice. In the agreement DeLuca Liquor admits that its conduct violated 2 U.S.C. §§ 441b(a) and 441f, but "does not admit that it acted knowingly and willfully." The agreement states that "[s]olely for the purpose of resolving DeLuca's Liquor's liability by agreement only, the United States agrees that DeLuca Liquor did not act knowingly and willfully."

In April and May of 1995, Ray E. Norvell was the Vice-President of DeLuca Liquor, located in Las Vegas, Nevada. During May of 1995, Mr. Norvell made a $1,000 contribution to the Dole for President campaign and caused his spouse and four managers associated with DeLuca Liquor and their spouses to each make $1,000 contributions to the Dole for President campaign.[1] In May 1995 Mr. Norvell caused DeLuca Liquor to reimburse himself, his spouse, the

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[1] The Commission's Contributor Index for 1995-1996 lists a $1,000 contribution from Ray Norvell to the Dole for President Committee on June 7, 1995, and a $1,000 contribution from Carol Norvell to the Dole for President Committee on June 7, 1995.

four managers and their spouses for the contributions they made to the Dole campaign. The Commission's Audit Division has provided information to this Office showing that in May 1997 the Dole for President Committee refunded $10,000 to DeLuca Liquor because it was aware that DeLuca Liquor had reimbursed ten individuals for the contributions at issue.

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, and it is unlawful for any officer or director of any corporation to consent to any contribution or expenditure by the corporation. 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.

As an officer and agent of DeLuca Liquor, Mr. Norvell consented to the making of the contributions and directed the reimbursements by DeLuca Liquor, in violation of 2 U.S.C. §§ 441f and 441b(a). Therefore, there is reason to believe that DeLuca Liquor and Wine, Ltd. violated 2 U.S.C. §§ 441f and 441b(a).

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 21, 1998

Kenneth A. Gross, Esquire
Skadden Arps, Slate, Meagher
and Flom, LLP
1440 New York Avenue, N.W.
Washington, D.C. 20005-2111

RE: MUR 4796
Ray E. Norvell

Dear Mr. Gross:

This matter was referred to the Commission by the Department of Justice. Pursuant to a plea agreement entered into by your client, Ray E. Norvell, your client has agreed to submit to the Federal Election Commission's jurisdiction with regard to certain campaign contributions made in 1995. Under the terms of the plea agreement, your client has agreed to pay a $10,000 civil penalty to the Federal Election Commission in connection with the violations.

Based upon the information contained in the plea agreement, on August 18, 1998, the Federal Election Commission found that there is reason to believe Ray E. Norvell 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:** Ray E. Norvell **MUR:** 4796

This matter was referred to the Commission by the United States Department of Justice. The Department of Justice has conducted a criminal investigation involving DeLuca Liquor and Wine, Ltd. ("DeLuca Liquor"), a corporation located in Las Vegas, Nevada, and Ray E. Norvell, Vice-President of DeLuca Liquor. The Department of Justice has entered into a plea agreement with Mr. Norvell.

Under the terms of the plea agreement, Mr. Norvell has agreed to plead guilty to a two-count Information charging him with violating 2 U.S.C. §§ 441f and 441b(a), to pay a fine of $100,000, and be sentenced to one year probation. According to the agreement, Mr. Norvell wishes to resolve his civil and administrative liabilities with the Commission in conjunction with the resolution of his criminal liability in this matter. In addition, Mr. Norvell wishes to have the civil and administrative liability of DeLuca Liquor with the Commission resolved simultaneously.

Under the terms of the plea agreement, Mr. Norvell admits that his conduct violated 2 U.S.C. §§ 441b and 441f and that the Commission "has exclusive authority to seek civil remedies against him for those violations pursuant to 2 U.S.C. § 437g(a)(5)." In addition, Mr. Norvell agrees to submit to the Commission's jurisdiction, to cooperate with the Commission in its compliance proceedings against him, "including waiving FEC notification procedures to which he may be entitled, all evidentiary privileges, and any statute of limitations which may be applicable to FEC compliance proceedings, and to enter into a conciliation agreement with the FEC and to pay whatever civil penalty the FEC deems appropriate pursuant to the provisions of 2 U.S.C. § 437g(a)(5)."

The agreement states that the "United States and the defendant have agreed that an administrative and civil fine of $10,000 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 Department of Justice has forwarded a check to the Commission in the amount of $10,000 from Mr. Norvell.[1]



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[1] The agreement states that in the event the Commission refuses to accept this sum, the check will be returned to Mr. Norvell, and this "issue of the amount of the appropriate civil penalty will be

In April and May of 1995, Mr. Norvell was the Vice-President of DeLuca Liquor. During May of 1995, Mr. Norvell made a $1,000 contribution to the Dole for President campaign and caused his spouse and four managers associated with DeLuca Liquor and their spouses to each make $1,000 contributions to the Dole for President campaign.[2] In May 1995 Mr. Norvell caused DeLuca Liquor to reimburse himself, his spouse, the four managers and their spouses for the contributions they made to the Dole campaign.

The Commission's Audit Division has provided information to this Office showing that in May 1997 the Dole for President Committee refunded $10,000 to DeLuca Liquor because it was aware that DeLuca Liquor had reimbursed ten individuals for the contributions at issue. On August 20, 1997, the Dole for President Committee issued a check to the United States Treasury in the amount of $2,500 as a "Matching Funds Refund."

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, and it is unlawful for any officer or any director of any corporation to consent to any contribution or expenditure by the corporation. 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.

As an officer and agent of DeLuca Liquor, Mr. Norvell consented to the making of the contributions at issue and directed the reimbursements, in violation of 2 U.S.C. §§ 441b(a) and 441f. The Criminal Information involving Mr. Norvell states that he "knowingly and willfully caused DeLuca Liquor to make illegal campaign contributions" to the Dole campaign in violation of 2 U.S.C. §§ 441b(a) and 437g(d), and that he "knowingly caused a person to make a contribution" to the Dole campaign in the name of another person in violation of 2 U.S.C. § 441f. In addition, the Department of Justice has informed this office that Mr. Norvell was aware of the prohibitions of 2 U.S.C. §§ 441b(a) and 441f at the time of the contributions at issue herein. Therefore, there is reason to believe that Ray E. Norvell knowingly and willfully violated 2 U.S.C. § 441b(a) and § 441f.

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left to the defendant and the FEC to resolve as if no attempt had been made by the Department of Justice to assist with the resolution of this matter."

[2] The Commission's Contributor Index for 1995-1996 lists a $1,000 contribution from Ray Norvell to the Dole for President Committee on June 7, 1995, and a $1,000 contribution from Carol Norvell to the Dole for President Committee on June 7, 1995.

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

OCT 8 1 32 PM '98

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )
)
Ray E. Norvell ) MUR 4796
DeLuca Liquor and Wine, Ltd. )
)

SENSITIVE

## GENERAL COUNSEL'S REPORT

## I. BACKGROUND

Attached are two conciliation agreements which have been signed by counsel for Ray E. Norvell and DeLuca Liquor and Wine, Ltd. (Attachment 1).

## II. RECOMMENDATIONS

1. Accept the attached conciliation agreements with Ray E. Norvell and DeLuca Liquor and Wine, Ltd.

2. Close the file.

3. Approve the appropriate letters.

Lawrence M. Noble
General Counsel

10/8/98
Date

BY: [signature]
Lois G. Lerner
Associate General Counsel

Attachments:
1--Conciliation Agreements

FEDERAL ELECTION COMMISSION
Washington, DC 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM MARJORIE W. EMMONS/LISA R. DAVIS
COMMISSION SECRETARY

DATE: OCTOBER 14, 1998

SUBJECT: MUR 4796 - General Counsel's Report dated October 8, 1998.

The above-captioned document was circulated to the Commission on Thursday, October 8, 1998.

Objection(s) have been received from the Commissioner(s) as indicated by the name(s) checked below:

| | |
|---|---|
| Commissioner Elliott | _ |
| Commissioner Mason | _ |
| Commissioner McDonald | _ |
| Commissioner Sandstrom | XXX |
| Commissioner Thomas | _ |
| Commissioner Wold | _ |

This matter will be placed on the meeting agenda for Tuesday, October 20, 1998.

Please notify us who will represent your Division before the Commission on this matter.

BEFORE THE FEDERAL ELECTION COMMISSION

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | MUR 4796 |
| Ray E. Norvell; | ) | |
| DeLuca Liquor and Wine, Ltd. | ) | |

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on October 20, 1998, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 4798:

1. Accept the conciliation agreements with Ray E. Norvell and DeLuca Liquor and Wine, Ltd., as recommended in the October 8, 1998 General Counsel's report.

2. Close the file.

3. Approve the appropriate letters as recommended in the October 8, 1998 General Counsel's report.

Commissioners Elliott, Mason, McDonald, Sandstrom, Thomas, and Wold voted affirmatively for the decision.

Attest:

10-21-98
Date

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

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 23, 1998

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

RE: MUR 4796
Ray E. Norvell
DeLuca Liquor and Wine, Ltd.

Dear Mr. Donsanto:

This is in reference to the matter involving Ray E. Norvell and DeLuca Liquor and Wine, Ltd. which your office referred to the Federal Election Commission. On August 18, 1998, the Commission found that there was reason to believe Ray E. Norvell knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f, and that there was reason to believe that DeLuca Liquor and Wine, Ltd. violated 2 U.S.C. §§ 441b(a) and 441f. The respondents have each entered into a conciliation agreement in the matter providing for a total of $60,000 in civil penalties. This matter is now closed. A copy of each 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 Agreements

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 23, 1998

Kenneth A. Gross, Esquire
Skadden Arps, Slate, Meagher
And Flom, LLP
1440 New York Avenue, N.W.
Washington, D.C. 20005-2111

RE: MUR 4796
Ray E. Norvell
DeLuca Liquor and Wine, Ltd.

Dear Mr. Gross:

On October 20, 1998, the Federal Election Commission accepted the signed conciliation agreements and civil penalties submitted on behalf of your clients, Ray E. Norvell and DeLuca Liquor and Wine, Ltd., 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. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreements, however, will become a part of the public record.

Enclosed you will find copies of the fully executed conciliation agreements 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 Agreements

**BEFORE THE FEDERAL ELECTION COMMISSION**

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | MUR 4796 |
| DeLuca Liquor and Wine, Ltd. | ) | |
| | ) | |

**CONCILIATION AGREEMENT**

This matter was referred to the Federal Election Commission ("Commission") by the United States Department of Justice. The Commission found reason to believe that DeLuca Liquor and Wine, Ltd. ("Respondent") 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 have 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, DeLuca Liquor and Wine, Ltd., is a corporation.

2. During April and May of 1995, Ray E. Norvell, was a Vice-President of DeLuca Liquor and Wine, Ltd.,

3. During April and May of 1995, Ray E. Norvell made a $1,000 contribution to the Dole for President Committee, a federal political committee, and caused his spouse and four managers associated with Respondent, DeLuca Liquor and Wine, Ltd., and their spouses to each make $1,000 contributions to the Dole for President Committee.

4. In May 1995 Ray E. Norvell caused Respondent, DeLuca Liquor and Wine, Ltd., to reimburse himself, his spouse, the four managers and their spouses for the contributions they made to the Dole for President Committee.

5. Ray E. Norvell, caused Respondent, DeLuca Liquor and Wine, Ltd., to reimburse the contributions because he was seeking to fulfill a pledge he had made to obtain contributions for the Dole for President Committee.

6. Respondent, DeLuca Liquor and Wine, Ltd., contends that Vice-President Ray E. Norvell should have attempted to obtain authority from his superiors regarding the contributions and that if he had done so, no authority would have been given.

7. In May 1997 the Dole for President Committee refunded $10,000 to Respondent, DeLuca Liquor and Wine, Ltd.

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, and it is

unlawful for any officer or director of any corporation to consent to any contribution or expenditure by the corporation.

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, DeLuca Liquor and Wine, Ltd., violated 2 U.S.C. §§ 441b(a) and 441f by reimbursing, at the direction of its Vice-President, Ray E. Norvell, ten individuals for contributions they made to the Dole for President Committee.

VI. Respondent, DeLuca Liquor and Wine, Ltd., will pay a civil penalty to the Federal Election Commission in the amount of Fifty Thousand dollars ($50,000), 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: ______________________ 10/22/98
Lois G. Lerner
Associate General Counsel
Date

FOR THE RESPONDENT:

______________________ Oct 6, 1998
(Name) Kenneth A. Gross
(Position) Skadden Arps Attorney
Date

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

OCT 6 12 00 PM '98

**BEFORE THE FEDERAL ELECTION COMMISSION**

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | MUR 4796 |
| Ray E. Norvell | ) | |
| | ) | |

**CONCILIATION AGREEMENT**

This matter was referred to the Federal Election Commission ("Commission") by the United States Department of Justice. The Commission found reason to believe that Ray E. Norvell ("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. During April and May of 1995, Respondent, Ray E. Norvell, was a Vice-President of DeLuca Liquor and Wine, Ltd., a corporation located in Las Vegas, Nevada.

2. During April and May of 1995, Respondent, Ray E. Norvell, made a $1,000 contribution to the Dole for President Committee, a federal political committee, and caused his spouse and four managers associated with DeLuca Liquor and Wine, Ltd., and their spouses to each make $1,000 contributions to the Dole for President Committee.

3. In May 1995 Respondent, Ray E. Norvell, caused DeLuca Liquor and Wine, Ltd. to reimburse himself, his spouse, the four managers and their spouses for the contributions they made to the Dole for President Committee.

4. Respondent, Ray E. Norvell, caused DeLuca Liquor and Wine, Ltd., to reimburse the contributions because he was seeking to fulfill a pledge he had made to obtain contributions for the Dole for President Committee.

5. In May 1997 the Dole for President Committee refunded $10,000 to DeLuca Liquor and Wine, Ltd.

6. 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, and it is unlawful for any officer or any director of any corporation to consent to any contribution or expenditure by the corporation.

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

8. 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, Ray E. Norvell, knowingly and willfully violated 2 U.S.C. § 441b(a) and § 441f by consenting to the making of corporate contributions to the Dole for President Committee in the names of others.

VI. Respondent, Ray E. Norvell, will pay a civil penalty to the Federal Election Commission in the amount of Ten Thousand dollars ($10,000), 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: ______________________ 10/23/98
Lois G. Lerner — Date
Associate General Counsel

FOR RESPONDENT:

______________________ Oct 6, 1998
(Name) Kenneth A. Gross — Date
(Position) Skadden Arps
Attorney

FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

THIS IS THE END OF MUR # 4796

DATE FILMED 11-10-98 CAMERA NO. 2

CAMERAMAN [illegible]

9 8 0 4 3 9 0 1 0 3 8

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Date: 12/9/98

✓ Microfilm

______ Press

THE ATTACHED MATERIAL IS BEING ADDED TO CLOSED MUR 4796

98.04.391.0007

FEDERAL ELECTION COMMISSION
Washington, DC 20463

June 19,1998

MEMORANDUM

TO: Richard Pullen
Accounting Officer

FROM: Lois G. Lerner
Associate General Counsel

SUBJECT: Checks from Ray Norvell, Deluca Liquor & Wine, and Sun Diamond Growers

As part of a referral from the Department of Justice, this Office has received three checks totaling $140,000 from the above noted sources. Because the Department has assured them that the checks would not be negotiated until the Commission has concluded its dealings with them, please do not deposit the checks, but instead place them in a secure location. We anticipate being able to deposit the checks within the next several weeks.

98.04.391.0008

**DELUCA LIQUOR & WINE, LTD.**
2548 WEST DESERT INN ROAD
LAS VEGAS, NV 89109

011164

FIRSTAR BANK WAUSAU
WAUSAU, WISCONSIN

79-1160/759

PAY $50,000.00¢

| DATE | AMOUNT |
|---|---|
| 6/5/98 | $ 50,000.00 |

TO THE ORDER OF

FEDERAL ELECTION COMMISSION

TWO SIGNATURES REQUIRED

[redacted]

98.04.391.0009

RAY NORVELL TTEE
CAROL NORVELL TTEE
U/A DTD 12/22/92
BY RAY NORVELL
801 TROPHY HILLS DR
LAS VEGAS, NV 89134-6374

0215

CMA Cash Management Account

DATE June 5, 1998

25-80/440

PAY TO THE ORDER OF Federal Election Commission $ 10,000

ten thousand DOLLARS

Merrill Lynch

BANK ONE, BANK ONE, COLUMBUS, NA Columbus, Ohio 43271

MEMO

Ray P. Norvell

[redacted]

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

DEC 8 3 15 PM '98

98 04 391 0010

December 8, 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 **Ray Norvell,** check number **0215,** dated **June 5, 1998,** for the amount of **$ 10,000.00.** 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 $ 10,000.00 the ~~MUR~~/Case number is 4796 and in the name of Ray Norvell. Place this deposit in the account indicated below:

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

✓ Civil Penalties Account, 95-1099.160

__ Other: ______________________________

[signature] 12-8-98
Signature Date

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

DEC 8 3 14 PM '98

December 8, 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 **Deluca Liquor & Wine,** check number **011164,** dated **June 5, 1998,** for the amount of **$ 50,000.00.** 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 $50000.00, the MUR/Case number is 4796 and in the name of Deluca Liquor + Wine. Place this deposit in the account indicated below:

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

✓ Civil Penalties Account, 95-1099.160

__ Other: ____________________

Kim Stevens
Signature

12-8-98
Date

*Celebrating the Commission's 20th Anniversary*

YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

98.04.391.0011