

BAKER
&
HOSTETLER LLP
COUNSELLORS AT LAW

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WRITER'S DIRECT DIAL NUMBER

(202) 861-1504

September 21, 1999

Federal Election Commission
Office of the General Counsel
999 E Street, N.W.
Washington, D.C. 20463
Attention: Dawn Odrowski, Esq.

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF THE
GENERAL COUNSEL
SEP 22 11 01 AM '99

Re: MUR 4885 – Gary Jacobs/Laredo National Bank.

Dear Ms. Odrowski:

Enclosed with this letter are the responses and documents requested in your letter of September 3, 1999. The responses are earnest efforts from my clients to respond completely to your office's additional inquiries. Some responses still remain equivocal on some details. The two principal reasons for this are not difficult to understand: (1) the time between the events and the inquiries; and (2) the somewhat routine nature of some of the underlining actions.

If you should have additional questions, please do not hesitate to contact me. I would be happy to attempt to resolve any remaining issues your office may have in regard to this matter. Thank you for your cooperation.

Sincerely yours,



Mark Braden

EMB/rvn

Enclosures

#1.

As an initial matter, we note that the copy you provided of the March 27, 1995 letter from Haley Barbour to Gary Jacobs (MURLNB 00012) cuts off the second sentence of the legend or disclaimer language you refer to on page 4 of your May 17 response to the factual and legal analysis. We would appreciate it if you could provide a copy containing the full disclaimer.

Response:

Enclosed is copy of letter showing the full disclaimer. (See Exhibit 1)

#2

Your response to the factual and legal analysis states that, "as evidenced from the very detailed examination by the Comptroller of Currency, Laredo National Bank has never reimbursed Mr. Jacobs for any political contributions" other than the April 5, 1995 reimbursement. Mr. Jacobs' affidavit references past political contributions in Paragraph 12, but makes no statements regarding reimbursements of such contributions. If possible, it would be helpful to our investigation if Mr. Jacobs could provide a supplemental affidavit stating that he has never been reimbursed for past political contributions.

Response:

Please see affidavit attached. (Exhibit 2)

#3

"Paragraph 2 of the Jacobs' affidavit states that Mr. Jacobs told Ms. Mosbacher that he believed that banks were treated differently than other corporations and could not make contributions to political events. Please explain the basis for Mr. Jacobs' belief.

Response:

Mr. Jacobs states that he has long been aware of a general prohibition against national banks making political contributions of any kind.

Based on Mr. Jacobs' experience, during national presidential election campaign, Mr. Jacobs has received phone calls from both political parties pressuring him in his capacity as president of the bank to make political contributions either from the bank or the holding company. In this case, Mr. Jacobs specifically recalls conversations initiated by various members of the staff of the Republican National Committee and/or the Eagles organization telling him that he was wrong, and that there were some eligible events for financial institutions to contribute to, the one in question being such an event.

Mr. Jacobs specifically recalls the call from Mrs. Mosbacher and she told him that she was going to send him a list of other banks that had previously given to such events. This list was included in the Fedex package that she sent him to Colorado.

#4

Paragraph 2 also references receipt of a federal express package of materials from Ms. Mosbacher. Please clarify which of the documents produced were contained in that package. From our review of Ms. Mosbacher's December 20, 1994 memo, it appears that the package was comprised of Document Nos. MURLNB 000086-90, 36-39 and 45-83.

Were Document Nos.:

MURLNB 000031-34 (Dec. 13, 1994 Hess memo)

000035 (Excerpt from FEC Campaign Guide)

000040 (Summary of Individual 1994 Contribution Limits)

and 000041-44 (FEC "Foreign Nationals" brochure)

also part of that package? If not, please explain how these documents came to be in the possession of your clients.

Response:

It appears that all Documents described above were a part of the Fedex package. The documents were inside the Fedex envelope when the envelope was found and pulled out of the file four years later.

#5

The Post-It note attached to the April 13, 1995 "thank you letter" from Haley Barbour (MURLNB 0000085 and 000009) appears to state, in pertinent part, "We should have a legal opinion in a file from Cleary or Abe." If there is such a legal opinion, please explain what this opinion was, when it was written, and produce a copy of it.

Response:

Although Mr. Jacobs recalls that the Bank had sought legal clarification in this matter in the past, we are unable to find which law firm, if any, provided that clarification.

#6

The Laredo National Bank reimbursement check copy produced (MURLNB 14-15) indicates it was deposited into a special account at the Bank belonging to Mr. Jacobs on April 5, 1995.

- (a) Please explain when Mr. Jacobs first became aware of this reimbursement.
- (b) Are all of Mr. Jacobs' expense checks from the Bank deposited into this account?
- (c) How often does he receive and review the statements for the bank account into which this check was deposited?
- (d) Please provide copies of the bank statements for the month of the deposit and the preceding and succeeding months.

Response:

- (a) On February 24, 1998, when it was brought to his attention by Ms. Cora Beth Atkins, National Bank Examiner.
- (b) Yes. All of Mr. Jacobs' expense checks from the Bank are deposited into this account.
- © Statements are received monthly, delivered to A. M. Guzman, who signs most of Mr. Jacobs' checks, and all when he is traveling. These statements are available for review by Mr. Jacobs but seldom, if ever, reviewed by him.
- (d) Enclosed are copies of bank statements for March, April, and May, 1995. **(Exhibit #3)**

In this regard, Ms. Guzman indicates that she manages Mr. Jacobs' accounts, and transfers from his money market account to his "Special Account" funds as necessary. In any event, there was more than adequate money, and Mr. Jacobs did not need reimbursement. He had, at that period, approximately \$3 million in available funds between the two accounts.

#7.

The Disbursement Request form seeking reimbursement for the \$15,000 contribution to the Republican Inaugural Gala (MURLNB 000002) contains a statement on the bottom of the form that invoices receipts, etc., should be taped to the back of the form.

- (a) Please identify each document submitted with this form and produce copies of any such documents not already produced, and
- (b) confirm that the signature on the "Officer Approval" line is Ms. Benavides.
- © Please also explain why Ms. Benavides typed "(Per Mr. Jacobs instructions)" (sic) on the Disbursement Request and have her supplement her affidavit, if appropriate.

Response:

- (a) Enclosed are copies of document submitted with Disbursement Request Form. Please see Exhibit 4 attached.
- (b) Enclosed is Affidavit of Ms. Paty Benavides confirming her signature on the "Officer Approval" line. (Exhibit 5)
- © Enclosed is Affidavit of Ms. Paty Benavides regarding this item. (Exhibit 6)

#8

In Paragraph 11 of his affidavit, Mr. Jacobs states that he does not remember when he put the notation "LNB expense" on the March 27, 1995 Barbour letter but speculates that he could have written it after he initially returned to his office from Arizona or after reviewing the "per Javier Trevino" notation. However, a comparison of Document Numbers MURLNB000011 and 000012 indicates that the "LNB expense" notation with Mr. Jacobs' initials was placed on the letter prior to the 4/4/95 "per Javier Trevino" notation written by Carlos Gutierrez.

(a) Does this refresh Mr. Jacobs' recollection about when and why he wrote "LNB expense" on the March 27 Barbour letter?

(b) If so, please supplement Mr. Jacobs' affidavit accordingly.

Response:

Mr. Jacobs clearly remembers having doubts about the permissibility of the Bank to contribute. He also clearly remembers that the package sent to him by Ms. Mosbacher obviously shows other banks making significant political contributions. People in Mr. Jacobs' office believe that in some point, before he left for Arizona, he initialed the Barber letter "LNB expense" and left it in **his office** with no instructions to send it to the Control department for payment. Mr. Jacobs often leaves pending correspondence and invoices in his office while he is traveling.

Mr. Jacobs believes that even after receiving the RNC package containing specific names and amounts of banks that had made political contributions, he still had doubts, but at some point initialed the Barber letter "LNB exp." and left it in his pending file on a desk in his office, and left on a trip.

He did not send it to Control Department for reimbursement nor did he ask his secretaries to act upon it.

Ms. Benavides believes that someone from RNC or the event must have called about the payment. When Mr. Jacobs called from Arizona (or she may have called him), she mentioned the call and he asked her to pay the \$15M from his personal account. Next day she saw the letter in his office that said "LNB Expense" and sought reimbursement from the bank without checking with him.

#9.

Carlos Gutierrez' affidavit states that he works under the direction of both Toribio Saucedo and Javier Trevino.

(a) Please clarify whether Mr. Saucedo was consulted by anyone regarding the Bank's April 4 reimbursement of Mr. Jacobs' \$15,000 contribution.

(b) Please also explain why the reimbursement request was "the type of transaction" that is normally reviewed and approved by Messrs. Saucedo or Treviño. See page 3 of May 17, 1999 response to factual and legal analysis.

Response:

(a) Mr. Toribio Saucedo does not recall being consulted regarding this transaction at the time this payment was made.

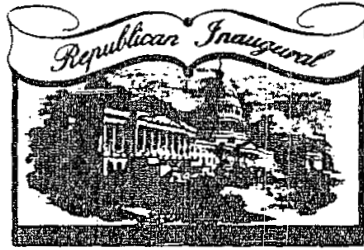
(b) Normally, any type of transaction that is considered unusual by Carlos Gutierrez, either because of the amount involved or because of the nature of the payment (non-recurring, etc.), is referred to Javier Treviño first, and if Mr. Treviño is not available, then to Mr. Toribio J. Saucedo.

#10.

Please clarify whether the handwriting on the top of the March 29, 1997 Tom Purcell Liddy letter to Gary Jacobs is contained on a Post-it note and identify whose handwriting it is.

Response:

The handwritten note on the top of the March 29, 1997 letter to Gary Jacobs is on a Post-it note and was written by Mrs. Patricia (Paty) Benavides. (Exhibit 7)



Haley Barbour
Chairman

March 27, 1995

Mr. Gary Jacobs
Laredo National Bank
700 San Bernado
Laredo, TX 78040

Dear Gary:

I would like to thank you for your participation and commitment of \$15,000.00 for the February 9 Official 1995 Republican Inaugural Gala. With your help, the success of this event exceeded all expectations.

We are trying to close our financial books on the Gala by March 31, 1995. If you could forward your outstanding pledge to us as soon as possible, it would be greatly appreciated.

Again, I am grateful for your support of the Republican Party. If you have any questions, please give me a call at (202) 863-8700.

Sincerely,

Haley Barbour

LNB
H. Jacobs
r

Haley Barbour
Chairman



March 27, 1995

Mr. Gary Jacobs
Laredo National Bank
700 San Bernado
Laredo, TX 78040

Dear Gary:

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Again, I am grateful for your support of the Republican Party. If you have any questions, please give me a call at (202) 863-8700.

Sincerely,

Haley Barbour

LAB
Expense
r

Per JAVIER TREVIÑO

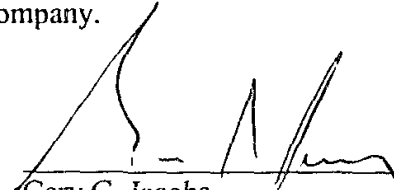
OK to pay BASED ON COMMENT

AT BOTTOM OF THIS LETTER.

OK
4/4/95

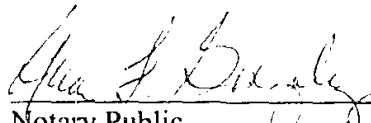
AFFIDAVIT

I, Gary G. Jacobs, hereby confirm that, to the best of my knowledge, and other than the reimbursement of April 4, 1995, I have never been reimbursed for past political contributions by either LNB or any other company.

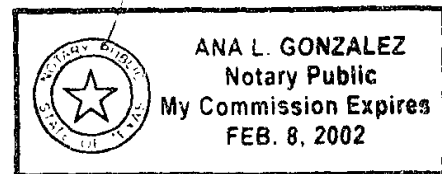


Gary G. Jacobs

SUBSCRIBED AND SWORN TO BEFORE ME
This 17th day of September, 1999.



Notary Public



My Commission expires Feb. 8, 2002

THE LAREDO NATIONAL BANK
DISBURSEMENT REQUEST

EXHIBIT 4 - #7

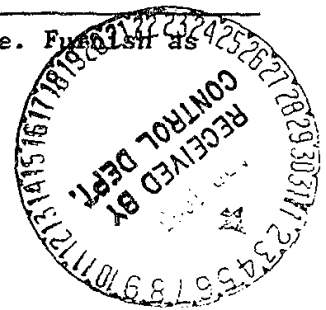
PAYEE: Gary G. Jacobs \$ 15,000.00

Tax I. D. # _____ or Social Security # _____

Address _____

FOR: Reimbursement of contribution to the 1995 Official Republican Inaugural
Gala.

Please write full explanation as to the nature of the expense. Furnish as much information as possible.



☒ ISSUE EXPENSE CHECK

☐ CREDIT CHECKING ACCOUNT #

☐ MAIL CHECK TO: _____

☒ SEND CHECK TO: Paty Benavides

CHARGE:

G/L ACCOUNT NO.	COST CENTER	SUB-LEDGER	AMOUNT
955-299	1311		15,000.-

SPECIAL INSTRUCTIONS: _____

OFFICER APPROVAL: [Signature]

(per Mr. Jacobs insured DATE)

DEPARTMENT: Executive Offices

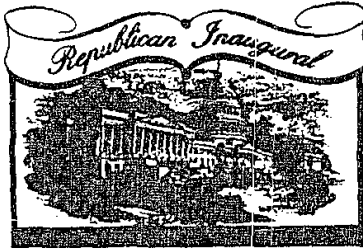
PAID
4-4-95

EXP. CHECK NO. 12962

APPROVAL [Signature]

AMT PAID 15,000.00

NOTE: TAPE (DO NOT STAPLE) INVOICES, RECEIPTS, ETC. TO BACK OF THIS FORM.



Haley Barbour
Chairman

March 27, 1995

Mr. Gary Jacobs
Laredo National Bank
700 San Bernado
Laredo, TX 78040

Dear Gary:

I would like to thank you for your participation and commitment of \$15,000.00 for the February 9 Official 1995 Republican Inaugural Gala. With your help, the success of this event exceeded all expectations.

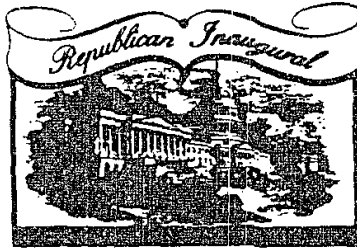
We are trying to close our financial books on the Gala by March 31, 1995. If you could forward your outstanding pledge to us as soon as possible, it would be greatly appreciated.

Again, I am grateful for your support of the Republican Party. If you have any questions, please give me a call at (202) 863-8700.

Sincerely,

Haley Barbour

LAB
Expense
r



Haley Barbour
Chairman

March 27, 1995

Mr. Gary Jacobs
Laredo National Bank
700 San Bernado
Laredo, TX 78040

Dear Gary:

I would like to thank you for your participation and commitment of \$15,000.00 for the February 9 Official 1995 Republican Inaugural Gala. With your help, the success of this event exceeded all expectations.

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Again, I am grateful for your support of the Republican Party. If you have any questions, please give me a call at (202) 863-8700.

Sincerely,

Haley Barbour

LAB
Expense
r

Per JAVIER TREVIÑO
OK to pay BASED ON COMMENT
AT BOTTOM OF THIS LETTER.

4/4/95

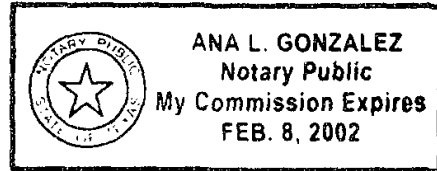
AFFIDAVIT

I, Patricia (Paty) Benavides, do hereby confirm that the signature/initials on the Officer Approval line of the Disbursement Request Form attached hereto is/are mine.

Patricia B. Benavides
Patricia B. Benavides

SUBSCRIBED AND SWORN TO BEFORE ME
This 17th day of September, 1999.

Ana L. Gonzalez
Notary Public



My Commission expires Feb. 8, 2002

THE LAREDO NATIONAL BANK
DISBURSEMENT REQUEST

EXHIBIT 5 - #7

PAYEE: Gary G. Jacobs \$ 15,000.00

Tax I. D. # _____ or Social Security # _____

Address _____

FOR: Reimbursement of contribution to the 1995 Official Republican Inaugural
Gala.

Please write full explanation as to the nature of the expense. Furnish as much information as possible.

☒ ISSUE EXPENSE CHECK

☐ CREDIT CHECKING ACCOUNT # _____

☐ MAIL CHECK TO: _____

☒ SEND CHECK TO: Paty Benavides



CHARGE:

G/L ACCOUNT NO.	COST CENTER	SUB-LEDGER	AMOUNT
955-299	1311		15,000.-

SPECIAL INSTRUCTIONS: _____

OFFICER APPROVAL: _____

(per Mr. Jacobs instruction)

PAID
4-4-95

DEPARTMENT: Executive Offices

EXP. CHECK NO. 12467

APPROVAL: _____

AMT PAID 15,000.00

NOTE: TAPE (DO NOT STAPLE) INVOICES, RECEIPTS, ETC. TO BACK OF THIS FORM.

AFFIDAVIT

I, Patricia (Paty) Benavides, do hereby state the following:

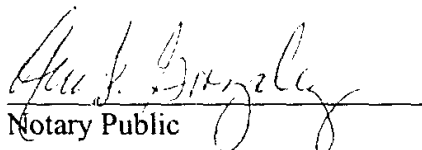
As I stated previously,

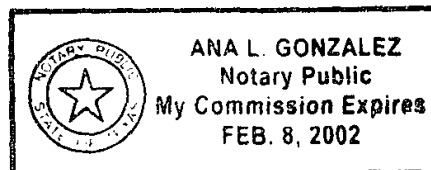
I do not exactly remember the specific circumstances surrounding the request for the reimbursement to Mr. Jacobs on April 4, 1995, for \$15,000. I must have found the March 27 Barbour letter in his pending correspondence and after looking at it, took it upon myself to type the reimbursement form without checking with him if that is what he intended to do.

I do not recall the specific reason why I typed "Per Mr. Jacobs instructions" on the Disbursement Request. It is possible that it was because I saw his notation on the letter. Again, I saw his initials on the letter but never asked him what he wanted me to do.


Patricia B. Benavides

SUBSCRIBED AND SWORN TO BEFORE ME
This 17th day of September, 1999.


Notary Public



My Commission expires Feb. 8, 2002



Republican
National
Committee

Counsel's Office

Tori said the bank
definitely cannot contribute.
He thinks the holding co.
may be able to but he'd
have to look into it?

May 29, 1997

EXHIBIT 7 - #10

Mr. Gary Jacobs
Chairman
Laredo National Bank
600 San Bernardo
Laredo, Texas 78040

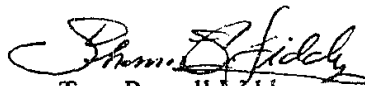
Dear Mr. Jacobs:

Please be advised that federally chartered banks are prohibited from contributing to the RGA through the Republican National State Elections Committee (RNSEC), the non-federal component of the RNC. There are some exceptions such as those provided for in the following Federal Election Commission Advisory Opinions, which may be of interest to you.

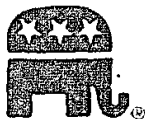
In Advisory Opinions 1981-61, 1981-49 and 1980-7, the Commission permitted a holding company of a federally chartered savings and loan association, and a wholly owned subsidiary of a federally chartered savings and loan association, respectively, to make contributions in connection with state and local elections, provided that the funds used to make the contributions did not result from the operation of the federally chartered entities. However, the Commission did not allow contributions to be made or used, directly or indirectly, in connection with any Federal election.

If there are any questions regarding this request, please do not hesitate to contact me at (202) 863-8638. Thank you.

Sincerely,


Tom Purcell Liddy
Deputy Counsel

enclosures:



Republican
National
Committee

Counsel's Office

To: 21

May 29, 1997

Mr. Gary Jacobs
Chairman
Laredo National Bank
600 San Bernardo
Laredo, Texas 78040

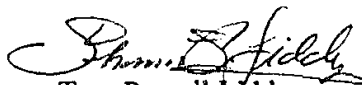
Dear Mr. Jacobs:

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In Advisory Opinions 1981-61, 1981-49 and 1980-7, the Commission permitted a holding company of a federally chartered savings and loan association, and a wholly owned subsidiary of a federally chartered savings and loan association, respectively, to make contributions in connection with state and local elections, provided that the funds used to make the contributions did not result from the operation of the federally chartered entities. However, the Commission did not allow contributions to be made or used, directly or indirectly, in connection with any Federal election.

If there are any questions regarding this request, please do not hesitate to contact me at (202) 863-8638. Thank you.

Sincerely,


Tom Purcell Eddy
Deputy Counsel

enclosures: