

SANDLER & REIFF, P.C.

6 E STREET SE  
WASHINGTON, DC 20003

JOSEPH E. SANDLER  
NEIL P. REIFF

TELEPHONE: (202) 543-7680  
FACSIMILE: (202) 543-7686

July 23, 1999

Ms. Deborah Rice  
Federal Election Commission  
Office of the General Counsel  
999 E Street, N.W.  
Washington, D.C. 20463

RE: MUR 4906

Dear Ms. Rice:

I am writing on behalf of my client, the Iowa Democratic Party ("IDP"), and Mary Maloney, as Treasurer, in the above referenced MUR. In this matter, the Commission has found Reason to Believe that the IDP has violated 2 U.S.C. § 434(a)(4)(A)(iii) by filing its 1998 Post-General Report 110 days late.

The IDP does not dispute the facts in this matter. The committee acknowledges that it failed to file the required information in a timely manner.

The facts that ultimately led to the IDP's failure to file its Post-General Report begins in late August of 1998. The IDP's longtime Comptroller, Darlene Russett, passed away suddenly. During Ms. Russett's tenure, the IDP was seen as a model state party committee within the Democratic party, and had an outstanding record of FEC compliance. Furthermore, the IDP and Ms. Russett maintained an excellent relationship with its assigned Reports Analyst, Debbie Chacona. To the best of my knowledge, the IDP has never been cited for failing to timely file any FEC reports, and have been very responsive to all RAD requests for information regarding its filings with the Commission.

Further compounding this tragic event is the fact that the accounting software which was utilized by the IDP for FEC compliance, as well as all of its other accounting needs, was custom made for Ms. Russett. Accordingly, the IDP staff was left to cope not only with the death of their longtime colleague, but also to begin to understand and work with the IDP's custom made software, for which it had made a considerable financial investment in its development.

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
JUL 23 1 03 PM '99

0537145271066

Ms. Deborah Rice  
July 23, 1999  
Page Two

During the period after Ms. Russett's death and the October Quarterly and Pre-General FEC reports, the committee assigned staff to begin to learn how to use the accounting software and to continue to data input committee activity into this system during the busy days leading to the November general election.

When the committee attempted to prepare the October Quarterly and Pre-General FEC reports, IDP staff had considerable difficulty working with the system for which only Ms. Russett had any working knowledge as to its nuances and operations. Nevertheless, although the IDP had apprehension about filing incomplete information, the committee filed incomplete Quarterly and Pre-General Reports with the Commission.

During the period between the Pre-General and Post-General reports, the IDP's staff, along with computer programmers worked on attempting to locate and correct data errors within their software. During this period, it became apparent to the IDP staff that the information that they had filed for both the October Quarterly and Pre-General report contained several errors. They also realized that it would take a concerted and timely effort to reconstruct all activity from the 1998 calendar year before they could feel comfortable that the information that was being provided by the accounting system for FEC reports was correct.

When the time came to file the Post-General report with the FEC in December of 1998, the committee was still very uncomfortable with the state of the information that it was receiving from the computer software. Due to the large amount of activity that was undertaken during this period, which had been data entered into the accounting system, it was not feasible to attempt to prepare the report by hand. Ultimately, the IDP Treasurer concluded that to file a report, and to certify on a Form 3X that the information was correct to the best of her knowledge would be false, and to do so would subject herself, and the IDP to criminal sanction. See 18 U.S.C. § 1001 (making it a federal criminal offense to knowingly file false information with a government agency or officer).<sup>1</sup> Accordingly, the IDP and its Treasurer, believed, in good faith, that it would be a more egregious violation of federal law to file a report which it knew had many errors contained within it, than not file any report at all.

The committee did not merely ignore its duty to file, and sent a letter to the Commission notifying it of its problems and that it would file a report as soon as possible. Furthermore, the IDP's new Comptroller, Steve Mandernach, kept his RAD contact, Debbie Chacona apprised of developments regarding the IDP's situation.

---

<sup>1</sup> The FEC cover page to Form 3X states that the "Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. § 437g."

Ms. Deborah Rice  
July 23, 1999  
Page Three

During the period from December 1998 through February 1999, the IDP worked feverishly to resolve its computer problems and prepare accurate reports for 1998. It was determined that in order to file accurate reports, the IDP needed to focus on its problems in a chronological fashion. Accordingly, the IDP determined that it could not file an accurate Post-General Report until it addressed, and corrected problems from the October Quarterly and Pre-General reporting periods. By February 4, 1999, the IDP was able to file an amended Pre-General Report. Subsequent to this date the IDP determined to prepare its Post-General Report and also to respond to RFAI requests that it had received regarding the October Quarterly and Pre-General Reports. Accordingly, it was not until late March of 1999 that the IDP was in a position to file a Post-General Report which the IDP believed was reasonably accurate.

The IDP took steps that they believed were legally prudent at the time. In hindsight, the IDP could have filed incomplete information and disclaimed its accuracy. They would have also followed up frequent status reports to their Reports Analyst in writing. However, since the election had already passed, and considering the severe penalties that the IDP believed it would have subjected itself to, it made a good faith decision that to file an inaccurate report would have been worse than filing no report at all. This is not a straightforward case of a committee who has ignored their responsibilities to file FEC reports. Rather, it is a committee that had been attempting to deal with the catastrophic, sudden loss of its longtime bookkeeper right before a general election. The IDP believed that the right thing to do was to prepare accurate reports, in a chronological manner in order to ensure that, in the long term, it would be able to properly file the 1998 reports and prepare to rebuild its compliance process for the 2000 election cycle.

Ms. Deborah Rice  
July 23, 1999  
Page Four

I look forward to discussing this matter with you.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Neil Reiff', with a stylized, flowing script.

Neil Reiff

STATEMENT OF DESIGNATION OF COUNSEL

MUR 8 4906  
NAME OF COUNSEL: Neil P. Reiff  
ADDRESS: 6 E St SE  
Washington DC 20003  
TELEPHONE: 202 543 7680

The above-named individual is hereby designated as my  
counsel and is authorized to receive any notifications and other  
communications from the Commission and to act on my behalf before  
the Commission.

7/6/99  
Date

Mary Maloney  
Signature

RESPONDENT'S NAME: Iowa Democratic Party  
ADDRESS: Mary Maloney, Treasurer  
5661 Fleur Dr.  
Des Moines IA 50321  
HOME PHONE: \_\_\_\_\_  
BUSINESS PHONE: 515-244-7292