

DEC 11 2000

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

BEFORE THE FEDERAL ELECTION COMMISSION

2000 DEC 11 P 12: 52

In the Matter of)
Serge Muller and)
Dear for Congress, Inc. and) MURs 4935 and 5057
Abraham Roth, as treasurer)
)

SENSITIVE

GENERAL COUNSEL'S REPORT #11

I. ACTIONS RECOMMENDED

Find reason to believe that Serge Muller made a contribution to Dear for Congress, Inc. (the "Committee") in violation of 2 U.S.C. § 441e and 11 C.F.R. § 110.4(a)(1). Find reason to believe that the Committee and Abraham Roth, as treasurer, accepted a contribution from Serge Muller in violation of 2 U.S.C. § 441e and 11 C.F.R. § 110.4(a)(2).

II. FACTUAL AND LEGAL ANALYSIS

On July 25, 2000, the Commission found reason to believe that Serge Muller violated 2 U.S.C. § 441a(a)(1)(A) and 11 C.F.R. § 110.1(b)(1) by contributing an aggregate amount of \$8,000 to the Committee. On that date, the Commission also found reason to believe that the Committee and Abraham Roth, as treasurer, violated 2 U.S.C. § 441a(f) and 11 C.F.R. § 110.9(a) by accepting excepting excessive contributions. The Commission offered to enter into negotiations with Mr. Muller directed towards reaching a conciliation agreement prior to a finding of probable cause to believe. This Office then sent a notification letter and conciliation agreement to the address listed for Mr. Muller in the Committee's disclosure reports. The United States Postal Service returned the documents to this Office on the basis of Mr. Muller having moved and not having provided a new address. This Office has continued to investigate the whereabouts of the respondent and has established that he is the president and chief executive officer of Rex Diamond Mining Corporation.

2000 DEC 11 12:52

Upon finding an address for Rex Diamond Mining Corporation in Belgium, this Office began confirmation of Mr. Muller's citizenship. A Dun & Bradstreet Business Information Report on Rex Diamond Mining Corporation revealed its principal antecedent as Serge Muller whose nationality is listed as "Zwitzerland." Attachment 1. As it appears that Mr. Muller may be a foreign national, he would be prohibited from making any contribution to the Committee. 2 U.S.C. § 441e. Therefore, this Office recommends that the Commission find reason to believe that Serge Muller made a contribution to the Committee in violation of 2 U.S.C. § 441e and 11 C.F.R. § 110.4(a).¹ Further, this Office recommends that the Commission find reason to believe that the Committee and Abraham Roth, as treasurer, accepted a prohibited contribution from Mr. Muller in violation of 2 U.S.C. § 441e and 11 C.F.R. § 110.4(a)(2).

III. DISCUSSION OF CONCILIATION

¹ However, if Mr Muller can demonstrate his United States citizenship, his contribution remains in excess of the Federal Election Campaign Act's limitations See 2 U S C § 441a(a)(1)(A)

IV. RECOMMENDATIONS

1. Find reason to believe that Serge Muller violated 2 U.S.C. § 441e and 11 C.F.R. § 110.4(a)(1);
2. Find reason to believe that Dear for Congress, Inc. and Abraham Roth, as treasurer, violated 2 U.S.C. § 441e and 11 C.F.R. § 110.4(a)(2);
3. Approve the attached Factual and Legal Analysis for Serge Muller;
4. Approve the attached Factual and Legal Analysis for Dear for Congress, Inc. and Abraham Roth, as treasurer; and
5. Approve the appropriate letters.

Lawrence M. Noble
General Counsel

12/8/00
Date

BY: Kim Leslie Bright
Kim Leslie Bright
Associate General Counsel

Attachments

1. Dun & Bradstreet Business Information Report
2. Factual and Legal Analysis for Serge Muller
3. Factual and Legal Analysis for Dear for Congress and Abraham Roth, as treasurer

Staff Assigned: Rhonda J. Vosdigh
Delbert K. Rigsby
Angela Whitehead Quigley