



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

January 18, 2001

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Marc E. Elias, Esquire
Perkins Coie, LLP
607 Fourteenth Street, NW
Washington, D.C. 20005-2011

RE: MURs 4935 and 5057
(Dear for Congress and Abraham
Roth, as Treasurer)

Dear Mr. Elias:

On July 25, 2000, the Federal Election Commission found that there is reason to believe your client violated 2 U.S.C. § 441a(f) and 11 C.F.R. § 110.9(a), provisions of the Federal Election Campaign Act of 1971, as amended (the "Act") and the Commission's regulations. Subsequently, on December 15, 2000, the Federal Election Commission found that there is reason to believe your client violated 2 U.S.C. § 441e and 11 C.F.R. § 110.4(a)(2). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

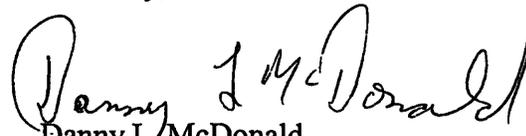
If your client is interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 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.

If you have any questions, please contact Delbert K. Rigsby or Angela Whitehead Quigley, the attorneys assigned to this matter, at (202) 694-1650.

Sincerely,


Danny L. McDonald
Chairman

Enclosure
Factual and Legal Analysis

cc: Noach Dear

**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

MURs: 4935 and 5057

RESPONDENT: Dear for Congress, Inc. and Abraham Roth, as treasurer

I. GENERATION OF MATTER

Matter Under Review (“MUR”) 5057 was generated from an audit of the activities of Dear for Congress, Inc. (“the Committee”) during the 1998 election cycle, undertaken in accordance with section 438(b) of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. §§ 431-451 (“the Act”).¹ MUR 4935 was generated by a Complaint filed by Sandy Aboulafia, Vice President of the Women’s Democratic Club of New York City alleging that the Committee accepted excessive contributions during the 1998 election cycle.

II. FACTUAL AND LEGAL ANALYSIS

A. Law

A contribution is a gift, subscription, loan, advance, deposit of money, or anything of value made by a person for the purpose of influencing any election for federal office. 2 U.S.C. § 431(8)(A); 11 C.F.R. § 100.7(a)(1). The Act and the Commission’s regulations prohibit any person from accepting a contribution in connection with an election from a foreign national. 2 U.S.C. § 441e(a); 11 C.F.R. § 110.4(a)(2).

B. Analysis

On July 25, 2000, the Commission 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

¹ The Federal Election Commission (the “Commission”) approved the Final Audit Report on January 13, 2000

excepting excessive contributions. One of the contributors to the Committee was Serge Muller, the president and chief executive officer of Rex Diamond Mining Corporation, a foreign company. A Dun & Bradstreet Business Information Report on Rex Diamond Mining Corporation revealed its principal antecedent as Serge Muller whose nationality is listed as "Zwitzerland." As it appears that Mr. Muller may be a foreign national, the Committee would be prohibited from accepting any contribution from him. 2 U.S.C. § 441e. Therefore, there is reason to believe that Dear for Congress, Inc. 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).²

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