

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

1
2
3 In the Matter of)
4) MURs 4935 and 5057
5 Dear for Congress, Inc., Dear 2000, Inc. and)
6 Friends of Noach Dear '93)
7

GENERAL COUNSEL'S REPORT #21

I. ACTIONS RECOMMENDED:

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12 Approve entering into conciliation with Dear for Congress, Inc. (the "Committee") and
13 Abraham Roth, as treasurer, prior to a finding of probable cause to believe relating to the
14 contribution in the name of another violations. Approve the attached conciliation agreement
15 with the Committee. Approve taking no further action and closing the file as it relates to Serge
16 Muller, Steven Adelsberg, Boris Kandov, Benjamin Landa, Shimon Lefkowitz, and Abraham
17 Leser.
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II. BACKGROUND

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20 On July 25, 2000, following an audit, the Federal Election Commission (the
21 "Commission") approved reason to believe findings against the Committee involving several
22 serious violations. The Commission found reason to believe that the Committee accepted
23 excessive contributions of \$563,913 and prohibited corporate contributions of \$12,320. The
24 Commission also found reason to believe that the Committee violated 2 U.S.C. § 441f by
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1 knowingly accepting contributions in the name of another totaling \$50,150. Moreover, the
2 Commission found reason to believe that the Committee filed its July 1998 Quarterly Report and
3 the 1998 Year-End Report late and improperly reported debts of \$300,878 as disbursements on
4 its 1999 Mid-Year Report.² Finally, the Commission found reason to believe that the Committee
5 failed to file or untimely filed 48-hour notices on contributions totaling \$77,500.

6 At the time of the reason to believe findings, the Commission authorized this Office to
7 conduct an investigation into the apparent violation of 2 U.S.C. § 441f. In the course of the
8 investigation, evidence was also uncovered that related to the fundraising practices of the
9 Committee that were relevant to the Commission's findings on excessive contributions.
10 Additionally, through the investigative process, this Office sought to determine the personal
11 involvement and culpability of the treasurer, Abraham Roth.

12 The investigation encountered many obstacles, the most evident being the apparent
13 "closing of ranks" of Committee employees, volunteers, supporters, and possibly, the
14 acquaintances of the same, whose names may have been used on money orders without their
15 knowledge or consent. In numerous cases, "conduits," whose names may have been used
16 impermissibly, ignored our phone calls and letters and even were confrontational with process
17 servers that this Office eventually used to reach them. In some cases, during interviews with
18 conduits, we received misleading information.³ In depositions of Committee employees,

² The debt reporting violation involved the failure to properly report refunds owed to excessive contributors as debts. The Committee had reported them as disbursements, but had not, in fact, made the disbursements because it had insufficient funds to make the refunds.

³ For instance, conduit Alexander Vais told an FEC attorney that he made a contribution to the Committee through a money order and that it was most likely solicited through an acquaintance at his child's school. He could not definitively say whether he knew anyone who worked for the Committee, but that maybe someone at his child's

1 especially those with continuing close ties to the candidate, we received answers that were
2 unresponsive or evasive. In other instances, general witness reluctance delayed our efforts to
3 bring the investigation to a more timely conclusion.⁴ However, the serious nature of a Section
4 441f violation led this Office to conclude that certain leads should be pursued. Some of these
5 discovery issues had been raised in previous General Counsel's Reports discussing the status of
6 the case. See GCR #14 (informational memo), GCR #16 (seeking document subpoena
7 authority), GCR #18 (addressing motions to quash subpoenas) and GCR #19 (seeking deposition
8 authority).

9 **III. INVESTIGATION INTO CONTRIBUTION MADE IN THE NAME OF ANOTHER**

10 The "contribution in the name of another" violations were based on the Audit staff's
11 identification of fifteen instances in which the Committee accepted two or more contributions
12 through money orders bearing sequential serial numbers. In total, these fifteen sequences

school was involved with the Committee. Subsequently, this Office determined that Alexander Vais' wife was Bella Vais, the chief of staff for the candidate's city council office, a major fundraiser for the Committee, and perhaps the single most influential staff person at the campaign. Other testimony, we believe, establishes that Bella Vais filled out the money order bearing Alexander Vais' name. Thus, the information obtained in our interview, all of which was exculpatory for the Committee, was discredited.

⁴ Depositions were taken of two senior Committee staff (Abraham Roth, Bella Vais) and Charna Weiss, an employee of Mr. Roth's accounting firm, in late April to mid-May 2002, which was approximately on schedule with our investigative plan. These depositions garnered limited information, due perhaps to the witnesses' loyalty to the candidate. Thus, after evaluating our evidence after the first round of depositions, we proceeded to depose or interview committee employees Scott Garrison, Nick Lagemann, and Andrew Hahn, who we believed would be more forthcoming witnesses. An additional deposition (Garrison) and an investigative interview (Hahn) were conducted in June 2002. The third employee, Nick Lagemann, ended up being a reluctant witness, who even hired a prominent New York criminal defense attorney, Paul Grand, to represent him and negotiate his cooperation with our investigation. At the time of our discussions, Mr. Lagemann had recently graduated law school, was taking the New York Bar Examination.

We interviewed him on September 25, 2002. As it turns out, Mr. Lagemann identifies committee employee handwriting on money orders and this information is a cornerstone to the section 441f violation.

1 contained sixty-one money orders representing contributions of \$50,150. These sequential
2 money orders, purporting to be from different individuals, appeared to be executed in similar
3 handwriting (any given sequence was in the same apparent handwriting, but among the fifteen
4 sequences, there appeared to be several different types of handwriting).

5 The existence of these sequential money orders executed in similar handwriting raised the
6 issue of the legitimacy of these contributions. Consequently, the goal of the investigation was to
7 determine whether the named contributor was the actual source of the contributions.

8 Additionally, we sought to determine the Committee's role in accepting these contributions.

9 Through our investigation, we were able to obtain verification from a portion of the "money
10 order contributors" that they did not make contributions. Further, we identified a senior
11 Committee staff member who acknowledged filling out some money orders and developed
12 significant evidence suggesting the participation of another senior staff member in filling out
13 some money orders. At the same time, many individuals responded that they had made
14 contributions to the Committee.

15 Notably, we could not determine the source of the funds as to those money orders where
16 the purported signatory denied making the contribution. Over the course of the campaign, the
17 Committee accepted significant amounts of excessive contributions. It is possible that the
18 Committee was using straw donors and used money order contributions to increase contributions.
19 It is also possible that in certain instances, separate individuals, perhaps even unconnected to the
20 Committee, decided to spread contributions out among their family and friends and used money

1 orders to achieve this goal.⁵ Finally, it is also possible that in many instances individuals sought
2 to make cash contributions in amounts in excess of \$100 (*see* 11 C.F.R. § 110.4(c)) and the
3 Committee enabled the contribution by filling out a money order for the contributor.

4 **IV. INVESTIGATION**

5 **A. Contact with contributors/conduits**

6 The Audit staff identified sixty-one questionable money orders and this Office focused
7 the investigation on these transactions. During the audit, the Committee had contacted some of
8 the individuals to obtain confirmation of their contributions. The individuals who may have been
9 used as conduits were also named as respondents and received Commission notification to that
10 effect.

11 During the audit, the Committee submitted copies of letters sent to contributors whose
12 money order contributions were questioned by the Audit staff. Attachment 1. In these letters,
13 the contributors were asked to confirm that they made the contributions with their personal
14 funds. The Committee submitted the responses received from those contributors to the Audit
15 staff. However, the Committee only submitted confirmation letters and responses from 32 of the
16 61 individuals who made questionable money order contributions. Additionally, it appears that

⁵ The Committee's fundraising vendor, Cunningham, Harris & Associates employed a fundraising system through which the candidate made calls to donors to solicit direct contributions and/or pledges to raise a certain amount of contributions from others. Scott Garrison, the Cunningham, Harris employee assigned to the Committee, stated that when the candidate, Noach Dear, made telephone calls to potential contributors/fundraisers, he did not always make the "distinction between giving and raising contributions." Garrison deposition at p. 54. The failure to make this distinction could have led contributors into making excessive contributions directly or it may have led them to fund money order contributions through other contributors, possibly without the knowledge of the conduit

This Report will cite to testimony from four separate depositions. The deposition transcripts contain over 400 pages of testimony and are not attached to this Report, but are available in the Commission Secretary's Office for review or they can be obtained by request from this Office.

1 some of the signatures on the confirmation letters or the signatures on various respondents'
2 responses to the Commission's reason to believe findings differed from the signatures on their
3 money order contributions.⁶

4 This Office received replies to the reason-to-believe notification letters from 38 of the 61
5 conduits. Of the 23 conduits who did not initially reply, an investigator eventually contacted two
6 of them and two others were determined to be deceased. The other 19 individuals who could not
7 be contacted appeared to be individuals who sought to avoid contact with this Office. In seven
8 cases, these individuals refused to accept registered mail from the Commission and process
9 servers were used instead. At least one conduit that was contacted noted that the "neighborhood"
10 was talking about the Commission investigation and that people did not want to cooperate. After
11 making initial contact through the notification letters, investigators and attorneys from this Office

⁶ We subpoenaed the confirmation letters and the responses from the Committee in order to determine whether it had contacted all of the contributors or whether it failed to forward any replies to the Commission during the audit. In response, the Committee stated that it had already submitted all of the documents in its possession.

Charna Weiss, an administrator employed by treasurer Abraham Roth's accounting firm, was listed as the contact person on the original confirmation letter. In her deposition, Ms. Weiss testified that she never saw the letter and that no contributor contacted her regarding their contributions, although she did confirm that the telephone number listed on the letter was her number. Weiss deposition at pp. 65, 67 and 69. While the letters appeared to have been signed by Committee treasurer Abraham Roth, Mr. Roth testified that the signatures were not his handwriting, but that he may have authorized someone to sign the letters on his behalf. Roth deposition at p. 65. He could not remember who he authorized to sign the letters, but recalled drafting the form letter in conjunction with the Committee's attorneys. *Id.* Roth testified that "I do remember we sent this letter out to various money order contributors" but he could not confirm whether they were sent to all contributors. Committee staff member Bella Vais could not "recall" whether she signed the letters on behalf of Roth and she also could not recall whether the letters were sent. Vais deposition at pp. 85-86. Whatever the reason for the less than full recollection of the witnesses, their testimony could suggest that confirmation letters were sent only to individuals who were thought to be sympathetic to the Committee.

The money order contributors were also asked whether they received the confirmation letter from the Committee and submitted responses to it. Some of the respondents acknowledged receiving confirmation letters and submitting a response to the Committee, whereas other respondents could not recall whether they had received a letter from the Committee.

1 interviewed 25 conduits to obtain information concerning the circumstances of their
2 contributions to the Committee.⁷

3 In interviews and written materials, seventeen respondents denied making a contribution
4 to the Committee in the form of a money order.⁸ The purported money order contributions by
5 those seventeen respondents totaled \$13,500. Most of these respondents either denied having
6 heard of Noach Dear or denied having ever given a contribution to any political candidate. In
7 three instances (Greenbaum, Hamill, Huppert), the respondents acknowledged that a family
8 member might have made contributions in their name. Attachment 3. In another case (Hyatt),
9 the respondent speculated that a friend or family member may have used her name. In two
10 instances (Perlstein and Weinstein), the respondents acknowledged that they had made
11 contributions to the Committee with a check, which was verified, but they denied having made
12 contributions with money orders. Attachment 2 at 13-16. Finally, one of the respondents
13 claimed that at a Committee fundraising event, he made a contribution to the Committee in cash
14 instead of by money order, and apparently the Committee used the cash to buy a money order
15 and filled in the contributor's identification information.⁹ Telephone interview with respondent,

⁷ Again, this Office sought to contact all of the conduits, but after repeated attempts was successful in reaching 25 individuals.

⁸ Those respondents and the amount contributed are: Zev Anfang (\$1,000), Barney Freedman (\$250), Pearl Greenbaum (\$1,000), Jon Hamill (\$1,000), Sam Hollander (\$500), Bill Huppert (\$1,000), Susan Hyatt (\$400), Matthew Jones (\$250), Markus Mandelkorn (\$1,000), Berel Oberlander (\$1,000), Hershel Perlstein (\$1,000), David Piller (\$1,000), Michelle Portnoi (\$1,000), Joshua Schwartz (\$700), Joshua Weinstein (\$1,000), Leo Yakubovich (\$700), and Zitta Yakubovich (\$700).

⁹ The Committee held approximately 20 fundraising events. This Office was successful in communicating with most of the hosts of these fundraising events and asked them questions relating to the number of contributions that were made and whether such contributions were in cash, by check or money order. These individuals suggested that many of these events were not well attended and only a limited number of contributions were made during these events. Additionally, the Committee staff that we deposed or interviewed stated that some of these events

1 Sam Hollander. Mr. Hollander remembered that he did not have his checkbook at the
2 fundraising event where he made the contribution.¹⁰ The other contributors denied contributing,
3 but provided no explanation for why their names were used on the money orders.

4 Five respondents that we contacted did acknowledge making a contribution to the
5 Committee, but could not recall details surrounding their contributions such as whether it was by
6 cash, check or money order. Four respondents that we contacted by telephone confirmed that
7 they made contributions with a money order. In total, out of the 38 individuals that responded to
8 the reason-to-believe notification, 24 initially claimed that they made contributions. Many of
9 these responses consisted of the same two paragraphs of text, which suggests there was some
10 coordination among the respondents in preparing responses.

11 **B. Contact with Committee staff and vendors**

12 In the course of the investigation, the Commission approved formal discovery, including
13 document subpoenas and interrogatories to the Committee, Cunningham, Harris & Associates, a
14 fundraising consultant to the Committee, and Roth & Company, LLP, the accounting firm of
15 treasurer Abraham Roth, that handled disbursements for the Committee and prepared the
16 Committee's disclosure reports. The information obtained through the document subpoenas and
17 interrogatories was primarily general in nature, but more specific information was obtained
18 through depositions and an interview. Additionally, the Office of General Counsel deposed

were not well organized and had sparse attendance. The Committee staff also testified that throughout the campaign, the Committee received only a small amount of cash contributions.

¹⁰ There were two respondents, who are not included in the above-mentioned list of seventeen respondents, who stated that they gave \$500 and \$1,000, respectively, to a "friend" to purchase their money orders, but both of them declined to identify the individuals including whether those individuals were affiliated with the Committee. (Luzer Obstfeld and Aaron Eagle).

1 Abraham Roth, the Committee treasurer, and Charna Weiss, an employee of Roth & Company,
2 LLP, who was listed as the contact person on certain letters. This Office also deposed Bella
3 Vais, Chief of Staff in Noach Dear's City Council office and a Committee volunteer, and Scott
4 Garrison, an employee of Cunningham, Harris & Associates who was designated the Finance
5 Director of the Committee pursuant to a contract between Cunningham, Harris & Associates and
6 the Committee. Finally, this Office interviewed Nick Lagemann, a Committee staff member
7 involved in fundraising and Andrew Hahn, the campaign manager.

8 This Office sought testimony from Abraham Roth and Bella Vais because it was thought
9 that they might have the most knowledge of the Committee's operations. However, these
10 individuals gave testimony that was, in large part, non-responsive, evasive, or vague.¹¹ It is
11 important to note that Mr. Roth and Ms. Vais still have close ties to the candidate. Other staff
12 members, such as Scott Garrison and Nick Lagemann, who do not have a continuing relationship
13 with the candidate, were more responsive.

14 **1. Money Orders Filled out by Nick Lagemann**

15 One witness confirmed that the Committee staff filled out money orders. Nick Lagemann
16 admitted that it was his handwriting on three money orders for a thousand dollars, each using the
17 names of Joshua Weinstein, Hershel Perlstein, and Bernard Strulovich. The three money orders
18 were numbered consecutively and were purchased on January 23, 1998. Mr. Lagemann could
19 not recall the circumstances concerning his completion of these money orders, but he surmised

¹¹ Roth was a very difficult witness. For instance, in an apparent attempt to frustrate questioning he frequently asked for definitions or clarifications. "Q Who prepared the bank deposits for Dear for Congress? A. What is "bank deposits" meaning?" Roth deposition at p. 32. Many of his answers to questions were vague and evasive. See, e.g., Roth deposition at p. 33, lines 13-22 (regarding payment of invoices)

1 that he probably received blank money orders from the contributors. However, this explanation
2 is belied by the statements of Mr. Weinstein and Mr. Perlstein, who say that they made
3 contributions to the Committee, but did not make any contributions in the form of money orders.
4 Mr. Strulovich did not respond to the Commission's reason to believe findings, and we were
5 unsuccessful in contacting him to confirm whether he made a contribution to the Committee in
6 the form of a money order. Mr. Lagemann also testified that he did not purchase any money
7 orders nor was he aware of any Committee staff members who purchased money orders.
8 However, in describing the general culture of the campaign, Mr. Lagemann stated that, regardless
9 of the circumstances, Mr. Dear was not going to allow money to go back out of the door once it
10 was received.¹² Attachment 1 at 20.

11 **2. Money Orders Filled out by Bella Vais**

12 Efforts to identify others who may have been filling out money orders focused on Noach
13 Dear's chief of staff, Bella Vais. The testimony of Scott Garrison and Nick Lagemann suggested
14 that Bella Vais engaged in filling out money orders and that she would have been in a position to
15 do so. Mr. Garrison and Mr. Lagemann testified that Ms. Vais was involved in fundraising and

¹² In separate testimony, Scott Garrison, made similar observations. Mr. Garrison noted that with respect to excessive contributions that he came across, "early on, I would kind of flag it, and later we did less and less of that. They [campaign manager Andrew Hahn and Vais] weren't concerned with us flagging it for them to do something about, and very rarely did I see those checks come back to me." Garrison deposition at p. 42. "[A]lmost universally [in] the case" of excessives, the campaign would seek to attribute excessive contributions to family members and "that's how it was going to be attributed and recorded in the database." *Id* at pp. 42-43. The names were provided to Garrison early in the campaign by Lagemann and later by Vais and sometimes the candidate. *Id*. The campaign obtained the names by phone calls, but usually not with documentation. *Id* at pp. 43-44. Garrison described one episode where the candidate, Noach Dear handed him a check in the amount of \$10,000 from a contributor, Shimon Lefkowitz, and instructed Garrison to indicate that the contribution was from the contributor, his wife and three children. *See* Garrison deposition at pp. 47-50. In fact, this contribution was reported by the Committee as a \$10,000 contribution from Shimon Lefkowitz

1 campaign operations such as assisting in organizing fundraisers and calling individuals to solicit
2 contributions. Ms. Vais generally split her time between the campaign and the city council
3 office, but in 1998, she spent most of her time at the campaign office. Office interview with
4 Nick Lagemann. Mr. Garrison and Mr. Lagemann also described Ms. Vais as a resource on
5 campaign operations since she was a long-time employee of Noach Dear and was well known to
6 many supporters of Mr. Dear who were targeted as potential contributors to the Committee.
7 With respect to filling out money orders, Mr. Garrison stated "I don't know who else would be in
8 a position to do that sort of thing . . . I don't see how this could happen without Bella"
9 Garrison deposition at p. 109. Scott Garrison testified that Ms. Vais was "involved in the
10 campaign a great deal" and that she, along with Mr. Lagemann would have been in a position to
11 convert big contributions into smaller money order contributions because they were "the people
12 who dealt with major contributors" and "would have been the clearinghouse for that coming into
13 the campaign." *Id.* at p. 93. Mr. Garrison noted, "as a practical matter, the level of engagement
14 and manner of engagement, no, I can't think of anybody else that it might have been." *Id.* at p.
15 110.¹³

16 Additionally, Mr. Lagemann recognized the identical handwriting on six money orders as
17 the handwriting of Bella Vais. Three of these money orders from Alexander Vais, Basheva Dear
18 and Sarah Scherman were numbered consecutively, for a thousand dollars each, and dated
19 December 16, 1997. The other three money orders were from Joshua Schwartz, Leo .

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¹³ It should be noted that Mr Garrison lacked personal knowledge of Bella Vais' involvement. He also speculated that Mr Lagemann might have been in a position to fill out some money orders; separately, Mr Lagemann confirmed that he filled out certain money orders.

1 Yakubovich, and Zitta Yakubovich, and were in the amount of \$700 each, and dated July 16,
2 1998. Mr. Lagemann also recognized the handwriting "Dear for Congress" on money orders for
3 Michelle Portnoi, Markus Mandelkorn as the handwriting of Bella Vais.¹⁴ Both of these money
4 orders were issued on June 30, 1998 in amounts of \$1,000 each. Mr. Lagemann also recognized
5 that some of the money orders were purchased at a Citibank branch in Borough Park, at which
6 the Committee deposited contribution checks.¹⁵ *Id.*

7 Notwithstanding Scott Garrison's and Nick Lagemann's description of Ms. Vais' central
8 role in the campaign, Ms. Vais testified that her primary duties were answering telephones and
9 stuffing envelopes. She denied being involved in fundraising for the Committee or in other
10 aspects of the campaign operations. She acknowledged that she was at Dear campaign
11 headquarters "every day," but denied that she had a significant role. Vais deposition at p. 26.

¹⁴ Mr. Lagemann also identified certain handwriting on a disbursement check to a vendor, a refund check to a contributor and on one of the Committee's disclosure reports as the handwriting of Bella Vais. The handwriting on a disbursement check, a refund check and on a disclosure report appears to be identical to the handwriting on the money orders from Alexander Vais, Basheva Dear, Sarah Scherman Joshua Schwartz, Leo Yakubovich, and Zitta Yakubovich as well as the "Dear for Congress" handwriting on the money orders for Michelle Portnoi, and Markus Mandelkorn

¹⁵ Money order serial numbers enabled Commission investigators to trace the issuing institutions of each of the 61 money orders in question. The Citibank Borough Park branch in Brooklyn was the issuing site for six money orders. Five of the six contributors associated with these money orders could not be contacted and appeared to resist cooperating with the investigation. The one contributor that was contacted, Susan Hyatt, was generally uncooperative but acknowledged that she did not purchase the money order. She speculated, however, that a friend or relative may have made a contribution on her behalf. Two other Citibank branches in Brooklyn were the issuing sites of an additional twelve money orders. Six of the twelve money orders involve contributors who denied contributing. All of the Citibank money orders were issued in the summer months of 1998.

In response to Commission interrogatories, this Office confirmed that treasurer Abraham Roth has an ownership interest in a money order business. However, this Office confirmed that none of the money orders at issue in this investigation were issued by any of Mr. Roth's businesses.

1 She acknowledges that she was the Finance Director for Noach Dear's New York state Senate
2 campaign in 2002, but that she was not involved in financing the 1998 campaign.¹⁶ *Id.* at p. 92.

3 This Office questioned Ms. Vais extensively on the questionable money order
4 contributions. With respect to the money order contributions purportedly made by Alexander
5 Vais, Basheva Dear and Sarah Scherman, Ms. Vais testified that she did not know or could not
6 recall whether the handwriting on those money orders was her handwriting.¹⁷ *See* Vais
7 deposition at pp. 66-70. When questioned whether the handwriting on Alexander Vais' money
8 order was the handwriting of her husband, Alexander Vais, Ms. Vais stated that she did not
9 know. *Id.* at p. 102. Ms. Vais also testified that the handwriting "Dear for Congress" on the
10 money order for Markus Mandelkorn looked like her handwriting, but she was not sure. *Id.* at p.
11 56. Additionally, she testified that she did not recognize the handwriting "Dear for Congress" on
12 the money order for Michelle Portnoi. *Id.* at p. 52. With respect to the handwriting on the
13 money orders for Joshua Schwartz, Leo Yakubovich and Zitta Yakubovich, Ms. Vais stated that
14 she did not know or could not recall whether it was her handwriting. *Id.* at pp. 59-61.

15 Alexander Vais and Sarah Scherman responded to the Commission's reason to believe
16 findings by stating that they made contributions to the Committee via money orders with their
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¹⁶ Vais' testimony concerning her fundraising efforts in 1998 was evasive. She could not recollect whether she made fundraising phone calls and frequently answered questions concerning her fundraising activities by stating that she was not part of the "finance operation." Vais deposition at pp. 40-41. This could have meant that she was not an official member of the finance division of the campaign, which was located in a basement office, but would not necessarily mean that she did not engage in fundraising.

¹⁷ Alexander Vais is Bella Vais' husband Basheva Dear is Noach Dear's sister-in-law, and Sarah Scherman is Noach Dear's sister. Mr Lagemann had identified Vais as the writer of the money orders.

1 personal funds. However, the signatures on their letters responding to the Commission's
2 findings are substantially different than their signatures on the money order contributions.
3 Attachment 4. In regard to Basheva Dear, the letter that the Committee provided to the Audit
4 staff purportedly from Basheva Dear confirming that she made the money order contribution
5 with her personal funds contains a signature that is substantially different from the signature of
6 Basheva Dear on the money order contribution. Attachment 5. This Office sent affidavits to Mr.
7 Vais, Ms. Dear and Ms. Scherman requesting that they attest that they made contributions in the
8 form of money orders with their personal funds and completed the money orders in their own
9 handwriting. They did not return signed affidavits to us.

10 Joshua Schwartz filed an affidavit with us stating that he did not make a contribution to
11 the Committee nor did he authorize anyone to sign his name on a money order. In regard to Leo
12 Yakubovich and Zitta Yakubovich, the Committee provided the Audit staff with copies of letters
13 purportedly from Leo and Zitta Yakubovich confirming that they made money order
14 contributions to the Committee with their personal funds. However, in response to the
15 Commission's reason to believe findings, Leo and Zitta Yakubovich denied making any
16 contributions to the Committee. Their signatures on the letters responding to the Commission's
17 findings appear to be substantially different from the signatures on the letters submitted by the
18 Committee to the Commission purportedly confirming that they made money order
19 contributions.

20 In response to the reason-to-believe notifications, Michelle Portnoi and Markus
21 Mandelkorn denied making contributions to the Committee. This was confirmed by follow-up

1 telephone calls. Subsequently, this Office determined that Ms. Portnoi's sister-in-law, Marcia
2 Mandelkorn, contributed to the Committee.

3 **V. SUMMARY**

4 This Office concludes that the Committee knowingly accepted contributions in the name
5 of another in violation of 2 U.S.C § 441f. Nick Lagemann, a Committee staff person, admitted
6 to filling out money orders of \$1,000 each for Joshua Weinstein and Hershel Perlstein, and we
7 have documentation from Mr. Weinstein and Mr Perlstein denying that they made any money
8 order contributions. Furthermore, there are money orders purportedly from Joshua Schwartz,
9 Leo Yakubovich, and Zitta Yakubovich totaling \$2,100, which the testimony of campaign
10 insiders indicates were filled out by Bella Vais, a Committee volunteer. We also have
11 documentation from Mr. Schwartz and Mr. and Mrs. Yakubovich denying that they made
12 contributions to the Committee.

13 While a source of the funds used to make the contributions has not been identified, it is
14 apparent that the individuals who are reported to have made the money order contributions did
15 not fill out the money orders and do not appear to be the sources for the funds. Section 441f
16 assesses liability against a recipient committee that "knowingly accept[s] a contribution made by
17 one person in the name of another person." Plainly, the Committee agents who filled out money
18 orders must have known that the individuals whose names they were entering on the money
19 orders were not the actual contributors and that therefore these contributions were made in the
20 name of another.

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this Office recommends that the Commission take no further action

10 and close the file as it pertains to Serge Muller.

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All of these individuals made contributions well in excess of the applicable limitations. Due to the size of the contributions, this may be a case where pursuing the individuals in litigation would be merited. However, evidence uncovered during the investigation suggests that the Committee was encouraging individuals to make excessive contributions or may not have explained the limitations to them. In addition, the contributors may have understood that their contributions were going to be reattributed to family members and did not understand that this type of reattribution had to be done in writing. The Committee, which registers with the Commission and receives compliance materials from the Commission, has a duty to be aware of and comply with applicable campaign finance statutes. However, a court may look more sympathetically at a respondent contributor who has limited interaction with the Commission and who has relied on bad advice from the political committee.³⁴ In light of the additional Commission resources that would be necessary to pursue these contributors, the age of the potential claims, and the litigation risk involved, this Office recommends that the Commission take no further action and close the file as it pertains to Steven Adelsberg, Boris Kandov, Benjamin Landa, Shimon Lefkowitz, and Abraham Leser.

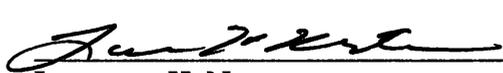
³⁴ It should be noted, however, that Respondents Adelsberg, Landa, and Lefkowitz have made significant contributions to other candidates. Respondents Kandov, Leser and Muller have only contributed to the Committee

1 **VIII. RECOMMENDATIONS**

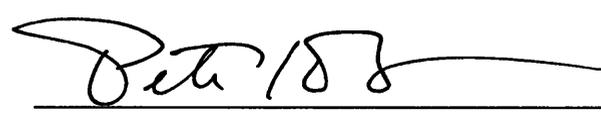
- 2
- 3 1. Enter into conciliation prior to a finding of probable cause to believe with Dear for
- 4 Congress and Abraham Roth, as treasurer, on the violation of 2 U.S.C. § 441f;
- 5
- 6 2. Take no further action against Serge Muller and close the file as it pertains to him.
- 7
- 8 3. Take no further action against Steven Adelsberg and close the file as it pertains to
- 9 him.
- 10
- 11 4. Take no further action against Boris Kandov and close the file as it pertains to him.
- 12
- 13 5. Take no further action against Benjamin Landa and close the file as it pertains to him.
- 14
- 15 6. Take no further action against Shimon Lefkowitz and close the file as it pertains to
- 16 him.
- 17
- 18 7. Take no further action against Abraham Leser and close the file as it pertains to him.
- 19
- 20 8. Approve the attached Conciliation Agreement;
- 21
- 22 9. Approve the appropriate letters.
- 23

24 2/6/03

25 Date


Lawrence H. Norton
General Counsel


Gregory R. Baker
Acting Associate General Counsel


Peter G. Blumberg
Acting Assistant General Counsel

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Delbert K. Rigsby *by PFF*
Delbert K. Rigsby
Attorney

Danita C. Lee
Attorney

Attachments

1. Sample Confirmation Letter and Response
2. Investigative Reports
3. Correspondence from Greenbaum, Hamill, and Huppert
4. Correspondence and Money Order from Alexander Vais and Sarah Scherman
5. Correspondence and Money Order from Basheva Dear
6. Proposed Conciliation Agreement

NOACH
Dear
DEMOCRAT FOR CONGRESS

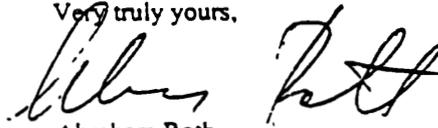
September 28, 1999

Dear Mr Hollander:

The Noach Dear for Congress Committee is reviewing its 1998 receipts. Our records show that you made a personal contribution for \$500.00 in the form of a money order #201717588, dated 6/30/98. If this information is correct, please sign the attached statement and return it to us in the enclosed stamped return envelope. If this information is incorrect, please note any changes.

Thank you for your attention to this matter. If you have any questions, you may contact Charna Weiss

Very truly yours,



Abraham Roth
Treasurer

ATTACHMENT 1
Page 1 of 2

5612 18th Avenue ★ Brooklyn, NY ★ 11204 ★ phone 718 435 9700 ★ fax 718 435 1429

This confirms that I contributed \$500.00 from my personal funds to the Dear for Congress Committee on 6/30/98, money order #201717588.

Signed: [Signature]
Date 10/3/99

ATTACHMENT 1
Page 2 of 2

234

PHILLIP STUART DOMBEK
ATTORNEY AT LAW
24-29 Jackson Avenue
Long Island City, NY 11101
(718) 361-9595

November 17, 2000

Federal Election Committee
Washington, D.C. 20463

Attn: Joel J. Roessner

Re: MUR 5057 Statement of Pearl Greenbaum

Dear Mr. Roessner:

In response to the above referenced MUR alleging that I violated 2 U.S.C. §441f of the Federal Election Campaign Act of 1971, I am providing this statement of my recollection of contributions made to the 1998 Dear for Congress, Inc. ("the Committee") election campaign.

Although I am long retired and no longer engage in any business activities, I still derive income from business investments connected to the New York City taxi and limousine industry. Mr. Dear had been one of the few local politicians who voiced support for the industry in opposition to proposals of more burdensome municipal regulation. Naturally, it has been in my own interest to support Mr. Dear's election campaigns for the past several years.

In fact, I have been a supporter of Mr. Dear's since about 1993. So have many members of my extended family, some of whom are also the subject this investigation. Since my income is heavily reliant on the taxi industry I made campaign contributions to Mr. Dear.

Therefore I have participated in an annual family practice of gathering contributions from individual family members for transmission to election campaigns. I believe this is exactly what happened in connection with my 1998 contribution to "the Committee". I was not the one charged with the responsibility for that particular family chore. To the best of my recollection, I authorized a family member to make a contribution in my name with the understanding that I would reimburse him.

This concludes my statement. If you require anything further, please feel free to contact my attorney.

Very truly yours,


Pearl Greenbaum

PHILLIP STUART DOMBEK
ATTORNEY AT LAW
24-29 Jackson Avenue
Long Island City, NY 11101
(718) 361-9595

November 17, 2000

Federal Election Committee
Washington, D.C. 20463

Attn: Joel J. Roessner

Re: MUR 5057 Statement of John A. Hamill

Dear Mr. Roessner:

In response to the above referenced MUR alleging that I violated 2 U.S.C. §441f of the Federal Election Campaign Act of 1971, I am providing this statement of my recollection of contributions made to the 1998 Dear for Congress, Inc. ("the Committee") election campaign.

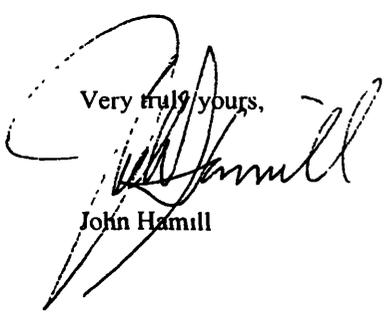
My business activities include a focus in the New York City taxi and limousine industry. Mr. Dear had been one of the few local politicians who voiced support for the industry in opposition to proposals of more burdensome municipal regulation. Naturally, it has been in my own interest to support Mr. Dear's election campaigns for the past several years.

In fact, I have been a supporter of Mr. Dear since about 1993. So have many members of my extended family, some of whom are also the subject of this investigation. While my income is not as reliant on the taxi industry as theirs, it is significant enough to warrant making campaign contributions to Mr. Dear.

Therefore I have participated in an annual family practice of gathering contributions from individual family members for transmission to election campaigns. I believe this is exactly what happened in connection with my 1998 contribution to "the Committee". I was not the one charged with the responsibility for that particular family chore. To the best of my recollection, I authorized a family member to make a contribution in my name with the understanding that I would reimburse him.

This concludes my statement. If you require anything further, please feel free to contact my attorney.

Very truly yours,


John Hamill

PHILLIP STUART DOMBEK
ATTORNEY AT LAW
24-29 Jackson Avenue
Long Island City, NY 11101
(718) 361-9595

November 17, 2000

Federal Election Committee
Washington, D.C. 20463

Attn: Joel J. Roessner

Re: MUR 5057 Statement of Bill Huppert

Dear Mr. Roessner:

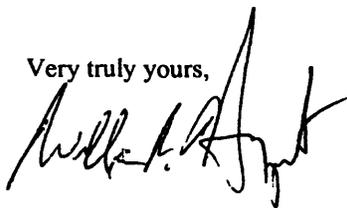
In response to the above referenced MUR alleging that I violated 2 U.S.C. §441f of the Federal Election Campaign Act of 1971, I am providing this statement of my recollection of contributions made to the 1998 Dear for Congress, Inc. ("the Committee") election campaign.

My business activities include a focus in the New York City taxi and limousine industry. Mr. Dear had been one of the few local politicians who voiced support for the industry in opposition to proposals of more burdensome municipal regulation. Naturally, it has been in my own interest to support Mr. Dear's election campaigns and, in fact, I have been a supporter of Mr. Dear's since about 1993.

Since my income is heavily reliant on the taxi industry I have participated with some of my industry associates in gathering together contributions for key election campaigns. I believe this is exactly what happened in connection with my 1998 contribution to "the Committee". I was not the one charged with the responsibility for gathering the contributions. To the best of my recollection, I authorized a colleague to make a contribution in my name with the understanding that he would be reimbursed in the normal course of our dealings.

This concludes my statement. If you require anything further, please feel free to contact my attorney

Very truly yours,



William B. Huppert
a/k/a Bill Huppert

ATTACHMENT

Page 3 of 3

PHOTO COPY

This confirms that I contributed \$1,000 00 from my personal funds to the Dear for Congress Committee on 12/16/97, money order #8685092071.

Signed Bashava Dan

Date 10/19/99

NOACH
Dear
DEMOCRAT FOR CONGRESS

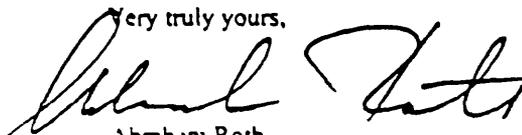
September 28, 1999

Dear Mrs Dear,

The Noach Dear for Congress Committee is reviewing its 1998 receipts. Our records show that you made a personal contribution for \$1,000.00 in the form of a money order #8685092071, dated 12/16/97. If this information is correct, please sign the attached statement and return it to us in the enclosed stamped return envelope. If this information is incorrect, please note any changes.

Thank you for your attention to this matter. If you have any questions, you may contact Charna Weiss.

Very truly yours,



Abraham Roth
Treasurer

ATTACHMENT 4
Page 1 of 3

971224-6

TRAVELERS EXPRESS INTERNATIONAL MONEY ORDER

12-15-37

86850920695

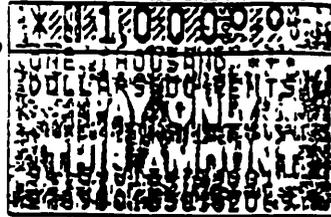
342502069 MONEY ORDER

IMPORTANT - SEE BACK BEFORE CASHING

PAY TO THE ORDER OF *Dear for Congress*

Alexander Van

*2660 East 28th Street
Brooklyn, N.Y. 11235*



1:091900533:868 50920695 90

TRAVELERS EXPRESS INTERNATIONAL MONEY ORDER

12-15-37

86850920717

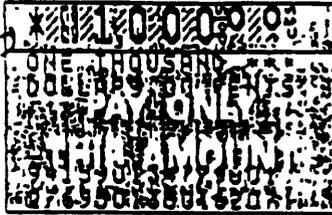
342502071 MONEY ORDER

IMPORTANT - SEE BACK BEFORE CASHING

PAY TO THE ORDER OF *Dear for Congress*

Barbara Dean

*1655 East 11st Street
Brooklyn, N.Y. 11210*



1:091900533:868 50920717 90

TRAVELERS EXPRESS INTERNATIONAL MONEY ORDER

12-16-37

86850920706

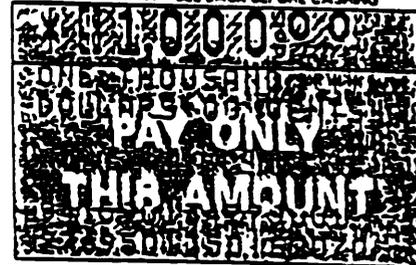
8685092070 MONEY ORDER

IMPORTANT - SEE BACK BEFORE CASHING

PAY TO THE ORDER OF *Dear for Congress*

Sarah L. Sherman

*1142 East 3rd Street
Brooklyn, N.Y. 11230*



1:091900533:868 50920706 90

Page 3 4 3

Alexander Vais
2660 East 28th Street
Brooklyn, New York 11235

August 30, 2000

Mr. Joel Roessner
Federal Election Commission
999 E Street, N W
Washington, DC 20463

Dear Mr. Roessner:

I write regarding the contribution I made to Councilman Noach Dear's 1998 campaign for the U S. House of Representatives.

Specifically, I write to affirm that I contributed \$1,000 00 to Dear for Congress via money order. This contribution represented my own personal funds at the time it was made. No other person provided me with funds for the purpose of making this contribution.

If you wish to contact me further regarding this matter, please send any correspondence to me at the above address or call me at

Sincerely,



Alexander Vais

RECEIVED RECEIVED
FEC MAIL ROOM FEDERAL ELECTION COMMISSION

APR 20 P 1:02

Sarah Scherman
1142 East Third Street Brooklyn, N.Y. 11230

Mr. Joel J. Roessner
Federal Election Commission
Washington, D.C. 20463

April 15, 2001

Re: MUR 5057
Dear for Congress, Inc.

Dear Mr. Roessner,

I am in receipt of your request for information regarding a money order that I contributed to the Dear for Congress Campaign of '98 in the amount of \$1,000.00. In your letter you stated that it seems as though I violated 2 U.S.C. §441f. To that end I wish to state and affirm that all monies, \$1,000.00 in total, that I contributed to the Dear for Congress Campaign of '98 were my own personal funds. No one else provided me with funds for the purpose of making this contribution.

If you need to reach me further regarding this matter, please feel free to write to me at my home address 1142 East Third Street Brooklyn, New York 11230.

Sincerely,


Sarah Scherman

CI-2

Copy of 1/18/97

971224-5

TRAVELERS EXPRESS 12-16-97 75 53 919

INTERNATIONAL MONEY ORDER 8685092069

MONEY ORDER

IMPORTANT - SEE BACK BEFORE CASHING

PAY TO THE ORDER OF *Dear for Congress*

PURCHASER BY SIGNING YOU AGREE TO THE SERVICE CHARGE AND OTHER TERMS ON THE REVERSE SIDE

Alexander Van

PURCHASER, SIGNER FOR DRAWER

2660 East 28th Street

Brooklyn, NY 11235

ISSUER/DRAWER TRAVELERS EXPRESS COMPANY INC.

1:091900533:868 50920695 90

86850920695

ONE THOUSAND DOLLARS ONLY

PAY ONLY

THIS AMOUNT

✓ (1)

TRAVELERS EXPRESS 12-16-97 75 53 919

INTERNATIONAL MONEY ORDER 8685092071

MONEY ORDER

IMPORTANT - SEE BACK BEFORE CASHING

PAY TO THE ORDER OF *Dear for Congress*

PURCHASER BY SIGNING YOU AGREE TO THE SERVICE CHARGE AND OTHER TERMS ON THE REVERSE SIDE

Baskin Ben

PURCHASER, SIGNER FOR DRAWER

1655 East 21st Street

Brooklyn, NY 11210

ISSUER/DRAWER TRAVELERS EXPRESS COMPANY INC.

1:091900533:868 50920717 90

86850920717

ONE THOUSAND DOLLARS ONLY

PAY ONLY

THIS AMOUNT

✓ (2)

TRAVELERS EXPRESS 12-16-97 75 53 919

INTERNATIONAL MONEY ORDER 8685092070

MONEY ORDER

IMPORTANT - SEE BACK BEFORE CASHING

PAY TO THE ORDER OF *Dear for Congress*

PURCHASER BY SIGNING YOU AGREE TO THE SERVICE CHARGE AND OTHER TERMS ON THE REVERSE SIDE

Sarah L. Sherman

PURCHASER, SIGNER FOR DRAWER

1142 East 3rd Street

Brooklyn, NY 11230

ISSUER/DRAWER TRAVELERS EXPRESS COMPANY INC.

1:091900533:868 50920706 90

86850920706

ONE THOUSAND DOLLARS ONLY

PAY ONLY

THIS AMOUNT

(2)