



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 9, 1999

Matthew G. Mitzen
City Political Action Committee
P.O. Box 10320
Chicago, IL 60610

RE: MUR 4950
City Political Action Committee and
Matthew G. Mitzen, as Treasurer

Dear Mr. Mitzen:

On December 7, 1999, the Federal Election Commission found that there is reason to believe City Political Action Committee ("Committee") and you, as treasurer, violated 2 U.S.C. §§ 434(a)(4)(A)(i), (ii) and (iv), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's findings, 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.

In order to expedite the resolution of this matter, the Commission has also decided to offer to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Enclosed is a conciliation agreement that the Commission has approved.

If you are interested in expediting the resolution of this matter by pursuing preprobable cause conciliation, and if you agree with the provisions of the enclosed agreement, please sign and return the agreement, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

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.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such

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Matthew G. Mitzen, Treasurer
MUR 4950
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counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Jim Moye, the staff member assigned to this matter, at (202) 694-1650.

Sincerely,



Scott E. Thomas
Chairman

Enclosures

Factual and Legal Analysis
Procedures
Designation of Counsel Form
Conciliation Agreement

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: City Political Action Committee and
Matthew G. Mitzen, as treasurer

MUR: 4950

I. GENERATION OF MATTER

This matter was generated based on information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2).

II. FACTUAL AND LEGAL ANALYSIS

A. THE LAW

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires treasurers of political committees, other than authorized committees of a candidate, to file periodic reports of receipts and disbursements. 2 U.S.C. § 434(a)(1). Such committees may choose to file reports either on a monthly or a quarterly basis. 2 U.S.C. § 434(a)(4).

In a calendar year in which a regularly scheduled general election is held, committees that choose to file on a quarterly basis shall file quarterly reports no later than the 15th day after the last day of each calendar quarter, except that the report of the quarter ending on December 31 of such calendar year shall be filed no later than January 31 of the following year. 2 U.S.C. § 434(a)(4)(A)(i).

The Act requires that a pre-election report be filed no later than the 12th day before (or posted by registered or certified mail no later than the 15th day before) any election in which the

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committee makes a contribution to or expenditure on behalf of a candidate; such report shall be complete as of the 20th day before the election. 2 U.S.C. § 434(a)(4)(A)(ii). In any other calendar year in which a report covers the period beginning January 1 and ending June 30, the report shall be filed no later than July 31, and a report covering the period July 1 and ending December 31, shall be filed no later than January 31 of the following calendar year. 2 U.S.C. § 434(a)(4)(A)(iv).

B. THE FACTS

The City Political Action Committee and Matthew G. Mitzen, as treasurer ("the Committee"), is a political committee that is not an authorized committee of a candidate, and has elected to file disclosure reports on a quarterly basis.

The Committee was required to file its 1997 Mid-Year Report no later than July 31, 1997, and its 1997 Year End Report no later than January 31, 1998. The Committee was also required to file its 1998 April Quarterly Report no later than April 15, 1998, and its 1998 July Quarterly Report no later than July 15, 1998. In addition, the Committee was also required to file a 1998 12 Day Pre-General Report no later than October 22, 1998 and a 1998 Year End Report no later than January 31, 1999. Respondents failed to file these reports by the required due dates.

The Committee's 1997 Mid-Year Report, which disclosed \$11,579 in receipts and \$24,945 in disbursements, was not filed until September 3, 1997, 34 days late. The 1997 Year End Report, which disclosed \$11,929 in receipts and \$14,179 in disbursements, was not filed until April 10, 1998, 68 days late. The 1998 April Quarterly Report, which disclosed \$3,928 in receipts and \$8,277 in disbursements, was not filed until June 3, 1998, 49 days late. The 1998 July Quarterly Report, which disclosed \$18,850 in receipts and \$14,531 in disbursements, was not filed until September 3, 1998, 49 days late. The 1998 12 Day Pre-General Report, which

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disclosed \$0 in receipts and \$1,500 in disbursements, was not filed until December 3, 1998, 42 days late.¹ The 1998 Year End Report, which disclosed \$1,100 in receipts and \$172 in disbursements, was not filed until April 28, 1999, 87 days late.

Prior notices were mailed to the Committee informing it of the due dates for filing each of the reports at issue. Following each of the due dates, separate non-filer notices for each of the reports, except the 1998 12 Day Pre-General Report, were mailed to the Committee stating it failed to file the reports at issue and advising it to file the reports immediately. Although the Committee was given prior notice of when to file the reports, it continued to submit reports after their due dates during the 1997-1998 election cycle. On October 14, 1998, a Chronic Late Filer Notice was sent to the Committee for failing to file the 1997 Mid-Year, 1997 Year End, 1998 April Quarterly and 1998 July Quarterly Reports in a timely manner. The Notice advised the Committee that any additional late filing of reports may result in legal enforcement action. Subsequent to the mailing of the Chronic Late Filer Notice, the Committee failed to file the 1998 12 Day Pre-General and 1998 Year End Reports in a timely manner.

Cover letters, signed by Russell J. Pass, as either Acting or Assistant Treasurer, were submitted with the 1997 Mid-Year, 1998 April Quarterly, and 1998 July Quarterly Reports. In the cover letter dated August 21, 1997, Mr. Pass stated that "the issues responsible for the [1997 Mid-Year Report's] tardiness have been dealt with, and subsequent reports will be on time" [emphasis in original]. Mr. Pass indicated in the cover letter dated June 2, 1998 that the Committee believed that the 1998 April Quarterly Report had already been filed "but as you are aware, our processes have been less than flawless over the last several months." In Mr. Pass' cover letter dated September 2, 1998, he said that a copy of the 1998 July Quarterly Report with

¹ On December 3, 1998, the Committee filed the 1998 30 Day Post-General Report. The Report disclosed a \$1,500

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different information had been sent earlier, "possibly to the Secretary of State, by mistake." In a letter dated October 15, 1998, Mr. Pass attempted to explain why the Committee's reports had been filed late on so many occasions. He briefly described the history and composition of their organization and what they were planning to do to deal with their problems. Finally, Mr. Pass submitted a letter dated April 27, 1999 with the 1998 Year End Report. He stated that the "revision" was necessary to include a transaction "not recorded properly on the earlier report." The Commission has no record of the filing of an earlier report.

Therefore, there is reason to believe City Political Action Committee and Matthew G. Mitzen, as treasurer, violated 2 U.S.C. §§ 434(a)(4)(A)(i), (ii) and (iv).