

MAY 29 2001

BEFORE THE FEDERAL ELECTION COMMISSION

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FEDERAL ELECTION  
COMMISSION  
WASHINGTON, D.C. 20543

2001 MAY 29 A 9 22

In the Matter of )  
 )  
Alexander for President 1996 )  
and Todd Eardensohn, as treasurer )

MUR 5033

**SENSITIVE**

GENERAL COUNSEL'S REPORT #2

I. **ACTIONS RECOMMENDED:** Reject the Respondent's request to reopen MUR 5033.

II. **BACKGROUND**

On March 13, 2001, the Commission decided by a vote of 6-0 to take no further action against Alexander for President 1996 ("Committee"), close the file, and send the appropriate letters. In a letter dated April 26, 2001, the Committee requested that MUR 5033 be reopened to give it an opportunity to respond to the complaint notification letter.<sup>1</sup> Attachment 1. The Committee believes that the Commission failed to properly notify it pursuant to 2 U.S.C. § 437g(a)(1) because the Commission administratively terminated the Committee, and subsequently mailed the notification to its last known address. *Id.* Moreover, the Committee contends that the failure to properly notify it resulted in the Commission finding "reason to believe" against the Committee. *Id.*

<sup>1</sup> Originally, the Commission sent a notification letter to the Alexander Audit Fund, Inc. However, the Alexander Audit Fund, Inc. is a separate entity that was notified in error. This Office discovered the error while preparing the First General Counsel's Report. Therefore, on January 9, 2001, the Committee was sent a notification letter. The Committee did not respond to this notification letter.

21-04-405-1519


### III. DISCUSSION

This Office believes that the Committee was afforded an opportunity to respond to the complaint. The Committee was notified of the complaint, but the Committee failed to respond within 15 days. 11 C.F.R. § 111.6(b).<sup>2</sup> Further, the issue of reopening MUR 5033 is futile because the Commission did not find reason to believe, but unanimously voted to take no further action against the Committee.<sup>3</sup> Therefore, this Office recommends that the Commission reject the Committee's request to reopen MUR 5033.<sup>4</sup>

### IV. RECOMMENDATIONS

1. Reject the request by Alexander for President 1996 to reopen MUR 5033.
2. Send the appropriate letter.

5/24/01  
Date

  
Lois G. Lerner  
Acting General Counsel

#### Attachment:

1. Letter from O'Melvany & Myers, dated April 26, 2001

#### Staff Assigned:

Dawn R. Jackson

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<sup>2</sup> This Office believes that the Commission did not fail to notify the Committee. The Commission mailed the notification to the Committee's last known address provided in its disclosure report. Given the Commission's statutory mandate to proceed expeditiously, the Commission should not be held to a notification standard that requires action beyond mailing the complaint to the respondent. 2 U.S.C. § 437d(a)(9).

<sup>3</sup> This Office recommended in the First General Counsel's Report that the Commission find reason to believe against the Committee.

<sup>4</sup> If the Committee intends to state a position for the record, it may do so by submitting any factual or legal materials for the public record. 2 U.S.C. § 437g(a)(12).

0251-504-40-12