



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

JULY 19, 2000

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Patrick J. Buchanan
Buchanan For President, Inc.
8233 Old Courthouse Road, Suite 200
Vienna, Virginia 22182-3816

RE: MUR 5045

Dear Mr. Buchanan:

On July 11, 2000, the Federal Election Commission found that there is reason to believe you violated 26 U.S.C. § 9035(a), a provision of Chapters 95 and 96 of Title 26, U.S. Code. 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 you are 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 that pre-probable cause conciliation not 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.

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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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 enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Albert Veldhuyzen, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Darryl R. Wold
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form

21-04-403-3002

**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Patrick J. Buchanan

MUR: 5045

I. GENERATION OF MATTER

Buchanan for President, Inc. ("Committee") was the authorized committee of Patrick J. Buchanan, a candidate for the Republican nomination for President in 1996. Mr. Buchanan and the Committee received \$10,983,475 in public funds under the Presidential Primary Matching Payment Account Act ("the Matching Payment Act"), 26 U.S.C. §§ 9031-9042. This matter was generated from information obtained in the course of conducting the audit of the Committee in accordance with 26 U.S.C. § 9038(a).

II. FACTUAL AND LEGAL ANALYSIS

A. LAW

Presidential candidates who accept matching federal funds agree to limit the expenditure of their personal funds for campaign purposes. According to 26 U.S.C. § 9035(a), "no candidate shall knowingly" spend more than \$50,000 of his or her personal funds (including immediate family funds) "in connection with his campaign for nomination for election to the office of President." The term "immediate family" is defined as "a candidate, spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons." 11 C.F.R. § 9035.2(a)(2)(b); *see also* 26 U.S.C. § 9035(b).

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). Loans are considered contributions at the time they are

made and to the extent that they remain unpaid. 11 C.F.R. § 100.7(a)(1)(i)(B). Therefore, the aggregate of loans, advances, gifts, subscriptions, or anything else of value that the candidate provides out of personal funds for his or her presidential campaign apply towards the \$50,000 limitation. See 11 C.F.R. § 100.7(a)(1). Furthermore, if a candidate uses his or her personal credit card for campaign purposes, the amounts credited will count against the \$50,000 limitation unless the campaign committee pays the amounts in full "within 60 days after the closing date of the billing statement on which the charges first appear." 11 C.F.R. § 9035.2(a)(2).

B. ANALYSIS

Mr. Patrick J. Buchanan, as a presidential candidate, made the following personal contributions to his campaign committee:

	Dates	Type	Amounts
Item 1:	January 12, 1995	Loan	\$40,000.00
Item 2:	March 31, 1995	Direct Contribution	\$1,000.00
Item 3:	1/5/95-8/16/96	Credit Card/Cash	\$113,009.00
Total:			\$154,009.00

It appears that these expenses were incurred by the candidate for campaign related travel and subsistence between January 5, 1995 and August 16, 1996 in connection with seeking the nomination. Mr. Buchanan initially exceeded his \$50,000 limit on February 28, 1995. On April 6, 1995, the Committee repaid \$2,000 on the loan (item 1), and the balance was paid off one year later on July 8, 1996. In the meantime, however, Mr. Buchanan incurred additional expenses of \$113,009 on his American Express/Visa cards and via cash expenditures (item 3). By applying payments to charges based upon a running total, taking into consideration the 60-day

time limit of 11 C.F.R. § 9035.2(a)(2), the maximum amount in excess of the limitation was \$59,156 on April 2, 1996.¹

The direct contribution of \$1,000, the loan to the Committee, and the cash expenditures, combined with the credit card transactions which were not repaid within the required 60 days resulted in personal expenditures by Mr. Buchanan well over the \$50,000 contribution limit for publicly financed presidential candidates. *See* 2 U.S.C. § 9035(a). Accordingly, the Commission found reason to believe that Patrick J. Buchanan knowingly made personal expenditures in excess of the \$50,000 limit in connection with his presidential campaign, in violation of 26 U.S.C. § 9035(a).

¹ On July 28, 1999, the Committee submitted additional information which led the Audit staff to conclude that the maximum amount by which the candidate exceeded the contribution limit was \$59,156. The Committee, in responding to the Exit Conference Memorandum of the Audit Division, acknowledged that the candidate "may have exceeded the limitation on use of personal funds in connection with his campaign."

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