



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 13, 2001

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Richard Riener, Treasurer
Newinski for Congress
2198 Mapleview Avenue
Maplewood, MN 55109

RE: MUR 5188

Dear Mr. Riener:

On March 27, 2001, the Federal Election Commission (the "Commission") found that there is reason to believe that Newinski for Congress (the "Committee") and you, as treasurer, accepted excessive contributions from individuals, the 4th Congressional District RPM, and 53B House District RPM, in violation of 2 U.S.C. § 441a(f), which is a provision of the Federal Election Campaign Act of 1971, as amended. The Commission also found that there is reason to believe that the Committee failed to report debts and obligations in violation of 2 U.S.C. § 434(b)(8) and 11 C.F.R. § 104.11(a). Furthermore, the Commission found that there is no reason to believe that the Committee accepted excessive contributions from 39A House District RPM, 52B House District RPM, 53A House District RPM, 54A House District RPM, 55A House District RPM, 55B House District RPM and 67B House District RPM in violation of 2 U.S.C. § 441a(f). Finally, the Commission found that there is no reason to believe that the Committee accepted an excessive contribution from the Taxpayers League Federal PAC in violation of 2 U.S.C. § 441a(f). The Factual and Legal Analysis, which formed a basis for the Commission's reason to believe 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.

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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.

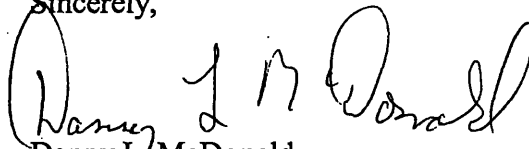
Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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 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 Delbert K. Rigsby, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,


Danny L. McDonald
Chairman

Enclosures

Factual and Legal Analysis
Procedures
Designation of Counsel form
Conciliation Agreement

cc: Dennis Newinski

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**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

MUR: 5188

RESPONDENT: Newinski for Congress and Richard Riener, as treasurer

I. GENERATION OF MATTER

This matter was generated by an audit of Newinski for Congress (the "Committee") and Richard Riener, as treasurer, undertaken in accordance with 2 U.S.C. § 438(b). The audit covered the period from January 1, 1997 to December 31, 1998.

II. FACTUAL AND LEGAL ANALYSIS

A. Law

The Federal Election Campaign Act of 1971, as amended (the "Act"), provides that no person may make contributions to a candidate and his or her committees which, in the aggregate, exceed \$1,000 per federal election. 2 U.S.C. § 441a(a)(1)(A). No multicandidate political committee shall make contributions to any candidate with respect to any election for federal office which, in the aggregate, exceed \$5,000. 2 U.S.C. § 441a(a)(2)(A). Furthermore, no candidate or political committee shall knowingly accept any contribution which exceeds the contribution limitations of 2 U.S.C. § 441a. 2 U.S.C. § 441a(f).

A joint contribution must include the signatures of each contributor on the check or in a separate writing. 11 C.F.R. § 110.1(k)(1). If a contribution on its face or in the aggregate exceeds the contribution limitations, the committee must return the contribution to contributor or deposit the contribution in a designated campaign depository and obtain a written redesignation or reattribution from the contributor within 60 days. 11 C.F.R. § 103.3(b)(3). If no written redesignation or reattribution is obtained within 60 days, the committee must refund the

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contribution. *Id.* 11 C.F.R. §§ 110.1(b)(5)(ii) and 110.1(k)(3)(i). With respect to contributions from multicandidate political committees, similar rules for redesignation of contributions apply. 11 C.F.R. § 110.2(b)(5).

All contributions made by political committees established or financed or maintained or controlled by the same persons or group of persons shall be considered to have been made by a single committee, and are characterized as affiliated committees. 2 U.S.C. § 441a(a)(5); *see also* 11 C.F.R. §§ 100.5(g), 102.2(b)(1), and 110.3. Any local committee of a political party is a political committee if: it receives contributions aggregating in excess of \$5,000 during a calendar year; it makes payments exempted from the definition of contribution under 11 C.F.R. §§ 100.7(b)(9), (15) and (17), and expenditure, under 11 C.F.R. 100.8(b)(10), (16) and (18), which payments aggregate in excess of \$5,000 during a calendar year; or it makes contributions aggregating in excess of \$1,000 during a calendar year or makes expenditures aggregating in excess of \$1,000 during a calendar year. 11 C.F.R. § 100.5(c); *see also* 2 U.S.C. § 431(4)(C).

Finally, each treasurer of a political committee shall file reports of receipts and disbursements pursuant to 2 U.S.C. § 434(a)(1), and such reports shall disclose the items set forth in 2 U.S.C. § 434(b). The reports shall include the amount and nature of outstanding debts and obligations owed by a political committee. 2 U.S.C. § 434(b)(8). Debts and obligations owed by or to a political committee which remain outstanding shall be continuously reported until extinguished. 11 C.F.R. § 104.11(a).

B. Analysis

The Commission concluded in the Audit Report on Newinski for Congress, which was issued on December 9, 1999, that the Committee accepted contributions from 36 individuals totaling \$33,075 in excess of the contribution limit. *See* 2 U.S.C. § 441a(f).

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The Committee did not provide evidence during the audit that the excessive contributions from individual contributors were reattributed to another person or redesignated for another election. Thus, there is reason to believe that Newinski for Congress and Richard Riener, as treasurer, accepted excessive contributions from individuals in violation of 2 U.S.C. § 441a(f).

The Audit Report also concluded that the Committee accepted contributions from the 4th Congressional District RPM and local party committees, specifically 39A House District RPM, 52B House District RPM, 53A House District RPM, 53B House District RPM, 54A House District RPM, 55A House District RPM, 55B House District RPM and 67B House District RPM, totaling \$10,710, which is \$5,710 in excess of the contribution limit pursuant to 2 U.S.C. § 441a(a)(2)(A).

All contributions made by political committees established or financed or maintained or controlled by the same persons or group of persons shall be considered to have been made by a single committee, and are characterized as affiliated committees. 2 U.S.C. § 441a(a)(5). The local party committees which made contributions to Newinski for Congress are not registered with the Commission. Moreover, no contributions by any of the local party committees to Newinski for Congress exceeded \$1,000 during a calendar year. The local party committees did not receive contributions in excess of \$5,000 during a calendar year nor make payments exempted from the definition of contribution and expenditure set forth in 2 U.S.C. §§ 431(8) and (9) exceeding \$5,000 during a calendar year. The local party committees also did not make contributions or expenditures exceeding \$1,000 during a calendar year. Thus, it does not appear that the local party committees are political committees under the Act, which would require them to register as political committees with the Commission. In regard to affiliated committees, only contributions from political committees may be aggregated. 2 U.S.C. § 441a(a)(5) and 11 C.F.R.

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§ 110.3(b)(3). Since the local party committees are not political committees under the Act, their contributions cannot be aggregated with contributions from the 4th Congressional District RPM to the Committee.

The local party committees are subject to a contribution limit of \$1,000 pursuant to 2 U.S.C. § 441a(a)(1)(A). With the exception of 53B House District RPM, the Committee accepted contributions from the local party committees that were within the contribution limit of 2 U.S.C. § 441a(a)(1)(A). Therefore, there is no reason to believe that Newinski for Congress accepted excessive contributions from 39A House District RPM and Tony Roszak, as treasurer; 52 B House District RPM and Gary Dahle, as treasurer; 53A House District RPM and Beverly Aplikowski, as treasurer; 54A House District RPM and Skip Wolverton, as treasurer; 55A House District RPM and John Bowers, as treasurer; 55B House District RPM and Todd Tessmer, as treasurer; and 67B House District RPM and Rebecca Dandrea, as treasurer, in violation of 2 U.S.C. § 441a(f).

The Committee accepted a contribution of \$500 on January 25, 1997 and a contribution of \$1,000 on July 27, 1998 from 53B House District RPM. The Committee did not provide evidence during the audit that the excessive contributions from 53B House District RPM were redesignated for another election. Therefore, there is reason to believe that Newinski for Congress accepted an excessive contribution from 53B House District RPM and Roger Adams, as treasurer, in violation of 2 U.S.C. § 441a(f).

No multicandidate political committee shall make contributions to any candidate with respect to any election for federal office which, in the aggregate, exceed \$5,000. 2 U.S.C. § 441a(a)(2)(A). The Committee accepted a total contribution of \$6,015 from the 4th Congressional District RPM. The Committee did not provide evidence during the audit that the

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excessive contributions from the 4th Congressional District RPM were redesignated for another election. Thus, there is reason to believe that Newinski for Congress and Richard Riener, as treasurer, accepted excessive contributions from the 4th Congressional District in violation of 2 U.S.C. § 441a(f).

Additionally, the Audit Report stated that the Committee accepted contributions from the Taxpayers League Federal PAC totaling \$2,050, with \$1,050 in excess of the contribution limit at 2 U.S.C. § 441a(a)(1)(A) because the Taxpayers League Federal PAC had not attained multicandidate status when the contributions were made. However, the Taxpayers League Federal PAC was registered as a multicandidate committee with the Commission when it made its contributions to the Committee, and was subject to the contribution limits set forth in 2 U.S.C. § 441a(a)(2)(A). Thus, there is no reason to believe that the Committee accepted an excessive contribution from the Taxpayers League Federal PAC in violation of 2 U.S.C. § 441a(f).

Finally, as noted in the Audit Report, the Committee failed to report debts totaling \$10,041 on its 1997 Year End Report, and failed to report debts totaling \$12,380 on its 1998 Pre-Primary Report and 1998 Pre-General Report. Therefore, there is reason to believe that Newinski for Congress and Richard Riener, as treasurer, failed to report debts and obligations in violation of 2 U.S.C. § 434(b)(8) and 11 C.F.R. § 104.11(a).

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