

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2001 JUL 25 P 1:36



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

July 25, 2001

**MEMORANDUM**

TO: The Commission

FROM: Lois G. Lerner  
Acting General Counsel

BY: Abigail A. Shaine *AAS*  
Acting Associate General Counsel

SUBJECT: PreMUR 402, Late Submission

**SENSITIVE**

JUL 26 2001

**EXECUTIVE SESSION**

**SUBMITTED LATE**

Attached is a First General Counsel's Report in a sua sponte submission from Richard Eagan. It recommends the Commission find reason to believe, enter into pre-probable cause conciliation and accept the attached Conciliation Agreement. A hearing connected to Mr. Eagan's confirmation is scheduled for July 31<sup>st</sup> and the Senate Committee would like to be informed by COB Friday, July 27<sup>th</sup> if this matter is resolved. Suspension of the Commission's rules to consider the attached General Counsel's Report would allow it to be considered at the continued Executive Session on July 26<sup>th</sup>.

21-04-405-2447

FEDERAL ELECTION COMMISSION  
999 E Street, N.W.  
Washington, D.C. 20463

**SENSITIVE**

**FIRST GENERAL COUNSEL'S REPORT**

PRE-MUR: 402  
DATE ACTIVATED: JULY 23, 2001

EXPIRATION OF STATUTE OF  
LIMITATIONS: JULY 9, 2003  
STAFF MEMBER: Maura Callaway

SOURCE: Sua Sponte

RESPONDENT: Richard Egan

RELEVANT STATUTE: 2 U.S.C. § 441a(a)(3)

FEDERAL AGENCIES CHECKED: None

**I. GENERATION OF MATTER**

This matter was generated by a sua sponte submission on July 12, 2001, from Kenneth Gross, counsel to Richard Egan. The submission was followed by a telephone call from counsel requesting pre-probable cause to believe conciliation. In order to expedite the settlement of this matter, counsel has submitted a signed conciliation agreement. A check for the civil penalty is expected to be immediately forthcoming.

**II. FACTUAL AND LEGAL ANALYSIS**

The submission states that President Bush recently appointed Richard Egan as the U.S. Ambassador to Ireland, and that during the confirmation process Mr. Egan became aware that he exceeded the \$25,000 annual limit for both 1998 and 2000. Mr. Egan's contributions exceeded the 1998 annual limit by \$6,600, and exceeded the 2000 annual limit by \$30,100. The submission states that the limits were exceeded "as a result of inadvertent errors in recordkeeping and accounting."

After realizing that he exceeded the limits, Mr. Egan apparently took "immediate steps" to remedy the problem. With respect to the contributions that count toward the 1998 limit, counsel states that Mr. Egan received refunds totalling \$11,000 and has requested a refund of an additional \$1,000, which he has not yet received. In addition to the refund, Mr. Egan also redesignated his \$5,000 contribution to the Pioneer PAC so that it would go to the PAC's nonfederal account. The submission concludes that "the refunds and the redesignation bring Mr. Egan's federal contributions for 1998 to \$15,600, well under the \$25,000 limit," and that for the year 2000, Mr. Egan received refunds totaling \$32,000, bringing down his total contributions for that calendar year to \$23,100. In addition, Mr. Egan has requested an additional \$9,600 in refunds which he has not yet received.

The submission also states that "FEC records show that Mr. Egan contributed \$1,000 to Rogan for Congress on September 28, 2000, and \$1,000 to Rogers for Congress on October 1, 2000," but that these contributions "were not made by Mr. Egan but rather by his wife, Maureen Egan, and should be attributed to her."<sup>1</sup> In addition, the submission notes that Commission records also show that Mr. Egan contributed \$15,000 to the RNC, but that the contribution "was originally made to the Republican Governors Association ("RGA") which does not count toward the federal limits, and then misdeposited by the RNC into its federal account." According to the submission, when the RNC "became aware of this misdeposit, it transferred the contributions to its non-federal account on March 13, 2001." A letter from the RNC was

---

<sup>1</sup> Copies of the original contribution checks signed by Mrs. Egan were submitted demonstrating that she was in fact the signatory on the checks.

1 included with the submission confirming the erroneous deposit along with a copy  
 2 of the original check, dated October 2, 2000, showing that it was made payable to the  
 3 RGA.

4 The sua sponte submission identified the following contributions as being made  
 5 in connection with the 1998 annual limit:

Date	Committee	Amount	Refund Date
4/29/96	Judd Gregg Committee	\$500	
4/29/96	Judd Gregg Committee	\$500	
4/29/96	Judd Gregg Committee	\$500	
4/28/97	Voinovich for Senate	\$1,000	
4/28/97	Voinovich for Senate	\$1,000	
5/27/97	Judd Gregg Committee	\$500	received 6/30/97
5/27/97	Judd Gregg Committee	\$500	
5/27/97	Judd Gregg Committee	\$1,000	received 6/30/97
8/7/97	Dick Arney Campaign Committee	\$500	
12/3/97	Citizens for Kasich	\$1,000	
12/15/97	Citizens for Peter Torkildsen	\$1,000	
12/15/97	Amorello for Congress	\$1,000	
3/6/98	Majority Leader's Fund	\$500	
3/15/98	Michigan Republican State Committee	\$1,000	
3/16/98	Hayworth for Congress	\$1,000	received 3/14/01
4/7/98	Chris Cox Congressional Committee	\$350	
4/14/98	Citizens for Peter Torkildsen	\$1,000	received 3/15/01
4/15/98	Amorello for Congress	\$1,000	received 12/5/00
4/22/98	Marty Meehan for Congress	\$1,000	
4/22/98	Marty Meehan for Congress	\$1,000	
4/28/98	American Renewal PAC	\$500	
5/19/98	Republican House Senate Dinner	\$1,000	
5/19/98	NRSC	\$500	
5/19/98	NRCC	\$250	
6/30/98	Pioneer PAC	\$5,000	3/14/01 redesignated

05-12-2004 10:12

7/2/98	Watkins for Congress	\$1,000	received 3/29/01
7/9/98	Wyrick for Congress	\$1,000	
7/13/98	Friends of Wamp	\$500	received 3/12/01
7/31/98	MA Republican State Congressional Committee	\$5,000	received 3/19/01
9/29/98	Citizens for Kasich	\$1,000	requested
	<b>TOTAL</b>	<b>\$31,600</b>	

The sua sponte submission identified the following contributions as being made  
in connection with the 2000 annual limit:

Date	Committee	Amount	Refund Date
3/24/97	Frist 2000	\$1,000	
3/24/97	Frist 2000	\$1,000	received 7/9/01
3/29/99	Kasich 2000	\$1,000	
5/10/99	Friends of Giuliani Exploratory Cmte.	\$1,000	
6/28/99	Abraham Senate 2000	\$500	
7/12/99	Chafee U.S. Senate	\$1,000	received 5/14/01
7/29/99	Rogan for Congress	\$500	
8/6/99	Arney Campaign Committee	\$1,000	received 7/11/01
9/27/99	McCain 2000	\$1,000	received 3/12/01
10/1/99	Friends of George Allen	\$1,000	
10/1/99	Friends of George Allen	\$1,000	
10/19/99	Friends of Giuliani Exploratory Cmte.	\$1,000	received 6/30/00
11/1/99	Ashcroft 2000	\$1,000	requested
11/1/99	Ashcroft 2000	\$1,000	requested
11/22/99	Bush-Cheney 2000 Compliance Cmte.	\$1,000	
2/22/00	Capuano for Congress	\$1,000	requested
2/22/00	Capuano for Congress	\$1,000	received 3/27/01
3/28/00	Chafee US Senate	\$1,000	received 5/14/01
4/20/00	Chris Cox Congressional Committee	\$1,000	received 3/10/01
5/5/00	Majority Leader's Fund	\$1,000	received 7/11/01
5/5/00	Friends of Dick Lugar	\$1,000	received 3/27/01
5/11/00	Santorum 2000	\$1,000	received 3/8/01
5/22/00	Rogan for Congress	\$600	requested
5/27/00	Peter Abair for Congress	\$1,000	received 3/26/01
6/5/00	Ensign for Senate	\$1,000	requested
6/5/00	Federer for Congress	\$1,000	requested
6/5/00	Paul McCarthy for Congress	\$1,000	requested
6/5/00	Paul McCarthy for Congress	\$1,000	

6/13/00	Abraham Senate 2000	\$500	
6/13/00	Abraham Senate 2000	\$1,000	requested
6/14/00	Howell for US Senate	\$1,000	requested
6/14/00	Howell for US Senate	\$1,000	requested
6/23/00	Armey Campaign Committee	\$1,000	received 7/11/01
6/29/00	Roth Senate Committee	\$1,000	requested
7/11/00	Lazio 2000	\$1,000	received 4/5/01
7/19/00	MA Conservative PAC	\$1,000	
8/11/00	Committee to Elect Fred Golder	\$1,000	requested
8/31/00	Bass Victory 2000 Committee	\$1,000	received 3/26/01
9/21/00	Rogers for Congress	\$1,000	received 3/28/01
9/22/00	Friends of John Hostettler	\$1,000	received 3/21/01
9/26/00	Fletcher for Congress	\$1,000	received 3/20/01
9/27/00	Greenleaf for Congress	\$1,000	received 3/8/01
9/28/00	Zimmer 2000 Inc.	\$1,000	
9/29/00	John Koster for Congress	\$1,000	received 3/23/01
9/29/00	Kuykendall Congressional Committee	\$1,000	received 3/14/01
9/30/00	Kirk for Congress	\$1,000	received 3/10/01
9/30/00	Dickey for Congress	\$1,000	received 3/13/01
9/30/00	Rehberg for Congress	\$1,000	requested
10/13/00	Ashcroft Victory	\$5,000	received 6/28/01
10/17/00	Re-elect Congressman Moakley	\$1,000	received 3/27/01
10/24/00	Friends of Clay Shaw	\$1,000	received 3/14/01
10/24/00	Friends of Clay Shaw	\$1,000	received 3/27/01
12/7/00	Amorello for Congress	\$1,000	received 3/27/01
	<b>TOTAL</b>	<b>\$55,100</b>	

According to 2 U.S.C. § 441a(a)(3), no individual shall make contributions aggregating more than \$25,000 in any calendar year. Any contribution made to a candidate in a year other than the calendar year in which the election is held with respect to which such contribution is made, is considered to be made during the calendar year in which such election is held.

Insofar as Mr. Egan contributed a total of \$6,600 in excess of the 1998 annual contribution limit, and \$30,100 with respect to the 2000 annual contribution limit, there is reason to believe he violated 2 U.S.C. § 441a(a)(3). Although Mr. Egan obtained refunds of \$11,000 and redesignated a \$5,000 contribution with respect to the 1998

1 limit, the refunds and redesignation were made between two and a half and three years  
2 after the contributions were made.<sup>2</sup> With respect to the 2000 annual limit, although Mr.  
3 Egan received refunds totaling \$32,000 and has requested an additional \$9,600 in  
4 refunds, such refunds were made between three and a half months and three years  
5 after the contributions were made.

6 Based upon the foregoing, it is the recommendation of this Office that the  
7 Commission find reason to believe that Richard Egan violated 2 U.S.C. § 441a(a)(3) by  
8 contributing \$6,600 in excess of the \$25,000 annual limit for 1998, and by contributing  
9 \$30,100 in excess of the \$25,000 annual limit for 2000. It is also the recommendation  
10 of this Office that the Commission enter into conciliation with Robert Egan prior to a  
11 finding of probable cause to believe, and approve the attached conciliation agreement  
12  
13  
14  
15  
16

17 **III. RECOMMENDATIONS**

- 18 1. Open a MUR.  
19  
20 2. Find reason to believe that Richard Egan violated 2 U.S.C. § 441a(a)(3).  
21  
22 3. Enter into conciliation with Richard Egan prior to a finding of probable cause  
23 to believe.  
24  
25 4. Approve the attached Conciliation Agreement.

---

<sup>2</sup> Two refunds totaling \$1,500 were made in 1997, before the 1998 annual limit was exceeded.

21 "04"405 "2453

4. Approve the attached Factual and Legal Analysis.
5. Close the file.
6. Approve the appropriate letter.

Lois G. Lerner  
Acting General Counsel

7/24/01  
Date

BY: Abigail A. Shaine  
Abigail A. Shaine  
Acting Associate General Counsel

Attachments:

1. Conciliation Agreement
2. Factual and Legal Analysis





**FEDERAL ELECTION COMMISSION**  
Washington, DC 20463

**MEMORANDUM**

**TO:** Office of the Commission Secretary  
**FROM:** Office of General Counsel *Red*  
**DATE:** July 25, 2001  
**SUBJECT:** Pre-MUR 402-First General Counsel's Rpt.

The attached is submitted as an Agenda document for the Commission Meeting of \_\_\_\_\_

Open Session \_\_\_\_\_

Closed Session \_\_\_\_\_

**CIRCULATIONS**

**DISTRIBUTION**

**SENSITIVE**

☒

**NON-SENSITIVE**

☐

72 Hour TALLY VOTE ☐

24 Hour TALLY VOTE ☐

24 Hour NO OBJECTION ☐

INFORMATION ☐

48 Hour TALLY VOTE ☒

**COMPLIANCE**

☒

Open/Closed Letters ☐

MUR ☐

DSP ☐

STATUS SHEETS ☐

Enforcement ☐

Litigation ☐

PFESP ☐

RATING SHEETS ☐

AUDIT MATTERS ☐

LITIGATION ☐

ADVISORY OPINIONS ☐

REGULATIONS ☐

OTHER ☐

5542 "504" 40-12