

AUG 23 2004

FEDERAL ELECTION COMMISSION
FIRST GENERAL COUNSEL'S REPORT

FEDERAL ELECTION
COMMISSION
SECRETARIAT

2004 AUG 24 A 10: 09

MUR: 5334
DATE COMPLAINT FILED: 11/14/02
DATE OF NOTIFICATION: 11/21/02
DATE ACTIVATED: 01/13/04

SENSITIVE

EXPIRATION OF STATUTE OF LIMITATIONS:
10/1/07

MUR: 5341
DATE COMPLAINT FILED: 11/26/02
DATE OF NOTIFICATION: 12/4/04
DATE ACTIVATED: 01/13/04

EXPIRATION OF STATUTE OF LIMITATIONS:
3/22/07

AUDIT REFERRAL: 04-04
DATE ACTIVATED: 05/10/04

EXPIRATION OF STATUTE OF LIMITATIONS:
4/15/07

COMPLAINANTS:

Friends of Carolyn McCarthy (MUR 5334)
Jay S. Jacobs, Chairman of Nassau County
Democratic Committee (MUR 5341)

RESPONDENTS:

Friends of Marilyn F. O'Grady and Thomas Keller,
as treasurer
Marilyn F. O'Grady
Alumni for O'Grady (MUR 5341)
Alexandre Carew (MUR 5334)
Nelson DeMille (MUR 5334)
Baval Bernard (MUR 5334)
Charles Kadish (MUR 5334)
Lawrence & Susan Kadish (MUR 5334)
Charles Mansfield (MUR 5341)

RELEVANT STATUTES
AND REGULATIONS:

2 U.S.C. § 431(8)(a)
2 U.S.C. § 431(18)
2 U.S.C. § 434(a)(2)(A)(i)-(iii)

2 U.S.C. § 434(a)(11)
2 U.S.C. § 434(b)(2)(G)
2 U.S.C. § 434(b)(2)(H)
2 U.S.C. § 434(b)(4)
2 U.S.C. § 441a(a)(1)(A)
2 U.S.C. § 441d(a), (a)(3)
11 C.F.R. § 100.17
11 C.F.R. § 100.22
11 C.F.R. § 104.18(a)(1)
11 C.F.R. § 110.11(a)(3)
11 C.F.R. § 110.11(a)(5)

INTERNAL REPORTS CHECKED: Disclosure Reports and Internal Indices
Report of the Audit Division on Friends of Marilyn
F. O'Grady (Jan. 15, 2002 – Dec. 31, 2002)

FEDERAL AGENCIES CHECKED: None

I. INTRODUCTION AND SUMMARY¹

Dr. Marilyn O'Grady, a first-time federal candidate, ran for a U.S. House of Representatives seat in New York's 4th Congressional district in 2002. She won her September 10, 2002 primary election, but lost to Carolyn McCarthy in the general election on November 5, 2002.

From the beginning of O'Grady's campaign, her authorized political committee, Friends of Marilyn O'Grady ("the Committee"), had compliance problems. O'Grady became a candidate when she passed the \$5,000 contribution/expenditure threshold on February 21, 2002. 2 U.S.C. § 431(2). O'Grady filed her Statement of Candidacy, designating the Committee as her

¹ All of the facts recounted in this matter occurred prior to the effective date of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub. L. 107-155, 116 Stat. 81 (2002). Accordingly, unless specifically noted to the contrary, all citations to the Act are prior to the effective date of BCRA and all citations to the Commission's regulations are to the 2002 edition of Title 11, Code of Federal Regulations, published prior to the Commission's promulgation of any regulations under BCRA.

1 authorized campaign committee on March 5, 2002;² the Committee then untimely filed its
2 Statement of Organization 16 days later on March 21, 2002. 11 C.F.R. § 104.1. Thereafter, the
3 Committee failed to file its 2002 April Quarterly Report until 2004, failed to timely file its 12-
4 Day Pre-Primary and Pre-General Election Reports as well as several 48-Hour notices, and
5 initially filed all other reports on paper, even though the threshold for electronic filing had been
6 triggered. The Committee did not electronically file its reports with the Commission until it
7 received several requests for additional information ("RFAIs") and was assisted by the Reports
8 Analysis Division in correcting problems it had in understanding how to properly use FEC File
9 software. Beginning with its 2002 October Quarterly Report, the Committee electronically filed
10 its reports with the Commission.

11 During the course of the campaign, the Committee received a total of \$255,000 in eight
12 separate loans from accounts of the candidate or the candidate's spouse, John F. O'Grady,
13 beginning with a \$50,000 loan from the candidate on March 22, 2002. Attachment 1 at 9-10.
14 These loans and the filing problems noted above comprise a significant part of the alleged
15 reporting violations discussed in this Report. The Committee also allegedly accepted a number
16 of excessive and prohibited contributions. Attachment 1 at 5-7.

17 The Commission authorized an audit of the Committee pursuant to 2 U.S.C. § 438(b),
18 covering the period of January 15, 2002 – December 31, 2002.³ Following the Commission's
19 approval of the Final Audit Report on March 22, 2004, the Audit Division referred five findings
20 to this Office. Attachment 1. Since, at the time of the referral, this Office had already activated

² This document was dated February 10, 2002. A copy of the Statement of Candidacy was also hand-delivered to the Commission on March 21, 2002.

³ The Commission voted to undertake the audit on April 22, 2003 and fieldwork in Garden City, NY was conducted July 28, 2003 to August 8, 2003.

26044140383

1 two MURs alleging violations by O'Grady and the Committee, which it had planned to treat
2 together, it made sense to address all three matters in a single Report. The Committee has also
3 since filed several amended reports with the Commission as a result of the audit process.

4 The complaint in MUR 5341, urging action against the Committee, its treasurer, and the
5 candidate, alleged that the Committee failed to timely file its 2002 April Quarterly and 12-Day
6 Pre-Primary Election Reports, failed to timely report two candidate loans on Schedule C, and
7 failed to file reports electronically after its receipts exceeded \$50,000. That complaint also
8 included allegations that the Committee failed to accurately report expenditures for the purchase
9 of certain television advertisements and failed to place required disclaimers on a letter allegedly
10 from "Alumni for O'Grady." Attachment 2. Likewise, the complaint in MUR 5334, also against
11 the Committee and its treasurer, alleged that the Committee failed to place a required disclaimer
12 on a leaflet that may have been distributed to over 50,000 people. Attachment 3. In addition, the
13 MUR 5334 complaint alleged that the Committee, in its late-filed Pre-General Report, disclosed
14 what appear to be excessive contributions from six contributors. MUR 5334, Complaint at 1.

15 The Audit Referral includes the following findings against the Committee: (1) the
16 misstatement of financial activity by understating receipts by \$62,374, the largest element of
17 which was a candidate loan of \$55,000, and understating disbursements by \$89,425, the largest
18 element of which involved failing to report media services costing \$85,135 (including what
19 appears to be payments for the television advertisements referenced in MUR 5341); (2) receipt of
20 prohibited corporate contributions totaling \$9,195; (3) receipt of excessive contributions from the
21 candidate's spouse (originally reported as a candidate loan) totaling \$23,000, (4) failure to
22 disclose two candidate loans, totaling \$55,000; and (5) failure to file 48-Hour notices for eight

26044140384

1 contributions totaling \$85,000 (\$80,000 of which were loans from the candidate or her spouse).

2 Attachment 1.

3 As discussed in more detail below, this Office recommends that the Commission find
4 reason to believe that Friends of Marilyn O'Grady and Thomas Keller, as treasurer, violated
5 several reporting and timely filing provisions of the Federal Election Campaign Act of 1971, as
6 amended ("the Act"), improperly accepted prohibited and excessive contributions, and failed to
7 include a required disclaimer on a letter that was a subject of the complaint in MUR 5341. We
8 also recommend that the Commission find reason to believe that the candidate's spouse made an
9 excessive contribution in the form of a loan to the Committee. We make no recommendations as
10 to the candidate at this time. *See discussion infra.*

11 This Office also recommends that the Commission find no reason to believe that the
12 signatory of the letter lacking the disclaimer violated the Act and close the file as to him, and that
13 the Commission exercise prosecutorial discretion and take no action as to the individual
14 excessive contributors and close the file as to them. We also recommend that the Commission
15 find reason to believe that Unknown Respondents violated the Act with respect to the leaflet
16 lacking a disclaimer that was the subject of the complaint in MUR 5334, and that they made a
17 prohibited or excessive in-kind contribution to the Committee. Finally we recommend that the
18 Commission authorize a brief investigation focused on the leaflet.

19 **III. FACTUAL AND LEGAL ANALYSIS**

20 **A. Statement of Organization (2 U.S.C. § 433(a))**

21 Each authorized political campaign committee must file a statement of organization no
22 later than ten days after being designated as such in a candidate's Statement of Candidacy.

23 2 U.S.C. § 433(a). O'Grady filed her Statement of Candidacy, designating the Committee as her

25044140385

1 authorized campaign committee on March 5, 2002, but the Committee did not file its Statement
2 of Organization until March 21, 2002 – six days late.⁴ Therefore, this Office recommends that
3 the Commission find reason to believe that Friends of Marilyn F. O'Grady and Thomas Keller,
4 as treasurer, violated 2 U.S.C. § 433(a).

5 **B. Timely Filing Issues (2 U.S.C. § 434(a))**

6 **1. 2002 April Quarterly Report (MUR 5341)**

7 The treasurer of a political committee must file reports of all receipts and disbursements
8 in accordance with the Act. 2 U.S.C. § 434(a)(1). A committee is required to file a quarterly
9 report no later than the 15th day after the last day of each calendar quarter in any election year
10 during which there is a regularly scheduled election for which the candidate is seeking election.
11 2 U.S.C. § 434(a)(2)(A)(iii). The MUR 5341 complaint alleged that the Committee, based on
12 contributions and receipts and the filing of a Statement of Organization during the first quarter of
13 2002, was required to file a 2002 April Quarterly Report.

14 ~~_____The Committee reported that it had raised more than \$5,000 in contributions as of~~
15 February 21, 2002, and therefore Marilyn O'Grady crossed the candidate threshold set forth in
16 2 U.S.C. § 431(2)(B). 2002 July Quarterly Report. The candidate filed her Statement of
17 Candidacy on March 5, 2002. Though late, the Committee then filed its Statement of
18 Organization on March 21, 2002. Accordingly, the Committee was required to file the next
19 ~~report due, which was the 2002 April Quarterly Report, due on April 15, 2002. It did not.~~

20 The Committee admitted in its response that the "required filing for the first quarter 2002
21 was not made and in retrospect, should have been filed." MUR 5341, Committee Response at 1.

⁴ The late filing of the Committee's Statement of Organization was not asserted in either complaint or the audit referral; this Office raises the issue after reviewing the Committee's reports.

26044140386

1 The Committee filed the 2002 April Quarterly Report electronically on February 10, 2004, after
2 the completion of the Commission's audit and nearly 22 months late. Therefore, this Office
3 recommends that the Commission find reason to believe that Friends of Marilyn F. O'Grady and
4 Thomas Keller, as treasurer, violated 2 U.S.C. § 434(a)(2)(A)(iii).

5 **2. 12-Day Pre-Primary Report (MUR 5341)**

6 The treasurer of a political committee must file reports of all receipts and disbursements
7 in accordance with the Act. 2 U.S.C. § 434(a)(1). A committee is required to file a pre-election
8 report no later than the 12th day before any election in which the candidate is seeking election.
9 2 U.S.C. § 434(a)(2)(A)(i). The MUR 5341 complaint alleged that the Committee filed its
10 12-Day Pre-Primary Report late.

11 For O'Grady's September 10, 2002 primary, the Committee's 12-Day Pre-Primary
12 Report was due on August 29, 2002 and should have covered the period of July 1, 2002 through
13 August 21, 2002. The Committee submitted this report on paper on August 30, 2002; the report
14 covered the period of July 1, 2002 through August 30, 2002. The Committee stated in its
15 response that the one-day delay in filing this report was "inadvertent" and due to its
16 "inexperience with filings." MUR 5341, Committee Response at 1. Although required to do so,
17 *see infra*, the Committee did not electronically file its 12-Day Pre-Primary Report (covering the
18 correct reporting period) until November 1, 2002.

19 Accordingly, this Office recommends that the Commission find reason to believe that
20 Friends of Marilyn F. O'Grady and Thomas Keller, as treasurer, violated 2 U.S.C.
21 § 434(a)(2)(A)(i).

22

26044140387

3. 12-Day Pre-General Election Report (MUR 5334)

The MUR 5334 complaint alleged that the Committee filed also its 12-Day Pre-General Election Report late.⁵ For O'Grady's November 5, 2002 general election race, the Committee's 12-Day Pre-General Election Report was due no later than October 24, 2002. The Commission notified the Committee by Western Union MailGram dated October 25, 2004 that this report was late. Attachment 4. On October 28, 2002, the Committee electronically filed its Pre-General Election Report, four days late.

Accordingly, this Office recommends that the Commission find reason to believe that Friends of Marilyn F. O'Grady and Thomas Keller, as treasurer, violated 2 U.S.C. § 434(a)(2)(A)(i).

4. 48-Hour Notices (Referral Finding 5)

When any authorized campaign committee receives contributions of \$1,000 or more less than 20 days, but more than 48 hours, before any election in which the candidate is running, the committee must file special notices with the Commission within 48 hours of receipt of the contribution. 2 U.S.C. § 434(a)(6)(A). During O'Grady's campaign, the Committee failed to file 48-Hour notices for eight contributions of \$1,000 or more during the 48-Hour notice filing periods for the primary and general elections totaling \$85,000:

⁵ The complainant also asserts that in this report the Committee accepted several excessive contributions. That assertion is discussed fully *infra*.

26044140388

Contribution Type	Primary	General	Total
Loans from Candidate	\$50,000	\$20,000	\$70,000 ⁶
Loans from Candidate's Spouse	—	\$10,000	\$10,000 ⁷
Contributions from Individuals & PAC's	\$1,000	\$4,000	\$5,000 ⁸
48-Hour Notices Not Filed	\$51,000	\$34,000	\$85,000

1 Attachment 1 at 10-11. According to the Audit Referral, in response to the recommendation in
2 the interim audit report, the Committee stated that it was its understanding that these notices
3 were filed; however, it could not produce evidence of these filings. *Id.* At the exit conference,
4 the candidate was informed of the failure to file these 48-Hour notices. The candidate stated that
5 many of the other 48-Hour notices were filed properly and the non-filing of these notices was
6 probably a reporting oversight. *Id.*

7 Therefore, this Office recommends that the Commission find reason to believe that the
8 Committee violated 2 U.S.C. § 434(a)(6)(A) by failing to file eight 48-Hour notices.

9 **5. Electronic vs. Paper Filing (MUR 5341)**

10 As of January 1, 2001, electronic filing became mandatory for a political committee that
11 has, or has reason to expect to have, aggregate contributions or expenditures "in excess of" the
12 "threshold amount" of \$50,000. 2 U.S.C. § 434(a)(11)(i); 11 C.F.R. § 104.18(a)(1); *see also*
13 Federal Election Comm'n, *The Record*, Vol. 28, No. 4 (April 2002); Federal Election Comm'n,
14 *The Record*, Vol. 28, No. 1 (January 2002). Once any political committee exceeds, or has reason
15 to expect to exceed this threshold, all subsequent reports for the remainder of the calendar year

⁶ This amount included candidate loans made on 9/4/02 and 10/25/02, respectively.

⁷ This amount is included in the total of contributions from the Candidate's spouse on 10/21/2002, discussed *infra*.

⁸ These included contributions from Patricia Castel on 10/21/02, William Dal on 10/28/02, Paul Murphy on 10/22/02, James Sweeney on 11/1/02, and the Skin PAC on 10/24/02, each for \$1,000.

1 must also be filed electronically. 11 C.F.R. § 104.18(a)(2). Any report filed on paper will not
2 satisfy the committee's filing obligations under section 434(a).⁹ *Id.*

3 The MUR 5341 Complaint alleges that the Committee ignored the requirement to file
4 electronically. According to the complaint, even after the Commission notified the Committee
5 of its failure to comply with this requirement, "the Committee has chosen to ignore the
6 September 16, 2002 FEC telegram and remains in violation of the Act and all relative FEC rules
7 and regulations." MUR 5341 Complaint at 2; *see* Attachment 4 at 1.

8 The Committee exceeded the electronic filing threshold amount of \$50,000 during the
9 first quarter of 2002 when the Committee received the candidate loan of \$50,000 on March 22,
10 2002, in addition to other contributions, totaling \$61,800. Thus, the Committee had the
11 obligation to file all reports electronically with the Commission, beginning with its 2002 April
12 Quarterly Report. The Committee, however, did not electronically file any report with the
13 Commission until its 12-Day Pre-Primary Report on November 1, 2002. The Committee notes
14 that it filed the 2002 July Quarterly Report on paper and filed it electronically "after being
15 informed" of this requirement, and that it "took corrective action to insure future filings would be
16 done electronically." Response at 2. Although the Committee contacted RAD and the electronic
17 filing division for assistance in understanding how to file reports properly on December 5, 2002,
18 it nevertheless did not file its 2002 April Quarterly Report and an amended 2002 July Quarterly
19 Report electronically until February 10, 2004 and February 13, 2004, respectively, after the
20 Commission completed its audit of the Committee.

⁹ A paper report submitted to the Commission that does not comply with the committee's filing obligations would nonetheless be physically accepted and released publicly as a "Miscellaneous Report to FEC."

26044140390

Therefore, this Office recommends the Commission find reason to believe that Friends of Marilyn F. O'Grady and Thomas Keller, as treasurer, violated 2 U.S.C. § 434(a)(11) and 11 C.F.R. § 104.18(a)(1) and (2).

C. Reporting Issues (2 U.S.C. § 434(b))

MUR 5341 and the Audit Referral allege several reporting violations by the Committee during 2002. The Committee admitted, both in response to the MUR 5341 complaint and the Commission's audit, that it may have violated several of the Commission's reporting requirements, claiming that some violations were due to "inexperience" and others were due to problems it had understanding how to use the FEC File software. MUR 5341, Committee Response at 1. The Committee has since filed, or is expected to file, amended reports to correct these errors.

1. Candidate and Spousal Loans¹⁰

A political committee must report any loans it receives and itemize them on Schedule A (Itemized Receipts), Line 13 (Loans). 2 U.S.C. § 434(b)(2)(G). It must disclose the total amount of loans made by or guaranteed by the candidate. 2 U.S.C. §§ 434(b)(2)(G) and (3)(E). It must continuously report the principal amount of each loan owed by the Committee on Schedule C (Loans) for all reporting periods, and continuously report existing debt on a separate schedule. 2 U.S.C. § 434(b)(8) and 11 C.F.R. §§ 104.3(d) and 104.11(a).

~~During 2002, the Committee received the following \$255,000 in loans from accounts of the candidate and her spouse:~~

¹⁰ The two loans from the candidate referenced in the MUR 5334 Complaint were for \$50,000 each and made on 3/22/2002 and 7/30/2002. The loan from the candidate referenced in the Audit Referral was for \$40,000 and made on 10/21/2002. The two loans made by the candidate's spouse were the \$15,000 loan made on 10/04/2002 and the \$10,000 loan made on 10/21/2002.

Loans		
Lender	Date Incurred	Amount
Dr. Marilyn O'Grady	3/22/02	\$ 50,000
Dr. Marilyn O'Grady	6/29/02	\$ 50,000
Dr. Marilyn O'Grady	9/4/02	\$ 50,000
Dr. Marilyn O'Grady	9/9/02	\$ 20,000
Dr. John F. O'Grady	10/04/02	\$ 15,000
Dr. John F. O'Grady ¹¹	10/21/02	\$ 10,000
Dr. Marilyn O'Grady	10/21/02	\$ 40,000
Dr. Marilyn O'Grady	10/25/02	\$ 20,000
TOTAL		\$ 255,000

1 See Attachment 1 at 9-10; Attachment 5.

2 The complaint in MUR 5341 alleged that the March 22, 2002 and June 29, 2002 loans
3 were not listed on the appropriate form, but instead just as "normal contributions." MUR 5341
4 Complaint at 1. With respect to the March 22, 2002 loan, instead of reporting it correctly on both
5 Schedules A and C in the 2002 April Quarterly Report, the Committee initially reported it in its
6 2002 July Quarterly Report, and only then on Schedule A. Likewise it reported the June 29,
7 2002 loan in the 2002 July Quarterly Report only on Schedule A.¹² Schedule C only reflects an
8 aggregate loan of \$100,000, but lists no other terms. Following the audit, the Committee
9 electronically filed its 2002 April Quarterly Report on February 10, 2004, and amended its 2002
10 July Quarterly Report on February 13, 2004, to correctly report the March 22 and June 29, 2002
11 loans on both Schedules A and C. The Committee also failed to correctly report the September
12 4, 2002 loan in its 2002 October Quarterly Report until the Committee electronically filed an
13 amended report on February 13, 2004.

¹¹ The Committee initially reported the two loans from Dr. John O'Grady as coming from the candidate. See discussion *infra*.

¹² The word "loans" is written next to these two contributions on Schedule A.

26044140392

1 The Audit Referral includes a finding that the Committee also failed to itemize the initial
2 receipt of the October 21, 2002 candidate loan of \$40,000 and the October 4, 2002 \$15,000 loan
3 from the candidate's spouse on Schedule A, or on the Detailed Summary page of the 12-Day
4 Pre-General Report, and did not continuously report the principal amount of each loan owed on
5 Schedule C for all appropriate reporting periods.¹³

6 Accordingly, this Office recommends the Commission find reason to believe Friends of
7 Marilyn F. O'Grady and Thomas Keller, as treasurer, violated 2 U.S.C. §§ 434(b)(2)(G), (3)(A)
8 and (E) and 434(b)(8); and 11 C.F.R. §§ 104.3(d) and 104.11(a).

9 **2. Misstatement of Financial Activity (Referral Finding 1)**

10 The Act requires that reports filed with the Commission disclose the amount of cash on
11 hand at the beginning and end of the reporting period; the total amount of receipts for the
12 reporting period and for the election cycle; and the total amount of disbursements for the reporting
13 period and for the election cycle. 2 U.S.C. §§ 434(b)(1), (2) and (4). Further, when operating
14 expenditures to the same person exceed \$200 within an election cycle, the Committee must report
15 the amount, date when the expenditures were made, name and address of the payee, and purpose
16 of such operating expenditures. 11 C.F.R. § 104.3(b)(4)(i)(A).

17 The Audit Division reconciled reported financial activity to bank records for 2002, and
18 found discrepancies for receipts, disbursements and the ending cash balance on December 31,
19 2002. Attachment 1 at 4-5. Specifically, the Audit Referral states that the Committee
20 understated receipts by \$62,374, including \$55,000 in loans (\$40,000 from the candidate and

¹³ Although the Committee never reported \$55,000 in receipts from the October 4 and 21, 2002 loans on Line 13 of the Detailed Summary Page for the 12-Day Pre-General Election Report, the Committee subsequently disclosed the \$40,000 loan from the candidate's personal funds on Schedule C of the 30-Day Post-General Report.

26044140393

1 \$15,000 from her spouse), and understated disbursements by \$89,425, including \$85,135 in
2 media services. *Id.* Some of the misstatement of financial activity resulted from the
3 Committee's improper inclusion of some of the covered period for the 2002 October Quarterly
4 Report in the 2002 12-Day Pre-Primary Report as well as in the 2002 October Quarterly Report,
5 *see* discussion *supra*, causing a duplication of a portion of the reported financial activity on both
6 the receipt and disbursements sides. In addition, some disbursements were not reported at all.
7 *Id.* These reporting errors and others, as well as the Committee's failure to carry forward the
8 correct cash balance from the 2002 12-Day Pre-Primary Report to the October Quarterly Report,
9 contributed to the Committee's understatement of its December 31, 2002 ending cash balance by
10 \$11,561. In response to the interim audit report, the Committee amended its reports through
11 2002 to correct the misstatements.

12 Therefore, this Office recommends that the Commission find reason to believe the
13 Committee violated 2 U.S.C. §§ 434(b)(1), (2) and (4) by misstating receipts, disbursements, and
14 ~~its ending cash balance on December 31, 2002.~~

15 **3. Failure to Report Expenditures Associated with Advertisement Buys**
16 **(MUR 5341)**

17 The complaint in MUR 5341 asserts that an expenditure listed in the Committee's
18 12-Day Pre-Primary Report of \$25,602 to McLaughlin and Associates on August 30, 2002 for
19 television ads appeared "to be inaccurate in two ways." MUR 5341, Complaint at 2. First,
20 according to the complaint, the Committee aired television ads in July that "had to be paid for in
21 advance," but no corresponding expenditure was listed in the Committees reports filed with the
22 Commission. *Id.* Second, the complaint asserts, the date of the disbursement matched the date
23 the report was filed, August 30, 2002, and there is no reported cost to produce these ads in any
24 report. *Id.*

1 The Committee's response states that "[I]f McLaughlin and Associates were to be
2 contacted they will readily confirm the Committee's payment for their services." MUR 5341,
3 Committee Response at 2. Although the complainant states generally that the television
4 advertisements aired in July, the Committee's response neither denies this nor points to a "pre-
5 July" disbursement. The Committee's response also states that the payments to McLaughlin and
6 Associates were made to air television advertisements "produced by Warfield and Associates,"
7 and that the Committee previously reported this disbursement. MUR 5341, Committee Response
8 at 1-2. The Committee's 2002 July Quarterly Report reflects an expenditure of \$8,308.31 to
9 Warfield and Associates on April 1, 2002, for "102-Campaign Ads."

10 When the MUR 5341 Complaint was filed, the earliest reported disbursement to
11 McLaughlin and Associates was August 30, 2002. However, the audit found that the
12 Committee's misstated financial activity included its failure to report a \$12,235 disbursement to
13 McLaughlin and Associates on June 21, 2002 – prior to the alleged airing of the July
14 advertisements – as well as later payments to that company of \$36,450 and \$36,450 on October 4
15 and October 11, 2002, respectively. When the Committee electronically filed its 2002 July
16 Quarterly Report after the audit, it reported the June 21, 2002 disbursement. This Office believes
17 that it is likely that the June 21, 2002 disbursement to McLaughlin and Associates, reported after
18 the complaint was filed, represents the "missing" advance payment for the advertisements
19 referenced by the MUR 5341 complainant and that the Committee has belatedly identified the
20 recipient of the payments for production of those advertisements.

21 Since the failure to initially report the payments to McLaughlin and Associates is
22 subsumed in the violations associated with the Committee's misstatement of financial activity
23 discussed *supra*, this Office does not make a separate recommendation in connection with the

26044140395

1 Committee's failure to report timely the costs of the television advertisements. During our
2 investigation this Office will confirm that the late-disclosed expenditures to McLaughlin and
3 Associates address the allegations in the MUR 5341 complaint.

4 **D. Excessive and Prohibited Contribution Issues (2 U.S.C. §§ 441a, 441b)**

5 **1. Excessive Contributions from Spouse (Referral Finding 3)**

6 The Act prohibits individuals from contributing more than \$1,000 for each election to a
7 federal candidate or candidate committee. 2 U.S.C. § 441a(a)(1)(A). This limitation applies
8 even to family members or spouses. *See Buckley v. Valeo*, 424 U.S. 1, 51, n.57 (1976) ("[T]he
9 immediate family of any candidate shall be subject to the contribution limitations established. . . .
10 The immediate family member would be permitted merely to make contributions to the
11 candidate in amounts not greater than \$1,000 for each election involved."); MUR 5138
12 (Ferguson) (discussing limitations on familial contributions). And a loan that exceeds the
13 contribution limitations of 2 U.S.C. § 441a and 11 C.F.R. § 110 is unlawful whether or not it is
14 repaid. 11 C.F.R. § 100.7(a)(1)(i)(A). The treasurer of a political committee is responsible for
15 examining all contributions received for evidence of illegality and for ascertaining whether the
16 contributions received, when aggregated with all other contributions from the same contributor,
17 exceeds the contribution limitations set forth in the Act. 11 C.F.R. § 103.3(b).

18 Candidates and political committees are similarly prohibited from knowingly accepting
19 contributions in excess of the limitations of section 441a. 2 U.S.C. § 441a(f). When a
20 committee receives an excessive contribution, the committee must either refund the excessive
21 portion of the contribution or the contributor must provide the committee with a redesignation or
22 reattribution, both within 60 days after receipt of the contribution. 11 C.F.R. §§ 103.3(b)(3) and
23 110.1(b)(3)(i). Political committees must also report contributions for the election to which they

26044140396

1 were made and identify each person who makes a contribution in excess of \$200 in a calendar
2 year. 2 U.S.C. §§ 434(b)(2)-(3).

3 The Audit Referral includes findings that the Committee may have received excessive
4 contributions from the candidate's spouse, Dr. John F. O'Grady. Attachment 1 at 5-9. During
5 October 2002, the Committee received a total of \$25,000 in loans from a business bank account
6 in Dr. John O'Grady's name. Attachment 1 at 7-9; Attachment 5 at 18, 20-21. These loans were
7 made by two checks, one for \$15,000 on October 4, 2002, and the other for \$10,000 on October
8 21, 2002, that were imprinted only with the name and credentials of Dr. John O'Grady as the
9 account holder. Attachment 5 at 18, 20-21. The Committee reported these loans as made by the
10 candidate from her "personal funds" and never reported them as contributions or loans from Dr.
11 John O'Grady. See 2002 Amended (2/13/04) 12-Day Pre-General Election Report at 42; 2002
12 Amended (2/13/04) Post-General Report at 53; 11 C.F.R. § 110.10(b) (defining personal funds).
13 During the audit the candidate stated that this account was maintained for the dental practice
14 --operated by her spouse, but claimed that she had a legal right to these loans under New York
15 marital property laws as a joint asset. Attachment 1 at 7-9; Attachment 6 at 1; Attachment 9 at
16 2.¹⁴

17 At the exit conference, the audit staff requested documentation to support the candidate's
18 claim that the loan proceeds were her personal funds within the meaning of 11 C.F.R.

¹⁴ With regards to this claim, the Audit staff sought legal guidance from this Office. Based on a review of the available facts, this Office provided a legal analysis of applicable New York marital property laws. See Attachment 6 at 4. We determined that New York law did not support the candidate's contention that the funds in her spouse's account were joint assets. Furthermore, even if the funds used to make the loans did constitute "marital property" under New York law, Marilyn O'Grady would not have any *vested* right to such property, if it were titled in her husband's name, until the marriage is legally dissolved. *Id.* Additional research has not revealed any relevant law supporting the candidate's assertions that the funds in the account were joint assets or that she has any current legal title in the funds in the account.

26044140398
1 § 110.10(b)(1). Subsequent to the exit conference, the candidate stated that she had attempted to
2 obtain account information from the bank but was told that retrieving the records would be time
3 consuming because the account was established long ago and before the bank changed
4 ownership. The candidate provided a notarized letter from her spouse explaining that since the
5 account represents income from his dental practice and is reportable as their combined income
6 for federal taxes, it was their understanding that the funds were a joint asset and thereby
7 permissible for use in the campaign.¹⁵ *Id.* However, absent documentation to support the
8 candidate's claim that the loans were from her "personal funds," and based on the checks
9 themselves and the bank statements, the interim audit report recommended that the Committee
10 refund \$23,000 to the candidate's spouse. If funds were not available to make the necessary
11 refund, as required pursuant to 11 C.F.R. § 103.4(b)(4), then the audit staff recommended the
12 refund amount due be disclosed on Schedule D until funds become available to make the
13 refunds. *Id.*

14 In response to the recommendation in the interim audit report, the candidate reiterated her
15 claim that the funds were her personal assets since they were reportable as combined income for
16 federal income tax purposes. *Id.* Nevertheless, following the audit, because the Committee
17 lacked sufficient funds to refund the excessive contribution, the candidate made a loan in the
18 amount of \$23,000 from a joint checking account with her spouse to the Committee. *Id.*;

¹⁵ A candidate may use her "personal funds" to make a loan to her campaign-committee if she had (a) legal right of access to or control over and (b) legal and rightful title or an equitable interest, as determined by "applicable state law." 11 C.F.R. § 110.10(b)(1). Accordingly, federal tax treatment of funds is not relevant. While the candidate may have an unvested equitable interest under (b), she still has no immediate legal right of access to or control over those funds as required under (a) and defined by state law. *See* footnote 14, *supra*. Therefore, she may not treat them as her "personal funds" pursuant to the Act and the Commission's regulations.

1 Attachment 7. Thereafter, Committee made a refund in the same amount to the candidate's
2 spouse. *Id.*

3 Therefore, this Office recommends that the Commission find reason to believe that the
4 Friends of Marilyn F. O'Grady and Thomas Keller, as treasurer, violated 2 U.S.C. § 441a(f) by
5 accepting excessive contributions, 2 U.S.C. § 434(b) for failing to properly report the spouse's
6 excessive contributions, and 11 C.F.R. § 103.4(b)(4) for failing to keep sufficient funds to make
7 a refund. This Office also recommends that the Commission generate John F. O' Grady as a
8 respondent and find reason to believe that he violated 2 U.S.C. § 441a(a)(1)(A) by making
9 excessive contributions totaling \$23,000 (\$25,000 less the pre-BCRA legal contribution of
10 \$1,000 for the primary and general elections).

11 **2. Other Excessive Contributions (MUR 5334)**

12 Under the Act, pre-BCRA, an individual's contribution to a federal candidate or
13 candidate committee was limited to \$1,000 per election. 2 U.S.C. § 441a(a)(1)(A). Candidates
14 and political committees were similarly prohibited from knowingly accepting contributions in
15 excess of the limitations of section 441a. 2 U.S.C. § 441a(f). Contributors were encouraged to
16 designate their contributions in writing, 11 C.F.R. § 110.1(b)(2)(i); they could do so by clearly
17 indicating on contribution checks the particular election for which the contribution was made,
18 11 C.F.R. § 110.1(b)(4)(i), or by including a "writing" with their contribution which clearly
19 indicated the particular election with respect to which the contribution was made. 11 C.F.R.
20 § 110.1(b)(4)(ii). However, in the event that a political committee received an individual
21 contribution up to \$2,000, twice the pre-BCRA legal limit, before a primary election, the
22 political committee had the option of requesting the contributor to redesignate, in writing, the
23 excessive portion of the contribution (\$1,000) to the general election, in accordance with

26044140399

1 11 C.F.R. § 110.1(5)(b). 11 C.F.R. § 110.1(b)(4)(iii). Committees were required to retain the
2 written redesignations for three years. 11 C.F.R. § 102.9(c).

3 Post-BCRA, political committees may presumptively redesignate for another election in
4 the same election cycle contributions that would otherwise be excessive without obtaining a
5 written redesignation from the contributor if certain conditions are met.¹⁶ See 67 FR 69,928
6 (Nov. 19, 2002); 11 C.F.R. § 110.1(b)(5)(ii)(B). Political committees are nevertheless required
7 to report contributions for the election to which they were made and identify each person who
8 makes a contribution in excess of \$200 in a calendar year. 2 U.S.C. §§ 434(b)(2)-(3).

9 The Complaint in MUR 5334 alleged that six individuals contributed in excess of the
10 \$1,000 contribution limits in violation of 2 U.S.C. § 441a(a). MUR 5334, Complaint at 1. The
11 Complaint further stated that "[i]n some instances, there is a notation that the excess has been
12 allocated to the primary election" but that the Committee had reported no outstanding primary
13 debt. *Id.* The contributors referenced by complainant were listed in the Committee's 12-Day
14 ~~Pre-General Election Report as follows:~~

Contributor	Primary Election (Date/Amount)	General Election (Date/Amount)	Notations
Lawrence Kadish	--	10/01/2002 \$2,000	\$1,000 allocated to primary
Susan Kadish	--	10/01/2002 \$2,000	\$1,000 allocated to primary
Baval Bernard	--	10/07/2002 \$2,000	\$1,000 allocated to primary
Charles Kadish	--	10/01/2002 \$2,000	--

¹⁶ These conditions are: (1) the contribution was not designated in writing by the contributor for a particular election; and (2) within 60 days after the contribution is received, the committee notifies the contributor of the redesignation and offers a refund. 11 C.F.R. § 110.1(b)(5)(ii)(B). Political committees will also be permitted to presumptively reattribute the excessive portion of a contribution to any one or more persons whose name is imprinted on the check or other written financial instrument without obtaining a written reattribution from the contributors so long as the committee, within 60 days, notifies all contributors of the reattribution and offers a refund. 11 C.F.R. § 110.1(k)(3)(ii)(B).

Alexander [sic] Carew	--	10/07/2002 \$2,000	--
Nelson DeMille	10/07/2002 \$400	10/04/2002 \$1,000	--

1 In its response to the Complaint in MUR 5334, the Committee stated that each of the
2 individual contributors "intended their contributions to be equally attributed to the primary and
3 general elections," and that there was outstanding debt from the primary election in the form of
4 candidate loans though none was initially reported.¹⁷ MUR 5334, Committee Response at 1.
5 The Committee, however, failed to provide with its response copies of the checks in question or
6 contemporaneous instruments of designation, redesignation, or reattribution. Five of the
7 individuals confirm in their responses to the complaint and in affidavits that it was their intent to
8 have their \$2,000 contribution check either redesignated to reflect contributions to both the
9 primary and general elections, or in the case of the Carews, to reflect a \$1,000 contribution by
10 each spouse. *See* Carew Response (Dec. 16, 2002)¹⁸ and Kadish/Bernard Response at 2-5 (Jan.
11 16, 2003). The sixth individual contributor, Mr. DeMille, explained in response to the complaint
12 that his excessive amount, a contribution of \$400, was paid toward a "cover charge" for himself
13 and a guest to attend a private event for O'Grady with Susan Lucci, and that it was not intended
14 to be a second contribution.¹⁹ DeMille Response at 2-3 (Dec. 13, 2002).

¹⁷ According to the Committee's Amended 12-Day Pre-General Election Report, dated September 17, 2002, the Committee had over \$100,000 in outstanding candidate loans. The Committee also stated in its response that with respect to Baval Bernard, Alexandre Carew, and Charles, Lawrence and Susan Kadish, the contributions were misreported.

¹⁸ The Committee's reports listed the contributor only as Alexander Carew. The MUR 5334 Complaint thus referenced a \$2,000 contribution reportedly from Alexander [sic] Carew. The Carew Response, however, states that there is no Alexander, only an Alexandre Carew. Carew Response at 1. The Carew Response then states that the contribution was from both Alexandre Carew and her husband, Raymond. *Id.*

1 Because the Committee failed to produce contemporaneous evidence to entirely rebut the
2 presumption of "paper excessives," this Office recommends that the Commission find reason to
3 believe that Friends of Marilyn F. O'Grady and Thomas Keller, as treasurer, violated 2 U.S.C.
4 § 441a(f) for knowingly accepting a total of \$5,400 in excessive contributions, and 2 U.S.C.
5 §§ 434(b)(2)-(3) for failing to identify each person who made a contribution in excess of \$200 in
6 a calendar year. Given the relatively small amount in violation and that the contributions would
7 have been presumptively allowable under the post-BCRA redesignation and reattribution
8 regulations, this Office does not believe that further pursuit of whether the Committee accepted
9 excessive contributions is warranted. *See also* MUR 5350 (Schneider for Congress) (taking no
10 further action where excessive amount in violation was not significant); *contrast* MUR 5238
11 (Schumer) (where committee had almost \$1 million in "paper excessives,"

12
13
14
15
16
17
18
19 In this matter, five of the
20 putative excessive contributions were received after the September primary and before the
21 general election. Given that the Committee had over \$100,000 in primary debt, the excessive
22 portion of these contributions could be presumptively redesignated to the primary election debt,
23 *see* 11 C.F.R. § 110.1(b)(3), or, in the case of the Carews, presumptively reattributed between the

1 husband and wife. Therefore, this Office recommends that the Commission exercise its
2 prosecutorial discretion and take no action with respect to Baval Bernard, Raymond and
3 Alexandre Carew, Charles Kadish, Lawrence Kadish and Susan Kadish, and close the file as to
4 them. Presumptive redesignation is more difficult for Mr. DeMille in view of his affidavit that
5 indicates his \$400 excessive contribution was not intended to fall within the redesignation or
6 reattribution categories, but in light of Mr. DeMille's *de minimus* contribution, this Office also
7 recommends that the Commission exercise its prosecutorial discretion and take no action and
8 close the file as to him.

9 **3. Prohibited Corporate Contributions (Referral Finding 2)**

10 Political committees may not accept contributions made from the general treasury funds
11 of corporations. 2 U.S.C. § 441b. This prohibition applies to any type of corporation, including
12 a non-stock corporation, an incorporated membership organization, and an incorporated
13 cooperative. *Id.* If a committee receives a contribution that appears to be prohibited, it must
14 follow the procedures set forth at 11 C.F.R. § 103.3(b). Within 30 days of the treasurer's receipt
15 of the questionable contribution, the committee must make at least one written or oral request for
16 evidence that the contribution is legal, and must either confirm the legality of the contribution or
17 refund the contribution to the contributor and note the refund on the report covering the period in
18 which the refund was made. 11 C.F.R. § 103.3(b)(1).

19 The Audit Referral includes findings that the Committee may have received 37 prohibited
20 contributions from 33 different corporate entities totaling \$9,195. Attachment 1 at 5-7;
21 Attachment 8 (listing corporate contributions). At the exit conference, the audit staff provided
22 the Committee with a list of those contributions. Attachment 1 at 6. All but four of the
23 corporations were registered with the State of New York. Attachment 8. According to the audit

26044140403

1 Referral, "[t]he candidate recognized many of the professional corporations on the list and stated
2 that she had not known that contributions from such entities were prohibited. The candidate also
3 stated that these contributors probably meant to make personal contributions but may have
4 accidentally used their business checks." Attachment 1 at 6. The candidate acknowledged to the
5 audit staff that the Committee would contact the individuals to offer refunds. *Id.*²⁰
6 Subsequently, the Committee provided documentation to support that it had made refunds to 20
7 entities totaling \$6,650. Attachment 9. Prohibited contributions from 13 entities totaling \$2,545
8 (\$9,195 - \$6,650) have not yet been refunded. *Id.* Since these refunds all occurred outside the
9 30-day window, however, the Committee has improperly accepted corporate contributions with
10 respect to both those that were refunded and those that were not. Therefore, this Office
11 recommends that the Commission find reason to believe that Friends of Marilyn F. O'Grady and
12 Thomas Keller, as treasurer, violated 2 U.S.C. § 441b by accepting prohibited contributions
13 totaling \$9,195.

14 With respect to the 33 corporations (cited in Attachment 8), although each violated 2
15 U.S.C. § 441b, because only three of them contributed as much as \$1,000 to the Committee, with
16 the average contribution being approximately \$278,

17
18 this Office recommends that the Commission find reason
19 to believe that each of the corporations listed in Attachment 8 violated 2 U.S.C. § 441b(a), send
20 admonishment letters and close the file as to each of them.

21

²⁰ The Committee did not establish a separate account for questionable contributions and did not maintain a sufficient balance to refund impermissible contributions for the period after October 7, 2002. Attachment 1 at 6; 11 C.F.R. § 103.4(b)(4).

E. Disclaimer Issues (2 U.S.C. § 441d)

Pursuant to 2 U.S.C. § 441d(a) of the Act, "whenever any person makes an expenditure for the purpose of financing a communication expressly advocating the election or defeat of a clearly identified candidate," such communication must include a disclaimer clearly stating the name of the person who paid for the communication and indicating whether the communication was authorized by any candidate or candidate's authorized committee. 2 U.S.C. § 441d(a). Expressly advocating means "any communication that – (a) Uses phrases such as "vote for the President" . . . which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate(s)." 11 C.F.R. § 100.22(a).

The complaints raise potential violations of section 441d by providing information that in two instances, one involving a letter distributed by the Committee (MUR 5341) and one involving a leaflet distributed by unknown persons (MUR 5334), the documents failed to include the required disclaimers.

1. The Committee Failed to Include the Required Disclaimer in a Letter (MUR 5341).

MUR 5341 alleges violations of 2 U.S.C. § 441d. According to the complaint, on or about October 1, 2002, Charles Mansfield, "Chairman" of "Alumni for O'Grady," allegedly distributed a letter (attached to the complaint) to "more than fifty people who were alumni of Chaminade High School in Mineola, New York." Attachment 2. The letter lists the address, email address, and website address of the Committee, and complainant alleged the letters were mailed in envelopes using the Committee's address as the return address, "and presumably paid for by the Committee," though none of those envelopes were provided in the complaint. *Id.* The letter urges the recipient "and the voters in-[their] family to vote for Marilyn O'Grady on November 5th," and to "write a check for \$250 or more payable to Friends of Marilyn F.

26044140405

1 O'Grady, and mail it to the above address without delay." *Id.* The letter also states that the
2 writer and candidate's spouse are alumni of the Chaminade High School. *Id.* The letter had no
3 disclaimer.

4 In his response, Mr. Mansfield stated that he composed the letter as a "volunteer" with
5 the Committee, but that he did not "distribute" it; that the mailing of the letter was "handled by
6 other campaign workers and volunteers;" and that the disclaimer was "inadvertently left off the
7 letter; its omission from the letter was beyond my control." Mansfield Response (December 13,
8 2002). In its response, the Committee conceded that the letter, "in retrospect, should have stated
9 'Paid for by Friends of Marilyn F. O'Grady' because it may have gone to more than 100
10 individuals." MUR 5341, Committee Response at 2 (December 19, 2002). The Committee
11 requested that "any further issues with Mr. Mansfield's letter be directed to the Committee and
12 not Mr. Mansfield" because he volunteered in helping O'Grady "run for political office." *Id.*

13 Since the letter contains a solicitation and an exhortation to vote for O'Grady, *see*
14 11 C.F.R. § 100.22(a), and the Committee indicates it authorized and paid for the letter, and does
15 not contest that it may have been sent to more than 100 individuals, the letter should have
16 contained a disclaimer stating that it was paid for by the Committee. *See* 2 U.S.C. §441d;
17 11 CFR § 110.11(a)(3). Therefore, this Office recommends that the Commission find reason to
18 believe that Friends of Marilyn F. O'Grady and Thomas Keller, as treasurer, violated 2 U.S.C.
19 § 441d(a)(1). Additionally, the Office recommends that the Committee find no reason to believe
20 that Charles Mansfield or Alumni for O'Grady (which does not appear to have a legal existence
21 outside of the letter in issue) violated 2 U.S.C. § 441d(a)(1) and close the file as to them.

2. Issues Relating to the Leaflet (MUR 5334).

MUR 5334 also alleged violations of 2 U.S.C. § 441d. According to the complaint, during the general election campaign period, the Committee distributed 50,000 copies of a four-page advertisement (attached to the complaint) throughout New York's 4th Congressional District. Attachment 3. The leaflet is printed on newsprint measuring 15 inches by 11 inches, and states therein that "[o]ver 50,000 of these circulars" were "left at homes and offices throughout the 4th Congressional District by hundreds of volunteers who believe that Marilyn O'Grady Can Make A Difference." Attachment 3. On the first page of the leaflet, a picture of O'Grady is juxtaposed with her campaign logo, followed by the words, "Vote for Dr. Marilyn O'Grady," as well as several other statements expressly urging support of O'Grady. *Id.* The leaflet contains many photographs of O'Grady campaigning which are similar to those that were found on the Committee's website. Some photographs in the leaflet were the same as those found on the website but were cropped differently (both narrower and broader), and others were different photographs but clearly from the same photographic event or series. Attachment 10. The leaflet ends with the statement, "VOTE FOR MARILYN O'GRADY ON ELECTION DAY NOVEMBER 5, 2002 AND HELP HER MAKE A DIFFERENCE." Attachment 3 at 4. The leaflet contains no disclaimer.

In her response to the MUR 5334 complaint on behalf of herself, the Committee and its treasurer, the candidate stated:

[N]either I nor anyone connected to my campaign committee authorized such an advertisement. In addition, the advertisement in question was not paid for by my committee and whomever is responsible for the advertisement did not coordinate at all with me or my campaign committee at any time prior to or after its airing. As such, the Commission would consider the advertisement . . . an independent expenditure and my campaign committee would have no obligation to report it.

MUR 5334, Committee Response at 1 (Dec. 18, 2002).

26044140407

1 Since the leaflet expressly advocates the election of a clearly identified candidate, it
2 required a disclaimer. The candidate, however, asserts that neither she nor the Committee
3 authorized or paid for the leaflet, or coordinated with those responsible for it. Notwithstanding
4 this denial, however, this Office cannot rule out that someone associated with the Committee had
5 a role in the production of the leaflet. *See* 11 C.F.R. § 100.23(c).

6 The Act provides that expenditures made "in cooperation, consultation, or concert, with,
7 or at the request or suggestion of, a candidate, his authorized political committees, or their
8 agents, shall be considered to be a contribution to such candidate" 2 U.S.C.

9 § 441a(a)(7)(B)(i). *See also Buckley v. Valeo*, 424 U.S. 1, 46 (1976) ("controlled or coordinated
10 expenditures are treated as contributions"); 11 C.F.R. § 100.23 (defining coordinated general
11 public political communications); *FEC v. Christian Coalition*, 52 F. Supp. 2d 45, 92 (D.D.C.
12 1999) (setting the standard which the Commission used for addressing potential coordination
13 claims pre-BCRA).²¹

14 Our concern about possible coordination involving the Committee emanates from the
15 presence of certain photographs in the leaflet that we have not been able to find in the public
16 domain, raising the possibility that such photographs were not available to anyone outside the
17 Committee. It is possible that someone could have copied an electronic image from the
18 Committee's website and pasted it in the leaflet without the participation of the Committee, even
19 if the image is cropped smaller in the leaflet, such as the Netanyahu and Cheney photographs.
20 Attachment 10 at 4. However, the same cannot be said of images that are cropped smaller on the

²¹ BCRA repealed 11 C.F.R. § 100.23 and on December 5, 2002, the Commission approved new coordination regulations. Newly promulgated 11 C.F.R. § 109.20(a) defines "coordinated" to mean "made in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, the candidate's authorized committee, a political party committee, or the agents of any of the foregoing."

1 Committee's website and appear uncropped in the leaflet, such as the "O'Grady with supporters"
2 photograph, *id.* at 1, or of photographs that are not on the website at all but appear to be from
3 similar settings and poses, including the "Stewart Manor" fire truck, *id.* at 3, "Rockville Centre"
4 lectern, *id.*, and "O'Grady in her Office" photographs, *id.* at 2. Thus, it appears that someone
5 connected with the Committee may have provided these photographs to a third party. If so, the
6 Committee may have coordinated the production of the leaflet.

7 Likewise, if the leaflet was coordinated with the Committee, it appears that Unknown
8 Respondents may have either violated 2 U.S.C. §§ 441a(a)(1) and (3) by making an excessive in-
9 kind contribution to the Committee, or violated 2 U.S.C. § 441b(a) by making a prohibited
10 corporate contribution. If not coordinated, Unknown Respondents may have been required to
11 report costs relating to the leaflet as an independent expenditure. 2 U.S.C. § 434(c). Apart from
12 whether there was coordination, it appears that Unknown Respondents violated 2 U.S.C.
13 § 441d(a) by failing to include the required disclaimer in the leaflet. To attempt to determine
14 who created and distributed the leaflet, and to resolve what, if any, role the Committee played,
15 this Office recommends that the Commission authorize an investigation into this fact pattern.

16 Therefore, this Office recommends that the Commission find reason to believe that
17 Friends of Marilyn F. O'Grady and Thomas Keller, as treasurer, violated 2 U.S.C.
18 §§ 441a(f) and 441b(a), and that Unknown Respondents violated 2 U.S.C. §§ 434(c), 441a(a)(1)
19 and (3), 441b(a), and 441d(a)(1), and authorize an investigation. Pending an investigation
20 concerning the leaflet, we make no recommendation as to the candidate at this time.

21 **IV. PROPOSED DISCOVERY**

22

23

26044140409

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15 **V. RECOMMENDATIONS**

16 1. Open a MUR with respect to Audit Referral 04-04.

17 2. Find reason to believe that Friends of Marilyn F. O'Grady and Thomas Keller, as
18 treasurer, violated 2 U.S.C. § 433(a).

26044140410

3. Find reason to believe that Friends of Marilyn F. O'Grady and Thomas Keller, as treasurer, violated 2 U.S.C. §§ 434(a)(2)(A)(i) and (iii); 434(a)(6)(A); 434(a)(11); and 11 C.F.R. §§ 104.18(a)(1) and (2).
4. Find reason to believe that Friends of Marilyn F. O'Grady and Thomas Keller, as treasurer, violated 2 U.S.C. §§ 434(b)(1), (2), (3) and (4); 434(b)(8); and 11 C.F.R. §§ 104.3(d); 104.11(a).
5. Find reason to believe that Friends of Marilyn F. O'Grady and Thomas Keller, as treasurer, violated 2 U.S.C. §§ 434(b) and 441a(f); and 11 C.F.R. § 103.4(b)(4).
6. Find reason believe that John F. O'Grady violated 2 U.S.C. § 441a(a)(1)(A).
7. Take no further action as to Raymond and Alexandre Carew, Baval Bernard, Charles Kadish, Lawrence and Susan Kadish, and Nelson DeMille, and close the file as to them.
8. Find reason to believe that Friends of Marilyn F. O'Grady and Thomas Keller, as treasurer, violated 2 U.S.C. § 441b.
9. Find reason to believe Celic Estate Agents, Inc.; Charles E Fraser & Company, Inc.; Clinical Systems, Inc.; Edward J Mohr, MD, PC; Electronic Techniques, Inc.; Finnegan Planning, Inc.; Franklin Court Press, Inc.; Furey & Furey, PC; Garden City Orthodontics, LLC; Gerald Garnder Wright, PC and Associates Attorneys at Law; Henry D Perry, MD, PC; James N. Trentalange, DDS, PC; Jean Yang, MD, PC; Junction with the Function, Inc.; Long Island Nut Company; Louis J Castellano Jr., PC; Manhasset Ophthalmology, PC; Manhole Barrier Systems, Inc.; Mark R Fleckner, MD, PC; Moores Industries Inc.; National Claim Administration, Inc.; Paul Conte Cadillac, Inc.; The Plastic Surgery Group, PC; Purcell & Ingrao, PC; Robert T Kroepel, DDS, PC; Ronald Giarbelli, MD, PC; Rosedale Futures, Inc.; Rug Renovating Co., Inc.; Russell Miller, MD, PC; Thomas E Sullivan and Barbara A Sullivan Foundation; The Treiber Group; Woodmere Republican Club, Inc.; and Yeterian Auto Parts each violated 2 U.S.C. § 441b(a), send admonishment letters, and close the file as to each of them.
10. Find no reason to believe that Charles Mansfield or Alumni for O'Grady violated 2 U.S.C. § 441d(a)(1), and close the file as to them.
11. Find reason to believe that Friends of Marilyn F. O'Grady and Thomas Keller, as treasurer, violated 2 U.S.C. § 441d(a)(1).
12. Find reason to believe that Unknown Respondents violated 2 U.S.C. §§ 434(c); 441a(a)(1) and (3); 441b(a); and 441d(a)(1).
- 13.

14. Approve the appropriate Factual and Legal Analyses.


15. Approve the appropriate letters.


Lawrence H. Norton
General Counsel

Lawrence C. Calvert, Jr.
Deputy Associate General Counsel
for Enforcement

8/23/04
Date

BY:


Susan L. Lebeaux
Assistant General Counsel


Daniel G. Pinegar
Attorney

Other Staff: Donald E. Campbell, Paralegal Specialist

Attachments:

1. Audit Referral Memorandum (AR 04-04) (April 2, 2004) and the Final Audit Report on Friends of Marilyn F. O'Grady (Jan. 15, 2002 – Dec. 31, 2002)
- 2.
3. Pro-O'Grady Leaflet (MUR 5334, Complaint, Attachment 1)
4. FEC Notices & RFAs (reminder to file electronically; correct reports)
- 5.
- 6.
- 7.
- 8.
- 9.
10. O'Grady Cmte. Website vs. Leaflet – Image Comparison

26044140412



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

April 2, 2004

MEMORANDUM

TO: Lawrence H. Norton
General Counsel

THROUGH: James A. Pehrkon
Staff Director

Robert J. Costa
Deputy Staff Director

FROM: Joseph F. Stoltz
Assistant Staff Director
Audit Division

Wanda Thomas
Audit Manager

Thomas Hintermister
Lead Auditor

SUBJECT: Friends of Marilyn F. O'Grady (A03-04) – Referral Matter

2004 APR -5 A 11:07
RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF THE
GENERAL COUNSEL

On March 22, 2004, the Commission approved the final audit report on Friends of Marilyn F. O'Grady (FMO).

All workpapers and related documentation are available for review in the Audit Division. Should you have any questions regarding this matter, please contact Tom Hintermister or Wanda Thomas at 694-1200.

Attachment:
Final Audit Report on Friends of Marilyn F. O'Grady

26044140413



Report of the Audit Division on Friends of Marilyn F. O'Grady January 15, 2002 – December 31, 2002

Why the Audit Was Done

Federal law permits the Commission to conduct audits and field investigations of any political committee that is required to file reports under the Federal Election Campaign Act (the Act). The Commission generally conducts such audits when a committee appears not to have met the threshold requirements for substantial compliance with the Act.¹ The audit determines whether the committee complied with the limitations, prohibitions and disclosure requirements of the Act.

Future Action

The Commission may initiate an enforcement action, at a later time, with respect to any of the matters discussed in this report.

About the Committee (p. 2)

Friends of Marilyn F. O'Grady (FMO) is the principal campaign committee for Marilyn F. O'Grady, Republican candidate for the U.S. House of Representatives from the state of New York, Fourth District. FMO maintains its headquarters in Garden City, New York. For more information, see the chart on the Campaign Organization, p.2.

Financial Activity (p. 2)

- Receipts
 - From Candidate Loans \$ 255,000
 - From Individuals 217,547
 - From Political Committees 12,160
 - Other Receipts 8,825
 - Total Receipts \$ 493,532
- Disbursements
 - Total Disbursements \$ 493,741

Findings and Recommendations (p. 3)

- Misstatement of Financial Activity (Finding 1)
- Receipt of Prohibited Corporate Contributions (Finding 2)
- Receipt of Contributions that Exceed Limits (Finding 3)
- Disclosure of Loans (Finding 4)
- Failure to File 48 Hour Notices (Finding 5)
- Disclosure of Contributions (Finding 6)

¹ 2 U.S.C. §438(b).

Table of Contents

	Page
Part I. Background	
Authority for Audit	1
Scope of Audit	1
Changes to the Law	1
Part II. Overview of Campaign	
Campaign Organization	2
Overview of Financial Activity	2
Part III. Summaries	
Findings and Recommendations	3
Part IV. Findings and Recommendations	
Finding 1. Misstatement of Financial Activity	4
Finding 2. Receipt of Prohibited Corporate Contributions	5
Finding 3. Receipt of Contributions that Exceed Limits	7
Finding 4. Disclosure of Loans	9
Finding 5. Failure to File 48 Hour Notices	10
Finding 6. Disclosure of Contributions	11

Part I

Background

Authority for Audit

This report is based on an audit of Friends of Marilyn F. O'Grady, undertaken by the Audit Division of the Federal Election Commission (the Commission) in accordance with the Federal Election Campaign Act of 1971, as amended (the Act). The Audit Division conducted the audit pursuant to 2 U.S.C. §438(b), which permits the Commission to conduct audits and field investigations of any political committee that is required to file a report under 2 U.S.C. §434. Prior to conducting any audit under this subsection, the Commission must perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act. 2 U.S.C. §438(b).

Scope of Audit

Following Commission approved procedures, the Audit staff evaluated various factors and, as a result, this audit examined:

1. The receipt of excessive contributions and loans.
2. The receipt of contributions from prohibited sources.
3. The disclosure of contributions received.
4. The disclosure of disbursements, debts and obligations.
5. The consistency between reported figures and bank records.
6. The completeness of records.
7. Other committee operations necessary to the review.

Changes to the Law

On March 27, 2002, President Bush signed into law the Bipartisan Campaign Reform Act of 2002 (BCRA). The BCRA contains many substantial and technical changes to the federal campaign finance law. Most of the changes became effective November 6, 2002. Except for the period November 7, 2002, through December 31, 2002, the period covered by this audit pre-dates these changes. Therefore, the statutory and regulatory requirements cited in this report are those that were in effect prior to November 7, 2002.

Part II

Overview of Campaign

Campaign Organization

Important Dates	Friends of Marilyn F. O'Grady
• Date of Registration	March 21, 2002
• Audit Coverage	January 15, 2002 – December 31, 2002
Headquarters	Garden City, New York
Bank Information	
• Bank Depositories	1
• Bank Accounts	1 Checking Account
Treasurer	
• Treasurer When Audit Was Conducted	Thomas Keller
• Treasurer During Period Covered by Audit	Thomas Keller
Management Information	
• Attended FEC Campaign Finance Seminar	No
• Used Commonly Available Campaign Management Software Package	FECFile
• Who Handled Accounting and Recordkeeping Tasks	Volunteer Staff

Overview of Financial Activity (Audited Amounts)

Cash on hand @ January 15, 2002	\$ 0
Receipts	
○ From Candidate Loans	255,000
○ From Individuals	217,547
○ From Political Committees	12,160
○ Other Receipts	8,825
Total Receipts	\$ 493,532
Disbursements	
○ Operating Expenditures	493,741
Total Disbursements	\$ 493,741
Cash on hand @ December 31, 2002	\$ -209

Part III

Summaries

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

FMO misstated receipts, disbursements, and cash balances during 2002. In response to the interim audit report, FMO amended its reports to correct the misstatements.

(For more detail, see p. 4)

Finding 2. Receipt of Prohibited Corporate Contributions

FMO received 37 prohibited contributions from 33 different corporate entities totaling \$9,195. Subsequently, FMO has refunded \$6,650 to 20 of these entities. Therefore, prohibited contributions from 13 entities totaling \$2,545 (\$9,195 - \$6,650) have not been refunded.

(For more detail, see p. 5)

Finding 3. Receipt of Contributions that Exceed Limits

FMO received what appears to be \$23,000 in excessive contributions from the Candidate's spouse. The Candidate maintains that the funds used to make the contributions were her personal funds. Nonetheless, in response to the interim audit report, FMO refunded \$23,000 to the Candidate's spouse.

(For more detail, see p. 7)

Finding 4. Disclosure of Loans

FMO received a total of \$55,000 in loans during the campaign that were not disclosed. In response to the interim audit report, FMO amended its reports to itemize each of these loans on Schedules A and C.

(For more detail, see p. 9)

Finding 5. Failure to File 48 Hour Notices

FMO failed to file 48 hour notices for 8 contributions totaling \$85,000. In response to the interim audit report, FMO stated that these notices were filed; however, they could not provide evidence of these filings. -

(For more detail, see p. 10)

Finding 6. Disclosure of Contributions

FMO reported incorrect disclosure information for 42 contributions totaling \$24,750. In response to the interim audit report, FMO amended its reports to correct these contributions.

(For more detail, see p. 11)

Part IV

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

Summary

FMO misstated receipts, disbursements, and cash balances during 2002. In response to the interim audit report, FMO amended its reports to correct the misstatements.

Legal Standard

A. Contents of Reports. Each report must disclose:

- The amount of cash on hand at the beginning and end of the reporting period;
- The total amount of receipts for the reporting period and for the election cycle; and
- The total amount of disbursements for the reporting period and for the election cycle. 2 U.S.C. §434(b)(1), (2) and (4).

B. Reporting Operating Expenditures. When operating expenditures to the same person exceed \$200 within in election cycle, the committee must report the:

- Amount;
- Date when the expenditures were made;
- Name and address of the payee; and
- Purpose of such operating expenditures. 11 CFR §104.3(b)(4)(i)(A).

Facts and Analysis

The Audit staff reconciled reported financial activity to bank records for 2002. The following chart outlines the discrepancies for receipts, disbursements, and the ending cash balance on December 31, 2002. Succeeding charts explain the reasons for the misstatements.

Comparison of Disclosure Reports and Bank Records

2002 Campaign Activity			
	Reported	Bank Records	Discrepancy
Opening Cash Balance @ 1/15/02	\$0	\$0	\$0
Receipts	\$431,158	\$493,532	\$62,374 Understated
Disbursements	\$404,316	\$493,741	\$89,425 Understated
Ending Cash Balance @ 12/31/2002	\$-11,770 ²	\$-209	\$11,561 Understated

² FMO's reported cash balance on 12/31/02 does not foot due to mathematical discrepancies.

The understatement of receipts was the net result of the following:

● Candidate Loan Not Reported (See Finding 4.)	+	\$ 55,000
● Contributions Reported Twice ³	—	17,580
● Contributions Reported with Wrong Amount	—	325
● Contributions Not Reported	+	17,430
● Unexplained Differences	+	7,849
● Net Understatement of 2002 Receipts		\$ 62,374

The understatement of disbursements was the net result of the following:

● Disbursements Not Reported		
a. Media Services	+	\$ 85,135
b. Campaign Materials	+	35,254
c. GOTV Telephone Calls	+	6,433
d. Miscellaneous Operating Expenses and Bank Charges	+	631
● Disbursements Reported Twice ³	—	37,888
● Unexplained Differences	—	140
● Net Understatement of 2002 Disbursements		\$ 89,425

Closing Cash on Hand:

FMO misstated the cash balance throughout the year 2002 because of the errors described above. In addition, the correct cash balance was not carried forward from the handwritten 12 Day Pre-Primary Report to the computer generated October Quarterly Report. On December 31, 2002, the cash balance was understated by \$11,561.

At the exit conference, the Audit staff explained the reasons for the misstatements and provided schedules of the reporting discrepancies. The Candidate expressed a willingness to make the necessary changes to correct the reported figures.

Interim Audit Report Recommendation and Committee Response

In response to the recommendation in the interim audit report, FMO filed amended reports to correct the misstatements.

Finding 2. Receipt of Prohibited Corporate Contributions

Summary

FMO received 37 prohibited contributions from 33 different corporate entities totaling \$9,195. Subsequently, FMO has refunded \$6,650 to 20 of these entities. Therefore,

³ FMO overlapped the coverage dates for the 12 Day Pre-Primary and October Quarterly Reports causing a duplication of financial activity between July 1, 2002 and August 22, 2003. A contribution of \$50 was also reported on the July Quarterly, 12 Day Pre-Primary, and October Quarterly Reports.

prohibited contributions from 13 entities totaling \$2,545 (\$9,195 - \$6,650) have not been refunded.

Legal Standard

A. Receipt of Prohibited Corporate Contributions. Political campaigns may not accept contributions made from the general treasury funds of corporations. This prohibition applies to any type of corporation including a non-stock corporation, an incorporated membership organization, and an incorporated cooperative. 2 U.S.C. §441b.

B. Questionable Contributions. If a committee receives a contribution that appears to be prohibited (a questionable contribution), it must follow the procedures below:

1. Within 10 days after the treasurer receives the questionable contribution, the committee must either:
 - Return the contribution to the contributor without depositing it; or
 - Deposit the contribution (and follow the steps below). 11 CFR §103.3(b)(1).
2. If the committee deposits the questionable contribution, it may not spend the funds and must be prepared to refund them. It must therefore maintain sufficient funds to make the refunds or establish a separate account in a campaign depository for possibly illegal contributions. 11 CFR §103.3(b)(4).
3. The committee must keep a written record explaining why the contribution may be prohibited and must include this information when reporting the receipt of the contribution. 11 CFR §103.3(b)(5).
4. Within 30 days of the treasurer's receipt of the questionable contribution, the committee must make at least one written or oral request for evidence that the contribution is legal. Evidence of legality includes, for example, a written statement from the contributor explaining why the contribution is legal or an oral explanation that is recorded by the committee in a memorandum. 11 CFR §103.3(b)(1).
5. Within these 30 days, the committee must either:
 - Confirm the legality of the contribution; or
 - Refund the contribution to the contributor and note the refund on the report covering the period in which the refund was made. 11 CFR §103.3(b)(1).

Facts and Analysis

A review of contributions received by FMO resulted in the identification of 37 contributions from 33 different corporate entities totaling \$9,195. Approximately 38% of the identified entities were professional corporations.

At the exit conference, FMO was provided a list of those contributions from corporations. The Candidate recognized many of the professional corporations on the list and explained that she was unaware that contributions from such entities were prohibited. The Candidate also stated that these individuals probably intended to contribute using their personal accounts but may have accidentally used their business checks. Nonetheless, the Candidate acknowledged that she would contact the individuals to offer refunds.

Subsequent to the exit conference, FMO provided check copies to support refunds to 12 contributors totaling \$3,550.

FMO did not establish a separate account for questionable contributions and did not maintain a sufficient balance to refund impermissible contributions for a majority of the period after October 7, 2002.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that FMO provide evidence that these contributions are not prohibited or refund the remaining \$5,645 in contributions identified as being prohibited. If funds were not available to make the necessary refund, then the Audit staff recommended the refund amount due be disclosed on Schedule D (Debts and Obligations) until funds become available to make the refunds.

In response to the recommendation in the interim audit report, FMO provided check copies to support additional refunds to 8 contributors totaling \$3,100. To date, FMO has provided documentation to support refunds to 20 entities totaling \$6,650. Therefore, prohibited contributions from 13 entities totaling \$2,545 (\$9,195 - \$6,650) have not been refunded.

Finding 3. Receipt of Contributions that Exceed Limits

Summary

FMO received what appears to be \$23,000 in excessive contributions from the Candidate's spouse. The Candidate maintains that the funds used to make the contributions were her personal funds. Nonetheless, in response to the interim audit report, FMO refunded \$23,000 to the Candidate's spouse.

Legal Standard

A. Authorized Committee Limits. An authorized committee may not receive more than \$1,000 per election from any one person. 2 U.S.C. §§441a(a)(1)(A) and (f); 11 CFR §§110.1(a) and (b) and 110.9(a).

B. Contribution. The term contribution includes any loans (excluding a bank loan), a guarantee, endorsement, and any other form of security. A loan which exceeds the contribution limitations of 2 U.S.C. 441a and 11 CFR §110 shall be unlawful whether or not it is repaid. 11 CFR §§100.7(a)(1)(i)(A)

C. Expenditures by Candidates. Candidates for Federal office may make unlimited expenditures from personal funds. 11 CFR §110.10(a)

D. Definition of Personal Funds. Personal funds of the candidate include the following:

1. Any assets which, under applicable state law, at the time he or she became a candidate, the candidate had legal right of access to or control over, and with respect to which the candidate had either:

- a. Legal and rightful title, or
- b. An equitable interest

2. Salary and other earned income from bona fide employment and dividends and proceeds from the sale of the candidate's stock or other investments. 11 CFR §110.10(b)(2).

Facts and Analysis

During October of 2002, FMO received a total of \$25,000 in loans from a business bank account in the name of the Candidate's spouse. These loans were made by two checks, one for \$15,000 and the other for \$10,000, that were imprinted only with the name and credentials of the Candidate's spouse as the account holder. According to the Candidate, this account is maintained for the dental practice operated by her spouse.

At the exit conference, the Audit staff requested further documentation from the Candidate to support that she had either legal and rightful title or an equitable interest in the account in her spouse's name. The Audit staff explained that without such documentation, the loans would be considered a contribution from her husband solely and result in a \$23,000 excessive contribution to FMO (\$25,000 less the \$2,000 combined limits for the primary and general elections). The Candidate indicated she would request the necessary documentation from the bank and stated her understanding that the account was a joint asset according to laws of the state of New York.

Subsequent to the exit conference, the Candidate stated that she had attempted to obtain account information from the bank but was told that retrieving the records would be time consuming because the account was established long ago and before the bank changed ownership. The Candidate provided a notarized letter from her spouse explaining that since the account represents income from his dental practice and is reportable as their combined income for federal taxes, it was their understanding that the funds were a joint asset and thereby permissible for use in the campaign.

With regards to her comments on joint assets under New York law, the Audit staff sought legal guidance from the Commission's Office of General Counsel (OGC). Based on a review of the available facts, OGC's provided a legal analysis of applicable New York marital property laws and determined these laws did not support the Candidate's contention that the funds in her spouse's account were joint assets. OGC's legal analysis stated, in part, that New York marital property laws provide that any property acquired by either spouse during the marriage is "marital property" regardless of how the property was acquired or titled. The law further provides that, upon dissolution of the marriage, marital property is equitably divided between the spouses pursuant to certain factors set forth in the statute. Nevertheless, several courts have concluded that a spouse has no vested rights in marital property titled in the name of the other spouse unless and until there has been an entry of judgment dissolving the marriage. Consequently, even if the

funds used to make the loans constitute "marital property" under New York law, Ms. O'Grady does not have any vested right to such property, if it is titled in Mr. O'Grady's name, until the marriage is legally dissolved.

The Audit staff's information on this account was limited to copies of bank statements and a copy of one of the contribution checks. Without third party documentation to support the Candidate's legal and rightful title or an equitable interest in this account, the Audit staff considers the funds loaned to FMO as solely from the Candidate's spouse.

FMO did not establish a separate account for questionable contributions and did not maintain a sufficient balance to refund impermissible contributions for a majority of the period after October 7, 2002.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that FMO provide evidence the contributions were made from the Candidate's personal funds. Absent such evidence, it was recommended that FMO refund \$23,000 to the Candidate's spouse. If funds were not available to make the necessary refund, then the Audit staff recommended the refund amount due be disclosed on Schedule D until funds become available to make the refunds.

In response to the recommendation in the interim audit report, the Candidate reiterated her argument that these funds were her personal assets since they were reportable as combined income for tax purposes. Nonetheless, FMO provided a copy of a \$23,000 check from a joint checking account of the Candidate and her spouse to FMO and a copy of a check in the same amount from FMO to the Candidate's spouse for the refund of the excessive amount.

Finding 4. Disclosure of Loans

Summary

FMO received a total of \$55,000 in loans during the campaign that were not disclosed on Schedules A. In response to the interim audit report, FMO amended its reports to itemize each of these loans on Schedules A and C.

Legal Standard

A. Contents of Reports. Each report must disclose for the reporting period and for the election cycle, the total amount of loans made by or guaranteed by the candidate and the identification of each person who makes, endorses or guarantees a loan to the committee. 2 U.S.C. §§434(b)(2)(G) and (3)(E)

B. Continuous Reporting Required. A political committee must disclose the amount and nature of outstanding debts and obligations until those debts are extinguished. 2 U.S.C §434(b)(8) and 11 CFR §§104.3(d) and 104.11(a).

C. Separate Schedules. A political committee must file separate schedules for debts and obligations owed by the committee, together with a statement explaining the circumstances and conditions under which each debt and obligation was incurred or extinguished. 11 CFR §104.11(a).

D. Itemizing Loans. Each person who makes a loan to the political committee during the reporting period must be disclosed with the following information:

- Identification of any endorser or guarantor of the loan;
- The date the loan was made;
- The amount of the loan. 11 CFR §104.3(a)(4)(iv).

Facts and Analysis

During the period covered by the audit, FMO received a total of \$255,000 in loans from accounts of the Candidate or candidate's spouse. This amount was comprised of eight separate loans made to FMO at various times throughout the campaign. FMO must itemize the initial receipt of each loan on Schedules A (Itemized Receipts) for Line 13 (Loans) in addition to continuously reporting the principal amount owed by FMO for each loan on Schedules C (Loans). However, a review of FMO's reports indicated that the initial receipt of two loans, one for \$40,000 and the other for \$15,000, were not itemized on Schedules A or on the Detailed Summary page of the 12 Day Pre-General report (See misstatement of receipts in Finding 1)⁴. In addition, FMO did not continuously report the principal amount of each loan owed on Schedules C for all reporting periods.

At the exit conference, FMO was informed of the inaccuracies with the reporting of loans. The Candidate indicated that all necessary amendments would be filed to accurately disclose each of the loans made to FMO.

Interim Audit Report Recommendation and Committee Response

In response to the recommendation in the interim audit report, FMO amended reports to itemize each of these loans on Schedules A and Schedules C.

Finding 5. Failure to File 48 Hour Notices

Summary

FMO failed to file 48 hour notices for 8 contributions totaling \$85,000. In response to the interim audit report, FMO stated these notices were filed; however, they could not provide evidence of these filings.

⁴ Although FMO never reported \$55,000 in receipts on Line 13 of the Detailed Summary Page for the 12 Day Pre-General Report, FMO did subsequently disclose the \$40,000 loan from the candidate's personal funds on Schedule C of the 30 Day Post General Report.

Legal Standard

Last-Minute Contributions (48 Hour Notice). Campaign committees must file special notices regarding contributions of \$1,000 or more received less than 20 days but more than 48 hours before any election in which the candidate is running. This rule applies to all types of contributions to any authorized committee of the candidate, including:

- Contributions from the candidate;
- Loans from the candidate and other non-bank sources; and
- Endorsements or guarantees of loans from banks. 11 CFR §104.5(f).

Facts and Analysis

The Audit staff reviewed those contributions of \$1,000 or more that were received during the 48 hour notice filing period for the primary and general elections. FMO failed to file 48 hour notices for 8 contributions totaling \$85,000 as summarized below.

Contribution Type	Primary	General	Total
Loans from Candidate	\$50,000	\$20,000	\$70,000
Loans from Candidate's Spouse		\$10,000 ⁵	\$10,000
Contributions from Individuals & PAC's	\$1,000	\$4,000	\$5,000
48 Hour Notices Not Filed	\$51,000	\$34,000	\$85,000

At the exit conference, the Candidate was informed of the failure to file 48 hour notices. The Candidate stated that many of the other 48 hour notices were filed properly and the non filing of these notices was probably a reporting oversight.

Interim Audit Report Recommendation and Committee Response

In response to the recommendation in the interim audit report, FMO stated that it was their understanding that these notices were filed; however, they could not produce evidence of these filings.

Finding 6. Disclosure of Contributions

Summary

FMO reported incorrect disclosure information for 42 contributions totaling \$24,750. In response to the interim audit report, FMO amended its reports to correct these contributions.

⁵ This amount is included in the total of contributions from the Candidate's spouse discussed in Finding 3.

Legal Standard

A. When to Itemize. Authorized candidate committees must itemize any contribution from an individual if it exceeds \$200 per election cycle either by itself or when aggregated with other contributions from the same contributor; 2 U.S.C. §434(b)(3)(A).

B. Election Cycle. The election cycle begins on the first day following the date of the previous general election and ends on the date of the next general election. 11 CFR §100.3(b).

C. Definition of Itemization. Itemization of contributions received means that the recipient committee discloses, on a separate schedule, the following information:

- The amount of the contribution;
- The date of receipt (the date the committee received the contribution);
- The full name and address of the contributor;
- In the case of contributions from individual contributors, the contributor's occupation and the name of his or her employer; and
- The election cycle-to-date total of all contributions from the same contributor. 11 CFR §§100.12 and 104.3(a)(4) and 2 U.S.C. §434(b)(3)(A)

Facts and Analysis

The Audit staff reviewed all contributions from individuals requiring itemization on Schedules A and identified 42 contributions totaling \$24,750 that FMO failed to properly disclose. The majority of these contributions were errors because FMO incorrectly aggregated contributions received from the same individuals. FMO's problem with aggregating contributions was due, in part, to those contributions reported on handwritten reports that were not aggregated with those contributions included on later computer generated reports.

At the exit conference, the Audit staff provided FMO schedules of those contributions noted above. The Candidate acknowledged that the reporting inaccuracies were the result of the filing problems encountered by the committee. She also stated her willingness to amend the reports to correct any inaccuracies.

Interim Audit Report Recommendation and Committee Response

In response to the recommendation in the interim audit report, FMO amended its reports to correct these contributions.



Marilyn O'GRADY

for Congress

4th District

Vote for
Dr. Marilyn O'Grady
Republican, Conservative and
Right to Life Candidate
Congresswoman
For Long Island's
4th Congressional District

Election Day - Tuesday, November 5, 2002

THE DIFFERENCES BETWEEN O'GRADY AND MCCARTHY

Why do chronic problems in our society continue to exist and get worse with each passing year? It is because many politicians are more interested in keeping their jobs than standing-up to special interest groups. These groups seek to maximize their gains at the expense of society as a whole. This must change.



On Election Day 2002 voters in Long Island's 4th Congressional District will have an opportunity to send someone to Washington who is not beholden to special interest groups; someone who will work in Congress as the Representative *for all the citizens* in our district.

That person is Marilyn O'Grady.

Marilyn O'Grady is very different from the Democratic incumbent, Carolyn McCarthy.

Marilyn O'Grady supports President Bush's efforts to keep our nation's military sons and daughters modernly equipped so that our nation can effectively fight the war



against terrorism. Carolyn McCarthy has voted to cut Military and Intelligence spending.

Marilyn O'Grady is keenly focused on the immediate and vital needs of our Homeland Security Department's efforts, to protect our nation's airports. Carolyn McCarthy voted 8 times against Homeland Security.

Marilyn O'Grady has extensive medical training, and as a surgeon and expert in toxicology, she brings to Washington an expertise that is very much needed with the present threat of chemical weapons. Her medical training provides our nation with a Congresswoman with extraordinary qualifications. Carolyn McCarthy does not have these credentials. McCarthy has been silent in battling this danger.

Marilyn O'Grady, as a doctor, as a woman, as an elected leader, will return our Long Island Congressional District to its proud heritage of respecting all human life. Carolyn McCarthy's voting record clearly shows she will not.



We need Marilyn to increase the pressure for lower taxes; McCarthy may have voted for President's Bush's tax cuts, but she refused to make them permanent.

We need Marilyn to tell HMO's and health insurance carriers that what might be an experimental procedure to them, could be the last chance for a patient to find a cure for his life-threatening condition. During McCarthy's tenure in Congress, legislation concerning affordable and comprehensive healthcare has not been enacted.

We need Marilyn to end the atrocity of partial birth abortion - something which McCarthy has voted in favor of four times.

We need Marilyn to protect the unborn child from criminal assault. The Unborn Victims of Violence Act would criminalize an assault not only against a pregnant mother, but also against the unborn child she wants to bring into this world. McCarthy voted against this legislation.

We need Marilyn to vote to make it illegal to transport a minor across state lines for an abortion without the knowledge or consent of her parents. Marilyn, an experienced doctor, recognizes the dangerous complications that can accompany a surgical procedure such as an abortion. Marilyn would support legislation aimed at protecting minors. McCarthy has voted against such legislation.

We need Marilyn to push for increasing the penalties for white collar crime and criminalizing all conflicts of interest which allow executives to steal millions of dollars from their companies.

★★★ ABOUT

Marilyn F. O'Grady, age 48, was born and raised in the Bronx. She graduated from Holy Trinity High School and John's University. Thereafter, she received her M.D. Dr. O'Grady has been practicing ophthalmology in the Bronx, serving on the medical staff at Winthrop-University Medical Center. Marilyn lives with her husband and two children.



Marilyn's visits to the communities of the 4th Congressional District attracted crowds, and her support is growing each day.

MARILYN'S OVERWHELMING VICTORIES IN THE PRIMARIES

In the Republican Primary held on September 10, 2002, Marilyn received more votes than her two opponents combined - former Congressman, Daniel Frisa, who served in the House of Representatives from 1994 to 1996, and Steven Irace. In the Conservative Primary, Marilyn also won a decisive victory against Mr. Frisa (Mr. Irace was not on the ballot).

Last, but not least, Marilyn received the Right to Life endorsement early in the campaign based on her unwavering commitment to defend the rights of the unborn child from the moment of conception to natural birth.

Marilyn has been received warmly and given enthusiastic support by area residents as proven by her decisive primary election victories. This support has also been evident in her general election campaign effort against Carolyn McCarthy. Hundreds of volunteers have manned the phones and gone door to door delivering campaign literature to their friends and neighbors in the 4th Congressional District testifying to the deep level of commitment and belief the community has in Marilyn.

26044140429

MARILYN ★★★

ised in Bellmore and is a lifelong resident of Long Island. nd received her Bachelor's and Master's Degrees from St. medical degree from SUNY Downstate Medical Center. y in Nassau County for the past 16 years and is currently ersity Hospital, Long Island Surgicenter and the Nassau er husband, John, in Garden City.

MARILYN O'GRADY BELIEVES IN PUBLIC SERVICE

*AND HAS GIVEN BACK TO THE COMMUNITY
THROUGHOUT HER LIFE*

Marilyn practiced ophthalmology for five years at the Northport Veterans Hospital, serving the needs of our veterans who are among our most deserving, yet often neglected citizens.

Marilyn has served as a volunteer physician at the Rotocare Clinic in Hempstead, where she was named "Rotocare Physician of the Year" in 1999. The award acknowledged the many hours of free eye care which Dr. O'Grady provided to residents of Hempstead and neighboring villages.

Marilyn has also shared her experience and knowledge as an ophthalmologist by teaching undergraduate and graduate students at St. John's University and SUNY Downstate Medical Center.

Marilyn is currently serving as a board member of the Long Island Catholic League and is a member in good standing of the Nassau County Medical Society.

Marilyn is active in the Pro-Life movement and is a vigorous advocate on behalf of the most defenseless members of society - our unborn children.



Over her many years as a well-respected eye surgeon, Dr. O'Grady has literally looked into the eyes of thousands of residents here in the 4th District. Her patients have come to know her as a competent and caring professional woman. She will go to Congress knowing her constituency on a very personal basis.



For the past six months, Marilyn O'Grady has walked door-to-door throughout the many communities of the 4th Congressional District to introduce herself and to outline her reasons for running for Congress. She took the time to genuinely listen to the concerns of area residents.

WHY MARILYN WANTS TO BE YOUR CONGRESSWOMAN

Marilyn has decided to run for Congress against Carolyn McCarthy because the 4th Congressional District needs and deserves a Congresswoman who will fight for justice, decency and fairness in our society.

WHAT MARILYN WANTS TO ACCOMPLISH FOR YOU

Marilyn pledges to be your Congresswoman who stands for principle. During this campaign, Marilyn has met with thousands of citizens from the 4th Congressional District. They have made their concerns known to her. Based on these conversations, the following is Marilyn's legislative agenda:



Marilyn O'Grady will work with Vice President Dick Cheney and the Bush Administration to strengthen our nation's defenses.

1) Make our country safe from terrorists by securing our borders, improving our intelligence agencies and adequately funding our national defense. Marilyn strongly supports President Bush in his efforts to root out terrorists.

2) Reduce the choking level of taxes imposed on our citizens by making the Bush tax cut permanent, reducing capital gains tax and eliminating the tax on Social Security.

3) Effectively reform and improve healthcare by granting much more autonomy to patients and physicians enabling them to decide what care is appropriate instead of leaving that decision to a health insurance carrier or HMO.

4) Enable parents in ailing school districts to have their children educated in a school of their choice.

5) Defend the rights of the unborn child from the moment of conception to natural birth.

6) Vigorously prosecute white collar criminals who steal the assets of corporations and retirees' 401k accounts.



Marilyn O'Grady and former Israeli Prime Minister, Benjamin Netanyahu, share a vision for peace in the world.



Marilyn O'Grady will work with Vice President Dick Cheney and the Bush Administration to strengthen our nation's defenses.

YOU CAN MAKE A DIFFERENCE

You have heard these comments before: "Nothing ever changes," and "What can one person do?" Marilyn has positive answers to these statements.

Marilyn believes that change can happen and that one person can make a difference. She believes that a single individual who is dedicated and hard working, with the tenacity to keep on fighting, no matter the odds, will eventually succeed.

With great personal sacrifice and effort, Marilyn is challenging an entrenched incumbent who is backed by powerful special interest groups with agendas that are inconsistent with the values of the citizens of the 4th Congressional District. Marilyn is asking you to give her a chance to make a difference; a chance to provide the leadership necessary to make our country more just and decent.

Carolyn McCarthy has been an ineffective leader over the past six years. She rarely speaks on the floor of the Congress, and she is not a member of any high-ranking congressional committees. Her campaign support comes from liberal special interest groups - from as far away as Hollywood. She has refused to hold Town Meetings to meet with Long Island citizens in the 4th Congressional District. Clearly, Carolyn McCarthy is out of touch with the needs of our communities.

Your vote for Marilyn O'Grady will help send a proven professional to our nation's Capital. While in Washington, she will act in the best interests of Long Island residents and will not cater to outside special interest groups.

Marilyn will extend to each and every resident in the 4th Congressional District the same care that she has extended to her many thousands of patients. We need a Doctor in the House. Dr. Marilyn O'Grady.

Over 50,000 of these circulars have been left at homes and offices throughout the 4th Congressional District by hundreds of volunteers who believe that **Marilyn O'Grady Can Make A Difference.**

**VOTE FOR MARILYN O'GRADY ON ELECTION DAY
NOVEMBER 5, 2002
AND HELP HER MAKE A DIFFERENCE.**

Attachment

Page

3

4

of

4

26044140431

22037734104

WESTERN
UNION

CONFIRMATION OF MAILGRAM TO: MR. THOMAS KELLER
FRIENDS OF MARILYN F. O'GRADY
734 STENART AVE
GARDEN CITY NY 11530-4710

FEDERAL ELECTION COMMISSION
DAYNA BROWN
999 B ST NW # 709
WASHINGTON DC 20463

SEPTEMBER 16, 2002

MS-P

IDENTIFICATION NUMBER: C00375071

REFERENCE: JULY QUARTERLY AND 12 DAY PRE PRIMARY REPORTS
03/11/2002 - 08/21/2002

DEAR TREASURER:

YOUR COMMITTEE HAS FAILED TO FILE THE ABOVE-REFERENCED REPORTS IN AN ELECTRONIC FORMAT. IN ACCORDANCE WITH 11 C.F.R. 104.18(A)(1), YOU ARE REQUIRED TO FILE THESE REPORTS, AND ALL SUBSEQUENT REPORTS FOR THE CALENDAR YEAR, ELECTRONICALLY. 11 C.F.R. 104.18(A)(2) FURTHER STATES THAT REPORTS FILED ON PAPER DO NOT SATISFY A POLITICAL COMMITTEE'S FILING OBLIGATION. YOUR REPORTING OBLIGATION WILL NOT BE SATISFIED UNTIL YOU FILE THE ABOVE-REFERENCED REPORT IN AN ELECTRONIC FORMAT.

IF YOU HAVE ANY QUESTIONS REGARDING THIS MATTER, PLEASE CONTACT DAYNA C. BROWN IN THE REPORTS ANALYSIS DIVISION ON OUR TOLL FREE NUMBER (800) 424-9530. OUR LOCAL NUMBER IS (202) 694-1130.

SINCERELY,

JOHN D. GILSON
ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION

Attachment

Page

1

of

3

Federal Election Commission
999 E Street NW RM 706
Washington, DC 20463

22037713825

ATTACHMENT 5

21"

THOMAS KELLER
FRIENDS OF MARILYN F OGRADY
734 STEWART AVENUE
GARDEN CITY NY 11530

AUGUST 30, 2002

IDENTIFICATION NUMBER: C00375071

REFERENCE: 12 DAY PRE-PRIMARY REPORT (07/01/2002 - 08/21/2002)

DEAR TREASURER:

IT HAS COME TO THE ATTENTION OF THE FEDERAL ELECTION COMMISSION THAT YOU MAY HAVE FAILED TO FILE THE ABOVE REFERENCED REPORT OF RECEIPTS AND EXPENDITURES AS REQUIRED BY THE FEDERAL ELECTION CAMPAIGN ACT, AS AMENDED. YOU WERE PREVIOUSLY NOTIFIED OF THE DUE DATE FOR THIS REPORT.

YOU WILL BE ALLOWED FOUR (4) BUSINESS DAYS FROM THE DATE OF THIS NOTICE TO FILE THIS REPORT TO AVOID PUBLICATION. THE REPORT MUST BE FILED WITH THE FEDERAL ELECTION COMMISSION, 999 E STREET, N.W., WASHINGTON, D.C. 20463 FOR HOUSE CANDIDATES, OR THE SECRETARY OF THE SENATE, 232 HART SENATE OFFICE BUILDING, WASHINGTON, D.C. 20510 FOR SENATE CANDIDATES. A COPY OF THE REPORT MUST ALSO BE FILED WITH THE SECRETARY OF STATE OR EQUIVALENT STATE OFFICER UNLESS THE STATE IS EXEMPT FROM THE FEDERAL REQUIREMENT TO RECEIVE AND MAINTAIN PAPER COPIES. IF YOU HAVE FILED THE REPORT TIMELY BY CERTIFIED OR REGISTERED MAIL, PLEASE NOTIFY US IMMEDIATELY, IN WRITING, OF THE CERTIFIED OR REGISTERED NUMBER AND THE DATE THAT THE REPORT WAS SENT.

IN ADDITION, THE FAILURE TO TIMELY FILE THIS REPORT MAY RESULT IN CIVIL MONEY PENALTIES, AN AUDIT OR OTHER LEGAL ENFORCEMENT ACTION. THE CIVIL MONEY PENALTY CALCULATION FOR LATE REPORTS DOES NOT INCLUDE A GRACE PERIOD AND BEGINS ON THE DAY FOLLOWING THE DUE DATE FOR THE REPORT.

IF YOU HAVE ANY QUESTIONS REGARDING THIS MATTER, PLEASE CONTACT MICHAEL H. YOUNG IN THE REPORTS ANALYSIS DIVISION ON OUR TOLL FREE NUMBER (800)424-9580. OUR LOCAL NUMBER IS (202)694-1130.

SINCERELY,

JOHN D. GIBSON
ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION

22-03-771-3825

26044140433


**WESTERN
UNION**

WESTERN UNION COMMERCIAL SERVICES
 CONFIRMATION OF MAILGRAM TO: THOMAS KELLER
 FRIENDS OF MARILYN F OGRADY
 734 STEWART AVE
 GARDEN CITY NY 11530-4710

JENNIFER S. CINELLI
 FEDERAL ELECTION COMMISSION
 999 E ST NW
 WASHINGTON DC 20463

OCTOBER 25, 2002

IDENTIFICATION NUMBER: C00375071

REFERENCE: 12 DAY PRE-GENERAL REPORT (10/01/2002 - 10/16/2002)

DEAR TREASURER:

IT HAS COME TO THE ATTENTION OF THE FEDERAL ELECTION COMMISSION THAT YOU MAY HAVE FAILED TO FILE THE ABOVE REFERENCED REPORT OF RECEIPTS AND EXPENDITURES AS REQUIRED BY THE FEDERAL ELECTION CAMPAIGN ACT, AS AMENDED. YOU WERE PREVIOUSLY NOTIFIED OF THE DUE DATE FOR THIS REPORT.

YOU WILL BE ALLOWED FOUR (4) BUSINESS DAYS FROM THE DATE OF THIS NOTICE TO FILE THIS REPORT TO AVOID PUBLICATION. THE REPORT MUST BE FILED WITH THE FEDERAL ELECTION COMMISSION, 999 E STREET, N.W., WASHINGTON, D.C. 20463 FOR HOUSE CANDIDATES, OR THE SECRETARY OF THE SENATE, 232 HART SENATE OFFICE BUILDING, WASHINGTON, D.C. 20510 FOR SENATE CANDIDATES. A COPY OF THE REPORT MUST ALSO BE FILED WITH THE SECRETARY OF STATE OR EQUIVALENT STATE OFFICER UNLESS THE STATE IS EXEMPT FROM THE FEDERAL REQUIREMENT TO RECEIVE AND MAINTAIN PAPER COPIES. IF YOU HAVE FILED THE REPORT TIMELY BY CERTIFIED OR REGISTERED MAIL, PLEASE NOTIFY US IMMEDIATELY, IN WRITING, OF THE CERTIFIED OR REGISTERED NUMBER AND THE DATE THAT THE REPORT WAS SENT.

IN ADDITION, THE FAILURE TO TIMELY FILE THIS REPORT MAY RESULT IN CIVIL MONEY PENALTIES, AN AUDIT OR OTHER LEGAL ENFORCEMENT ACTION. THE CIVIL MONEY PENALTY CALCULATION FOR LATE REPORTS DOES NOT INCLUDE A GRACE PERIOD AND BEGINS ON THE DAY FOLLOWING THE DUE DATE FOR THE REPORT.

IF YOU HAVE ANY QUESTIONS REGARDING THIS MATTER, PLEASE CONTACT MICHAEL H. YOUNG IN THE REPORTS ANALYSIS DIVISION ON OUR TOLL FREE NUMBER 1800-424-9530. OUR LOCAL NUMBER IS (202)694-1130.

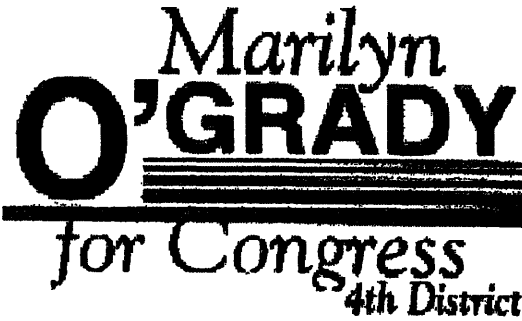
SINCERELY,

JOHN D. GIBSON
 ASSISTANT STAFF DIRECTOR
 REPORTS ANALYSIS DIVISION

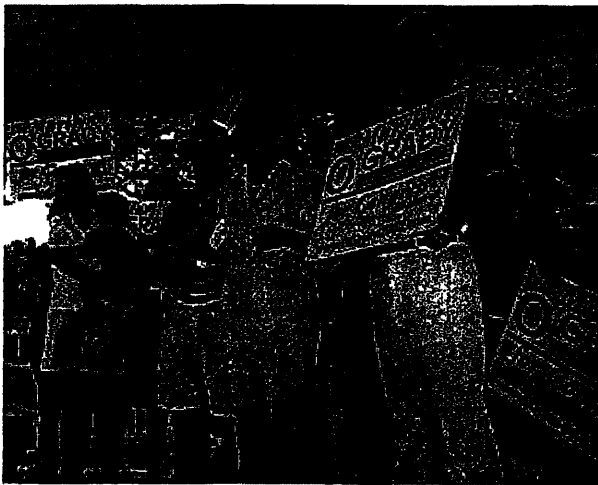
Attachment 4
 Page 3 of 3

2002 OCT 25 4 12 PM

O'Grady Committee Website vs. Leaflet – Image Comparison



O'Grady Campaign Logo: left image on Committee's website. Similar logo on right used in leaflet, page 1. Same design, but different fonts.



Marilyn O'Grady with supporters: left photo on the Committee's website ("Issues" page). Same photo is in the leaflet, page 2. The leaflet photo is not cropped as narrowly as the website photo.

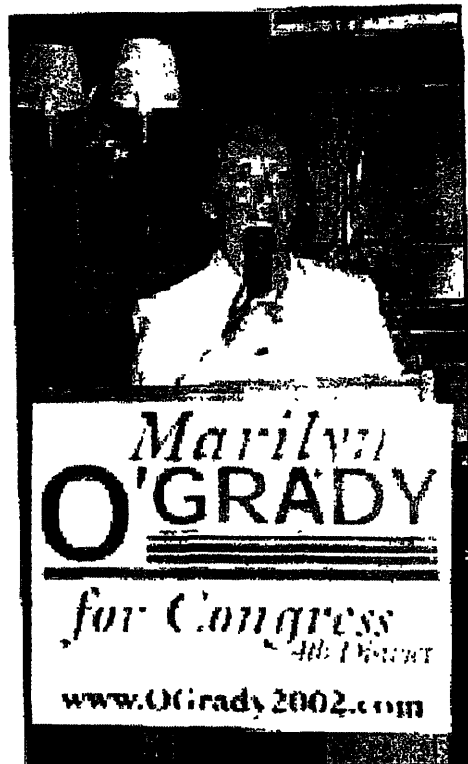
26044140436



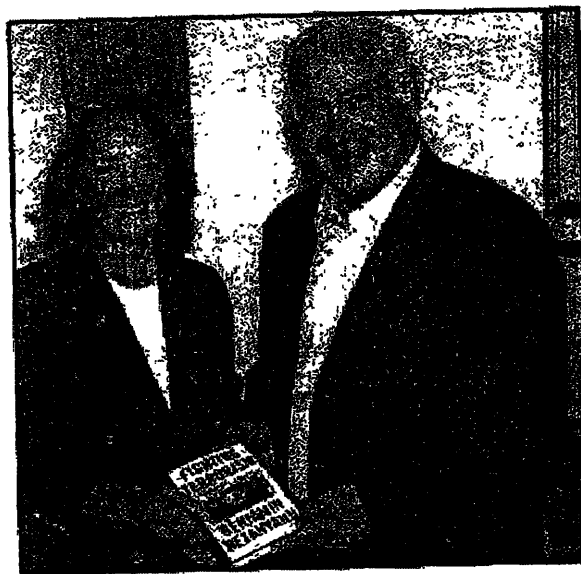
Marilyn O'Grady in her Office: left photo on Committee's website ("Biography" page). Similar photo in the leaflet, page 3, with same pose, outfit, and location, but the leaflet photo is not cropped and it is from a different angle.



Marilyn O'Grady at campaign event at Stewart Manor w/fire truck: left photo on Committee's website (linked from "Campaign Trail" page: www.ogrady2002.com/stewart.html). Photo on right in leaflet, page 3, with same outfit, exteriors, and location.



Marilyn O'Grady at campaign event at Rockville Centre: left photo on Committee's website (linked from "Campaign Trail" page: www.ogrady2002.com/news2.html). Photo on right in leaflet, page 4, with same outfit, interiors, and location.



Marilyn O'Grady with former Israeli Prime Minister Benjamin Netanyahu: left photo on Committee's website. Same photo used in leaflet, page 4. The leaflet photo is cropped smaller than the website photo.



Marilyn O'Grady with Vice President Dick Cheney: left photo on Committee's website. Same photo used in the leaflet, page 4, but misspelled as "Chaney." The leaflet photo is cropped shorter than the website photo.

NOTE: Although the above photographs are similar, the photographs used in the leaflet may still have come from other publicly available sources, such as official campaign flyers, pamphlets, or mailings.