



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

9-21-87

THE FOLLOWING MATERIAL IS BEING ADDED TO THE
PUBLIC FILE OF CLOSED MOR 1937

87040654082

87 MAY 6 13:00

RECEIVED
GENERAL INVESTIGATIVE
DIVISION
MAY 6 1967

ILLINOIS PUBLIC ACTION FUND
OPERATIONS ACCOUNT
220 S. STATE ST., SUITE 714
CHICAGO, IL 60604

EXPLANATION	AMOUNT

1967

2-77710

The sum of 400 dol's 00 cts

DATE	TO THE ORDER OF	DESCRIPTION	CHECK NUMBER	CHECK AMOUNT
5/6/87	Treasurer of the United States	MUR 1937	1967	\$ 400.00

AMERICAN NATIONAL BANK & TRUST COMPANY OF CHICAGO
CHICAGO, ILLINOIS 60602

⑈001967⑈ ⑆071000770⑆ 04 016 904⑈

Mary H. Schaafna

CCC 3314

MEMORANDUM

TO: Debra A. Reed *Trimiew*

TO: *Cecilia Lieber*
~~JOY SATIN~~

FROM: *Cecilia Lieber*
~~JOY SATIN~~

FROM: *Trimiew*
Debra A. Reed

CHECK NO. 1967 (a copy of which is attached) RELATING

TO MUR 1937 (Levin) AND NAME Illinois Public Action Council

WAS RECEIVED ON 5/6/87. PLEASE INDICATE THE ACCOUNT INTO WHICH IT SHOULD BE DEPOSITED:

- ☐ BUDGET CLEARING ACCOUNT (#95F3875.16)
- ☒ CIVIL PENALTIES ACCOUNT (#95-1099.160)
- ☐ OTHER _____

SIGNATURE *Debra A. Trimiew*

DATE 5/7/87

87 MAY 6 13:00

RECEIVED
GENERAL INVESTIGATIVE
DIVISION
MAY 6 1967

CCC# 2856

RECEIVED:
OFFICE OF THE
GENERAL COUNSEL
1759

87 MAR 10 AIO: 16

2-77/710

ILLINOIS PUBLIC ACTION FUND
OPERATIONS ACCOUNT
220 S. STATE ST., SUITE 714
CHICAGO, IL 60604

EXPLANATION	AMOUNT

The sum of 400 dol's 00 cts

DOLLARS

CHECK
AMOUNT

DATE	TO THE ORDER OF	DESCRIPTION	CHECK NUMBER	CHECK AMOUNT
87	Treasurer of the United States	MUR 1937	1759	\$ 400.00

406540

AMERICAN NATIONAL BANK & TRUST COMPANY OF CHICAGO
CHICAGO, ILLINOIS 60602

Mary H. Schapira

⑈001759⑈ ⑆071000770⑆ 04 012 9011⑈

CCC# 2856

MEMORANDUM

TO: ^{Trimiew} Debra A. ~~Reed~~ TO: *Cecilia Licher*
FROM: *Cecilia Licher* FROM: ^{Trimiew} Debra A. ~~Reed~~

CHECK NO. 1759 (a copy of which is attached) RELATING

TO MUR 1937 (Levin) AND NAME Illinois Public Action Council

WAS RECEIVED ON 3/10/87. PLEASE INDICATE THE ACCOUNT INTO

WHICH IT SHOULD BE DEPOSITED:

- / / BUDGET CLEARING ACCOUNT (#95F3875026)
- / ✓ CIVIL PENALTIES ACCOUNT (#95-1099.160)
- / / OTHER: _____

SIGNATURE *Debra A. Trimiew* DATE 3/10/87

87 MAR 10 AIO: 16

RECEIVED
OFFICE OF THE
GENERAL COUNSEL

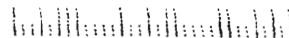
CANPAC
1 Quincy Court
Suite 714
Chicago, Illinois 60604

8 7 0 4 0 5 4 0 8

Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Attention: Jonathan Levin

57 MAR 5 A8:59



GCC# 3060

MEMORANDUM

TO: ^{Trimiew}
Debra A. Reed

TO: ^{Cecilia Lieber}
~~Debra A. Reed~~

FROM: ^{Cecilia Lieber}
~~Debra A. Reed~~

FROM: ^{Trimiew}
Debra A. Reed

BT APR 7 AID: 4

RECEIVED
GENERAL INVESTIGATIVE
DIVISION

CHECK NO. 1859 (a copy of which is attached) RELATING
TO NUR 1937 (Levin) AND NAME Illinois Public Action Council
WAS RECEIVED ON 4/7/87. PLEASE INDICATE THE ACCOUNT INTO
WHICH IT SHOULD BE DEPOSITED:

/ / BUDGET CLEARING ACCOUNT (#95F3875.16)

/ ✓ CIVIL PENALTIES ACCOUNT (#95-1099.160)

/ / OTHER _____

SIGNATURE Debra A. Trimiew DATE 4/8/87

8704065406

zen Action Non-Partisan
tical Action (CANPAC)
incy Court
e 714
ago, Illinois 60604



Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463
Attention: Jonathan Levin

87 APR 6 A9:57



3 7 1 4 7 5 4 0

87 AUG 10 AIO: 52

RECEIVED
GENERAL INVEST

ILLINOIS PUBLIC ACTION FUND
OPERATIONS ACCOUNT
220 S. STATE ST., SUITE 714
CHICAGO, IL 60604

2458

8/4 1987

2-77/10

PAY TO THE
ORDER OF

Treasurer of the United States

\$ 400.00

The sum of 400 dol's 00 cts

DOLLARS


American National Bank
and Trust Company of Chicago • Chicago, Illinois 60690

MUR 1937

⑈002458⑈ ⑆071000770⑆ 04 016 904⑈

Mary H. Schapiro

QCC#4120

MEMORANDUM

TO: DEBRA A. TRIMIEW

TO: CECILIA LIEBER

FROM: CECILIA LIEBER

FROM: DEBRA A. TRIMIEW

CHECK NO. 2458 . { A COPY OF WHICH IS ATTACHED } RELATING TO

MUR 1937 (Levin) AND NAME Illinois Public Action Council

WAS RECEIVED ON 8/10/87 . PLEASE INDICATE THE ACCOUNT INTO
WHICH IT SHOULD BE DEPOSITED:

- / / BUDGET CLEARING ACCOUNT { 953875.16 }
- / ✓ / CIVIL PENALTIES ACCOUNT { 95-1099.160 }
- / / OTHER _____

SIGNATURE Debra A. Trimiew

DATE 8/10/87

87 AUG 10 AIO: 52

RECEIVED
GENERAL INVEST



FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

M12-21-87

THE FOLLOWING MATERIAL IS BEING ADDED TO THE
PUBLIC FILE OF CLOSED MUR 1937 .

88040570161

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
87 SEP -8 AM 10:28

2535

ILLINOIS PUBLIC ACTION FUND

OPERATIONS ACCOUNT
220 S. STATE ST., SUITE 714
CHICAGO, IL 60604

9/2 87

2-77/10

PAY TO THE
ORDER OF

Treasure of the United States \$ 400.00

The sum of 400 and 00/100

DOLLARS



American National Bank
and Trust Company of Chicago • Chicago, Illinois 60690

MUR 1937

⑈002535⑈ ⑆071000770⑆ 04 016 904⑈

Mary H. Chasforn

MEMORANDUM

CCC #4315

TO: DEBRA A. TRIMIEW

TO: CECILIA LIEBER

FROM: CECILIA LIEBER

FROM: DEBRA A. TRIMIEW

CHECK NO. 2535 { A COPY OF WHICH IS ATTACHED } RELATING TO

MUR 1937 AND NAME Illinois Public Action Council
(Levin)

WAS RECEIVED ON 9/8/87. PLEASE INDICATE THE ACCOUNT INTO
WHICH IT SHOULD BE DEPOSITED:

/ / BUDGET CLEARING ACCOUNT { 95F3875.16 }
/ ✓ / CIVIL PENALTIES ACCOUNT { 95-1099.160 }
/ / OTHER

SIGNATURE Debra A. Trimiew

DATE 9/9/87

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
87 SEP -8 AM 10:28



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 1937

DATE FILMED 4/15/88 CAMERA NO. 2

CAMERAMAN WPC

83040574360



FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463

9 November 1984

MEMORANDUM

TO: CHARLES N. STEELE
GENERAL COUNSEL

ATTENTION: JONATHAN LEVIN

THROUGH: JOHN C. SURINA
STAFF DIRECTOR

FROM: JOHN D. GIBSON
ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION

SUBJECT: REFERRAL OF THE CITIZENS ACTION NON-PARTISAN POLITICAL
ACTION COMMITTEE - FEDERAL CAMPAIGN COMMITTEE OF
ILLINOIS PUBLIC ACTION COUNCIL

This is a referral of the Citizens Action Non-Partisan Political Action Committee - Federal Campaign Committee of the Illinois Public Action Council ("CANPAC"). CANPAC's connected organization, the Illinois Public Action Council, has apparently made contributions to Federal candidates. According to the RAD Review and Referral Procedures for Unauthorized Committees (Standard 6), further examination is required by your office.

If you have any questions, please contact Lisa Stolaruk at 523-4048.

Attachments

38040594351

REPORTS ANALYSIS REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: 9 November 1984ANALYST: LISA STOLARUK

I. COMMITTEE: Citizens Action Non-Partisan Political
Action Committee - Federal Campaign
Committee of Illinois Public Action
Council (C00160655)
David Sherbin, Treasurer
59 East Van Buren, Suite 1210
Chicago, IL 60605

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

III. BACKGROUND:

Apparent Corporate Contributions To Federal Candidate
- 2 U.S.C. §441b(a)

Schedule D of the 1984 April 15 Quarterly Report submitted by the Citizens Action Non-Partisan Political Action Committee - Federal Campaign Committee of Illinois Public Action Council ("CANPAC") disclosed two debts totalling \$10,000 owed to its connected organization, the Illinois Public Action Council. The purpose of the first \$5,000 debt was listed as "Support for Tom Lindley for Congress" and the purpose of the second \$5,000 debt was listed as "Support of Paul Simon for Senate" (Attachment 2).

A Request for Additional Information ("RFAI") was sent to CANPAC on June 28, 1984, concerning the apparent violation of 2 U.S.C. §441b. The RFAI advised that if CANPAC's connected organization had made direct or indirect contributions to Federal candidates, the connected organization must request full refunds from the candidate committees (Attachment 3).

On July 17, 1984, Mr. J. Robert Kettlewell of CANPAC, called the Reports Analysis Division ("RAD") analyst to discuss the RFAI. Mr. Kettlewell stated he had replaced David Sherbin as treasurer and needed additional time to respond to the inquiries.* The RAD analyst explained extensions could not be granted and advised him to respond

*/ CANPAC has not amended its Statement of Organization to disclose Mr. Kettlewell as treasurer. He is, however, listed as Assistant Treasurer on committee correspondence.

CANPAC FEDERAL CAMPAIGN COMMITTEE OF ILLINOIS
PUBLIC ACTION COUNCIL
REPORTS ANALYSIS OGC REFERRAL
PAGE 2

as soon as possible. Mr. Kettlewell said he believed that CANPAC had donated staff time to candidates, not the connected organization. He would, however, look into the matter (Attachment 4).

On July 19, 1984, CANPAC was sent a Second Notice for failure to respond to the RFAI (Attachment 5). Mr. Kettlewell submitted a letter on August 10, 1984, which stated that the contributions to Tom Lindley for Congress and Paul Simon for Senate were incorrectly listed as debts to CANPAC's connected organization. According to the response, "[t]hese contributions were actually contributions made by CANPAC to the campaigns" (Attachment 6).

The RAD analyst called Mr. Kettlewell on August 30, 1984, to obtain further clarification of CANPAC's written response. The RAD analyst explained that CANPAC's report did not properly reflect the contributions to Lindley and Simon. Mr. Kettlewell responded that CANPAC's connected organization had paid for the in-kind contributions in terms of staff time and canvassing. The RAD analyst explained that since all Federal support must originate from the separate segregated fund, this type of activity was impermissible. Mr. Kettlewell said he was aware of the Commission's position in the Sierra Club Advisory Opinion, and he felt the ruling might be deemed unconstitutional by the courts (Attachment 7).

A follow-up RFAI was sent on September 12, 1984 based on CANPAC's written response. The RFAI noted that an amended 1984 April Quarterly Report had not been filed to properly disclose the contributions to Lindley and Simon (Attachment 8). On October 4, 1984, CANPAC was sent a Second Notice for failure to respond to the RFAI (Attachment 9). As of this date, CANPAC has not responded.

IV. OTHER PENDING MATTERS INITIATED BY RAD:

On November 8, 1984, CANPAC was sent RFAI's on the 1984 October Quarterly and 12 Day Pre-General Reports concerning additional debts owed to its connected organization for apparent activity on behalf of five Federal candidates.

8 8 0 4 0 5 9 4 3 5 4
FEDERAL ELECTION COMMISSION
COMMITTEE INDEX OF DISCLOSURE DOCUMENTS - (C) (83-84)

DATE 7NOV84
PAGE 1

NON-PARTY RELATED

COMMITTEE	DOCUMENT	RECEIPTS	DISBURSEMENTS	TYPE OF FILER COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
CANPAC FEDERAL CAMPAIGN COMMITTEE OF ILL. PUBLIC ACTION COUNCIL CONNECTED ORGANIZATION: ILLINOIS PUBLIC ACTION COUNCIL				NON-PARTY NON-QUALIFIED	ID #C00160655	
1983	MID-YEAR REPORT	5,250	5,109	1JAN83 -30JUN83	7	83FEC/276/0569
	REQUEST FOR ADDITIONAL INFORMATION			1JAN83 -30JUN83	1	84FEC/318/1975
	REQUEST FOR ADDITIONAL INFORMATION 2ND			1JAN83 -30JUN83	5	84FEC/323/2768
1984	APRIL QUARTERLY	3,760	3,500	1JUL83 -31MAR84	6	84FEC/313/3238
	APRIL QUARTERLY AMENDMENT			1JUL83 -31MAR84	2	84FEC/325/2466
	REQUEST FOR ADDITIONAL INFORMATION			1JUL83 -31MAR84	3	84FEC/318/1977
	REQUEST FOR ADDITIONAL INFORMATION 2ND			1JUL83 -31MAR84	1	84FEC/323/5075
	REQUEST FOR ADDITIONAL INFORMATION			1JAN84 -31MAR84	2	84FEC/328/0325
	REQUEST FOR ADDITIONAL INFORMATION 2ND			1JAN84 -31MAR84	3	84FEC/336/2332
	JULY QUARTERLY		580	31MAR84 -30JUN84	4	84FEC/341/4827
	NOTICE OF FAILURE TO FILE			1APR84 -30JUN84	1	84FEC/327/3291
	OCTOBER QUARTERLY			1JUL84 -30SEP84	5	84FEC/344/4054
	PRE GENERAL		3,276	1OCT84 -17OCT84	5	84FEC/346/3918
TOTAL		9,010	0 12,465	0	45	TOTAL PAGES

All of the above reports have been reviewed.

Ending cash balance as of 10/17/84: none reported

Total of debts and obligations owed by the committee as of 10/17/84: \$20,370

ATTACHMENT 1

SCHEDULE D
(Revised 3/80)

DEBTS AND OBLIGATIONS
Excluding Loans

ATTACHMENT 2
Page 2 of 2
LINE NUMBER 74
(Use separate schedule
for each numbered line)

1984 April 15 Quarterly Report

Name of Debtor or Creditor	Outstanding Balance Beginning This Period	Amount Received This Period	Payment This Period	Outstanding Balance at Close of This Period
CANAC FEDERAL CAMPAIGN Committee of I. P. A. C.				
A. Full Name, Mailing Address and Zip Code of Debtor or Creditor: Illinois Public Action Council 59 E. Van Buren, #1210 Chi., IL 60605 INC. 9/10/75-L8	\$5000	\$5000	-	5000
Nature of Debt (Purpose): Support for Tom LINCOLN, Congress				
B. Full Name, Mailing Address and Zip Code of Debtor or Creditor: ILLINOIS Public Action Council 59 E. Van Buren, #1210 Chicago, IL 60605 INC. 9/10/75-L8	\$5000	\$5000	-	5000
Nature of Debt (Purpose): Support of Paul Simon for Senate				
C. Full Name, Mailing Address and Zip Code of Debtor or Creditor				
Nature of Debt (Purpose):				
D. Full Name, Mailing Address and Zip Code of Debtor or Creditor				
Nature of Debt (Purpose):				
E. Full Name, Mailing Address and Zip Code of Debtor or Creditor				
Nature of Debt (Purpose):				
F. Full Name, Mailing Address and Zip Code of Debtor or Creditor				
Nature of Debt (Purpose):				
1) SUBTOTALS This Period This Page (optional)				10,000
2) TOTAL This Period (last page this line only)				10,000
3) TOTAL OUTSTANDING LOANS from Schedule C (last page only)				-
4) ADD 2) and 3) and carry forward to appropriate line of Summary Page (last page only)				10,000

94033153212



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20543

ATTACHMENT 3
(Page 1 of 2)

JUN 28 1984 20-2

David Sherbin, Treasurer
CAMPAC Federal Campaign Committee
of Illinois Public Action
Council
59 East Van Buren #1210
Chicago, IL 60605

Identification Number: C00160655

Reference: April Quarterly Report (7/1/83-3/31/84)

Dear Mr. Sherbin:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Schedule B of your report (pertinent portion(s) attached) discloses a contribution(s) which appears to exceed the limits established by the Act. The Act precludes an individual or a political committee, other than a multicandidate committee, from making a contribution to a candidate for Federal office in excess of \$1,000 per election. (2 U.S.C. 441a(a)) If you have made an excessive contribution, the Commission recommends that you notify the recipient and request a refund of the amount in excess of \$1,000. Please inform the Commission, in writing, of the refund and provide a photocopy of your refund request sent to the recipient. In addition, any refund should appear on Line 16 of Schedule A of your next report.

If you find the contribution(s) in question was disclosed incompletely or incorrectly, please amend your original report with the clarifying information.

Although the Commission may take further legal steps concerning the excessive contribution(s), prompt action by you to obtain a refund will be taken into consideration.

-Schedule D of your report lists two debts owed to your connected organization, the Illinois Public Action Council, totalling \$10,000. The purpose of the first

84033161977

debt is listed as "Support for Tom Lindley for Congress" and the purpose of the second debt is listed as "Support of Paul Simon for Senate."

Please be advised that 2 U.S.C. 441b prohibits a corporation or labor organization from contributing or expending funds for the purpose of influencing any Federal election, except that the connected organization may pay for the solicitation and administrative costs of its separate segregated fund.

If your connected organization has made direct or in-kind contributions to Federal candidates, your connected organization must request a full refund from the candidate committees. Please inform the Commission, in writing, of the refunds and provide photocopies of the refund requests sent to the candidate committees.

Although the Commission may take further legal steps concerning this matter, your prompt action will be taken into consideration.

An amendment to your original report(s) correcting the above problem(s) should be filed with the Federal Election Commission within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 523-4048.

Sincerely,



Lisa Stolaruk
Senior Reports Analyst
Reports Analysis Division

84033161978

33040694367

TELECON

ATTACHMENT 4
ANALYST Lisa Stolaruk
initiated call? no

TELECON WITH: Bob Kettlewell (312)427-6262
initiated call? yes

Candidate/Committee: CANPAC Federal Campaign Committee of
Illinois Public Action Council

DATE: 7/17/84

SUBJECT(S): Requests for Additional Information

Mr. Kettlewell called this morning regarding the Requests for Additional Information that I had sent the committee. He stated that he has replaced Mr. Sherbin as treasurer, and therefore needed more time to comply with the requests. I explained that I could not grant an extension, but advised him to respond as soon as possible.

He explained that he would have to review the books to determine the reason for the rather large cash discrepancy. In addition, he would have to speak to members of the "old staff" regarding the excessive contribution to Hays for Congress and the debts owed to their connected organization for apparent federal activity.

We discussed the criteria for qualifying as a multicandidate committee and he agreed that, at the time the contribution to Hays was made, the committee probably did not have contributions from more than fifty persons. In addition, he stated that he does not believe that the connected organization conducted activity on behalf of the federal candidates; rather, he believes that CANPAC donated staff time to the candidates. He will, however, look into the matter.

I requested that, in the interim, he send a letter to the Commission explaining the reason for the delay in response.



**David Sherbin, Treasurer
CANPAC Federal Campaign
Committee of Illinois
Public Action Council
59 East Van Buren #1210
Chicago, IL 60605**

Dear Mr. Sherbin:

This letter is to inform you that as of July 18, 1984, the Commission has not received your response to our requests for additional information dated June 28, 1984. Those notices requested information essential to full public disclosure of your Federal election financial activity and to ensure compliance with provisions of the Federal Election Campaign Act (the Act). Copies of our original requests are enclosed.

If no response is received within fifteen (15) days from the date of this notice, the Commission may choose to initiate audit or legal enforcement action.

If you should have any questions related to this matter, please contact Lisa Stolaruk on our toll-free number (800) 424-9530 or our local number (202) 523-4048.

Sincerely,

John D. Gibson
John D. Gibson
Assistant Staff Director
Reports Analysis Division

Enclosures

CANPAC

ATTACHMENT 6

RECEIVED AT THE FEB

84 AUG 10 12:00

Illinois Action Non-Partisan
Political Action Committee
60 East Van Buren, Suite 1210
Chicago, IL 60605
(312) 467-4000

August 6, 1984

Lisa Stelaruk
Senior Reports Analyst
Reports Analysis Division
Federal Election Commission
Washington, D.C. 20463

Dear Ms. Stelaruk:

This is in response to your letter of July 12, 1984 in which you request clarification of contributions made by our organization to Tom Lindley for Congress and Paul Simon for U.S. Senate.

These contributions were incorrectly listed by the campaigns in question as contributions by the Illinois Public Action Council. These contributions were, in fact, made by the CANPAC Federal Campaign Committee of IPAC.

In addition, the above mentioned contributions were incorrectly listed by CANPAC in the April 15, 1984 quarterly report on Schedule D as debts to the Illinois Public Action Council. These contributions were actually contributions made by CANPAC to the campaigns.

I hope this clarification is sufficient. Please do not hesitate to contact me if I can provide further information.

Sincerely,



J. Robert Kettlewell
Assistant Treasurer
CANPAC Federal Campaign Committee of IPAC

Board of Directors
Chairman—Glen Wilsey, Assistant
Secretary—Glen Wilsey
Treasurer—Glen Wilsey
Party Chair—Glen Wilsey
Campaign Against the Run Rate
Vice Chair—Glen Wilsey, State
President, Illinois Chapter, Illinois
Farmers Organization, Chair
Illinois Farmer's Alliance
Vice Chair—Lilly Scales
Director of Campaigns & Public
Action Dept.—Chicago Campaign
State Joint Board, Agricultural
Campaign & Public Action Unit
Secretary—Richard
Charles Williams, Illinois
Political & Education Director
in 1st House of Representatives &
Agriculture Director

Joe Adams, General House
Committee Energy Chair
Phyllis Christensen, Cook County
Committee & Economic
Development Association
Norman Christensen, Joint Code
Pat Cronin, Chicago Joint Board
Strategy, Youth & Women
Amalgamated Clothing & Textile
Workers Union
Ray Davis, Dist. 25 8th Assn.
of Mechanics & Automobile
Workers

Tom Fuller, President, Cook
County Community & Economic
Development Association, Service
District Commissioner
Barry Garton, President, Chicago
Federation of St. Clair County
Ed Grady, The Washington
Organizer
Charles Hayes, Captain of Bar
Tennis Union
Jim Johnson, Director, United
Rubber Workers, District 4
Alan Latham, District 2
Committee of Eastern Illinois
County Chair, Illinois Public Action
Council

Don Martingale, Chair, United Auto
Workers, Cook County, Rock
Rudy Mandel, Power, Heating,
Community Council
G. William Mandel, Service
Trades and Labor Council
Ray Parnell, 1st District, Cook
County

Janey Palmer, Chicago
County, Health Care Committee
Jonathan Rothstein, General
Council, Service Employees
International Union, Local 100
Sam Rouse, American Agriculture
Council

Gene Vanderpool, National
Political Action Director, American
Federation of Government
Employees

Big Women, District
Representative, District 9
Allan White, Illinois & Agriculture
Council
Jim Wright, District, Republic
Auto 600

OFFICERS

Robert Cramer
Executive Director
Michael McGowan
Executive Director
Robert E. Miller
Executive Director

Citizen Action Non-Partisan
Political Action Committee
80 East Van Buren, Suite 1210
Chicago, IL 60605



RECEIVED AT THE
AUG 12 1988

Lisa Stokrock
Senior Reports Analyst
Report Analysis Division
Federal Election Commission
WASHINGTON, DC 20463

TELECONANALYST Lisa Stolaruk
initiated call? yesTELECON WITH: Bob Kettlewell
initiated call? noCandidate/Committee: CANPAC Federal Campaign Committee of Illinois Public
Action Council

DATE: 8/30/84

SUBJECT(S): In-kind contributions by connected organization

I called Mr. Kettlewell this morning regarding his response to the RFAI's that we had sent the committee. One RFAI dealt with \$5000 debts owed to their connected organization on for in-kind contributions on behalf of two Federal candidates (totalling \$10,000) and an apparent excessive contribution to a candidate.

In response to the first matter, the committee stated that the contributions were erroneously reported as debts to the connected organization, but in fact were made by the PAC. The second matter had not been responded to.

I told Mr. Kettlewell that the committee did not have corresponding disbursement totals in order for the committee to expend the money for the in-kind contributions. In fact, the committee only had a total of \$8,609 in total disbursements for the 1983-84 election cycle. Mr. Kettlewell stated that the connected organization did pay for the in-kinds in terms of staff time, canvassing, etc. I told him that this sort of activity is impermissible and that all Federal support must be furnished by the separate segregated fund. He stated that he was aware of the Commission's position in the Sierra Club Advisory Opinion, but expressed the opinion that it might be deemed unconstitutional by the courts. I said that, nevertheless, this was the Commission's position.

I then stated that, as of this date, the committee has not qualified as a multi-candidate committee, therefore, the committee must still receive a refund from Hayes for Congress. In addition the \$5,000 in-kinds paid by the connected organization were not only impermissible but excessive as well. Mr. Kettlewell stated that the committee has documentation that it has received well over 50 contributions. He said that their attorney has the documentation and apparently is working in conjunction with Jonathan Levin on the Hayes matter. I told Mr. Kettlewell that, barring receipt of the documentation, we still view the committee as non-qualified.

I further stated that, according to letters attached to their reports, it appears as though the committee is soliciting contributions outside of its permissible class. He said that the committee does not solicit funds at all for the PAC, but only communicates endorsements for candidates. He said that all such communications are allocated as in-kind contributions on behalf of candidates.

I told Mr. Kettlewell that he may be receiving additional communication from the FEC in the next few weeks.

23040694372



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

ATTACHMENT 8
(Page 1 of 2)

SEP 12 1984 82-2

David Sherbin, Treasurer
CANPAC Federal Campaign Committee
of Illinois Public Action Council
59 East Van Buren, Suite 1210
Chicago, IL 60605

Identification Number: C00160655

Reference: April Quarterly Report (1/1/84-3/31/84)

Dear Mr. Sherbin:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-In July of 1984, the Commission sent your committee a Request for Additional Information regarding the reporting of two debts that were disclosed as being owed to your connected organization, the Illinois Public Affairs Council. The debts, totalling \$10,000, were listed as "Support for Tom Lindley for Congress" (\$5,000) and "Support of Paul Simon for Senate" (\$5,000). Your committee submitted a response dated August 6, 1984, which stated that "...the above mentioned contributions were incorrectly listed by CANPAC in the April 15, 1984 Quarterly Report on Schedule D as debts to the Illinois Public Action Council. These contributions were actually contributions made by CANPAC to the campaigns."

Records at the Commission indicate that your committee has not submitted an amended April 15 Quarterly Report to disclose the disbursement of funds for the contributions to the Federal candidates. Please note that all contributions to Federal candidates and other political committees must be reported on Line 21 of the Detailed Summary Page, and itemized on Schedule B, regardless of the amount. Please amend your report accordingly, or provide additional clarification regarding the contributions.

In addition, records at the Commission indicate that your committee has not attained multicandidate status.

33040694373

31033130325

The Act precludes a political committee, other than a multicandidate committee, from making a contribution to a candidate for Federal office in excess of \$1,000 per election. (2 U.S.C. §461a(a)) With regard to the two contributions cited above, the Commission recommends that you notify the recipients and request a refund of the amount in excess of \$1,000. Please inform the Commission immediately in writing and provide a photocopy of your refund requests sent to the recipients. In addition, any refunds should appear on a supporting Schedule A for Line 16 of your next report.

Although the Commission may take further legal steps concerning the excessive contributions, your prompt action in obtaining a refund of the excessive amounts will be taken into consideration.

An amendment to your original report(s) correcting the above problem(s) should be filed with the Federal Election Commission within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 523-4048.

Sincerely,



Lisa Stolaruk
Senior Reports Analyst
Reports Analysis Division

3 1 0 3 3 1 0 0 3 2 6
4 3 3 7 4



October 4, 1984

Identification Number: C00160633

Dear Mr. Sherbin:

If you should have any questions related to this matter, please contact Lisa Stolaruk on our toll-free number (800) 424-9530 or our local number (202) 523-4048.

John D. Gibson
John D. Gibson
Assistant Staff Director

Enclosure



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

4 January 1985

MEMORANDUM

TO : CHARLES N. STEELE
GENERAL COUNSEL

ATTENTION : JONATHAN LEVIN

THROUGH : JOHN C. SURINA
STAFF DIRECTOR

FROM : *[Signature]* JOHN D. GIBSON
ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION

SUBJECT : REFERRAL UPDATE ON THE CITIZENS ACTION NON-
PARTISAN POLITICAL ACTION COMMITTEE FEDERAL
CAMPAIGN COMMITTEE OF ILLINOIS PUBLIC ACTION
COUNCIL

The following information is being presented as an update to referral 84L-32 involving the Citizens Action Non-Partisan Political Action Committee Federal Campaign Committee of Illinois Public Action Council ("CANPAC"). The matters in question involve a possible violation of 2 U.S.C. 441b(a).

On November 8, 1984, Requests for Additional Information ("RFAIs") were sent to CANPAC regarding information disclosed on their 1984 October Quarterly and 12 Day Pre-General Election Reports (Attachments 1 and 2). The RFAIs addressed in-kind contributions made on behalf of Federal candidates that appear to have been made by CANPAC's connected organization.

Responses to the RFAIs were not received and therefore a Second Notice was sent to CANPAC on November 29, 1984 (Attachment 3). As of this date, CANPAC has failed to answer the RFAIs.

If you have any questions regarding these matters, please contact Lisa Stolaruk at 523-4048.

Attachments



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

NOV 8 1984

RQ-2

David Sherbin, Treasurer
 CANPAC Federal Campaign Committee
 of Illinois Public Affairs Council
 59 East Van Buren, Suite 1210
 Chicago, IL 60605

Identification Number: C00160655

Reference: October Quarterly Report (7/1/84-9/30/84)

Dear Mr. Sherbin:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Please provide the totals for Line 7, Columns A and B and Line 8, Column A of the Summary Page. In addition, your Line 6(d), Column B total appears to be incorrect. FEC calculations indicate that this total should be \$843.25.

-Schedule B supporting Line 21 lists apparent in-kind contributions made on behalf of Federal candidates totalling \$7,093.60. Line 7 (Total Disbursements) of the Summary Page, however, does not reflect the fact that a corresponding amount has been disbursed from your account during this reporting period. In addition, Schedule D discloses a debt incurred of \$7,093.60 owed to your connected organization, the Illinois Public Action Council, the purpose of which is listed as "contract for canvass time and printed materials." If CANPAC did not disburse the funds for the in-kind contributions on behalf of the Federal candidates, the amount of the activity should not be included on Line 21 of the Detailed Summary Page.

Please be advised that 2 U.S.C. §441b prohibits a corporation or labor organization from contributing or expending funds for the purpose of influencing any Federal election, except that the connected organization may pay for the solicitation and administrative costs of its separate segregated fund.

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If your connected organization has made direct or indirect contributions to Federal candidates (see attached), your connected organization must request a full refund from the candidate committees. Please inform the Commission, in writing, of the refunds and provide photocopies of the refund requests sent to the candidate committees.

Although the Commission may take further legal steps concerning this matter, your prompt action will be taken into consideration.

An amendment to your original report(s) correcting the above problem(s) should be filed with the Federal Election Commission within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 523-4048.

Sincerely,



Lisa Stolaruk
Senior Reports Analyst
Reports Analysis Division

83040694378

SCHEDULE B

ITEMIZED DISBURSEMENTS

Page 1 of 1 for
LINE NUMBER
(Use space provided for each
category of the Disbursed
Summary Page)

ATTACHMENT 1 (Page 3 of 4)

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

Name of Committee (in Full)
CAN PAC FEDERAL CAMPAIGN Committee of IPAC

A. Full Name, Mailing Address and ZIP Code SIMON For SENATE 30 W. WASHINGTON Blvd. CHICAGO, IL 606	Purpose of Disbursement CANVASS Time & Printed Materials Disbursement for <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify)	Date (month, day, year) 8/15/84 - 9/30/84	Amount of Each Disbursement This Period 2,763.31
B. Full Name, Mailing Address and ZIP Code Mondale For President	Purpose of Disbursement CANVASS Time & Printed material Disbursement for <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify)	Date (month, day, year) 8/15/84 - 9/30/84	Amount of Each Disbursement This Period 367.28
C. Full Name, Mailing Address and ZIP Code EVANS For Congress 2411 3rd Ave Rock Island 61201	Purpose of Disbursement CANVASS Time & Printed Materials Disbursement for <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify)	Date (month, day, year) 8/15/84 - 9/30/84	Amount of Each Disbursement This Period 1996.64
D. Full Name, Mailing Address and ZIP Code Schuevitt For Congress 411 37 E. STATE Rockford, IL 61108	Purpose of Disbursement CANVASS Time & Printed Materials Disbursement for <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify)	Date (month, day, year) 8/15/84 - 9/30/84	Amount of Each Disbursement This Period 1,784.96
E. Full Name, Mailing Address and ZIP Code Brune For Congress PO Box 706 Alton, IL 62450	Purpose of Disbursement CANVASS Time & Printed Materials Disbursement for <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify)	Date (month, day, year) 8/15/84 - 9/30/84	Amount of Each Disbursement This Period 181.37
F. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
G. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
H. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
I. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
SUBTOTAL of Disbursements This Page (optional)			7093.60
TOTAL This Period (list page this line number only)			

SCHEDULE D
(Revised 3/83)

DEBTS AND OBLIGATIONS
Excluding Loans

LINE NUMBER _____
(Use separate schedules
for each numbered line)

ATTACHMENT 1 (Page 4 of 4)

Name of Contributor (in Full)	Outstanding Balance Beginning This Period	Amount Received This Period	Payment This Period	Outstanding Balance at Close of This Period
CAROL FERGUSON CAMPBELL Committee of IPAC				
A. Full Name, Mailing Address and Zip Code of Debtor or Creditor Illinois Public Action Council 59 E. Van Buren, Ste 1200 Chicago, IL 60605	10,000	7,093.60	—	17,093.60
Nature of Debt (Purpose) CONTRACT FOR CASHING TIME & PRINTED MATERIALS				
B. Full Name, Mailing Address and Zip Code of Debtor or Creditor				
Nature of Debt (Purpose)				
C. Full Name, Mailing Address and Zip Code of Debtor or Creditor				
Nature of Debt (Purpose)				
D. Full Name, Mailing Address and Zip Code of Debtor or Creditor				
Nature of Debt (Purpose)				
E. Full Name, Mailing Address and Zip Code of Debtor or Creditor				
Nature of Debt (Purpose)				
F. Full Name, Mailing Address and Zip Code of Debtor or Creditor				
Nature of Debt (Purpose)				
1) SUBTOTALS This Period This Page (last only)				7,093.60
2) TOTAL This Period (last page this line only)				7,093.60
3) TOTAL OUTSTANDING LOANS from Schedule C (last page only)				—
4) ADD 2) and 3) and carry forward to appropriate line of Summary Page (last page only)				

9 3 3 0 3 4 0 5 1 4 3 8 0



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Nov 8 1984 RQ-2

David Sherbin, Treasurer
CANPAC Federal Campaign Committee
of Illinois Public Action Council
59 East Van Buren, Suite 1210
Chicago, IL 60605

Identification Number: C00160655

Reference: 12 Day Pre-General Report (10/1/84-10/17/84)

Dear Mr. Sherbin:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Please provide the total for Line 8, Column A of the Summary Page.

-Your calculations for Lines 6(a) through 8 of Column B appear to be incorrect. Please provide the corrected total(s) on the Summary Page.

-The amount of debts owed by your committee as reported on the Summary Page conflicts with the amount reported on the loan and/or debt schedule(s) (Schedule C and/or D). Please explain this difference.

-Schedule B supporting Line 21 lists apparent in-kind contributions made on behalf of Federal candidates totalling \$3,276.45. In addition, Schedule D discloses a debt incurred of \$3,276.45 owed to your connected organization, the Illinois Public Action Council, the purpose of which is listed as "contract for canvass time and printed material." If CANPAC did not disburse the funds for the in-kind contributions on behalf of the Federal candidates, the amount of the activity should not be included in your total disbursement figures (Lines 7, 21 and 28).

Please be advised that 2 U.S.C. §441b prohibits a corporation or labor organization from contributing or expending funds for the purpose of influencing any Federal election, except that the connected organization may pay for the solicitation and administrative costs of its separate segregated fund.

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If your connected organization has made direct or indirect contributions to Federal candidates (see attached), your connected organization must request a full refund from the candidate committees. Please inform the Commission, in writing, of the refunds and provide photocopies of the refund requests sent to the candidate committees.

Although the Commission may take further legal steps concerning this matter, your prompt action will be taken into consideration.

An amendment to your original report(s) correcting the above problem(s) should be filed with the Federal Election Commission within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 523-4048.

Sincerely,



Lisa Stolaruk
Senior Reports Analyst
Reports Analysis Division

2040694382

SCHEDULE B

ITEMIZED DISBURSEMENTS

Page 2 of 4 for
LINE NUMBER
Use separate schedule(s) for each
category of the Detailed
Summary Page 1

ATTACHMENT 2 (Page 3 of 4)

Any information contained from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

Name of Committee (in full)

CANDIDATE FEDERAL CAMPAIGN Committee of IPAC

A Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
SIMON for Senate 3 W. WASHINGTON AVE Chicago, IL 60601	CANVASS TIME & PRINTED MATERIAL Disbursement for <input checked="" type="checkbox"/> Primary <input checked="" type="checkbox"/> General Other (specify)	1-1/15/14- 1-17/14	1,252.56
Mendale for President 9	CANVASS TIME & PRINTED MATERIAL Disbursement for <input checked="" type="checkbox"/> Primary <input checked="" type="checkbox"/> General Other (specify)	1-1/14- 1-17/14	180.87
ELAN for Congress 2411 E. 1st Ave Rock Island, IL 61201	CANVASS TIME & PRINTED MATERIAL Disbursement for <input checked="" type="checkbox"/> Primary <input checked="" type="checkbox"/> General Other (specify)	1-1/14- 1-17/14	933.37
Shirley D. Jones for Congress 4457 E. STATE ST. Rock Island, IL 61104	CANVASS TIME & PRINTED MATERIAL Disbursement for <input checked="" type="checkbox"/> Primary <input checked="" type="checkbox"/> General Other (specify)	1-1/14- 1-17/14	816.77
Pence for Congress PO Box 266 Chicago, IL 60640	CANVASS TIME & PRINTED MATERIAL Disbursement for <input checked="" type="checkbox"/> Primary <input checked="" type="checkbox"/> General Other (specify)	1-1/14- 1-17/14	92.68
F Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for <input type="checkbox"/> Primary <input type="checkbox"/> General Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
G Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for <input type="checkbox"/> Primary <input type="checkbox"/> General Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
H Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for <input type="checkbox"/> Primary <input type="checkbox"/> General Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
I Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for <input type="checkbox"/> Primary <input type="checkbox"/> General Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period

SUBTOTAL (Sum of all items on this page (optional))

3,276.45

TOTAL (Sum of all items on this page (optional))

3,276.45

SCHEDULE D
(Revised 3/80)

DEBTS AND OBLIGATIONS
Excluding Loans

Page 2 of 4 for
LINE NUMBER 11
Also enter on schedules
for each numbered line

ATTACHMENT 2 (Page 4 of 4)

Name of Committee (in Full)	Outstanding Balance Beginning This Period	Amount Borrowed This Period	Payment This Period	Outstanding Balance at Close of This Period
CANPAC Federal Campaign Committee of IPAC				
A. Full Name, Mailing Address and Zip Code of Debtor or Creditor JCL Public Action Council 581 E. Main Avenue, Chi, IL 60605	17013.60	3276.45	—	20,320.05
Nature of Debt (Purpose) Contract for Cross Tim 1 Print Material				
B. Full Name, Mailing Address and Zip Code of Debtor or Creditor				
Nature of Debt (Purpose)				
C. Full Name, Mailing Address and Zip Code of Debtor or Creditor				
Nature of Debt (Purpose)				
D. Full Name, Mailing Address and Zip Code of Debtor or Creditor				
Nature of Debt (Purpose)				
E. Full Name, Mailing Address and Zip Code of Debtor or Creditor				
Nature of Debt (Purpose)				
F. Full Name, Mailing Address and Zip Code of Debtor or Creditor				
Nature of Debt (Purpose)				
1. SUBTOTALS This Period This Page (last one)				
2. TOTAL This Period (last page this line only)				
3. TOTAL OUTSTANDING LOANS from Schedule C (last page only)				
4. Attach A and 3 and carry forward to appropriate line of Summary Page (last page only)				

83040694384
84033163921

3276.45



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

RQ-3

November 29, 1984

David Sherbin, Treasurer
CANPAC Federal Campaign
Committee of Illinois
Public Action Council
59 East Van Buren #1210
Chicago, IL 60605

Identification Number: C00160655

Reference: July Quarterly (3/31/84-6/30/84), October
Quarterly (7/1/84-9/30/84) and 12 Day Pre-General
(10/1/84-10/17/84) Reports

Dear Mr. Sherbin:

This letter is to inform you that as of November 28, 1984, the Commission has not received your response to our requests for additional information, dated November 8, 1984. Those notices requested information essential to full public disclosure of your Federal election financial activity and to ensure compliance with provisions of the Federal Election Campaign Act (the Act). Copies of our original requests are enclosed.

If no response is received within fifteen (15) days from the date of this notice, the Commission may choose to initiate audit or legal enforcement action.

If you should have any questions related to this matter, please contact Lisa Stolaruk on our toll-free number (800) 424-9530 or our local number (202) 523-4048.

Sincerely,

A handwritten signature in dark ink, appearing to read "John D. Gibson".

John D. Gibson
Assistant Staff Director
Reports Analysis Division

Enclosures

SENSITIVE

FEDERAL ELECTION COMMISSION
1325 K Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL

BY OGC TO THE COMMISSION 2/28/85-10:00

RAD 84L-32

STAFF MEMBER(S)

Jonathan Levin

SOURCE OF MUR: I N T E R N A L L Y G E N E R A T E D

RESPONDENTS' NAMES: Citizens Action Non-Partisan Political
Action Committee of the Illinois Public
Action Council ("CANPAC")
David Sherbin, as treasurer

Illinois Public Action Council

Tom Lindley for Congress
Claudia C. Gross, as treasurer

RELEVANT STATUTES: 2 U.S.C. § 441b(a)
11 C.F.R. § 114.3(a) (2)

INTERNAL REPORTS CHECKED: None

FEDERAL AGENCIES CHECKED: None

SUMMARY OF ALLEGATIONS

The Citizens Action Non-Partisan Political Action Committee of the Illinois Public Action Council ("CANPAC") was referred to the Office of the General Counsel on November 9, 1984, by the Reports Analysis Division (RAD). This referral listed two contributions by CANPAC to principal campaign committees. An update sent on January 4, 1985, listed other such contributions by CANPAC.

FACTUAL AND LEGAL ANALYSIS

CANPAC's 1984 April 15 Quarterly Report disclosed two debts of \$5,000 each to its connected organization, the Illinois Public Action Council ("the Council"). The purpose of the first debt was listed as "support" for Tom Lindley for Congress and the purpose of the second debt was listed as "support" for Paul Simon for Senate.

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RAD sent a Request for Additional Information (RFAI) to CANPAC on June 28, 1984, stating that, if the Council had made "direct or indirect" contributions to Federal candidates, the Council must request full refunds from the candidates. After a phone response from CANPAC on July 17, 1984, CANPAC was sent a second RFAI. J. Robert Kettlewell, Assistant Treasurer of CANPAC, replied on August 10, 1984, stating that the debts listed were not contributions by the Council but were actually made by CANPAC.

On August 30, 1984, a RAD analyst explained to Mr. Kettlewell that CANPAC's reports did not properly reflect contributions by CANPAC. Mr. Kettlewell responded that the Council had made the in-kind contributions through staff time and canvassing. When told that such contributions were impermissible, Mr. Kettlewell stated that he was aware of the Sierra Club Advisory Opinion but felt that "it might be deemed unconstitutional by the courts." The RAD analyst also stated that, according to letters attached to CANPAC reports, contributions are being solicited to CANPAC from persons outside of the permissible class. Mr. Kettlewell replied that CANPAC does not solicit funds for the PAC, but only communicates endorsements for candidates, and that all such communications are allocated as in-kind contributions on behalf of candidates. 1/

CANPAC's 1984 October Quarterly and 12 Day Pre-General Election Reports list additional in-kind contributions in the

1/ Based on CANPAC's written response, RAD sent a follow-up RFAI requesting an amendment to the April Quarterly reflecting CANPAC contributions to the candidate committees. No response was received.

form of "canvass time and printed materials" to principal campaign committees, i.e., \$4,015.87 to Simon for Senate, \$548.10 to Mondale for President, \$2,930.05 to the Friends of Lane Evans, \$2,601.93 to the Committee to Elect Schwerdtfeger, and \$274.05 to the Bruce for Congress Committee. On the Schedule Ds (Schedule of Debts and Obligations) for each report, CANPAC listed the totals of these sums as newly incurred debts owed to the connected organization; the schedules also disclosed no repayments of these debts.

RAD sent an RFAI to CANPAC with respect to these contributions on November 8, 1984. After no response was received from CANPAC, RAD sent another RFAI on November 29, 1984. CANPAC did not respond to this request either.

Section 441b(a) of Title 2 prohibits a corporation from making a contribution or expenditure in connection with a federal election. It appears from the phone response of Mr. Kettlewell and from the Schedule Ds that the Illinois Public Action Council made corporate contributions or expenditures in connection with the election of federal candidates in violation of 2 U.S.C. § 441b(a). This Office also recommends that the Commission find reason to believe that CANPAC violated 2 U.S.C. § 441b(a) by participating in the making of these corporate contributions.

Section 441b(a) also prohibits a political committee from knowingly accepting or receiving a contribution prohibited by that section. CANPAC has characterized the first two disbursements, i.e., \$5,000 to Simon for Senate and \$5,000 to Tom Lindley for Congress, as contributions. Because no response was received as to the subsequent disbursements, no characterization (as either a contribution or independent expenditure) was made as to these disbursements. It is unclear from a review of CANPAC's reports and responses whether the disbursements were contributions or independent expenditures. A review of the reports of the individual principal campaign committees, however, reveals a slightly clearer picture. Only the reports of Tom Lindley for Congress disclose contributions from either the Council or CANPAC. Schedule A of the 1984 Pre-Primary Report of this committee discloses a receipt of "In-kind (Staff Expenses)" of \$4,100 on February 24, 1984, from the Council. Consistent with the requirements in 11 C.F.R. § 104.13(a) for the reporting of the receipt of in-kind contributions, Schedule B of that report discloses a \$3,200 disbursement to the Council on February 10, 1984, and a \$900 disbursement to the Council on February 24, 1984, both for "staff expenses." ^{2/} It appears, therefore, that there was a knowing receipt of an in-kind contribution from the Council. This Office, therefore, recommends that the Commission

^{2/} The 1984 July Quarterly Report of Tom Lindley for Congress also disclosed disbursements of \$353.98 on May 18, 1984, and \$300 on April 23, 1984, to "Jim Buffett c/o IPAC" (the Council) for "Field Expenses-travel." There is no corresponding entry on the report's Schedule A.

find reason to believe that Tom Lindley for Congress and Claudia C. Gross, as its treasurer, violated 2 U.S.C. § 441b(a).

Schedule A of the 1984 July Quarterly Report of the Committee to Elect Schwerdtfeger lists a \$25 contribution on April 25, 1984, and a \$100 contribution on May 23, 1984, from "IPACE" in Rockford, Illinois. The Council's acronym is "IPAC" and it maintains an office in Rockford. The figures involved, however, do not approximate the \$2,601.93 in disbursements for the Schwerdtfeger Committee listed by CANPAC and the dates of the \$125 in contributions differ by many months from the dates listed on CANPAC reports.

The reports of Simon for Senate, Bruce for Congress, the Mondale/Ferraro Committee, Inc. and Mondale for President 3/ do not make any reference to CANPAC or the Council on either their Schedule As or Schedule Bs. The 1984 October Quarterly Report of the Friends of Lane Evans disclosed on Schedule B a \$1,456 disbursement to the Council on August 24, 1984, for "literature." There is no corresponding entry in Schedule A. The Evans Committee's 1984 Post General Election Report disclosed on its Schedule B a \$718 disbursement on October 29, 1984, and a \$300 disbursement on November 15, 1984, to "Illinois Public Action" for "telephone." Again, no corresponding contribution was listed on Schedule A.

3/ CANPAC's reports disclose in-kind disbursements for "Mondale for President" but they were both made during a time period after the Democratic National Convention. This Office, therefore, is uncertain as to whether the disbursements were intended for the primary committee or the general election committee.

Based on the information presented, the Office of the General Counsel recommends that the Commission approve interrogatories to respondents CANPAC, the Council, and Tom Lindley for Congress. Included in these interrogatories will be questions directed specifically at the items discussed in the reports of the Evans and Schwerdtfeger committees.

As mentioned above, RAD informed CANPAC that it appeared that CANPAC was soliciting for contributions to CANPAC outside of the permissible class, i.e., the membership. Responses indicate, however, that the Council, not CANPAC, conducted the canvassing and soliciting. An "Appendix for FEC Report" on the stationery of the Council and enclosed with CANPAC's 1982 Pre-General Election Report explained the Council's solicitation and communication procedures. It stated that the Council conducts door-to-door canvassing for contributions to the Council and, at the same time, communicates CANPAC's endorsements to "those members, supporters, and contributors" of the Council. The appendix stated that

[o]n some occasions canvassers also communicated endorsements to individuals who were not members, supporters or contributors to [the Council] (over 75% of those contacted by the canvass become members, or contributors or sign statements of support for the organization.)

The appendix went on to state that the disbursements included salaries to canvassers regarding endorsements of candidates with

14% of salaries "alloted (sic) to communications with members, supporters and contributors, and 1% for communication with those who were not members, supporters or contributors." 4/ The appendix concluded by stating that the cost of materials for candidate endorsements was also allocated by candidate.

Section 114.3(a)(2) of the Commission Regulations, creates an exception to the prohibition on corporate contributions for partisan communications by a membership corporation to its members and executive and administrative personnel. The Illinois Public Action Council communicated beyond this class. Respondents cannot, therefore, claim that the disbursements reported were permitted as payments exempted by the Commission Regulations rather than contributions.

RECOMMENDATIONS

1. Open a Matter Under Review.
2. Find reason to believe that Citizens Action Non-Partisan Political Action Committee of the Illinois Political Action Council and David Sherbin, as its treasurer, violated 2 U.S.C. § 441b(a).

4/ Under the Act, the Council may communicate with its "members" on any subject. The term "members" refers only to persons who have met specific requirements. See Federal Election Commission v. National Right to Work Committee, 459 U.S. 197 (1982); AO 1977-67. This does not include persons who simply support or contribute to the Council.

3. Find reason to believe that the Illinois Public Action Council violated 2 U.S.C. § 441b(a).
4. Find reason to believe that Tom Lindley for Congress and Claudia C. Gross, as its treasurer, violated 2 U.S.C. § 441b(a).
5. Approve the attached letters with questions.
6. Approve the attached Factual and Legal Analyses.

Charles N. Steele
General Counsel

February 27, 1985
Date

By:


Kenneth A. Gross
Associate General Counsel

Attachments

1. Referral from RAD
2. Letter with General Counsel's Factual and Legal Analysis and questions to CANPAC
3. Letter with General Counsel's Factual and Legal Analysis and questions to the Council
4. Letter with General Counsel's Factual and Legal Analysis and questions to Tom Lindley for Congress

03040694393



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE, GENERAL COUNSEL
FROM: MARJORIE W. EMMONS/JODY C. RANSOM *JCR*
DATE: MARCH 4, 1985
SUBJECT: OBJECTION - RAD 84L-32 First General
Counsel's Report signed Feb. 27, 1985

The above-named document was circulated to the
Commission on Thursday, February 28, 1985 at 4:00.

Objections have been received from the Commissioners
as indicated by the name(s) checked:

Commissioner Aikens	_____
Commissioner Elliott	_____
Commissioner Harris	_____
Commissioner McDonald	_____
Commissioner McGarry	_____
Commissioner Reiche	<u> X </u>

This matter will be placed on the Executive Session
agenda for Tuesday, March 12, 1985.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Citizens Action Non-Partisan)
Political Action Committee) RAD 84L-32
of the Illinois Public)
Action Council ("CANPAC"))
David Sherbin, as treasurer)
Illinois Public Action Council)
Tom Lindley for Congress)
Claudia C. Gross, as treasurer)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of March 12, 1985, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in the above-captioned matter:

1. Open a Matter Under Review.
2. Find reason to believe that Citizens Action Non-Partisan Political Action Committee of the Illinois Political Action Council and David Sherbin, as its treasurer, violated 2 U.S.C. § 441b(a).
3. Find reason to believe that the Illinois Public Action Council violated 2 U.S.C. § 441b(a).
4. Find reason to believe that Tom Lindley for Congress and Claudia C. Gross, as its treasurer, violated 2 U.S.C. § 441b(a).

(continued)

5. Approve the letters with questions attached to the General Counsel's report dated February 27, 1985.
6. Approve the attached Factual and Legal Analyses attached to the General Counsel's report dated February 27, 1985.

Commissioners Aikens, Elliott, Harris, McDonald, McGarry, and Reiche voted affirmatively for the decision.

Attest:

3-13-85

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

33040694390



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

April 1, 1985

Robert Creamer
Illinois Public Action Council
59 East Van Buren
Suite 1210
Chicago, Illinois 60605

Re: MUR 1937
Illinois Public Action Council

Dear Mr. Creamer:

On March 12, 1985, the Federal Election Commission determined that there is reason to believe that the Illinois Public Action Council ("the Council") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The General Counsel's factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the Council. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Please submit any such materials within ten days of your receipt of this letter. Statements should be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the Council, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

Letter to Robert Creamer
Page 2

stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

The investigation now being conducted will be confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Jonathan Levin, the attorney assigned to this matter, at (202)523-4000.

Sincerely,



John Warren McGarry
Chairman

Enclosures

General Counsel's Factual and Legal Analysis
Interrogatories
Procedures
Designation of Counsel Statement

033747333



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

April 1, 1985

David Sherbin, Treasurer
Citizens Action Non-Partisan Political Action
Committee of the Illinois Public Action Council
59 East Van Buren
Suite 1210
Chicago, Illinois 60605

Re: MUR 1937
Citizens Action Non-Partisan
Political Action Committee
of the Illinois Public Action
Council ("CANPAC")

Dear Mr. Sherbin:

On March 12, 1985, the Federal Election Commission determined that there is reason to believe CANPAC and you, as treasurer, violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The General Counsel's factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you and the committee. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Please submit any such materials, along with your answers to the enclosed questions, within ten days of your receipt of this letter. Statements should be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against your committee and you, as treasurer, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

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Letter to David Sherbin
Page 2

stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

The investigation now being conducted will be confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Jonathan Levin, the attorney assigned to this matter, at (202)523-4000.

Sincerely,



John Warren McGarry
Chairman

Enclosures

General Counsel's Factual and Legal Analysis
Interrogatories
Procedures
Designation of Counsel Statement

00440694400



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

April 1, 1985

Claudia C. Gross, Treasurer
Tom Lindley for Congress
202 Edwards
Danville, Illinois 61832

Re: MUR 1937
Tom Lindley for Congress
Claudia C. Gross, Treasurer

Dear Ms. Gross:

On March 12, 1985, the Federal Election Commission determined that there is reason to believe that Tom Lindley for Congress and you, as treasurer, violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The General Counsel's factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against your committee. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Please submit any such materials, along with your answers to the enclosed questions, within ten days of your receipt of this letter. Statements should be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against your committee and you, as treasurer, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

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Letter to Claudia C. Gross
Page 2

stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

The investigation now being conducted will be confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Jonathan Levin, the attorney assigned to this matter, at (202)523-4000.

Sincerely,



John Warren McGarry
Chairman

Enclosures

General Counsel's Factual and Legal Analysis
Interrogatories
Procedures
Designation of Counsel Statement

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85 APR 15 P 1:42

April 10, 1985

Jonathan Levin, Esq.
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1937
Tom Lindley for Congress
Claudia C. Gross, Treasurer

Dear Mr. Levin:

I am writing to confirm our telephone conversation of April 9, 1985. In that conversation, I noted that the April 1, 1985, letter from Mr. McGarry had reached my office on the afternoon of April 9, 1985. A photocopy of the envelope is attached. I also indicated to you that, in January of 1985, Ms. Gross resigned as treasurer of the Tom Lindley for Congress committee, and I, as the former candidate, became the new treasurer. I also have of course moved the committee's files with me to Portland, Oregon. My office address is Suite 3400, 111 S.W. Fifth Avenue, Portland, Oregon 97204-3699 (telephone: 503-224-5858, ext. 411). My home address is 1932 N.E. Multnomah Street, Portland, Oregon 97232 (telephone: 503-281-5426). This change-over information was provided in an Amended Form 1, filed with the FEC in January.

I am also writing to request a 21 day extension in the time permitted to answer your interrogatories and otherwise respond to the letter. As the candidate, I was actively involved in my own campaigning at the time of the events indicated in your materials. Thus, I do not have detailed knowledge of those matters. I will need to contact both my former campaign manager, Ken Brock, and my former treasurer, Ms. Gross, to obtain information. And, unfortunately, I do not now have a current address or telephone number for Mr. Brock. In addition, it is clear that I will be required to review the committee's files and records on this matter, with which I am completely unfamiliar.

The original response to Mr. McGarry's letter would have been due on April 19. Given the substantial volume of detail requested, the fact that the former treasurer, former campaign manager, former candidate, and files are spread from the east coast to the pacific northwest, I believe that an extension to respond until May 10 is both reasonable and proper, and makes possible a meaningful response.

Sincerely,


Tom Lindley

Coffield Ungar, Harris & Slavin

3500 Three First National Plaza, Chicago, Illinois 60602
Telephone 312/977-4400, Cable CUHSLAW Telex 270286

600-1362
85 MAY 3 All: 58

May 2, 1985

BY EXPRESS MAIL

Mr. Jonathan Levin
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1937

Dear Mr. Levin:

Enclosed is a Statement of Designation of Counsel relating
to the above-referenced matter.

Sincerely,

John Christy

John W. Christy

JWC:pam
Enclosure

29040694404

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1937

NAME OF COUNSEL: Coffield Ungaretti Harris & Slavin

ADDRESS: Attention: Joseph A. Cari or John W. Christy

3500 Three First National Plaza

Chicago, Illinois 60611

TELEPHONE: (312) 977-4400

The above-named individual is hereby designated as my
counsel and is authorized to receive any notifications and other
communications from the Commission and to act on my behalf before
the Commission.

4/3/85
Date


Signature

RESPONDENT'S NAME: CANPAC

ADDRESS: Attention: J. Robert Kettlewell
220 South State Street, Suite 714
Chicago, IL 60604

HOME PHONE: _____

BUSINESS PHONE: (312) 427-6262

23040694405

Coffield Ungaretti Harris & Slavin

3500 Three First National Plaza, Chicago, Illinois 60602
Telephone 312/977-4400 Cable: CUNSLAW Telex: 270286

05 MAY 9 12:35

GOC #773
7423

May 6, 1985

FEDERAL EXPRESS

Mr. Jonathan Levin
Federal Election Commission
Washington, D. C. 20463

Re: MUR 1937

Dear Mr. Levin:

Enclosed herewith is an Affidavit of Robert Creamer ("Affidavit"), Executive Director of the Illinois Public Action Council, the connected organization of the Citizens Action Non-Partisan Political Action Federal Campaign Committee of the Illinois Public Action Council ("CANPAC"), and a Response to Interrogatories propounded by the Federal Election Commission regarding certain of CANPAC's operating procedures. Please get in touch with me regarding Mr. Creamer's desire, as expressed in the Affidavit, to reorganize CANPAC operations pursuant to your directions.

Also enclosed is an Amended Statement of Organization listing J. Robert Kettlewell as the new Treasurer of CANPAC. Please stamp the duplicate copy of this letter to verify your receipt of the enclosed material and then return it to the undersigned in the enclosed self-addressed stamped envelope.

Sincerely,

John Christy

John W. Christy

JWC:pam
Enclosures

cc: Robert Creamer

AFFIDAVIT OF ROBERT CREAMER

ROBERT CREAMER, being first duly sworn upon his oath, states as follows:

This affidavit concerns certain questions raised by the Federal Election Commission ("FEC") in connection with certain operating procedures of the Citizens Action Non-Partisan Political Action Federal Campaign Committee of the Illinois Public Action Council ("CANPAC").

The Illinois Public Action Council (the "Council") was established with the purpose of promoting public policy positions and the candidates who support those positions. This purpose is clearly conveyed to its members and affiliate organizations -- as well as to other contributors. Needless to say, we wish to pursue these goals in a manner consistent with the Federal and State election laws.

The original structure of the relationship between the Council and CANPAC was an attempt to assure what we believed would be clear and accurate reporting of expenditures made on behalf of Federal candidates. We believed at the time -- and still do -- that the relationship was well within the confines of both the letter and spirit of Federal election laws. Given the dispute that has arisen about this relationship, we are more than eager to reorganize it in a manner that will receive the blessing of the FEC.

Most of the Council's individual members are recruited by a door to door canvass operation that operates out of five cities in the state of Illinois every evening. These canvassers operate year in and year out. During periods that are near elections, we ask these canvassers to add to their normal duties. In addition to their job of recruiting members, renewing memberships and raising additional contributions, these canvassers are asked to inform our members of the endorsements made by our political committee. In addition, they distribute partisan literature to both members and others who do not become members.

Our canvassers are not paid any additional remuneration for the conduct of these additional duties. Even though this is the case, we have calculated the portion of our outlay to support these canvassers which we estimate to be involved in contacting non-members. We have reported these as campaign contributions. This amount is then billed to CANPAC and is recognized as an account receivable from CANPAC to the Council to be paid out of funds donated explicitly for that purpose to CANPAC.


It was our view when this system was established that it provided the simplest, cleanest means of accounting for any activity that might be considered campaign contributions that were a by-product of our primary activity of informing members of our endorsements; and of assuring that the Council was paid for those activities from appropriately raised funds.

At the time the expenditures for non-member contacts were made, an obligation of an equal amount was immediately recognized by CANPAC to the Council. In other words, from an accounting point of view, the Council made no expenditure whatsoever. In fact, CANPAC had contracted with the Council to engage in the activities which under the law must qualify as campaign contributions. The Council did extend credit to CANPAC, but CANPAC had a contractual obligation to pay for the services it had purchased and, as a consequence was responsible for the expenditures in question.

Had CANPAC contracted to purchase similar canvassing service from another vendor -- say a professional canvassing organization -- there would be no question that CANPAC had in fact made the expenditures in behalf of the candidate and, I believe, no question of a "corporate contribution". Had CANPAC chosen another means to communicate to individuals other than its members (e.g. a television advertisement), and had the television station offered credit for the purchase of time, there would have been no question of a "corporate contribution". In fact, large numbers of political committees owe debts to vendors for services for many years without any question of the vendor being liable for having made a "corporate contribution." Presumably, the deciding factor as to whether a vendor made a "corporate contribution" or a political committee made the contribution, should be who has the legal obligation to pay for the services rendered. In this case, CANPAC, not the Council, has that legal obligation.


Robert Creamer

SUBSCRIBED AND SWORN to
before me this 6th day
of May, 1985.


Notary Public

Expiration 11/20/88

ROBERT CREAMER'S ANSWERS TO
THE FEDERAL ELECTION COMMISSION'S INTERROGATORIES

NOW COMES the Respondent, Robert Creamer, Executive Director of the Illinois Public Action Council (the "Council"), by and through its attorneys, COFFIELD UNGARETTI HARRIS & SLAVIN, and for his Answers to the FEDERAL ELECTION COMMISSION'S Interrogatories, states as follows:

1. For each disbursement pertaining to each of the committees listed above:

a. State whether the Council made disbursements for the committees without forwarding any funds to CANPAC or made disbursements to CANPAC which then made disbursements for the committees;

b. If the Council made disbursements to or for the committees without first making disbursements to CANPAC, state how the Council informed CANPAC of these disbursements.

ANSWER: CANPAC contracted with the Council to have Council canvassers distribute literature to members and nonmembers of the Council. The costs of contacting Council members were paid directly by the Council. The Council's costs of contacting nonmembers were billed to CANPAC. The Council accumulated the total

costs to CANPAC and billed CANPAC for the amount of expenditures in question. At no time were funds conveyed to any candidate committee by the Council for any reason.

2. State how the decision was made to have the Council make the original disbursements. State the details of all agreements, written or oral, to this effect.

ANSWER: It was determined that the Council should bill CANPAC and extend credit to CANPAC because of the administrative burden of providing separate paychecks to canvassers for the CANPAC portion of their work.

3. State whether CANPAC reimbursed the Council for the disbursements for the candidate committees.

ANSWER: CANPAC still owes the Council for the majority of its most recent candidate expenses. CANPAC will be conducting a fundraising drive during the summer and fall of 1985 and will pay its obligations to the Council fully by October 31, 1985.

4. For each disbursement pertaining to each of the candidate committees listed above, state:

a. whether the Council informed the committee of the support, or activities given to or performed on behalf of the committee;

b. how the Council informed the committee of the support or activities referred to in 1a;

c. when the Council informed each committee of the support or activities referred to in 1a (i.e., before, during, or after the activities and how long before or after);

d. the substance of the communications that occurred between the Council and each committee with respect to the support or activities referred to in 1a. (Include in your response any and all statements made as to whether the source of the disbursements was the Council or CANPAC).

ANSWER: CANPAC did inform each candidate committee in advance of the nature and extent of the work it would do to advance the campaign of the individual candidate. CANPAC also communicated to each candidate committee the value of the in-kind contribution which had been made in behalf of the candidate prior to the applicable reporting deadlines. In all cases it was clear that the support being rendered came from CANPAC -- the political committee of the Council. In no case did we discuss with the

candidate committees the means of accounting or the transactions between CANPAC and the Council.

5. State whether the Council made a \$25 contribution on or about April 25, 1984, and a \$100 contribution on or about May 23, 1984, to the Committee to Elect Schwerdtfeger.

a. If either or both contributions were made, state whether this figure is included in the \$2,601.93 listed on CANPAC's 1984 October Quarterly and 12 Day Pre-General Election Reports as disbursements to the Committee to Elect Schwerdtfeger.

ANSWER: The Council did not make either of these contributions to the Committee to Elect Schwerdtfeger.

6. The 1984 October Quarterly Report of Friends of Lane Evans reports a \$1,456 disbursement to the Council for "literature". The 1984 Post-General Report of Friends of Lane Evans reports a \$718 disbursement and a \$300 disbursement to "Illinois Public Action" in Rock Island, Illinois for "telephone". For each of these reported disbursements, state:

a. whether these reported disbursements were actually part of the "canvass time and printed materials" reported by CANPAC;

b. a description of these services regardless of whether they were for the "canvass time and printed materials" reported by CANPAC.

ANSWER: Friends of Lane Evans made a \$1,456 expenditure to the Council to pay for literature which the Council prepared for the candidate. This amount was incorrectly included in CANPAC's reports to the FEC as an expense of distributing information on behalf of the candidate to non-members of the Council.

The \$718 disbursement and the \$300 disbursement to the Council in Rock Island for "telephone" was in fact used for telephone and had no relation to "canvass time and printed materials." The Evans Campaign shared office space with the Council for a period in 1984. During that time they paid the landlord directly for rent, but paid the Council for the use of a consolidated telephone system.

7. State whether the disbursements listed for Mondale for President were for the Mondale for President Committee or for the Mondale/Ferraro Committee, Inc.

STATE OF ILLINOIS)
COUNTY OF COOK) SS

Robert Creamer, being first duly sworn on oath, deposes and says that he is the Executive Director of the Council, that he has read the above and foregoing Answers to Interrogatories by him subscribed, and the same are true and correct.

SUBSCRIBED AND SWORN TO
before me this 6th day
of May, 1985.

Stanislaw Truckowski
Notary Public

Expiration 7/20/88

AMENDED
STATEMENT OF ORGANIZATION

(see reverse side for instructions)

1. (a) Name of Committee (in Full) <input type="checkbox"/> Check if name or address is changed Citizens Action Non-Partisan Political Action Federal Campaign Committee of the Illinois Public Action Council (b) Address (Number and Street) 220 South State Street, Suite 714 (c) City, State and ZIP Code Chicago, Illinois 60604	2. Date May 2, 1985 3. FEC Identification Number C00160655 4. Is this an amended Statement? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
--	--

5. TYPE OF COMMITTEE (check one):

- ☐ (a) This committee is a principal campaign committee. (Complete the candidate information below.)
- ☐ (b) This committee is an authorized committee, and is NOT a principal campaign committee. (Complete the candidate information below.)
- | | | | |
|-------------------|-----------------------------|---------------|----------------|
| Name of Candidate | Candidate Party Affiliation | Office Sought | State/District |
|-------------------|-----------------------------|---------------|----------------|
- ☐ (c) This committee supports/opposes only one candidate _____ and is NOT an authorized committee.
(name of candidate)
- ☐ (d) This committee is a _____ committee of the _____ Party.
(National, State or subordinate) (Democratic, Republican, etc.)
- ☐ (e) This committee is a separate segregated fund.
- ☐ (f) This committee supports/opposes more than one Federal candidate and is NOT a separate segregated fund nor a party committee.

6. Name of Any Connected Organization or Affiliated Committee	Mailing Address and ZIP Code	Relationship

If the registering political committee has identified a "connected organization" above, please indicate type of organization:

- ☐ Corporation ☐ Corporation w/o Capital Stock ☐ Labor Organization ☐ Membership Organization ☐ Trade Association ☐ Cooperative

7. Custodian of Records: Identify by name, address (phone number - optional) and position, the person in possession of committee books and records.

Full Name	Mailing Address and ZIP Code	Title or Position
-----------	------------------------------	-------------------

8. Treasurer: List the name and address (phone number - optional) of the treasurer of the committee, and the name and address of any designated agent (e.g., assistant treasurer).

Full Name	Mailing Address and ZIP Code	Title or Position
J. Robert Kettlewell	CANPAC 220 South State Street Suite 714 Chicago, Illinois 60604	Treasurer

9. Banks or Other Depositories: List all banks or other depositories in which the committee deposits funds, holds accounts, rents safety deposit boxes or maintains funds.

Name of Bank, Depository, etc.	Mailing Address and ZIP Code
--------------------------------	------------------------------

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

J. Robert Kettlewell
Type or Print Name of Treasurer


SIGNATURE OF TREASURER

5/2/85
Date

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g.

For further information contact:

Federal Election Commission, Toll Free 800-424-9530, Local 202-523-4068

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FEC FORM 1 (3/80)

RECEIVED AT THE FEC
GCC# 74584
85 MAY 15 P 1:00

Suite 3400
111 S.W. Fifth Avenue
Portland, Oregon 97204
May 10, 1985

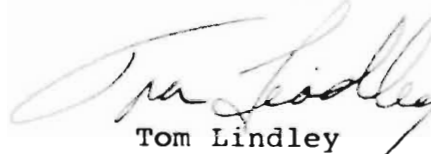
Jonathan Levin, Esq.
Federal Election Commission
Washington, D.C. 20463

Subject: MUR 1937
Tom Lindley for Congress
Claudia C. Gross, Treasurer

Dear Mr. Levin:

You will find enclosed the Answers to Interrogatories
due this date.

Sincerely,


Tom Lindley

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
MAY 15 P 2:30

330440574417

M.U.R. 1937:

ANSWERS TO INTERROGATORIES

Preliminary statement from FEC:

"The 1984 Pre-Primary Report of Tom Lindley for Congress discloses receipt of \$4,100, characterized as "In-Kind (Staff expenses)" from the Illinois Public Action Council ("the Council") on February 24, 1984. The same report discloses disbursements totalling \$4,100 to the Council for "staff expenses" during February, 1984. The 1984 July Quarterly Report for your committee discloses a \$653.98 disbursement for "Field Expenses-travel" to "Jim Buffett c/o IPAC." The questions below refer to these entries.

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
MAY 15 2:30

Preliminary statement from Tom Lindley:

I am responding to these interrogatories as the current treasurer of the Tom Lindley for Congress Committee, a committee inactive since shortly after the March, 1984, Illinois primary. I became the Committee's Treasurer in January, 1985, I was not the Treasurer at the time the contributions in issue were made, and I do not personally know the details of the transactions. I was the candidate at that time, however, and do have some general knowledge of them. Further, I have also reviewed the limited records of the Committee from that time. Given those limitations, the following statements represent my best efforts to reconstruct the matter.

There is one pervasive assumption in the interrogatories, however, that must be corrected before they can be answered. They assume that (or at least can easily be construed to assume that) a contribution was in fact made by

the Illinois Public Action Council (IPAC), rather than by CANPAC, the federal election political action committee associated with IPAC. It was my understanding, and my former campaign manager has confirmed to me by telephone, that the contributions came from CANPAC, not from IPAC, and were simply misreported by the Committee's former Treasurer. (It is worth noting in this connection that the former Treasurer, on at least one other occasion, incorrectly listed a PAC contribution as given by its associated entity. When the Federal Election Commission notified her of the error, she corrected her error by a letter and an amended report. Further, on at least one occasion she also declined to cash and immediately returned a contribution check made payable from a corporation. I have every reason to believe that the two references in the Committee's reports to IPAC, rather than to CANPAC, as the contributing entity, were simply made in error.)

Finally, the payment to Jim Duffett (not Buffett) was made to him personally for his personal expenses, and was mailed to his former office at IPAC because the then-Treasurer could not locate his home address as of that date.

INTERROGATORY NO. 1

Describe in detail the services provided by the Council in connection with the \$4,100 in-kind contribution.

ANSWER

CANPAC, not the Council, provided a limited amount of printed literature or printing, some publicity assistance, and

substantial canvassing assistance, both to organize and to conduct a door-to-door canvass operation in several Illinois communities, including Champaign, Urbana, Danville and Georgetown. Details should be available from Ken Brock (my former campaign manager, currently employed by the Democratic Congressional Coordinating Committee or U.S. Representative McCloskey of Indiana) and from Robert Creamer, Michael McGann, or Mike Doyle, all of CANPAC.

INTERROGATORY NO. 2

Describe all prior arrangements made between the Council and your committee with respect to the provision of the \$4,100 in in-kind contributions. Your answer should include, but not be restricted to, a description of any and all oral and written agreements and the names of the persons involved in these arrangements.

ANSWER

In December, 1983, or January, 1984, I requested CANPAC's endorsement in the March, 1984 Democratic primary election in Illinois' 19th Congressional District. Over opposition from other candidates, I received that endorsement by a vote of CANPAC's Board of Directors. Thereafter, CANPAC, through its staff members Robert Creamer, Michael McGann, and Mike Doyle, agreed to and did provide the assistance described in response to question 1. That assistance was coordinated through Ken Brock. Those four persons should be able to provide further details.

INTERROGATORY NO. 3

State when the services or materials provided in connection with the \$4,100 in in-kind contributions were provided.

ANSWER

CANPAC made no contribution before I received its endorsement. Thereafter, sometime during February and up until March 20, 1984 (and perhaps including the latter part of January, 1984), CANPAC made the contributions described above.

INTERROGATORY NO. 4

State how and when your committee was informed or notified of the receipt of the \$4,100 in in-kind contributions.

ANSWER

I have no knowledge or information regarding precisely how the Committee's former Treasurer determined dates upon which the contributions were received. CANPAC staff were in regular contact with Ken Brock, and presumably that information was given to him for use by the Treasurer. This would have occurred in the late January--March 20, 1984 time period.

INTERROGATORY NO. 5

State who in your committee was informed of the receipt of the \$4,100 in in-kind contributions.

ANSWER

Ken Brock, described above, and Claudia Gross, the Committee's former Treasurer (who lives at 3 Flora Court, Campaign, Illinois 61821), would have been informed of the receipt of and specifics regarding these in-kind

contributions. I knew of CANPAC's assistance in general but not in specific.

INTERROGATORY NO. 6

Describe in detail the services provided in connection [sic] with the \$653.98 in disbursements to Jim Buffett [sic].

ANSWER

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Jim Duffett, who resided in Campaign County, became the Committee's Coordinator for Vermilion County. In that role he worked regularly to develop contacts with precinct committeemen, volunteers, and potential donors. He analyzed voting records, monitored the Committee's advertising activities, and headed the get-out-the-vote efforts. He also served as liaison with other Vermilion County volunteers to organize various visibility and fundraising events. The disbursements to Mr. Duffett were to cover expenses he incurred in those activities. As best I can determine from the records, these expenses included the cost of postage stamps, gas for his car, rent for meeting places, staples for a staple gun, yard signs, food and beverages for certain events, printing and photocopying, and telephone calls.

INTERROGATORY NO. 7

State whether the disbursements to Mr. Buffett [sic] were actually part of an in-kind contribution from the Council to your committee.

ANSWER

They were not.

INTERROGATORY NO. 8

Describe any prior arrangements made between the Council and your committee with respect to the \$653.98 in disbursements. Your answer should include, but not be restricted to, a description of any and all oral and written agreements and the names of the persons involved in these arrangements.

ANSWER

There were no such arrangements.

INTERROGATORY NO. 9

State when the services or materials provided in connection with the \$653.98 in disbursements were provided.

ANSWER

During the months of February and March, 1984 (and perhaps part of January, 1984).

Submitted by Tom Lindley

Dated May 10, 1985

BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
SENSITIVE

In the Matter of)
Simon for Senate) MUR 1937
Edward T. Joyce, as treasurer)

CC NOV 29 012:21

GENERAL COUNSEL'S REPORT

I. BACKGROUND

28040694424
This matter involves an allegation that Simon for Senate and Edward T. Joyce, as its treasurer, violated 2 U.S.C. § 441b(a) by accepting corporate in-kind contributions from the Illinois Public Action Council ("the Council"), an incorporated entity which is the connected organization of the Citizens Action Non-Partisan Political Action Federal Campaign Committee of the Illinois Public Action Council ("CANPAC").

CANPAC's 1984 April 15 Quarterly Report disclosed a debt of \$5,000 to the Council. The purpose of the debt was listed as "support" for Paul Simon for Senate.

CANPAC's 1984 October Quarterly Report and 12 Day Pre-General Election Reports list additional disbursements of \$2,763.31 and \$1,252.56 respectively for Simon for Senate in the form of "canvass time and printed materials." On the Schedules D (Schedule of Debts and Obligations) for each report, CANPAC listed the totals of these disbursements plus disbursements for other candidates as newly incurred debts owed to the Council.

On March 4, 1985, the Commission found reason to believe that the Council, CANPAC, and David Sherbin, as CANPAC's treasurer, violated 2 U.S.C. § 441b(a). The Commission also

approved questions to be sent to CANPAC and the Council. It was unclear from a review of CANPAC's reports and responses to inquiries from the Reports Analysis Division whether the disbursements were contributions or independent expenditures. The reports of Simon for Senate made no reference to CANPAC or the Council on either its Schedules A (Itemized Receipts) or Schedules B (Itemized Expenditures).^{1/} The Office of the General Council, therefore, made no recommendation with respect to Simon for Senate.

On May 7, 1985, this Office a joint response from the Council and CANPAC. An affidavit from the Council's Executive Director, Robert Creamer, was enclosed with the response. Mr. Creamer states that the Council recruits members by going door-to-door every evening in various parts of Illinois and that, during periods near elections, the Council "ask[s] these canvassers to add to their normal duties." Mr. Creamer states:

In addition to their job of recruiting members, renewing memberships and raising additional contributions, these canvassers are asked to inform our members of the endorsements made by our political committee. In addition, they distribute partisan literature to both members and others who do not become members.

Our canvassers are not paid any additional remuneration for the conduct of these additional duties. Even though this is the case, we have calculated the portion of our

^{1/} According to 11 C.F.R. § 104.13(a), an in-kind contribution is to be reported by the recipient committee as both a contribution and an expenditure.

outlay to support these canvassers which we estimate to be involved in contacting non-members. We have reported these as campaign contributions. This amount is then billed to CANPAC and is recognized as an account receivable from CANPAC to the Council to be paid out of funds donated explicitly for that purpose to CANPAC.

Mr. Creamer further states that:

CANPAC did inform each candidate committee in advance of the nature and extent of the work it would do to advance the campaign of the individual candidate. CANPAC also communicated to each candidate committee the value of the in-kind contribution which had been made in behalf of the candidate prior to the applicable reporting deadlines. In all cases it was clear that the support being rendered came from CANPAC -- the political committee of the Council. In no case did we discuss with the candidate committees the means of accounting or the transactions between CANPAC and the Council (emphasis added).

II. LEGAL ANALYSIS

Section 434(b)(3) of Title 2 requires a political committee to report contributions made to it. Subsection (A) requires the identification of each person (including a corporation) "whose contribution or contributions have an aggregate amount or value in excess of \$200 within the calendar year. Subsection (B) requires the identification of each political committee which makes a contribution to the reporting committee. CANPAC has stated that the committees of the candidates supported by it were informed in advance of the nature and extent of the work. According to CANPAC's statement, it appears that none of the disbursements for Paul Simon qualified as an independent

expenditure.^{2/} According to 11 C.F.R. § 109.1(c), therefore, the disbursements were "contribution[s] in-kind to the candidate and expenditure[s] by the candidate, unless otherwise exempted." 11 C.F.R. § 109.1(c). Simon for Senate did not report these apparent contributions. The Office of the General Counsel, therefore, recommends that the Commission find reason to believe that Simon for Senate violated 2 U.S.C. § 434(b)(3).

Section 441b(a) of Title 2 prohibits the making of contributions by corporations in connection with a federal election. This section also prohibits the knowing receipt or acceptance of corporate contributions.^{3/}

Knowing receipt or acceptance means knowledge of the facts that establish a violation of the statute, not knowledge that the receipt or acceptance was in violation of the law. See FEC v. California Medical Association, 502 F. Supp. 196 (N. D. Cal. 1980). CANPAC's response makes it apparent that the in-kind contributions to Simon for Senate came, in fact, from a corporate entity, the Council, and that Simon for Senate was informed that in-kind contributions were being made on its behalf. Based on

^{2/} An independent expenditure means

an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate which is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate. 11 C.F.R. § 109.1(a).

^{3/} Section 114.3(a)(2) of the Commission's regulations creates an exception from this prohibition for communications by a membership corporation to its members. In this matter, however, the Council communicated beyond this class.

III. RECOMMENDATIONS

1. Find reason to believe that Simon for Senate and Edward T. Joyce, as its treasurer, violated 2 U.S.C. § 434(b)(3).
2. Find reason to believe that Simon for Senate and Edward T. Joyce, as its treasurer, violated 2 U.S.C. § 441b(a).

4. Approve the attached questions.
5. Approve the attached letters and factual and legal analysis.

Charles N. Steele
General Counsel

November 26, 1985
Date

BY:

Kenneth A. Gross
Associate General Counsel

Attachments

1. Responses from CANPAC and the Council.
2. Letter with General Counsel's factual and legal analysis and questions to Simon for Senate.

93040594429



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE, GENERAL COUNSEL
FROM: MARJORIE W. EMMONS/ CHERYL A. FLEMING *C.A.F.*
DATE: DECEMBER 4, 1985
SUBJECT: OBJECTION - MUR 1937 - General Counsel's Report
Signed November 26, 1985

The above-named document was circulated to the
Commission on Monday, December 2, 1985, 11:00.

Objections have been received from the Commissioners
as indicated by the name(s) checked:

Commissioner Aikens	<u>X</u>
Commissioner Elliott	<u></u>
Commissioner Harris	<u></u>
Commissioner Josefiak	<u></u>
Commissioner McDonald	<u></u>
Commissioner McGarry	<u>X</u>

This matter will be placed on the Executive Session
agenda for Tuesday, December 10, 1985.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Simon for Senate) MUR 1937
Edward T. Joyce, as treasurer)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the
Federal Election Commission executive session of December 10,
1985, do hereby certify that the Commission took the following
actions in MUR 1937:

1. Decided by a vote of 5-0 to find reason to
believe that Simon for Senate and Edward T.
Joyce, as its treasurer, violated 2 U.S.C.
§ 434(b)(3).

Commissioners Aikens, Elliott, Harris,
Josefiak, and McDonald voted affirmatively
for the decision. Commissioner McGarry
was not present.

2. Decided by a vote of 5-0 to reject the
General Counsel's recommendation to find
reason to believe that Simon for Senate
and Edward T. Joyce, as its treasurer,
violated 2 U.S.C. § 441b(a).

Commissioners Aikens, Elliott, Harris,
Josefiak, and McDonald voted affirmatively
for the decision; Commissioner McGarry was
not present.

(continued)

33040594431

Federal Election Commission
Certification for MUR 1937
December 10, 1985

Page 2

3. Decided by a vote of 5-0 to

- b) Direct the Office of General Counsel to send appropriate letters and appropriate questions pursuant to the above decisions.

Commissioners Aikens, Elliott, Harris, Josefiak, and McDonald voted affirmatively for this decision; Commissioner McGarry was not present.

Attest:

12-12-85

Date _____

Marjorie W. Emmons
Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 20, 1985

**Edward T. Joyce, Treasurer
Simon for Senate
821 Forest Avenue
Evanston, Illinois 60202**

**RE: MUR 1937
Simon for Senate
Edward T. Joyce, as treasurer**

Dear Mr. Joyce:

On December 10, 1985, the Federal Election Commission determined that there is reason to believe Simon for Senate and you, as treasurer, violated 2 U.S.C. §§ 434(b)(3), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The General Counsel's factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you and the committee. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Please submit any such materials, along with your answers to the enclosed questions, within fifteen days of your receipt of this letter. Statements should be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against your committee and you, as treasurer, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of General

Ltr to Edward T. Joyce
Page 2

Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent will not be entertained.

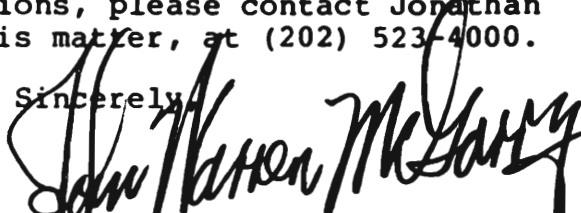
Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of General Counsel is not authorized to give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

The investigation now being conducted will be confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Jonathan Levin, the attorney assigned to this matter, at (202) 523-4000.

Sincerely,


John Warren McGarry
Chairman

Enclosures

General Counsel's Factual and Legal Analysis
Procedures
Designation of Counsel Statement



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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FEDERAL ELECTION COMMISSION
NOV 25 1985

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MEMORANDUM

TO: The Commission

FROM: Charles N. Steele
General Counsel *CNS*

SUBJECT: MUR 1937

Attached for the Commission's review are briefs stating the position of the General Counsel on the legal and factual issues of the above-captioned matter. Copies of these briefs and letters notifying the respondents of the General Counsel's intent to recommend to the Commission findings of probable cause to believe were mailed on November 22, 1985. Following receipt of the respondents' replies to these notices, this Office will make a further report to the Commission.

Attachments

1. Briefs
2. Letters to respondents

33040594435



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 13, 1985

Tom Lindley, Treasurer
Tom Lindley for Congress
111 S.W. Fifth Avenue
Portland, Oregon 97204

RE: MUR 1937
Tom Lindley for Congress
Tom Lindley, as treasurer

Dear Mr. Lindley:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on March 4, 1985, found reason to believe that Tom Lindley for Congress and its treasurer had violated 2 U.S.C. § 441b(a) and instituted an investigation in this matter.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of probable cause to believe a violation has occurred.


If you are unable to file a responsive brief within 15 days, you may submit a written request to the Commission for an extension of time in which to file a brief. The Commission will not grant any extensions beyond 20 days.

Tom Lindley, Treasurer
Page 2

A finding of probable cause to believe requires that the Office of General Counsel attempt for a period of not less than thirty, but not more than ninety, days to settle this matter through a conciliation agreement.

Should you have any questions, please contact Jonathan Levin, the attorney assigned to handle this matter, at (202) 523-4000.

Sincerely,



Charles N. Steele
General Counsel

Enclosure
Brief

83040674437

83040494438

In the Matter of)
)
 Tom Lindley for Congress) MUR 1937
 Tom Lindley, as treasurer)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

This matter involves an allegation that the Illinois Public Action Council ("the Council"), an incorporated entity, made in-kind contributions to Tom Lindley for Congress ("the Lindley Committee") in violation of 2 U.S.C. § 441b(a).

The 1984 April 15 Quarterly Report of the Citizens Action Non-Partisan Political Action Federal Campaign Committee ("CANPAC") disclosed a debt of \$5,000 to its connected organization, the Council. The purpose of this debt was listed as "support" for Tom Lindley for Congress.

Schedule A of the 1984 Pre-Primary Report of Tom Lindley for Congress disclosed a receipt of "In-kind (Staff Expenses)" of \$4,100 on February 24, 1984, from "IPAC," the acronym for the Council. Consistent with the requirement in 11 C.F.R. § 104.13(a) for the reporting of the receipt of in-kind contributions, Schedule B of that report disclosed a \$3,200 disbursement to "IPAC" on February 10, 1984, and a \$900 disbursement to "IPAC" on February 24, 1984, both for "staff expenses".

On March 4, 1985, the Commission found reason to believe that Tom Lindley for Congress and Claudia C. Gross, as treasurer,^{1/} violated 2 U.S.C. § 441b(a) for the knowing receipt of corporate contributions. The Commission also approved questions to be sent to the Lindley Committee.

On May 15, 1985, this Office received a response from Mr. Lindley. Mr. Lindley maintains that the services comprising the in-kind contributions were provided by CANPAC, not by the Council. Mr. Lindley claims that the contributions "were simply misreported by the Committee's former Treasurer."

The Council and CANPAC sent correspondence to this Office on May 6, 1985. In this correspondence, Robert Creamer, Executive Director of the Council, stated that "it was clear that the support being rendered came from CANPAC" and that the persons associated with the Council and CANPAC "did not discuss with [the Lindley Committee] the means of accounting or the transactions between CANPAC and the Council."

II. LEGAL ANALYSIS

Section 441b(a) of Title 2 prohibits the making and knowing receipt or acceptance of contributions from corporations. Knowing receipt or acceptance means knowledge of the facts that establish a violation of the statute, not knowledge that the receipt or acceptance was in violation of the law. See FEC v. California Medical Association, 502 F. Supp. 196 (N.D. Cal. 1980).

^{1/} On January 29, 1985, the Lindley Committee, sent an amended Statement of Organization listing Tom Lindley as the new treasurer.

Mr. Creamer states that he and his association did not discuss the means of accounting or the transactions between CANPAC and the Council when notifying the Lindley Committee of the contribution. The Lindley Committee, however, consistently reported these contributions as being from the Council. Although Mr. Lindley's response maintains that the reporting of the receipt of contributions from the Council was an error by the former treasurer, it appears from the response that the Committee was aware of an association between the Council and CANPAC. This awareness coupled with the facts that the contributions were consistently reported as being from the Council and were in fact from the Council indicate a knowing acceptance by the Lindley Committee.

Based on the foregoing analysis, the General Counsel recommends that the Commission find probable cause to believe that the Lindley Committee and Tom Lindley, as its treasurer, violated 2 U.S.C. § 441b(a).

III. RECOMMENDATION

Find probable cause to believe that Tom Lindley for Congress violated 2 U.S.C. § 441b(a).

2 Nov 1955
Date


Charles N. Steele
General Counsel



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 13, 1985

John W. Christy, Esquire
Coffield, Ungaretti, Harris & Slavin
3500 Three First National Plaza
Chicago, Illinois 60602

RE: MUR 1937
Illinois Public Action Council
Citizens Action Non-Partisan
Political Action Federal Campaign
Committee of the Illinois Public
Action Council ("CANPAC")
J. Robert Kettlewell, as treasurer

Dear Mr. Christy:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, and information supplied by your clients, the Federal Election Commission, on March 4, 1985, found reason to believe that your clients had violated 2 U.S.C. § 441b(a) and instituted an investigation in this matter.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of probable cause to believe a violation has occurred.

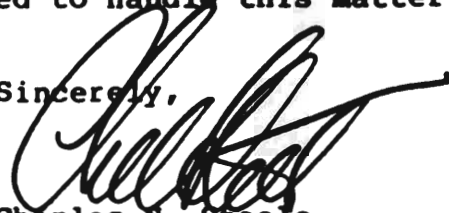
If you are unable to file a responsive brief within 15 days, you may submit a written request to the Commission for an extension of time in which to file a brief. The Commission will not grant any extensions beyond 20 days.

John W. Christy, Esquire
Page 4

A finding of probable cause to believe requires that the Office of General Counsel attempt for a period of not less than thirty, but not more than ninety, days to settle this matter through a conciliation agreement.

Should you have any questions, please contact Jonathan Levin, the attorney assigned to handle this matter, at (202) 523-4000.

Sincerely,



Charles N. Steele
General Counsel

Enclosure
Brief

23040694442

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Illinois Public Action Council)
)
Citizens Action Non-Partisan) MUR 1937
Political Action Federal)
Campaign Committee of the)
Illinois Public Action)
Council)
J. Robert Kettlewell, as)
treasurer)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

200400694443
The Citizens Action Non-Partisan Political Action Federal Campaign Committee of the Illinois Public Action Council ("CANPAC") was referred to the Office of the General Counsel on November 9, 1984, by the Commission's Reports Analysis Division because of disbursements reported as made by CANPAC that were corporate in origin.

CANPAC's 1984 April 15 Quarterly Report disclosed two debts of \$5,000 each to its connected organization, the Illinois Public Action Council ("the Council") an incorporated entity. The purpose of the first debt was listed as "support" for Tom Lindley for Congress and the purpose of the second debt was listed as "support" for Paul Simon for Senate.

CANPAC's 1984 October Quarterly and 12 Day Pre-General Election Reports list additional in-kind contributions in the form of "canvass time and printed materials" to principal campaign committee, i.e., \$4,015.87 to Simon for Senate, \$548.10 to Mondale for President, \$2,930.05 to the Friends of Lane Evans, \$2,601.93 to the Committee to Elect Schwerdtfeger, and \$274.05 to the Bruce for Congress Committee. On the Schedule Ds (Schedule

of Debts and Obligations) for each report, CANPAC listed the totals of these sums as newly incurred debts owed to the connected organization; the schedules also disclosed no repayments of these debts.

On March 4, 1985, the Commission found reason to believe that the Illinois Public Action Council, CANPAC and David Sherbin, as CANPAC's treasurer,^{1/} violated 2 U.S.C. § 441b(a). The Commission also approved questions to be sent to CANPAC and the Council.

On May 7, 1985, this Office received responses from the Council and CANPAC. The responses were similar. An affidavit from the Council's Executive Director, Robert Creamer, was enclosed with both responses. Mr. Creamer states that the Council recruits members by going door-to-door every evening in various parts of Illinois and that during periods near elections, the Council "ask[s] these canvassers to add to their normal duties." Mr. Creamer states:

In addition to their job of recruiting members, renewing memberships and raising additional contributions, these canvassers are asked to inform our members of the endorsements made by our political committee. In addition, they distribute partisan literature to both members and others who do not become members.

Our canvassers are not paid any additional remuneration for the conduct of these additional duties. Even though this is the case, we have calculated the portion of our

^{1/} On May 8, 1985, CANPAC informed the Commission that its new treasurer was J. Robert Kettlewell.

outlay to support these canvassers which we estimate to be involved in contacting non-members. We have reported these as campaign contributions. This amount is then billed to CANPAC and is recognized as an account receivable from CANPAC to the Council to be paid out of funds donated explicitly for that purpose to CANPAC.

Mr. Creamer states that such an "account receivable" is really the same as CANPAC contracting with a professional canvassing organization and assuming a contractual obligation to pay over a period of time. Counsel maintains that "from an accounting point of view, the Council made no expenditure whatsoever."

In direct responses to the specific questions put forward by this Office, Mr. Creamer states that CANPAC "contracted with the Council to have Council canvassers distribute literature to members and nonmembers of the Council," that the "costs of contacting council members were paid directly by the Council," and that the "Council's costs of contacting non-members were billed to CANPAC." Mr. Creamer states that no funds were "conveyed" by the Council to any candidate. He states that it was determined that the Council "should bill CANPAC and extend credit to CANPAC because of the administrative burden of providing separate paychecks to canvassers for the CANPAC portion of their work." He acknowledges that the Council will not be reimbursed in full until CANPAC conducts a fundraising drive during the summer and fall of 1985.

II. LEGAL ANALYSIS

Section 441b(a) of Title 2 prohibits a corporation from making a contribution or expenditure in connection with a federal election. It appears from the responses received by this Office that the disbursements for candidates listed on CANPAC's reports were corporate in origin. CANPAC participated in the making of these corporate disbursements.

Respondents have argued that the amount of the disbursements by the Council is merely an "account receivable from CANPAC to the Council" and is not an expenditure." As in AO 1984-24, however, the activities described involved initial disbursements of corporate funds for activities in furtherance of the election of federal candidates. Presumably, the basis for CANPAC's argument that the disbursements should be treated as "accounts receivable" is 11 C.F.R. § 114.10 which sets out the standard for the extension of credit by a corporation to a political committee. This regulation was not meant to apply to a situation such as the present matter where the political committee is connected to the corporation. As stated in AO 1984-24, "section 114.10 is intended to apply to commercial transactions made in the ordinary course of a corporation's business, where it extends credit as part of such a transaction to a political purchasers on terms comparable to those for similar nonpolitical purchasers."


Based on the foregoing analysis, the General Counsel recommends that the Commission find probable cause to believe that the Illinois Public Action Council, CANPAC, and J. Robert Kettlewell, as CANPAC's treasurer violated 2 U.S.C. § 441b(a).

III. RECOMMENDATIONS

1. Find probable cause to believe that the Illinois Public Action Council violated 2 U.S.C. § 441b(a).

2. Find probable cause to believe that the Citizens Action Non-Partisan Political Action Federal Campaign Committee of the Illinois Public Action Council and J. Robert Kettlewell, as treasurer, violated 2 U.S.C. § 441b(a).

21 Nov 1985
Date


Charles N. Steele
General Counsel

83040694447

Coffield Ungaretti Harris & Slavin

3500 Three First National Plaza, Chicago, Illinois 60602
Telephone 312/977-4400, Cable: CUHSLAW, Telex: 270286

600 9296
FEC
85 DEC 27 A10: 52

December 17, 1985

BY EXPRESS MAIL

Mr. Jonathan Levin
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1937
Illinois Public Action Council - CANPAC

Dear Mr. Levin:

This letter relates to the request by the Federal Election Commission that our client, CANPAC, and its connected organization, the Illinois Public Action Council (the "Council"), furnish a brief responding to the brief received recently from the General Counsel's office regarding the above-referenced matter. J. Robert Kettlewell resigned from his positions as Treasurer of CANPAC and Chief Financial Officer of the Council early in December. As a result, on behalf of CANPAC and the Council, I hereby request an extension of time in which to file a responsive brief.

Sincerely,

John W. Christy
John W. Christy

JWC:pam

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GENERAL COUNSEL
DEC 27 1985

Received CCG 9284
12-26-85 J. Leung

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OFFICE OF THE
COMMISSIONER SECRETARY

December 18, 1985

05 DEC 26 P2:23

Ms. Joan D. Aikens, Chairperson
Federal Election Commission
999 E. Street N.W.
Washington, D.C. 20463

Subject: MUR 1937
Tom Lindley for Congress

Dear Ms. Aikens:

I am writing to obtain a 20-day extension of time in which to file a response to the brief I received from the office of the General Counsel on December 16.

I am an attorney engaged primarily in trial practice. Currently, I am actively involved in the trial of Estate of Earle A. Chiles, et al. v. Robertson, et al., no. A8309-05871, in the Circuit Court for Multnomah County, Oregon. That trial, a complex direct and shareholder's derivative action resulting from a \$420 million management leveraged buyout, began in September, 1985, and is expected to continue through February, 1986. The demands of that trial are extraordinary, and I simply cannot prepare this unanticipated new brief in the next 15 days.

I received General Counsel's brief on 12/16/85, and a response would ordinarily be due on 12/31/85. Twenty additional days make the final due date 1/20/85.

In connection with this matter, I also want to lodge a serious complaint about the behavior of the General Counsel's office.

This matter was first brought to my attention in April, 1985, and I responded in early May, 1985. Not once in the next seven months did I hear anything further. Then, the week before Christmas, I received Counsel's brief and a demand that I respond in 15 days, with only one permissible extension and no alternatives. That the Counsel's office can take seven months to put out a two-page brief (which happens to be wrong on the merits) is bad enough, but to then both spring a surprise claim and demand a response on such short notice is outrageous.

5 DEC 26 P3:15

RECEIVED
OFFICE OF THE
GENERAL COUNSEL

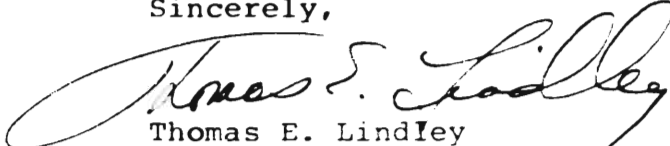
9304069447

December 18, 1985

General Counsel's delay smacks of an intentional effort to ensure that no one with knowledge of the details of the matter at issue will be available if or when his or her testimony becomes important. The relevant incident occurred prior to a March, 1984 primary election. General Counsel is of course aware that most campaign staff members are young and mobile, and easy to lose track of over time. Counsel is also aware, from my earlier materials, that this problem is exacerbated in my case. The former campaign manager has moved out of state, and we do not have a current address or telephone; I, the former candidate, have moved to another state; and the treasurer at the time of the relevant incident resigned nearly a year ago--yet General Counsel has declined to contact either the former campaign manager or treasurer even though they are the persons with critical firsthand knowledge and Counsel was given their addresses and telephone numbers in April, 1985.

This inequitable and improper behavior by the General Counsel must be corrected, in my matter and in all others, wholly apart from any substantive claims or defenses.

Sincerely,



Thomas E. Lindley

cc: Mr. Charles N. Steele, General Counsel

Suite 3400
111 S.W. Fifth Avenue
Portland, Oregon 97204

23040594450



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 10, 1986

Thomas E. Lindley, Treasurer
Tom Lindley for Congress
111 S.W. Fifth Avenue
Portland, Oregon 97204

Re: MUR 1937
Tom Lindley for Congress

Dear Mr. Lindley:

Pursuant to your request dated December 18, 1985, the Office of the General Counsel is granting you a twenty-day extension of time to reply to the General Counsel's Brief in the above-captioned matter. Your reply brief, therefore, is due at this Office on January 22, 1986.

If you have any questions, please contact Jonathan Levin, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Charles N. Steele
General Counsel

Kenneth A. Gross (LFG)

By: Kenneth A. Gross
Associate General Counsel

23040594451

84L-32

January 17, 1986

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Vibron
SENSITIVE

Secretary
Federal Election Commission
999 E. Street N.W.
Washington, D.C. 20463

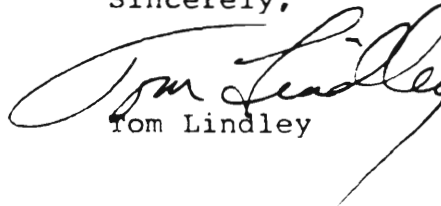
Subject: MUR 1937
Tom Lindley for Congress
Tom Lindley, as treasurer

Dear Sir or Madam:

You will find enclosed an original and ten copies of my brief in the above matter, as well as my Statement of Designation of Counsel. I am also separately sending three copies of this same brief to the office of the General Counsel.

If you have any questions or there is anything more I should do, please feel free to call.

Sincerely,


Tom Lindley

cc: Office of General Counsel

Suite 3400
111 S.W. Fifth Avenue
Portland, Oregon 97204

16 JAN 23 P4:15

RECEIVED
OFFICE OF THE
GENERAL COUNSEL

00 JAN 22 P3:12

23040594452

BEFORE THE FEDERAL ELECTION COMMISSION

In the matter of)
)
) MUR 1937
Tom Lindley for Congress)
)
Tom Lindley, as treasurer)

RESPONDENTS' BRIEF

I. STATEMENT OF THE CASE.

Respondents adopt General Counsel's Statement of the Case with the following additional facts, drawn from FEC filings and the affidavits of Claudia Gross, Kenneth Brock, and Tom Lindley, attached as Appendices A, B, and C respectively.

The Tom Lindley for Congress Committee ("the Lindley Committee") was established as part of the 1984 congressional campaigns. Mr. Lindley, an attorney with knowledge of the laws governing federal election campaign financing, selected Ken Brock as his campaign manager and Claudia Gross as the Lindley Committee's treasurer. Both Mr. Brock and Ms. Gross were also familiar with the laws governing federal election financing. Mr. Lindley, Mr. Brock, and Ms. Gross were each aware that it would be improper for the Lindley Committee to receive corporate contributions and, whenever such contributions were offered, they refused them.

The Illinois Public Action Council is a politically active organization, fairly well known in Illinois and commonly called IPAC. The Citizens Action Non-Partisan Political Action

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Federal Campaign Committee ("CANPAC"), IPAC's separate segregated fund or "connected organization," is a less well-known political action committee. Because there is a close working relationship between the two organizations, and because IPAC garners most of the general publicity, it is not uncommon for people outside the two organizations to fail to distinguish between them or to confuse them.

In January, 1984, CANPAC endorsed Mr. Lindley's candidacy. Following its endorsement, CANPAC announced that it would make an in-kind contribution to the Lindley Committee. CANPAC, not IPAC, informed the Lindley Committee of the nature and extent of the work it would do and of the value of that work. CANPAC's work comprises the \$4,100 in-kind contribution at issue in MUR 1937.

The Lindley Committee, that is, its Treasurer, its candidate, and the campaign manager, all believed that the contribution came from the political action committee, CANPAC, and not from the corporate entity, IPAC. CANPAC took credit for the contribution and appeared to direct the efforts of the persons involved. No one from CANPAC or IPAC ever suggested that the contribution came from, or derived from, some source other than CANPAC, and no one from CANPAC or IPAC ever discussed with the Lindley Committee either the existence of or the means of accounting for any transactions between CANPAC and IPAC.

Had anyone ever suggested that the in-kind contribution came from the corporate entity rather than from the political action committee, the contribution would have been refused.

The last few days before the March 1984 primary were especially hectic. The Lindley Committee was actively involved in direct mail efforts for solicitation and persuasion, and actively seeking PAC moneys as well. While all this was going on, Ms. Gross was also preparing the Pre-primary Report, and in that lengthy report she made an error. She confused the two connected organizations and inadvertently listed the contribution from CANPAC as a contribution from IPAC.

The Lindley Committee Treasurer, its candidate, and its campaign manager all agree--so far as any of them had any reason to know, the contribution was from CANPAC, and the reference to IPAC was an inadvertent error.

II. LEGAL ANALYSIS

A. THE LAW PROHIBITS THE KNOWING RECEIPT OF CORPORATE CONTRIBUTIONS, AND THE EVIDENCE DEMONSTRATES THAT THERE WAS NO SUCH KNOWING RECEIPT.

The Federal Election Commission, when deciding whether to investigate a particular matter, "must take into consideration all available information concerning the alleged wrongdoing." In re Fed. Election Campaign Act Lit., 474 F. Supp. 1044, 1046 (D.D.C. 1979). Section 441b(a) of Title 2, 2 U.S.C. § 441b(a), prohibits the knowing receipt or acceptance of contributions from corporations. As the attached affidavits

and the information previously provided by CANPAC and IPAC make clear, the Lindley Committee did not "knowingly" receive or accept a corporate contribution.'

"Knowing" is not defined in the Federal Election Campaign Act. It is, however, defined in Webster's Dictionary as "the fact or condition of being aware of something," and "the circumstance or condition of apprehending truth or fact." The Lindley Committee clearly did not know that CANPAC's contribution came from IPAC, because all the Committee's information was to the contrary. That said, we can readily dispose of the two red herrings raised by General Counsel.

General Counsel, at page 3 of his brief, states that "the Committee was aware of an association between the Council [IPAC] and CANPAC." Of course that is correct, and no different from knowing the name and relationship of General Motors and GM's PAC. That awareness is not illegal. Rather,

Section 441b(a) obviously also requires that the contribution knowingly received from a corporation must in fact have been from a corporation. There is nothing in this record to support that. The Lindley Committee has no information on any internal transactions between CANPAC and IPAC, and no basis on which to believe that the contribution at issue in fact came from IPAC. Further, apart from its one reference to a debt (never explained or described as improper) between CANPAC and IPAC, General Counsel's brief never explains or substantiates that the contribution at issue did in fact illegally flow either from IPAC to CANPAC or directly from IPAC to the Lindley Committee. Because the omission of such a crucial element is flatly fatal to General Counsel's position, we have assumed for purposes of this brief that there must somewhere be some evidence that the contribution in issue did in fact illegally come from IPAC, and that the General Counsel's failure to elaborate on that key point is an inadvertent error.

the awareness relevant under § 441b(a) would be an awareness that a specific contribution came from GM rather than GMPAC, or from IPAC the corporate entity rather than CANPAC the political action committee. The affidavits prove there was no such awareness.

General Counsel also states, at page 2 of his brief, that "[k]nowing receipt or acceptance means knowledge of the facts that establish a violation of the statute, not knowledge that the receipt or acceptance was in violation of the law." Taking that as true,² it still does not support General Counsel's position. Here everyone involved knew that a corporate contribution from IPAC would be illegal, but no one connected with the Lindley Committee knew any fact that established a violation of the statute. Every fact of which the Lindley Committee was aware supported its belief that the in-kind contribution was from the political action committee, not the corporate entity.

The misidentification of the contribution was properly a cause for an initial inquiry, but the affidavits make clear that the description was inadvertent and in error. There is no

² General Counsel cites Federal Election Com'n v. Cal. Medical Ass'n, 502 F. Supp. 196 (N.D. Cal. 1980), for that proposition. The holding in that case appears to have been implicitly overruled by the United States Supreme Court in Liparota v. United States, ___ U.S. ___, 45 S. Ct. Bull. (CCH) P B2662 (No. 84-5108, May 13, 1985). Even if California Medical retains its vitality, however, it is not relevant to this matter.

reasonable basis for suggesting that the Lindley Committee violated § 441b(a).

And this would be true even if the contribution in reality had come from IPAC. It appears that General Counsel, perhaps in another part of this MUR, is now questioning some aspect of some internal accounting between IPAC and CANPAC.³ But campaign committees, and especially those with not one fact to suggest even inquiry notice, are nowhere obligated to review and opine on the internal accounting procedures that may or may not exist between those connected organizations, one of which may properly contribute to the campaign committee and one of which may not. Certainly, the Lindley Committee was never privy to how IPAC and CANPAC accounted for any transactions IPAC and CANPAC might have had. Thus, whatever General Counsel or the Commission might decide about internal transactions between CANPAC and IPAC, the Lindley Committee never knowingly received any contributions from IPAC.

For all these reasons, Respondents urge the Commission to find that no probable cause exists to believe that the Lindley Committee and Tom Lindley, as its treasurer, violated 2 U.S.C. § 441b(a).

³ General Counsel, in MUR 1937, has filed a brief relating only to the Lindley Committee and its Treasurer. That seems proper. However, General Counsel has neglected to show that the contribution involved illegally came from IPAC. See Footnote 1. Further, General Counsel did not provide counsel for the Lindley Committee with his materials regarding any alleged IPAC/CANPAC transactions or improprieties.

B. MR. LINDLEY, AS THE TREASURER NEWLY SUBSTITUTED IN 1985, COULD NOT HAVE KNOWINGLY VIOLATED THE LAW AS THE TREASURER IN 1984.

Claudia Gross was the Lindley Committee's Treasurer in February and March 1984, at the time the CANPAC contribution was misdescribed. Tom Lindley became the Committee's newly substituted treasurer in January, 1985. Tom Lindley in 1984 logically could not have knowingly violated the law with respect to any CANPAC contribution because he personally had no legal duties or obligations in connection with any such contribution. Moreover, there is not even an allegation that Tom Lindley was aware in 1984--or even at the time he became treasurer in 1985--either of any alleged impropriety in connection with CANPAC's 1984 contribution or of any facts that might render it improper. In fact, his affidavit indisputably shows that the former candidate and now newly substituted treasurer did not have such knowledge.


If Tom Lindley (rather than the Lindley Committee) is ever to be held liable for some such 1984 impropriety, it must be by imputing both the purported knowledge and actual obligations of the former treasurer to him as the current treasurer. But that imputation, particularly in a statute that requires "knowledge" as one element in its violation, is legally improper. See, e.g., Smith v. California, 361 U.S. 147 (1959) (ordinance forbidding possession of obscene materials and imposing strict liability (i.e., liability without personal knowledge that material was in fact obscene)

held unconstitutional because mens rea requirement strictly upheld where basic rights implicated); Wieman v. Updegraff, 344 U.S. 183 (1952) (oath as to past freedom from membership in subversive organization, exacted by state as qualification for public employment, held unconstitutional because it made no distinction between members who had, and those who had not, known of the organization's character).

II. CONCLUSION AND RECOMMENDATION

For all the reasons set forth above, Respondents ask that the Commission find that there is no probable cause to believe that the Lindley Committee or Tom Lindley, as its Treasurer, violated 2 U.S.C. § 441b(a).

Dated: January 17, 1986.


William B. Crow
Counsel for Respondents

Miller, Nash, Wiener,
Hager & Carlsen
111 S.W. Fifth Avenue
Portland, Oregon 97204
Telephone: (503) 224-5858

Of counsel:

Tom Lindley
Suite 3400
111 S.W. Fifth Avenue
Portland, Oregon 97204
Telephone: (503) 224-5858

20040694461

STATE OF ILLINOIS)
) SS
COUNTY OF CHAMPAIGN)

I, Claudia Gross, on oath, state as follows:

1. I served as Treasurer of the Tom Lindley for Congress Committee ("Committee"), FEC No. C00168732, through the 1984 election campaign for which that Committee was established.

2. In my role as Treasurer, I prepared schedules A and B of the Committee's 1984 Pre-primary Report, which is referred to in the General Counsel's Brief in MUR 1937.

3. As Treasurer, I was aware that it would have been improper for the Committee to accept contributions from a corporate entity. On one occasion, a fundraiser for the Committee was given a check made out to the campaign from a corporate entity; I promptly returned the check uncashed. On one report prior to the 1984 Pre-primary Report, I accidentally identified contributions coming from the political action committees connected with the Amalgamated Clothing and Textiles Working Union and the National Abortion Rights Action League as contributions coming instead from the Union and the League themselves. This was brought to my attention and I immediately corrected the error to reflect the actual sources of the contributions.

4. At no time during or after the campaign, until Mr. Lindley contacted me in late 1985 about this matter, did I have any reason to believe or know that the Illinois Public Action Council, or IPAC, was a corporate entity. On the contrary, I understood from Ken Brock, the Campaign Manager, that IPAC was a political action committee that properly could make in-kind contributions to another political action committee. I have since learned that, through some miscommunication or inadvertent error, what I understood to be a political action committee apparently is a corporate entity and has as its "connected organization" yet another political action committee. Had I had any reason to know or believe IPAC was a corporate entity, I would have refused to receive any contribution I believed to be from IPAC.

5. No one from CANPAC or IPAC ever suggested that any of the in-kind contributions were being made by a corporate entity rather than by a political action committee. I, and to my knowledge everyone involved with the Committee, believed the contributions came from the political action committee. Further, I was not aware of any transactions between IPAC and CANPAC, nor was I familiar with and no one ever discussed with me or even suggested to me the means of accounting for any transactions between CANPAC and IPAC, if there were such transactions.

6. In the Committee's 1984 Pre-primary Report, I indicated that the \$4,100 of in-kind contributions referred to in MUR 1937 had been received from "IPAC." I believed at the time that those in-kind contributions came from the political action committee, not the corporation. However, in the hectic days immediately preceding the election, I inadvertently identified the contributor as the corporate entity rather than the political action committee.

7. To summarize, neither I nor the Committee knowingly accepted any corporate contribution, the references to the corporate entity in the Report were inadvertent misstatements, and I understood and believed that the contributions referred to in MUR 1937 were from the political action committee.

Further affiant sayeth not.

Claudia Gross
Claudia Gross

Subscribed and Sworn
to before me this
11th day of
January, 1986.

James S. Buchanan
Notary Public
My Commission Expires:

May 4, 1986

88040674464

STATE OF Maryland)
) SS
COUNTY OF Montgomery)

I, Kenneth Brock, III, on oath, state as follows:

1. Prior to 1983, I had held positions in several campaign organizations supporting individuals for election to the United States House of Representatives. Beginning in 1983 and continuing through March, 1984, I served as Campaign Manager for the Tom Lindley for Congress Committee ("Committee"), FEC No. C00168732, in Illinois' Nineteenth Congressional District.

2. I was and remain generally familiar with the laws governing financing of federal election campaigns for congressional office. I, in conjunction with Claudia Gross, the Committee's Treasurer, from the very first, instructed the Committee's campaign workers to politely refuse to receive any corporate contributions. In every instance where we could determine that a potential contribution, of any kind, came from a corporate contributor, we refused to receive that contribution.

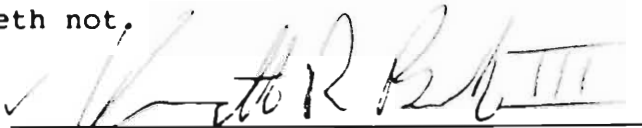
3. The Illinois Public Action Council, commonly called IPAC, is a well-known politically active organization in Illinois. Because it is a corporate entity, I was aware that any receipt of contributions by the Committee from IPAC would have been improper, and I would have refused to receive any contribution that I believed to be from IPAC. However, during the months preceding the March 1984 election, I also became aware of Citizens Action Non-Partisan Political Action Federal Campaign Committee ("CANPAC"), and the fact that CANPAC is IPAC's "connected organization" under the federal election campaign finance laws. Unlike IPAC, CANPAC could properly make certain contributions to the Committee.

4. Following its endorsement of Tom Lindley, CANPAC announced that it would make in-kind contributions to Mr. Lindley's campaign. CANPAC informed the Committee, before it made its in-kind contributions, of the nature and extent of the work it would do. CANPAC also informed us of the value of the in-kind contributions it was making. No one from CANPAC or IPAC ever suggested that any of the in-kind contributions were being made by IPAC rather than CANPAC. I, and to my knowledge everyone involved with the Committee, believed the contributions came from CANPAC. And we were not aware of any transactions between IPAC and CANPAC, nor were we familiar with and no one ever discussed with us or even suggested to us the means of accounting for any transactions between CANPAC and IPAC.

5. I recently learned that, in the Committee's 1984 Pre-primary Report, Ms. Gross indicated that the \$4,100 of in-kind contributions referred to in MUR 1937 had been received from "IPAC." I knew at the time that those in-kind contributions came from CANPAC, not IPAC. The days immediately preceding the election were especially hectic and I believe Ms. Gross simply confused the two names of these two connected organizations and inadvertently identified the contributor as IPAC rather than CANPAC. I had reviewed Ms. Gross's earlier reports but did not review this one because of the press of the election. Thus, I did not catch her error at the time.


6. To summarize, neither I nor the Committee knowingly accepted any corporate contribution. The references to IPAC in the Report were inadvertent misstatements, and I, the Treasurer, and the candidate each understood and believed that the contributions referred to in MUR 1937 were from CANPAC.

Further affiant sayeth not.


Kenneth Brock, III

Subscribed and Sworn
to before me this
3rd day of

January, 1986.


Notary Public

My Commission Expires:

VERNA P. CIARAVELLA
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires July 1, 1986

83040594467

STATE OF OREGON)
) SS
COUNTY OF MULTNOMAH)

I, Tom Lindley, on oath, state as follows:

1. Since 1977 I have been a practicing attorney providing assistance to political organizations, and particularly to candidates for federal office on matters of campaign finance. I have been and remain generally familiar with the laws governing financing of federal election campaigns for congressional office.

2. In 1983, I determined myself to run for congressional office. I selected Ken Brock as my campaign manager and Claudia Gross as the treasurer of my campaign committee, Tom Lindley for Congress, FEC No. C00168732. Given my background, I was particularly sensitive to the need for compliance with the federal campaign finance laws, and I was especially careful to remind both Mr. Brock and Ms. Gross to refuse to receive any corporate or union contributions.

3. The Illinois Public Action Council, commonly called IPAC, is a well-known politically active organization in Illinois. Because it is a corporate entity, I was aware that any receipt of contributions by the Committee from IPAC would have been improper, and I would have refused to receive or permit the receipt of any contribution that I believed to be from IPAC. However, I was also aware of Citizens Action Non-Partisan Political Action Federal Campaign Committee ("CANPAC"), and the fact that CANPAC is IPAC's separate segregated fund, or "connected organization," under the federal election campaign finance laws. Unlike IPAC, CANPAC could properly make certain contributions to the Committee. However, unlike IPAC, CANPAC is not widely known and, because the two organizations work closely together, it is not uncommon for someone not close to them to confuse the two entities.

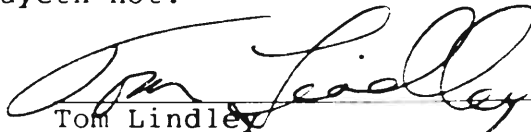
4. Following its endorsement of my candidacy, CANPAC announced that it would make in-kind contributions to my campaign. CANPAC informed the Committee, before it made its in-kind contributions, of the nature and extent of the work it would do. CANPAC also informed the Committee of the value of the in-kind contributions it was making. No one from CANPAC or IPAC ever suggested that any of the in-kind contributions were being made by the corporate entity, IPAC, rather than the political action committee, CANPAC. I, and to my knowledge everyone involved with the Committee, believed the contributions came from the political action committee and not from any corporate entity. Further, we were not aware of any transactions between IPAC and CANPAC, nor were we familiar with and no one ever discussed with us or even suggested to us the means of accounting for any transactions between CANPAC and IPAC.

5. In the 1984 Pre-primary Report of the Committee, Ms. Gross indicated that the \$4,100 of in-kind contributions referred to in MUR 1937 had been received from "IPAC." I knew at the time that in-kind contributions were coming from CANPAC, not IPAC. Although I was under no obligation to do so, I ordinarily reviewed Ms. Gross' reports. However, in the hectic days immediately preceding the election, I did not review this one FEC report and thus did not note Ms. Gross' error. I am certain that Ms. Gross simply confused these two connected organizations and inadvertently identified the contributor as the corporate entity rather than the political action committee.

6. Following the election, Ken Brock moved to Washington, D.C., I moved to Portland, Oregon, and Ms. Gross resigned as the Committee's Treasurer. As reported to the FEC, I became the Committee's Treasurer in January, 1985. I was unaware of any of the alleged issues referred to in MUR 1937 until the matter was brought to my attention by the FEC in April, 1985.

7. To summarize, neither I nor the Committee knowingly accepted any corporate contribution, the references to IPAC in the Report were inadvertent misstatements, and I understood and believed that the contributions referred to in MUR 1937 were from CANPAC.

Further affiant sayeth not.


Tom Lindley

Subscribed and Sworn
to before me this
19th day of
January, 1986.


Notary Public

My Commission Expires: 6/17/88

88040494470

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1937, Tom Lindley for Congress

NAME OF COUNSEL: William B. Crow

ADDRESS: Miller, Nash, Wiener, Hager & Carlsen

111 S.W. Fifth Avenue

Portland, Oregon 97204

TELEPHONE: (503) 224-5858

The above-named individual is hereby designated as my
counsel and is ^{in addition to myself,} authorized to receive any notifications and other
communications from the Commission and to act on my behalf before
the Commission.

January 6, 1986
Date


Signature

RESPONDENT'S NAME: Tom Lindley

ADDRESS: Miller, Nash, Wiener, Hager & Carlsen

111 S.W. Fifth Avenue

Portland, Oregon 97204

HOME PHONE: (503) 281-5426

BUSINESS PHONE: (503) 224-5858

03040684471

Coffield Ungaretti Harris & Slavin

3500 Three First National Plaza Chicago Illinois 60602
Telephone 312/977-4400 Cable: CUHSLAW Telex: 270286

Via Federal Express

January 28, 1986

Mr. Jonathan Levin
Federal Election Commission
999 E. Street
Washington, D.C. 20463

Re: Illinois Public Action Council - MUR 1937

Dear Johnny:

Enclosed are 13 copies of a brief by the Illinois Public Action Council in response to the brief of the Office of the General Counsel in connection with MUR 1937.

I would request that you please forward ten copies of this brief to the Secretary of the Commission.

Please acknowledge your receipt of the enclosed material by stamping the enclosed duplicate copy of this letter and returning it to the undersigned in the enclosed self-addressed stamped envelope.

If you should have any questions or comments with respect to any of the foregoing, please feel free to call (collect) the undersigned.

Sincerely,



John W. Christy

JWC:rt
Enclosures

16 JAN 29 AM 11:27

RECEIVED
GENERAL COUNSEL

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BEFORE THE FEDERAL ELECTION COMMISSION

3 3 0 4 7 3
In The Matter of)
Illinois Public Action Council)
Citizens Action Non-Partisan)
Political Action Federal)
Campaign Committee of the)
Illinois Public Action)
Council)
J. Robert Kettlewell, as)
treasurer*)

MUR 1937

86 JAN 29 AM 11:27

RECEIVED
FEDERAL ELECTION COMMISSION
GENERAL COUNSEL

ILLINOIS PUBLIC ACTION COUNCIL'S BRIEF

I. STATEMENT OF THE CASE

This matter involves an allegation that the Illinois Public Action Council (the "Council"), its separate segregated fund, the Citizens Action Non-Partisan Political Action Federal Campaign Committee of the Illinois Public Action Council ("CANPAC") and the Treasurer of CANPAC violated 2 U.S.C. §441b(a) by making or participating in the making of disbursements to federal candidates that were corporate in origin.

The Council operates a door-to-door canvass to recruit new members and solicit contributions from such members in several cities in the State of Illinois every evening. During periods that are near federal elections, the Council canvassers inform

* By letter dated December 11, 1985, CANPAC informed the Commission that J. Robert Kettlewell had been replaced as Treasurer by Robert Creamer.

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Council members of the candidate endorsements made by the Council's separate segregated fund, CANPAC. In connection with their recruitment efforts, the Council canvassers also contact non-members of the Council. Pursuant to an agreement between the Council and CANPAC, on behalf of CANPAC the Council canvassers inform those non-members of the Council of the CANPAC candidate endorsements. In order to bill CANPAC for the services rendered by Council canvassers, the Council calculates that portion of its outlay to operate the canvassers which is involved in contacting non-members of the Council. This amount is then billed to CANPAC and is recognized as an account receivable from CANPAC to the Council to be paid out of funds donated explicitly for that purpose to CANPAC. At the time the Council expenditures for contacting non-members were made, an obligation of equal amount was immediately recognized by CANPAC to the Council. CANPAC thus contracted with the Council to engage in the activities which under the law must qualify as campaign contributions.

Pursuant to the agreement between the Council and CANPAC, the Council extended credit to CANPAC, but CANPAC had a contractual obligation to pay for the services it had purchased and, as a consequence, was responsible for the expenditures in question.

II. LEGAL ANALYSIS

Section 441b(a) of Title 2 prohibits a corporation from making a contribution or expenditure in connection with a federal election. The General Counsel's brief alleges that CANPAC's contributions to certain candidates were actually corporate contributions made directly from the Council. However, to argue merely that Council canvassers were compensated out of Council revenues is to misrepresent what actually occurred. CANPAC entered into an agreement with the Council to use the services of Council canvassers to communicate CANPAC endorsements to non-members of the Council. Pursuant to CANPAC's agreement with the Council, CANPAC would reimburse the Council for the canvassing services subsequent to the actual furnishing of such services by the Council canvassers. Such an extension of credit by the Council to a political committee is expressly approved in Regulation §114.10.

The General Counsel's brief states that §114.10 was not meant to apply to a situation where the political committee is the separate segregated fund of the connected corporation. Such an interpretation would unfairly penalize corporations such as the Council which provide canvassing services ideally suited to the needs of a political committee attempting to spread the message of its endorsed candidates to as wide an audience as possible. If it is perfectly permissible for a candidate's

political committee to contract on a credit basis to use the Council's canvassing services, it should not be impermissible for the Council's separate segregated fund to contract with its connected organization to communicate its candidate endorsements beyond its own membership.

In support of its narrow interpretation of §114.10, the General Counsel's brief refers to AO 1984-24: "Section 114.10 is intended to apply to commercial transactions made in the ordinary course of a corporation's business, where it extends credit as part of such a transaction to political purchasers on terms comparable to those for similar non-political purchasers." However, nowhere in AO 1984-24 does it either state or imply that the regulation was not "meant" to apply to a situation where the political committee is the separate segregated fund of the connected corporation. It would be highly unfair to single out the separate segregated funds of politically oriented membership organizations such as the Council, and claim that they are exempt from §114.10 and therefore forbidden from using the canvassing services of their connected organizations.

In fact, the Council has contracted out the services of the canvassers to other businesses on a credit basis in the past. The following chart lists: (i) the entities which have contracted with the Council to utilize the services of the canvassers on a credit basis; (ii) the periods during which the canvassers performed services for the applicable entity; and (iii) the dates on

which the Council was reimbursed for such services and the amount of such reimbursement.

<u>Name of Entity</u>	<u>Date Services Performed</u>	<u>Date and Amount of Payment for Services</u>
Hayes for Congress Committee	June 15-July 15, 1983	July 22, 1983 \$4,000
Citizens Labor Energy Coalition	August 1984	September 1984 \$850

It is ironic that the General Counsel's brief should allege that the disbursements for candidates listed on CANPAC's reports were corporate in origin. Incorporated membership organizations such as the Council do not fit squarely within the §441b(a) prohibitions regarding corporate contributions or expenditures. Council revenues are not generated from the manufacture and sale of any type of product. Rather, all of the Council's revenues used in funding the canvass operations come from individual donations of members obtained through the solicitations of canvassers. While Council canvassers are not required to follow the solicitation regulations set forth in §114, nevertheless, all of the Council's operating revenues are generated from individual contributions, much as is the case when CANPAC solicits members of the Council's separate segregated fund for contributions. Since all Council members may become CANPAC members, in most cases the individuals contributing money to the Council are the same persons who contribute money to CANPAC. To allege that the Council violated §441b(a) because it paid canvassers initially

out of contributions to the Council, when pursuant to the Agreement CANPAC was obligated to reimburse the Council from contributions to CANPAC, is to twist the regulations governing contributions to federal candidates in a manner never intended by the framers of such regulations.

Based on the fact that the Council's agreement to provide canvassing services to CANPAC on a credit basis is expressly approved in Regulation §114.10, we recommend that the Commission not find probable cause to believe that the Council, CANPAC or its Treasurer violated 2 U.S.C. §441b(a).

III. RECOMMENDATION

Do not find probable cause to believe that the Council, CANPAC or its Treasurer violated 2 U.S.C. §441b(a).

Date: January 28, 1986



John W. Christy

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Illinois Public Action Council)
Citizens Action Non-Partisan)
Political Action Federal)
Campaign Committee of the)
Illinois Public Action Council)
Robert Creamer, as treasurer)
Tom Lindley for Congress)
Tom Lindley, as treasurer)

MUR 1937

SENSITIVE

EXECUTIVE SESSION

MAY 06 1986

GENERAL COUNSEL'S REPORT

I. BACKGROUND

The Citizens Action Non-Partisan Political Action Federal Campaign Committee of the Illinois Public Action Council ("CANPAC") was referred to the Office of the General Counsel on November 9, 1984, by the Reports Analysis Division because of disbursements reported as made by CANPAC that were corporate in origin.

CANPAC's 1984 April 15 Quarterly Report disclosed two debts of \$5,000 each to its connected organization, the Illinois Public Action Council ("the Council"), an incorporated entity. The purpose of the first debt was listed as "support" for Tom Lindley for Congress ("the Lindley Committee") and the purpose of the second debt was listed as "support" for Paul Simon for Senate.

CANPAC's 1984 October Quarterly and 12 Day Pre-General Election Reports list additional in-kind contributions in the form of "canvass time and printed materials" to principal

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campaign committees, i.e., \$4,015.87 to Simon for Senate, \$548.10 to Mondale for President, \$2,930.05 to the Friends of Lane Evans, \$2,601.93 to the Committee to Elect Schwerdtfeger, and \$274.05 to the Bruce for Congress Committee. On the Schedule Ds (Schedule of Debts and Obligations) for each report, CANPAC listed the totals of these sums as newly incurred debts owed to the connected organization; the schedules also disclosed no repayments of these debts.

Schedule A of the 1984 Pre-Primary Report of the Lindley Committee disclosed a receipt of "In-kind (Staff Expenses)" of \$4,100 on February 24, 1984, from "IPAC," the acronym for the Council. Consistent with the requirement in 11 C.F.R. §104.13(a) for the reporting of the receipt of in-kind contributions, Schedule B of that report disclosed a \$3,200 disbursement to "IPAC" on February 10, 1984, and a \$900 disbursement to "IPAC" on February 24, 1984, both for "staff expenses".

On March 4, 1985, the Commission found reason to believe that the Council, CANPAC, and David Sherbin, as CANPAC's treasurer,^{1/} violated 2 U.S.C. §441b(a) for making or participating in the making of corporate contributions and that the Lindley Committee and Claudia Gross, as treasurer,^{2/} violated

^{1/} On May 8, 1985, CANPAC informed the Commission that its new treasurer was J. Robert Kettlewell. On December 19, 1985, CANPAC informed the Commission that its new treasurer was Robert Creamer.

^{2/} On January 29, 1985, the Lindley Committee, sent an amended Statement of Organization listing Tom Lindley as the new treasurer.

2 U.S.C. § 441b(a) for acceptance of a corporate contribution. The Commission also approved questions to be sent to CANPAC and the Council and to the Lindley Committee.

On May 7, 1985, this Office received a response from the Council and CANPAC. An affidavit from the Council's Executive Director, Robert Creamer, was enclosed with the response. Mr. Creamer stated that the Council recruits members by going door-to-door every evening in various parts of Illinois and that, during periods near elections, the Council "ask[s] these canvassers to add to their normal duties." Mr. Creamer stated:

In addition to their job of recruiting members, renewing memberships and raising additional contributions, these canvassers are asked to inform our members of the endorsements made by our political committee. In addition, they distribute partisan literature to both members and others who do not become members.

Our canvassers are not paid any additional remuneration for the conduct of these additional duties. Even though this is the case, we have calculated the portion of our outlay to support these canvassers which we estimate to be involved in contacting non-members. We have reported these as campaign contributions. This amount is then billed to CANPAC and is recognized as an account receivable from CANPAC to the Council to be paid out of funds donated explicitly for that purpose to CANPAC.

Mr. Creamer stated that such an "account receivable" is really the same as CANPAC contracting with a professional canvassing organization and assuming a contractual obligation to pay over a period of time. Counsel maintained that "from an

accounting point of view, the Council made no expenditure whatsoever."

In direct responses to the specific questions put forward by this Office, Mr. Creamer stated that CANPAC "contracted with the Council to have Council canvassers distribute literature to members and nonmembers of the Council," that the "costs of contacting Council members were paid directly by the Council," and that the "Council's costs of contacting non-members were billed to CANPAC." Mr. Creamer stated that no funds were "conveyed" by the Council to any candidate. He stated that it was determined that the Council "should bill CANPAC and extend credit to CANPAC because of the administrative burden of providing separate paychecks to canvassers for the CANPAC portion of their work." He acknowledged that the Council would not be reimbursed in full until CANPAC conducted a fundraising drive during the summer and fall of 1985.

On May 15, 1985, this Office received a response from Mr. Lindley. Mr. Lindley maintained that the services comprising the in-kind contributions were provided by CANPAC, not by the Council. Mr. Lindley claimed that the contributions "were simply misreported by the Committee's former Treasurer."

On November 22, 1985, this Office circulated briefs to the Commission and on December 13, the briefs were sent to the respondents. On January 22, 1986, this Office received a reply brief from counsel for the Lindley Committee along with

affidavits by the Lindley Committee's former treasurer, the campaign manager, and Mr. Lindley. On January 29, this Office received a reply brief from counsel for CANPAC and the Council.

The brief and affidavits filed on behalf of the Lindley Committee state that the Lindley Committee thought the services were received from CANPAC and that, during the last few "hectic" days of the campaign, the treasurer "confused the two connected organizations and inadvertantly listed the contribution from CANPAC as a contribution from IPAC." Counsel states that, because the campaign treasurer knew of the connection between "IPAC" and CANPAC, she "inadvertantly" listed the contribution as being from IPAC. Counsel states that "[t]he Lindley Committee, that is, its Treasurer, its candidate, and the campaign manager, all believed that the contribution came from" CANPAC, not from the Council.

The affidavits submitted all reflect a knowledge of the existence of the prohibition against accepting corporate contributions. Ms. Gross's affidavit states that she thought that IPAC was a political action committee, not a corporate entity. She states:

On the contrary, I understood from Ken Brock, the Campaign Manager, that IPAC was a political action committee that properly could make in-kind contributions to another political action committee. I have since learned that, through some miscommunication or inadvertent error, what I understood to be a political action committee apparently is a corporate entity and has as its "connected

organization" yet another political action committee.

Mr. Brock's affidavit states that he believed, at the time of the services, that the contribution came from CANPAC, that no one from CANPAC or IPAC "ever suggested that any of the in-kind contributions were being made by IPAC rather than CANPAC," and that the Lindley Committee was not aware of any transactions between IPAC and CANPAC. He "believe[s] Ms. Gross simply confused the two names of these two connected organizations and inadvertantly identified the contributor as IPAC rather than CANPAC." Mr. Lindley's affidavit makes assertions similar to those of Mr. Brock.

In his response on behalf of the Council and CANPAC, counsel sets out the same argument presented in response to the reason to believe finding. He maintains that the initial disbursements by the Council for soliciting non-members for contributions to CANPAC were made pursuant to an agreement between CANPAC and the Council and that, therefore, the repayments owed by CANPAC to the Council were merely an extension of credit permissible under 11 C.F.R. § 114.10. Counsel also argued that "[i]ncorporated membership organizations such as the Council do not fit squarely within the § 441b(a) prohibitions." Council bases this distinction on the fact that the Council's revenues come from individual donations rather than the manufacture and sale of any type of product.

II. LEGAL ANALYSIS

Section 441b(a) of Title 2 prohibits the making and knowing receipt or acceptance of contributions from corporations. Knowing receipt or acceptance means knowledge of the facts that establish a violation of the statute. The reply brief and affidavits from counsel for the Lindley Committee indicate that those connected with the Committee believed that the contribution came from CANPAC, not the Council. (Ms. Gross' error appears to be a result of confusion and does not contradict the belief of the Lindley Committee that it was accepting a contribution from a political action committee associated with the Illinois Public Action Council). This Office, therefore, recommends that the Commission find no probable cause to believe that Tom Lindley for Congress and Tom Lindley, as its treasurer, violated 2 U.S.C. §441b(a).

For a response to the argument of counsel for the Council and CANPAC with respect to the initial disbursements by the Council, the agreement between the Council and CANPAC, and the applicability of 11 C.F.R. § 114.10, this Office refers the Commission to the brief sent to counsel. With respect to counsel's argument that the prohibitions in 2 U.S.C. § 441b(a) were not meant to apply to a corporation such as the Council, it should be noted that this section applies the prohibition to "any corporation" and does not distinguish between organizations with capital stock and other corporations. Furthermore, the

Commission Regulations provide very explicitly for the prohibition against contributions by non-capital stock corporations or member corporations in sections such as the definitional sections at 11 C.F.R. §§ 114.1(a)(2)(iii) and 114.1(b), sections referring to communications to a restricted class at 11 C.F.R. §§ 114.3(a)(2) and 114.(a)(1)(ii), sections referring to separate segregated funds at 11 C.F.R. §§ 114.5(b) through (i), and 11 C.F.R. § 114.7 which concentrates specifically on such corporations. Although in

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 , a situation involving disbursements by a corporate connected organization and subsequent reimbursement by the PAC, the Commission decided to take no further action with respect to the PAC, the General Counsel's Office believes that the Commission should proceed against both the connected organization and the PAC in this matter. Here, the PAC reported the corporate disbursements as PAC disbursements, thereby representing itself on the public record as the source of these disbursements. This misrepresentation is compounded by the fact that, in response to the reason to believe notification, respondents themselves have admitted to the Commission that they told the candidate committees that "the support being rendered came from CANPAC." Based on the briefs and the foregoing analysis, therefore, this Office recommends that the Commission find probable cause to believe that the Council, CANPAC, and Robert Creamer, as its treasurer, violated 2 U.S.C. § 441b(a).

III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

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IV. RECOMMENDATIONS

1. Find no probable cause to believe that Tom Lindley for Congress and Tom Lindley, as its treasurer, violated 2 U.S.C. § 441b(a).
2. Find probable cause to believe that the Illinois Public Action Council violated 2 U.S.C. § 441b(a).
3. Find probable cause to believe that the Citizens Action Non-Partisan Political Action Federal Campaign Committee of the Illinois Public Action Council and Robert Creamer, as its treasurer, violated 2 U.S.C. § 441b(a).
4. Approve the attached conciliation agreement.
5. Approve the attached letter.

26 April 1986
Date


Charles N. Steele
General Counsel

Attachments

1. Reply brief from counsel for the Lindley Committee.
2. Reply brief from counsel for the Council and CANPAC.
3. Proposed letter to the Lindley Committee.
4. Proposed letter and conciliation proposal to the Council and CANPAC.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Illinois Public Action Council)
)
Citizens Action Non-Partisan)
Political Action Federal) MUR 1937
Campaign Committee of the)
Illinois Public Action)
Council)
Robert Creamer, as treasurer)
)
Tom Lindley for Congress)
Tom Lindley, as treasurer)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the
Federal Election Commission executive session of May 6, 1986,
do hereby certify that the Commission took the following
actions in MUR 1937:

1. Decided by a vote of 6-0 to find no probable
cause to believe that Tom Lindley for Congress
and Tom Lindley, as its treasurer, violated
2 U.S.C. § 441b(a).

Commissioners Aikens, Elliott, Harris, Josefiak,
McDonald, and McGarry voted affirmatively for
the decision.

2. Decided by a vote of 6-0 to find probable cause
to believe that the Illinois Public Action
Council violated 2 U.S.C. § 441b(a).

Commissioners Aikens, Elliott, Harris, Josefiak,
McDonald, and McGarry voted affirmatively for
the decision.

(continued)

3. Decided by a vote of 4-2 to find no probable cause to believe that the Citizens Action Non-Partisan Political Action Federal Campaign Committee of the Illinois Public Action Council and Robert Creamer, as its treasurer, violated 2 U.S.C. § 441b(a).

Commissioners Aikens, Harris, Josefiak, and McGarry voted affirmatively for the decision. Commissioners Elliott and McDonald dissented.

4. Decided by a vote of 5-1 to direct the Office of General Counsel to send appropriate conciliation agreements and letters pursuant to the above decision.

Commissioners Aikens, Harris, Josefiak, McDonald, and McGarry voted affirmatively for the decision; Commissioner Elliott dissented.

5. Decided by a vote of 6-0 to reconsider the previous action taken with respect to the Illinois Public Action Council

Commissioners Aikens, Elliott, Harris, Josefiak, McDonald and McGarry voted affirmatively for reconsideration.

6. Decided by a vote of 5-1 to find probable cause to believe that the Illinois Public Action Council violated 2 U.S.C. § 441b(a).

Commissioners Aikens, Elliott, Harris, McDonald, and McGarry voted affirmatively for the decision; Commissioner Josefiak dissented.

Attest:

5-1-86

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

May 16, 1986

William B. Crow, Esquire
Miller, Nash, Wiener, Hager & Carlsen
111 S.W. Fifth Avenue
Portland, Oregon 97204

RE: MUR 1937
Tom Lindley for Congress
Tom Lindley, as treasurer

Dear Mr. Crow:

This is to advise you that, after an investigation was conducted, the Commission concluded on May 6, 1986, that there is no probable cause to believe that your clients, Tom Lindley for Congress and Tom Lindley, as its treasurer, violated the Act. Accordingly the file in this matter, numbered MUR 1937, has been closed as it pertains to your clients. This matter will become part of the public record within 30 days, after it has been closed with respect to all other respondents involved. Should you wish to submit any factual or legal materials to appear on the public record, please do so within 10 days. The Commission reminds you, however, that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter has been closed. The Commission will notify you when the entire file has been closed.

If you have any questions, contact Jonathan Levin at (202) 376-5690.

Sincerely,


Charles N. Steele
General Counsel



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

John W. Christy, Esquire
Coffield, Ungaretti, Harris & Slavin
3500 Three First National Plaza
Chicago, Illinois 60602

RE: MUR 1937
Illinois Public Action Council
CANPAC
Robert Creamer, as treasurer

Dear Mr. Christy:

On May 6, 1986, the Commission determined that there is probable cause to believe that your client, the Illinois Public Action Council ("the Council"), violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended, in connection with expenditures for federal candidates originating from the Council. Also on that date, the Commission found no probable cause to believe that your clients CANPAC and Robert Creamer, as CANPAC's treasurer, violated 2 U.S.C. § 441b(a).

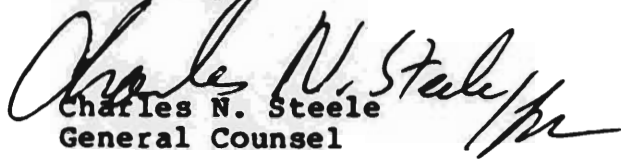
The Commission has a duty to attempt to correct violations for a period of thirty to ninety days by informal methods of conference, conciliation and persuasion, and by entering into a conciliation agreement. If we are unable to reach an agreement with the Council during that period, the Commission may institute civil suit in United States District Court and seek payment of a civil penalty.

We enclose a conciliation agreement that this Office is prepared to recommend to the Commission in settlement of this matter. If you agree with the provisions of the enclosed agreement, please have your client sign and return it, along with the civil penalty, to the Commission within ten days. I will then recommend that the Commission approve the agreement. Please have the check for the civil penalty made payable to the U.S. Treasurer.

- 2 -

If you have any questions or suggestions for changes in the enclosed conciliation agreement, please contact Jonathan Levin, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,


Charles N. Steele
General Counsel

Enclosure
Conciliation Agreement

88040694493

Coffield Ungaretti Harris & Slavin

3500 Three First National Plaza, Chicago, Illinois 60602
Telephone 312/977-4400, Cable: CUHSLAW Telex: 270286

FEC
Q.C. # 358
JUN 20 11:48

June 19, 1986

EXPRESS MAIL

Mr. Jonathan Levin
Federal Election Commission
Washington, D.C. 20463

Re: _____ and MUR 1937

Dear Johnny:

Pursuant to our telephone discussion of today, this letter will serve to confirm that the Illinois Public Action Council will provide the Federal Election Commission with written responses to the General Counsel's Conciliation Agreements regarding _____ and MUR 1937 prior to June 29, 1986. If I can provide any further assistance prior to that time, please contact me.

Sincerely,



John W. Christy

JWC:pam

JUN 20 11:38

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SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Illinois Public Action Council)

MUR 1937

RECEIVED
FEDERAL ELECTION COMMISSION
COMMUNICATIONS SECTION

SEP 9 10:38 AM

GENERAL COUNSEL'S REPORT

EXECUTIVE SESSION

SEP 16 1986

I. BACKGROUND

On May 6, 1986, the Commission found probable cause to believe that the Illinois Public Action Council ("the Council") violated 2 U.S.C. § 441b(a) by making corporate expenditures in connection with federal election. On that date, the Commission also approved a conciliation agreement to be sent to the Council. On May 16, 1986, this Office mailed a notification letter with the agreement to the Council.

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III. RECOMMENDATIONS

- 1.
2. Authorize the Office of the General Counsel to file a civil suit for relief in the United States District Court against the Illinois Public Action Council.

3. Approve the attached letter.

8 Sept 1986
Date



Charles N. Steele
General Counsel

Attachments

- 1.
2. Proposed letter to the attorney for the Council

83040694497

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Illinois Public Action Council) MUR 1937

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of September 16, 1986, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 1937:

- 1.
2. Authorize the Office of the General Counsel to file a civil suit for relief in the United States District Court against the Illinois Public Action Council unless within ten days they accept the FEC counteroffer of a civil penalty of Five Thousand Dollars (\$5,000.00) to be paid over a period of one year.
3. Direct the Office of General Counsel to send an appropriate letter pursuant to the above actions.

Commissioners Aikens, Elliott, Harris, Josefiak, McDonald, and McGarry voted affirmatively for the decision.

Attest:

9-16-86

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

33040694428



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 19, 1986

John W. Christy, Esquire
Coffield, Ungaretti, Harris & Slavin
3500 Three First National Plaza
Chicago, Illinois 60602

RE: MUR 1937
Illinois Public Action Council

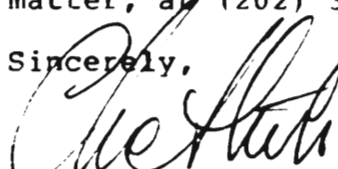
Dear Mr. Christy:

Your were previously notified that, on May 6, 1986, the Federal Election Commission found probable cause to believe that your client, the Illinois Public Action Council, violated 2 U.S.C. § 441b(a), a provision of the Federal Campaign Act of 1971, as amended, in connection with the above-captioned matter. You have submitted a counteroffer to the Commission's proposed conciliation agreement.

The Commission has reviewed your counteroffer and determined to reject it. Although we have been unable to settle this matter through conciliation within the allowable time period, the Commission has directed the Office of the General Counsel to send you a final counterproposal in order to achieve the settlement of this matter. Please note, however, that the Commission also has authorized the institution of a civil action for relief in the United States District Court if the enclosed agreement is not signed by you or your client and returned to this Office within ten days of your receipt of this letter.

If you have any questions, please contact Jonathan Levin, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,


Charles N. Steele
General Counsel

Enclosure
Conciliation Agreement

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Illinois Public Action Council) MUR 1937
)

GENERAL COUNSEL'S REPORT

I. BACKGROUND

Attached is a conciliation agreement which has been signed by Robert Creamer, the Executive Director of the Illinois Public Action Council ("the Council").

On September 16, 1986, the Commission approved an agreement to be sent to the Council as a final proposal. The attached agreement contains no changes from the agreement approved by the Commission. This Office, therefore, recommends that the Commission accept this agreement and close the file in this matter.

II. RECOMMENDATION

1. Accept the attached agreement.
2. Close the file.
3. Approve the attached letter.

Charles N. Steele
General Counsel

Date

10/9/86

BY:

Lawrence M. Noble
Deputy General Counsel

Attachments
Conciliation Agreement
Letter

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Illinois Public Action Council) MUR 1937

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on October 15, 1986, the Commission decided by a vote of 4-0 to take the following actions in MUR 1937:

1. Accept the conciliation agreement, as recommended in the General Counsel's Report signed October 9, 1986.
2. Close the file.
3. Approve the letter, as recommended in the General Counsel's Report signed October 9, 1986.

Commissioners Aikens, Elliott, Josefiak, and McDonald voted affirmatively for this decision; Commissioners McGarry and Thomas did not vote.

Attest:

9-15-86

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

Received in Office of Commission Secretary:	Thurs.,	10-9-86,	2:56
Circulated on 48 hour tally basis:	Fri.,	10-10-86,	2:00
Deadline for vote:	Wed.,	10-15-86,	4:00



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 22, 1986

John W. Christy, Esquire
Coffield, Ungaretti, Harris & Slavin
3500 Three First National Plaza
Chicago, Illinois 60602

RE: MUR 1937
Illinois Public Action
Council

Dear Mr. Christy:

On October 15, 1986, the Commission accepted the conciliation agreement signed by Robert Creamer, Executive Director of the Illinois Public Action Council, in settlement of a violation of 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter and it will become a part of the public record within thirty days. However, 2 U.S.C. § 437g(a)(4)(B) prohibits any information derived in connection with any conciliation attempt from becoming public without the written consent of the respondent and the Commission. Should you wish any such information to become part of the public record, please advise us in writing.

Enclosed you will find a fully executed copy of the final conciliation agreement for your files.

Sincerely,

Charles N. Steele
General Counsel

Lawrence M. Noble
By: Lawrence M. Noble
Deputy General Counsel

Enclosure
Conciliation Agreement

22040594502

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Illinois Public Action Council)

MUR 1937

CONCILIATION AGREEMENT

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This matter was initiated by the Federal Election Commission (hereinafter "the Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found probable cause to believe that the Illinois Public Action Council ("Respondent") violated 2 U.S.C. § 441b(a) by making corporate expenditures in connection with a federal election.

NOW, THEREFORE, the Commission and Respondent, having duly entered into conciliation pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent, and the subject matter of this proceeding.

II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. The Illinois Public Action Council is a corporation and the connected organization of the Citizens Action Non-Partisan Political Action Federal Campaign Committee of the

Illinois Public Action Council ("CANPAC").

2. CANPAC's 1984 April Quarterly, October Quarterly, and 12 Day Pre-General Election Reports list a total of \$20,370 in disbursements on behalf of federal candidates. These disbursements were actually made by Respondent.

3. Section 441b(a) of Title 2 prohibits the making of corporate contributions or expenditures in connection with a federal election.

V. Respondent made corporate expenditures in connection with federal elections in violation of 2 U.S.C. § 441b(a).

VI. Respondent will pay a civil penalty to the Treasurer of the United States in the amount of Five Thousand Dollars (\$5,000), pursuant to 2 U.S.C. § 437g(a)(5)(A), such penalty to be paid as follows:

- 1) One initial payment of \$600 due on November 1, 1986;
- 2) Thereafter, beginning on December 1, 1986, eleven consecutive monthly installment payments of \$400 each;
- 3) Each such installment shall be paid on the first day of the month in which it becomes due;
- 4) In the event that any installment payment is not received by the Commission by the fifth day of the month in which it becomes due, the Commission may,

at its discretion, accelerate the remaining payments and cause the entire amount to become due upon ten days written notice to Respondent. Failure by the Commission to accelerate the payment with regard to any overdue installment shall not be construed as a waiver of its right to do so with regard to future overdue installments.

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. This Conciliation Agreement constitutes the entire agreement between the Commission and the Respondent on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by any party or by agents.

FOR THE COMMISSION:

BY:

Date _____

(Name) Robert Creamer
(Position) Illinois Public Action
Council Executive Director

Date _____



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 1937

DATE FILMED 4/15/88 CAMERA NO. 2

CAMERAMAN GPC

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