



FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463

THIS IS THE BEGINNING OF MUR # 298

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September 12, 1989

MUR 2982

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

Subject: Complaint

Dear Sir or Madam:

Enclosed, pursuant to section 111.4 of the Commission's regulations, are three signed copies of a complaint filed by Fred Meyer, Chairman of the Republican Party of Texas. Please send me the original or copies of all correspondence regarding this complaint.

Sincerely yours,

Richard F. Smith
Richard F. Smith

RFS/jw

Enclosure

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September 12, 1989

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

MUR 2982

Subject: Complaint

Dear Sir or Madam:

The undersigned, Fred Meyer, Chairman of the Republican Party of Texas, files this complaint pursuant to 11 CFR 111.4, based on a belief that a violation of the Federal Election Campaign Act and the regulations of the Federal Election Commission has occurred. This complaint is based upon:

1) Facts which surfaced during the Dallas trial of three former savings and loan executives who were sentenced to prison for illegally funnelling corporate contributions to the East Texas First political committee, and

2) Facts reported by the news media, especially facts disclosed by Wall Street Journal reporter Brooks Jackson in his book Honest Graft, which clearly indicate the East Texas First committee was not an independent committee, as it falsely represented to the Federal Election Commission.

The name and address of the complainant are:

Fred Meyer
State Chairman
Republican Party of Texas
211 E. 7th Street, Suite 620
Austin, TX 78701

The complainant believes that the following persons and entities have violated the Act and regulations:

Jim Chapman for Congress, and its treasurer.

East Texas First, a political committee, and its treasurer.

The Democratic Congressional Campaign Committee, and its treasurer.

Background

East Texas First, a newly-formed committee, filed a statement of organization with the Federal Election Commission on May 28, 1985. It filed a termination report on March 26, 1986. This political committee existed for only 10 months and made expenditures in only one race, the 1985 special election to fill a vacancy in the First Congressional District of Texas. East Texas First raised and spent more than \$100,000 in this special election and never spent a penny in any other election or for any other purpose.

East Texas First has filed reports and otherwise represented to the Commission that its expenditures were all independent expenditures, made in opposition to the candidacy of

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Republican Edd Hargett in the special Congressional election held June 29 (initial election) and August 3 (runoff), 1985. In the runoff election, Democratic candidate Jim Chapman defeated Republican Edd Hargett by only 1,933 votes.

The founder and chairman of East Texas First, Thomas Gaubert, has boasted to reporters that his committee's spending made Jim Chapman a Congressman. (See Exhibit E.) Gaubert is an active Democratic fundraiser with close ties to the Democratic Congressional Campaign Committee, its then chairman, Tony Coelho, and then House Majority Leader (soon to be Speaker of the House) Jim Wright.

East Texas First was clearly supported in large part, if not entirely, by illegal campaign contributions. Three former savings and loan executives have been convicted and sentenced to prison for conspiring to cause substantial contributions of corporate funds to be made to East Texas First, in violation of 2 U.S.C. 441b and §114.2 of the Commission's regulations. (See Exhibit A.) All three are former executives of Commodore Savings Association of Dallas, whose executives contributed \$25,000 to East Texas First, a full one-fourth of the total amount East Texas First raised and spent in the First Congressional District special election.

Position of Complainant

East Texas First was created and operated as part of an intensive national Democratic Party effort to elect a Democrat in the 1985 Special Election in the First Congressional District of Texas. East Texas First was attempting to deceive the Commission and the public when it falsely stated in its organizational papers that it was not a single-election committee, which it clearly was.

East Texas First was designed and operated as a vehicle for enabling the Democratic Congressional Campaign Committee and the eventual Democratic nominee, Jim Chapman, to evade federal election laws and the regulations of the Commission, including contribution limits.

Far from the independent status East Texas First claimed in its representations to the Commission, East Texas First in fact operated virtually as an arm of the Chapman campaign, performing such mainstream campaign activities as telephoning pro-Chapman voters to remind them to go vote, busing in volunteer workers and buying them food, renting sound equipment and paying for mass mailings, radio commercials and newspaper advertisements.

1. East Texas First was clearly not an independent committee, as it falsely represented to the Federal Election Commission, but in fact operated as an arm of the Chapman campaign, coordinating its efforts through the Democratic Congressional Campaign Committee and Jim Wright and/or his staff.

Wall Street Journal reporter Brooks Jackson, in his book Honest Graft, disclosed that Thomas Gaubert (Chairman of East Texas First) admitted he discussed his committee's activities with members of the staff of the Democratic Congressional Campaign Committee, a clear violation of regulations governing independent committees. Jackson goes on to report that a member of the DCCC staff started to discuss East Texas First's activities at a DCCC staff meeting, but was warned not to talk about that by another staff member because such knowledge and contacts are clearly illegal. (See Exhibit E.)

This contact, knowledge and discussion is in direct violation of Federal Election Commission rules and destroys East Texas First's claims of independent status.

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In addition, testimony in the Dallas trial of three Commodore Savings executives indicates an aide to then-House Majority Leader Jim Wright, leader of the Democratic Party in Congress, had specifically solicited contributions for this supposedly independent PAC. John Harrell, the Commodore Chairman, testified he helped funnel \$25,000 to East Texas First because Jim Wright asked for it. (See Exhibit B.)

The links between East Texas First and the national Democratic Party are clear. The Chairman of East Texas First, Thomas Gaubert, was a former finance chairman for the Democratic Congressional Campaign Committee and a major fundraiser for Jim Wright. (See Exhibit H.)

Members of the news media were not deceived by the committee's declaration that it was independent. Media reports uniformly and consistently reported that East Texas First was organized and functioned for the purpose of electing Jim Chapman to Congress. (See Exhibits B, D, E, F, G and J.) Media reports were frequently cynical about the PAC's so-called "independent" status; The Washington Post raised questions about East Texas First's "independent" status (see Exhibit I) and Jackson, in Honest Graft, sarcastically noted "the supposedly independent operation meshed perfectly with Chapman's campaign and the efforts of Wright's organization." (See Exhibit E.)

2. East First was organized solely to elect a Democrat to Congress in the special election in the First Congressional District of Texas, yet it falsely represented its nature and purpose to the Federal Election Commission to deceive the Commission and the public.

East Texas First existed for only 10 months, from May 1985 until March 1986, raised and spent a total of more than \$100,000 in the special election and never spent a penny on any other campaign or election. Except for a token contribution from its founder received prior to its registration with the Commission, all of the committee's contributions were received on or after June 19, just 10 days before the initial election. Its first expenditures were made five days before the initial election, and were clearly designed to turn out the Democratic vote to ensure a runoff. It raised and spent more than \$100,000 during the 68 days between its organization and the August 3 runoff. After the election, it discovered it had \$793.08 of left-over money, which it promptly distributed to its founder, Thomas Gaubert, and disbanded. Yet East Texas First falsely represented to the Commission that it was a general purpose committee, designed to support multiple candidates to public office. The evidence is clear that from start to finish, East Texas First's only purpose was to elect a Democrat to Congress in this special election.

The committee stated that its expenditures were made for the purpose of defeating Edd Hargett in his congressional campaign. There is no evidence the committee or its contributors had any special ideological or other reason for opposing Mr. Hargett, other than that he was a Republican who stood in the way of electing a Democrat to Congress. In fact, John Harrell of Commodore testified he helped raised \$25,000 for the committee without knowing who the candidates involved were, only that the election was important to Democratic Majority Leader Jim Wright. (See Exhibit B.)

3. East Texas First was organized and operated to evade federal election laws. Court testimony has clearly demonstrated East Texas First was funded largely, if not entirely, by illegal corporate political contributions. The organizers of East Texas First concocted their scheme to enable the Chapman campaign to benefit from these funds without taking any responsibility for them. As part of this scheme, the committee misrepresented its purpose to the Commission and falsely claimed that its operations were independent.

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As previously discussed, the committee was neither a general purpose committee, designed to support multiple candidates to public office, nor an independent committee. Because its expenditures were not independent within the meaning of 11 C.F.R. 109.1(a) nor authorized in writing by Chapman pursuant to 11 C.F.R. 102.13, the committee was permitted to expend only \$1,000 per election on Chapman's behalf. 11 C.F.R. 109.1(c) and 110.1(b) (1). The committee exceeded this contribution limit by more than \$98,000.

The Commission's rules require that those who receive illegal campaign contributions must return them. The DCCC and the Chapman campaign, through a pattern of misrepresentation, confusion and deception, have attempted to avoid responsibility for the illegal activities of East Texas First.

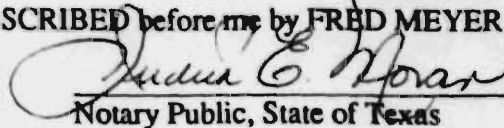
Evidence is clear that many, if not all, of the contributions to East Texas First were illegal corporate contributions funnelled through Texas Savings and Loans which are now defunct. United States taxpayers are now, in effect, picking up the tab for these illegal contributions through the plan to bail out the S&L industry.

Complainant believes the appropriate remedy is for the Commission to order the Chapman campaign and the Democratic Congressional Campaign Committee to return the illegal contributions to the FSLIC, and thus to the taxpayers who are footing the bill for these illegal contributions.

This complaint is based on the facts set forth in the Exhibits and reports filed with the Commission by East Texas First, and such factual statements are, to the best of the undersigned's knowledge, true and complete.


Fred Meyer, Chairman
Republican Party of Texas

SWORN TO AND SUBSCRIBED before me by FRED MEYER on the 11th day of
September, 1989.


Notary Public, State of Texas

Notary's name (printed):

JUDITH E. MORAN

Notary's commission expires:

9-21-92

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1ST STORY of Level 1 printed in FULL format.

Copyright (c) 1989 The Washington Post

July 14, 1989, Friday, Final Edition

SECTION: FIRST SECTION; PAGE A9

LENGTH: 328 words

HEADLINE: Former S&L Official Sentenced to 15 Years

BYLINE: Special to The Washington Post

BODY:

A former top official of a failed Texas savings and loan was sentenced Wednesday to 15 years in prison for conspiring to make \$ 135,000 in illegal corporate campaign contributions through employees who were reimbursed by phony travel expenses or raises.

In addition to the prison term, Robert H. Hopkins Jr. was sentenced to five years' probation and ordered to pay \$ 102,000 restitution to the Federal Savings and Loan Insurance Corp. (FSLIC), according to David Jarvis, the U.S. attorney in Dallas.

Hopkins's brother, E. Morten Hopkins, was sentenced yesterday to six months in prison, 4 1/2 years' probation and ordered to make \$ 102,000 restitution to the FSLIC. Robert Hopkins was chairman and Morten Hopkins vice chairman of Commodore Savings Association of Dallas, which was placed in federal receivership last year and was one of 15 thrifts sold in a federally assisted bailout.

The Hopkins brothers each were convicted in May of all 47 counts in the indictment. Their attorneys said they will appeal.

A third former Commodore official, John W. Harrell, was sentenced to six months in prison, 4 1/2 years' probation and ordered to repay the FSLIC \$ 4,000 for making a false entry in Commodore's books to conceal the contributions.

One of the political action committees that received illegal contributions, East Texas First Political Action Committee, was set up by a Democratic fund-raiser who had close ties to former House speaker Jim Wright (D-Tex.).

David Farmer, a former Commodore executive, testified in May that Harrell said Wright had promised to kill legislation opposed by the thrift industry in return for \$ 250,000 in contributions to another Texas congressman.

Harrell, however, testified that he never said Wright had guaranteed to kill legislation in exchange for the thrifts' contributions. Robert Hopkins also denied the existence of a deal but said an aide to Wright had specifically requested \$ 25,000 each from 10 Texas thrifts.

TYPE: NATIONAL NEWS

SUBJECT: COMPANY CHAIRMAN, PRESIDENT; BANKING INDUSTRY; FRAUD; TEXAS; PRISON SENTENCES

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(c) 1989 The Washington Post, July 14, 1989

ORGANIZATION: COMMODORE SAVINGS ASSOCIATION

NAME: ROBERT H. HOPKINS JR.; E. MORTEN HOPKINS; JOHN W. HARRELL

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A PAC of Lies: The Commodore Savings Case

By BYRON HAMM

On virtually any weekday in the public-documents room at the Federal Election Commission in Washington, a few curious souls can be found looking at the microfiche campaign-disclosure records of national candidates and political action committees. Amid the jumble of names, addresses and amounts, patterns emerge.

The curious observer finds that executives of some corporations act with surprising unanimity in their political donations, giving thousands to one candidate or PAC on a single day. Groups of otherwise contentious lawyers in the same company or law firm seem to be able to reach political consensus and raise large sums for one candidate. Entire wealthy families unite to bestow thousands of dollars on a single officeholder. These records may be evidence of Americans coming together in support of the democratic process. But a recent trial in Dallas suggests another possibility.

The case of Robert Hopkins, E. Morten Hopkins and John Harrell—all former executives of now-defunct Commodore Savings of Dallas—involved charges of conspiracy, fraud and misapplication in the administration of a company-affiliated political action committee.

Last week, Robert Hopkins was sentenced to 15 years. And E. Morten Hopkins and John Harrell each received six months in prison. Federal Judge Joseph Fish noted that there were no sentencing precedents for the crimes.

The defendants were not charged with stealing money. The government argued that they gave their employees raises and then diverted those salary increases to an unregistered, illegally formed PAC. Direct political donations by a corporation are illegal.

At the hearing in which Robert Hopkins received his sentence, Judge Fish said: "Surveys tell us Congress is not held in high esteem by Americans because of the low threshold of ethical conduct it has established for itself. Robert Hopkins's conduct does not meet even that threshold."

Robert Hopkins, who controlled the company and the PAC, conceded that the \$735,000 he spent through his illegal PAC in four years was worth a hundred times more in the favorable legislation he believed it generated for the savings and loan industry.

The political ideology of the recipients did not appear to be a consideration. Mr. Hopkins contributed to a Dallas mayoral campaign because "the city was doing low-cost housing and we had some opportunities there." He gave to a campaign supported by liberal Jim Wright, because Mr. Wright was in line to be the next speaker of the House. A few months later, conservative Jack Kemp was a beneficiary. "We felt we could have an input into Jack Kemp," Mr. Hopkins told the jury. "We felt obviously he would wind up in an influential place in the administration, and as it turned out he's secretary of HUD today, and I thought it was a very well-thought-out effort."

The donations to the Kemp campaign came during a period when Mr. Hopkins had abandoned even the artifice of a PAC. Using the diverted salary increases and other corporate funds, he established a "custodial account" that disbursed donations. The Kemp campaign and GOP Rep. Bill Lowery of California received a total of \$24,000 in 12 cashier's checks, all dated the same day, that appeared to be from the defendants, their sons and daughters. But testimony revealed that only Mr. Hopkins and his brother Morten gave their own money to the politicians. The remainder came from the "custodial account."

Other candidates, selected by Robert Hopkins, received money from the account, accompanied or followed by letters of identification from company employees. The letters were typed by Mr. Hopkins's secretary; the employees were asked to sign them. In this way, Mr. Hopkins could give candidates more than the \$2,000 that the law allows, while making sure his company made an impression with the politicians.

To some at Commodore, these procedures were no surprise. Executive Robbie Cook testified that in the 1970s when he was at now-defunct Mercantile National Bank of Dallas, "employees were handled the same way. . . . I received an increase in salary to cover the advance [to the political candidate]." (Mr. Cook later had a change of heart about that testimony, returning to the stand to say that Mercantile employees were urged to make contributions with the understanding that they would be considered for raises later.)

In Mr. Cook's case at Commodore, his political donations were reimbursed through fictitious expense claims. These camouflaged fund transfers were also a practice at another Dallas S&L, Vernon Savings, which was closed in 1987. Two former Vernon executives have admitted to funding political donations there through bogus expense claims, and a third is under indictment for the same practices.

Such activities are not isolated to savings and loans, however. In a case resolved at the Federal Election Commission last year, a dozen employees of Glendale, Calif.-based Bekins Co., including three attorneys, were found to have engaged in similar activity in donating to the John Glenn presidential campaign in 1984. According to the FEC general counsel's report, the fund-raising apparently began with a request by Irwin Jacobs, CEO of Minstar, Bekins's parent company, that Bekins's then-president ask his executives to contribute to Mr. Glenn's campaign. As the request got passed down the corporate ladder, donation became less of an option and more of a demand.

In the Commodore trial, defendant John Harrell, the S&L's chairman, mentioned that he helped funnel \$25,000 to a PAC supporting a Democratic congressional candidate in East Texas without even knowing who the candidate was. (The recipient of that money, Rep. Jim Chapman, is now under Republican criticism in the House for accepting S&L donations during his cam-

paign.) Mr. Harrell said the donation was made because Jim Wright asked for it. He also testified that although he spent 70% of his time over an 18-month period lobbying in Washington for savings and loan interests, he did not know corporate political donations were illegal.

The jury found Robert and E. Morten Hopkins guilty of all 47 counts with which they were charged. Mr. Harrell, who joined the S&L after the political activities were under way, was found guilty of two counts of making false accounting entries. But the extent of crimes like those at Commodore remains largely unknown. A bank fraud task force at work in the Southwest detected the PAC fraud there and at Vernon Savings while investigating other possible crimes. The Bekins activities came to light through a fraud and tax evasion investigation of one of the individuals involved. Upon learning those findings, Irwin Jacobs notified his attorneys to contact the Federal Election Commission about a possible violation.

There is no way a candidate could have looked at the donations and discerned that they were illegal. And beyond ascertaining what company the donors worked for, a wise candidate knows when to stop asking questions.

Mr. Harris is a reporter for WFAA-TV in Dallas.

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7/18/89

4TH STORY of Level 1 printed in FULL format.

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June 10, 1989, Saturday, NORTH SPORTS FINAL EDITION

SECTION: PERSPECTIVE; Pg. 9; ZONE: C

LENGTH: 884 words

HEADLINE: Once winners in Texas, now losers

BYLINE: By Richard Rothschild; Richard Rothschild, an assistant source editor with The Tribune's national/foreign news desk, worked for four years for the Houston Post

BODY:

As House elections go, this one wasn't very pretty. It was marked by huge infusions of outside money, injudicious campaign rhetoric and the unfettered use of political power for partisan advantage.

But in the summer of 1985 the special election in Texas' 1st Congressional District was a very big deal. This was the first House race following Ronald Reagan's smashing re-election victory in 1984, and Democrats were intent on limiting GOP control to the White House and (at that time) the Senate.

In light of recent resignations on Capitol Hill, this campaign deserves a final look; not so much for who won, but for who financed the winning side: Jim Wright and Tony Coelho.

The two men, both in the process of leaving the House, resorted to an assortment of fundraising techniques to ensure that this conservative district in the extreme northeast corner of Texas would stay in Democratic hands.

There was also Phil Gramm of Texas, a Democrat-turned-Republican who had just won election to the Senate with nearly 60 percent of the vote. Gramm sought to spearhead a drive that would convert conservative House districts represented by Democrats into GOP strongholds. And what better place to start than Texas' 1st Congressional District.

Between 1977 and 1985, this most western extension of the Deep South was represented by Sam Hall, a conservative Democrat who had won re-election in 1984 without opposition. But after Gramm helped arrange for Hall to be appointed a federal judge, he tabbed former Texas A&M quarterback Edd Hargett - who had never held public office but who had high-name recognition - to be the GOP nominee for the now-open congressional seat. Gramm viewed Hargett as a Southern version of then-Rep. Jack Kemp of New York.

Things looked good for Gramm and Hargett. GOP money and consultants were flowing into east Texas and local Democrats were divided.

But a few national Democrats had a score or two to settle with Gramm. They considered him an arrogant weasel, particularly for passing along sensitive House Democratic strategy information to the GOP when still a Democrat.

(c) 1989 Chicago Tribune, June 10, 1989

The Democratic Congressional Campaign Committee chairman was none other than Tony Coelho, a master at generating funds for political fights.

In 1981, when many Democrats were cringing in the shadows of the first Reagan landslide, Coelho brusquely told political action committees that had backed GOP challengers the year before: "The Democrats are in the majority, and you might want to think about what is in your best business interest. Democratic committee chairmen might not be happy to know you are trying to make them a ranking minority member."

Some called this political hardball. Others preferred the word extortion.

Along with Sen. Lloyd Bentsen of Texas, Coelho helped raise enough money to ensure that Hargett would not win 50 percent of the vote in the open primary, which would have given him Hall's seat automatically. Instead, Hargett had to face second-place finisher Jim Chapman, one of several Democrats in the race, in a runoff.

There also was campaign money heading toward Chapman from another source: the East Texas First Political Action Committee. One of its most interested observers was then-House Majority Leader Jim Wright.

Among Chapman's more generous supporters were eight Texas savings and loans. Over a two-year period they gave more than \$100,000 to the East Texas First PAC.

Last month, testimony in the campaign finance violations trial of one of those S&Ls suggested the donations were more than coincidence. A former executive with Commodore Savings Association testified that the bank officials decided to contribute to Chapman after hearing that Wright would be sympathetic to the plight of Texas S&Ls.

Wright would later oppose legislation that sought to increase deposit premiums for many Texas S&Ls and would have granted federal regulators expanded powers. He later supported a watered-down version of the bill.

Was there a quid pro quo? Did Wright send signals to the the Texas S&L people that putting Jim Chapman in Congress would keep the feds away? Knowing how Texas politics is often played and knowing, too, the enmity many Democrats felt for Gramm, it is possible. Jim Wright, just like Tony Coelho, was playing to win.

Eventually, Hargett's inexperience caught up with him. He stumbled badly when he said, "I don't know what trade policies have to do with east Texas" despite the recent closing of the Lone Star steel plant in Morris County.

Chapman, who was now receiving plenty of financial help, closed the gap. He won the special election by fewer than 2,000 votes, 51 to 49 percent.

Gramm, unable to round up a challenger against Chapman in 1986, retreated from his vision of becoming a congressional kingmaker. Wright became speaker of the House and Coelho majority whip - temporarily.

Wright and Coelho may be remembered more for their questionable financial decisions than their political acumen. But as the 1985 race in Texas proved,

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(c) 1989 Chicago Tribune, June 10, 1989

these boys were tough competitors. They weren't shy about resorting to offering favors or threatening to twist a few arms to get what they wanted on election day.

What they did wasn't very polished and it might not have always been legal. But it was effective.

Just ask Phil Gramm.

TERMS: TEXAS; CAMPAIGN; FINANCE; BANK; CONGRESS; OFFICIAL; ELECTION

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13TH STORY of Level 1 printed in FULL format.

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May 14, 1989, Sunday, CITY EDITION

SECTION: NEWS; Pg. 2; ZONE: C

LENGTH: 975 words

HEADLINE: Former exec tells of gift to group linked to Wright

BYLINE: By Gary Marx, Chicago Tribune

DATELINE: DALLAS

BODY:

A former savings and loan executive testified in federal court in Dallas Friday that he and other executives contributed a total of \$25,000 to a political action committee linked to House Speaker Jim Wright after the Texas Democrat said he understood the industry's problems and that it needed "to be treated fairly in Washington."

But the executive, Robert Hopkins, denied an assertion by an earlier witness that in 1985 Wright promised to block legislation harmful to the savings and loan industry in exchange for campaign contributions.

"Jim Wright was a fellow who would listen to you and respond to you, which was a difficult thing to achieve out of politicians," said Hopkins, who is one of three former Commodore Savings Association executives on trial in Dallas for what federal prosecutors say was a conspiracy by the savings and loan to evade election financing laws by channeling corporate contributions to political campaigns.

"We felt that anything we did to help what would become the next speaker of the House in Washington was important," Hopkins added, referring to contributions to the East Texas First Political Action Committee.

He said Commodore executives decided to contribute to the East Texas First PAC, which was run by a close associate of Wright, after hearing Wright speak sympathetically about the industry's problems at a 1985 meeting of about 100 Texas savings and loan executives.

At the time, the House Banking Committee was considering legislation that would have hurt many of the country's fastest-growing savings and loans, particularly in Texas.

The legislation would have increased their deposit insurance premium and would have given federal regulators new enforcement powers that would have allowed them to crack down on risky investments by savings and loans.

Hopkins said he left the meeting thinking "that here again was a good opportunity to get better involved in the political process and important things that were going to affect our industry."

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Hopkins, testifying in his own defense, appears to buttress Wright's claim that he never agreed to block legislation in exchange for political contributions from Commodore and other savings and loan executives.

But the testimony leaves open to question whether the contributions influenced Wright not to firmly support legislation in 1985 and 1986 that would hurt Commodore and many other financially strapped savings and loans. Wright eventually supported a savings and loan bill passed by the House in August, 1987, after it was made more acceptable to the Texas savings and loan industry.

The embattled Wright is defending himself against charges by the House ethics committee that he allegedly committed 69 violations of House rules.

And while the charges do not include accepting illegal contributions from savings and loan executives, the allegation of a political payoff raised in earlier testimony in Texas is one of several instances in which the speaker allegedly used his political position to improve his personal finances.

In testimony last week, another former Commodore executive, appearing for the prosecution, said he was told in 1985 that Wright, then the Democratic majority leader, agreed to block legislation that would hurt savings institutions in exchange for \$25,000 in contributions from each of 10 Texas savings firms.

The executive, David Farmer, said he was told of the deal by Commodore's then chief executive, John Harrell.

Harrell, who also is a defendant in the trial, has refused to comment about the allegation.

But two letters entered as evidence by the prosecution last week acknowledge a total of \$25,000 in contributions from several Commodore executives and their wives to the East Texas First PAC.

The letters, which were signed by Harrell, indicated that the arrangement was set up by Hopkins and Thomas Gaubert, head of the East Texas PAC and a major democratic fundraiser who helped Wright raise more than \$1 million in a 1987 fundraising dinner.

In testimony Friday, Hopkins said he set up Commodore's financial arrangement with the East Texas First PAC after hearing Gaubert and Wright speak to the Texas savings and loan officials.

After Wright and Gaubert left the meeting, Hopkins said, an unidentified person "made a plea for Jim Wright on the East Texas PAC."

At the meeting, Hopkins said several other savings and loan executives also talked about contributing \$25,000 per savings institution to the East Texas First PAC, but he said he did not know if the total contributions reached \$250,000.

Hopkins said he understood that Commodore's East Texas First PAC contributions were going to be spent "for someone else in East Texas that was important to Jim Wright's election to speaker of the house."

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(c) 1989 Chicago Tribune, May 14, 1989

Although Hopkins did not name the political race or the candidate, Federal Election Commission records show that East Texas First PAC helped to finance the campaign of Jim Chapman, a Texas Democrat who narrowly won a special congressional election on Aug. 3, 1985.

Hopkins, who will continue his testimony Monday, denied prosecutors' claims that he violated federal laws by trying to conceal his political contributions and those of other Commodore executives.

But in testimony last week, several former employees said that Commodore had taken money from their salaries and contributed the funds - under their own names - to the East Texas PAC and another political action committee.

The witnesses said the company reimbursed them through bogus travel expenses and salary increases, which prosecutors said allowed Commodore to illegally channel \$135,000 to candidates between 1982 and 1986.

Corporations are prohibited from contributing money to a candidate or to a political action committee.

The two-week-old trial is expected to end Thursday.

GRAPHIC: PHOTO: AP Laserphoto. House Speaker Jim Wright is fighting charges that he violated House ethics rules.

TERMS: CONGRESS; OFFICIAL; PROBE; ETHICS; COURT; BUSINESS; EXECUTIVE

even threatening to sue a House colleague who wouldn't pay. The financial troubles of the studio were becoming a serious preoccupation, but Franks and McAuliffe assured him that the losses could be more than offset by the better than expected flow of money from donors. Franks was projecting, among other things, that he'd take in at least \$1 million in soft money from several large labor unions, each pledged to give \$100,000. "I'm not worried as much," Coelho said.

On Wednesday evening Coelho stopped by yet another fund-raising event, a reception for Rep. Jim Chapman of Texas aboard the yacht *High Spirits*, docked on the Potomac near a row of waterfront restaurants. The 112-foot craft—a small ship, really—was built in the Roaring Twenties and reflected that reckless era's preoccupation with conspicuous display of wealth. A promenade encircled the main salon, which was furnished with plump sofas, oriental rugs, and potted palms. It was launched in 1928, barely a year before the stock-market crash that ushered in the Depression. Now the *High Spirits* was once again maintained in gleaming condition by a full-time crew. It was financed by Donald Dixon, a man with a taste for four-star restaurants and real-estate gambles.

Coelho himself made frequent use of the yacht to entertain donors and lobbyists. He didn't ask how the bills were being paid, an oversight he would later regret. Chapman was also getting free use of the yacht. The normal charter fee was \$2,000 per half-day, plus the cost of fuel and food, which came to \$1,234 for Chapman's reception. The entire cost was being absorbed, apparently illegally, by Dixon's federally insured savings and loan, Vernon Savings and Loan Association of Texas, to which the yacht skipper remitted the bills. Vernon was in the process of collapsing into insolvency; it would soon be taken over by federal regulators accusing Dixon of plundering and wasting its assets through high living and mismanagement and driving it \$350 million into the red. But as the liquor and money flowed at Wednesday night's dockside fund-raiser, Coelho

HONEST GRAFT
By Brooks Jackson

and Chapman were oblivious to their host's legal problems.

When Chapman was later criticized for his free use of the yacht, he insisted that he had never met Dixon or done any favors for him. But he didn't reimburse Vernon. Instead, he amended his campaign finance reports to reflect the reception as a \$234 personal contribution from a lobbyist for the Texas savings and loan industry, Durward Curlee, who lived aboard the *High Spirits* when in Washington. Chapman's staff claimed his use of the yacht was authorized under an election-law provision allowing volunteers to donate use of their personal residences.

Chapman, like McCloskey, owed a debt to Coelho. The Texan won it a year earlier in a special election that became a nationally watched showdown. GOP party strategists, hoping to demonstrate that conservative Southern Democrats were ready to defect in big numbers following Reagan's crushing defeat of the liberal Walter Mondale in 1984, tried to snatch a solidly Democratic district around Texarkana. Reagan made a federal judge of the Democratic incumbent, opening up the seat for a free-for-all election in 1985. The Republican candidate, Edd Hargett, spent \$1.2 million but lost narrowly to Chapman, who spent \$540,000. The defeat so demoralized Texas Republicans that now, only a year later, they were giving Chapman a free ride to re-election, having failed to field a candidate.

PACs were donating money to Chapman's campaign fund anyway, to help retire his debts from the special election and to get acquainted with a new House member who was likely to remain for many years. During 1986 Chapman reaped nearly \$19,000 from PACs and paid off \$130,000 in personal indebtedness, either money he had lent directly to his 1985 campaign or bank loans for which he had guaranteed repayment. Coelho considered giving \$1,000 too, but saved the money for campaigns that needed it.

Later on Wednesday Coelho dropped off \$1,000 for Rep. Dale Kildee of Michigan. Kildee raised about \$19,000 in PAC money at a Coelho-sponsored party at the Democratic Club,

including \$2,000 each from service pensioners' lobby.

At the same time, a couple attending a fund-raiser for E Normally they shy away from who was speaker of the Mar looking like a winner for a cratic district. His event got ing \$5,000 from the Teamst Auto Workers. Coelho dispen his Valley PAC.

For Cardin's event the Ar provided free use of their ba they opened routinely for legal for corporations to sub with company funds, but it counted as a gift. The trucke ble free for non-campaign ment parties for lawmaker events for credit unions and legislators. This exploited to use corporate facilities o one of the many loophole allow lobbyists to deploy d

On Thursday Coelho ga man Frank Annunzio at signed \$1,000 checks to be s running in upstate New and Rosemary Pooler, and running in Mississippi. Th the Valley Education Fun average; his one-man PAC in 1986.

Friday morning at eigh aboard a private plane at bacco company, bound for the plane for much less than using yet another loophole.

Later he attended speakers, and received a donation, and received a unsatisfied. "It didn't was my money, and rt said. Then he met

how the Democratic Gaubert said. "I just and I said, 'I'm ready.'" Gaubert began to asked for more. "Can e asked. So Gaubert e a member of the

months that followed, o the campaign com- in July, and wrote a d presidential candi- on regularly, attend- ers, and fund-raisers. "I started being able embers of Congress," Fernand St Germain, a. Eventually, Coelho n in the High Sierras, ed only an especially tting around a moun- the chairman of the

a second look at his whom Gaubert had h Coelho as match- d became one of the al backers. In 1985 aced with a political came to their side. Republicans talking The national GOP

staged a \$750,000 campaign called "Operation Open Door" to get 100,000 conservative Democrats to re-register as Republicans in Pennsylvania, North Carolina, Louisiana, and Florida. And in Texas, the GOP arranged for a raid on a congressional seat that Democrats had held for a century. GOP Sen. Phil Gramm, a former Democrat himself, persuaded Reagan to open the seat for a special election by appointing the incumbent, Democratic Rep. Sam Hall, to be a federal judge shortly after the 1984 election.

Gramm's candidate was Edd Hargett. He had never before run for public office, but he was still remembered fondly in Texas as the quarterback who led the Texas A&M football team to a Cotton Bowl victory in 1968. He played professional football in New Orleans and Houston for seven years after that. And he had plenty of money. Republican donors from all over Texas and around the country sent more than \$1 million to his campaign. If the GOP won the special election it would be concrete evidence that realignment was really happening, and political psychology would begin working in favor of Republicans. They would find good candidates easier to recruit for 1986 races. Business lobbyists and PAC managers would be less timid about giving money to defeat entrenched Democrats. Gramm brought in Lee Atwater, the GOP political consultant, to supervise the Hargett effort. "This is a long shot," he told Atwater, "but we've really got nothing to lose."

Coelho and Wright, however, had plenty to lose. A Democratic defeat would turn the momentum of the 1986 races against Coelho, damaging his campaign to become Whip. And a GOP victory in Wright's backyard would be especially difficult for him. "One of the issues in this race," said Lt. Gov. Bill Hobby a month before the election, "is whether Jim Wright of Fort Worth, Texas, will be the next Speaker of the House of Representatives." Coelho's campaign committee staff worked on little else for several months, and Wright became heavily involved in the race. Gaubert meanwhile set up a political action committee called East Texas First, headquartered in the Texarkana branch of a

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savings and loan association he owned. It was a curious sort of PAC, in that it supported only one candidate in one House race, then dissolved. Gaubert described himself as the PAC's "informal chairman." Later it would be reported that some of the money may have been given illegally. A *Wall Street Journal* story quoted a person familiar with the fundraising drive as saying that directors of the Sunbelt Savings Association were summoned to a special directors' meeting for which they received fees intended to subsidize \$1,000 contributions. Several donations from officials of that S&L showed up at Gaubert's PAC the same day.

No PAC could legally spend more than \$5,000 on the special election unless it did so entirely independently of any of the candidates or their agents. Gaubert's PAC was even more limited; because it supported only a single candidate the donation limit was \$1,000. Yet Gaubert's effort spent nearly a hundred times that much, meanwhile touching base with the staff of the DCCC, which was trying to direct overall strategy in the race. "I talked to the D-triple-C about ideas and so on and so forth," Gaubert recalled. Such contacts could be construed as destroying the independence of his PAC and making his spending illegal. The briefings Gaubert received may have been unauthorized. Once, at a senior staff meeting, when an aide began reciting what Gaubert was doing, Martin Franks cut him off and forbade further discussion. As he recalled it later, Franks said, "Goddamnit, we can't talk about this. We cannot be colluding with them in any way, shape or form."

In all, Gaubert's PAC spent \$99,121 in support of Jim Chapman, a Democratic state senator who faced Hargett in the election held August 3, 1985. The money went for mailings to old people, attacking Hargett as a Republican pension-cutter. It also paid for a get-out-the-vote drive on election day, designed to move Chapman supporters to the polls. Gaubert claimed his spending made Chapman a congressman. "I think in the long run he would say that we made the difference," Gaubert said. Chapman won by only 1,933 votes out of 103,407 cast. He was actually trailing 44 to 43 percent

in a poll taken barely a week before election day. Republicans said later they were swamped by an influx of election-day organizers. Gaubert's PAC paid thousands of dollars for telephone callers who contacted voters on election eve. The PAC chartered a bus to bring in workers from Wright's district on election day and kept them fed with doughnuts and fried chicken. The supposedly independent operation meshed perfectly with Chapman's campaign and the efforts of Wright's organization.

The Democratic victory was a sweet one for Coelho. "Texas, What Realignment?" read the headline in *Newsweek*. Talk of a Republican revolution was put to bed once again, this time with no small thanks to Gaubert.

Gaubert became a fixture at the DCCC. He would invite staff members to visit him on what he called "my boat," the *High Spirits*. Gaubert stayed aboard when in Washington, giving cruises and dockside parties for Coelho's staff and political donors, for alumni of Coelho's mule-pack trips, and for Coelho himself. He said later that his guests included some of the Democratic party's most glamorous celebrities, including Edward Kennedy and John Glenn. There were some less celebrated figures too, including Fernand St Germain of Rhode Island. Gaubert said he found St Germain aloof at first, but "not such a bad guy once you get a couple of drinks in him." He invited St Germain to Texas and paid his expenses for the trip.

Gaubert was wrangling with federal investigators who saw him, not as an "entrepreneur," but as a crook. Both the Federal Home Loan Bank Board and a federal grand jury were investigating a Gaubert real-estate deal involving a shaky savings and loan association that later became insolvent. Gaubert walked away from the deal with several million dollars in profits on forty-four acres of land in Dallas he had bought for \$1.1 million. But the deal left Capitol S&L of Mount Pleasant, Iowa, stuck with \$8 million in loans to a friend of Gaubert, a Dallas developer who ceased making payments.

The Capitol deal was later detailed in an extraordinary

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January 13, 1989, Friday, Final Edition

SECTION: FINANCIAL; PAGE F1

LENGTH: 683 words

HEADLINE: Three Former Officials Of Texas S&L Indicted;
Illegal Campaign Contributions Allegedly Made

BYLINE: Ruth Marcus, Washington Post Staff Writer

BODY:

Three former executives of a failed Texas savings and loan were indicted yesterday on charges that they conspired to make \$ 135,000 in illegal corporate campaign contributions by orchestrating donations from employees who were then reimbursed through pay raises or phony travel expenses.

The 47-count indictment, returned by a federal grand jury in Dallas, alleged that the former executives of Commodore Savings Association conspired from 1982 through 1986 to funnel the illegal corporate contributions to two political action committees (PACs).

Commodore was placed in federal receivership last month and was among 15 thrifts sold to an Arizona investor in one of the largest federally assisted bailouts in the troubled S&L industry.

The indictment is one of a number growing out of efforts by a special bank fraud task force within the Justice Department looking into the S&L industry. Because S&L executives have been particularly active in political circles, their ties to legislators and regulators -- including their political contributions -- have become a focus of the federal investigation.

In the Commodore case, one of the PACs that allegedly received illegal contributions, East Texas First Political Action Committee, was set up by Thomas M. Gaubert, a onetime S&L owner and active Democratic fundraiser with close ties to House Speaker Jim Wright (D-Tex.). Last year, Gaubert was acquitted of federal bank fraud charges.

Gaubert set up the East Texas PAC to back Rep. Jim Chapman (D-Tex.), who was running in a hotly contested 1985 special election for a Texas House seat. The PAC raised and spent \$ 100,920 in three months to support Chapman, gathering numerous contributions from executives of thrifts that soon became financially troubled, according to FEC records.

Records of contributions in excess of \$ 1,000 show \$ 15,000 in contributions from Commodore employees and another \$ 10,000 from contributors who appear to be related to the employees. The indictment alleged that John W. Harrell, a former Commodore executive, sent \$ 15,000 to the PAC in June 1985 and another \$ 10,000 the next month.

In addition to Harrell, the indictment names Commodore's former chairman, Robert H. Hopkins Jr., and Hopkin's brother, E. Morten Hopkins.

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It alleges that the men conspired to defraud the federal government by asking "selected employees" of the savings and loan and predecessor thrifts also under their control to serve as "conduits" for contributions to a political action committee set up by the National Mortgage Corp. of America (NMCA), of which Robert Hopkins was a principal shareholder and chairman and his brother served as president. NMCA later became Commodore Financial.

As detailed in the indictment, the employees -- on the understanding that Robert Hopkins "had authorized full reimbursement ... for their contributions" -- would sign authorization forms requesting that specified amounts be deducted from their paychecks. The employees, who received pay increases to offset the contribution or were reimbursed for travel expenses they did not incur, would then, at the direction of Hopkins or others, sign documents requesting that contributions be given to specific candidates, the indictment alleges.

Sometimes, the indictment said, those documents would be signed after a particular donation, purportedly on their behalf, had already been made.

According to FEC records, among those receiving money from the PAC, known as the National Political Action Committee, were Texas Attorney General Jim Mattox, who received \$ 12,370 in 1982, and Rep. Charles Stenholm (D-Tex.), who received \$ 5,000 in 1983. NPAC operated from 1980 to 1984.

Lawyers for the Hopkins brothers did not return telephone calls. Harrell's lawyer, William Hill, called the charges "a very minor and insignificant thing in light of some of the other problems that have been going on here with some of the other savings and loans. There's not any evidence that indicates these gentlemen did anything wrong."

Washington Post Staff Researcher Michelle Hall contributed to this story.

TYPE: NATIONAL NEWS

SUBJECT: CAMPAIGN CONTRIBUTIONS AND FUNDS; ELECTION LAWS; BANKING INDUSTRY; INDICTMENTS

ORGANIZATION: COMMODORE SAVINGS ASSOCIATION; EAST TEXAS FIRST POLITICAL ACTION COMMITTEE

NAME: JOHN W. HARRELL; E. MORTEN HOPKINS; ROBERT H. HOPKINS JR.

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April 21, 1989

SECTION: Vol. 41; No. 7; Pg. 35

LENGTH: 1668 words

HEADLINE: Quis custodiet; Investigation of House Speaker Jim Wright

BYLINE: Kirkwood, R. Cort; Jeffrey, Terence P.

BODY:

Free plane rides, luxury yachts, and cold hard cash: all the perks a congressman's come to expect But they're investigating Jim Wright anyway-for the peccadillos that cost thousands, not the 'poor judgment' that cost billions.

NO ONE REALLY KNOWS how much the thrift-industry bailout is going to cost the taxpayers, and the House ethics committee isn't going to help us find out. Although Speaker Jim Wright is largely responsible for the extent of the current crisis, his key role in precipitating the crisis is not even on the ethics committee's agenda. But while the committee concentrates on the Speaker's bookpublishing deal, it is worth taking a look at his part in the S&L debacle.

The latest in a long string of embarrassing revelations came from L. William Seidman, director of the Federal Deposit Insurance Corporation (FDIC), who recently told a group of journalists that Edwin Gray, former head of the Federal Home Loan Bank Board (FHLBB), told him at the time that he "felt threatened" by Wright. Gray (Seidman told the reporters) "would come and weep on my shoulder about what he was being asked to do" on behalf of Texas thrifts, which, according to this account, "went far beyond the normal representation" by a member of Congress. Wright's phone calls to Gray are well documented, and it is known that Fernand St Germain, an ally of Wright's, canceled testimony by other regulators in 1985 that would have made public both the extent of the crisis and its roots in gross mismanagement; circumstantial evidence suggests that St Germain did so at Wright's request. They also held up recapitalization of the Federal Savings and Loan Insurance Corporation (FSLIC) for nearly two years, leaving the regulators helpless to intervene while the S&L managers ran up billions in new debt. It took the House 18 months to partially grant the Reagan Administration's request to give the FHLBB the money that it needed to begin to cope with the crisis. And while the House fiddled, the minimum cost of a bailout rose from about \$ 12 billion in July 1985 to at least \$ 160 billion today.

Wright's loyalty to his friends in the Texas S&L industry was so steadfast that he even cold-bloodedly indulged in homophobia, a mortal sin in the liberal-Democratic lexicon. Paul Rodriguez of the Washington Times reported last month that Wright threatened several times in 1986 and 1987 to reveal the homosexuality of an FHLBB examiner unless board chairman Ed Gray fired the man and agreed to listen personally to the special pleading of Wright cronies.

Why would Wright engage in such distasteful activities? The reasons include the use of a luxury boat, free airplane rides, and cold hard cash.

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THE CASH CAME from Thomas Gaubert, the bearded, cigar-chomping head of the deeply insolvent Independent American Savings and Loan, who also served as "finance co-chairman" of the Democratic Congressional Campaign Committee (DCCC) in the mid Eighties. Federal Election Commission records show that between 1983 and 1986, Tom Gaubert, his brother Jack, their wives, Barbara and Carolyn, and their children, Tom Jr., Michael, Paige, and Randy, dished out \$ 147,000 to Democratic candidates for federal office. Key recipients included Senate Finance Committee Chairman Lloyd Bentsen, Housing Banking Committee Chairman St Germain, DCCC Chairman Tony Coelho, and of course Jim Wright, who was Majority Leader at the time. Tom, Jack, Tom Jr., and Michael told the FEC that their employer was Independent American, while Barbara and Carolyn said they were housewives, and Paige and Randy listed themselves as students. Back in November 1985, the 19-year-old Michael did so well as an employee at Independent American that he was able to generously hand over \$ 7,000 to "The Jim Wright Appreciation Fund" in connection with "Jim Wright's Good Ole Cowtown Jamboree." Now a student at SMU, Michael has refused to comment on his astounding success in the thrift industry.

Gaubert also set up East Texas First PAC to help finance the special election of Representative Jim Chapman in August 1985—the PAC donated \$ 100,920 to Chapman's campaign. This January, three Texas thrift executives were indicted for conspiracy: they were accused of funneling bank funds to PACs such as East Texas First by coordinating employee donations and reimbursing them with pay raises and phony travel expenses. Meanwhile, Chapman, normally a conservative Democrat, has been known to switch his vote at Wright's request—most publicly in support of Wright's 1987 tax-increase bill. (Wright's enforcer, John Mack, virtually dragged Chapman back to the floor to change his vote. See NR, Jan. 22, 1988.)

Another Texas thrift operator whom Wright tried to protect from Gray's troops was Don Dixon, head of Vernon Savings & Loan. Dixon's corporate plane was always at the disposal of Wright and other lawmakers; Wright's deputy chief of staff, Phil Duncan, told the Washington Times in 1987 that the Speaker never knew whose plane he was on, or who was paying for his ride—but, strangely, Wright always knew where to find the plane and where it was going. Dixon also docked his thrift's multimillion-dollar yacht, High Spirits, where it would do the most good: on the Potomac a few blocks from Capitol Hill, where Democratic fundraisers used it gratis. In June 1987, after American Banker reported Dixon's largesse, the DCCC retroactively paid for the yacht charters and plane trips by sending \$ 48,150 to FSLIC, which had finally put Dixon's thrift into receivership, confiscating its "assets", including a loan portfolio with a 96 per cent default line.

TO THE ethics committee, however, Wright's S&L antics probably won't seem like anything more than good old-fashioned constituent service slightly skewed by a bout of "poor judgment." If Wright goes down, it won't be for manipulating federal banking policy in exchange for support of the Democratic Party, but for violating a few specific House rules, including:

•Dodging outside-income restrictions: Wright sold most of the twenty thousand copies of Reflections of a Public Man in bulk quantities, to lobbyists, labor unions, corporations, and "personal friends." Executives of the New England Life Insurance Company have admitted they spent \$ 2,000 on copies because the Speaker's office told them to buy the book instead of paying an honorarium. Wright pocketed \$ 55,000 in royalties in 1985 and in 1986 while closely

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approaching the honorarium ceiling both years.

*Filing incomplete financial disclosures: In 1979, Wright and his wife formed a partnership (Mallightco) with Texas developer George Mallick and his wife. Until last March, Wright refused to list the underlying assets of the partnership as required by the 1978 Ethics in Government Act. When he finally amended his statements, they revealed that one of the partnership's principal activities was buying and selling rough gemstones

*the value of which is intrinsically uncertain until they are cut. The possibility that he sold gemstones under arrangements similar to his book sales is still under investigation.

*Accepting illegal gratuities: Congressmen are not allowed to accept gifts totaling more than \$ 100 in a calendar year "directly or indirectly, from any person with a direct interest in legislation before Congress." While the favors Wright received from S&L managers apparently don't come under this rubric, the Mallick partnership may. Mallick was also a partner in a Fort Worth development project to which Wright tried to steer nearly \$ 30 million in federal grants (from a fund targeted to benefit the poor). And Mallick gave Wright the use of a Fort Worth apartment from 1979 to 1985; after the arrangement was uncovered, Wright moved to a luxury condo owned by the Mallicks, paying \$ 21 a night when he and his wife stayed there.

*His relationship to William Carlos Moore. Moore has done far more than just print and "market" Reflections. In a carefully prepared public response to the ethics charges last June, Wright mentions payments-which he is not required to disclose under pre-1975 ethics laws-to Moore for "extensive" services performed during his 1974 campaign. Mark Johnson, a spokesman for the Speaker, now contradicts that public statement by claiming that these payments were reimbursements for expenses incurred doing volunteer work. In any case, during that 1974 campaign, Moore was a full-time federal staffer on the National Water Quality Commission. Moore resigned from that job on March 26, 1975, the day he was sentenced to six months for tax evasion-time he might not have had to serve if he had been willing to tell federal investigators the names of the recipients of money from a political slush fund he operated on behalf of Teamster boss Jimmy Hoffa. In September 1976, after leaving jail, Moore incorporated his Fort Worth publishing company. Since then, Wright has paid him almost \$ 700,000 in campaign funds.

It's strange that these relatively minor infractions, which probably have only cost the taxpayer a million here or there, constitute matter for investigation by the ethics committee, whereas the S&L mess will not but that's the way Capitol Hill works today. The Wall Street Journal's Brooks Jackson calls it Honest Graft in his new book on the subject. In February, Jackson revealed that 163 thrift-industry PACs sent nearly \$ 4.5 million to congressmen on the banking committees in the last three elections. The men who accepted the money, Democrat and Republican alike, write the rules by which the thrift industry operates.

Al Capone was finally brought to book, not for murder or racketeering, but on the relatively minor charge of tax evasion. If Jim Wright falls from his high office-second in line to succeed the President-it will be for infractions of House ethics rules, rather than for playing the Hill game and costing the taxpayers billions.

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National Review (c) 1989 IAC

GRAPHIC: Cartoon

SUBJECT: Legislators, investigations; Misconduct in office, investigations;
United States. Congress. House, Speaker

NAME: Wright, Jim, investigations

LOAD-DATE-MDC: June 12, 1989

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19TH STORY of Level 1 printed in FULL format.

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May 8, 1989, Monday, NORTH SPORTS FINAL EDITION

SECTION: NEWS; Pg. 1; ZONE: C

LENGTH: 1079 words

HEADLINE: Wright facing new problems
Records link gifts, action on S&L bill

BYLINE: By Gary Marx and James O'Shea, Chicago Tribune

DATELINE: DALLAS

BODY:

A major Democratic fundraiser with close ties to House Speaker Jim Wright collected large campaign contributions from Texas savings and loan executives, including one who said he was told that Wright would reciprocate by blocking legislation that the executives opposed, according to information revealed in a court case here.

Records filed in connection with a U.S. Justice Department criminal case against three officers of Commodore Savings Association in Dallas say that Commodore officials sent \$25,000 in campaign contributions to Thomas M. Gaubert, lawyers involved in the case confirmed.

Gaubert, a former finance chairman for the Democratic Congressional Campaign Committee and major fundraiser for Wright, collected the contributions on behalf of the East Texas First Political Action Committee, which he had organized. The committee used the contributions to support Wright's fellow Democrats.

The emergence of Gaubert as a key figure in the fundraising efforts involving the Commodore officials could pose major problems for Wright in the Texas Democrat's efforts to counter a sweeping House ethics committee investigation into his finances and retain his post as speaker.

Just weeks ago, the ethics panel rejected a recommendation by its special counsel, Chicago attorney Richard Phelan, to bring charges against Wright because of his intervention with federal regulators on behalf of several Texas savings and loan executives, including Gaubert.

At the time, the committee accepted Wright's argument that he was merely reacting to constituents' complaints about mistreatment by Federal Home Loan Bank Board officials.

But it is unclear if the committee members, who considered the charges in closed hearings, knew of Gaubert's involvement in the fundraising effort at Commodore, or if the lawmakers knew about allegations that contributions to the East Texas First Political Action Committee were linked to any political deal involving the speaker and savings and loan legislation.

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The committee did charge Wright with 69 violations of House rules, including allegations that Wright evaded limits on outside income by disguising speaking fees as book royalties. Many of the allegations involve charges that Wright mixed business and politics, using his clout on Capitol Hill to benefit friends who had an interest in legislation.

Wright has denied any wrongdoing and is scheduled to present his defense against the charges later this month.

The fresh allegations that Wright was involved in the political contributions from savings and loan officials first surfaced Friday at the trial of the Commodore officials, who face federal charges that they conspired to conceal illegal corporate campaign contributions to various individuals seeking federal, state and local offices.

On Friday, David R. Farmer, a former senior vice president and chief financial officer at Commodore, testified he was told in 1985 that Wright had agreed to block legislation that would allow federal regulators to crack down on many Texas savings and loans in return for campaign contributions.

Farmer, who didn't specify what legislation was allegedly involved, said that 10 savings and loans agreed to contribute \$25,000 each to the East Texas First Political Action Committee as part of the deal.

Farmer said he was told about the deal by John W. Harrell, a former chief executive officer at Commodore and one of the three Commodore executives on trial in federal court in Dallas, according to reports from the trial. Harrell and his attorney declined to discuss Farmer's testimony.

But they confirmed that the government had introduced into evidence two letters from Harrell informing Gaubert that Commodore officials had contributed \$25,000 "as per" an agreement with Robert Hopkins, another former Commodore executive on trial.

Neither Hopkins nor his attorney could be reached for comment. The third defendant in the case is Morten Hopkins, a one-time vice chairman of Commodore's board. He, too, was unavailable for comment. Gaubert, who is not a defendant in the Commodore case, also could not be reached.

In testimony earlier last week, several former Commodore officials said that Commodore Savings had deducted money from their paychecks that was then donated under their names to the East Texas First Political Action Committee and the National Political Action Committee, which was affiliated with Commodore.

The officials said they were later reimbursed for the contributions through salary increases or false travel payments.

The government has alleged that the savings and loan funneled \$135,000 to candidates between 1982 and 1986. The alleged contributions would be illegal under federal law, which prohibits corporations from giving money directly to a candidate or a political action committee.

The two letters between Harrell and Gaubert were dated June and July, 1985, a time when Rep. Jim Chapman (D., Tex.) was involved in a hotly contested special election in which Wright became involved. Chapman, whose campaign

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was heavily supported by the East Texas First Political Action Committee, won a narrow victory in August, 1985.

About one year later, Wright held up legislation that was opposed by the Texas savings and loan industry. The legislation would have given the Federal Home Loan Bank Board enough money and power to close down several financially troubled savings and loans in Texas.

Some of the savings and loans involved played a major role in the crisis that sparked a proposal for a multibillion-dollar taxpayer bailout of the savings and loan industry's deposit insurance fund. That legislation is pending in Congress.

At the time, Wright also was extensively involved in fielding complaints from Texas savings and loan executives about the bank board's enforcement efforts. Wright said he was attempting to ensure that the regulators were not indiscriminately closing financial institutions in Texas.

At one point, he called Federal Home Loan Bank Board Chairman Edwin Gray and requested an unprecedented review of the board's treatment of Gaubert, who had been driven from the business by bank board enforcement officials.

The legislation that Wright held up eventually was passed by Congress in 1987, but only after it had been watered down.

In past interviews, Gaubert has said that he didn't request Wright to act on his behalf. He said that Wright acted on his own.

TERMS: PROBE; CONGRESS; OFFICIAL; FINANCE; ETHICS; BANK

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May 8, 1988, Sunday, Final Edition

SECTION: OUTLOOK; PAGE B1

LENGTH: 2594 words

HEADLINE: Banking On Politics: A Texas Tale;
How S&Ls with Troubles Made Friends in High Places

BYLINE: Charles R. Babcock

BODY:

DURING THE high-flying days when he was owner of a Texas savings and loan and an active Democratic fundraiser, Thomas M. Gaubert liked to shock his business associates by describing in stark terms the importance of raising campaign funds for politicians.

"I don't know why you're not involved in their [politicians'] business; they're involved in our [expletive] business every day," he recalled saying. The donations give you access, he said. "They give you a chance to have a forum when you have a problem."

Gaubert raised hundreds of thousands of dollars for Democratic causes over the past few years, especially for causes close to the heart of Reps. Jim Wright of Texas, now speaker of the House, and Tony Coelho of California, the majority whip and former head of the House Democrats' fundraising committee.

The congressmen later helped Gaubert and another Texas thrift owner get special hearings with federal regulators, interfering with normal enforcement proceedings. And they helped write special "forebearance" rules for troubled savings and loans into last year's legislation to recapitalize the fund that insures thrift deposits.

Now, as the government and the thrift industry contemplate the growing possibility that taxpayers will have to put up billions of dollars to repair the damage, a review of the relationship between the Texas high flyers and the two congressmen may be in order.

It is a story of access, of what happens at the intersection of politics and money in the Nation's Capital. It is a tale of politicians who asked few questions about the motives of fundraisers who had a problem, and of hardball politics, where the stakes were personal fortunes and careers and in no small part the financial health of the Southwest.

Wright's role in the Texas S&L crisis became an issue a year ago, soon after he became speaker of the House, after it was leaked to the press that he had intervened with Edwin Gray, head of the Federal Home Loan Bank Board, in behalf of Gaubert, Donald R. Dixon, another Texas thrift operator in trouble, and a third investor.

Gaubert was a long-time friend of a top Wright aide and had known Wright himself for years. In fact, Wright interceded with regulators on Gaubert's behalf without Gaubert's asking. Wright's intervention for Dixon whom, Wright says,

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he didn't know -- was prompted, at least in part, by a request from Coelho.

Wright and Coelho said in interviews that they feel they have been unfairly criticized for their actions, that they were motivated by concern for the entire thrift industry, not just for a few supporters. A review of the controversy uncovered no evidence that Wright or Coelho received any personal financial gain from the relationship. But Democratic Party causes did benefit from the Texans' favors -- more than \$ 100,000 in donations to a special House election in 1985 and nearly \$ 50,000 in free use of planes and a yacht.

Gaubert, who was indicted last month for allegedly defrauding an Iowa thrift in 1983, insists that his problems with regulators didn't trigger his increased political activity over the past few years. He claimed in interviews that the Reagan administration targeted Texas for special civil enforcement action to divert attention from similar problems at California thrifts. He further believes a special Justice Department task force in Dallas is out to get Wright and targeted him, Gaubert, for criminal indictment because he is an active Democratic fundraiser and a friend of the speaker.

Dixon, who didn't respond to a request for an interview, has been charged in civil suits with defrauding Vernon Savings and Loan of Dallas of millions of dollars he allegedly spent on personal pleasures ranging from a California beach house to art and antique cars to a tour of the great restaurants of Europe. He has denied engaging in any fraudulent conduct. Last fall, the federal government spent \$ 1.3 billion to close Vernon down. Dixon has filed for personal bankruptcy. More recently, two of Dixon's subordinates have pled guilty to federal bank-fraud charges and are cooperating with the Justice task force. Though the subject of the controversy is Texas, this is also a Washington story.

The early 1980s were heady days for businessmen in Texas with the fortitude for risk-taking. The Reagan administration's deregulation philosophy had helped pass a landmark banking bill in 1982. Congress gave savings and loans new powers to make loans beyond their original mandate to fund homeowners but didn't beef up supervisory budgets. With Texas land and development projects considered by many to be "can't lose" investments, many small S&Ls with aggressive leaderships grew astronomically, with little oversight from federal examiners.

Gaubert, a Dallas homebuilder who says that his interest in politics dates from his Minnesota boyhood as a backdoor neighbor of Hubert Humphrey, bought a thrift of his own in 1982. He renamed it Independent American. Dixon, another local homebuilder, bought controlling interest in Vernon the same year.

Gaubert said he got active in national Democratic politics in early 1983, giving a \$ 5,000 donation to Coelho for the Democratic Congressional Campaign Committee in March and another donation for \$ 7,500 in July. A year later, he was an active Democratic fundraiser; Dixon at the time was a donor to the Republican National Committee.

Gaubert found out in September 1984 that federal bank examiners were asking the Justice Department to investigate questions about millions of dollars in loans from the Iowa thrift he was later accused of defrauding. At that time, he said, he told Wright and Coelho about the inquiry.

By the spring of 1985, Gray's office was moving to tighten regulations on state-chartered thrifts and Gaubert was being grilled by regulators about his

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Iowa transactions. He was also increasing his political activity, not, he said, because he was trying to curry favor in Washington but because the bank board had run him out of his S&L. Gaubert's interest focused on Jim Chapman, a Democrat running in a special election in east Texas. The race attracted national attention because it was the first after Ronald Reagan's landslide re-election. The Republican Party was pouring big money into the contest, hoping it would symbolize a shift away from the historical Democratic majority in the House. The Democratic Congressional Campaign Committee, which Coelho headed, was limited to giving \$ 50,000.

So Gaubert said, "I decided to make a difference. I formed the PAC, I raised the money. I raised every dime that went into the PAC. I called everybody I knew."

He said he cited his own problems with Gray and the bank board in asking his thrift colleagues for donations. "I'd say 'Look what the SOB is doing to me and you're going to be next. If we don't get the Nazi [expletive] bastards out of here they're going to destroy the whole industry.'"

The sales pitch had impressive results. The "independent expenditures" committee he set up in May, called East Texas First, raised and spent \$ 100,920 in the next three months before the voting. Many on the list of donors were executives of what soon became troubled Texas thrifts. For instance, Dixon, his wife, and other Vernon officials donated \$ 11,000. Ed McBirney, a Gaubert friend and head of Sunbelt Savings, and his subordinates gave another \$ 22,000.

Independent expenditure committees are supposed to be totally separate from a campaign, and Coelho said in an interview that he was careful to stay away from East Texas First. Some Democratic strategists were concerned that Gaubert's effort might have been coordinated with Wright's office, through Phil Duncan. Duncan, a top Wright aide, is such a good friend of Gaubert's that the financier sometimes stays at his home and borrows his car when visiting Washington. Said one Democratic aide, "The last thing we wanted was someone charging the effort wasn't independent."

East Texas First records show Gaubert paid most of the \$ 100,000 he raised to two former Wright aides -- a woman in public relations and a man who published a book of Wright's speeches. They spent it on printing, mailing and media buys. One page of the East Texas First reports at the Federal Election Commission is mistakenly labeled "Wright Appreciation Fund." Gaubert and Wright aides explain that Duncan may have sent his friend sample FEC forms that contained the Wright committee heading. They insist the East Texas effort was independent.

That same summer, Texas thrift officials gave at least \$ 40,000 to the DCCC. Dixon chipped in \$ 5,000, as did Durward Curlee, a Texas lobbyist who had been hired by Dixon and some other high-flyers a year before to fight reregulation efforts in Washington. In the fall of 1985 Dixon's High Spirits arrived on the Potomac.

The High Spirits is the sister ship to the presidential yacht, the Sequoia. "It was like something out of F. Scott Fitzgerald," Gaubert recalled. He said Dixon was selling partnership shares in the boat, and he was interested. So he started living on the boat when he visited Washington and using it to entertain Coelho and other friends.

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Martin Franks, who was executive director of the DCCC at the time, recalls that Coelho told him "Gaubert was bringing a boat up here and it would be available to us for fundraisers. We were constantly looking for locations to give our friends an opportunity to be generous. So here came this boat, a truly lovely and marvelous way to entertain, and we made use of it."

That November, Wright held a joint fundraiser in his home town of Fort Worth that raised \$1 million for his campaign and political action committees. Among the donors were Gaubert's sons, who gave a total of \$15,000, and Curlee, who contributed \$7,000.

By the spring of 1986, when Texas was being rocked by a freefall of oil prices, the High Spirits was back on the Washington waterfront. Gaubert was no longer the man to see about reserving it for DCCC functions -- Curlee was, according to Franks.

The boat was used to entertain Republicans as well as Democrats. Logs filed in Dixon's personal bankruptcy proceedings in Dallas show Coelho was a frequent guest. He used the boat twice in May, twice in June, once in July, three times in August and once in September. Coelho also used Dixon's planes for trips to and from the West Coast in August and September.

This was the background, when in September of 1986, Wright made his first call to Federal bank board chief Gray -- a former public-relations man for a San Diego thrift. Wright said he was concerned about overzealous regulators harassing Texas thrifts. He referred specifically to Craig Hall, a Dallas real estate syndicator who was being stymied in an effort to renegotiate \$2 billion worth of loans by the conservator of a troubled California S&L.

When Gray balked, Wright pulled an old-fashioned political power play. He announced he was pulling the bill to recapitalize the Federal Savings and Loan Insurance Corp. (FSLIC) off the House calendar. Aides to Wright said flatly that the bank board's intransigence about Hall was part of the reason.

Gray quickly capitulated. Wright, who had known Gaubert for years and was aware of his battles with regulators, recalled that he then asked Gray to look into the Gaubert case as well. Gray agreed to appoint a special counsel to look into Gaubert's complaints.

Gaubert says: "There's no way you can get around the fact that people who come forward with money have access. I mean that's the real world. But I'll tell you, I don't have any more access to Jim Wright than the precinct chairman that supported him since 1954."

Wright agrees that friends have access. "You're more likely, because we are not immune from human nature, we are more likely to pick up the phone and answer a call from somebody whose name we recognize, someone we've met, someone who conjures up in our mind a pleasant thought."

That fall Wright also started getting other calls for help. "I began to hear lurid tales of caprice and arbitrary abuse of power by regulators" He asked a longtime business partner from Fort Worth to look into the Texas thrift situation.

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Around Thanksgiving, Wright got a request from Coelho to talk to Dixon, another Texas thrift owner with a problem. Coelho said he doesn't call federal authorities on behalf of donors. "I was very careful not to get involved in their particular problems," he said. "No agency logged me with a letter or call." He said he probably called Wright and said, "Here's someone [Dixon] who has a problem and you have to make a decision." Wright said he took the call because he was told it was urgent.

In early 1987, the new speaker backed only a \$ 5-billion FSLIC bailout bill. He changed his mind, he said, when Treasury Secretary James Baker appealed to him to support a \$ 15-billion bill. Congress finally settled on a \$ 10.8-billion bill, a figure critics say is woefully inadequate to handle the continuing problem.

In March, Vernon was closed by the federal bank board. A month later, FSLIC filed a civil racketeering suit against Dixon, charging him with fraud for taking millions in bonuses. The suit charged Dixon "enjoyed extravagant perquisites," including a \$ 2-million California beach house, \$ 900,000 in art works, and a \$ 68,000 vacation in Europe -- all paid for by Vernon. It also noted that of \$ 5 million in operating costs for its fleet of jets over three years, Vernon collected only \$ 82,000 in charter fees. With hindsight, Wright said, he feels he might have been taken advantage of. "Sure, he [Dixon] obviously or apparently has been an egregious example of a high roller who milked his depositors and used it on high living with planes and things like that." Commenting on Wright's remark, R. Stan Mortenson, who represents Dixon in the civil suit, said that if someone believed everything alleged in the suit "you can draw lots of 'apparent' conclusions. But all that remains to be proven."

After the publicity last summer about the DCCC use of the Dixon boat and plane, the committee paid back \$ 23,282 and Coelho's personal campaign committee reimbursed the thrift's conservator another \$ 25,168. Coelho said he had thought the boat could be used like someone's house, "a floating home used for parties." He said he was frustrated by the bad publicity in having to pay back nearly \$ 50,000. "He [Dixon] wasn't a major player" in committee fundraising, he said. "He was treated like anyone else and now I'm paying for it We knew we could be criticized for raising money. So we were extremely careful. Obviously, someone was taking advantage of us."

His DCCC aide Franks said he takes much of the blame for the controversy over the use of Dixon's yacht and plane because the committee didn't have a system for repaying vendors who never sent a bill. "In six years we had \$ 30 million go in and out of that committee," Franks said. "You don't have the luxury of doing a Dun and Bradstreet on the people who come to help you."

Looking back on the controversy, Wright defends his actions: "Hardly ever do you say, 'Is it likely this person is a crook?'" he said. "That doesn't hardly enter into the equation. It might prospectively with savings and loan things and people I don't know. But at the time I had no reason to believe these people were crooks or highbinders or trying to defraud anyone. They just got in trouble and called me."

Charles Babcock is a Washington Post staff writer.

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GRAPHIC: ILLUSTRATION

TYPE: ANALYSIS, NATIONAL NEWS

SUBJECT: TEXAS; BANKING INDUSTRY; BANKING REGULATION

NAME: THOMAS M. GAUBERT; JIM WRIGHT; EDWIN GRAY; DONALD R. DIXON

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June 12, 1989

SECTION: U.S. NEWS; Vol. 106, No. 23; Pg. 21

LENGTH: 1587 words

HEADLINE: Wright, Coelho and the S&L fiasco

BYLINE: By Michael Barone

HIGHLIGHT:

They left amid charges they misused small sums. But the real problem is the thrift industry mess they left behind

BODY:

As the spotlights on Capitol Hill were on departing House Speaker Jim Wright and Democratic Whip Tony Coelho, less attention was being paid as both houses were moving quietly toward passage of the \$ 50 billion savings and loan bailout bill. Yet there is a connection between the two ousted leaders, whose transgressions involved relatively small sums of money, and the S&L bailout, which could end up costing taxpayers more than \$ 100 billion.

It would not be fair to put full blame for the S&L mess on Wright or Coelho because others, including Republicans, were involved and there is no evidence that any politician behaved criminally. But the departing Democratic leaders played key roles in influencing decisions that have had clearly disastrous consequences, and they did it based in some measure on their political connections to questionable S&L owners. For taxpayers, that is the lasting and most important endowment left by Wright's and Coelho's bad judgment.

The chain of events linking them to the savings and loan crisis began four years ago in a special election in rural East Texas and illustrates vividly the sometimes attenuated connection between campaign contributions and legislation. This special election was no local contest: Leading strategists of both national parties believed that control of the House might hinge on the result.

The Texas connection. The tale began when Senator Phil Gramm, fresh from cosponsoring the Reagan spending cuts in the House as a Democrat in 1981 and then getting elected as the Republican senator from Texas in 1984, created a vacancy in the rural and small-town district by securing a federal judgeship for conservative Democratic Representative Sam Hall. Gramm's candidate to fill Hall's place was former Texas A&M and New Orleans Saints quarterback Edd Hargett, who returned to be an engineer in Linden, a small town in humid, vegetation-choked East Texas after his football career and switched parties to run. Gramm figured that a Hargett victory in the Texas first district could stimulate Republicans in 45 similar districts throughout the South or could persuade conservative Democratic incumbents to switch parties, as Gramm had. Enough Republican victories and party switches could put Republicans in position to win a majority in the House, which at the time was the last redoubt of Democratic power because Republicans controlled the White House and Senate.

Both parties sent in their superstars to run the races. For the Republicans, it was Lee Atwater, fresh from the No. 2 spot on the 1984 Reagan campaign,

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famous later as George Bush's 1988 campaign manager and now Republican national chairman. For the Democrats, it was Coelho, who was running hard for majority whip. His mission was to raise money fast.

Most of Coelho's money, some \$ 569,000, was raised by Senator Lloyd Bentsen, the Tory Democrat who sensed that his political base in rural Texas was threatened. The Democrats also got help from Thomas Gaubert. He was owner of Independent American Savings Association of Irving, Tex., and had been busy raising money for Coelho, defending himself against charges of swindling an Iowa S&L in a land deal (he was later acquitted in a criminal trial) and trying to overturn a Federal Home Loan Bank Board decision barring him from managing his S&L. Gaubert set up an independent committee to help the Democratic nominee, Jim Chapman, and raised \$ 100,000. Almost all of it came from Texas S&L executives, and much of it from S&L officers who were reimbursed by their corporations -- contributions that courts in cases this year have ruled were illegal.

The election turned out to be excruciatingly close. Democrat Chapman stressed Social Security and, at the recommendation of Coelho and of Bentsen, the trade issue. Chapman's calls for an aggressive trade policy provoked Hargett to say in exasperation, "I don't know what trade policies have to do with bringing jobs to East Texas," even though the Lone Star Steel mill in the district had recently closed. At the time, this gaffe was taken as making the difference in Chapman's 1,924-vote victory. But Gaubert's committee also was vital, because its expenditures focused on bringing Democrats to the polls.

It was not long before there were tangible ways for leading Democrats to show appreciation. Texas real-estate prices plummeted in 1986, and it became apparent that the high-flying Texas S&L industry was in terrible trouble. Among those in the most dire condition were Gaubert and his friend Donald Dixon, whose Vernon Savings & Loan, based in a dusty town 160 miles west of Fort Worth, was \$ 350 million in the red and had 96 percent of its loans in default despite Dixon's lavish lifestyle.

Even though Gaubert was barred in January, 1986, from running any federally insured S&L because of the charges against him, he stayed close to key House Democrats. He held the title of finance chairman of Coelho's campaign committee. Gaubert was also popular for hosting fund-raising parties for Coelho on Dixon's yacht, High Spirits. Democrats later paid \$ 48,000 in fines for not having reimbursed Dixon for use of the yacht.

Helping hands. In return for their assistance to the Democrats, the Texas S&L owners clearly wanted relief from federal regulators. Coelho was careful never to intercede with the regulators on their behalf. Wright was bolder and did take up the thrifts' cause. For instance, in September, 1986, Wright met with Craig Hall, a Dallas real-estate millionaire threatened with bankruptcy because a federally appointed S&L conservator would not approve his debt-restructuring plan. Wright then asked Home Loan Bank head Edwin Gray whether he could not make the conservator more flexible. Perhaps to add pressure on Gray, Wright yanked from the House calendar a previously uncontroversial bill to give the Bank Board an additional \$ 15 billion in capital so it could close down insolvent S&L's and pay off depositors. When Gray discovered that, he replaced the balky conservator with someone more accommodating to Hall. The bill did pass the House in October, but too late to be reconciled with the more pro-S&L version passed by the Republican Senate, so it did not become law that year. Many S&L operators were

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delighted at the impasse, because they did not want their businesses shut down and thought that with time they could find a way out of their troubles.

Meanwhile, Gaubert's troubles worsened, and he turned to Wright for help. In November, 1986, Wright insisted that Gray meet with Gaubert, and Wright persuaded Gray to take the highly unusual step of appointing an outside counsel to evaluate the board's case against Gaubert. The counsel eventually ruled against Gaubert, as the agency had, but the move gave Gaubert some breathing room.

Dixon's problems were worsening, too. In December, Coelho called Wright's top aide, John Mack, and asked him to help Dixon avoid being closed by the Bank Board. Wright again contacted Gray, but the board eventually issued an order installing new executives and reducing the worth of Dixon's stock to zero.

All the while, a new version of the Bank Board's \$ 15 billion recapitalization bill was being challenged by Wright, and S&L's were incurring huge losses. In February, 1987, Wright, now Speaker, lobbied the House Banking Committee heavily for a \$ 5 billion recapitalization bill that was favored by S&L lobbyists who wanted less regulatory intervention. It passed 25-24. Wright later switched back to \$ 15 billion, but his support was only perfunctory and the House approved the \$ 5 billion version. In the short run, politicians could argue that they were saving the taxpayers \$ 10 billion. In the long run, savings and loan experts now agree, it contributed importantly to the exploding current cost of the bailout. S&L's in Texas and elsewhere continued to make imprudent and sometimes crooked loans, confident that the Bank Board did not have enough money to shut them down. And when deposits began to flow out of S&L's as the crisis grew worse, many more became insolvent as they jacked up interest rates to attract new depositors, raising the eventual bailout costs astronomically.

Ample Republican help. Had they known the eventual cost of their actions, Wright and Coelho probably would have avoided them. And they had ample Republican help. Senator Jake Garn (R-Utah) and Representative Fernand St Germain (D-R.I.) cosponsored the 1982 S&L-deregulation bill that launched the profligate lending binge by S&L's. House Banking Committee member Steve Bartlett, a Dallas Republican, also sponsored a key amendment to the recapitalization bill in 1987 requiring regulators to show forbearance to S&L's, a move that precluded a crackdown that might have staunched the fiscal hemorrhage. Republican regulators have also been accused of shirking their oversight responsibilities.

Yet in the end, that special election in an obscure corner of Texas did a lot to change the face of American politics and finance. From their victory, the national Democrats discovered the trade issue, which many of them are still pressing. From his defeat, Senator Gramm turned to a new initiative to change American government and the following week introduced the measure that became the Gramm-Rudman-Hollings budget-cutting law. And the relationships that were cemented between some thrift owners and some powerful Democrats ended up contributing mightily to a problem that may cost taxpayers more than \$ 1,000 each.

GRAPHIC: Picture, Thrifty friends. Coelho and Wright needed bankers' funds for a crucial campaign, CHICK HARRITY -- USN&WR; Picture, Winner. The money helped Chapman, WIN McNAMEE -- SIPA FOR USN&WR; Picture, S&L highflier. Gaubert got Democrats' help after fund raising, CHARLES THATCHER; Picture, S&L yachtman.

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Dixon's boat was a hit, DALLAS TIMES HERALD

ENHANCEMENT: Scandals, US; Savings & Loans

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 18, 1989

Fred Meyer, State Chairman
Republican Party of Texas
211 E. 7th Street, Suite 620
Austin, Texas 78701

RE: MUR 2982

Dear Mr. Meyer:

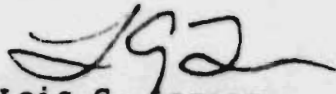
This letter acknowledges receipt on September 14, 1989, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by the Jim Chapman for Congress and its treasurer, East Texas First PAC and its treasurer, and the Democratic Congressional Campaign Committee and Richard M. Bates, as treasurer. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 2982. Please refer to this number in all future correspondence. For your information, we have attached a brief description of the Commission's procedures for handling complaints. If you have any questions, please contact Retha Dixon, Docket Chief, at (202) 376-3110.

Sincerely,

Lawrence M. Noble
General Counsel

BY:


Lois G. Lerner
Associate General Counsel

Enclosure
Procedures

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 18, 1989

East Texas First PAC and
its Treasurer
c/o Thomas Gaubert, Chairman
4211 Shore Crest Drive
Dallas, Texas 75209

RE: MUR 2982

Dear Mr. Gaubert:

The Federal Election Commission received a complaint which alleges that the East Texas First PAC and its treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2982. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(A)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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If you have any questions, please contact Phillip Wise, the attorney assigned to this matter, at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY:


Lois G. Lerner
Associate General Counsel

Enclosures

1. Complaint
2. Procedures
3. Designation of Counsel Statement

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 18, 1989

Democratic Congressional Campaign Committee
and Richard M. Bates, as Treasurer
430 South Capitol Street
Washington, D.C. 20003

RE: MUR 2982

Dear Mr. Bates:

The Federal Election Commission received a complaint which alleges that the Democratic Congressional Campaign Committee and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2982. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(A)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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If you have any questions, please contact Phillip Wise, the attorney assigned to this matter, at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel



BY: Lois G. Lerner
Associate General Counsel

Enclosures

1. Complaint
2. Procedures
3. Designation of Counsel Statement

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 18, 1989

Jim Chapman for Congress and
Nancy J. Rooks, as Treasurer
P.O. Box 388
Sulphur Springs, Texas 75482

RE: MUR 2982

Dear Ms. Rooks:

The Federal Election Commission received a complaint which alleges that Jim Chapman for Congress and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2982. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(A)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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If you have any questions, please contact Phillip Wise, the attorney assigned to this matter, at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel



BY: Lois G. Lerner
Associate General Counsel

Enclosures

1. Complaint
2. Procedures
3. Designation of Counsel Statement

cc: Honorable Jim Chapman
P.O. Box 538
Sulphur Springs, Texas 75482

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PERKINS COIE

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATION
1110 VERMONT AVENUE, N.W. • WASHINGTON, D.C. 20005 • (202) 887-9030
SEP 22 PM 4:20

September 22, 1989

Philip Wise
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2982 - Democratic Congressional Campaign
Committee and Richard Bates, as Treasurer

Dear Mr. Wise:

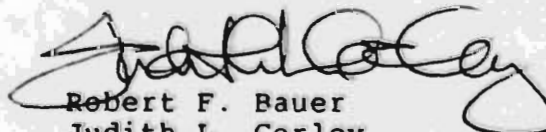
This is in response to the Federal Election Commission's letter of September 18, 1989, notifying the above Respondents that a complaint has been filed against them.

Perkins Coie has been retained by Respondents to represent them in this matter. Enclosed with this letter is the Designation of Counsel.

Because we have received only today the materials related to this complaint, this letter requests an extension of time of two weeks to prepare a response. The additional time is necessary in order to familiarize ourselves with the materials and to obtain the necessary information to respond. A response would be filed on October 23.

If you have any questions or need additional information, please let me know.

Very truly yours,



Robert F. Bauer
Judith L. Corley
Counsel for Respondents

1262E

93040925199

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2982

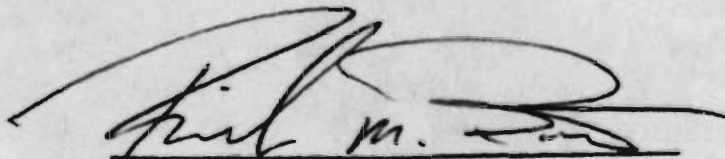
NAME OF COUNSEL: Robert F. Bauer
Judith L. Corley

ADDRESS: 1110 Vermont Ave., N.W.,
Suite 1200
Washington, D.C. 20005

TELEPHONE: (202) 887-9030

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.

9/22/89
Date


Signature

RESPONDENT'S NAME: Democratic Congressional
Campaign Committee

ADDRESS: 430 S. Capitol Street, S.E.
2nd Floor
Washington, D.C. 20003

HOME PHONE: _____

BUSINESS PHONE: (202) 863-1500

93040925200

OGC 4089

PERKINS COIE

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
1110 VERMONT AVENUE, N.W. • WASHINGTON, D.C. 20005 • (202) 887-9030

89 SEP 22 PM 4:20

September 22, 1989

Philip Wise
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2982 - Jim Chapman for Congress and Nancy J.
Rooks, as Treasurer

Dear Mr. Wise:

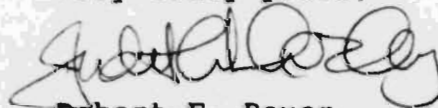
This is in response to the Federal Election Commission's letter of September 18, 1989, notifying the above Respondents that a complaint has been filed against them.

Perkins Coie has been retained by Respondents to represent them in this matter. I understand that the Designation of Counsel has been sent by the Respondents directly to your office.

Because we have received only today the materials related to this complaint, this letter requests an extension of time of two weeks to prepare a response. The additional time is necessary in order to familiarize ourselves with the materials and to obtain the necessary information to respond. A response would be filed on October 23.

If you have any questions or need additional information, please let me know.

Very truly yours,



Robert F. Bauer
Judith L. Corley
Counsel for Respondents

1262E

93040925201

OGC 4092

STATEMENT OF DESIGNATION OF COUNSEL

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

09 SEP 25 AM 10:39

MUR 2982

NAME OF COUNSEL: Robert Bauer

ADDRESS: Perkins Coie

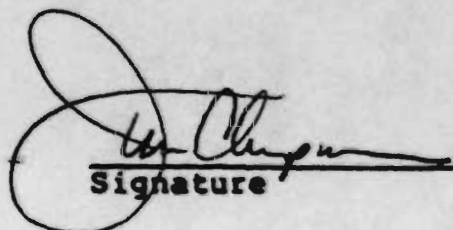
1110 Vermont Avenue, N.W.

Washington, D. C. 20005

TELEPHONE: (202) 887-9030

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.

September 21, 1989
Date


Signature

RESPONDENT'S NAME: Jim Chapman for Congress

ADDRESS: Post Office Box 388

Sulpher Springs, Texas 75482

HOME PHONE: _____

BUSINESS PHONE: (214) 885-3199

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
09 SEP 25 PM 12:45

93040925202



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 27, 1989

Judith L. Corley, Esq.
Perkins Coie
1110 Vermont Avenue, N.W.
Washington, D.C. 20005

RE: MUR 2982
Democratic Congressional
Campaign Committee and
Richard Bates, as treasurer

Dear Ms. Corley:

This is in response to your letter dated September 22, 1989, which we received on September 22, 1989, requesting an extension until October 23, 1989 to respond to the complaint filed in this matter. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on October 22, 1989.

If you have any questions, please contact Phillip L. Wise, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

A handwritten signature in dark ink, appearing to read "LGL", is written over the typed name of Lois G. Lerner.

BY: Lois G. Lerner
Associate General Counsel

93040925203

600# 4278

BRAND & LOWELL

A PROFESSIONAL CORPORATION

923 FIFTEENTH STREET, N.W.

WASHINGTON, D.C. 20005

TELEPHONE: (202) 682-9700

TELECOPIER: (202) 737-7565

October 16, 1989

BY RAPIFAX

Phillip Wise, Esquire
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Re: M.U.R. 2982

Dear Mr. Wise:

Pursuant to our telephone conversation today, I would like to inform you that Stanley Brand and I will be handling M.U.R. 2982 on behalf of Mr. Thomas Gaubert, for whom this Firm is handling related matters. We are in the process of returning to Mr. Gaubert by Federal Express the "Statement of Designation of Counsel" Form, so that he can execute it and return it to you. In the meantime, as we discussed, I am transmitting this letter to you.

Mr. Thomas Gaubert hereby respectfully requests an extension of time to file a response to the Complaint in M.U.R. 2982, received by Mr. Gaubert on September 29, 1989, until November 6, 1989. Mr. Gaubert would petition for an extension of twenty days, or whatever period the Commission, in its discretion, deems appropriate.

As an initial matter, Mr. Gaubert would emphasize that he wishes to be of assistance to the Commission, and believes that he can provide to the Commission information that will shed light on the allegations in the Complaint that should serve to allay any concerns the Commission may have in this regard. Before responding, however, Mr. Gaubert wishes to investigate these allegations fully, so that his responses thereto can be both responsive and substantive. Thus, Mr. Gaubert seeks the Commission's indulgence in order that he can more fully investigate this matter before responding formally.

Additionally, Mr. Gaubert directs the Commission's attention to the fact that, although the Complaint was dated September 18, 1989, he did not receive it until September 29, 1989. The

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
89 OCT 17 AM 10:36

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BRAND & LOWELL

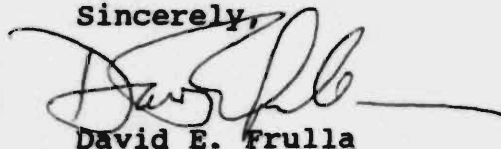
Phillip Wise, Esquire
October 16, 1989
Page Two

Complaint was addressed to Mr. Gaubert's son's address, 4211 Shore Crest Drive, Dallas, Texas. It thus had to be re-transmitted to Mr. Gaubert. After receiving the package containing the Complaint on September 29, 1989, Mr. Gaubert transmitted it to Stanley Brand. Apparently due to delay in the mails, this package was not received in Washington until October 6, 1989.

As of this date, it has not been possible to review and investigate the Complaint and background information in a manner sufficient to prepare a response that Mr. Gaubert hopes will put to rest any concerns the Commission may have. Consequently, Mr. Gaubert respectfully requests the Commission extend the period for him to respond to the Complaint to November 6, 1989, or to whatever date the Commission deems appropriate.

Please do not hesitate to telephone Stanley Brand or me at 202/662-9700 if you have any questions in this regard. As stated above, we will have Mr. Gaubert transmit to you his designation of counsel form as soon as possible. A confirmation copy of this letter will be hand-delivered to you tomorrow. Thank you very much for your attention to this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "David E. Frulla", with a horizontal line extending to the right.

David E. Frulla

93040925205



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 18, 1989

David E. Frulla, Esquire
Brand & Lowell
923 Fifteenth Street, N.W.
Washington, D.C. 20005

RE: MUR 2982
East Texas First PAC and its
treasurer
(Thomas Gaubert, Chairman)

Dear Mr. Frulla:

This is in response to your letter dated October 16, 1989, which we received on October 17, 1989, requesting an extension until November 6, 1989, to respond to the complaint filed in this matter with the Commission. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on November 6, 1989.

If you have any questions, please contact Phillip L. Wise, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

A handwritten signature in dark ink, appearing to read "Lois G. Lerner", is written over the typed name of the Associate General Counsel.

BY: Lois G. Lerner
Associate General Counsel

93040925206

GGC 4304
RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
89 OCT 18 AM 11:05

Thomas M. Gaubert

1545 W. Mockingbird Lane, Suite 7000
Dallas, Texas 75235
(214) 638-0638
FAX (214) 638-7043

October 17, 1989

VIA FEDERAL EXPRESS

Mr. Phillip Wise
Esquire
Office of General Counsel
Federal Elections Commission
999 E Street, N.W.
Washington, D.C. 20463

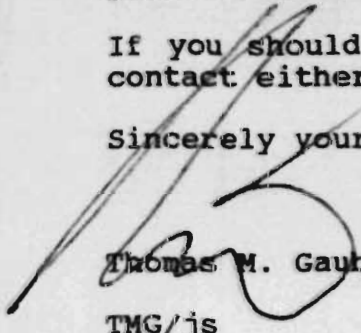
RE: FEC Matter Under Review 2982

Dear Mr. Wise:

Enclosed please find an executed and dated copy of my Statement of Designation of Counsel relating to the above mentioned matter. I am forwarding this document to you for your information and file.

If you should have any questions, please do not hesitate to contact either Stan Brand or David Frulla at 202-662-9700.

Sincerely yours,


Thomas M. Gaubert

TMG/js

cc: Stan Brand
David Frulla

Enclosure

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
89 OCT 19 PM 1:10

93040925207

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2982

NAME OF COUNSEL: STANLEY M. BRAND

ADDRESS: BRAND & LOWELL
923 FIFTEENTH ST., N.W.
WASHINGTON, D.C. 20005

TELEPHONE: 202-662-9700

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.

10-18-84
Date

[Signature]
Signature

RESPONDENT'S NAME: THOMAS M. GAUBERT

ADDRESS: 1545 W. MOCKINGBIRD, #7000
DALLAS, TEXAS 75235

HOME PHONE: 214-739-5885

BUSINESS PHONE: 214-638-0638

93040925208

D6C 4346

PERKINS COIE

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
1110 VERMONT AVENUE, N.W. • WASHINGTON, D.C. 20005 • (202) 887-9030

October 23, 1989

VIA HAND DELIVERY - CONFIDENTIAL

Philip Wise, Esquire
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
OCT 23 PM 4:29

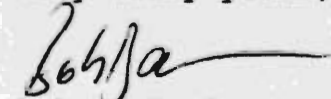
Dear Mr. Wise:

I called you on Friday and then this morning to seek additional time for the response to the notification of the Complaint in now designated Matter Under Review 2982. I am seeking this additional extension to Friday, October 27 on behalf of the Jim Chapman for Congress Committee, the Democratic Congressional Campaign Committee, and their treasurers.

We are seeking to develop a full factual response to the allegations appearing in the complaint and this includes the preparation of affidavits from previously interviewed witnesses in both Washington and Texas. This effort has consumed more time than anticipated. The extension sought, however, is only for an additional five days.

Every effort has been made to accomplish within the timeframe originally requested, all of the tasks necessary for the preparation of our response. As matters stand, we have fallen short only a handful of days and we respectfully request that these be granted to us to enable the completion of a full factual and legal response to the Commission's notification.

Very truly yours,


Robert F. Bauer
Counsel to Jim Chapman for
Congress Committee

RFB:smb

1324E

93040925209



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 25, 1989

Robert F. Bauer, Esq.
Perkins Coie
1110 Vermont Avenue, N.W.
Washington, D.C. 20005

RE: MUR 2982
Jim Chapman for Congress and
Nancy J. Rooks, as treasurer


Dear Mr. Bauer:

This is in response to your letter dated October 23, 1989, which we received on October 23, 1989, requesting an additional five days extension until October 27, 1989 to respond to the complaint filed in this matter. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on October 27, 1989.

If you have any questions, please contact Phillip L. Wise, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

BY: 
Lois G. Lerner
Associate General Counsel

93040925210

066 4406

PERKINS COIE

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
1110 VERMONT AVENUE, N.W. • WASHINGTON, D.C. 20005 • (202) 887-9030

October 27, 1989

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
89 OCT 27 PM 5:18

Lawrence M. Noble, Esq.
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Attention: Phillip Wise

Re: MUR 2982 - Jim Chapman for Congress Committee
and Nancy Rooks, as Treasurer

Dear Mr. Noble:

93040925211

The Jim Chapman for Congress Committee ("Chapman Committee") and Nancy Rooks, as Treasurer (hereinafter referred to as "Respondents"), hereby reply through counsel to the Commission's notification that a complaint had been filed against them by Fred Meyer, Chairman of the Republican Party of Texas. Respondents are also submitting affidavits from four individuals with direct knowledge of the issues involved in this Complaint: George Shipley, political consultant to the Chapman Committee; William Brannon, campaign manager of the Chapman Committee; Peck Young, political consultant for the Chapman Committee; and David Butts, field organizer for the Chapman Committee.

The Complaint

The Complaint alleges that East Texas First, a federally registered political committee making independent expenditures, coordinated its activities with the Chapman Committee in the 1985 Special Election in Texas' First Congressional District. The Complaint alleges that the East Texas First committee's expenditures did not, therefore, satisfy the requisite standard of independence under the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. §§ 431 et. seq. ("FECA"), and must be treated as in-kind contributions. Mr. Meyer requests that the Federal Election Commission ("FEC" or the "Commission")

require the Respondents to pay to FSLIC the allegedly illegal contributions raised by East Texas First.^{1/}

These assertions are groundless. The Complaint concludes that East Texas First coordinated its activities with the Chapman Committee, yet it fails to produce any evidence to support this claim. This is not surprising; no such evidence exists, because the coordination alleged by Complainant did not occur.

The Commission should dismiss this complaint without taking further action.

The Law

Independent expenditures may not be made in cooperation, consultation or concert with, or at the request or suggestion of, any candidate or his authorized committee or agent. 2 U.S.C. § 431(17). FEC regulations provide in more specific terms that certain situations trigger "presumptions" that coordination exists. Under those regulations, an expenditure is not independent if: (1) it is made "based on information" about a campaign's needs specifically provided by the candidate or his agent "with a view toward having the expenditure made," 11 C.F.R. § 109.1(a)(4)(i)(A); or (2) if it is made "by or through" a person who at any time was authorized to raise or spend funds, an officer of the authorized committee, or in receipt of any compensation or reimbursement for activities in support of the candidate or the campaign. 11 C.F.R. § 109.1(a)(4)(i)(B).

^{1/} The Complaint makes other allegations regarding East Texas First committee's organization and fundraising activities. Even if East Texas First incorrectly registered as a multi-candidate political committee when it intended to participate in only one election, this has absolutely no bearing on the independence of its expenditures, nor does it have any relationship to the claim Mr. Meyer attempts to make regarding cooperation with the Chapman Committee or the Democratic Congressional Campaign Committee ("DCCC"). We do not

FEC Advisory Opinions also suggest additional factual circumstances that defeat independence. Thus, independence is barred when goods or services are purchased by a committee and, even without prior consultation, provided to the candidate. Advisory Opinion 1979-80, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5469 (March 12, 1980). Similarly, if contributors send checks to an independent committee in response to a fundraising solicitation, and the committee forwards them to the candidate, the solicitation is not independent regardless of whether it is conducted without the consent or knowledge of the candidate. Advisory Opinion 1980-46, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5508 (June 25, 1980).

In some cases, the linkage is more direct, but the prohibition is the same. "Independence" cannot be claimed by a committee which, organized in a general election to make independent expenditures, is founded by an individual who worked directly for the same candidate in the primary election. FEC Informational Letter (O/R 777), Dec. 7, 1976. Another direct connection, operating to defeat independence, occurs where the independent committee and the candidate's campaign committee shared office space and secretarial service, exchanged mailing lists, and the candidate on whose behalf the committee was making independent expenditures signed the committee's fundraising solicitation. Matter Under Review 1484 (June 6, 1985).

In all these cases, there was evidence of connection, more direct in some than in others, but clearly present in all. To sustain a challenge to independence, there must be a concrete factual showing of "actual agreement" or "express intent or

(Footnote continued)

1/ address these issues, because the Chapman Committee had absolutely no involvement with East Texas First committee's fundraising or other activities. A Chicago Tribune article, Exhibit D of the Complaint, states that Federal Election Commission records show that "East Texas First helped to finance the campaign of Jim Chapman." In fact, the Chapman Committee's FEC reports provide definitive proof that the Chapman Committee did not accept any illegal corporate contributions, or any funds whatsoever from or raised by East Texas First.

communication" or some linkage in accord with the opinions cited. Mere conjecture is not enough: It is "very difficult to sustain a finding of cooperation and coordination based on press releases." Common Cause v. Federal Election Commission, 655 F. Supp. 619, 624 (D.D.C. 1986), rev'd on other grounds, 842 F.2d 436 (D.C. Cir. 1988).

Discussion

Lack of Factual Support for Complaint

Mr. Meyer provides no evidence to support an allegation of cooperation or consultation between East Texas First and the Chapman Committee. Nor has the Complaint identified any factual circumstances which could possibly trigger a presumption of coordination. In fact, certain facts confirm an entirely contrary conclusion.

1. No "Cooperation or Consultation." As the sworn Affidavits accompanying this response demonstrate, the principal staff of the Chapman Committee did not have any direct or indirect contact with East Texas First during the campaign. There was no cooperation or consultation on strategy or activities with East Texas First. None of the Chapman Committee staff requested or suggested directly or indirectly that East Texas First make an expenditure or undertake any activity in the election in support of Congressman Chapman.

The Complaint alleges that East Texas First was an "arm" of the Chapman Committee, suggesting it operated as an extension of the campaign. The Chapman campaign, however, was a self-contained entity with its own fundraising, phone banks, media, polling and field operations. All of these campaign functions were directed and implemented by staff (see Affidavits) and volunteers working solely and exclusively for the Chapman Committee. The fact that, according to the Complaint, East Texas First may also have been conducting "mainstream campaign activities" does not establish, or even suggest, coordination. Phoning, mailings, and media campaigns are standard and clearly permissible activities for an independent committee. Moreover, the contention that these activities "meshed" with the Chapman campaign is nothing more than a reporter's conjecture and its very meaning is unclear.

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2. No "Presumptions" or "Factual Circumstances." The Complaint fails to establish any credible foundation on which to build a conclusion of nonindependence. Neither Congressman Chapman, nor any of his agents, ever provided information to East Texas First about campaign plans or needs with a view that this independent committee would make an expenditure based on this information. Those members of the campaign staff with sufficient knowledge about the campaign's needs and plans to give such information have stated in Affidavits that no such communication occurred.

Neither the treasurer, nor any other individual making expenditures for East Texas First, including Mr. Gaubert, ever held a position, paid or volunteer, in the Chapman Committee. Therefore, the regulatory test for a presumption of nonindependence cannot be satisfied.

Moreover, the Complaint does not provide any evidence, nor is there any, to establish that the Chapman Committee ever received goods or services from East Texas First. The Chapman Committee never received contributions collected by East Texas First and forwarded to the campaign. Nor was East Texas First organized by an individual who worked in Mr. Chapman's primary campaign. Mr. Gaubert did not have any role in the primary election of Congressman Chapman. The two committees never shared office space, staff or mailing lists.

The Complaint fails to present any facts to support a claim of cooperation or consultation, nor does it identify any circumstances that would give rise to a presumption of nonindependence under the FEC regulations or rulings. Instead, Mr. Meyer attempts to slap together a conjectural picture of

2/ The House Report which accompanied the 1976 amendments to the FECA states:

In the definition of "independent expenditures" the phrase "at the suggestion of" is intended to include direct suggestions made by a candidate or his agent, his campaign manager, his campaign treasurer, or any other person responsible for reporting contributions

(Footnote continued)

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contacts and former associations to support his allegation of nonindependence. Yet the legislative history of the FECA and the United States District Court's holding in Common Cause v. Federal Election Commission reject the argument that a determination of independence should be judged by the "totality of the circumstances" surrounding the expenditures, without evidence of direct suggestions or requests. H. R. Rep. No. 917, 94th Cong., 2d Sess., 5 (1976)^{2/}; Common Cause v. Federal Election Commission, 655 F. Supp. 619, 624.

In Common Cause v. Federal Election Commission, the court states:

Plaintiff may be absolutely correct in concluding that the totality of circumstances suggest coordination, but the opportunity for coordination is a separate question from whether it was utilized. It could be argued that the opportunity always exists for cooperation. However, in view of the nature of party politics, it is difficult to state exactly what combination of circumstances would prove that coordination occurred, absent evidence of express intent or communication.

655 F. Supp. at 624.

The court held that the plaintiff's evidence including: "interlocking membership of persons at the policy-making levels of the committees and prior alliances with the official committees; indirect communication of strategy by [the candidate's] committees through the media; and the use of common vendors was insufficient to support a claim of coordination. Id. at 624. In the present case, the Complaint clearly does not identify evidence of "direct" suggestions or

(Footnote continued)

^{2/} and expenditures in connection with the campaign of the candidate. It is not the Committee's intent to hold a candidate responsible for suggestions by persons over whom he does not exercise control. In this case, each of the senior campaign staff have provided sworn Affidavits stating that no such "suggestions" were made to East Texas First.

H.R. Rep. No. 917, 94th Cong., 2d Sess., 5 (1976).

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requests or even communication between the two committees. In fact, the Affidavits of campaign staff specifically deny that such communication occurred directly or indirectly.

No DCCC "Connection"

The Complaint alleges that coordination between the Chapman Committee and East Texas First was accomplished through the Democratic Congressional Campaign Committee ("DCCC"). The only basis for this allegation is Brooks Jackson's account in Honest Graft of an alleged conversation between Mr. Thomas Gaubert, a self-described informal "Chair" of East Texas, and DCCC staff about "ideas and so on and so forth." (Exhibit E to the Complaint). This is all that appears in this account: "ideas and so on and so forth." Moreover, Jackson suggests that this contact may have been unauthorized, thus not attributable to the DCCC.

Finally, Jackson also reports that when a DCCC aide started to discuss Mr. Gaubert's activities at a DCCC staff meeting, Marty Franks, then Executive Director of the DCCC, put an immediate stop to it in full recognition of the rules governing independent expenditures. Moreover, a Washington Post story, Exhibit I to the Complaint, reports that former DCCC Chair Tony Coelho stated during an interview that "he was careful to stay away from East Texas First." Thus, not only does Mr. Meyer fail to provide any factual basis for his allegations, but the evidence he relies on supports a contrary conclusion.

In fact, the Chapman Committee worked with the DCCC, as well as other Democratic Members of the Texas delegation. Because of the perceived national significance of the election, many elected officials throughout the country assisted the Chapman Committee. These contacts with the DCCC never involved coordination or discussion of East Texas First's activities. Their technical and financial assistance was strictly limited to Chapman campaign activities.

Complainant's Desperation Arguments

Finally, the Complaint encourages the Commission to investigate this matter based on: (1) contacts of a general and unrelated nature between Mr. Gaubert and the DCCC, on the suggestion that Mr. Gaubert was formerly an active fundraiser for the DCCC; (2) allegations in newspaper accounts of illegal

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fundraising activities by East Texas First; and (3) a statement by Mr. Gaubert to reporters that he helped elect Chapman.

The fact that Mr. Gaubert was a former honorary "finance chair" for the DCCC does not establish any "link" whatsoever between the Chapman Committee and East Texas First. There is also no logic in an argument based on other, unrelated and possibly illegal activities by East Texas First, or Mr. Gaubert's pride over his efforts for Chapman's benefit.

This same shoddy logic leads to sweeping statements about the media "uniformly and consistently" reporting that East Texas First was organized for and functioned for the purpose of electing Jim Chapman to Congress. Yet, a committee's independence is not destroyed by the fact that its purpose is to support a candidate.

Mr. Meyer also states that journalists were "frequently cynical" about the committee's independent status. But, he provides scant evidence of this assertion, and even the few articles he attaches to his Complaint that question the independence of East Texas First offer no factual support for such skepticism. The Committee cannot base an investigation on journalistic "cynicism" without destroying its credibility and its budget.

Note on Reimbursement of Allegedly Illegal Funds

The Complaint alleges that East Texas First accepted illegal corporate contributions and calls on the Chapman Committee (and the DCCC) to reimburse these amounts to the FSLIC. As discussed above, East Texas First operated entirely independently from the Chapman Committee and, therefore, the Chapman Committee has no legal responsibility whatsoever for the conduct of or monies raised by East Texas First's fundraising activities.

Conclusion

Mr. Meyer's Complaint has no basis in fact. The Complaint asserts that East Texas First was "clearly not an independent committee" and attempts to support this allegation with speculation, spurious conclusions, and a series of articles about East Texas First's fundraising activities.

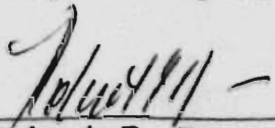
93040925218

Lawrence M. Noble, Esq.
October 27, 1989
Page 9

The Complaint appears to be another politically motivated assault by Mr. Meyers against Congressman Jim Chapman. Since the 1985 special election, Mr. Meyers has launched round after round of scurrilous attacks with the apparent intention of taking revenge on Congressman Chapman for having won the First Congressional District seat.

It is clear that this Complaint was filed for political reasons in order to continue what appears to be an organized and continuing effort to harass Congressman Chapman. The Federal Election Commission should dismiss this Complaint without further action.

Respectfully submitted,



Robert F. Bauer
B. Holly Schadler
Counsel for Respondents

1325E

93040925219

BEFORE THE FEDERAL ELECTION COMMISSION

MUR 2982

Respondents: Jim Chapman for Congress and
Nancy J. Rooks, as Treasurer

AFFIDAVIT OF GEORGE C. SHIPLEY

County of Travis)
) ss
State of Texas)

I, GEORGE C. SHIPLEY, being duly sworn and according to
law, hereby depose and state as follows:

1. I have personal knowledge of the facts set forth
herein and, if called upon to testify in this matter, I would
testify as set forth herein.

2. I worked with the Jim Chapman for Congress Committee
("Chapman Committee") as a political consultant during the 1985
special Congressional election to fill a vacancy in the First
Congressional District of Texas.

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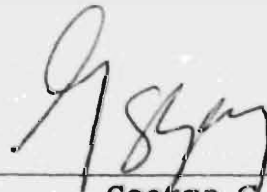
3. I advised the Chapman Committee on general campaign strategy and supervised the opinion polling conducted by the campaign.

4. During the campaign, I did not communicate directly or indirectly with East Texas First Committee about the Chapman Committee's activities, strategy or needs.

5. During the campaign, I did not communicate directly or indirectly with any representative of or individual acting on behalf of East Texas First Committee about East Texas First Committee's activities or plans related to the 1985 special election in the First Congressional District of Texas.

6. I did not suggest or request directly or indirectly that East Texas First Committee take any action or provide any assistance in support of the election of Congressman Jim Chapman or the defeat of his opponent, Edd Hargett.

Further Affiant sayeth not.



George C. Shipley

93040925221

SUBSCRIBED AND SWORN TO BEFORE ME
this 25 day of October, 1989.

Lorie A. Martens
Notary Public

My Commission Expires:

1/13/91



23040925222

1320E

BEFORE THE FEDERAL ELECTION COMMISSION

MUR 2982

Respondents: Jim Chapman for Congress and
Nancy J. Rooks, as Treasurer

AFFIDAVIT OF WILLIAM E. BRANNON

County of Travis)
) ss
State of Texas)

I, WILLIAM E. BRANNON, being duly sworn and according to
law, hereby depose and state as follows:

1. I have personal knowledge of the facts set forth
herein and, if called upon to testify in this matter, I would
testify as set forth herein.

2. I served as the campaign manager of the Jim Chapman
for Congress Committee ("Chapman Committee") during the 1985
special Congressional election to fill a vacancy in the First
Congressional District of Texas.

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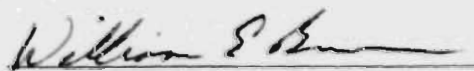
3. As campaign manager, I was in charge of day-to-day operations of the campaign and supervision of the campaign staff.

4. During the campaign, I did not communicate directly or indirectly with East Texas First Committee about the Chapman Committee's activities, strategy or needs.

5. During the campaign, I did not communicate directly or indirectly with any representative of or individual acting on behalf of East Texas First Committee about East Texas First Committee's activities or plans related to the 1985 special election in the First Congressional District of Texas.

6. I did not suggest or request directly or indirectly that East Texas First Committee take any action or provide any assistance in support of the election of Congressman Jim Chapman or the defeat of his opponent, Edd Hargett.

Further Affiant sayeth not.



William K. Brannon

E

93040925224

SUBSCRIBED AND SWORN TO BEFORE ME
this 25th day of October, 1989.

Lyndee N. Segels
Notary Public

My Commission Expires:



1319E

93040925225

BEFORE THE FEDERAL ELECTION COMMISSION

MUR 2982

Respondents: Jim Chapman for Congress and
Nancy J. Rooks, as Treasurer

AFFIDAVIT OF W. R. (PECK) YOUNG

County of Travis)
) ss
State of Texas)

I, W. R. (PECK) YOUNG, being duly sworn and according to
law, hereby depose and state as follows:

1. I have personal knowledge of the facts set forth
herein and, if called upon to testify in this matter, I would
testify as set forth herein.

2. I worked as a consultant for the Jim Chapman for
Congress Committee ("Chapman Committee") during the 1985
special Congressional runoff election to fill a vacancy in the
First Congressional District of Texas.

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3. As a consultant to the Chapman Committee I organized and supervised the get-out-the vote activities, including a part of the direct mail program and all of the phone program to voters, during the runoff election.

4. I have been advised by counsel that the complaint filed by Fred Meyer identified get-out-the-vote telephone and mail activities as a principal area of coordination between East Texas First and the Chapman Committee.

5. As the director of get-out-the-vote activities for the Jim Chapman for Congress Committee, I was not aware of any coordination between East Texas First and the Chapman Committee.

6. During the campaign, I did not communicate directly or indirectly with East Texas First Committee about the Chapman Committee's activities, strategy or needs.

7. During the campaign, I did not communicate directly or indirectly with any representative of or individual acting on behalf of East Texas First Committee about East Texas First Committee's activities or plans related to the 1985 special election in the First Congressional District of Texas.

8. I did not suggest or request directly or indirectly that East Texas First Committee take any action or provide any assistance in support of the election of Congressman Jim Chapman or the defeat of his opponent, Edd Hargett.

93040925227

Further Affiant sayeth not.

W. R. (Pock) Young
W. R. (Pock) Young

SUBSCRIBED AND SWORN TO BEFORE ME
this 25th day of October, 1989.

Lisa Beck
Notary Public

My Commission Expires:

Jan. 14, 1992

1321E

93040925228

BEFORE THE FEDERAL ELECTION COMMISSION

MUR 2982

Respondents: Jim Chapman for Congress and
Nancy J. Rooks, as Treasurer

AFFIDAVIT OF DAVID BUTTS

County of Travis)
)
State of Texas) ss

I, DAVID BUTTS, being duly sworn and according to law,
hereby depose and state as follows:

1. I have personal knowledge of the facts set forth
herein and, if called upon to testify in this matter, I would
testify as set forth herein.

2. I was the field coordinator for Bowie County for the
Jim Chapman Campaign Committee ("Chapman Committee") during the
1985 special runoff election to fill a vacancy in the First
Congressional District of Texas.

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3. Bowie County is the largest county in the First Congressional District and was identified by the Chapman Committee as a key area for voter turnout in the election.

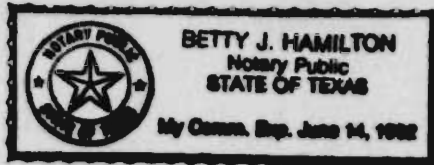
4. During the campaign, I did not communicate directly or indirectly with East Texas First Committee about the Chapman Committee's activities, strategy or needs.

5. During the campaign, I did not communicate directly or indirectly with any representative of or individual acting on behalf of East Texas First Committee about East Texas First Committee's activities or plans related to the 1985 special election in the First Congressional District of Texas.

6. I did not suggest or request directly or indirectly that East Texas First Committee take any action or provide any assistance in support of the election of Congressman Jim Chapman or the defeat of his opponent, Edd Hargett.

93040925230

Further Affiant sayeth not.



David J. Butts
David Butts

SUBSCRIBED AND SWORN TO BEFORE ME
this 26th day of OCTOBER, 1989.

Betty J. Hamilton
Notary Public

My Commission Expires:

6-14-1992

1322E

93040925231

PERKINS COIE

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
1110 VERMONT AVENUE, N.W. • WASHINGTON, D.C. 20005 • (202) 887-9030

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

89 OCT 30 AM 11:03

October 27, 1989

Lawrence M. Noble, Esq.
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Attention: Phillip Wise

Re: MUR 2982 - Democratic Congressional Campaign
Committee and Richard M. Bates, as Treasurer

Dear Mr. Noble:

The Democratic Congressional Campaign Committee ("DCCC") and its treasurer, Richard M. Bates, hereby reply through counsel to the Commission's notification that a complaint had been filed against them by Fred Meyer, Chairman of the Republican Party of Texas. Respondents are also submitting affidavits from individuals with direct knowledge of the issues involved in this Complaint: Martin D. Franks, the former Executive Director of the DCCC and Thomas J. King, Jr., the former Political Director of the DCCC.

The Complaint alleges that the East Texas First committee was created and operated as an effort by the National Democratic Party to elect a Democrat in the 1985 Special Election in Texas' First Congressional District and evade federal election laws. More specifically, the Complaint alleges that East Texas First coordinated its independent activities in the 1985 Special Election through the DCCC, and thereby destroyed the independence of the Committee's expenditures. Mr. Meyer concludes that because these expenditures were not independent, they were in-kind contributions to the Jim Chapman for Congress Committee ("Chapman Committee"). The Complaint requests that the Federal Election Commission ("FEC" or the "Commission") require the

93040925232

Chapman Committee and the DCCC to "return" allegedly illegal campaign contributions to the FSLIC.*

There is absolutely no factual basis for these allegations. Not only was there no communication between the DCCC and East Texas First, the DCCC took every precaution to assure complete insulation by establishing a formal policy during the Texas special election forbidding staff to communicate with or maintain direct or indirect contact with East Texas First.

The DCCC urges the Commission to dismiss the Complaint without further action or investigation.

East Texas First Was Not Created or Operated as Part of a National Democratic Party Effort

The Complaint falsely asserts that East Texas First was "designed and operated as a vehicle for enabling the DCCC to evade federal election laws." The only basis offered for this bold allegation is that Thomas Gaubert was at a later date an honorary "finance chair" for the DCCC. Mr. Meyer concludes from this that the "links" between East Texas First and the DCCC are clear.

The DCCC played no role in the organization, operation, or activities of East Texas First. As stated in the Affidavits of Martin Franks and Thomas King, the DCCC did not communicate, or coordinate activities in any way, with East Texas First. Further, Mr. Gaubert was not authorized, directed, or assisted in any manner by the DCCC to organize or conduct activities for East Texas First.

*/ The DCCC neither accepted, nor had any role whatsoever in raising funds for East Texas First. The Complaint alleges that the DCCC used East Texas First to evade the election laws, including contribution limits, but, no evidence exists to support this theory. Therefore, the suggestion that the DCCC would be responsible for "returning" funds which were raised and spent independently by East Texas First has no basis in fact or in law.

93040925233

DCCC Did Not Coordinate Activities Between East Texas First and the Chapman Committee

The Law

Under the Federal Election Campaign Act of 1971, as amended ("FECA"), 2 U.S.C. §§ 431 et seq. independent expenditures must be made without the cooperation, consultation, with or at the request or suggestion of, any candidate or his authorized committee or agent. 2 U.S.C. § 431(17).

The FEC regulations establish certain situations under which a presumption arises that expenditures are not independent. Specifically, an expenditure is not independent if it is made "based on information supplied by an agent of the candidate about the candidate's plans or needs and given with a view toward having the expenditure made," 11 C.F.R. 109.1(a)(4)(i)(A); or (2) if it is made "by or through" a person who at any time was authorized to raise or spend funds, an officer of the authorized committee, or in receipt of any compensation or reimbursement for activities in support of the candidate or the campaign. 11 C.F.R. § 109.1(a)(4)(i)(B).

In order to demonstrate that a committee's expenditures did not meet the requisite standard of independence under the FECA, there must be factual evidence indicating "actual agreement," "express intent or communication," or "direct suggestion" between two committees. A determination of independence may not be established by "the totality of the circumstances" surrounding the expenditures without evidence of direct suggestions or requests. Common Cause v. Federal Election Commission, 655 F. Supp. 619, 624 (D.D.C. 1986), rev'd on other grounds, 842 F.2d 436 (D.C. Cir. 1988); H.R. Rep. No. 917, 94th Cong., 2d. Sess., 5 (1976).

Discussion

The Complaint presents no evidence, nor is there any, of cooperation or consultation. As the sworn Affidavits accompanying this response state, the DCCC did not cooperate or consult with East Texas First about its activities in the First Congressional District. Nor did the DCCC suggest or request directly or indirectly that East Texas First make any expenditures in the 1985 Special Election.

Moreover, there is no evidence, and none exists, to raise a presumption of nonindependence. The DCCC did not communicate with Mr. Gaubert about the DCCC's or Congressman Chapman's activities in the special election. Therefore, there is no possibility that East Texas First made expenditures based on

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information provided by the DCCC. No presumption of non-independence is raised by this Complaint.

Mr. Meyer's sole support for alleged collaboration consists of a brief account in Brooks Jackson's book, Honest Graft. The other news articles attached to the Complaint do not present any basis whatsoever for this claim; in fact, the opposite is true. A Washington Post article (Exhibit I of the Complaint) reports that former DCCC Chair Tony Coelho stated that "he was careful to stay away from East Texas First". These articles discuss the fundraising practices of East Texas First, but say nothing about the DCCC coordinating activities.

Read in its entirety, rather than through Mr. Meyer's carefully selected excerpts, Mr. Jackson's brief account of East Texas First leads to an entirely different conclusion than Mr. Meyer has drawn. Mr. Jackson writes that Mr. Gaubert claims to have "touched base" with the DCCC about "ideas and so on and so forth." This is testimony -- second-hand testimony -- so vague as to be useless, particularly in the face of overwhelming evidence to the contrary. Mr. Jackson also states that any such conversation with Mr. Gaubert may have been unauthorized. Mr. Jackson's speculation here is absolutely correct. In fact, as stated in Martin Franks' Affidavit, the DCCC established and announced a formal policy, on advice of counsel, that all staff were to refrain from any communication or contact with East Texas First.

Mr. Jackson had an opportunity to view the implementation of this policy first-hand during a DCCC staff meeting. Mr. Jackson reported that an aide had just started to discuss Mr. Gaubert, when Martin Franks "cut him off and forbade further discussion." Later, according to Mr. Jackson, Mr. Franks stated: "Goddamn it, we can't talk about this. We cannot be colluding with them in any way, shape or form." It is noteworthy that Mr. Jackson did not allege any evidence that the staff comment related to any inappropriate activities. He does report a strong policy reflected in Mr. Franks' response that any discussion involving East Texas First was prohibited.

The Complaint twists these accounts to bolster its spurious conclusions. Mr. Meyer's "evidence" simply does not support the picture of collusion he attempts to paint. In fact it suggests the truth -- the DCCC had nothing to do with East Texas First.

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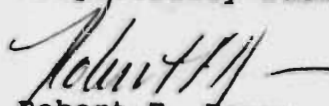
Complaint Is Politically Motivated and Has No Factual Basis

Mr. Meyer is continuing, through this Complaint, to wage the political battle that he lost in the 1985 Special Election. The campaign for the First Congressional seat of Texas was a hard-fought, partisan fight. The entire country was watching as the national and Texas State Republican parties attempted to demonstrate, on the heels of the Reagan landslide, that political realignment was in full force even in a Democratic stronghold like East Texas. Losing this seat was a devastating and humiliating blow to the Texas Republican Party, and to Mr. Meyer personally. Since 1985, Mr. Meyer has launched a series of politically driven attacks on Congressman Chapman. They have even resulted in editorial writers commenting that Mr. Meyer is involved in yet "another round of partisan politics." (See Exhibits A and B to this Response).

The Federal Election Commission should dismiss this Complaint for what it is -- a groundless, partisan attack on Congressman Chapman and the Democratic Party -- and take no further action in this matter.

If you have any questions or need additional information, please do not hesitate to contact the undersigned.

Respectfully submitted,



Robert F. Bauer
B. Holly Schadler
Counsel Respondents

93040925236

BEFORE THE FEDERAL ELECTION COMMISSION

MUR 2982

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
89 OCT 29 AM 11:03

Respondents: Democratic Congressional Campaign Committee and
Richard M. Bates, as Treasurer

AFFIDAVIT OF THOMAS J. KING, Jr.

District of Columbia)
) ss
)

I, THOMAS J. KING, Jr., being duly sworn and according to
law, hereby depose and state as follows:

1. I have personal knowledge of the facts set forth
herein and, if called upon to testify in this matter, I would
testify as set forth herein.

2. I served as the Political Director of the Democratic
Congressional Campaign Committee ("DCCC") from 1985 to 1987,
the period during which there occurred the 1985 special
Congressional election to fill a vacancy in the First
Congressional District of Texas ("1985 Special Election").

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3. As Political Director, I supervised and planned the DCCC's political assistance to Democratic Congressional candidates.

4. The DCCC provided assistance to the Jim Chapman for Congress Campaign Committee in the 1985 special runoff election for Texas First Congressional District.

5. The DCCC was not involved in the organization or operation of East Texas First Committee.

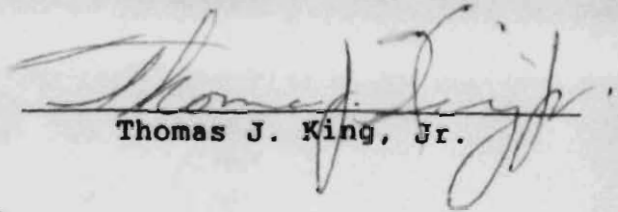
6. The DCCC did not coordinate activities between East Texas First and the Jim Chapman for Congress Campaign Committee.

7. During the 1985 Special Election, I did not communicate directly or indirectly with East Texas First committee about the Jim Chapman for Congress Campaign Committee's activities, strategy or needs.


8. I did not suggest or request directly or indirectly that East Texas First committee take any action or provide any assistance in support of the election of Congressman Jim Chapman or the defeat of his opponent, Edd Hargett.

Further Affiant sayeth not.

93040925238


Thomas J. King, Jr.

SUBSCRIBED AND SWORN TO BEFORE ME
this 26 day of October, 1989.


DINA POWELL
Notary Public, Washington, D.C.
Notary Public

My Commission Expires:
My Commission Expires on October 31st 1993

1332E

93040925239

BEFORE THE FEDERAL ELECTION COMMISSION

MUR 2982

Respondents: Democratic Congressional Campaign Committee and
Richard M. Bates, as Treasurer

AFFIDAVIT OF MARTIN D. FRANKS

District of Columbia

)
)
)

ss

I, MARTIN D. FRANKS, being duly sworn and according to law,
hereby depose and state as follows:

1. I have personal knowledge of the facts set forth
herein and, if called upon to testify in this matter, I would
testify as set forth herein.

2. I served as the Executive Director of the Democratic
Congressional Campaign Committee ("DCCC") from 1981 to 1987,
the period during which there occurred the 1985 special
Congressional election to fill a vacancy in the First
Congressional District of Texas ("1985 Special Election").

93040925240

3. As Executive Director, I was in charge of day-to-day operations of the DCCC and supervision of the DCCC staff, and served as the principal advisor to the Chair of the DCCC.

4. The DCCC provided assistance to the Jim Chapman for Congress Campaign Committee in the 1985 special runoff election for Texas First Congressional District.

5. The DCCC was not involved in the organization or operation of East Texas First Committee.

6. I formally directed, on advice of counsel, all DCCC staff to refrain from any contact or communication with or discussion about East Texas First.

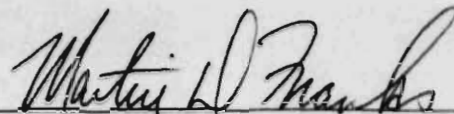
7. The DCCC did not coordinate activities between East Texas First and the Jim Chapman for Congress Campaign Committee.

8. During the 1985 Special Election, I did not communicate directly or indirectly with East Texas First committee about the Jim Chapman for Congress Campaign Committee's activities, strategy or needs.

9. I did not suggest or request directly or indirectly that East Texas First committee take any action or provide any assistance in support of the election of Congressman Jim Chapman or the defeat of his opponent, Edd Hargett.

93040925241

Further Affiant sayeth not.



Martin D. Franks

SUBSCRIBED AND SWORN TO BEFORE ME
this 27th day of October, 1989.



DINA POWELL
Notary Public, Washington, D.C.

Notary Public

My Commission Expires:

My Commission Expires on October 31st 1993

1331E

93040925242

Meyer's allegations about Chapman are suspicious

The fax machine at *The Paris News* and in other newsrooms around Texas have been kept busy for the past couple of weeks, turning out news releases from Texas Republican Party Chairman Fred Meyer's office, accusing U.S. Rep. Jim Chapman of winning his House seat in 1985 with the help of illegal contributions. Meyer claims the evidence is clear and convincing, based on a recent Dallas trial involving former executives of Commodore Savings.

The problem is this: If Meyer's evidence is so clear and convincing, he should have provided some of it along with his allegations. As it stands, all Meyer has been able to drum up is some general statements quoted from a new book — in which the writer incorrectly identified Chapman as a former state senator — and a large phone bill.

Coming so close on the heels of Former House Speaker Jim Wright's exit from Capitol Hill and given the fact that Chapman was a close associate of the former speaker, Meyer's allegations seem suspicious.

The 1985 race for the House seat Chapman now holds was a combative affair, with the GOP hoping to

Our Opinion

pick up a House seat with the departure of former Rep. Sam Hall. It was the kind of stuff the watchers of politics love. But the GOP lost, and it may be that certain Republicans have long memories.

The party battles in Washington have been newsworthy for months, as both sides sank to new lows of infighting during the Wright affair. With the selection of the House's new speaker, Tom Foley, calls went up throughout the land for a truce. But if a truce has indeed been called on Capitol Hill, Meyer's latest allegations against Chapman could indicate the battle lines may have been redrawn at the state level.

It's an unsettling turn of events.

If Meyer has evidence of wrongdoing, he should act on it. But sending blanket condemnations without supporting evidence makes us believe this could be just another round of partisan politics, a public trial he hopes will take place in newspapers in Chapman's district.

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'85 PAC funding assailed

GOP, Chapman swap accusations

By Jerry Graham
Staff Writer

In a battle of press releases, Texas Republican Party Chairman Fred Meyer tried to tie Congressman Jim Chapman to a scandal, and Chapman says Meyer "simply lies, lies and then lies some more."

Chapman, D-Sulphur Springs, accused Meyer of performing "a shameless imitation of NRC senior-master Lee Atwater" and he said Meyer should "immediately withdraw his smear, apologize to Congressman Chapman and beg the forgiveness of Texas voters."

An amused Meyer said if anyone buys Chapman's line then "I have got a story I would like to tell them about leprochauns."

At issue is whether Chapman's 1985 campaign benefited from East Texas First, a political action committee that poured about \$100,000 into the race between Chapman and Republican Ed Hargett.

Chapman, GOP trade accusations

From 1-A
\$100,000 into the race between Chapman and Republican Ed Hargett.

Meyer said Chapman benefited from East Texas First and said it did not contribute funds to his campaign. It was an independent organization which he did not control, and it acted entirely on its own.

Legal questions have been raised about the way East Texas First raised its money, much of which came from executives in the savings and loan industry.

Meyer issued a press release in which he said the East Texas First contributions were solicited by former Speaker Jim Wright, and a number of the contributions were made illegally through a scheme by which the executives were reimbursed by their respective Savings and Loan through falsified business or travel expenses.

"Congressman Chapman cannot ignore the fact that his campaign was fueled in part by substantial contributions that were made in direct violation of federal election laws," Meyer said.

He said Chapman should return the money, because to merely

ignore the illegal source "raises serious questions about his ethics and integrity."

Chapman said none of the funds raised by East Texas First was given to him or received by him, and Meyer is calling on him to return money he never received. He said he didn't get a dime from East Texas First, much less the \$100,000 claimed by Meyer.

The special election in which Chapman and Hargett campaigned to replace former Congressman Sam Hall attracted widespread attention because both national parties had targeted the election as a show of their strength in Texas and the South.

Meyer said Wright took an interest in the election, he helped raise funds for the Democratic cause and Chapman was the Democrat running in the race.

He said it was not credible for Chapman to call East Texas First independent when "they clearly contributed to his election."

Chapman said the funds were solicited when there were six Democrats in the race and were raised for the purpose of defeating Hargett, the lone Republican.

Front Page Language
June 27, 1984

06C 4481

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

BRAND & LOWELL

89 NOV -6 PM 4:49

A PROFESSIONAL CORPORATION

923 FIFTEENTH STREET, N.W.

WASHINGTON, D.C. 20005

TELEPHONE: (202) 662-9700

TELECOPIER: (202) 737-7565

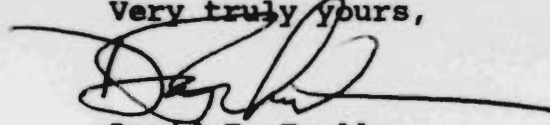
November 6, 1989

Phillip Wise, Esquire
Federal Election Commission
999 E Street, Room 657
Washington, D.C. 20463

Dear Mr. Wise:

Enclosed please find the response of Mr. Thomas M. Gaubert
to the Complaint filed in M.U.R. 2982.

Very truly yours,



David E. Frulla

DEF:ldm

93040925245

BEFORE THE
FEDERAL ELECTION COMMISSION
OF THE
UNITED STATES OF AMERICA

IN THE MATTER OF:

JIM CHAPMAN FOR CONGRESS,
and its Treasurer;

EAST TEXAS FIRST,
and its Treasurer; and

THE DEMOCRATIC CONGRESSIONAL
CAMPAIGN COMMITTEE,
and its Treasurer.

M.U.R. 2982

RESPONSE TO COMPLAINT BY THOMAS M. GAUBERT

Pursuant to 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.6(a), Mr. Thomas M. Gaubert ("Gaubert" or "Respondent"), through his undersigned counsel, hereby responds to the Complaint of Mr. Fred Meyer, Chairman of the Republican Party of Texas ("Complainant"), regarding alleged activities of the East Texas First Political Action Committee ("ETF-PAC"). The Federal Election Commission ("FEC") has denominated this Complaint as Matter Under Review 2982.¹

Under its regulations, the FEC will proceed to investigate a complaint only if it finds "reason to believe" a federal election law violation has occurred. 2 U.S.C. § 437g(a)(1)&(2) and 11 C.F.R. §§ 111.6(b) & 111.7(a). Absent such reason to believe, a

¹ By letter dated October 18, 1989, the General Counsel granted Mr. Gaubert an extension of time until November 6, 1989, to respond to this Complaint.

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complaint should be expeditiously dismissed. 11 C.F.R. §
111.7(b).

Mr. Gaubert respectfully requests the FEC to dismiss the Complaint herein, both as against him and in its entirety. The Complaint is based on nothing more than layers of innuendo and allegations of guilt by association, none of which, singly or collectively, warrant reason to believe any violation of the election law occurred.

I. Complainant Has Offered No Evidence And There Is No Reason To Believe That ETF-PAC's Fundraising and Get-Out-The-Vote Activities Violated Federal Election Laws.

In the main, the gravamen of the Complaint as it relates to Respondent appears to be that Mr. Gaubert, concededly active in Democratic politics at the time, and then-House Majority Leader Jim Wright were, to some degree, involved in ETF-PAC fundraising and that expenditures ETF-PAC made on behalf of Jim Chapman, a Democratic candidate in Texas's First Congressional District's 1985 special election, were therefore not "independent" under federal election law or were otherwise improper.

A. Complainant Has Adduced No Evidence Of Coordination That Would Compromise The Independent Nature Of ETF-PAC's Activities.

The Complaint asserts that any expenditure made by ETF-PAC was coordinated with the Democratic Congressional Campaign Committee ("DCCC"), Jim Chapman, or Chapman's political committee. In an attempt to buttress his claim, Complainant points to Gaubert's post-Jim Chapman election tenure as Honorary

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Finance Director of the DCCC, his personal acquaintance with ex-Reps. Wright and Coehlo, and a statement by reporter Brooks Jackson that Mr. Gaubert told him (Jackson) that Gaubert had "discussed ideas and so on and so forth" with the DCCC. See Jackson, Honest Graft at 266. This amorphous and vague quotation attributed by Mr. Jackson to Mr. Gaubert affords no reason to believe that ETF-PAC's expenditures should be considered to be anything but independent.

An expenditure loses its independent status only if it is derived from "cooperation or consultation with any candidate, or any authorized committee or agent of such candidate" and is "made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate." 2 U.S.C. § 431(17). In its regulations, the Commission has determined that such independence-destroying "coordination" is presumed to occur in two circumstances, if: (1) (a) the candidate or the candidate's authorized agent, (b) "with a view toward having an expenditure made", (c) provides to the expending person "information about the candidate's plans, projects, or needs" and (d) the expending person's campaigning activity is "based on [that] information"; or (2) the expenditure is "[m]ade by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been an officer of an authorized committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate, the candidate's committee or agent." 11 C.F.R. §

109.1(b)(4)(i)(A)&(B). Coordination as federal election law and regulations contemplate it, thus does not arise by happenstance or coincidence.

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Congress and the courts agree. As does the House Report on the 1976 Federal Election Campaign Act ("FECA") Amendments, H.R. Rep. No. 917, 94th Cong., 2d Sess., 5 (1976), the General Counsel of the FEC has made clear that only a candidate's or that candidate's committee's "direct request" for a particular type of assistance constitutes "coordination". See Common Cause v. Federal Election Commission, 655 F. Supp. 619, 624 (D.D.C. 1986), rev'd on other grounds, 842 F.2d 436 (D.C. Cir. 1988) (hereinafter, Common Cause - I) (emphasis in original).² The General Counsel's view that coordination arises only from a "direct" request and an "'actual agreement'" that the requested activity will be undertaken is a reasonable and proper interpretation of the FECA. Common Cause - I, 655 F. Supp. at 624.

The Complainant herein has adduced no evidence of any agency relationship, direct request for specific help based on information given to ETF-PAC with a view that an expenditure be made, or other form of prearrangement or agreement by the DCCC or Jim Chapman. An allegation of a vague discussion of ideas does not fit the bill, especially when that discussion does not show

² See also Common Cause v. Federal Election Commission, 715 F. Supp. 398, 403-04 (D.D.C. 1989), (hereinafter, Common Cause - II).

Mr. Gaubert's taking orders from the DCCC. Coordination is not to be so presumed.

Nor can Complainant rely to prove coordination upon Respondent's later honorary position with the DCCC and any speculation based on a third-party account of an alleged casual conversation between Gaubert and some person at DCCC. Otherwise, Complainant's "interpretation of the coordination provisions would bar people with direct knowledge of a party committee's general campaign strategies from making expenditures independent of those of such a committee." Common Cause - II, 715 F. Supp. at 403.³ Ultimately, the FEC in Common Cause - II determined no probable cause for a violation existed because, despite the existence of circumstantial evidence, the FEC found no evidence

³ Although the FEC had found "reason to believe" the independent expenditure committee and the political party committee in Common Cause - II were affiliated and their expenditures were coordinated, the indicia of coordination in Common Cause - II is much greater than here. Significantly, in that case, both committees utilized the same contributor list. There is no allegation ETF-PAC relied on the DCCC to find contributors. Further, the treasurer and co-founder of the independent committee in Common Cause - II had left the party committee which had used that contributor list only two months before forming the independent committee. Before moving, he had spent a full six years as finance director and treasurer of that party committee and significant time as finance director of another party committee even before that. Gaubert's ties to the DCCC are not that extensive. Moreover, the other co-founder of the independent committee in Common Cause - II was actually a Senator, and a member and ex-Chairman of the party committee alleged to be affiliated. In comparison, Complainant only alleges that Jim Wright fundraised for ETF-PAC. Finally, use of common vendors -- a weighty factor not even alluded to by Complainant herein -- was admitted. Common Cause - II, 715 F. Supp. at 400, 403.

of direct coordination or prearrangement. See Common Cause - II, 715 F. Supp. at 403.

Complainant cannot translate its circumstantial evidence into direct coordination by positing a vague argument that the "totality of the circumstances" provide "reason to believe" coordination occurred. Pared to its essentials, the Complaint asserts that based on a vague discussion of ideas involving some unidentified DCCC person, plus Mr. Gaubert's personal acquaintances and work with Reps. Wright and Coelho, coordination must have occurred. As Judge Penn in Common Cause - I stated:

Plaintiff may be absolutely correct in concluding that the totality of the circumstances suggest coordination but the opportunity for coordination is a separate question from whether it was utilized. It could be argued that the opportunity always exists for coordination. However, in view of the nature of party politics, it is difficult to state exactly what combination of circumstances would prove that coordination occurred, absent evidence of express intent or coordination.

Common Cause - I, 655 F. Supp. at 624 (emphasis in original).⁴

⁴ In fact, Common Cause in the above-cited case pointed to substantial links between the conservative independent political committees and then-President Reagan. In Common Cause - I, the indicia not adopted as a basis for reason to believe coordination existed included: i) interlocking membership of persons at policy-making levels of the political committees involved; ii) prior alliances with official committees; iii) indirect communication of strategy through the media; and iv) the use of common vendors. Id. The Complaint herein has alleged only one of these elements, namely, that Mr. Gaubert was Honorary Finance Chairman of the DCCC, but even that occurred after the Chapman race ended. As discussed, supra, Common Cause - II makes clear that Mr. Gaubert's subsequent association with the DCCC cannot in itself poison his prior involvement with an independent PAC like ETF-PAC.

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Finally, as evidence of coordination, the Complaint states that Brooks Jackson reported that Martin Franks, a DCCC official, absolutely refused to listen to what his aide said "Gaubert was doing," apparently as regards ETF-PAC. Jackson, Honest Graft at 266. Far from providing reason to believe that coordination had occurred, this anecdote shows that coordination between Gaubert and the DCCC was not occurring. Indeed, the strength of Mr. Frank's reaction shows that the DCCC was doing everything possible to isolate itself from Mr. Gaubert. Moreover, Mr. Jackson's account in no way establishes that the activities which Mr. Franks's unidentified aide attempted to discuss were activities known to him through conversations with Mr. Gaubert, as opposed to activities of which the aide learned through the press or political gossip. Nor is there any indication that these activities were those which the DCCC directly requested Mr. Gaubert or ETF-PAC to undertake.⁵ Consequently, Complainant has demonstrated no reason to believe that ETF-PAC was anything but an independent political committee making independent expenditures on Jim Chapman's behalf.

⁵ It should also be noted that cynicism of investigative reporters hot on the trail of news stories regarding Commodore Savings Association, see Complaint at 3, does not warrant reason to believe that coordination between ETF-PAC or Gaubert and the DCCC and Chapman occurred. As has been repeatedly stated herein, coordination must be concrete to be actionable, not conjured.

B. ETF-PAC's Fundraising and Get-Out-The-Vote Activities
Were Proper Exercises Of Free Speech.

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The Complaint alleges that Mr. Gaubert and Jim Wright appeared at a fundraiser at which Texas savings and loan officials, along with their families and other supervisory personnel at these institutions, were asked to contribute to ETF-PAC. At that meeting, it is alleged, Mr. Wright stated that it was important to him that a Democrat win the special election for Texas's First Congressional District. As one of his party's leaders, Jim Wright is entitled to encourage contributions to a political committee that had as one of its goals to support the election of Democrats to Congress without destroying ETF-PAC's independence. Mr. Wright's statement (and his making a statement at all) is not improper campaign activity.⁶ Rather, Mr. Wright's plea is indistinguishable from appearances made by leaders of both parties all the time.

Furthermore, as the FEC has held, a Member of Congress like Jim Wright may assist in fundraising for and decisions regarding the disbursement of funds for a political committee not involved in that Member's election campaign -- even if the committee is

⁶ As the House Report which accompanied the 1976 House bill amending the Federal Election Campaign Act stated:

[I]f a candidate or some other person suggests in a speech to a group of persons that everything should be done to defeat the opponent of the candidate, it is not the intent of the Committee that such a reference in a speech be viewed as a "suggestion" for purposes of the definition [of independent expenditure].

H.R. Rep. No. 917, 5.

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named after the Member. Cf. A.O. 1978-12, Fed. Elec. Camp. Fin. Guide (CCH), ¶ 5306. And, as regards Mr. Gaubert, in Common Cause - II, 715 F. Supp. at 402, the Court upheld as reasonable the FEC General Counsel's "implicit[] ... conclusion[]" that "it is permissible for a former officer of a party committee to form a political committee that can make independent expenditures." Mr. Gaubert's link to a party committee is even more attenuated; he did not serve as the DCCC's Honorary Finance Chairman until after the Chapman special election.

Moreover, that Mr. Gaubert felt proud that ETF-PAC's efforts had made a difference in the First Congressional District race⁷ does not make ETF-PAC's or Gaubert's activity illegal. In fact, feeling that one has made a difference is a main reason why individuals engage in highly-protected First Amendment speech, as well as why the Supreme Court in Buckley v. Valeo, 424 U.S. 1, 45, 48 (1976), was so chary of abridging it any more than necessary to protect against "corruption," narrowly defined.

The First Amendment applies with equal force to "lone pamphleteers or streetcorner orators in the Tom Paine mold" as it does to well-organized and influential independent political committees. Federal Election Commission v. National Conservative Political Action Committee, 470 U.S. 480, 493 (1985). The relative "success" of Mr. Gaubert's or ETF-PAC's speech therefore

⁷ See Complaint at 2 ("Thomas Gaubert has boasted to reporters" that ETF-PAC significantly helped now-Representative Chapman win his close race.)

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does not factor into the degree of First Amendment protection it receives, or whether the speech was independent. Thus, a political committee, like ETF-PAC, can engage in "mainstream," ~~see~~ Complaint at 7, and helpful independent partisan get-out-the-vote activity without running afoul of federal election laws. See, e.g., A.O. 1975-20, Fed. Elec. Camp. Fin. Guide ¶ 5121, as modified by 40 Fed. Reg. 45,292, Fed. Elec. Camp. Fin. Guide, ¶ 9020 (independent partisan get-out-the-vote activity is proper).

II. The Complaint Should Be Dismissed As To Mr. Gaubert Because Mr. Gaubert Was Never An Officer Of ETF-PAC.

Even if the Commission could conceivably find "reason to believe" the expenditures about which Complainant is concerned were not independent, the Complaint should be dismissed as to Mr. Gaubert. The Complaint alleges that Mr. Gaubert is the "founder and chairman" of ETF-PAC. Complaint at 2. Mr. Gaubert never was and is not now an officer of ETF-PAC. ETF-PAC's officers were Michael Minton, Treasurer; and Carol Shadden, Assistant Treasurer. Mr. Gaubert thus incurred no federal election law-based reporting or contribution and expenditure monitoring duties for ETF-PAC. Such duties devolve upon a political committee's treasurer. See, e.g., 11 C.F.R. §§ 102.9 ("The treasurer of a political committee or an agent authorized by the treasurer to receive contributions and make expenditures shall fulfill all

recordkeeping duties"); and 104.1(a) ("Each treasurer of a political committee required to register under Part 102 shall report"). Consequently, Mr. Gaubert is not a proper party to this Complaint, and it should be dismissed as to him.⁹

III. The Relief Complainant Seeks Is Inequitable and Redundant.

Even if Mr. Gaubert could, under any construction of the Complaint's allegations, be deemed to be responsible for the actions of ETF-PAC, the Complaint must be dismissed insofar as it requires ETF-PAC, any officer thereof, or Mr. Gaubert to undertake any affirmative acts, such as refunding any allegedly illegal contributions, made to ETF-PAC. ETF-PAC was dissolved in March of 1986.¹⁰

As an initial matter, Mr. Gaubert cannot dispute that approximately \$25,000 in contributions which ETF-PAC received from officers, directors, and other persons affiliated with Commodore Savings Association of Dallas ("Commodore") have been

⁸ The Complaint alleges no authorized agency relationship.

⁹ It is conceivable that an individual like Mr. Gaubert who was not an officer of a political committee could incur a reporting duty for individual activity under the federal election laws, but Mr. Gaubert's individual political activity is not at issue herein.

¹⁰ Perhaps recognizing that no ETF-PAC is left to proceed against, the Complaint does not request the FEC to take any action against ETF-PAC or Mr. Gaubert. For this reason as well, ETF-PAC and Mr. Gaubert are not proper parties to this Complaint. In an overabundance of caution, however, Mr. Gaubert has examined herein the Complaint's allegations and the nature of the relief requested.

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adjudged criminal in that Commodore was proven to have reimbursed these individuals' contributions from corporate funds. The FEC has, in certain circumstances, required a donee to refund an illegal contribution. In doing so, however, the FEC recognized that factors such as impossibility, lapse of time, and equity militate strongly against requiring a refund. A.O. 1984-52, Fed. Elec. Camp. Fin. Guide (CCH) § 5797.

All three factors come into play here. ETF-PAC dissolved over three and one half years ago, in March of 1986; and, the contributions at issue were made almost a year before that. Any link between ETF-PAC and the present is thus extremely attenuated.¹¹

Further, because ETF-PAC has dissolved, it would be impossible for ETF-PAC's funds to be used to refund the Commodore contributions. Indeed, it would be inequitable and oppressive to require ETF-PAC's ex-officers to refund the \$25,000 in contributions, especially because Complainant has adduced no evidence that Mr. Gaubert or anyone at ETF-PAC or, for that matter, the DCCC or Jim Chapman's committee had any knowledge the Commodore contributions were illegal when made.

¹¹ The FEC highlighted the attenuation factor in A.O. 1984-52 when it required a Congressman's campaign committee to refund a corporate-reimbursed contribution. The FEC, however, distinguished a case such as this where the illegal contribution was made to a political committee, saying "the contributions [in A.O. 1984-52] were made from corporate funds [to the Congressman] and not from funds contributed (properly or improperly) to a PAC." A.O. 1984-52.

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An FEC complainant must allege and show proof of a respondent's intent to violate federal election law before the FEC is obligated to find "reason to believe" and proceed with an investigation, not to mention to inflict punishment by requiring a refund. In Re Federal Election Campaign Act Litigation, 474 F. Supp. 1044, 1047 (D.D.C. 1979). This, Complainant has not done. Rather, the Complaint, as it does repeatedly, just argues for guilt by association. Absent more concrete evidence, the Complaint thus affords the FEC no reason to believe that the alleged illegality of the Commodore contributions infected either the rest of ETF-PAC's contributions or any of its political activity.

In this vein, the Complainant also alleges that the American public would pay for Commodore's illegal contributions to ETF-PAC via the S & L "bail-out" unless a refund is ordered. Complaint at 4. Contrary to this contention, however, Commodore's tab has already been paid. As the newspaper articles provided by Complainant show, see, e.g., Exhibit A, the sentence imposed in the Commodore case requires Commodore's guilty officers to pay "restitution" to the FSLIC to cover Commodore's illegal campaign contributions. No legitimate purpose would be served by requiring long since defunct ETF-PAC or any person associated with it (or anyone else like Chapman or the DCCC, for that matter) to reimburse the United States a second time for these very same contributions.

IV. Complainant Fatally Over-Generalizes The Scope Of Illegal Contributions Received By ETF-PAC.

As regards the remainder (and the bulk) of contributions to ETF-PAC, the Complaint once again casts aspersions of guilt by association by arguing that ETF-PAC was supported "in large part, if not entirely, by illegal campaign contributions." Complaint at 2, 4. The Complainant has not offered a shred of evidence and there is therefore no reason to believe that any non-Commodore contributions to ETF-PAC were illegal. Complainant cannot meet his burden by lumping all Texas thrifts (and thereby contributions from their officers) together. No reason thus exists for the FEC to order a refund or any other remedy relating to the non-Commodore contributions.

V. The Public And The FEC Could Not, In Any Meaningful Sense, Have Been Deceived By ETF-PAC's Registering As A General Purpose Political Committee.

Complainant alleges that ETF-PAC misrepresented its "nature and purpose" by registering as a "general purpose committee, designed to support multiple candidates to public office." Complaint at 3. This argument ignores the fact that the Chapman-Hargett race was a special election; in May of 1985, just five months after a new Congress had begun, there were no other federal elections upcoming. Thus, neither the public nor the FEC could have been deceived into thinking that, as of May through August of 1985, ETF-PAC would be conducting political activity on behalf of anyone other than Chapman, Hargett, or the other candidates for the First District seat.

Moreover, the fact that ETF-PAC dissolved for whatever reason more than one-half year after the Chapman-Hargett election does not render ETF-PAC's activity on Chapman's behalf illegal, for, as discussed in Part I, A., ETF-PAC's activities were independent.¹²

For its parting shot, the Complaint concludes by alleging that ETF-PAC was nothing more than a ruse via which now-defunct or insolvent Texas savings and loans could contribute to Jim Chapman by reimbursing their officers' and directors' contributions to ETF-PAC. No reason to believe Complainant's argument exists because it rests on two faulty assumptions.

First, this argument assumes that ETF-PAC's expenditures on Jim Chapman's behalf were coordinated, so that Jim Chapman received potentially "corrupting" benefits therefrom. As discussed above, Complainant has not adduced reason to believe that the coordination alleged actually occurred.

Second, for ETF-PAC to have been a ruse, it must be assumed that ETF-PAC was established with a view that all the thrifts whose officers and directors were to contribute to ETF-PAC had

¹² The Commission need not, as Complainant would have it do, Complaint at 3, delve into reasons why an individual would contribute to ETF-PAC. The Supreme Court in Buckley, 424 U.S. at 45, held that the FECA, as limited therein, adequately protected the public against fears of "corruption," narrowly defined. In fact, it refused to find that other perceived ills warranted abridging political speech. See id. at 48-49. Thus, an individual contributor's having "no special ideological or other reason for opposing Mr. Hargett, other than that he was a Republican who stood in the way of electing a Democrat to Congress," Complaint at 3, is irrelevant.

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planned to reimburse these officers and directors. Although it now appears that Commodore apparently did reimburse its officers and directors for their contributions to ETF-PAC, the Complaint offers no evidence other than guilt by association to support the proposition that the other thrifts whose officers and directors contributed to ETF-PAC likewise planned to reimburse them. And, Complainant offers no evidence that ETF-PAC knew even that the Commodore contributions were illegal. Without proof of both of these two links, no reason to believe exists that ETF-PAC was designed to evade federal election laws.

Conclusion

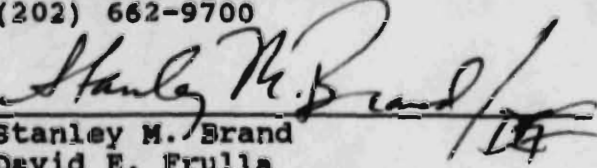
The Complaint herein is based on nothing more than a plea for guilt by association. It resurrects ETF-PAC, a political committee dissolved over three and one half years ago, and then argues that because it can allege that Mr. Gaubert (not even an officer of ETF-PAC), Jim Wright, Tony Coehlo, the DCCC, Commodore, and other members of the Texas thrift industry that contributed to ETF-PAC all had at least one connection at some time with at least one of the others, they all must have conspired to establish a political committee designed to evade federal election laws by funnelling corporate contributions to Jim Chapman.¹³ This web of innuendo falls far short of a reason

¹³ Interestingly, the only connection Complainant has adduced between all the former persons and Jim Chapman is that they all supported him, rather than Edd Hargett.

to believe that the federal election law has been violated.
Therefore, Thomas M. Gaubert respectfully requests the FEC to
dismiss this Complaint, both as against him and in its entirety.

Respectfully submitted,

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FEDERAL ELECTION COMMISSION

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FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

MUR #2982

DATE COMPLAINT RECEIVED

BY OGC September 13, 1989

DATE OF NOTIFICATION TO

RESPONDENTS: September 18, 1989

STAFF MEMBER: Phillip L. Wise

COMPLAINANT: Fred Meyer, State Chairman of the Republican Party of Texas

RESPONDENTS: East Texas First Political Action Committee and its treasurer

Jim Chapman for Congress and Nancy J. Rocks, as treasurer

Democratic Congressional Campaign Committee, and Leslie C. Francis, as treasurer

RELEVANT STATUTES:

2 U.S.C. § 431(17)
2 U.S.C. § 431(18)(A)
2 U.S.C. § 431(18)(B)
2 U.S.C. § 431(18)(C)
2 U.S.C. § 441a(a)(1)(A)
2 U.S.C. § 441a(a)(1)(C)
2 U.S.C. § 441a(a)(2)(A)
2 U.S.C. § 441a(a)(7)(B)(i)
2 U.S.C. § 441a(a)(7)(B)(ii)
2 U.S.C. § 441a(f)
11 C.F.R. § 109.1(a)(4)(i)(A)
11 C.F.R. § 109.1(a)(4)(i)(B)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: U. S. Department Of Justice

I. GENERATION OF MATTER

On September 14, 1989, Fred Meyer, State Chairman of the Republican Party of Texas filed a complaint, with the Federal Election Commission, alleging violations of the Federal Election

1. Richard M. Bates was the treasurer when the complaint in this matter was filed.

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Campaign Act of 1971, as amended ("the Act"), and the Commission's regulations by Jim Chapman for Congress ("Chapman Committee") and Nancy J. Rooks, as treasurer, the Democratic Congressional Campaign Committee ("DCCC") and Leslie C. Francis, as treasurer, and East Texas First Political Action Committee ("ETF-PAC") and its treasurer.

According to Mr. Meyer this complaint was based on

...Facts which surfaced during the Dallas trial of three former savings and loan executives who were sentenced to prison for illegally funneling corporate contributions to the East Texas First political committee, and

...Facts reported by the news media, especially facts disclosed by Wall Street Journal reporter Brooks Jackson in his book Honest Graft, which clearly indicated the East Texas First committee was not an independent committee, as it falsely represented to the Federal Election Commission.

On September 18, 1989, a copy of the complaint was mailed to the DCCC, the Chapman Committee, and ETF-PAC. The DCCC and the Chapman Committee responded to the complaint on October 27, 1989. (Attachments 1 and 2 respectively). On November 6, 1989, Thomas M. Gaubert through his counsel responded to the complaint mailed to ETF-PAC by way of him. (Attachment 3). The foregoing responses generally stated that there was no coordination between the committees and that the committees had no in common staff members.

II. FACTUAL AND LEGAL ANALYSIS

A. Applicable Law

Pursuant to 2 U.S.C. § 431(17) the term "independent

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expenditure" means an expenditure by a person² expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of any candidate, or any authorized committee or agent of such candidate.

The term "clearly identified" means that the name of the candidate involved appears; a photograph or drawing of the candidate appears; or the identity of the candidate is apparent by unambiguous reference. 2 U.S.C. § 431(18)(A), (B), and (C).

"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 the candidate" means any arrangement, coordination, or direction by the candidate or his or her agent prior to the publication, distribution, display, or broadcast of the communication. An expenditure will be presumed to be so made when it is based on information about the candidate's plans, projects, or needs provided to the expending person by the candidate, or by the candidate's agents, with a view toward having an expenditure made; or made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been an officer of an authorized committee, or who is, or has been, receiving any form of compensation or reimbursement from the

2. Under the Act "person" is defined to include a committee.

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candidate, the candidate's committee or agent. 11 C.F.R. § 109.1(a)(4)(i)(A) and (B).

Expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate. 2 U.S.C. § 441a(a)(7)(B)(i). In addition the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered to be an expenditure for purposes of this paragraph. 2 U.S.C. § 441a(a)(7)(B)(ii).

The contribution limit by a person to any candidate and his authorized committees is \$1,000.00. 2 U.S.C. § 441a(a)(1)(A). Pursuant to 2 U.S.C. § 441a(a)(1)(C), no person shall make contributions to any other political committee in any calendar year, which in the aggregate, exceed \$5,000.00. Pursuant to 2 U.S.C. § 441a(a)(2)(A) no multicandidate political committee shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$5,000. Further, no candidate or political committee may knowingly accept contributions or make expenditures in violation of the provisions of 2 U.S.C. § 441a. 2 U.S.C. § 441a(f).

B. SUMMARY OF ALLEGATIONS

Fred Meyer, the complainant, asserted that ETF-PAC

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existed for only 10 months, filing its statement of organization on May 28, 1985 and terminating on March 26, 1986. According to Meyer, ETF-PAC, during its 10 months of existence made expenditures in only one race, the 1985 special election to fill a vacancy in the First Congressional District of Texas. Meyer alleges that ETF-PAC raised and spent more than \$100,000 in this special election and "never spent a penny in any other election or for any other purpose."

According to Meyer, ETF-PAC filed reports and represented to the Commission that its expenditures were all independent expenditures made in opposition to the candidacy of Republican Edd Hargett in the special Congressional election, in the First Congressional District, held June 29 (initial election) and August 3 (run-off), 1985, to fill the vacancy in that seat. In the run-off election, Democratic candidate Jim Chapman defeated Republican Edd Hargett by 1,933 votes. The complainant alleges that Thomas Gaubert, the founder and chairman of ETF-PAC, boasted that his committee's spending made Jim Chapman a Congressman. Meyer describes Gaubert as an active Democratic fundraiser with close ties to the Democratic Congressional Campaign Committee, its then chairman, Tony Coelho, and then House Majority Leader Jim Wright.³

3. As House Majority Leader, Jim Wright was an ex-officio member of the Democratic Congressional Campaign Committee. In MUR 3000 it was established that Thomas Gaubert accompanied Jim Wright on an eight-city jet trip from June 30, 1985 to July 2, 1985. This trip was in preparation of a \$1,000,000 fundraiser held several months later in Fort Worth and billed as the "Cowtown Jamboree."

Meyer further claims that,

East Texas First was clearly supported in large part, if not entirely, by illegal campaign contributions. Three former savings and loan executives have been convicted and sentenced to prison for conspiring to cause substantial contributions of corporate funds to be made to East Texas First, in violation of 2 U.S.C. [§] 441b(a) and § 114.2 of the Commission's regulations. All three are former executives of Commodore Savings Association of Dallas, whose executives contributed \$25,000.00 to East Texas First, a full one-fourth of the total amount East Texas First raised and spent in the First Congressional District special election.

As stated above, Meyer alleges that ETF-PAC was funded largely by illegal corporate political contributions. According to the complaint these funds were channeled to ETF-PAC through

4. On May 26, 1989, after a three week trial, a jury found Robert H. Hopkins, Jr. and E. Morten Hopkins guilty on all counts of a 47-count indictment. The Hopkins brothers were convicted of one count of conspiracy (18 U.S.C. § 371), two counts of concealing material facts from the Federal Election Commission (18 U.S.C. § 1001), 22 counts of misapplying funds of Commodore Savings Association (18 U.S.C. § 657) and 22 counts of making false entries in the books and records of Commodore (18 U.S.C. § 1006). The jury found John Harrell guilty of two counts of making false entries in the books and records of Commodore. Harrell was acquitted on 43 other counts. The convictions were appealed by the defendants. On July 12, 1989, Robert H. Hopkins, Jr. was sentenced to 15 years in prison, five years probation, and ordered to pay \$102,000.00 in restitution. E. Morten Hopkins was sentenced to six months in prison, four and one-half years probation, and ordered to pay \$102,000.00 in restitution. John Harrell was sentenced to six months in prison, four and one-half years probation, and ordered to repay \$4,000.00. On October 19, 1990, the United States Court of Appeals, Fifth Circuit affirmed the convictions and held that the "convictions were supported by sufficient evidence." U.S. v. Hopkins 916 F.2d 207 (5th Cir. 1990). See also, MURs cited note 10 infra.

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Texas Savings and Loan executives.⁵ The following chart shows the contributions received by ETF-PAC which appear to be from Savings and Loans/and or corporations:

NorthPark Savings & Loan

Curtis Bagley	6-25-85	\$1,000
Mark W. Cleary	6-25-85	\$1,000
Bob R. Franks	6-25-85	\$1,000
Jake G. Massey	6-25-85	\$1,000
Jack D. Watson, Jr.	6-25-85	\$1,000

Dondi Financial Corporation

Raleigh Blakely, Sr.	6-25-85	\$1,000
Dana D. Dixon	6-20-85	\$1,000
Don R. Dixon	6-20-85	\$1,000

Camden Financial

Leo Joseph Buchignani, Jr.	6-25-85	\$1,000
John D. Maluck	6-25-85	\$100
John S. Roberge	6-25-85	\$1,000

Sunbelt Service Company

William D. Dobrowolski	6-25-85	\$1,000
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Independent American Group

Julianna Espinoza	6-19-85	\$1,000
Barbara Gaubert	6-19-85	\$1,000
Mike Gaubert	6-19-85	\$1,000
Thomas M. Gaubert	5-24-85	\$1,000
	6-19-85	\$1,000
Paul Marrero	6-19-85	\$1,000

Vernon Savings and Loan

John V. Hill	6-20-85	\$1,000
B. Ray Jeter	6-20-85	\$1,000
Andrew B. Kaplan	6-20-85	\$1,000
Pat G. King	6-20-85	\$1,000

Woody F. Lemons	6-20-85	\$1,000
Richard A. Little	6-25-85	\$1,000
W. O. Rothwell	6-25-85	\$1,000

Sunbelt Savings

Vance Jones	6-25-85	\$1,000
Edwin T. McBirney, III	6-25-85	\$1,000
Jay D. Ownes	6-25-85	\$1,000
J. W. Peeples	6-25-85	\$1,000
Ava L. Bruleson	7-02-85	\$1,000
Harold G. Peeples	7-02-85	\$1,000
Donna P. Rorie	7-10-85	\$1,000
Constance Campbell Smith	7-01-85	\$1,000
Joe R. Smith	7-01-85	\$1,000
Vicky H. Smith	7-01-85	\$1,000
James B. Witherow	7-02-85	\$1,000
R. E. Watson	7-16-85	\$1,000
David W. Coyle	7-16-85	\$1,000
Mike Walsh	7-16-85	\$1,000

Commodore Savings Association

Theresa Bowlin	7-10-85	\$1,000
Linda R. Brownlee	7-10-85	\$1,000
Woodrow O. Brownlee	7-10-85	\$1,000
David R. Farmer	7-10-85	\$1,000
Doris Gilliland	7-10-85	\$1,000
William E. Gilliland	7-10-85	\$1,000
John W. Harrell	7-10-85	\$1,000
Norma L. Harrell	7-10-85	\$1,000
Tom Taylor	7-10-85	\$1,000
Joe Collins	7-16-85	\$1,000
Mrs. Joe Collins	7-16-85	\$1,000

Commodore Financial Corporation

Tyler Brown	7-10-85	\$2,000
E. Morton Hopkins	7-10-85	\$1,000
Lucy F. Hopkins	7-10-85	\$1,000
Robert Hopkins, Jr.	7-10-85	\$1,000
Mrs. Robert H. Hopkins	7-10-85	\$1,000
Robbie L. Cook	7-16-85	\$1,000
Mary A. Cook	7-16-85	\$1,000
Gary Spröss	7-16-85	\$1,000
Vanessa P. Spröss	7-16-85	\$1,000
Mike Gamble	7-16-85	\$1,000
Mrs. Mike Gamble	7-16-85	\$1,000
Gary D. Mathews	7-16-85	\$1,000
Ida J. Mathews	7-16-85	\$1,000

Paris Savings and Loan Association

Harvey D. McLean	7-01-85	\$1,000
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Lani McLean

7-01-85

\$1,000

Total

\$65,100

According to the complainant ETF-PAC was created and operated as a part of a national Democratic Party effort to elect a Democrat in the 1985 Special Election in the First Congressional District of Texas. Meyer alleges that ETF-PAC was "attempting to deceive the Commission and the public when it falsely stated in its organizational papers that it was not a single-election committee, which it clearly was."

Meyer also avers that ETF-PAC was designed and operated to enable the DCCC and the eventual Democratic nominee, Jim Chapman, to evade federal election laws and the Commission's regulations, including contribution limits. In fact, according to Meyer, ETF-PAC operated virtually as an arm of the Chapman campaign, "performing such mainstream campaign activities as telephoning pro-Chapman voters to remind them to go vote, busing in volunteer workers and buying them food, renting sound equipment and paying for mass mailings, radio commercials and newspaper advertisements."

Meyer further contends that ETF-PAC was not an independent committee when in actuality it was operated as an arm of the Chapman Committee, coordinating its efforts through the DCCC and former House Majority Leader Jim Wright and/or his staff.

As stated by Meyer in his complaint,

Members of the news media were not deceived by the committee's declaration that it was independent. Media reports uniformly and consistently reported that East Texas First was organized and functioned for the purpose of electing

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Jim Chapman to Congress. Media reports were frequently cynical about the PAC's so-called "independent" status; The Washington Post raised questions about East Texas First's "independent" status and Jackson, in Honest Graft, sarcastically noted "the supposedly independent operation meshed perfectly with Chapman's campaign and the efforts of Wright's organization."

Attached to Meyer's complainant was a copy of an article entitled, "Banking On Politics: A Texas Tale; How S&Ls with Troubles Made Friends in High Places," The Washington Post, May 8, 1988. This article pointed out that many of the donors to ETF-PAC were executives of Texas thrifts. As examples the article stated that Don Dixon, his wife, and other Vernon Savings and Loan officials donated \$11,000; and Ed McBirney, head of Sunbelt Savings, and his subordinates gave \$22,000. Further, the article pointed out that during the summer of 1985, Texas thrift officials gave at least \$40,000 to the DCCC.⁶ This article also stated that,

6. A review of DCCC's July and August 1985 Monthly Reports reveals that the following Texas thrift officials were contributors of portions of this amount: On July 15, 1985, Dan Cooke, Chairman, First City Savings of Dallas, Texas contributed \$1,500.00; On July 15, 1985, Don R. Dixon, CEO of Dondi Financial of Dallas, Texas contributed \$5,000; On July 15, 1985, Billy B. Williams, Vice President of First City Savings of Irving, Texas contributed \$1,500.00; On July 16, 1985, John Harrell, CEO of Commodore Savings of Dallas, Texas contributed \$5,000.00; On July 23, 1985, Steve C. Williams, Senior Vice President of First City Savings of Irving, Texas contributed \$500; and on August 5, 1985, Edwin T. McBirney, Chairman of the Board of Sunbelt Savings of Dallas, Texas contributed \$5,000.00. It should be noted that Dixon, Harrell, and McBirney were also major supporters of ETF-PAC at this time. It should also be noted that a review of DCCC's 1985 reports discloses no coordinated expenditures on behalf of Chapman in 1985.

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Some Democratic strategists were concerned that Gaubert's effort might have been coordinated with Wright's office, through Phil Duncan. Duncan, a top Wright aide, is such a good friend of Gaubert's that the financier sometimes stays at his home and borrows his car when visiting Washington. Said one Democratic aide, "The last thing we wanted was someone charging the effort wasn't independent."

East Texas First records show Gaubert paid most of the \$100,000 he raised to two former Wright aides -- a woman in public relations and a man who published a book of Wright's speeches. They spent it on printing, mailing and media buys. One page of the East Texas First reports at the Federal Election Commission is mistakenly labeled "Wright Appreciation Fund."

ETF-PAC's reports indicate the following payments to former Wright aide Sissy Day of Sissy Day & Associates:

Termination Report

<u>Purpose</u>	<u>Date</u>	<u>Amount</u>
Media buy	7/22/85	\$13,522.84
Ad Placement and production	7/24/85	9,397.04
Radio production	7/24/85	2,094.12
Get out the vote telephoning	7/31/85	4,500.00

1985 12-Day Run-off

Senior Citizens' Mass Mailing	7/12/85	14,962.37
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1985 July Quarterly

Art Work Mailing Lists	6/25/85	5,285.83
Total:		<u>\$49,762.20</u>

ETF-PAC's reports indicate the following payments to former

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Wright aide Kitchens of Kitchens & Associates:

1985 July Quarterly

<u>Purpose</u>	<u>Date</u>	<u>Amount</u>
Opinion Polls	6/25/85	\$4,000.00

ETF-PAC's reports indicate the following payments to Madison Systems Corporation⁷:

1985 July Quarterly

<u>Purpose</u>	<u>Date</u>	<u>Amount</u>
Mailing Printing Bulk Mail	6/24/85	\$27,306.44

According to Meyer:

Wall Street Journal reporter Brooks Jackson, in his book Honest Graft, disclosed that Thomas Gaubert (Chairman of East Texas First) admitted he discussed his committee's activities with members of the staff of the Democratic Congressional Campaign Committee; a clear violation of regulations governing independent committees. Jackson goes on to report that a member of the DCCC staff started to discuss East Texas First's activities at a DCCC staff meeting, but was warned not to talk about that by another staff member because such knowledge and contacts are clearly

7. Madison Systems Corporation, founded by William Carlos Moore, was formerly known as Carlos Moore & Associates. Roughly 75 percent of its business consists of printing, including silk screens and bumper stickers. Carlos Moore regularly performed campaign services for Wright. From 1980 through 1987, Wright's committees paid Moore \$510,158.50. Report Of The Special Outside Counsel In The Matter Of Speaker James C. Wright, Jr., Committee On Standards Of Official Conduct U.S. House Of Representatives, 101st Cong., February 21, 1989, page 59.

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illegal.⁸

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Meyer also asserted that testimony, during the Dallas trial of three Commodore Savings executives, indicated that an aide to then House Majority Leader Jim Wright had specifically solicited contributions for ETF-PAC. "John Harrell, the Commodore Chairman, testified he helped funnel \$25,000 to East Texas First because Jim Wright asked for it." According to an article that appeared in The Washington Post on July 14, 1989, ETF-PAC, which had received illegal contributions from Commodore Savings Association, was set up by a Democratic fund-raiser with close ties to former House speaker Jim Wright. Further the article states that "David Farmer, a former Commodore executive, testified in May that Harrell said Wright had promised to kill legislation opposed by the thrift industry in return for \$250,000 in contributions to another Texas congressman." However in contradiction to Farmer's foregoing statement this same article states that "Harrell, however, testified that he never said Wright had guaranteed to kill legislation in exchange for the thrifts' contributions. Robert Hopkins also denied the existence of a deal but said an aide to Wright had specifically

8. As stated in Jackson's book, Honest Graft at page 266:

"I talked to the D-triple-C about ideas and so on and so forth," Gaubert recalled. Such contacts could be construed as destroying the independence of his PAC and making his spending illegal. The briefings Gaubert received may have been unauthorized. Once, at a senior staff meeting, when an aide began reciting what Gaubert was doing, Martin Franks cut him off and forbade further discussion.

requested \$25,000 each from 10 Texas thrifts."

An article that appeared in the National Review on April 21, 1989, stated that reports filed with the Federal Election Commission between 1983 and 1986, show that "Tom Gaubert, his brother Jack, their wives, Barbara and Carolyn, and their children, Tom Jr., Michael, Paige, and Randy, dished out \$147,000 to Democratic candidates for federal office." According to this article among the key recipients of these funds was DCCC Chairman Tony Coelho and Jim Wright, who was Majority Leader at the time.

The complainant also asserts that ETF-PAC falsely represented itself to the Commission as a committee designed to support multiple candidates to public office, when its sole purpose was to elect a Democrat to Congress in the special election in the First Congressional District of Texas.⁹ Further, Meyer states that,

East Texas First existed for only 10 months, from May 1985 until March 1986, raised and spent a total of more than \$100,000 in the special election and never spent a penny on any other campaign or election. Except for a token contribution from its founder received prior to its registration with the Commission, all of the committee's contributions were received on or after June 19, just 10 days before the initial election. Its first expenditures were made five days before the initial election, and were clearly designed to

9. A review of ETF-PAC's Statement Of Organization reveals that in the section designated type of committee the block which states, "this committee supports/opposes more than one Federal candidate and is not a separate segregated fund nor a party committee" has been selected by the committee.

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turn out the Democratic vote to ensure a runoff. It raised and spent more than \$100,000 during the 68 days between its organization and the August 3 runoff.

The committee stated that its expenditures were made for the purpose of defeating Edd Hargett in his congressional campaign.¹⁰

Consistent with the foregoing, Wall Street Journal reporter Brooks Jackson in his book Honest Graft stated that Thomas Gaubert "set up a political action committee called East Texas First, headquartered in the Texarkana branch of a savings and loan association he owned. It was a curious sort of PAC, in that it supported only one candidate in one House race, then dissolved. Gaubert described himself as the PAC's informal chairman."

C. THE RESPONSES

(1) The DCCC's Response

Counsel on behalf of the DCCC stated:

There is absolutely no factual basis for these allegations. Not only was there no communication between the DCCC and East Texas First, the DCCC took every precaution to assure complete insulation by establishing a formal policy during the Texas special election forbidding staff to communicate with or maintain direct or indirect contact with East Texas First.

The DCCC's response asserted that it played no role in the

10. A review of all the reports filed with the Commission, in 1985, by ETF-PAC confirms that the committees expenditures were made to oppose Edd Hargett's campaign in the First Congressional District of Texas. It should also be noted that the reports do not show any contributions/expenditures to Jim Chapman or the DCCC.

organization, operation, or activities of the ETF-PAC. And that the DCCC neither accepted, nor had any role whatsoever in raising funds for the ETF-PAC. "Further, Mr. Gaubert was not authorized, directed, or assisted in any manner by the DCCC to organize or conduct activities for East Texas First."

Included with the DCCC's response were affidavits from Martin D. Franks, the former Executive Director of the DCCC¹¹ and Thomas J. King, Jr., the former Political Director of the DCCC. In his sworn affidavit Franks stated that he served as the Executive Director of the DCCC from 1981 to 1987, the period during which the 1985 special Congressional election to fill a vacancy in the First Congressional District of Texas occurred. With regard to the allegations in the complaint Franks declared:

The DCCC provided assistance to the Jim Chapman for Congress Campaign Committee in the 1985 special run-off election for Texas First Congressional District.

The DCCC was not involved in the organization or operation of East Texas First Committee.

I formally directed, on advice of counsel, all DCCC staff to refrain from any contact or communication with or discussion about East Texas First.

The DCCC did not coordinate activities between East Texas First and the Jim Chapman for Congress Campaign Committee.

During the 1985 Special Election, I did not communicate directly or

11. According to Mr. Franks, as Executive Director he was in charge of the day-to-day operations of the DCCC, supervised the DCCC staff, and served as principal advisor to the Chair of the DCCC.

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indirectly with East Texas First committee about the Jim Chapman for Congress Campaign Committee's activities, strategy or needs.

I did not suggest or request directly or indirectly that East Texas First committee take any action or provide any assistance in support of the election of Congressman Jim Chapman or the defeat of his opponent, Edd Hargett.

In his sworn affidavit Thomas J. King, Jr. repeated the same assertions made in Franks' affidavit presented above. King also stated that he served as Political Director of the DCCC from 1985 to 1987. According to King, in this position he supervised and planned the DCCC's political assistance to Democratic congressional candidates.

(2) The Chapman Committee's Response

The response filed by the Jim Chapman for Congress Committee and Nancy Rooks, as treasurer, was accompanied by sworn affidavits from George Shipley (political consultant to the Chapman Committee); William Brannon (campaign manager of the Chapman Committee); Peck Young (political consultant for the Chapman Committee); and David Butts (field organizer for the Chapman Committee).

Counsel for the Chapman Committee stated that:

Independent expenditures may not be made in cooperation, consultation or concert with, or at the request or suggestion of, any candidate or his authorized committee or agent. 2 U.S.C. § 431(17). FEC regulations provide in more specific terms that certain situations trigger "presumptions" that coordination exists. Under those regulations, an expenditure is not independent if: (1) it is made "based on information" about a campaign's needs specifically provided by the

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candidate or his agent "with a view toward having the expenditure made," 11 C.F.R. § 109.1(a)(4)(i)(A); or (2) if it is made "by or through" a person who at any time was authorized to raise or spend funds, an officer of the authorized committee, or in receipt of any compensation or reimbursement for activities in support of the candidate or the campaign. 11 C.F.R. § 109.1(a)(4)(i)(B).

FEC Advisory Opinions also suggest additional factual circumstances that defeat independence. Thus, independence is barred when goods or services are purchased by a committee and, even without prior consultation, provided to the candidate. Advisory Opinion 1979-80, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5469 (March 12, 1980). Similarly, if contributors send checks to an independent committee in response to a fundraising solicitation, and the committee forwards them to the candidate, the solicitation is not independent regardless of whether it is conducted without the consent or knowledge of the candidate. Advisory Opinion 1980-46, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5508 (June 25, 1980).

The response by the Chapman Committee further stated:

In some cases, the linkage is more direct, but the prohibition is the same. "Independence" cannot be claimed by a committee which, organized in a general election to make independent expenditures, is founded by an individual who worked directly for the same candidate in the primary election. FEC Informational Letter (O/R 777), Dec. 7, 1976. Another direct connection, operating to defeat independence, occurs where the independent committee and the candidate's campaign committee shared office space and secretarial service, exchanged mailing lists, and the candidate on whose behalf the committee was making independent expenditures signed the committee's fundraising solicitation. Matter Under Review 1484 (June 6, 1985).

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In all these cases, there was evidence of connection, more direct in some than in others, but clearly present in all. To sustain a challenge to independence, there must be a concrete factual showing of "actual agreement" or "express intent or communication" or some linkage in accord with the opinions cited. Mere conjecture is not enough: It is "very difficult to sustain a finding of cooperation and coordination based on press releases." Common Cause v. Federal Election Commission, 655 F. Supp. 619, 624 (D.D.C. 1986), rev'd on other grounds, 842 F.2d 436 (D.C. Cir. 1988).

Counsel for the Chapman Committee argued that in line with the court's holding in Common Cause v. Federal Election Commission, 655 F. Supp. 619, 624 (D.D.C. 1986), rev'd on other grounds, 842 F.2d 436 (D.C. Cir. 1988), that to sustain a challenge to the independence of a committee there must be a concrete factual showing of actual agreement.

The Chapman Committee stressed that there was no direct or indirect contact with ETF-PAC and its principal staff during the campaign in the special election in the First Congressional District in 1985, to fill the vacancy in that seat. According to counsel for the Chapman Committee "none of the Chapman Committee staff requested or suggested directly or indirectly that East Texas First make an expenditure or undertake any activity in the election in support of Congressman Chapman." See Chapman Committee's Response, Attachment 2. According to Counsel, "the Chapman campaign, however, was a self-contained entity with its own fundraising, phone banks, media, polling and field operations. All of these campaign

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functions were directed and implemented by staff...and volunteers working solely and exclusively for the Chapman Committee." See also sworn affidavits from George Shipley (political consultant to the Chapman Committee); William Brannon (campaign manager of the Chapman Committee); Peck Young (political consultant for the Chapman Committee); and David Butts (field organizer for the Chapman Committee) Attachment 2.

Counsel also pointed out that persons connected with the Chapman campaign never provided information to ETF-PAC about campaign needs or plans with a view that an expenditure would be made based on this information. Furthermore, Counsel indicates that neither the treasurer nor any individual making expenditures for ETF-PAC, including Thomas Gaubert, ever worked in the Chapman Committee.

With regard to complainant's allegation of coordination between the Chapman Committee and ETF-PAC through the DCCC, Counsel's response on behalf of the Chapman Committee was as follows:

The only basis for this allegation is Brooks Jackson's account...of an alleged conversation between Mr. Thomas Gaubert...and DCCC staff about "ideas and so on and so forth." Moreover, Jackson suggests that this contact may have been unauthorized, thus not attributable to the DCCC.

....Jackson also reports that when a DCCC aide started to discuss Mr. Gaubert's activities at a DCCC staff meeting, Marty Franks, then Executive Director of the DCCC, put an immediate stop to it in full recognition of the rules governing independent expenditures. Moreover, a Washington Post story, Exhibit I to the Complaint, reports that

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former DCCC Chair Tony Coelho stated during an interview that "he was careful to stay away from East Texas First." Thus, not only does Mr. Meyer fail to provide any factual basis for his allegations, but the evidence he relies on supports a contrary conclusion.

The Chapman Committee does state that the DCCC worked with them during the campaign, however "these contacts with the DCCC never involved coordination or discussion of East Texas First's activities. Their technical and financial assistance was strictly limited to Chapman campaign activities."

(3) The Gaubert/ETF-PAC's Response

As stated above, Thomas M. Gaubert through his counsel responded to the complaint, on behalf of ETF-PAC.

(Attachment 3). Counsel stated that, "the complaint herein has adduced no evidence of any agency relationship, direct request for specific help based on information given to ETF-PAC with a view that an expenditure be made, or other form of prearrangement or agreement by the DCCC or Jim Chapman."

With regard to complainant's allegations that an aide to then House Majority Leader Jim Wright had specifically solicited contributions for ETF-PAC. Counsel states the following:

The Complaint alleges that Mr. Gaubert and Jim Wright appeared at a fundraiser at which Texas savings and loan officials....were asked to contribute to ETF-PAC. At that meeting, it is alleged, Mr. Wright stated that it was important to him that a Democrat win the special election for Texas's First Congressional District. As one of his party's leaders, Jim Wright is entitled to encourage contributions to a political committee that had as one of its goals to support the election of Democrats to Congress without destroying ETF-PAC's

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independence. Mr. Wright's statement (and his making a statement at all) is not improper campaign activity.¹²

Furthermore, as the FEC has held, a Member of Congress like Jim Wright may assist in fundraising for and decisions regarding the disbursement of funds for a political committee not involved in that Member's election campaign--even if the committee is named after the Member. Cf. A.O. 1978-12, FED Elec. Camp. Fin. Guide (CCH), ¶ 5306.

D. ANALYSIS

The above responses from counsel for the DCCC, the Chapman Committee, and ETF-PAC all argue that with no direct evidence showing actual agreement a challenge to independence could not be sustained. Furthermore, according to counsel, without such concrete factual showing of actual agreement a finding of cooperation and coordination is difficult to sustain. This standard, according to respondents, is supported by Common Cause v. Federal Election Commission, 655 F. Supp. 619, 624 (D.D.C. 1986), rev'd on other grounds, 842 F.2d 436 (D.C. Cir. 1988).

12. By way of explanation Counsel pointed out that,

As the House Report which accompanied the 1976 House bill amending the Federal Election Campaign Act stated:

[I]f a candidate or some other person suggests in a speech to a group of persons that everything should be done to defeat the opponent of the candidate, it is not the intent of the Committee that such a reference in a speech be viewed as a "suggestion" for purposes of the definition [of independent expenditure]. H.R. Rep. No. 917, 5.

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The General Counsel believes the standard asserted by the respondents is too narrow, thereby resulting in an incomplete statement of the law. Furthermore, counsel for the Chapman Committee and the DCCC appear to be presenting arguments with regard to what it may take to prove the expenditures were not independent. However, the issue before the Commission is whether the circumstances are sufficient to find reason to believe in order to investigate the allegations. The original complaint in Common Cause alleged that five political committees had coordinated their expenditures with the 1980 Reagan Presidential campaign. These committees were Americans For an Effective Presidency, Americans for Change, North Carolina Congressional Club, Fund For A Conservative Majority, and NCPAC.

According to the court, the complainant, Common Cause, argued that the "totality of the circumstances standard" showing coordination included "interlocking membership of persons at the policy making levels of the committees and prior alliances with the official committees; indirect communication of strategy by Reagan's committees through the media; and the uses of common vendors." Id. at 624. The reports filed by the respondents revealed numerous examples of vendors providing services as part of an allegedly independent expenditure program undertaken by an unauthorized committee and also providing services directly to an authorized Reagan committee. See General Counsel's Report signed August 15, 1980, in MUR 1252. However, the extensive investigation that followed the Commission's reason to believe findings failed to produce "evidence of any direct requests or

scheming." Common Cause, 655 F.Supp. at 624. Consequently, the Commission took no further action on the coordination issue.

Common Cause brought a civil suit under 2 U.S.C. § 437g(a)(8)(A) challenging the Commission's action. Common Cause argued that there was no rational basis for requiring at the probable cause stage of enforcement that there be direct evidence of coordination. As stated above, Common Cause urged that a "totality of the circumstances standard" be imposed. In the limited review that followed, the district court ruled that there was a rational basis to support either standard. Although the Commission could have freely adopted the totality of circumstances standard urged by Common Cause, the court stated it was not an abuse of discretion for the Commission to adopt the direct evidence standard instead. Id. at 623.

In this present matter, there is sufficient evidence to challenge the independence of ETF-PAC's expenditures, and to make a reason to believe finding that the DCCC, ETF-PAC, and the Chapman Committee acted in concert or coordinated their activities with regard to the special election in the First Congressional District of Texas in 1985. To sustain a reason to believe finding, which will authorize investigation, there is no requirement that there be evidence of direct requests, actual agreement, express intent or communication that expenditures be made.

The following facts, when viewed together, appear to be inconsistent with the respondents' claims that there was no coordination between the committees: (1) ETF-PAC, during its 10

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months of existence made expenditures in only one race, the 1985 special election to fill a vacancy in the First Congressional District of Texas. ETF-PAC raised and spent more than \$100,000 in this special election; (2) Thomas Gaubert, the founder and chairman of ETF-PAC, boasted that his committee's spending made Jim Chapman a Congressman. Gaubert is described as an active Democratic fundraiser with close ties to the Democratic Congressional Campaign Committee, its then chairman, Tony Coelho, and then House Majority Leader Jim Wright; (3) Respondents fail to indicate whether or not there was any contact between Chapman and Wright, and ETF-PAC and Wright although such allegations are implied by the complaint; (4) As House Majority Leader Jim Wright was an ex-officio member of the Democratic Congressional Campaign Committee; (5) In MUR 3000 it was established that Thomas Gaubert accompanied Jim Wright on an eight-city jet trip from June 30, 1985 to July 2, 1985. This trip was in preparation of a \$1,000,000 joint fundraiser held several months later in Fort Worth and billed as the "Cowntown Jamboree" on behalf of Wright and his PAC; (6) East Texas First records show Gaubert paid most of the \$100,000 he raised to three former Wright aides, Sissy Day, Kitchens, and William Carlos Moore. They spent it on printing, mailing and media buys and polling; (7) One page of the East Texas First reports at the Federal Election Commission is mistakenly labeled "Wright Appreciation Fund;" (8) As stated in Jackson's book, Honest Graft at page 266, "I talked to the D-triple-C about ideas and so on and so forth," Gaubert recalled. According to Jackson,

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such contacts could be construed as destroying the independence of his PAC and making his spending illegal even though the briefings Gaubert received may have been unauthorized.

Furthermore, according to Jackson, an aide began reciting at a DCCC senior staff meeting, what Gaubert was doing, but Martin Franks cut him off and forbade further discussion; and (9) There are allegations that ETF-PAC was formed at Wright's urging and funded by savings and loan officials that Wright was allegedly instrumental in convincing to make contributions.

E. CONCLUSIONS

The denials by the DCCC, ETF-PAC, and the Chapman Committee that they acted in concert or coordinated their activities with regard the special election in the First Congressional District in 1985, to fill the vacancy in that seat appear to be conclusory and incomplete. Most importantly, the respondents have not addressed the role Jim Wright allegedly played in these activities. Therefore, the General Counsel concludes that there appears to be reason to believe that East Texas First Political Action Committee and its treasurer made excessive contributions in violation of 2 U.S.C. § 441a(a) which were received by Jim Chapman for Congress and Nancy J. Rooks, as treasurer, or the Democratic Congressional Campaign Committee, and Leslie C. Francis, as treasurer, in violation of 441a(f).

IV. RECOMMENDATIONS

1. Find reason to believe that East Texas First Political Action Committee and its treasurer violated 2 U.S.C. § 441a(a).

2. Find reason to believe that Jim Chapman for Congress and Nancy J. Rooks, as treasurer, violated 2 U.S.C. § 441a(f).

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3. Find reason to believe that the Democratic Congressional Campaign Committee, and Leslie C. Francis, as treasurer, violated 2 U.S.C. § 441a(f).

4. Approve the attached Factual and Legal Analyses.

5. Approve the appropriate letters.

Date 7/29/91

Lawrence M. Noble (7/2)
Lawrence M. Noble
General Counsel

Attachments

1. DCCC's Response
2. The Chapman Committee's Response
3. ETF-PAC's Response
4. Factual and Legal Analyses (3)

Staff Assigned: Phillip L. Wise

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/BONNIE J. FAISON *[Signature]*
COMMISSION SECRETARY

DATE: AUGUST 6, 1991

SUBJECT: MUR 2982 - GENERAL COUNSEL'S REPORT
DATED JULY 29, 1991.

The above-captioned document was circulated to the
Commission on TUESDAY, JULY 30, 1991 at 11:00 a.m..

Objection(s) have been received from the Commissioner(s)
as indicated by the name(s) checked below:

Commissioner Aikens	_____
Commissioner Elliott	XXX
Commissioner Josefiak	XXX
Commissioner McDonald	XXX
Commissioner McGarry	_____
Commissioner Thomas	XXX

This matter will be placed on the meeting agenda
for TUESDAY, AUGUST 13, 1991.

Please notify us who will represent your Division before the
Commission on this matter.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2982
East Texas First Political Action)
Committee and its treasurer;)
Jim Chapman for Congress and Nancy)
J. Rooks, as treasurer;)
Democratic Congressional Campaign)
Committee, and Leslie C. Francis,)
as treasurer.)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the
Federal Election Commission executive session on
August 13, 1991, do hereby certify that the Commission
decided by a vote of 6-0 to take the following actions
in MUR 2982:

1. Find reason to believe that East Texas
First Political Action Committee and
its treasurer violated 2 U.S.C. § 441a(a).
2. Find reason to believe that Jim Chapman
for Congress and Nancy J. Rooks, as
treasurer, violated 2 U.S.C. § 441a(f).
3. Find reason to believe that the Democratic
Congressional Campaign Committee, and
Leslie C. Francis, as treasurer, violated
2 U.S.C. § 441a(f).

(continued)

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4. Direct the Office of General Counsel to revise the Factual and Legal Analyses attached to the General Counsel's report dated July 29, 1991 and circulate the revised Factual and Legal Analyses for Commission approval.
5. Approve appropriate letters as recommended in the General Counsel's report dated July 29, 1991.

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

Attest:

8-15-91

Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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August 27, 1991

SENSITIVE

MEMORANDUM

TO: The Commission
FROM: Lawrence M. Noble
General Counsel
SUBJECT: MUR 2982

Jim Chapman for Congress and Nancy J. Rooks, as treasurer; East Texas First Political Committee and its treasurer; and Democratic Congressional Campaign Committee, and Leslie C. Francis, as treasurer.

On August 13, 1991, the Federal Election Commission found reason to believe that Jim Chapman for Congress and Nancy J. Rooks, as treasurer, violated 2 U.S.C. § 441a(f); East Texas First Political Committee and its treasurer, violated 2 U.S.C. § 441a(a); and Democratic Congressional Campaign Committee, and Leslie C. Francis, as treasurer, violated 2 U.S.C. § 441a(f). On that same date the Commission directed this Office to revise the Factual and Legal Analyses to reflect the concerns expressed by the Commission during the Executive session.

The Office of the General Counsel recommends that the Commission approve the attached Factual and Legal Analyses for the above Respondents, which has been modified as directed by the Commission.

Attachments
Factual and Legal Analyses (3)

Staff Assigned: Phillip L. Wise

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/BONNIE J. FAISON *JS*
COMMISSION SECRETARY

DATE: AUGUST 30, 1991

SUBJECT: MUR 2982 - MEMORANDUM TO THE COMMISSION
DATED AUGUST 27, 1991.

The above-captioned document was circulated to the
Commission on WEDNESDAY, AUGUST 28, 1991 at 11:00 A.M..

Objection(s) have been received from the Commissioner(s)
as indicated by the name(s) checked below:

Commissioner Aikens	_____
Commissioner Elliott	_____
Commissioner Josefiak	_____XXX_____
Commissioner McDonald	_____
Commissioner McGarry	_____
Commissioner Thomas	_____XXX_____

This matter will be placed on the meeting agenda
for TUESDAY, SEPTEMBER 17, 1991.

Please notify us who will represent your Division before the
Commission on this matter.

93040925294

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2982
Jim Chapman for Congress and Nancy J.)
Rooks, as treasurer;)
East Texas First Political Committee)
and its treasurer; and)
Democratic Congressional Campaign)
Committee and Leslie C. Francis, as)
treasurer.)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on September 17, 1991, do hereby certify that the Commission decided by a vote of 5-0 to approve the proposed draft of the Factual and Legal Analysis for MUR 2982 (adaptable to each respondent), as contained in Commissioner Josefiak's memorandum dated September 12, 1991.

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

Attest:

9-23-91
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 7, 1991

Robert F. Bauer, Esq.
Perkins Coie
607 Fourteenth Street, N.W.
Washington, D.C. 20005-2011

RE: MUR 2982
Jim Chapman for Congress and
Nancy J. Rooks, as treasurer

Dear Mr. Bauer:

On September 18, 1989, the Federal Election Commission notified your clients of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint, and information supplied by your clients, the Commission, on August 13, 1991, found that there is reason to believe Jim Chapman for Congress and Nancy J. Rooks, as treasurer violated 2 U.S.C. § 441a(f), a provision of the Act. The 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 clients. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office along with answers to the enclosed questions within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

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

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time

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F. Bauer, Esquire
Page 2

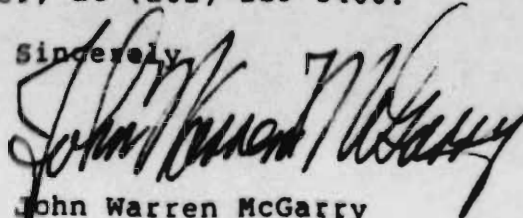
so that it may complete its investigation of the matter. Robert
Further, the Commission will not entertain requests for
pre-probable cause conciliation after briefs on probable cause
have been mailed to the respondent.

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

This matter will remain confidential in accordance with
2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify
the Commission in writing that you wish the matter to be made
public.

If you have any questions, please contact Phillip L. Wise,
the attorney assigned to this matter, at (202) 219-3400.

Sincerely,



John Warren McGarry
Chairman

Enclosures
Questions
Factual & Legal Analysis

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
)
) MUR 2982
)

INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS

TO: Jim Chapman for Congress and Nancy J. Rooks,
as treasurer

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In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 15 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from May 1985 to April 1986.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

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DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

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PROPOSED QUESTIONS

Fred Meyer, State Chairman of the Republican Party of Texas, has alleged that the East Texas First Political Action Committee, Jim Chapman for Congress, and the Democratic Congressional Campaign Committee cooperated, coordinated, and/or acted in concert with regard to the 1985 special election to fill a vacancy in the First Congressional District of Texas.

1. State whether Thomas Gaubert offered or requested any information about the operation of the campaign of Jim Chapman.

(a) If yes state the nature of the requests for or offer of information, and the name of the person or persons who made such requests or offers.

(b) If written requests for or offers of information were made please furnish this Office with legible copies of any documents which evidence such information.

(c) If oral requests for or offers of information were made please furnish this Office with a written recitation of said conversation.

(d) State whether former Congressman Jim Wright, and/or anyone representing Jim Wright, played a part in obtaining, requesting, or the offering of any such information. Explain in detail Wright's or any representative of Wright's involvement.

2. State whether the DCCC discussed the activity taken or to be taken by East Texas First, with regard to Chapman's Campaign, with anyone from the Chapman Committee.

(a) State the names, position and responsibilities of any and all persons who were involved in such discussion.

(b) State the names, positions and responsibilities of any and of all persons present during such discussion of East Texas First.

(c) State what was discussed and identify the person or persons who made such comments or statements.

(d) State whether former Congressman Jim Wright played a part in obtaining, requesting, or the offering of any such information. Explain in detail Wright's or any representative of Wright's involvement.

3. State whether Jim Chapman For Congress received

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MUR 2982
Jim Chapman For Congress
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information from the DCCC about East Texas First's activities to help Chapman's campaign.

- (a) State how such information was received.
- (b) If such information was received in writing please furnish this Office with legible copies of such information.
- (c) If such information was received orally please furnish this Office with a written recitation of such information.
- (d) State the names and responsibilities of the person or persons who gave this information.
- (e) State whether former Congressman Jim Wright played a part in obtaining, requesting, or the offering of any such information. Explain in detail Wright's or any representative of Wright's involvement.

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FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

MUR #2982

RESPONDENTS: Jim Chapman for Congress and Nancy Rooks,
as treasurer

I. SUMMARY OF ALLEGATIONS

The complaint asserted the East Texas First Committee spent over \$100,000 on behalf of the candidacy of Jim Chapman for Congress (or in opposition to Chapman's opponent) in the special election in Texas's First Congressional district in 1985, and alleged these expenditures were not made independently of the Chapman campaign committee or national Democratic party efforts in support of Chapman.

II. The Complaint

Fred Meyer, State Chairman of the Republican Party of Texas filed a complaint, with the Federal Election Commission, alleging violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), and the Commission's regulations by Jim Chapman for Congress ("Chapman Committee") and Nancy J. Rooks, as treasurer, the Democratic Congressional Campaign Committee ("DCCC") and Leslie C. Francis, as treasurer, and East Texas First Political Action Committee ("ETF-PAC") and its treasurer.

According to Mr. Meyer this complaint was based on

...Facts which surfaced during the Dallas trial of three former savings and loan executives who were sentenced to prison for illegally funneling corporate contributions to the East Texas First political committee, and

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...Facts reported by the news media, especially facts disclosed by Wall Street Journal reporter Brooks Jackson in his book Honest Graft, which clearly indicated the East Texas First committee was not an independent committee, as it falsely represented to the Federal Election Commission.

Fred Meyer, the complainant, asserted that ETF-PAC existed for only 10 months, filing its statement of organization on May 28, 1985 and terminating on March 26, 1986. According to Meyer, ETF-PAC, during its 10 months of existence made expenditures in only one race, the 1985 special election to fill a vacancy in the First Congressional District of Texas. Meyer alleges that ETF-PAC raised and spent more than \$100,000 in this special election and "never spent a penny in any other election or for any other purpose."

According to Meyer, ETF-PAC filed reports and represented to the Commission that its expenditures were all independent expenditures made in opposition to the candidacy of Republican Edd Hargett in the special Congressional election, in the First Congressional District, held June 29 (initial election) and August 3 (run-off), 1985, to fill the vacancy in that seat. In the run-off election, Democratic candidate Jim Chapman defeated Republican Edd Hargett by 1,933 votes. The complainant alleges that Thomas Gaubert, the founder and chairman of ETF-PAC, boasted that his committee's spending made Jim Chapman a Congressman. Meyer describes Gaubert as an active Democratic fundraiser with close ties to the Democratic Congressional Campaign Committee, its then chairman, Tony Coelho, and then

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House¹ Majority Leader Jim Wright.²

Meyer further claims that,

East Texas First was clearly supported in large part, if not entirely, by illegal campaign contributions. Three former savings and loan executives have been convicted and sentenced to prison for conspiring to cause substantial contributions of corporate funds to be made to East Texas First, in violation of 2 U.S.C. [§] 441b(a) and § 114.2 of the Commission's regulations. All three are former executives of Commodore Savings Association of Dallas, whose executives contributed \$25,000.00 to East Texas First, a full one-fourth of the total amount East Texas First raised and spent in the First Congressional District special election.³

1. As House Majority Leader Jim Wright was an ex-officio member of the Democratic Congressional Campaign Committee. In MUR 3000 it was established that Thomas Gaubert accompanied Jim Wright on an eight-city jet trip from June 30, 1985 to July 2, 1985. This trip was in preparation of a \$1,000,000 fundraiser held several months later in Fort Worth and billed as the "Cowntown Jamboree."

2. On May 26, 1989, after a three week trial, a jury found Robert H. Hopkins, Jr. and E. Morten Hopkins guilty on all counts of a 47-count indictment. The Hopkins brothers were convicted of one count of conspiracy (18 U.S.C. § 371), two counts of concealing material facts from the Federal Election Commission (18 U.S.C. § 1001), 22 counts of misapplying funds of Commodore Savings Association (18 U.S.C. § 657) and 22 counts of making false entries in the books and records of Commodore (18 U.S.C. § 1006). The jury found John Harrell guilty of two counts of making false entries in the books and records of Commodore. Harrell was acquitted on 43 other counts. The convictions were appealed by the defendants. On July 12, 1989, Robert H. Hopkins, Jr. was sentenced to 15 years in prison, five years probation, and ordered to pay \$102,000.00 in restitution. E. Morten Hopkins was sentenced to six months in prison, four and one-half years probation, and ordered to pay \$102,000.00 in restitution. John Harrell was sentenced to six months in prison, four and one-half years probation, and ordered to repay \$4,000.00. On October 19, 1990, the United States Court of Appeals, Fifth Circuit affirmed the convictions and held that the "convictions were supported by sufficient evidence." U.S. v. Hopkins 916 F.2d 207 (5th Cir. 1990).

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According to the complainant ETF-PAC was created and operated as a part of a national Democratic Party effort to elect a Democrat in the 1985 Special Election in the First Congressional District of Texas. Meyer alleges that ETF-PAC was "attempting to deceive the Commission and the public when it falsely stated in its organizational papers that it was not a single-election committee, which it clearly was."

Meyer also avers that ETF-PAC was designed and operated to enable the DCCC and the eventual Democratic nominee, Jim Chapman, to evade federal election laws and the Commission's regulations, including contribution limits. In fact, according to Meyer, ETF-PAC operated virtually as an arm of the Chapman campaign, "performing such mainstream campaign activities as telephoning pro-Chapman voters to remind them to go vote, busing in volunteer workers and buying them food, renting sound equipment and paying for mass mailings, radio commercials and newspaper advertisements."

Meyer further contends that ETF-PAC was not an independent committee when in actuality it was operated as an arm of the Chapman Committee, coordinating its efforts through the DCCC and former House Majority Leader Jim Wright and/or his staff.

As stated by Meyer in his complaint,

Members of the news media were not deceived by the committee's declaration that it was independent. Media reports uniformly and consistently reported that East Texas First was organized and functioned for the purpose of electing Jim Chapman to Congress. Media reports were frequently cynical about the PAC's so-called "independent" status; The

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Washington Post raised questions about East Texas First's "independent" status and Jackson, in Honest Graft, sarcastically noted "the supposedly independent operation meshed perfectly with Chapman's campaign and the efforts of Wright's organization."

Attached to Meyer's complainant was a copy of an article entitled, "Banking On Politics: A Texas Tale; How S&Ls with Troubles Made Friends in High Places", The Washington Post, May 8, 1988. This article pointed out that many of the donors to ETF-PAC were executives of Texas thrifts. As examples the article stated that Don Dixon, his wife, and other Vernon Savings and Loan officials donated \$11,000; and Ed McBirney, head of Sunbelt Savings, and his subordinates gave \$22,000. Further, the article pointed out that during the summer of 1985, Texas thrift officials gave at least \$40,000 to the DCCC.⁴ This article also stated that,

Some Democratic strategists were concerned that Gaubert's effort might have been coordinated with Wright's office, through Phil Duncan. Duncan, a top Wright aide, is such a good friend of

3. A review of DCCC's July and August 1985 Monthly Reports reveals that the following Texas thrift officials were contributors of portions of this amount: On July 15, 1985, Dan Cooke, Chairman, First City Savings of Dallas, Texas contributed \$1,500.00; On July 15, 1985, Don R. Dixon, CEO of Dondi Financial of Dallas, Texas contributed \$5,000; On July 15, 1985, Billy B. Williams, Vice President of First City Savings of Irving, Texas contributed \$1,500.00; On July 16, 1985, John Harrell, CEO of Commodore Savings of Dallas, Texas contributed \$5,000.00; On July 23, 1985, Steve C. Williams, Senior Vice President of First City Savings of Irving, Texas contributed \$500; and on August 5, 1985, Edwin T. McBirney, Chairman of the Board of Sunbelt Savings of Dallas, Texas contributed \$5,000.00. It should be noted that Dixon, Harrell, and McBirney were also major supporters of ETF-PAC at this time. It should also be noted that a review of DCCC's 1985 reports discloses no coordinated expenditures on behalf of Chapman in 1985.

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Gaubert's that the financier sometimes stays at his home and borrows his car when visiting Washington. Said one Democratic aide, "The last thing we wanted was someone charging the effort wasn't independent."

East Texas First records show Gaubert paid most of the \$100,000 he raised to two former Wright aides -- a woman in public relations and a man who published a book of Wright's speeches. They spent it on printing, mailing and media buys. One page of the East Texas First reports at the Federal Election Commission is mistakenly labeled "Wright Appreciation Fund."

ETF-PAC's reports indicate the following payments to former Wright aide Sissy Day of Sissy Day & Associates:

Termination Report

<u>Purpose</u>	<u>Date</u>	<u>Amount</u>
Media buy	7/22/85	\$13,522.84
Ad Placement and production	7/24/85	9,397.04
Radio production	7/24/85	2,094.12
Get out the vote telephoning	7/31/85	4,500.00

1985 12-Day Run-off

Senior Citizens' Mass Mailing	7/12/85	14,962.37
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1985 July Quarterly

Art Work Mailing Lists	6/25/85	5,285.83
Total:		<u>\$49,762.20</u>

ETF-PAC's reports indicate the following payments to former Wright aide Kitchens of Kitchens & Associates:

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1985 July Quarterly

<u>Purpose</u>	<u>Date</u>	<u>Amount</u>
Opinion Polls	6/25/85	\$4,000.00

ETF-PAC's reports indicate the following payments to Madison Systems Corporation⁵:

1985 July Quarterly

<u>Purpose</u>	<u>Date</u>	<u>Amount</u>
Mailing Printing Bulk Mail	6/24/85	\$27,306.44

According to Meyer:

Wall Street Journal reporter Brooks Jackson, in his book Honest Graft, disclosed that Thomas Gaubert (Chairman of East Texas First) admitted he discussed his committee's activities with members of the staff of the Democratic Congressional Campaign Committee; a clear violation of regulations governing independent committees. Jackson goes on to report that a member of the DCCC staff started to discuss East Texas First's activities at a DCCC staff meeting, but was warned not to talk about that by another staff member because such knowledge and contacts are clearly

4. Madison Systems Corporation, founded by William Carlos Moore, was formerly known as Carlos Moore & Associates. Roughly 75 percent of its business consists of printing, including silk screens and bumper stickers. Carlos Moore regularly performed campaign services for Wright. From 1980 through 1987, Wright's committees paid Moore \$510,158.50. Report Of The Special Outside Counsel In The Matter Of Speaker James C. Wright, Jr., Committee On Standards Of Official Conduct U.S. House Of Representatives, 101st Cong., February 21, 1989, page 59.

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illegal.⁶

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Meyer also asserted that testimony, during the Dallas trial of three Commodore Savings executives, indicated that an aide to then House Majority Leader Jim Wright had specifically solicited contributions for ETF-PAC. "John Harrell, the Commodore Chairman, testified he helped funnel \$25,000 to East Texas First because Jim Wright asked for it." According to an article that appeared in The Washington Post on July 14, 1989, ETF-PAC, which had received illegal contributions from Commodore Savings Association, was set up by a Democratic fund-raiser with close ties to former House speaker Jim Wright. Further the article states that "David Farmer, a former Commodore executive, testified in May that Harrell said Wright had promised to kill legislation opposed by the thrift industry in return for \$250,000 in contributions to another Texas congressman." However in contradiction to Farmer's foregoing statement this same article states that "Harrell, however, testified that he never said Wright had guaranteed to kill legislation in exchange for the thrifts' contributions. Robert Hopkins also denied the existence of a deal but said an aide to Wright had specifically

5. As stated in Jackson's book, Honest Graft at page 266:

"I talked to the D-triple-C about ideas and so on and so forth," Gaubert recalled. Such contacts could be construed as destroying the independence of his PAC and making his spending illegal. The briefings Gaubert received may have been unauthorized. Once, at a senior staff meeting, when an aide began reciting what Gaubert was doing, Martin Franks cut him off and forbade further discussion.

requested \$25,000 each from 10 Texas thrifts."

An article that appeared in the National Review on April 21, 1989, stated that reports filed with the Federal Election Commission between 1983 and 1986, show that "Tom Gaubert, his brother Jack, their wives, Barbara and Carolyn, and their children, Tom Jr., Michael, Paige, and Randy, dished out \$147,000 to Democratic candidates for federal office." According to this article among the key recipients of these funds was DCCC Chairman Tony Coelho and Jim Wright, who was Majority Leader at the time.

The complainant also asserts that ETF-PAC falsely represented itself to the Commission as a committee designed to support multiple candidates to public office, when its sole purpose was to elect a Democrat to Congress in the special election in the First Congressional District of Texas.⁷ Further, Meyer states that,

East Texas First existed for only 10 months, from May 1985 until March 1986, raised and spent a total of more than \$100,000 in the special election and never spent a penny on any other campaign or election. Except for a token contribution from its founder received prior to its registration with the Commission, all of the committee's contributions were received on or after June 19, just 10 days before the initial election. Its first expenditures were made five days before the initial election, and were clearly designed to

6. A review of ETF-PAC's Statement Of Organization reveals that in the section designated type of committee the block which states, "this committee supports/opposes more than one Federal candidate and is not a separate segregated fund nor a party committee" has been selected by the committee.

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turn out the Democratic vote to ensure a runoff. It raised and spent more than \$100,000 during the 68 days between its organization and the August 3 runoff.

The committee stated that its expenditures were made for the purpose of defeating Edd Hargett in his congressional campaign.

Consistent with the foregoing, Wall Street Journal reporter Brooks Jackson in his book Honest Graft stated that Thomas Gaubert "set up a political action committee called East Texas First, headquartered in the Texarkana branch of a savings and loan association he owned. It was a curious sort of PAC, in that it supported only one candidate in one House race, then dissolved. Gaubert described himself as the PAC's informal chairman."

III. THE RESPONSES

(1) The DCCC's Response

Counsel on behalf of the DCCC stated:

There is absolutely no factual basis for these allegations. Not only was there no communication between the DCCC and East Texas First, the DCCC took every precaution to assure complete insulation by establishing a formal policy during the Texas special election forbidding staff to communicate with or maintain direct or indirect contact with East Texas First.

The DCCC's response asserted that it played no role in the

7. A review of all the reports filed with the Commission, in 1985, by ETF-PAC confirms that the committees expenditures were made to oppose Edd Hargett's campaign in the First Congressional District of Texas. It should also be noted that the reports do not show any contributions/expenditures to Jim Chapman or the DCCC.

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organization, operation, or activities of the ETF-PAC. And that the DCCC neither accepted, nor had any role whatsoever in raising funds for the ETF-PAC. "Further, Mr. Gaubert was not authorized, directed, or assisted in any manner by the DCCC to organize or conduct activities for East Texas First."

Included with the DCCC's response were affidavits from Martin D. Franks, the former Executive Director of the DCCC⁹ and Thomas J. King, Jr., the former Political Director of the DCCC. In his sworn affidavit Franks stated that he served as the Executive Director of the DCCC from 1981 to 1987, the period during which the 1985 special Congressional election to fill a vacancy in the First Congressional District of Texas occurred. With regard to the allegations in the complaint Franks declared:

The DCCC provided assistance to the Jim Chapman for Congress Campaign Committee in the 1985 special run-off election for Texas First Congressional District.

The DCCC was not involved in the organization or operation of East Texas First Committee.

I formally directed, on advice of counsel, all DCCC staff to refrain from any contact or communication with or discussion about East Texas First.

The DCCC did not coordinate activities between East Texas First and the Jim Chapman for Congress Campaign Committee.

During the 1985 Special Election, I did not communicate directly or

8. According to Mr. Franks, as Executive Director he was in charge of the day-to-day operations of the DCCC, supervised the DCCC staff, and served as principal advisor to the Chair of the DCCC.

indirectly with East Texas First committee about the Jim Chapman for Congress Campaign Committee's activities, strategy or needs.

I did not suggest or request directly or indirectly that East Texas First committee take any action or provide any assistance in support of the election of Congressman Jim Chapman or the defeat of his opponent, Edd Hargett.

In his sworn affidavit Thomas J. King, Jr. repeated the same assertions made in Franks' affidavit presented above. King also stated that he served as Political Director of the DCCC from 1985 to 1987. According to King, in this position he supervised and planned the DCCC's political assistance to Democratic congressional candidates.

(2) The Chapman Committee's Response

The response filed by the Jim Chapman for Congress Committee and Nancy Rooks, as treasurer, was accompanied by sworn affidavits from George Shipley (political consultant to the Chapman Committee); William Brannon (campaign manager of the Chapman Committee); Peck Young (political consultant for the Chapman Committee); and David Butts (field organizer for the Chapman Committee).

Counsel for the Chapman Committee stated that:

Independent expenditures may not be made in cooperation, consultation or concert with, or at the request or suggestion of, any candidate or his authorized committee or agent. 2 U.S.C. § 431(17). FEC regulations provide in more specific terms that certain situations trigger "presumptions" that coordination exists. Under those regulations, an expenditure is not independent if: (1) it is made "based on information" about a campaign's needs specifically provided by the

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candidate or his agent "with a view toward having the expenditure made," 11 C.F.R. § 109.1(a)(4)(i)(A); or (2) if it is made "by or through" a person who at any time was authorized to raise or spend funds, an officer of the authorized committee, or in receipt of any compensation or reimbursement for activities in support of the candidate or the campaign. 11 C.F.R. § 109.1(a)(4)(i)(B).

FEC Advisory Opinions also suggest additional factual circumstances that defeat independence. Thus, independence is barred when goods or services are purchased by a committee and, even without prior consultation, provided to the candidate. Advisory Opinion 1979-80, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5469 (March 12, 1980). Similarly, if contributors send checks to an independent committee in response to a fundraising solicitation, and the committee forwards them to the candidate, the solicitation is not independent regardless of whether it is conducted without the consent or knowledge of the candidate. Advisory Opinion 1980-46, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5508 (June 25, 1980).

The response by the Chapman Committee further stated:

In some cases, the linkage is more direct, but the prohibition is the same. "Independence" cannot be claimed by a committee which, organized in a general election to make independent expenditures, is founded by an individual who worked directly for the same candidate in the primary election. FEC Informational Letter (O/R 777), Dec. 7, 1976. Another direct connection, operating to defeat independence, occurs where the independent committee and the candidate's campaign committee shared office space and secretarial service, exchanged mailing lists, and the candidate on whose behalf the committee was making independent expenditures signed the committee's fundraising solicitation. Matter Under Review 1484 (June 6, 1985).

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In all these cases, there was evidence of connection, more direct in some than in others, but clearly present in all. To sustain a challenge to independence, there must be a concrete factual showing of "actual agreement" or "express intent or communication" or some linkage in accord with the opinions cited. Mere conjecture is not enough: It is "very difficult to sustain a finding of cooperation and coordination based on press releases." Common Cause v. Federal Election Commission, 655 F. Supp. 619, 624 (D.D.C. 1986), rev'd on other grounds, 842 F.2d 436 (D.C. Cir. 1988).

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Counsel for the Chapman Committee argued that in line with the court's holding in Common Cause v. Federal Election Commission, 655 F. Supp. 619, 624 (D.D.C. 1986), rev'd on other grounds, 842 F.2d 436 (D.C. Cir. 1988), that to sustain a challenge to the independence of a committee there must be a concrete factual showing of actual agreement.

The Chapman Committee stressed that there was no direct or indirect contact with ETF-PAC and its principal staff during the campaign in the special election in the First Congressional District in 1985, to fill the vacancy in that seat. According to counsel for the Chapman Committee "none of the Chapman Committee staff requested or suggested directly or indirectly that East Texas First make an expenditure or undertake any activity in the election in support of Congressman Chapman." According to Counsel, "the Chapman campaign, however, was a self-contained entity with its own fundraising, phone banks, media, polling and field operations. All of these campaign functions were directed and implemented by staff...and

volunteers working solely and exclusively for the Chapman Committee."

Counsel also pointed out that persons connected with the Chapman campaign never provided information to ETF-PAC about campaign needs or plans with a view that an expenditure would be made based on this information. Furthermore, Counsel indicates that neither the treasurer nor any individual making expenditures for ETF-PAC, including Thomas Gaubert, ever worked in the Chapman Committee.

With regard to complainant's allegation of coordination between the Chapman Committee and ETF-PAC through the DCCC, Counsel's response on behalf of the Chapman Committee was as follows:

The only basis for this allegation is Brooks Jackson's account...of an alleged conversation between Mr. Thomas Gaubert...and DCCC staff about "ideas and so on and so forth." Moreover, Jackson suggests that this contact may have been unauthorized, thus not attributable to the DCCC.

....Jackson also reports that when a DCCC aide started to discuss Mr. Gaubert's activities at a DCCC staff meeting, Marty Franks, then Executive Director of the DCCC, put an immediate stop to it in full recognition of the rules governing independent expenditures. Moreover, a Washington Post story, Exhibit I to the Complaint, reports that former DCCC Chair Tony Coelho stated during an interview that "he was careful to stay away from East Texas First." Thus, not only does Mr. Meyer fail to provide any factual basis for his allegations, but the evidence he relies on supports a contrary conclusion.

The Chapman Committee does state that the DCCC worked with them

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during the campaign, however "these contacts with the DCCC never involved coordination or discussion of East Texas First's activities. Their technical and financial assistance was strictly limited to Chapman campaign activities."

(3) The Gaubert/ETF-PAC's Response

As stated above, Thomas M. Gaubert through his counsel responded to the complaint, on behalf of ETF-PAC. Counsel stated that, "the complaint herein has adduced no evidence of any agency relationship, direct request for specific help based on information given to ETF-PAC with a view that an expenditure be made, or other form of prearrangement or agreement by the DCCC or Jim Chapman."

With regard to complainant's allegations that an aide to then House Majority Leader Jim Wright had specifically solicited contributions for ETF-PAC. Counsel states the following:

The Complaint alleges that Mr. Gaubert and Jim Wright appeared at a fundraiser at which Texas savings and loan officials....were asked to contribute to ETF-PAC. At that meeting, it is alleged, Mr. Wright stated that it was important to him that a Democrat win the special election for Texas's First Congressional District. As one of his party's leaders, Jim Wright is entitled to encourage contributions to a political committee that had as one of its goals to support the election of Democrats to Congress without destroying ETF-PAC's independence. Mr. Wright's statement (and his making a statement at all) is

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not improper campaign activity.¹⁰

Furthermore, as the FEC has held, a Member of Congress like Jim Wright may assist in fundraising for and decisions regarding the disbursement of funds for a political committee not involved in that Member's election campaign--even if the committee is named after the Member. Cf. A.O. 1978-12, FED Elec. Camp. Fin. Guide (CCH), ¶ 5306.

IV. Applicable Law

Pursuant to Federal Election Campaign Act, no person (or committee not qualifying as multicandidate) shall make contributions to a Federal candidate or the authorized committee of a candidate which exceeds \$1,000 per election. 2 U.S.C.

§ 441a(a)(1)(A). No multicandidate committee shall make contributions to a Federal candidate or authorized committee which, in the aggregate, exceed \$5,000 per election. 2 U.S.C.

§ 441a(a)(2)(A). No candidate or political committee may knowingly accept contributions or make expenditures in violation of the provisions of 2 U.S.C. § 441a. 2 U.S.C. § 441a(f).

Expenditures made by any person in cooperation,

9. By way of explanation Counsel pointed out that,

As the House Report which accompanied the 1976 House bill amending the Federal Election Campaign Act stated:

[I]f a candidate or some other person suggests in a speech to a group of persons that everything should be done to defeat the opponent of the candidate, it is not the intent of the Committee that such a reference in a speech be viewed as a "suggestion" for purposes of the definition [of independent expenditure]. H.R. Rep. No. 917, 5.

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consultation, or concert with, or at the request or suggestion of a candidate, the authorized committee of a candidate or their agents shall be considered to be a contribution to such candidate. 2 U.S.C. § 441a(a)(7)(B)(i). Expenditures made independently of a candidate are not limited by the Act.

Buckley v. Valeo, 424 U.S. 1, 39 (1976). The term "independent expenditure" is defined by the Act as:

... an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee of agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate or agent of such candidate.

2 U.S.C. § 431(17); 11 C.F.R. § 109.1(a). The Commission's regulations provide that expenditures are not independent when they are made as the result of "... any arrangement, coordination, or direction by the candidate or his or her agent prior to the publication, distribution, display, or broadcast of the communication." 11 C.F.R. § 109.1(b)(4)(i). An expenditure is presumed to be made in coordination with the candidate when it is:

(A) Based on information about the candidate's plans, projects, or needs provided to the expending person by the candidate, or by the candidate's agent, with a view toward having an expenditure made;

(B) Made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of an authorized committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate, the candidate's committee or

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agent.

V. ANALYSIS

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In alleging the expenditures of the East Texas First Committee were not "independent," the complaint included references to published reports: that Thomas Gaubert, the founder and chairman of ETF-PAC, was an active fundraiser for the Democratic party and its candidates and had close personal ties to the Democratic Congressional committee, its chairman, Congressman Tony Coelho, and to House Majority Leader Jim Wright; that Gaubert had admitted discussing the activities of ETF-PAC with staff of the DCCC; and that the activities of ETF-PAC were briefly mentioned at a DCCC staff meeting during the special election campaign.

The response of the East Texas First Committee to the complaint challenged the legal sufficiency of the complaint's allegations and supporting evidence. The response did not specifically deny the allegation that discussions occurred between a staff person of the DCCC and Mr. Gaubert about the independent expenditure effort, nor did ETF-PAC's response generally deny coordination may have effectively resulted from these or other contacts between Mr. Gaubert and persons involved with the Chapman Committee or DCCC.

The responses to the complaint by the Democratic Congressional Campaign Committee and the Chapman Committee denied any coordination of activities with the East Texas First Committee. DCCC's response did not affirm or deny the allegation that Mr. Gaubert had discussed campaign ideas with a

DCCC staff member, however, although the response characterized any such contact as of minor significance. The response of the DCCC also did not deny the activities of ETF-PAC were briefly raised at a DCCC staff meeting before the Executive Director terminated the discussion; the response viewed such an incident as evidence the DCCC had deliberately avoided any basis for coordination with ETF-PAC.

These allegations, not specifically denied or explained, indicate circumstances in which DCCC staff persons had information during the campaign about the activities of a committee making independent expenditures on behalf of a Democratic candidate for Congress who was actively supported by DCCC, and circumstances in which one or more discussions occurred between DCCC staff and the chairman of the committee making the expenditures. Furthermore, none of the responses provided an explanation of Congressman Jim Wright's concurrent fundraising or advisory role with respect to the DCCC, the Chapman Committee and the East Texas First Committee during the time of the 1985 special election for Congress. Therefore, these circumstances sufficiently raise an inference of coordination for the Commission to find reason to believe that Jim Chapman for Congress and Nancy J. Rooks, as treasurer, violated 2 U.S.C. § 441a(f).

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 7, 1991

Robert F. Bauer, Esq.
Perkins Coie
607 Fourteenth Street, N.W.
Washington, D.C. 20005-2011

RE: MUR 2982
Democratic Congressional
Campaign Committee and
Leslie C. Francis, as
treasurer

Dear Mr. Bauer:

On September 18, 1989, the Federal Election Commission notified your clients of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint, and information supplied by your clients, the Commission, on August 13, 1991, found that there is reason to believe the Democratic Congressional Campaign Committee and Leslie C. Francis, as treasurer violated 2 U.S.C. § 441a(f), a provision of the Act. The 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 clients. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office along with answers to the enclosed questions within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

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

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or

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Robert F. Bauer, Esquire
Page 2

recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter.

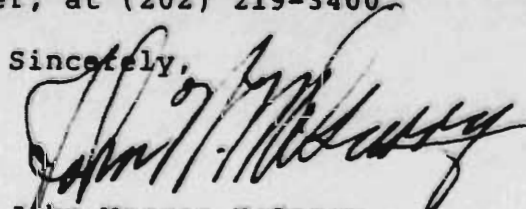
Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

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

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you have any questions, please contact Phillip L. Wise, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,


John Warren McGarry
Chairman

Enclosures
Questions
Factual & Legal Analysis

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
)
) MUR 2982
)

INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS

TO: Democratic Congressional Campaign Committee and Leslie C.
Francis, as treasurer

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 15 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

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INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from May 1985 to April 1986.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

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DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be

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out of their scope.

PROPOSED QUESTIONS

Fred Meyer, State Chairman of the Republican Party of Texas, has alleged that the East Texas First Political Action Committee, Jim Chapman for Congress, and the Democratic Congressional Campaign Committee cooperated, coordinated, and/or acted in concert with regard to the 1985 special election to fill a vacancy in the First Congressional District of Texas.

1. State whether Thomas Gaubert offered or requested any information about the operation of East Texas First with regard to the campaign of Jim Chapman.

(a) If yes state the nature of the requests for or offer of information, and the name of the person or persons who made such requests or offers.

(b) If written requests for or offers of information were made please furnish this Office with legible copies of any documents which evidence such information.

(c) If oral requests for or offers of information were made please furnish this Office with a written recitation of said conversation.

(d) State the name of the person or persons who received a request for information and advice from Thomas Gaubert with regard to the plans or operation of East Texas First Political Action Committee.

(e) State whether former Congressman Jim Wright, and/or anyone representing Jim Wright, played a part in obtaining, requesting, or the offering of any such information. Explain in detail Wright's or any representative of Wright's involvement.

2. State whether the DCCC discussed Chapman's Campaign with anyone with regard to activity taken or to be taken by East Texas First.

(a) State the names, position and responsibilities of any and all persons who were involved in such discussion.

(b) State the names, positions and responsibilities of any and of all persons present during such discussion of East Texas First.

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(c) State what was discussed and identify the person or persons who made such comments or statements.

(d) State whether former Congressman Jim Wright played a part in obtaining, requesting, or the offering of any such information. Explain in detail Wright's or any representative of Wright's involvement.

3. State whether Martin D. Franks, during a DCCC staff meeting, ordered an aide or aides not to discuss East Texas First's activities.

(a) State the names of the person or persons who discussed the activities of East Texas First at the DCCC staff meeting.

(b) Furnish a written recitation of what was said with regard to East Texas First.

(c) State the names of the persons who were present at the DCCC staff meeting during the discussion of East Texas First.

(d) State whether former Congressman Jim Wright played an part in obtaining, requesting, or the offering of any such information. Explain in detail.

4. State whether Jim Chapman For Congress was given information from the DCCC about East Texas First's activities and plans to help Chapman's campaign.

(a) State how such information was delivered to the Chapman campaign committee.

(b) If such information was delivered in writing please furnish this Office with legible copies of such information.

(c) If such information was transmitted orally please furnish this Office with a written recitation of such information.

(d) State the names and responsibilities of the person or persons who gave this information.

(e) State whether former Congressman Jim Wright played a part in obtaining, requesting, or the offering of any such information. Explain in detail Wright's or any representative of Wright's involvement.

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

MUR #2982

RESPONDENTS: Democratic Congressional Campaign Committee
and Leslie C. Francis, as treasurer

I. SUMMARY OF ALLEGATIONS

The complaint asserted the East Texas First Committee spent over \$100,000 on behalf of the candidacy of Jim Chapman for Congress (or in opposition to Chapman's opponent) in the special election in Texas's First Congressional district in 1985, and alleged these expenditures were not made independently of the Chapman campaign committee or national Democratic party efforts in support of Chapman.

II. The Complaint

Fred Meyer, State Chairman of the Republican Party of Texas filed a complaint, with the Federal Election Commission, alleging violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), and the Commission's regulations by Jim Chapman for Congress ("Chapman Committee") and Nancy J. Rooks, as treasurer, the Democratic Congressional Campaign Committee ("DCCC") and Leslie C. Francis, as treasurer, and East Texas First Political Action Committee ("ETF-PAC") and its treasurer.

According to Mr. Meyer this complaint was based on

...Facts which surfaced during the Dallas trial of three former savings and loan executives who were sentenced to prison for illegally funneling corporate contributions to the East Texas First political committee, and

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...Facts reported by the news media, especially facts disclosed by Wall Street Journal reporter Brooks Jackson in his book Honest Graft, which clearly indicated the East Texas First committee was not an independent committee, as it falsely represented to the Federal Election Commission.

Fred Meyer, the complainant, asserted that ETF-PAC existed for only 10 months, filing its statement of organization on May 28, 1985 and terminating on March 26, 1986. According to Meyer, ETF-PAC, during its 10 months of existence made expenditures in only one race, the 1985 special election to fill a vacancy in the First Congressional District of Texas. Meyer alleges that ETF-PAC raised and spent more than \$100,000 in this special election and "never spent a penny in any other election or for any other purpose."

According to Meyer, ETF-PAC filed reports and represented to the Commission that its expenditures were all independent expenditures made in opposition to the candidacy of Republican Edd Hargett in the special Congressional election, in the First Congressional District, held June 29 (initial election) and August 3 (run-off), 1985, to fill the vacancy in that seat. In the run-off election, Democratic candidate Jim Chapman defeated Republican Edd Hargett by 1,933 votes. The complainant alleges that Thomas Gaubert, the founder and chairman of ETF-PAC, boasted that his committee's spending made Jim Chapman a Congressman. Meyer describes Gaubert as an active Democratic fundraiser with close ties to the Democratic Congressional Campaign Committee, its then chairman, Tony Coelho, and then

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House¹ Majority Leader Jim Wright.²

Meyer further claims that,

East Texas First was clearly supported in large part, if not entirely, by illegal campaign contributions. Three former savings and loan executives have been convicted and sentenced to prison for conspiring to cause substantial contributions of corporate funds to be made to East Texas First, in violation of 2 U.S.C. [§] 441b(a) and § 114.2 of the Commission's regulations. All three are former executives of Commodore Savings Association of Dallas, whose executives contributed \$25,000.00 to East Texas First, a full one-fourth of the total amount East Texas First raised and spent in the First Congressional District special election.³

1. As House Majority Leader Jim Wright was an ex-officio member of the Democratic Congressional Campaign Committee. In MUR 3000 it was established that Thomas Gaubert accompanied Jim Wright on an eight-city jet trip from June 30, 1985 to July 2, 1985. This trip was in preparation of a \$1,000,000 fundraiser held several months later in Fort Worth and billed as the "Cowntown Jamboree."

2. On May 26, 1989, after a three week trial, a jury found Robert H. Hopkins, Jr. and E. Morten Hopkins guilty on all counts of a 47-count indictment. The Hopkins brothers were convicted of one count of conspiracy (18 U.S.C. § 371), two counts of concealing material facts from the Federal Election Commission (18 U.S.C. § 1001), 22 counts of misapplying funds of Commodore Savings Association (18 U.S.C. § 657) and 22 counts of making false entries in the books and records of Commodore (18 U.S.C. § 1006). The jury found John Harrell guilty of two counts of making false entries in the books and records of Commodore. Harrell was acquitted on 43 other counts. The convictions were appealed by the defendants. On July 12, 1989, Robert H. Hopkins, Jr. was sentenced to 15 years in prison, five years probation, and ordered to pay \$102,000.00 in restitution. E. Morten Hopkins was sentenced to six months in prison, four and one-half years probation, and ordered to pay \$102,000.00 in restitution. John Harrell was sentenced to six months in prison, four and one-half years probation, and ordered to repay \$4,000.00. On October 19, 1990, the United States Court of Appeals, Fifth Circuit affirmed the convictions and held that the "convictions were supported by sufficient evidence." U.S. v. Hopkins 916 F.2d 207 (5th Cir. 1990).

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According to the complainant ETF-PAC was created and operated as a part of a national Democratic Party effort to elect a Democrat in the 1985 Special Election in the First Congressional District of Texas. Meyer alleges that ETF-PAC was "attempting to deceive the Commission and the public when it falsely stated in its organizational papers that it was not a single-election committee, which it clearly was."

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Meyer also avers that ETF-PAC was designed and operated to enable the DCCC and the eventual Democratic nominee, Jim Chapman, to evade federal election laws and the Commission's regulations, including contribution limits. In fact, according to Meyer, ETF-PAC operated virtually as an arm of the Chapman campaign, "performing such mainstream campaign activities as telephoning pro-Chapman voters to remind them to go vote, busing in volunteer workers and buying them food, renting sound equipment and paying for mass mailings, radio commercials and newspaper advertisements."

Meyer further contends that ETF-PAC was not an independent committee when in actuality it was operated as an arm of the Chapman Committee, coordinating its efforts through the DCCC and former House Majority Leader Jim Wright and/or his staff.

As stated by Meyer in his complaint,

Members of the news media were not deceived by the committee's declaration that it was independent. Media reports uniformly and consistently reported that East Texas First was organized and functioned for the purpose of electing Jim Chapman to Congress. Media reports were frequently cynical about the PAC's so-called "independent" status; The

Washington Post raised questions about East Texas First's "independent" status and Jackson, in Honest Graft, sarcastically noted "the supposedly independent operation meshed perfectly with Chapman's campaign and the efforts of Wright's organization."

Attached to Meyer's complainant was a copy of an article entitled, "Banking On Politics: A Texas Tale; How S&Ls with Troubles Made Friends in High Places", The Washington Post, May 8, 1988. This article pointed out that many of the donors to ETF-PAC were executives of Texas thrifts. As examples the article stated that Don Dixon, his wife, and other Vernon Savings and Loan officials donated \$11,000; and Ed McBirney, head of Sunbelt Savings, and his subordinates gave \$22,000. Further, the article pointed out that during the summer of 1985, Texas thrift officials gave at least \$40,000 to the DCCC.⁴ This article also stated that,

Some Democratic strategists were concerned that Gaubert's effort might have been coordinated with Wright's office, through Phil Duncan. Duncan, a top Wright aide, is such a good friend of

3. A review of DCCC's July and August 1985 Monthly Reports reveals that the following Texas thrift officials were contributors of portions of this amount: On July 15, 1985, Dan Cooke, Chairman, First City Savings of Dallas, Texas contributed \$1,500.00; On July 15, 1985, Don R. Dixon, CEO of Dondi Financial of Dallas, Texas contributed \$5,000; On July 15, 1985, Billy B. Williams, Vice President of First City Savings of Irving, Texas contributed \$1,500.00; On July 16, 1985, John Harrell, CEO of Commodore Savings of Dallas, Texas contributed \$5,000.00; On July 23, 1985, Steve C. Williams, Senior Vice President of First City Savings of Irving, Texas contributed \$500; and on August 5, 1985, Edwin T. McBirney, Chairman of the Board of Sunbelt Savings of Dallas, Texas contributed \$5,000.00. It should be noted that Dixon, Harrell, and McBirney were also major supporters of ETF-PAC at this time. It should also be noted that a review of DCCC's 1985 reports discloses no coordinated expenditures on behalf of Chapman in 1985.

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Gaubert's that the financier sometimes stays at his home and borrows his car when visiting Washington. Said one Democratic aide, "The last thing we wanted was someone charging the effort wasn't independent."

East Texas First records show Gaubert paid most of the \$100,000 he raised to two former Wright aides -- a woman in public relations and a man who published a book of Wright's speeches. They spent it on printing, mailing and media buys. One page of the East Texas First reports at the Federal Election Commission is mistakenly labeled "Wright Appreciation Fund."

ETF-PAC's reports indicate the following payments to former Wright aide Sissy Day of Sissy Day & Associates:

Termination Report

<u>Purpose</u>	<u>Date</u>	<u>Amount</u>
Media buy	7/22/85	\$13,522.84
Ad Placement and production	7/24/85	9,397.04
Radio production	7/24/85	2,094.12
Get out the vote telephoning	7/31/85	4,500.00

1985 12-Day Run-off

Senior Citizens' Mass Mailing	7/12/85	14,962.37
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1985 July Quarterly

Art Work Mailing Lists	6/25/85	5,285.83
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Total: \$49,762.20

ETF-PAC's reports indicate the following payments to former Wright aide Kitchens of Kitchens & Associates:

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1985 July Quarterly

<u>Purpose</u>	<u>Date</u>	<u>Amount</u>
Opinion Polls	6/25/85	\$4,000.00

ETF-PAC's reports indicate the following payments to Madison Systems Corporation⁵:

1985 July Quarterly

<u>Purpose</u>	<u>Date</u>	<u>Amount</u>
Mailing Printing Bulk Mail	6/24/85	\$27,306.44

According to Meyer:

Wall Street Journal reporter Brooks Jackson, in his book Honest Graft, disclosed that Thomas Gaubert (Chairman of East Texas First) admitted he discussed his committee's activities with members of the staff of the Democratic Congressional Campaign Committee; a clear violation of regulations governing independent committees. Jackson goes on to report that a member of the DCCC staff started to discuss East Texas First's activities at a DCCC staff meeting, but was warned not to talk about that by another staff member because such knowledge and contacts are clearly

4. Madison Systems Corporation, founded by William Carlos Moore, was formerly known as Carlos Moore & Associates. Roughly 75 percent of its business consists of printing, including silk screens and bumper stickers. Carlos Moore regularly performed campaign services for Wright. From 1980 through 1987, Wright's committees paid Moore \$510,158.50. Report Of The Special Outside Counsel In The Matter Of Speaker James C. Wright, Jr., Committee On Standards Of Official Conduct U.S. House Of Representatives, 101st Cong., February 21, 1989, page 59.

illegal.⁶

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Meyer also asserted that testimony, during the Dallas trial of three Commodore Savings executives, indicated that an aide to then House Majority Leader Jim Wright had specifically solicited contributions for ETF-PAC. "John Harrell, the Commodore Chairman, testified he helped funnel \$25,000 to East Texas First because Jim Wright asked for it." According to an article that appeared in The Washington Post on July 14, 1989, ETF-PAC, which had received illegal contributions from Commodore Savings Association, was set up by a Democratic fund-raiser with close ties to former House speaker Jim Wright. Further the article states that "David Farmer, a former Commodore executive, testified in May that Harrell said Wright had promised to kill legislation opposed by the thrift industry in return for \$250,000 in contributions to another Texas congressman." However in contradiction to Farmer's foregoing statement this same article states that "Harrell, however, testified that he never said Wright had guaranteed to kill legislation in exchange for the thrifts' contributions. Robert Hopkins also denied the existence of a deal but said an aide to Wright had specifically

5. As stated in Jackson's book, Honest Graft at page 266:

"I talked to the D-triple-C about ideas and so on and so forth," Gaubert recalled. Such contacts could be construed as destroying the independence of his PAC and making his spending illegal. The briefings Gaubert received may have been unauthorized. Once, at a senior staff meeting, when an aide began reciting what Gaubert was doing, Martin Franks cut him off and forbade further discussion.

requested \$25,000 each from 10 Texas thrifts."

An article that appeared in the National Review on April 21, 1989, stated that reports filed with the Federal Election Commission between 1983 and 1986, show that "Tom Gaubert, his brother Jack, their wives, Barbara and Carolyn, and their children, Tom Jr., Michael, Paige, and Randy, dished out \$147,000 to Democratic candidates for federal office." According to this article among the key recipients of these funds was DCCC Chairman Tony Coelho and Jim Wright, who was Majority Leader at the time.

The complainant also asserts that ETF-PAC falsely represented itself to the Commission as a committee designed to support multiple candidates to public office, when its sole purpose was to elect a Democrat to Congress in the special election in the First Congressional District of Texas.⁷ Further, Meyer states that,

East Texas First existed for only 10 months, from May 1985 until March 1986, raised and spent a total of more than \$100,000 in the special election and never spent a penny on any other campaign or election. Except for a token contribution from its founder received prior to its registration with the Commission, all of the committee's contributions were received on or after June 19, just 10 days before the initial election. Its first expenditures were made five days before the initial election, and were clearly designed to

6. A review of ETF-PAC's Statement Of Organization reveals that in the section designated type of committee the block which states, "this committee supports/opposes more than one Federal candidate and is not a separate segregated fund nor a party committee" has been selected by the committee.

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turn out the Democratic vote to ensure a runoff. It raised and spent more than \$100,000 during the 68 days between its organization and the August 3 runoff.

The committee stated that its expenditures were made for the purpose of defeating Edd Hargett in his congressional campaign.

Consistent with the foregoing, Wall Street Journal reporter Brooks Jackson in his book Honest Graft stated that Thomas Gaubert "set up a political action committee called East Texas First, headquartered in the Texarkana branch of a savings and loan association he owned. It was a curious sort of PAC, in that it supported only one candidate in one House race, then dissolved. Gaubert described himself as the PAC's informal chairman."

III. THE RESPONSES

(1) The DCCC's Response

Counsel on behalf of the DCCC stated:

There is absolutely no factual basis for these allegations. Not only was there no communication between the DCCC and East Texas First, the DCCC took every precaution to assure complete insulation by establishing a formal policy during the Texas special election forbidding staff to communicate with or maintain direct or indirect contact with East Texas First.

The DCCC's response asserted that it played no role in the

7. A review of all the reports filed with the Commission, in 1985, by ETF-PAC confirms that the committees expenditures were made to oppose Edd Hargett's campaign in the First Congressional District of Texas. It should also be noted that the reports do not show any contributions/expenditures to Jim Chapman or the DCCC.

organization, operation, or activities of the ETF-PAC. And that the DCCC neither accepted, nor had any role whatsoever in raising funds for the ETF-PAC. "Further, Mr. Gaubert was not authorized, directed, or assisted in any manner by the DCCC to organize or conduct activities for East Texas First."

Included with the DCCC's response were affidavits from Martin D. Franks, the former Executive Director of the DCCC⁹ and Thomas J. King, Jr., the former Political Director of the DCCC. In his sworn affidavit Franks stated that he served as the Executive Director of the DCCC from 1981 to 1987, the period during which the 1985 special Congressional election to fill a vacancy in the First Congressional District of Texas occurred. With regard to the allegations in the complaint Franks declared:

The DCCC provided assistance to the Jim Chapman for Congress Campaign Committee in the 1985 special run-off election for Texas First Congressional District.

The DCCC was not involved in the organization or operation of East Texas First Committee.

I formally directed, on advice of counsel, all DCCC staff to refrain from any contact or communication with or discussion about East Texas First.

The DCCC did not coordinate activities between East Texas First and the Jim Chapman for Congress Campaign Committee.

During the 1985 Special Election, I did not communicate directly or

8. According to Mr. Franks, as Executive Director he was in charge of the day-to-day operations of the DCCC, supervised the DCCC staff, and served as principal advisor to the Chair of the DCCC.

indirectly with East Texas First committee about the Jim Chapman for Congress Campaign Committee's activities, strategy or needs.

I did not suggest or request directly or indirectly that East Texas First committee take any action or provide any assistance in support of the election of Congressman Jim Chapman or the defeat of his opponent, Edd Hargett.

In his sworn affidavit Thomas J. King, Jr. repeated the same assertions made in Franks' affidavit presented above. King also stated that he served as Political Director of the DCCC from 1985 to 1987. According to King, in this position he supervised and planned the DCCC's political assistance to Democratic congressional candidates.

(2) The Chapman Committee's Response

The response filed by the Jim Chapman for Congress Committee and Nancy Rooks, as treasurer, was accompanied by sworn affidavits from George Shipley (political consultant to the Chapman Committee); William Brannon (campaign manager of the Chapman Committee); Peck Young (political consultant for the Chapman Committee); and David Butts (field organizer for the Chapman Committee).

Counsel for the Chapman Committee stated that:

Independent expenditures may not be made in cooperation, consultation or concert with, or at the request or suggestion of, any candidate or his authorized committee or agent. 2 U.S.C. § 431(17). FEC regulations provide in more specific terms that certain situations trigger "presumptions" that coordination exists. Under those regulations, an expenditure is not independent if: (1) it is made "based on information" about a campaign's needs specifically provided by the

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candidate or his agent "with a view toward having the expenditure made," 11 C.F.R. § 109.1(a)(4)(i)(A); or (2) if it is made "by or through" a person who at any time was authorized to raise or spend funds, an officer of the authorized committee, or in receipt of any compensation or reimbursement for activities in support of the candidate or the campaign. 11 C.F.R. § 109.1(a)(4)(i)(B).

FEC Advisory Opinions also suggest additional factual circumstances that defeat independence. Thus, independence is barred when goods or services are purchased by a committee and, even without prior consultation, provided to the candidate. Advisory Opinion 1979-80, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5469 (March 12, 1980). Similarly, if contributors send checks to an independent committee in response to a fundraising solicitation, and the committee forwards them to the candidate, the solicitation is not independent regardless of whether it is conducted without the consent or knowledge of the candidate. Advisory Opinion 1980-46, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5508 (June 25, 1980).

The response by the Chapman Committee further stated:

In some cases, the linkage is more direct, but the prohibition is the same. "Independence" cannot be claimed by a committee which, organized in a general election to make independent expenditures, is founded by an individual who worked directly for the same candidate in the primary election. FEC Informational Letter (O/R 777), Dec. 7, 1976. Another direct connection, operating to defeat independence, occurs where the independent committee and the candidate's campaign committee shared office space and secretarial service, exchanged mailing lists, and the candidate on whose behalf the committee was making independent expenditures signed the committee's fundraising solicitation. Matter Under Review 1484 (June 6, 1985).

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In all these cases, there was evidence of connection, more direct in some than in others, but clearly present in all. To sustain a challenge to independence, there must be a concrete factual showing of "actual agreement" or "express intent or communication" or some linkage in accord with the opinions cited. Mere conjecture is not enough: It is "very difficult to sustain a finding of cooperation and coordination based on press releases." Common Cause v. Federal Election Commission, 655 F. Supp. 619, 624 (D.D.C. 1986), rev'd on other grounds, 842 F.2d 436 (D.C. Cir. 1988).

Counsel for the Chapman Committee argued that in line with the court's holding in Common Cause v. Federal Election Commission, 655 F. Supp. 619, 624 (D.D.C. 1986), rev'd on other grounds, 842 F.2d 436 (D.C. Cir. 1988), that to sustain a challenge to the independence of a committee there must be a concrete factual showing of actual agreement.

The Chapman Committee stressed that there was no direct or indirect contact with ETF-PAC and its principal staff during the campaign in the special election in the First Congressional District in 1985, to fill the vacancy in that seat. According to counsel for the Chapman Committee "none of the Chapman Committee staff requested or suggested directly or indirectly that East Texas First make an expenditure or undertake any activity in the election in support of Congressman Chapman." According to Counsel, "the Chapman campaign, however, was a self-contained entity with its own fundraising, phone banks, media, polling and field operations. All of these campaign functions were directed and implemented by staff...and

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volunteers working solely and exclusively for the Chapman Committee."

Counsel also pointed out that persons connected with the Chapman campaign never provided information to ETF-PAC about campaign needs or plans with a view that an expenditure would be made based on this information. Furthermore, Counsel indicates that neither the treasurer nor any individual making expenditures for ETF-PAC, including Thomas Gaubert, ever worked in the Chapman Committee.

With regard to complainant's allegation of coordination between the Chapman Committee and ETF-PAC through the DCCC, Counsel's response on behalf of the Chapman Committee was as follows:

The only basis for this allegation is Brooks Jackson's account...of an alleged conversation between Mr. Thomas Gaubert...and DCCC staff about "ideas and so on and so forth." Moreover, Jackson suggests that this contact may have been unauthorized, thus not attributable to the DCCC.

....Jackson also reports that when a DCCC aide started to discuss Mr. Gaubert's activities at a DCCC staff meeting, Marty Franks, then Executive Director of the DCCC, put an immediate stop to it in full recognition of the rules governing independent expenditures. Moreover, a Washington Post story, Exhibit I to the Complaint, reports that former DCCC Chair Tony Coelho stated during an interview that "he was careful to stay away from East Texas First." Thus, not only does Mr. Meyer fail to provide any factual basis for his allegations, but the evidence he relies on supports a contrary conclusion.

The Chapman Committee does state that the DCCC worked with them

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during the campaign, however "these contacts with the DCCC never involved coordination or discussion of East Texas First's activities. Their technical and financial assistance was strictly limited to Chapman campaign activities."

(3) The Gaubert/ETF-PAC's Response

As stated above, Thomas M. Gaubert through his counsel responded to the complaint, on behalf of ETF-PAC. Counsel stated that, "the complaint herein has adduced no evidence of any agency relationship, direct request for specific help based on information given to ETF-PAC with a view that an expenditure be made, or other form of prearrangement or agreement by the DCCC or Jim Chapman."

With regard to complainant's allegations that an aide to then House Majority Leader Jim Wright had specifically solicited contributions for ETF-PAC. Counsel states the following:

The Complaint alleges that Mr. Gaubert and Jim Wright appeared at a fundraiser at which Texas savings and loan officials....were asked to contribute to ETF-PAC. At that meeting, it is alleged, Mr. Wright stated that it was important to him that a Democrat win the special election for Texas's First Congressional District. As one of his party's leaders, Jim Wright is entitled to encourage contributions to a political committee that had as one of its goals to support the election of Democrats to Congress without destroying ETF-PAC's independence. Mr. Wright's statement (and his making a statement at all) is

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not improper campaign activity.¹⁰

Furthermore, as the FEC has held, a Member of Congress like Jim Wright may assist in fundraising for and decisions regarding the disbursement of funds for a political committee not involved in that Member's election campaign--even if the committee is named after the Member. Cf. A.O. 1978-12, FED Elec. Camp. Fin. Guide (CCH), ¶ 5306.

IV. Applicable Law

Pursuant to Federal Election Campaign Act, no person (or committee not qualifying as multicandidate) shall make contributions to a Federal candidate or the authorized committee of a candidate which exceeds \$1,000 per election. 2 U.S.C.

§ 441a(a)(1)(A). No multicandidate committee shall make contributions to a Federal candidate or authorized committee which, in the aggregate, exceed \$5,000 per election. 2 U.S.C.

§ 441a(a)(2)(A). No candidate or political committee may knowingly accept contributions or make expenditures in violation of the provisions of 2 U.S.C. § 441a. 2 U.S.C. § 441a(f).

Expenditures made by any person in cooperation,

9. By way of explanation Counsel pointed out that,

As the House Report which accompanied the 1976 House bill amending the Federal Election Campaign Act stated:

[I]f a candidate or some other person suggests in a speech to a group of persons that everything should be done to defeat the opponent of the candidate, it is not the intent of the Committee that such a reference in a speech be viewed as a "suggestion" for purposes of the definition [of independent expenditure]. H.R. Rep. No. 917, 5.

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consultation, or concert with, or at the request or suggestion of a candidate, the authorized committee of a candidate or their agents shall be considered to be a contribution to such candidate. 2 U.S.C. § 441a(a)(7)(B)(i). Expenditures made independently of a candidate are not limited by the Act.

Buckley v. Valeo, 424 U.S. 1, 39 (1976). The term "independent expenditure" is defined by the Act as:

... an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee of agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate or agent of such candidate.

2 U.S.C. § 431(17); 11 C.F.R. § 109.1(a). The Commission's regulations provide that expenditures are not independent when they are made as the result of "... any arrangement, coordination, or direction by the candidate or his or her agent prior to the publication, distribution, display, or broadcast of the communication." 11 C.F.R. § 109.1(b)(4)(i). An expenditure is presumed to be made in coordination with the candidate when it is:

(A) Based on information about the candidate's plans, projects, or needs provided to the expending person by the candidate, or by the candidate's agent, with a view toward having an expenditure made;

(B) Made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of an authorized committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate, the candidate's committee or

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agent.

V. ANALYSIS

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In alleging the expenditures of the East Texas First Committee were not "independent," the complaint included references to published reports: that Thomas Gaubert, the founder and chairman of ETF-PAC, was an active fundraiser for the Democratic party and its candidates and had close personal ties to the Democratic Congressional committee, its chairman, Congressman Tony Coelho, and to House Majority Leader Jim Wright; that Gaubert had admitted discussing the activities of ETF-PAC with staff of the DCCC; and that the activities of ETF-PAC were briefly mentioned at a DCCC staff meeting during the special election campaign.

The response of the East Texas First Committee to the complaint challenged the legal sufficiency of the complaint's allegations and supporting evidence. The response did not specifically deny the allegation that discussions occurred between a staff person of the DCCC and Mr. Gaubert about the independent expenditure effort, nor did ETF-PAC's response generally deny coordination may have effectively resulted from these or other contacts between Mr. Gaubert and persons involved with the Chapman Committee or DCCC.

The responses to the complaint by the Democratic Congressional Campaign Committee and the Chapman Committee denied any coordination of activities with the East Texas First Committee. DCCC's response did not affirm or deny the allegation that Mr. Gaubert had discussed campaign ideas with a

DCCC staff member, however, although the response characterized any such contact as of minor significance. The response of the DCCC also did not deny the activities of ETF-PAC were briefly raised at a DCCC staff meeting before the Executive Director terminated the discussion; the response viewed such an incident as evidence the DCCC had deliberately avoided any basis for coordination with ETF-PAC.

These allegations, not specifically denied or explained, indicate circumstances in which DCCC staff persons had information during the campaign about the activities of a committee making independent expenditures on behalf of a Democratic candidate for Congress who was actively supported by DCCC, and circumstances in which one or more discussions occurred between DCCC staff and the chairman of the committee making the expenditures. Furthermore, none of the responses provided an explanation of Congressman Jim Wright's concurrent fundraising or advisory role with respect to the DCCC, the Chapman Committee and the East Texas First Committee during the time of the 1985 special election for Congress. Therefore, these circumstances sufficiently raise an inference of coordination for the Commission to find reason to believe that the Democratic Congressional Campaign Committee and Leslie C. Francis, as treasurer, violated 2 U.S.C. § 441a(f).

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 7, 1991

David E. Frulla, Esquire
Brand & Lowell
923 Fifteenth Street, N.W.
Washington, D.C. 20005

RE: MUR 2982
East Texas First PAC and its
treasurer
(Thomas Gaubert, Chairman)

Dear Mr. Frulla:

On September 18, 1989, the Federal Election Commission notified your clients of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint, and information supplied by your clients, the Commission, on August 13, 1991, found that there is reason to believe East Texas First Political Action Committee and its treasurer violated 2 U.S.C. § 441a(a), a provision of the Act. The 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 clients. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office along with answers to the enclosed questions within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

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

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that

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David E. Frulla, Esquire
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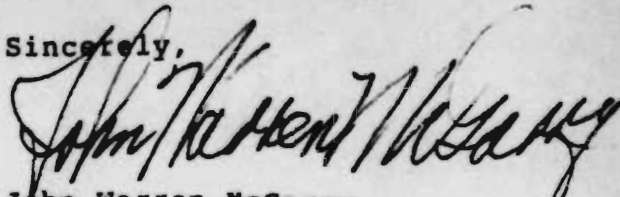
pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

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

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you have any questions, please contact Phillip L. Wise, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,



John Warren McGarry
Chairman

Enclosures
Questions
Factual & Legal Analysis

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
)
) MUR 2982
)

INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS

TO: East Texas First Political Action Committee and
its treasurer (Thomas Gaubert, Chairman)

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In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 15 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from May 1985 to April 1986.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

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DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

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PROPOSED QUESTIONS

Fred Meyer, State Chairman of the Republican Party of Texas, has alleged that the East Texas First Political Action Committee, Jim Chapman for Congress, and the Democratic Congressional Campaign Committee cooperated, coordinated, and/or acted in concert with regard to the 1985 special election to fill a vacancy in the First Congressional District of Texas.

1. State whether Thomas Gaubert offered or requested any information about the operation of East Texas First with regard to the campaign of Jim Chapman.

(a) If yes state the nature of the requests for or offer of information, and the name of the person or persons who made such requests or offers.

(b) If written requests for or offers of information were made please furnish this Office with legible copies of any documents which evidence such information.

(c) If oral requests for or offers of information were made please furnish this Office with a written recitation of said conversation.

(d) State the name of the person or persons who received a request for information and advice from Thomas Gaubert with regard to the plans or operation of East Texas First Political Action Committee.

(e) State whether former Congressman Jim Wright, and/or anyone representing Jim Wright, played a part in obtaining, requesting, or the offering of any such information. Explain in detail Wright's or any representative of Wright's involvement.

2. State whether the DCCC discussed Chapman's Campaign with anyone from East Texas First Political Action Committee.

(a) State the names, positions and responsibilities of any and all persons who were involved in such discussion.

(b) State the names, positions and responsibilities of any and of all persons present during such discussion of East Texas First.

(c) State what was discussed and identify the person or persons who made such comments or statements.

(d) State whether former Congressman Jim Wright

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MUR 2982
East Texas First PAC
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played a part in obtaining, requesting, or the offering of any such information. Explain in detail Wright's or any representative of Wright's involvement.

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**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

MUR #2982

RESPONDENTS: East Texas First Political Action Committee and
its treasurer

I. SUMMARY OF ALLEGATIONS

The complaint asserted the East Texas First Committee spent over \$100,000 on behalf of the candidacy of Jim Chapman for Congress (or in opposition to Chapman's opponent) in the special election in Texas's First Congressional district in 1985, and alleged these expenditures were not made independently of the Chapman campaign committee or national Democratic party efforts in support of Chapman.

II. The Complaint

Fred Meyer, State Chairman of the Republican Party of Texas filed a complaint, with the Federal Election Commission, alleging violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), and the Commission's regulations by Jim Chapman for Congress ("Chapman Committee") and Nancy J. Rooks, as treasurer, the Democratic Congressional Campaign Committee ("DCCC") and Leslie C. Francis, as treasurer, and East Texas First Political Action Committee ("ETF-PAC") and its treasurer.

According to Mr. Meyer this complaint was based on

...Facts which surfaced during the Dallas trial of three former savings and loan executives who were sentenced to prison for illegally funneling corporate contributions to the East Texas First political committee, and

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...Facts reported by the news media, especially facts disclosed by Wall Street Journal reporter Brooks Jackson in his book Honest Graft, which clearly indicated the East Texas First committee was not an independent committee, as it falsely represented to the Federal Election Commission.

Fred Meyer, the complainant, asserted that ETF-PAC existed for only 10 months, filing its statement of organization on May 28, 1985 and terminating on March 26, 1986. According to Meyer, ETF-PAC, during its 10 months of existence made expenditures in only one race, the 1985 special election to fill a vacancy in the First Congressional District of Texas. Meyer alleges that ETF-PAC raised and spent more than \$100,000 in this special election and "never spent a penny in any other election or for any other purpose."

According to Meyer, ETF-PAC filed reports and represented to the Commission that its expenditures were all independent expenditures made in opposition to the candidacy of Republican Edd Hargett in the special Congressional election, in the First Congressional District, held June 29 (initial election) and August 3 (run-off), 1985, to fill the vacancy in that seat. In the run-off election, Democratic candidate Jim Chapman defeated Republican Edd Hargett by 1,933 votes. The complainant alleges that Thomas Gaubert, the founder and chairman of ETF-PAC, boasted that his committee's spending made Jim Chapman a Congressman. Meyer describes Gaubert as an active Democratic fundraiser with close ties to the Democratic Congressional Campaign Committee, its then chairman, Tony Coelho, and then

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House¹ Majority Leader Jim Wright.²

Meyer further claims that,

East Texas First was clearly supported in large part, if not entirely, by illegal campaign contributions. Three former savings and loan executives have been convicted and sentenced to prison for conspiring to cause substantial contributions of corporate funds to be made to East Texas First, in violation of 2 U.S.C. [§] 441b(a) and § 114.2 of the Commission's regulations. All three are former executives of Commodore Savings Association of Dallas, whose executives contributed \$25,000.00 to East Texas First, a full one-fourth of the total amount East Texas First raised and spent in the First Congressional District special election.³

1. As House Majority Leader Jim Wright was an ex-officio member of the Democratic Congressional Campaign Committee. In MUR 3000 it was established that Thomas Gaubert accompanied Jim Wright on an eight-city jet trip from June 30, 1985 to July 2, 1985. This trip was in preparation of a \$1,000,000 fundraiser held several months later in Fort Worth and billed as the "Cowntown Jamboree."

2. On May 26, 1989, after a three week trial, a jury found Robert H. Hopkins, Jr. and E. Morten Hopkins guilty on all counts of a 47-count indictment. The Hopkins brothers were convicted of one count of conspiracy (18 U.S.C. § 371), two counts of concealing material facts from the Federal Election Commission (18 U.S.C. § 1001), 22 counts of misapplying funds of Commodore Savings Association (18 U.S.C. § 657) and 22 counts of making false entries in the books and records of Commodore (18 U.S.C. § 1006). The jury found John Harrell guilty of two counts of making false entries in the books and records of Commodore. Harrell was acquitted on 43 other counts. The convictions were appealed by the defendants. On July 12, 1989, Robert H. Hopkins, Jr. was sentenced to 15 years in prison, five years probation, and ordered to pay \$102,000.00 in restitution. E. Morten Hopkins was sentenced to six months in prison, four and one-half years probation, and ordered to pay \$102,000.00 in restitution. John Harrell was sentenced to six months in prison, four and one-half years probation, and ordered to repay \$4,000.00. On October 19, 1990, the United States Court of Appeals, Fifth Circuit affirmed the convictions and held that the "convictions were supported by sufficient evidence." U.S. v. Hopkins 916 F.2d 207 (5th Cir. 1990).

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According to the complainant ETF-PAC was created and operated as a part of a national Democratic Party effort to elect a Democrat in the 1985 Special Election in the First Congressional District of Texas. Meyer alleges that ETF-PAC was "attempting to deceive the Commission and the public when it falsely stated in its organizational papers that it was not a single-election committee, which it clearly was."

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Meyer also avers that ETF-PAC was designed and operated to enable the DCCC and the eventual Democratic nominee, Jim Chapman, to evade federal election laws and the Commission's regulations, including contribution limits. In fact, according to Meyer, ETF-PAC operated virtually as an arm of the Chapman campaign, "performing such mainstream campaign activities as telephoning pro-Chapman voters to remind them to go vote, busing in volunteer workers and buying them food, renting sound equipment and paying for mass mailings, radio commercials and newspaper advertisements."

Meyer further contends that ETF-PAC was not an independent committee when in actuality it was operated as an arm of the Chapman Committee, coordinating its efforts through the DCCC and former House Majority Leader Jim Wright and/or his staff.

As stated by Meyer in his complaint,

Members of the news media were not deceived by the committee's declaration that it was independent. Media reports uniformly and consistently reported that East Texas First was organized and functioned for the purpose of electing Jim Chapman to Congress. Media reports were frequently cynical about the PAC's so-called "independent" status; The

Washington Post raised questions about East Texas First's "independent" status and Jackson, in Honest Graft, sarcastically noted "the supposedly independent operation meshed perfectly with Chapman's campaign and the efforts of Wright's organization."

Attached to Meyer's complainant was a copy of an article entitled, "Banking On Politics: A Texas Tale; How S&Ls with Troubles Made Friends in High Places", The Washington Post, May 8, 1988. This article pointed out that many of the donors to ETF-PAC were executives of Texas thrifts. As examples the article stated that Don Dixon, his wife, and other Vernon Savings and Loan officials donated \$11,000; and Ed McBirney, head of Sunbelt Savings, and his subordinates gave \$22,000. Further, the article pointed out that during the summer of 1985, Texas thrift officials gave at least \$40,000 to the DCCC.⁴ This article also stated that,

Some Democratic strategists were concerned that Gaubert's effort might have been coordinated with Wright's office, through Phil Duncan. Duncan, a top Wright aide, is such a good friend of

3. A review of DCCC's July and August 1985 Monthly Reports reveals that the following Texas thrift officials were contributors of portions of this amount: On July 15, 1985, Dan Cooke, Chairman, First City Savings of Dallas, Texas contributed \$1,500.00; On July 15, 1985, Don R. Dixon, CEO of Dondi Financial of Dallas, Texas contributed \$5,000; On July 15, 1985, Billy B. Williams, Vice President of First City Savings of Irving, Texas contributed \$1,500.00; On July 16, 1985, John Harrell, CEO of Commodore Savings of Dallas, Texas contributed \$5,000.00; On July 23, 1985, Steve C. Williams, Senior Vice President of First City Savings of Irving, Texas contributed \$500; and on August 5, 1985, Edwin T. McBirney, Chairman of the Board of Sunbelt Savings of Dallas, Texas contributed \$5,000.00. It should be noted that Dixon, Harrell, and McBirney were also major supporters of ETF-PAC at this time. It should also be noted that a review of DCCC's 1985 reports discloses no coordinated expenditures on behalf of Chapman in 1985.

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Gaubert's that the financier sometimes stays at his home and borrows his car when visiting Washington. Said one Democratic aide, "The last thing we wanted was someone charging the effort wasn't independent."

East Texas First records show Gaubert paid most of the \$100,000 he raised to two former Wright aides -- a woman in public relations and a man who published a book of Wright's speeches. They spent it on printing, mailing and media buys. One page of the East Texas First reports at the Federal Election Commission is mistakenly labeled "Wright Appreciation Fund."

ETF-PAC's reports indicate the following payments to former Wright aide Sissy Day of Sissy Day & Associates:

Termination Report

<u>Purpose</u>	<u>Date</u>	<u>Amount</u>
Media buy	7/22/85	\$13,522.84
Ad Placement and production	7/24/85	9,397.04
Radio production	7/24/85	2,094.12
Get out the vote telephoning	7/31/85	4,500.00

1985 12-Day Run-off

Senior Citizens' Mass Mailing	7/12/85	14,962.37
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1985 July Quarterly

Art Work Mailing Lists	6/25/85	5,285.83
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Total:	\$49,762.20
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ETF-PAC's reports indicate the following payments to former Wright aide Kitchens of Kitchens & Associates:

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1985 July Quarterly

<u>Purpose</u>	<u>Date</u>	<u>Amount</u>
Opinion Polls	6/25/85	\$4,000.00

ETF-PAC's reports indicate the following payments to Madison Systems Corporation⁵:

1985 July Quarterly

<u>Purpose</u>	<u>Date</u>	<u>Amount</u>
Mailing Printing Bulk Mail	6/24/85	\$27,306.44

According to Meyer:

Wall Street Journal reporter Brooks Jackson, in his book Honest Graft, disclosed that Thomas Gaubert (Chairman of East Texas First) admitted he discussed his committee's activities with members of the staff of the Democratic Congressional Campaign Committee; a clear violation of regulations governing independent committees. Jackson goes on to report that a member of the DCCC staff started to discuss East Texas First's activities at a DCCC staff meeting, but was warned not to talk about that by another staff member because such knowledge and contacts are clearly

4. Madison Systems Corporation, founded by William Carlos Moore, was formerly known as Carlos Moore & Associates. Roughly 75 percent of its business consists of printing, including silk screens and bumper stickers. Carlos Moore regularly performed campaign services for Wright. From 1980 through 1987, Wright's committees paid Moore \$510,158.50. Report Of The Special Outside Counsel In The Matter Of Speaker James C. Wright, Jr., Committee On Standards Of Official Conduct U.S. House Of Representatives, 101st Cong., February 21, 1989, page 59.

illegal.⁶

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Meyer also asserted that testimony, during the Dallas trial of three Commodore Savings executives, indicated that an aide to then House Majority Leader Jim Wright had specifically solicited contributions for ETF-PAC. "John Harrell, the Commodore Chairman, testified he helped funnel \$25,000 to East Texas First because Jim Wright asked for it." According to an article that appeared in The Washington Post on July 14, 1989, ETF-PAC, which had received illegal contributions from Commodore Savings Association, was set up by a Democratic fund-raiser with close ties to former House speaker Jim Wright. Further the article states that "David Farmer, a former Commodore executive, testified in May that Harrell said Wright had promised to kill legislation opposed by the thrift industry in return for \$250,000 in contributions to another Texas congressman." However in contradiction to Farmer's foregoing statement this same article states that "Harrell, however, testified that he never said Wright had guaranteed to kill legislation in exchange for the thrifts' contributions. Robert Hopkins also denied the existence of a deal but said an aide to Wright had specifically

5. As stated in Jackson's book, Honest Graft at page 266:

"I talked to the D-triple-C about ideas and so on and so forth," Gaubert recalled. Such contacts could be construed as destroying the independence of his PAC and making his spending illegal. The briefings Gaubert received may have been unauthorized. Once, at a senior staff meeting, when an aide began reciting what Gaubert was doing, Martin Franks cut him off and forbade further discussion.

requested \$25,000 each from 10 Texas thrifts."

An article that appeared in the National Review on April 21, 1989, stated that reports filed with the Federal Election Commission between 1983 and 1986, show that "Tom Gaubert, his brother Jack, their wives, Barbara and Carolyn, and their children, Tom Jr., Michael, Paige, and Randy, dished out \$147,000 to Democratic candidates for federal office." According to this article among the key recipients of these funds was DCCC Chairman Tony Coelho and Jim Wright, who was Majority Leader at the time.

The complainant also asserts that ETF-PAC falsely represented itself to the Commission as a committee designed to support multiple candidates to public office, when its sole purpose was to elect a Democrat to Congress in the special election in the First Congressional District of Texas.⁷ Further, Meyer states that,

East Texas First existed for only 10 months, from May 1985 until March 1986, raised and spent a total of more than \$100,000 in the special election and never spent a penny on any other campaign or election. Except for a token contribution from its founder received prior to its registration with the Commission, all of the committee's contributions were received on or after June 19, just 10 days before the initial election. Its first expenditures were made five days before the initial election, and were clearly designed to

6. A review of ETF-PAC's Statement Of Organization reveals that in the section designated type of committee the block which states, "this committee supports/opposes more than one Federal candidate and is not a separate segregated fund nor a party committee" has been selected by the committee.

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turn out the Democratic vote to ensure a runoff. It raised and spent more than \$100,000 during the 68 days between its organization and the August 3 runoff.

The committee stated that its expenditures were made for the purpose of defeating Edd Hargett in his congressional campaign.

Consistent with the foregoing, Wall Street Journal reporter Brooks Jackson in his book Honest Graft stated that Thomas Gaubert "set up a political action committee called East Texas First, headquartered in the Texarkana branch of a savings and loan association he owned. It was a curious sort of PAC, in that it supported only one candidate in one House race, then dissolved. Gaubert described himself as the PAC's informal chairman."

III. THE RESPONSES

(1) The DCCC's Response

Counsel on behalf of the DCCC stated:

There is absolutely no factual basis for these allegations. Not only was there no communication between the DCCC and East Texas First, the DCCC took every precaution to assure complete insulation by establishing a formal policy during the Texas special election forbidding staff to communicate with or maintain direct or indirect contact with East Texas First.

The DCCC's response asserted that it played no role in the

7. A review of all the reports filed with the Commission, in 1985, by ETF-PAC confirms that the committees expenditures were made to oppose Edd Hargett's campaign in the First Congressional District of Texas. It should also be noted that the reports do not show any contributions/expenditures to Jim Chapman or the DCCC.

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organization, operation, or activities of the ETF-PAC. And that the DCCC neither accepted, nor had any role whatsoever in raising funds for the ETF-PAC. "Further, Mr. Gaubert was not authorized, directed, or assisted in any manner by the DCCC to organize or conduct activities for East Texas First."

Included with the DCCC's response were affidavits from Martin D. Franks, the former Executive Director of the DCCC⁹ and Thomas J. King, Jr., the former Political Director of the DCCC. In his sworn affidavit Franks stated that he served as the Executive Director of the DCCC from 1981 to 1987, the period during which the 1985 special Congressional election to fill a vacancy in the First Congressional District of Texas occurred. With regard to the allegations in the complaint Franks declared:

The DCCC provided assistance to the Jim Chapman for Congress Campaign Committee in the 1985 special run-off election for Texas First Congressional District.

The DCCC was not involved in the organization or operation of East Texas First Committee.

I formally directed, on advice of counsel, all DCCC staff to refrain from any contact or communication with or discussion about East Texas First.

The DCCC did not coordinate activities between East Texas First and the Jim Chapman for Congress Campaign Committee.

During the 1985 Special Election, I did not communicate directly or

8. According to Mr. Franks, as Executive Director he was in charge of the day-to-day operations of the DCCC, supervised the DCCC staff, and served as principal advisor to the Chair of the DCCC.

indirectly with East Texas First committee about the Jim Chapman for Congress Campaign Committee's activities, strategy or needs.

I did not suggest or request directly or indirectly that East Texas First committee take any action or provide any assistance in support of the election of Congressman Jim Chapman or the defeat of his opponent, Edd Hargett.

In his sworn affidavit Thomas J. King, Jr. repeated the same assertions made in Franks' affidavit presented above. King also stated that he served as Political Director of the DCCC from 1985 to 1987. According to King, in this position he supervised and planned the DCCC's political assistance to Democratic congressional candidates.

(2) The Chapman Committee's Response

The response filed by the Jim Chapman for Congress Committee and Nancy Rooks, as treasurer, was accompanied by sworn affidavits from George Shipley (political consultant to the Chapman Committee); William Brannon (campaign manager of the Chapman Committee); Peck Young (political consultant for the Chapman Committee); and David Butts (field organizer for the Chapman Committee).

Counsel for the Chapman Committee stated that:

Independent expenditures may not be made in cooperation, consultation or concert with, or at the request or suggestion of, any candidate or his authorized committee or agent. 2 U.S.C. § 431(17). FEC regulations provide in more specific terms that certain situations trigger "presumptions" that coordination exists. Under those regulations, an expenditure is not independent if: (1) it is made "based on information" about a campaign's needs specifically provided by the

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candidate or his agent "with a view toward having the expenditure made," 11 C.F.R. § 109.1(a)(4)(i)(A); or (2) if it is made "by or through" a person who at any time was authorized to raise or spend funds, an officer of the authorized committee, or in receipt of any compensation or reimbursement for activities in support of the candidate or the campaign. 11 C.F.R. § 109.1(a)(4)(i)(B).

FEC Advisory Opinions also suggest additional factual circumstances that defeat independence. Thus, independence is barred when goods or services are purchased by a committee and, even without prior consultation, provided to the candidate. Advisory Opinion 1979-80, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5469 (March 12, 1980). Similarly, if contributors send checks to an independent committee in response to a fundraising solicitation, and the committee forwards them to the candidate, the solicitation is not independent regardless of whether it is conducted without the consent or knowledge of the candidate. Advisory Opinion 1980-46, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5508 (June 25, 1980).

The response by the Chapman Committee further stated:

In some cases, the linkage is more direct, but the prohibition is the same. "Independence" cannot be claimed by a committee which, organized in a general election to make independent expenditures, is founded by an individual who worked directly for the same candidate in the primary election. FEC Informational Letter (O/R 777), Dec. 7, 1976. Another direct connection, operating to defeat independence, occurs where the independent committee and the candidate's campaign committee shared office space and secretarial service, exchanged mailing lists, and the candidate on whose behalf the committee was making independent expenditures signed the committee's fundraising solicitation. Matter Under Review 1484 (June 6, 1985).

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In all these cases, there was evidence of connection, more direct in some than in others, but clearly present in all. To sustain a challenge to independence, there must be a concrete factual showing of "actual agreement" or "express intent or communication" or some linkage in accord with the opinions cited. Mere conjecture is not enough: It is "very difficult to sustain a finding of cooperation and coordination based on press releases." Common Cause v. Federal Election Commission, 655 F. Supp. 619, 624 (D.D.C. 1986), rev'd on other grounds, 842 F.2d 436 (D.C. Cir. 1988).

Counsel for the Chapman Committee argued that in line with the court's holding in Common Cause v. Federal Election Commission, 655 F. Supp. 619, 624 (D.D.C. 1986), rev'd on other grounds, 842 F.2d 436 (D.C. Cir. 1988), that to sustain a challenge to the independence of a committee there must be a concrete factual showing of actual agreement.

The Chapman Committee stressed that there was no direct or indirect contact with ETF-PAC and its principal staff during the campaign in the special election in the First Congressional District in 1985, to fill the vacancy in that seat. According to counsel for the Chapman Committee "none of the Chapman Committee staff requested or suggested directly or indirectly that East Texas First make an expenditure or undertake any activity in the election in support of Congressman Chapman." According to Counsel, "the Chapman campaign, however, was a self-contained entity with its own fundraising, phone banks, media, polling and field operations. All of these campaign functions were directed and implemented by staff...and

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volunteers working solely and exclusively for the Chapman Committee."

Counsel also pointed out that persons connected with the Chapman campaign never provided information to ETF-PAC about campaign needs or plans with a view that an expenditure would be made based on this information. Furthermore, Counsel indicates that neither the treasurer nor any individual making expenditures for ETF-PAC, including Thomas Gaubert, ever worked in the Chapman Committee.

With regard to complainant's allegation of coordination between the Chapman Committee and ETF-PAC through the DCCC, Counsel's response on behalf of the Chapman Committee was as follows:

The only basis for this allegation is Brooks Jackson's account...of an alleged conversation between Mr. Thomas Gaubert...and DCCC staff about "ideas and so on and so forth." Moreover, Jackson suggests that this contact may have been unauthorized, thus not attributable to the DCCC.

.....Jackson also reports that when a DCCC aide started to discuss Mr. Gaubert's activities at a DCCC staff meeting, Marty Franks, then Executive Director of the DCCC, put an immediate stop to it in full recognition of the rules governing independent expenditures. Moreover, a Washington Post story, Exhibit I to the Complaint, reports that former DCCC Chair Tony Coelho stated during an interview that "he was careful to stay away from East Texas First." Thus, not only does Mr. Meyer fail to provide any factual basis for his allegations, but the evidence he relies on supports a contrary conclusion.

The Chapman Committee does state that the DCCC worked with them

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during the campaign, however "these contacts with the DCCC never involved coordination or discussion of East Texas First's activities. Their technical and financial assistance was strictly limited to Chapman campaign activities."

(3) The Gaubert/ETF-PAC's Response

As stated above, Thomas M. Gaubert through his counsel responded to the complaint, on behalf of ETF-PAC. Counsel stated that, "the complaint herein has adduced no evidence of any agency relationship, direct request for specific help based on information given to ETF-PAC with a view that an expenditure be made, or other form of prearrangement or agreement by the DCCC or Jim Chapman."

With regard to complainant's allegations that an aide to then House Majority Leader Jim Wright had specifically solicited contributions for ETF-PAC. Counsel states the following:

The Complaint alleges that Mr. Gaubert and Jim Wright appeared at a fundraiser at which Texas savings and loan officials....were asked to contribute to ETF-PAC. At that meeting, it is alleged, Mr. Wright stated that it was important to him that a Democrat win the special election for Texas's First Congressional District. As one of his party's leaders, Jim Wright is entitled to encourage contributions to a political committee that had as one of its goals to support the election of Democrats to Congress without destroying ETF-PAC's independence. Mr. Wright's statement (and his making a statement at all) is

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not improper campaign activity.¹⁰

Furthermore, as the FEC has held, a Member of Congress like Jim Wright may assist in fundraising for and decisions regarding the disbursement of funds for a political committee not involved in that Member's election campaign--even if the committee is named after the Member. Cf. A.O. 1978-12, FED Elec. Camp. Fin. Guide (CCH), ¶ 5306.

IV. Applicable Law

Pursuant to Federal Election Campaign Act, no person (or committee not qualifying as multicandidate) shall make contributions to a Federal candidate or the authorized committee of a candidate which exceeds \$1,000 per election. 2 U.S.C. § 441a(a)(1)(A). No multicandidate committee shall make contributions to a Federal candidate or authorized committee which, in the aggregate, exceed \$5,000 per election. 2 U.S.C. § 441a(a)(2)(A). No candidate or political committee may knowingly accept contributions or make expenditures in violation of the provisions of 2 U.S.C. § 441a. 2 U.S.C. § 441a(f).

Expenditures made by any person in cooperation,

9. By way of explanation Counsel pointed out that,

As the House Report which accompanied the 1976 House bill amending the Federal Election Campaign Act stated:

[I]f a candidate or some other person suggests in a speech to a group of persons that everything should be done to defeat the opponent of the candidate, it is not the intent of the Committee that such a reference in a speech be viewed as a "suggestion" for purposes of the definition [of independent expenditure]. H.R. Rep. No. 917, 5.

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consultation, or concert with, or at the request or suggestion of a candidate, the authorized committee of a candidate or their agents shall be considered to be a contribution to such candidate. 2 U.S.C. § 441a(a)(7)(B)(i). Expenditures made independently of a candidate are not limited by the Act.

Buckley v. Valeo, 424 U.S. 1, 39 (1976). The term "independent expenditure" is defined by the Act as:

... an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee of agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate or agent of such candidate.

2 U.S.C. § 431(17); 11 C.F.R. § 109.1(a). The Commission's regulations provide that expenditures are not independent when they are made as the result of "... any arrangement, coordination, or direction by the candidate or his or her agent prior to the publication, distribution, display, or broadcast of the communication." 11 C.F.R. § 109.1(b)(4)(i). An expenditure is presumed to be made in coordination with the candidate when it is:

(A) Based on information about the candidate's plans, projects, or needs provided to the expending person by the candidate, or by the candidate's agent, with a view toward having an expenditure made;

(B) Made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of an authorized committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate, the candidate's committee or

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DCCC staff member, however, although the response characterized any such contact as of minor significance. The response of the DCCC also did not deny the activities of ETF-PAC were briefly raised at a DCCC staff meeting before the Executive Director terminated the discussion; the response viewed such an incident as evidence the DCCC had deliberately avoided any basis for coordination with ETF-PAC.

These allegations, not specifically denied or explained, indicate circumstances in which DCCC staff persons had information during the campaign about the activities of a committee making independent expenditures on behalf of a Democratic candidate for Congress who was actively supported by DCCC, and circumstances in which one or more discussions occurred between DCCC staff and the chairman of the committee making the expenditures. Furthermore, none of the responses provided an explanation of Congressman Jim Wright's concurrent fundraising or advisory role with respect to the DCCC, the Chapman Committee and the East Texas First Committee during the time of the 1985 special election for Congress. Therefore, these circumstances sufficiently raise an inference of coordination for the Commission to find reason to believe that East Texas First Political Action Committee and its treasurer made excessive contributions in violation of 2 U.S.C. § 441a(a).

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RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE SERVICES BRANCH

91 OCT 11 PM 1:08

October 11, 1991

Phillip L. Wise
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 OCT 11 PM 3:38

Re: MUR 2982 - Democratic Congressional Campaign
Committee and Leslie C. Francis, as Treasurer

Dear Mr. Wise:


This is to request an extension of time of 30 days to respond to the Commission's finding of reason to believe and interrogatories and requests for production of documents in the above-referenced Matter Under Review.

In order to respond to Commission's inquiries, it will be necessary to locate and interview former staff of the Committee. In addition, any documents relating to the inquiries are now over six years old and it will be necessary to search in the Committee's storage to find them. This will take considerably longer than the 15 days allowed by the Commission.

The Commission's letter was received by Respondent on October 9, 1991. The original response would have been due on October 24, 1991. With the extension requested, the response will be filed no later than November 25, 1991 (the first business day following the 30th day, Saturday, November 23).

If you have any questions or need additional information, please contact one of the undersigned.

Very truly yours,


Robert F. Bauer
Judith L. Corley
Counsel for Respondent

[04031-0032/DA942840.016]

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 16, 1991

Robert F. Bauer, Esq.
Judith L. Corley, Esq.
Perkins Coie
607 Fourteenth Street, N.W.
Washington, D.C. 20005-2011

RE: MUR 2982
Democratic Congressional
Campaign Committee and
Leslie C. Francis, as
treasurer

Dear Mr. Bauer and Ms. Corley:

This is in response to your letter dated October 11, 1991, which we received on October 11, 1991, requesting an extension of 30 days to respond to the Commission's reason to believe notification and interrogatories addressed to your client. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on November 22, 1991.

If you have any questions, please contact Phillip L. Wise, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

A handwritten signature in dark ink, appearing to read "LGL", is written over a horizontal line.

BY: Lois G. Lerner
Associate General Counsel

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06-C 3206

BRAND & LOWELL

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923 FIFTEENTH STREET, N.W.

WASHINGTON, D.C. 20005

TELEPHONE: (202) 662-9700

TELECOPIER: (202) 737-7565

October 22, 1991

BY HAND DELIVERY

Phillip Wise, Esquire
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

91 OCT 22 PM 3:15

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

Re: MUR 2982: Mr. Thomas M. Gaubert's Motion to Quash the Commission's Request for Answers to "Proposed Questions"

Dear Mr. Wise:

The undersigned is counsel for Mr. Thomas M. Gaubert. The Commission found "reason to believe" in the above-referenced matter under review that Mr. Gaubert was involved in the making of excessive coordinated expenditures by and through the East Texas First PAC. Pursuant to 11 C.F.R. § 111.15, Mr. Gaubert hereby moves to quash the Commission's subpoena for answers and documents which was directed to him, for the following reasons:

1. Mr. Gaubert's bankruptcy. Mr. Gaubert sought bankruptcy protection this year, and all pending actions against him are stayed.

2. Laches. The Commission took over two years to find "reason to believe" following Mr. Gaubert's submission. The allegations the Commission purports to investigate are now over six years old. Surely, the Commission cannot expect Mr. Gaubert (who has been the subject of a federal indictment and was acquitted) to answer questions under oath regarding matters that far in the past. Moreover, any conceivable statute of limitations has run on these six year-old charges.

¹ United States Bankruptcy Judge Mooreman recently stayed the Office of Thrift Supervision's enforcement and restitutionary action filed against Mr. Charles H Keating, III, based on Mr. Keating, III's bankruptcy filing.

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Phillip Wise, Esquire
October 22, 1991
Page 2

3. Flawed "Reason to Believe" Finding. For the reasons set forth in Mr. Gaubert's no "reason to believe" finding, the Commission should have terminated this proceeding because no "reason to believe" was shown. Moreover, allegations such as the Commodore convictions have absolutely nothing to do with the question of independence of expenditures. That certain contributors to ETF-PAC and DCCC were affiliated with failed savings and loans or were alleged associates of then Representatives Jim Wright and Tony Coelho has even less bearing on this case, and is nothing more than impermissible -- and, indeed, an irresponsible employment of -- guilt by innuendo. Moreover, allegations in newspapers and books are an inherently unreliable basis for a "reason to believe" finding, whatever their purported relevance to complaint processing under Commission Agenda Document 79-299. Indeed, the best the Commission can conjecture in its legal and factual conclusionary section is that "coordination may have effectively resulted" from the pastiche of innuendo it posits. See Commission Brief, at 19. This is hardly the standard for coordination, and most certainly not a sufficient basis to impose on a citizen the continued cost and vexation of this investigation.

4. U.S. Constitution's "Speech or Debate" Protection. The Commission has employed -- although it is not altogether clear as to what relevant effect -- material contained in the Report of the Special Outside Counsel in the Matter of Speaker James C. Wright, Jr. That matter cannot be used in an investigation of Mr. Gaubert, pursuant to principles of separation of powers and constitutional speech or debate protections.

5. The subpoenas are overly broad and impermissibly vague, especially six years removed from the allegations herein. For instance, the first question asks: "State whether Thomas Gaubert offered or requested any information about the operation of East Texas First with regard to the campaign of Jim Chapman." When, before or after the campaign? Before or after the alleged expenditures were made? From whom? Request for information about what? The second question states, "State whether the DCCC discussed Chapman's campaign with anyone from East Texas First PAC." This question suffers from the same infirmities. It is inconceivable that the Commission would purport to require answers to these open-ended questions under oath at this extraordinarily tardy juncture. Moreover, questions about any

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Phillip Wise, Esquire
October 22, 1991
Page 3

perceived involvement of Speaker Wright have absolutely no bearing on this inquiry. The Commission cannot investigate based on curiosity.

Mr. Gaubert reserves the right to supplement or modify this motion to quash.

Respectfully submitted,

BRAND & LOWELL, P.C.


Stanley M. Brand
Counsel for Thomas M. Gaubert

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October 22, 1991

Phillip L. Wise, Esq.
Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

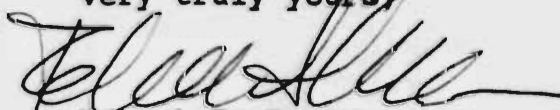
RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 OCT 23 PM 5:14

Re: MUR 2982 - Jim Chapman for Congress and Nancy J. Rooks, as Treasurer

Dear Mr. Wise:

On behalf of Jim Chapman for Congress and Nancy J. Rooks, as Treasurer, we request an extension of time to respond to the Commission's letter of October 7, 1991 notifying Respondents that the Commission found reason to believe in this matter. This letter was received by us on October 16, 1991. An extension of time is necessary in order to review the record, have an adequate opportunity to discuss the issues with our client, collect factual information for purposes of responding to the interrogatories and requests for production of documents and prepare a comprehensive response. Therefore, we are requesting an extension until November 26.

Very truly yours,



Robert F. Bauer
B. Holly Schadler

BHS:mah



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 28, 1991

Robert F. Bauer, Esq.
B. Holly Schadler, Esq.
Perkins Coie
607 Fourteenth Street, N.W.
Washington, D.C. 20005-2011

RE: MUR 2982
Jim Chapman for Congress and
Nancy J. Rooks, as treasurer

Dear Mr. Bauer and Ms. Schadler:

This is in response to your letter dated October 22, 1991, which we received on October 23, 1991, requesting an extension until November 26, 1991, to respond to the Commission's reason to believe notification and interrogatories addressed to your client. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on November 26, 1991.

If you have any questions, please contact Phillip L. Wise, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

BY: 
Lois G. Lerner
Associate General Counsel

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ABC 3526

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607 FOURTEENTH STREET, N.W. • WASHINGTON, D.C. 20005-2011 • (202) 628-6600

November 26, 1991

Lawrence M. Noble, Esq.
General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Attention: Phillip Wise

Re: MUR 2982 - Jim Chapman for Congress Committee and
Nancy J. Rooks, as Treasurer

Dear Mr. Noble:

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This letter constitutes the response by the Jim Chapman for Congress Committee ("Chapman Committee") and Nancy J. Rooks, as Treasurer (hereinafter referred to as "Respondents") to the Commission's letter of October 7, 1991 notifying us that the Commission found reason to believe that Respondents violated 2 U.S.C. § 441a(f) of the Federal Election Campaign Act of 1971, as amended (the "Act"). Accompanying this response are the answers to the Interrogatories and Request for Production of Documents.

In its original response to the Commission dated October 27, 1989, Respondents denied any cooperation or coordination between East Texas First and the Chapman Committee and refuted each assertion made in the Complaint. It further denied any indirect coordination between the Chapman Committee and East Texas First through the Democratic Congressional Campaign Committee ("DCCC"). Moreover, each key member of the campaign staff provided sworn testimony in an affidavit that no communication, either direct or indirect, occurred.

While the Complaint alleges coordination and cooperation between the Chapman Committee and East Texas First, it

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OFFICE OF GENERAL COUNSEL
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provides no evidence to support this allegation. The Complainant speculated based on newspaper articles and a passage from a reporter's book that some coordination must have occurred. Although the Commission has rejected such speculative conclusions in other matters, it appears to apply a different standard here. In Matter Under Review 2766, the Commission expressly rejected the "speculative inquiry one could always manufacture in any independent expenditure case". Commissioner Thomas J. Josefiak, Supporting Memorandum for the Statement of Reasons at 5. Mr. Josefiak wrote: "The making of . . . [independent] expenditures always carries the opportunity for coordination between the maker of the expenditures and the candidates benefitted by them." Josefiak at 5. Yet, even in light of the "unanswered questions" in MUR 2766, the Commission acknowledged that a line must be drawn for "official curiosity" and "general suspicion", particularly in a matter involving independent expenditures where the "Commission is obligated to give full respect to the strong Constitutional protection afforded this type of free speech". Josefiak at 2.

Nevertheless, here the Commission chose to pursue its "general suspicion" and "official curiosity", even though no evidence -- only mere speculation -- has been offered to allege coordination. The Commission also chose to disregard the affidavits submitted by the Chapman Committee providing sworn testimony that no cooperation or coordination occurred. But, in MUR 2766, as here, the Respondents denied in affidavits that anyone associated with the campaign had any contact whatsoever with the independent committee regarding the campaign. The federal district court affirmed the Commission's decision that "it is entirely reasonable to read the affidavits as precluding, rather than raising, an inference of coordination." Democratic Senatorial Campaign Committee v. Federal Election Commission, 745 F. Supp. 742, 746 (D.D.C. 1990).

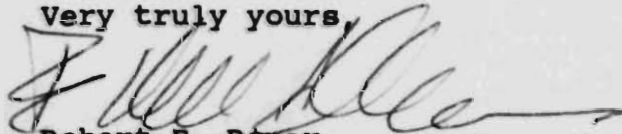
Where there is no evidence of "any act or consequence of coordination . . . ever offered or fairly imputed", the Commission has not pursued an investigation. MUR 2766, Statement of Reasons at 2. Nevertheless, in the present case where no act of coordination has been identified, only the

Lawrence M. Noble, Esq.
November 26, 1991
Page 3

mere opportunity for coordination, the Commission has chosen to investigate.

Respondents request that the Commission take no further action in this matter.

Very truly yours,



Robert F. Bauer
B. Holly Schadler
Counsel for Respondents

BHS:mah

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BEFORE THE FEDERAL ELECTION COMMISSION

MUR 2982

Respondents: Jim Chapman for Congress and
Nancy J. Rocks, as Treasurer

ANSWERS TO INTERROGATORIES AND
REQUEST FOR PRODUCTION OF DOCUMENTS

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The answers to these Interrogatories are provided by Nancy J. Rocks, as Treasurer of the Jim Chapman for Congress Committee, testifying to the best of her knowledge and belief. Respondents find the questions presented overly broad and vague. There is no way to determine what discussions may have taken place based on information or knowledge publicly available to the parties through news reports or Federal Election Commission records. Moreover, any such discussions are not legally relevant because the exchange of such information would not bear on the legality of independent expenditures made in support of the Chapman Committee, nor would they have been made with a view toward having such expenditures made. Subject to this understanding, Nancy J. Rocks provides the following answers.

Interrogatory No. 1:

1. State whether Thomas Gaubert offered or requested any information about the operation of the campaign of Jim Chapman.
 - a. If yes state the nature of the requests for or offer of information, and the name of the person or persons who made such requests or offers.
 - b. If written requests for or offers of information were made please furnish this Office with legible copies of any documents which evidence such information.

c. If oral requests for or offers of information were made please furnish this Office with a written recitation of said conversation.

d. State whether former Congressman Jim Wright, and/or anyone representing Jim Wright, played a part in obtaining, requesting, or the offering of any such information. Explain in detail Wright's or any representative of Wright's involvement.

1. No, he did not.

1.d. No, former Congressman Jim Wright did not. No, his representative did not.

Interrogatory No. 2:

2. State whether the DCCC discussed the activity taken or to be taken by East Texas First, with regard to Chapman's Campaign, with anyone from the Chapman Committee.

a. State the names, position and responsibilities of any and all persons who were involved in such discussion.

b. State the names, positions and responsibilities of any and all persons present during such discussion of East Texas First.

c. State what was discussed and identify the person or persons who made such comments or statements.

d. State whether former Congressman Jim Wright played a part in obtaining, requesting, or the offering or any such information. Explain in detail Wright's or any representative of Wright's involvement.

2. No, it did not.

2.d. No, former Congressman Jim Wright did not. No, his representative did not.

Interrogatory No. 3:

3. State whether Jim Chapman For Congress received information from the DCCC about East Texas First's activities to help Chapman's campaign.

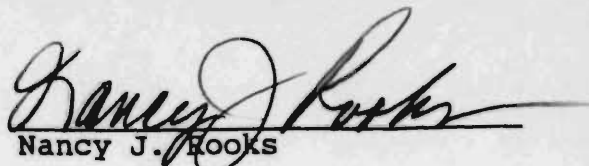
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- a. State how such information was received.
- b. If such information was received in writing please furnish this Office with legible copies of such information.
- c. If such information was received orally please furnish this Office with a written recitation of such information.
- d. State the names and responsibilities of the person or persons who gave this information.
- e. State whether former Congressman Jim Wright played a part in obtaining, requesting, or the offering of any such information. Explain in detail Wright's or any representative of Wright's involvement.

3. No, it did not.

3.e. No, former Congressman Jim Wright did not. No, his representative did not.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 25th day of November, 1991.


Nancy J. Hooks

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BEFORE THE FEDERAL ELECTION COMMISSION

DEC -9 PM 5:00

In the Matter of)

East Texas First Political Action Committee)
and its treasurer)

MUR 2982

GENERAL COUNSEL'S REPORT

SENSITIVE

I. BACKGROUND

On August 13, 1991, the Federal Election Commission ("The Commission") found reason to believe that East Texas First Political Action Committee ("ETF-PAC") and its treasurer violated 2 U.S.C. § 441a(a). Since ETF-PAC is defunct, the only named official which the Commission is aware of is Thomas Gaubert, who reputedly served as chairman of the PAC. Accordingly all notifications and requests for information have been addressed to Mr. Gaubert in his capacity as chairman of ETF-PAC. Therefore, on October 7, 1991, the reason to believe notification was mailed to Mr. Gaubert, on behalf of ETF-PAC. Attached to this notification were interrogatories and a request for documents to be answered and furnished by Mr. Gaubert.

The Commission at that time had not issued a subpoena to ETF-PAC nor Mr. Gaubert. Nevertheless, on October 22, 1991, counsel, on behalf of Gaubert filed a Motion to Quash what counsel wrongly characterized as a Commission issued subpoena. (Attachment 1.) Since, as stated above, no subpoena was issued in this matter, the General Counsel views the Motion to Quash as a request that the Commission take no further action and dismiss this matter.

Counsel claims that the following reasons support his

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clients' request for no further action (Motion to Quash):

(1) Mr. Gaubert's bankruptcy; (2) Laches; (3) Flawed "Reason to Believe" Finding; (4) U.S. Constitution's "Speech or Debate" Protection;¹ and (5) the subpoenas' being overly broad and impermissibly vague. The General Counsel has reviewed the assertions made on behalf of Mr. Gaubert and has concluded that the arguments presented do not support the requested action, i.e., that the Commission take no further action. The General Counsel's position, simply stated, is that in this matter Mr. Gaubert has been considered a witness, and not a respondent. Therefore, any alleged protections by filing bankruptcy, bars to this action because of the running of an alleged statute of limitations, and/or an alleged flawed "reason to believe" finding (which this Office does not concede) does not shield Mr. Gaubert from responding to questions and furnishing documents requested by the Commission.

1. Art. I, Sec 6, Cl. 1 of U.S. Constitution provides that members of Congress, except for treason, felony, and breach of peace, be privileged from prosecution "for any speech or debate in either House." In Gravel v. United States, 408 U.S. 606 (1972), the Court explained:

The heart of the Clause is speech or debate in either House. Insofar as the Clause is construed to reach other matters, they must be an integral part of the deliberative and communicative processes by which Members participate in committee and House proceedings with respect to the consideration and passage or rejection of proposed legislation or with respect to other matters which the Constitution places within the jurisdiction of either House.

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In addition, counsel's claim of U.S. Constitution's "Speech or Debate" Protection, as a shield to Gaubert answering the interrogatories directed to him also lacks merit. Counsel argues that the Commission's use of the Report of The Special Outside Counsel In The Matter of Speaker James C. Wright, Jr., Committee On Standards Of Official Conduct U.S. House of Representatives, 101st Cong., February 21, 1989, is prohibited under the Speech and Debate Clause. It should be noted that with regard to this information contained in the Report of The Special Counsel, former Congressman James C. Wright, Jr., also claimed Speech and Debate Clause protection from answering question submitted by the Commission. Wright's claim to such protection was rejected, and he was ordered to answer questions by the United States District Court Northern District Of Texas Fort Worth Division. In this case it was pointed out that the information requested concerned activities occurring outside, and away from, the House, and which are totally unrelated to anything done in the course of the legislative process or any motivation for any such thing. Federal Election Commission v. James C. Wright, Jr., No. 4-91-0542-A (N.D. Tex. Nov. 12, 1991).

In view of the foregoing, the Speech or Debate Clause offers no protection, in this instant matter, with regard to Gaubert or the information which is requested from him by the Commission.

Finally, as to counsel's claim that the questions posed were vague, this Office has modified the questions to reflect more specific times, periods, and persons.

Based on the foregoing, the General Counsel recommends that the Commission decline counsel's request that the Commission take no further action and approve a subpoena with modified questions.

II. RECOMMENDATIONS

1. Decline request to take no further action against East Texas First Political Action Committee and its treasurer.
2. Approve the attached subpoena and order to Thomas Gaubert.
3. Approve the appropriate letter.

Date

12/9/91


Lawrence M. Noble
General Counsel

Attachments

1. Motion To Quash
2. Subpoena/Order
3. Questions

Staff Assigned: Phillip L. Wise

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
East Texas First Political Action) MUR 2982
Committee and its treasurer.)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on December 12, 1991, the Commission decided by a vote of 6-0 to take the following actions in MUR 2982:

1. Decline request to take no further action against East Texas First Political Action Committee and its treasurer.
2. Approve the subpoena and order to Thomas Gaubert, as recommended in the General Counsel's Report dated December 9, 1991.
3. Approve the appropriate letter, as recommended in the General Counsel's Report dated December 9, 1991.

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

Attest:

12-12-91
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Tues., Dec. 10, 1991 5:00 p.m.
Circulated to the Commission: Tues., Dec. 10, 1991 11:00 a.m.
Deadline for vote: Thurs., Dec. 12, 1991 11:00 a.m.

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607 FOURTEENTH STREET, N.W. • WASHINGTON, D.C. 20005-2011 • (202) 628-6600

December 19, 1991

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FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 DEC 19 PM 1:00

Phillip L. Wise
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2982 - Democratic Congressional Campaign
Committee and Leslie C. Francis, as treasurer

Dear Mr. Wise:

This letter is the response of the Democratic Congressional Campaign Committee ("DCCC") and Leslie C. Francis, as treasurer ("Respondents") to the Commission's finding of reason to believe and requests for interrogatories and production of documents.

DCCC's Original Response

This compliance action is based on a complaint filed by the Republican Party of Texas. In its original response to the complaint dated October 27, 1989, the DCCC thoroughly refuted the allegations showing them to consist of suspicions unfounded on and, in fact, at variance with fact. The response demonstrated that the complaint had offered no evidence of cooperation or coordination between the DCCC and East Texas First.

The DCCC submitted sworn affidavits by the key staff members who would have known of, and been responsible for directing and supervising, any such effort had it existed. In these affidavits, signed under penalty of perjury, the individuals again denied any coordination or cooperation with or involvement in the operation of East Texas First.

The FEC's Finding of Reason to Believe

Despite these submissions, the Commission found reason to believe the DCCC had violated the campaign laws. At first glance, the Commission's analysis of the reason to believe finding is impressive - running 20 pages long. A closer look, however, leads to puzzlement. The first nine pages simply

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repeat the allegations made in the complaint. The next seven pages present relevant information from the responses filed by the various respondents. Two pages cover the relevant law in the case. Only the last two pages of the analysis are intended to be "analysis"; ostensibly the explanation for the Commission rejection of Respondents' request for a dismissal of the complaint.

A review of these two pages would indicate that the reason to believe finding is based on the following:

- The failure of the DCCC to affirm or deny the allegation that Mr. Gaubert had discussed "campaign ideas" with DCCC staff.
- The failure of the DCCC to deny that the activities of East Texas First were raised briefly at a DCCC staff meeting.
- The failure of the DCCC to explain Congressman Jim Wright's concurrent fundraising or advisory role with respect to the various respondents.

The analysis concludes that "these circumstances sufficiently raise an inference of coordination" by the DCCC.

Legal Standard to be Applied

The legal standard to be applied to the investigation of allegations of coordination or cooperation in the making of independent expenditures has been set out clearly by the Commission in MUR 2766, and affirmed by the United States District Court for the District of Columbia in Democratic Senatorial Campaign Committee v. Federal Election Commission, 745 F. Supp. 742 (D.D.C. 1990).

In MUR 2766, the General Counsel recommended proceeding with an investigation based on unanswered questions regarding possible coordination between the various respondents. General Counsel's Report at p. 18. The Commission refused to investigate. The Commission noted the "strong Constitutional protection afforded" independent expenditures and rejected an investigation based on "official curiosity" or "general suspicion."

Phillip L. Wise
December 19, 1991
Page 3

The legal standard by which to judge the sufficiency of an answer to a complaint about independent expenditures cannot be: Has the evidence before the Commission ruled out every conceivable opportunity or means by which coordination could have taken place?

Supporting Memorandum for the Statement of Reasons
(Commissioner Josefiak), at p. 25.

The standard the Commission did apply required "some legally sufficient facts" that are "not satisfactorily answered by the respondents." Id. at pp. 4-5.

Discussion

The Commission has not applied this standard in this case. It has proceeded to a reason to believe investigation based on what is apparently "general suspicion" that coordination took place between the respondents. There are not legally sufficient facts unaddressed by the sworn affidavits of Respondents. Despite the District Court's admonition that "there is no inherent reason to disbelieve . . . statements which were made under oath and under penalty of perjury," 745 F. Supp. at 746, the Commission has apparently disregarded the sworn statements submitted by the DCCC.

Each of the three "gaps" in evidence identified in the General Counsel's Analysis was, in fact, addressed in the initial submission by the DCCC. The written submission and the two affidavits stated clearly that the DCCC did not coordinate activities between East Texas First and the Jim Chapman for Congress Campaign Committee. This denial directly covers any activities of the DCCC, Thomas Gaubert and Congressman Jim Wright which could conceivably bear on the coordination of independent expenditure activity. It is legally irrelevant to the question the Commission seeks to resolve here whether DCCC staff discussed the publicly known activities of East Texas First at a staff meeting or whether Congressman Jim Wright had multiple advisory or fundraising responsibilities, because none of this provides any evidence whatsoever to refute the statement that the DCCC did not coordinate independent expenditure activities between the various respondents, and indeed operated under strict orders

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Phillip L. Wise
December 19, 1991
Page 4

from its Executive Director to avoid anything even resembling coordinative activities.

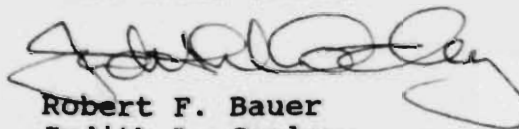
The Commission is asking DCCC to meet a standard that it specifically rejected in MUR 2677. In the Memorandum Supporting the Statement of Reasons, Commission Josefiak posed the following questions that are equally relevant here: "How many ways did they have to say it? What reason did we have to doubt them? How far did the obligation of respondents extend to absolutely prove coordination did not take place, where no evidence suggested otherwise?"

DCCC has more than adequately addressed the issue of whether it was involved the independent expenditure activity undertaken by East Texas First. Further investigation by the Commission is unwarranted.

Conclusion

Despite the belief that the Commission has no basis to pursue this investigation under the standards set out in MUR 2766 and DSCC v. FEC, Respondents believe that the responses to the interrogatories provided today should address any remaining doubts the Commission may have. Respondents request that this matter be dismissed and that the Commission take no further action.

Very truly yours,



Robert F. Bauer
Judith L. Corley
Counsel to Respondents

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BEFORE THE FEDERAL ELECTION COMMISSION

MUR 2982

Respondent: Democratic Congressional Campaign Committee

RESPONSE TO INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF DOCUMENTS

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OFFICE OF GENERAL COUNSEL
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The responses to these interrogatories are signed by Leslie Francis, the current Executive Director of the Democratic Congressional Campaign Committee, Inc. ("DCCC"). Mr. Francis was not employed by the Committee at the time the events in question occurred and, therefore, he has no personal knowledge of the information presented herein. Nonetheless, the responses to these interrogatories are true and correct to the best of Mr. Francis' information and belief based on information derived from a review of documents and interviews with various former Committee staff.

The interrogatories as written are vague and over broad. The responses to these interrogatories are limited by the following understanding. Activities surrounding the special election involving Congressman Jim Chapman were widely reported in the news media and publicly disclosed on FEC reports. It would be impossible to determine or to reconstruct informal discussions that may have taken place among DCCC staff as a result of and based on this public information. Such discussions were not made with a view toward the making of independent expenditures and such discussions are, therefore, not legally relevant to the Commission's inquiry into the legality of independent expenditures made by East Texas First.

INTERROGATORY NO. 1:

1. State whether Thomas Gaubert offered or requested any information about the operation of East Texas First with regard to the campaign of Jim Chapman.
 - a. If yes, state the nature of the requests for or offer of information, and the name of the person or persons who made such requests or offers.
 - b. If written requests for or offers of information were made, please furnish this

Office with legible copies of any documents which evidence such information.

- c. If oral requests for or offers of information were made, please furnish this Office with a written recitation of said conversation.
- d. State the name of the person or persons who received a request for information and advice from Thomas Gaubert with regard to the plans or operations of East Texas First Political Action Committee.
- e. State whether former Congressman Jim Wright, and/or anyone representing Jim Wright, played a part in obtaining, requesting, or the offering of such information. Explain in detail Wright's or any representative of Wright's involvement.

RESPONSE:

Mr. Gaubert did not offer to or request from any staff member of the DCCC any information about the operation of East Texas First with respect to the campaign of Jim Chapman.

INTERROGATORY NO. 2:

- 2. State whether the DCCC discussed Chapman's campaign with anyone with regard to the activity taken or to be taken by East Texas First.
 - a. State the names, position and responsibilities of any and all persons who were involved in such discussion.
 - b. State the names, positions and responsibilities of any and all persons present during such discussion of East Texas First.
 - c. State what was discussed and identify the person or persons who made such comments or statements.
 - d. State whether former Congressman Jim Wright played a part in obtaining, requesting, or the offering of any such information. Explain in detail Wright's or any representative of Wright's involvement.

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RESPONSE:

No staff member of the DCCC discussed Chapman's campaign with anyone with regard to the activity taken or to be taken by East Texas First.

INTERROGATORY NO. 3:

3. State whether Martin D. Franks, during a DCCC staff meeting, ordered an aide or aides not to discuss East Texas First's activities.
 - a. State the names of the person or persons who discussed the activities of East Texas First at the DCCC staff meeting.
 - b. Furnish a written recitation of what was said with regard to East Texas First.
 - c. State the names of the persons who were present at the DCCC staff meeting during the discussion of East Texas First.
 - d. State whether former Congressman Jim Wright played an [sic] part in obtaining, requesting, or the offering of any such information. Explain in detail.

RESPONSE:

There is no specific recollection of Martin D. Franks, during a DCCC staff meeting, ordering an aide or aides not to discuss East Texas First's activities. As stated in the affidavit previously submitted to the Commission, Mr. Franks had formally issued a DCCC policy that all DCCC staff were to refrain from any contact or communication with or discussion about organizations making independent expenditures in connection with the special election involving Congressman Chapman.

INTERROGATORY NO. 4:

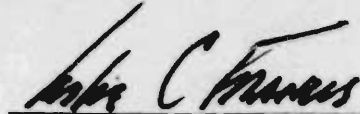
4. State whether Jim Chapman for Congress was given information from the DCCC about East Texas First's activities and plans to help Chapman's campaign.
 - a. State how such information was delivered to the Chapman campaign committee.

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- b. If such information was delivered in writing, please furnish this Office with legible copies of the informations.
 - c. If such information was transmitted orally, please furnish this Office with a written recitation of such information.
 - d. State the names and responsibilities of the person or persons who gave this information.
 - e. State whether former Congressman Jim Wright played a part in obtaining, requesting, or the offering of any such information. Explain in detail Wright's or any representative of Wright's involvement.

RESPONSE:

DCCC gave no information to Jim Chapman for Congress about East Texas First's activities and plans to help Chapman's campaign.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 18th day of December, 1991.



Leslie C. Francis
Executive Director
Democratic Congressional
Campaign Committee, Inc.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 20, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Stanley M. Brand, Esquire
Brand & Lowell
923 Fifteenth Street, N.W.
Washington, D.C. 20005

RE: MUR 2982
East Texas First PAC and its
treasurer
(Thomas Gaubert, Chairman)

Dear Mr. Brand:

On August 13, 1991, Federal Election Commission found that there is reason to believe East Texas First Political Action Committee ("ETF-PAC") and its treasurer violated 2 U.S.C. § 441a(a), a provision of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, was attached for your information. Also attached were interrogatories to be answered by Thomas Gaubert, who reputedly served as chairman of the committee.

On October 22, 1991, the Commission received your response which included a Motion to Quash what you mistakenly viewed as a Commission issued subpoena for answers and documents. Since, at the date of your response no subpoena had been issued, the Commission considered your motion as a request to take no further action against ETF-PAC. On December 12, 1991, the Commission declined your request to take no further action.

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. The Commission has issued the attached order and subpoena which requires your client, Thomas Gaubert to provide certain information in connection with an investigation it is conducting. The Commission does not consider Mr. Gaubert a respondent in this matter, but rather a witness only.

Because this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies. That section prohibits making public any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

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Stanley M. Brand, Esquire
Page 2

Mr. Gaubert is required to submit the information within 10 days of your receipt of this subpoena and order. All answers to questions must be submitted under oath.

If you have any questions, please contact me at (800) 424-9530.

Sincerely,

Phillip L. Wise
Phillip L. Wise
Attorney

Enclosure
Subpoena and Order

93040925403

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
)
) MUR 2982

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Thomas Gaubert

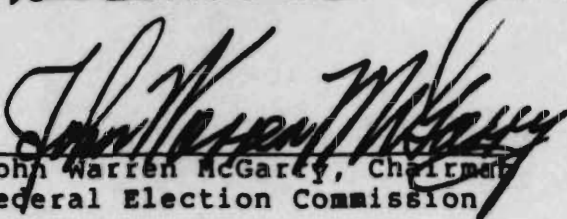
Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 10 days of receipt of this Order and Subpoena.

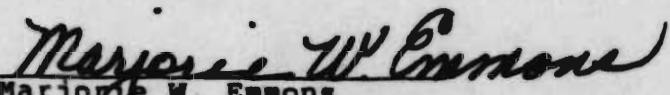
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WHEREFORE, the Chairman of the Federal Election Commission
has hereunto set his hand in Washington, D.C. on this

Nineteenth, day of *December*, 1991.


John Warren McGarty, Chairman
Federal Election Commission

ATTEST:


Marjorie W. Emmons
Secretary to the Commission

Attachments
Document Request
Questions

93040925405

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from May 1985 to April 1986.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

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DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

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QUESTIONS AND DOCUMENTS REQUEST

Fred Meyer, State Chairman of the Republican Party of Texas, has alleged that the East Texas First Political Action Committee, Jim Chapman for Congress, and the Democratic Congressional Campaign Committee cooperated, coordinated, and/or acted in concert with regard to the 1985 special election to fill a vacancy in the First Congressional District of Texas.

1. State whether Thomas Gaubert offered any information about the operation of East Texas First with regard to the campaign of Jim Chapman to Jim Wright, Democratic Congressional Campaign Committee, and the Jim Chapman for Congress at any time prior to, or during the June 29, initial election, and prior to, and/or during, 1985 August 3, 1985, run-off election.

(a) If yes state the nature of the requests for or offer of information, and the name of the person or persons who made such requests or offers.

(b) If written requests for or offers of information were made please furnish this Office with legible copies of any documents which evidence such information.

(c) If oral requests for or offers of information were made please furnish this Office with a written recitation of said conversation.

(d) State the name of the person or persons who received a request for information and advice from Thomas Gaubert with regard to the plans or operation of East Texas First Political Action Committee.

2. State whether the DCCC discussed Chapman's Campaign with anyone connected to East Texas First Political Action Committee at any time prior to the June 29, initial election, and prior to, 1985 August 3, 1985, run-off election.

(a) State the names, positions and responsibilities of any and all persons who were involved in such discussion.

(b) State the names, positions and responsibilities of any and of all persons present during such discussion of East Texas First.

(c) State what was discussed and identify the person or persons who made such comments or statements.

93040925408

MUR 2982
Thomas Gaubert
Page 4

3. State whether former Congressman Jim Wright and Thomas Gaubert discussed the operation of East Texas First with regard to the campaign of Jim Chapman, and/or the DCCC when Gaubert accompanied Jim Wright on an eight-city jet trip from June 30, 1985 to July 2, 1985. Explain in detail Wright's or any representative of Wright's involvement in this discussion. (This trip was in preparation of a \$1,000,000 fundraiser held several months later in Fort Worth and billed as the "Cowntown Jamboree.")

(a) State whether any such discussion with former Congressman Jim Wright occurred at any time prior to, or during the June 29, initial election, and prior to, and/or during, 1985 August 3, 1985, run-off election. Explain in detail Wright's or any representative of Wright's involvement.

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OGC 4002

BRAND & LOWELL

A PROFESSIONAL CORPORATION

923 FIFTEENTH STREET, N.W.

WASHINGTON, D.C. 20005

TELEPHONE: (802) 662-9700

TELECOPIER: (802) 737-7585

January 7, 1992

BY HAND DELIVERY

Phillip Wise, Esquire
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: Matter Under Review 2982

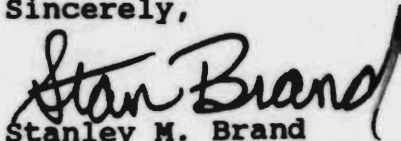
Dear Mr. Wise:

We represent Mr. Thomas M. Gaubert with respect to the above-referenced matter under review. Your letter dated December 20, 1991, containing a subpoena to Mr. Gaubert for written answers and documents, stated that the Commission "does not consider Mr. Gaubert a respondent in this matter, but rather a witness only."¹

Regarding the Commission's request for written answers, Mr. Gaubert must respectfully assert his constitutional rights in lieu of responding to the Commission's request therefor.

As regards documents subpoenaed by the Commission, Mr. Gaubert has no such documents.

Sincerely,


Stanley M. Brand
Counsel for Mr. Gaubert

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 JAN - 7 PM 5:20

¹ Your MUR's caption -- "East Texas First PAC and its treasurer (Thomas M. Gaubert, Chairman)" -- leaves the contrary impression and the attendant implication that the Commission was imposing the legal responsibilities and obligations of being a respondent on Mr. Gaubert. We would thus respectfully request that Mr. Gaubert's name be removed from the caption in that he is not a respondent.

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BEFORE THE FEDERAL ELECTION COMMISSION

COMIX-8 PM12:12

SENSITIVE

EXECUTIVE SESSION

MUR 2982

MAY 19 1992

In the Matter of)
East Texas First Political Action Committee)
and its treasurer)
Jim Chapman for Congress and Nancy J. Rooks,)
as treasurer)
Democratic Congressional Campaign Committee,)
and Leslie C. Francis, as treasurer)

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On August 13, 1991, the Commission found reason to believe that East Texas First Political Action Committee ("ETF-PAC") and its treasurer violated 2 U.S.C. § 441a(a); that Jim Chapman for Congress ("Chapman Committee") and Nancy J. Rooks, as treasurer, violated 2 U.S.C. § 441a(f); and that the Democratic Congressional Campaign Committee ("DCCC") and Leslie C. Francis, as treasurer, violated 2 U.S.C. § 441a(f). On October 7, 1991, the above respondents were mailed copies of letters informing them of the Commission's findings, and request for answers to interrogatories and request for the furnishing of documents.

On October 22, 1991, counsel responded on behalf of Thomas Gaubert.^{1/} Gaubert's response was a "Motion to Quash" the Commission's request for answers to proposed questions. The

^{1/} Since ETF-PAC is defunct, the only named official which the Commission is aware of is Thomas Gaubert, who reputedly served as chairman of the PAC. Accordingly all notifications and requests for information have been addressed to Mr. Gaubert in his capacity as chairman of ETF-PAC.

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Commission viewed this request as a request to take no further action against ETF-PAC. On December 12, 1991, the Commission declined counsel's request and approved the sending of a subpoena and order to Thomas Gaubert. On January 7, 1992, counsel on behalf of Gaubert responded to the Commission's subpoena. (Attachment 1).

On November 26, 1991, this Office received the Chapman Committee's response to the Commission's reason to believe notification, which included answers to the interrogatories as requested by the Commission. (Attachment 2). On December 19, 1991, this Office received the DCCC's response to the Commission's reason to believe notification, which included answers to the interrogatories as requested by the Commission. (Attachment 3).

II. ANALYSIS

Pursuant to 2 U.S.C. § 431(17) the term "independent expenditure" means an expenditure by a person^{2/} expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of any candidate, or any authorized committee or agent of such candidate.

The term "clearly identified" means that the name of the

^{2/} Under the Act "person" is defined to include a committee.

candidate involved appears; a photograph or drawing of the candidate appears; or the identity of the candidate is apparent by unambiguous reference. 2 U.S.C. § 431(18)(A), (B), and (C).

"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 the candidate" means any arrangement, coordination, or direction by the candidate or his or her agent prior to the publication, distribution, display, or broadcast of the communication. An expenditure will be presumed to be so made when it is based on information about the candidate's plans, projects, or needs provided to the expending person by the candidate, or by the candidate's agents, with a view toward having an expenditure made; or made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been an officer of an authorized committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate, the candidate's committee or agent. 11 C.F.R. § 109.1(a)(4)(i)(A) and (B).

Expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate. 2 U.S.C. § 441a(a)(7)(B)(i). In addition the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared

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by the candidate, his campaign committees, or their authorized agents shall be considered to be an expenditure for purposes of this paragraph. 2 U.S.C. § 441a(a)(7)(B)(ii).

The contribution limit by a person to any candidate and his authorized committees is \$1,000. 2 U.S.C. § 441a(a)(1)(A). Pursuant to 2 U.S.C. § 441a(a)(1)(C), no person shall make contributions to any other political committee in any calendar year, which in the aggregate, exceed \$5,000. Pursuant to 2 U.S.C. § 441a(a)(2)(A) no multicandidate political committee shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$5,000. Further, no candidate or political committee may knowingly accept contributions or make expenditures in violation of the provisions of 2 U.S.C. § 441a. 2 U.S.C. § 441a(f).

In DCCC's response to the Commission's reason to believe notification and in answering the interrogatories counsel stated that in its original response to the complaint, it was stated that:

The DCCC submitted sworn affidavits by key staff members who would have known of, and been responsible for directing and supervising, any such effort had it existed. In these affidavits, signed under penalty of perjury, the individuals again denied any coordination or cooperation with or involvement in the operation of East Texas First.

In answering the interrogatories the treasurer of DCCC stated that: "Mr. Gaubert did not offer to or request from any

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staff member of the DCCC any information about the operation of East Texas First with respect to the campaign of Jim Chapman." The treasurer also answered that: "No staff member of the DCCC discussed Chapman's campaign with anyone with regard to the activity taken or to be taken by East Texas First."^{3/} In addition, the treasurer stated that: "DCCC gave no information to Jim Chapman for Congress about East Texas First's activities and plans to help Chapman's campaign."

With regard to the Chapman Committee's response, the treasurer stated that the Chapman Committee did not give or receive any information from Gaubert, ETF-PAC, Jim Wright, or any aides thereof.

In responding to the Commission's subpoena to Gaubert, counsel stated that: "Regarding the Commission's request for written answers, Mr. Gaubert must respectfully assert his constitutional rights in lieu of responding to the Commission's request therefor."

This Office does not concede that Gaubert has a constitutional right not to answer the questions contained in the Commission's subpoena. Furthermore, this Office is unaware of any proceedings regarding Mr. Gaubert that provide a basis for his assertion of a constitutional right not to respond to the Commission's subpoena. In addition, no information has been

^{3/} This response by DCCC was made in answer to a question which also included an inquiry into any possible role former Congressman Jim Wright may have played with regard to Chapman's campaign and ETF-PAC's activities. This response appears to indicate that DCCC did not discuss this information with Jim Wright or any of his aides.

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furnished that provides a bases for that constitutional claim.^{4/} Despite the fact that DCCC and the Chapman Committee have both denied any coordination or giving Gaubert any information about the Chapman Committee's campaign activities, this Office believes that the question of possible coordination cannot be adequately resolved without Gaubert's answers to the Commission's subpoena and interrogatories.

Based on the foregoing, this Office recommends that the Commission authorize the Office of the General Counsel to seek enforcement of the subpoena to Thomas Gaubert in the United States District Court.

III. RECOMMENDATIONS

1. Authorize the Office of the General Counsel to institute a civil action, pursuant to 2 U.S.C. § 437d(b) seeking enforcement of the subpoena to produce documents and the order to answer written question issued to Thomas Gaubert.

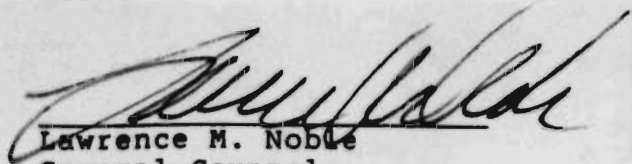
4/ On October 22, 1991, counsel, on behalf of Gaubert filed a Motion to Quash what counsel wrongly characterized as a Commission issued subpoena. Since, no subpoena was issued in this matter at that time, the General Counsel viewed the Motion to Quash as a request that the Commission take no further action and dismiss this matter.

Counsel claimed that the following reasons supported his clients' request for no further action (Motion to Quash): (1) Mr. Gaubert's bankruptcy; (2) Laches; (3) Flawed "Reason to Believe" Finding; (4) U.S. Constitution's "Speech or Debate" Protection; and (5) the subpoenas' being overly broad and impermissibly vague. The General Counsel reviewed the assertions made on behalf of Mr. Gaubert and concluded that the arguments presented did not support the requested action, i.e., that the Commission take no further action. The General Counsel's position, simply stated, was that in this matter Mr. Gaubert has been considered a witness, and not a respondent. Therefore, any alleged protections by filing bankruptcy, bars to this action because of the running of an alleged statute of limitations, and/or an alleged flawed "reason to believe" finding (which this Office does not concede) does not shield Mr. Gaubert from responding to questions and furnishing documents requested by the Commission. (See, General Counsel's Report, signed December 9, 1991.)

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2. Approve the appropriate letters.

5/7/92
Date


Lawrence M. Noble
General Counsel

Attachments

1. Response Gaubert
2. Response Chapman Committee
3. Response DCCC

Staff assigned: Phillip L. Wise

93040925417

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

East Texas First Political Action
Committee and its treasurer;

Jim Chapman for Congress and Nancy J.
Rooks, as treasurer;

Democratic Congressional Campaign
Committee, and Leslie C. Francis, as
treasurer.

MUR 2982

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the
Federal Election Commission executive session on May 19,
1992, do hereby certify that the Commission decided by a
vote of 6-0 to take the following actions in MUR 2982:

1. Authorize the Office of the General
Counsel to institute a civil action,
pursuant to 2 U.S.C. § 437d(b)
seeking enforcement of the subpoena
to produce documents and the order to
answer written questions issued to
Thomas Gaubert.
2. Approve the appropriate letters as
recommended in the General Counsel's
report dated May 7, 1992.

Commissioners Aikens, Elliott, McDonald, McGarry,
Potter, and Thomas voted affirmatively for the decision.

Attest:

5/20/92
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

93040925418



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 8, 1992

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Stanley M. Brand, Esquire
Brand & Lowell
923 Fifteenth Street, N.W.
Washington, D.C. 20005

RE: MUR 2982
East Texas First PAC and its
treasurer
(Thomas Gaubert, Chairman)

Dear Mr. Brand:

On August 13, 1991, Federal Election Commission found that there is reason to believe East Texas First Political Action Committee ("ETF-PAC") and its treasurer violated 2 U.S.C. § 441a(a), a provision of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, was attached for your information. Also attached were interrogatories to be answered by Thomas Gaubert, who reputedly served as chairman of the committee.

On October 22, 1991, the Commission received your response which included a Motion to Quash what you mistakenly viewed as a Commission issued subpoena for answers and documents. At the date of your response no subpoena had been issued, the Commission considered your motion as a request to take no further action against ETF-PAC. On December 12, 1991, the Commission declined your request to take no further action.

On December 12, 1991, the Commission also issued an order and subpoena which required your client, Thomas Gaubert to provide certain information in connection with an investigation it is conducting. You were informed that the Commission does not consider Mr. Gaubert a respondent in this matter, but rather a witness only. Nevertheless, on January 7, 1992, this Office received a response on behalf of your client indicating that he would not submit answers to the questions posed in the Commission's subpoena.

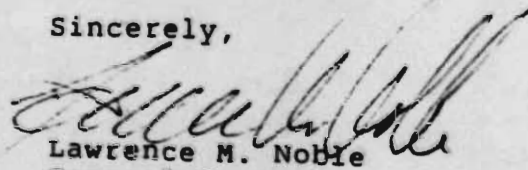
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Stanley M. Brand, Esquire
Page 2

As a result of your client's refusal to submit answers to the subpoena issued by the Commission, on May 20, 1992, the Commission authorized the Office of the General Counsel to institute a civil action for relief in the United States District Court, pursuant to 2 U.S.C. § 437d(b) seeking enforcement of the subpoena to produce documents and the order to answer written questions issued to Thomas Gaubert.

Should you have any questions please contact Stephen Hershkowitz, Assistant General Counsel, at (202) 219-3400, within five days of your receipt of this letter.

Sincerely,



Lawrence M. Noble
General Counsel

cc: Stephen Hershkowitz

93040925420

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FEDERAL ELECTION
COMMISSION
MAIL ROOM

BRAND & LOWELL

A PROFESSIONAL CORPORATION
923 FIFTEENTH STREET, N.W.
WASHINGTON, D.C. 20005

JUN 30 2 46 PM '92

TELEPHONE: (202) 662-9700
TELECOPIER: (202) 737-7865

June 30, 1992

BY HAND DELIVERY

Robert W. Bonham, III, Esquire
Senior Attorney
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Re: MUR 2982; East Texas First PAC

Dear Mr. Bonham:

As you are aware, we represent Thomas M. Gaubert, whom the Commission has denominated a "witness" in the above-referenced matter under review.

Mr. Gaubert has asserted his fifth amendment protections with respect to the Commission's request for written answers in the above-captioned matter under review.

You and I have discussed Mr. Gaubert's assertion of his fifth amendment rights in a series of telephone calls culminating in one on June 25, 1992. In these conversations, we have also discussed the form (oral or written) in which the Commission would seek Mr. Gaubert's assertion of his constitutional privilege. You informed me on June 25, 1992, that the Commission would reimburse Mr. Gaubert's expenses to appear to assert his rights in person in Washington, D.C.

While we believe that Mr. Gaubert's invocation of his rights could be handled in writing at a substantial savings to the taxpayers, he will of course make himself available for a formal deposition. That course would be wasteful, but, if you insist on it, please let me know dates you have in mind. We will accept service of a subpoena for this event should you proceed in this manner.

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OFFICE OF GENERAL COUNSEL

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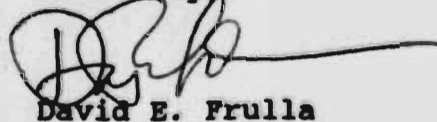
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BRAND & LOWE

Robert W. Bonham, III, Esquire
June 30, 1992
Page 2

Please call me so we can arrange for a written assertion of the fifth amendment or for a date for Mr. Gaubert's deposition that best accommodates your, our, and Mr. Gaubert's schedules.

Sincerely,



David E. Frulla

DEF:ldm

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BEFORE THE FEDERAL ELECTION COMMISSION

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JUL -6 PM 12:30

In the Matter of)

East Texas First Political Action Committee)
and its treasurer)

Jim Chapman for Congress and Nancy J. Rooks,)
as treasurer)

Democratic Congressional Campaign Committee,)
and Leslie C. Francis, as treasurer)

MUR 2982

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On August 13, 1991, the Commission found reason to believe that East Texas First Political Action Committee ("ETF-PAC") and its treasurer violated 2 U.S.C. § 441a(a); that Jim Chapman for Congress ("Chapman Committee") and Nancy J. Rooks, as treasurer, violated 2 U.S.C. § 441a(f); and that the Democratic Congressional Campaign Committee ("DCCC") and Leslie C. Francis, as treasurer, violated 2 U.S.C. § 441a(f). On October 7, 1991, the above respondents were mailed copies of letters informing them of the Commission's findings, and request for answers to interrogatories and request for the furnishing of documents. In their responses the DCCC and the Chapman Committee each denied any coordination.

On October 22, 1991, counsel responded on behalf of Thomas Gaubert.^{1/} Gaubert's response was a "Motion to Quash" the Commission's request for answers to proposed questions. Since

^{1/} Since ETF-PAC is defunct, the only named official which the Commission is aware of is Thomas Gaubert, who reputedly served as chairman of the PAC. Accordingly all notifications and requests for information have been addressed to Mr. Gaubert in his capacity as chairman of ETF-PAC.

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no subpoena had been issued, the Commission viewed this request as a request to take no further action against ETF-PAC. On December 12, 1991, the Commission declined counsel's request and approved the sending of a subpoena and order to Thomas Gaubert. On January 7, 1992, counsel on behalf of Gaubert responded by letter, to the Commission's subpoena.

In responding to the Commission's subpoena to Gaubert, counsel stated that: "Regarding the Commission's request for written answers, Mr. Gaubert must respectfully assert his constitutional rights in lieu of responding to the Commission's request therefor." No information was furnished to provide a bases for that constitutional claim.^{2/} Therefore, on May 19, 1992, the Commission authorized the Office of the General Counsel to seek enforcement of the subpoena to Thomas Gaubert in the United States District Court.

After receiving notification of the Commission's subpoena enforcement suit authorization, counsel for Gaubert telephoned this Office to express surprise and concern at the Commission's action, asserting that Gaubert's prior "Fifth Amendment privilege claim" precluded any further action by the Commission regarding the subpoena and order. Since Gaubert had not previously expressly claimed the privilege against self-incrimination -- his counsel had only asserted unspecified "constitutional rights" -- this Office offered Gaubert an opportunity to document his purported privilege claim in writing

^{2/} Counsel also stated there were no documents in Gaubert's possession.

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so that the Commission could better evaluate Gaubert's legal position. Gaubert's attorney also made an offer, later withdrawn, to submit an accompanying letter from counsel explaining why he believes the Fifth Amendment privilege is applicable in this situation. Such an explanation is of particular importance since most, if not all, criminal provisions potentially applicable to the 1985 activity at issue here, likely have already expired. At the suggestion of Gaubert's attorney, this Office also discussed the possibility of Gaubert voluntarily appearing for a deposition. Although Gaubert's counsel indicated that Gaubert would appear for a wide-ranging deposition if subpoenaed by the Commission, Gaubert's attorney later offered to make his client available voluntarily for deposition only if the scope of the deposition were sharply limited. Counsel has now indicated that Gaubert likely would claim privilege even to simple background questions. On June 30, 1992, this Office received written confirmation of the above telephone assertions from Gaubert's counsel. (Attachment 1). In this letter counsel also indicated they would accept service of a subpoena and that Gaubert would make himself available for a formal deposition.

Although this Office could file the previously authorized subpoena enforcement action in order to obtain a formal privilege claim by Gaubert (rather than solely by his counsel) and to litigate the general applicability of the Fifth Amendment privilege here, we recommend that the Commission instead approve the issuance of a subpoena to Thomas Gaubert for his deposition.

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Since Gaubert's attorney has already represented in writing that no documents responsive to the Commission's prior subpoena are in Gaubert's possession, it is unnecessary to obtain full responses to that subpoena prior to deposing Gaubert. Instead, information responsive to the Commission's interrogatories could be sought during the deposition, as well as additional information relevant to the underlying violations and to obtain information regarding Gaubert's privilege claim. If Gaubert does indeed claim the Fifth Amendment privilege to most of the Commission's questions, as his counsel has already suggested, the case would be in a much better posture for subpoena enforcement, if Gaubert's privilege claim appears unfounded. Alternatively, the Commission could draw adverse inferences from the Gaubert's privilege claims and proceed with its underlying enforcement action.

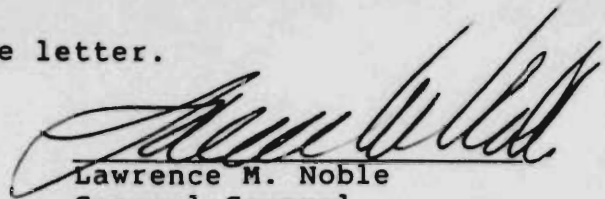
This Office is of the opinion that if Mr. Gaubert does allege a legitimate constitutional claim for his refusal to answer the Commission's interrogatories, the Court might not enforce the subpoena issued by the Commission. Therefore, to determine the validity of Gaubert's constitutional claim, and to prevent Gaubert's counsel from controlling the inquiry to be made with regard to Gaubert's testimony, this Office recommends that the Commission authorize a subpoena requiring Mr. Gaubert to appear personally and be deposed by this Office.

II. RECOMMENDATIONS

1. Authorize the attached subpoena and order to Thomas Gaubert.
2. Approve the appropriate letter.

Date

7/6/92


Lawrence M. Noble
General Counsel

Attachments

1. Letter from counsel, dated 6/30/92
2. Subpoena

Staff Assigned: Phillip L. Wise

93040925427

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
East Texas First Political Action) MUR 2982
Committee and its treasurer;)
Jim Chapman for Congress and Nancy J.)
Rooks, as treasurer;)
Democratic Congressional Campaign)
Committee and Leslie C. Francis,)
as treasurer.)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on July 10, 1992, the Commission decided by a vote of 5-0 to take the following actions in MUR 2982:

1. Authorize the subpoena and order to Thomas Gaubert.
2. Approve the appropriate letter, as recommended in the General Counsel's Report dated July 6, 1992.

Commissioners Aikens, Elliott, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Potter did not cast a vote.

Attest:

7-10-92
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Tues., July 07, 1992 9:59 a.m.
Circulated to the Commission: Tues., July 07, 1992 11:00 a.m.
Deadline for vote: Fri., July 10, 1992 4:00 p.m.

bjr

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

July 13, 1992

HAND DELIVERY

David E. Frulla, Esq.
Brand & Lowell
923 Fifteenth Street, N.W.
Washington, D.C. 20005

Re: MUR 2982

Dear Mr. Frulla:

During the past month, we have had several telephone conversations and have exchanged correspondence regarding the December 19, 1991 subpoena and order issued to your client, Thomas M. Gaubert, in the above-captioned matter.

Although you ultimately consented to make Mr. Gaubert available for a deposition during which he could assert his purported Fifth Amendment privilege claim to the outstanding Commission interrogatories, we have been unable to agree upon the scope of such a voluntary appearance. Indeed, you have expressed opposition to any inquiry regarding Mr. Gaubert's background or the basis for his purported privilege claim. In your most recent correspondence, however, you agreed to accept service of a subpoena for Mr. Gaubert's deposition if the Commission wishes to proceed in that manner.

The Federal Election Commission has a statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. This is to notify you that the Commission has issued the enclosed subpoena and order which requires Mr. Gaubert to appear for deposition at 10:00 a.m. on July 20, 1992.

Because the enclosed subpoena and order was issued in connection with an investigation being conducted by the Commission, the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies. That section prohibits making public

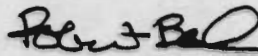
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David E. Frulla, Esq.
Page 2

any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

Should you have any questions or problems regarding the deposition, please contact Phillip L. Wise, the attorney assigned to MUR 2982, at (202) 219-3690.

Sincerely,



Robert W. Bonham, III
Senior Attorney

Enclosure.

93040925430

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
) MUR 2982
)

SUBPOENA

TO: Thomas Gaubert

Pursuant to 2 U.S.C. § 437d(a)(3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby subpoenas you to appear for deposition with regard to the above referenced matter. Notice is hereby given that the deposition is to be taken on July 20, 1992 in Room 657 at the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C., beginning at 10:00 a.m. and continuing each day thereafter as necessary.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C., on this

Thirteenth day of *July*, 1992.

Joan D. Aikens
Joan D. Aikens
Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons
Marjorie W. Emmons
Secretary to the Commission

93040925431

BRAND & LOWELL

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923 FIFTEENTH STREET, N.W.
WASHINGTON, D.C. 20005

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TELEPHONE: (202) 662-9700
TELECOPIER: (202) 737-7565

July 14, 1992

BY FACSIMILE

Phillip Wise, Esquire
Attorney
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Re: MUR 2982

Dear Mr. Wise:

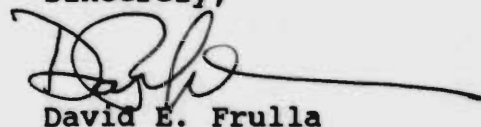
This is to confirm our discussions of today as to Mr. Thomas Gaubert's July 20, 1992, deposition appearance.

We will re-schedule the beginning of the deposition until 2:00 to enable Mr. Gaubert to travel to Washington, D.C. National Airport from Dallas-Fort Worth on an 8:16 A.M. American Airlines flight. Mr. Gaubert will depart National Airport on the (approximately) 7:30 P.M. Delta flight for Dallas-Fort Worth.

The Federal Election Commission will purchase the tickets. Please Federal Express them directly to Mr. Gaubert in care of the Telecom Corporation, 1545 West Mockingbird Lane, Suite 7000, Dallas, Texas 75235.

I will see you on Monday. In the meantime, please call me if anything arises.

Sincerely,



David E. Frulla

cc: Mr. Thomas M. Gaubert (by facsimile)

92 JUL 15 PM 3:35

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OFFICE OF GENERAL COUNSEL

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

FAX

July 20, 1992

David E. Frulla, Esquire
Brand & Lowell
923 Fifteenth Street, N.W.
Washington, D.C. 20005

RE: MUR 2982
East Texas First PAC and its
treasurer
(Thomas Gaubert, Chairman)

Dear Mr. Frulla:

I sincerely apologize for this Office furnishing your client airline tickets which were inadvertently mis-dated. The deposition has been rescheduled and will be taken on July 24, 1992 in Room 657 at the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C., beginning at 2:00 p.m. and continuing each day thereafter as necessary.

Mr. Gaubert will be able to leave Dallas on American Airlines at 8:12 a.m. and arrive at National Airport, Washington, D.C. at 12:07 p.m. The return flight be on Delta Airlines and will leave National at 7:25 p.m. and arrive in Dallas at 9:23 p.m.

Please contact me to confirm this date. If I do not here from you by the close of business Tuesday, July 21, 1992, I will arrange reservations for Mr. Gaubert on these flights. If you have any questions please contact me at (202) 219-3400.

Sincerely,

Phillip L. Wise
Phillip L. Wise
Attorney

93040925433

BRAND & LOWELL

A PROFESSIONAL CORPORATION
923 FIFTEENTH STREET, N.W.
WASHINGTON, D.C. 20005

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TELECOPIER: (202) 737-7665

July 27, 1992

Phillip Wise, Esquire
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Re: MUR 2982

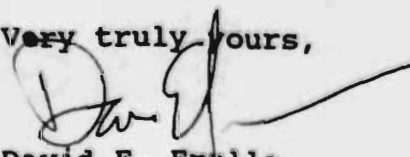
Dear Mr. Wise:

Enclosed please find the airline ticket Mr. Gaubert was not able to use last Monday.

I informed George Rishel on Friday that it is now possible to confirm Friday, August 7, 1992, as the new date for Mr. Gaubert's deposition. Mr. Rishel and I agreed that Mr. Gaubert will travel to Washington, D.C. in the late afternoon on Thursday, August 6, and return mid-afternoon the following day. Accordingly, we have set the deposition for Friday, at 10:00 a.m., if that is practicable.

Please call me to confirm if these arrangements are acceptable.

Very truly yours,


David E. Frulla

DEF:ldm

cc: Mr. Thomas M. Gaubert (by facsimile)

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ARRIVE: 923P

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

FAX: (202) 737-7565

July 28, 1992

David E. Frulla, Esquire
Brand & Lowell
923 Fifteenth Street, N.W.
Washington, D.C. 20005

RE: MUR 2982
East Texas First PAC and its
treasurer
(Thomas Gaubert, Chairman)

Dear Mr. Frulla:

This letter is to confirm our telephone conversation, on July 27, 1992. The deposition has been rescheduled and will be taken on August 7, 1992 in Room 657 at the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C., beginning at 10:00 a.m. and continuing each day thereafter as necessary.

Mr. Gaubert will be able to leave Dallas, on August 6, 1992, on American Airlines at 12:59 p.m. and arrive at National Airport, Washington, D.C. at 4:43 p.m. The return flight will be on August 7, 1992 on American Airlines and will leave National at 2:26 p.m. and arrive in Dallas at 4:23 p.m.

This Office has made hotel reservations, in the name of Thomas Gaubert, at the Holiday Inn Crowne Plaza, located at Metro Center, 775 12th Street, N.W., Washington, D.C. 20005.

Please inform Mr. Gaubert that he must furnish this Office with all receipts for funds expended with regard to this deposition. If you have any questions please contact me at (202) 219-3400.

Sincerely,

Phillip L. Wise
Phillip L. Wise
Attorney

93040925438



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

FAX: (202) 737-7565

July 30, 1992

David E. Frulla, Esquire
Brand & Lowell
923 Fifteenth Street, N.W.
Washington, D.C. 20005

RE: MUR 2982
East Texas First PAC and its
treasurer
(Thomas Gaubert, Chairman)

Dear Mr. Frulla:

This letter is to inform you that the airline ticket for Mr. Gaubert will be hand delivered to you by this Office on Friday, July 31, 1992. The deposition will be taken on August 7, 1992 in Room 657 at the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C., beginning at 10:00 a.m. and continuing each day thereafter as necessary.

As is indicated on the airline tickets, Mr. Gaubert will be able to leave Dallas, on August 6, 1992, on American Airlines at 12:59 p.m. and arrive at National Airport, Washington, D.C. at 4:43 p.m. The return flight will be on August 7, 1992 on American Airlines and will leave National at 2:26 p.m. and arrive in Dallas at 4:23 p.m.

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Sincerely,

Phillip L. Wise
Phillip L. Wise
Attorney

93040925439

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TRANSCRIPT OF PROCEEDINGS

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ELECTION COMMISSION

----- -X
IN RE: :
: :
M U R 2982 :
: :
----- -X

DEPOSITION OF THOMAS M. GAUBERT

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Washington, D. C.

Friday, August 7, 1992

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UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ELECTION COMMISSION

----- -X
IN RE: :
M U R 2982 :
----- -X

DEPOSITION OF THOMAS M. GAUBERT

Washington, D. C.

Friday, August 7, 1992

Deposition of THOMAS M. GAUBERT, called for
examination pursuant to notice of deposition, at the
Federal Election Commission, 999 E Street, N.W., Ninth
Floor, at 10:00 a.m. before MARLENE KNOWLES, a Notary
Public within and for the District of Columbia, when were
present on behalf of the respective parties:

-- continued --

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APPEARANCES:

PHILLIP L. WISE, ESQ.
Attorney
GEORGE F. RISHEL, ESQ.
Assistant General Counsel
STEPHEN HERSHKOWITZ, ESQ.
Assistant General Counsel
TONDA MOTT, ESQ.
Attorney
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Sixth Floor
Washington, D. C.
On behalf of Federal Election
Commission.

DAVID E. FRULLA, ESQ.
Brand & Lowell
923 Fifteenth Street, N.W.
Washington, D. C. 20005
On behalf of the Deponent.

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C O N T E N T S

WITNESS

EXAMINATION

Thomas M. Gaubert

by Mr. Wise

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P R O C E E D I N G S

Whereupon,

THOMAS MERRILL GAUBERT

was called as a witness and, having first been duly sworn,
was examined and testified as follows:

MR. WISE: This deposition is being taken
pursuant to a FEC subpoena issued in connection with an
investigation under Section 437(g) of Title II of the
United States Code. The statute provides that the
confidentiality of this investigation must be maintained
until the Commission closes its file.

The Commission has civil jurisdiction over the
Federal Election Campaign Act of 1971 as amended.

This investigation is designated as Matter Under
Review Number 2982.

My name is Phillip L. Wise, and I'm an attorney
from the Office of General Counsel, and I'm here on behalf
of the Federal Election Commission this morning.

Also present is George F. Rishel, Assistant
General Counsel for Enforcement. Steven Hershkowitz,
Assistant General Counsel for Litigation. And also
present is Tonda Mott, an attorney also from the Office of

ACE-FEDERAL REPORTERS, INC.

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1 General Counsel.

2 MR. FRULLA: I'm David Frulla, from Brand &
3 Lowell, representing the witness, Mr. Tom Gaubert.

4 MR. WISE: Are you going to make a statement for
5 the record, Mr. Frulla? If you are, I would like to give
6 a few instructions first so we can make sure the
7 preliminaries are out of the way.

8 MR. FRULLA: The only statement is -- it is
9 actually a question. The first thing I would like to ask
10 is you said, too, that Mr. Gaubert's expenses would be
11 reimbursed when he came up for this deposition?

12 MR. WISE: Yes.

13 MR. FRULLA: That will be taken care of --

14 MR. WISE: Yes.

15 MR. FRULLA: -- when we give you the receipts?

16 MR. WISE: The receipts. I don't know if it
17 will be taken care of today, but, you know, in due
18 course.

19 MR. FRULLA: I understand.

20 MR. WISE: Well, let me give a few instructions
21 so we can get the preliminaries out of the way and let you
22 make a statement --

1 MR. FRULLA: No, I'll make a statement when it's
2 appropriate.

3 MR. WISE: Okay. Good enough.

4 EXAMINATION

5 BY MR. WISE:

6 Q Okay, Mr. Gaubert, at this time I want you to
7 listen to some instructions that I'm going to give you. I
8 will be asking a series of questions. If you do not hear
9 a question, say so and I will repeat it. If you do not
10 understand a question, say so and I will rephrase it.

11 If you realize that an earlier answer that you
12 gave was inaccurate or incomplete, say that you want to
13 correct or supplement the earlier answer and you will be
14 allowed to do so.

15 If you do not stop me and request that the
16 question be rephrased or repeated, the answer you give
17 will be assumed responsive to that question.

18 Do you understand these instructions I have just
19 given you, Mr. Gaubert?

20 A I do.

21 Q Again, I'm going to ask you for the --
22 (Witness conferred with counsel.)

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1 BY MR. WISE:

2 Q Again, I'm going to ask you for the record,
3 could you please state your name and spell it for the
4 reporter here.

5 A Tom Gaubert. T-o-m, G-a-u-b-e-r-t.

6 Q Have you gone by any other name?

7 A Yes.

8 Q What name is that?

9 A Tommy, Thomas.

10 (Witness conferred with counsel.)

11 THE WITNESS: That's all.

12 BY MR. WISE:

13 Q Well, which one is your given name -- your
14 complete given name?

15 A Thomas M.

16 Q M stands for what?

17 A Thomas Merrill.

18 Q Is that a Jr. or anything of the sort, just
19 Thomas Merrill?

20 A Pardon?

21 Q Are you a Jr. or Sr. --

22 A Am I what?

1 Q Are you Thomas M. Gaubert Sr., Thomas M.
2 Gaubert, Jr. or just Thomas M. Gaubert?

3 A I'm Thomas M. Gaubert.

4 Q For the record, could you state your home
5 address.

6 A On advice of counsel, I respectfully decline to
7 answer this question and any further questions pursuant to
8 my rights under the Fifth Amendment of the United States
9 Constitution.

10 Q And which right is that? You have to be more
11 specific.

12 MR. FRULLA: Counsel, he just told you, it's his
13 Fifth Amendment rights against self-incrimination.

14 BY MR. WISE:

15 Q Do you feel if you answer that question that it
16 will subject you to a fine, penalty, or forfeiture?

17 MR. FRULLA: Well, this is --

18 THE WITNESS: On the advice of counsel, I
19 respectfully decline to answer this question and any
20 further questions pursuant to my rights under the Fifth
21 Amendment to the United States Constitution.

22 MR. FRULLA: I think this is the point where I --

1 when you start getting into some questions of -- by
2 Mr. Gaubert's asserting the Fifth Amendment, that it is
3 incumbent that I step in.

4 As you are aware, Mr. Gaubert has been
5 investigated for nearly 10 years. Since his 1988
6 acquittal on bank fraud charges brought by the Justice
7 Department's Savings and Loan Task Force, he's been the
8 perpetual subject of wide-ranging grand jury investigation
9 into his business, personal, bankruptcy and community
10 affairs.

11 Indeed, he's received no less than four target
12 letters from these various grand juries. And certain, if
13 not all, their proceedings continue. Based on this
14 record, any further statement or explanation by
15 Mr. Gaubert or his counsel could result in a disclosure
16 potentially injurious to Mr. Gaubert's interests.
17 Therefore, no further statements or explanation by
18 Mr. Gaubert or his counsel is indicated or required at
19 this juncture of this administrative proceeding.

20 MR. WISE: Could you go off the record a minute
21 and take a break for a second.

22 (Discussion off the record.)

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1 BY MR. WISE:

2 Q Mr. Gaubert, what is your occupation?

3 MR. FRULLA: Why don't I do this. We're back on
4 the record?

5 MR. WISE: Yes, we're back on the record.

6 MR. FRULLA: For shorthand -- apparently Mr. Wise
7 has informed me that the Commission is going to go ahead
8 and ask some questions of Mr. Gaubert. For shorthand
9 purposes, his invocation of the Fifth Amendment will be
10 shortened just to be, "I assert my Constitutional rights
11 pursuant to the Fifth Amendment."

12 MR. WISE: Is that it?

13 MR. FRULLA: Go ahead.

14 BY MR. WISE:

15 Q I'm going to read a short statement to you.

16 Fred Meyer, chairman of the Republican Party of
17 Texas, has alleged that East Texas First Political Action
18 Committee, Jim Chapman for Congress, the Democratic
19 Congressional Campaign Committee, cooperated, coordinated,
20 and acted in concert with regard to the 1985 special
21 election to fill the vacancy in the First Congressional
22 District of Texas.

1 Do you know anything about that, Mr. Gaubert?

2 A I respectfully give the same answer under the
3 Fifth Amendment rights.

4 Q Did you ever have any conversations with anybody
5 regarding the answer to that question?

6 A I respectfully decline to answer that question
7 under the same Fifth Amendment rights.

8 Q Do you know any officers of the Democratic
9 Congressional Campaign Committee?

10 A I respectfully decline to answer that question
11 under my Fifth Amendment rights.

12 Q Have you ever had any conversations with any
13 officers of the Democratic Congressional Campaign
14 Committee concerning Jim Chapman's campaign in 1985?

15 A I respectfully decline to answer that question
16 under my Fifth Amendment rights.

17 Q Are you familiar with the East Texas First
18 Political Action Committee?

19 A I respectfully decline to answer that question
20 under my Fifth Amendment rights.

21 Q Have you ever had any positions with the East
22 Texas First Political Action Committee?

1 A I respectfully decline to answer that question
2 under my Fifth Amendment rights.

3 Q Do you know former Congressman Jim Wright?

4 A I respectfully decline to answer that question
5 under my Fifth Amendment rights.

6 Q Have you ever had any conversations with former
7 Congressman Jim Wright concerning East Texas First and Jim
8 Chapman's campaign?

9 A I respectfully decline to answer that question
10 under my Fifth Amendment rights.

11 Q Do you know Jim Chapman?

12 A I respectfully decline to answer that question
13 under my Fifth Amendment rights.

14 Q Have you ever had any conversations with Jim
15 Chapman concerning his campaign in 1985?

16 A I respectfully decline to answer that question
17 under my Fifth Amendment rights.

18 Q Have you ever raised any money for Jim Chapman's
19 campaign in 1985?

20 A I respectfully decline to answer that question
21 under my Fifth Amendment rights.

22 Q In 1985, you took a plane trip with Congressman

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1 Jim Wright. Did you discuss the East Texas First
2 Political Action Committee with Congressman Wright at that
3 time?

4 A I respectfully decline --

5 MR. FRULLA: Wait a second. That assumes there
6 was a plane trip taken. Fact not in evidence.

7 BY MR. WISE:

8 Q During that plane trip, did you discuss anything
9 with Congressman Jim Wright concerning East Texas First?

10 MR. FRULLA: Same objection.

11 MR. WISE: It is noted for the record, but I
12 still would like to have an answer to the question.

13 THE WITNESS: I respectfully decline to answer
14 that question based on my Fifth Amendment rights.

15 BY MR. WISE:

16 Q Do you know Robert Hopkins?

17 A I respectfully decline to answer that question
18 under my Fifth Amendment rights.

19 Q Did you ever request that Robert Hopkins make a
20 contribution to East Texas First Political Action
21 Committee?

22 A I respectfully decline to answer that question

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1 under my Fifth Amendment rights.

2 Q Do you know E. Morton Hopkins?

3 A I respectfully decline to answer that question
4 under my Fifth Amendment rights.

5 Q Have you ever requested E. Morton Hopkins to
6 make a contribution to East Texas First Political Action
7 Committee?

8 A I respectfully decline to answer that question
9 under my Fifth Amendment rights.

10 Q Do you know John Harrell?

11 A I respectfully decline to answer that question
12 under my Fifth Amendment rights.

13 Q And again, have you ever requested that
14 Mr. Harrell make a contribution to East Texas First
15 Political Action Committee?

16 A I respectfully decline to answer that question
17 under my Fifth Amendment rights.

18 Q Have you ever received any information from Jim
19 Chapman with regard to East Texas First Political Action
20 Committee?

21 A I respectfully decline to answer that question
22 under my Fifth Amendment rights.

1 Q Have you ever given any information to Jim
2 Chapman with regard to East Texas First Political Action
3 Committee?

4 A I respectfully decline to answer that question
5 under my Fifth Amendment rights.

6 Q Have you ever received any information from the
7 Democratic Congressional Campaign Committee with regard to
8 the operation of East Texas First Political Action
9 Committee?

10 A I respectfully decline to answer that question
11 under my Fifth Amendment rights.

12 Q Have you ever given any information to the
13 Democratic Congressional Campaign Committee with regard to
14 the operation of East Texas First Political Action
15 Committee?

16 A I respectfully decline to answer that question
17 under my Fifth Amendment rights.

18 Q Do you know any officers of the Jim Chapman
19 Campaign Committee?

20 A I respectfully decline to answer that question
21 under my Fifth Amendment rights.

22 Q Are you a resident of Texas?

1 A I respectfully decline to answer that question
2 under my Fifth Amendment rights.

3 Q How long have you lived in Texas?

4 A I respectfully decline to answer that question
5 under my Fifth Amendment rights.

6 Q Do you have any kind of professional
7 relationship with George Shipley?

8 A I respectfully decline to answer that question
9 under my Fifth Amendment rights.

10 Q Do you know George Shipley?

11 A I respectfully decline to answer that question
12 under my Fifth Amendment rights.

13 Q Do you know Martin D. Franks?

14 A I respectfully decline to answer that question
15 based on my Fifth Amendment rights.

16 Q Do you know Thomas J. King, Jr.?

17 A I respectfully decline to answer that question
18 under my Fifth Amendment rights.

19 Q Do you know William Brannon?

20 A I respectfully decline to answer that question
21 under my Fifth Amendment rights.

22 Q Do you know Peck Young?

1 A I respectfully decline to answer that question
2 under my Fifth Amendment rights.

3 Q Do you know a Mr. William Carlos Moore?

4 A I respectfully decline to answer that question
5 under my Fifth Amendment rights.

6 Q A Ms. Sissy Day, do you know her?

7 A I respectfully decline to answer that question
8 under my Fifth Amendment rights.

9 Q Is it true that any question I may ask you about
10 any possible coordination with East Texas First, Jim
11 Chapman and the Democratic Congressional Campaign
12 Committee with regard to the 1985 special election in the
13 First District of Texas, that you will plead the Fifth
14 Amendment on any question concerning that?

15 A I respectfully decline to answer that question
16 based on my Fifth Amendment rights.

17 MR. FRULLA: I'll say yes for him.

18 MR. WISE: But I would like to see "yes" from
19 him. "Yes" from you is not going to do it for me.

20 THE WITNESS: I believe that was the answer to
21 the first question, Counselor.

22 BY MR. WISE:

1 Q Which question? That any question I may ask
2 concerning coordination with these three committees you
3 are going to plead the Fifth?

4 MR. FRULLA: Go ahead and answer --

5 THE WITNESS: Yes.

6 MR. FRULLA: -- yes, you will.

7 MR. WISE: At this time, I have no more
8 questions.

9 Do you have any questions, Steve?

10 MR. HERSHKOWITZ: (No response.)

11 MR. WISE: George?

12 MR. RISHEL: (No response.)

13 MR. WISE: Well, I would like you to know that
14 we're going to -- today, we're going to end the deposition,
15 but we're not going to close the deposition, because we
16 are going to leave it open just in case we have to proceed
17 with this a little further. And that will prevent us from
18 having to go back to the Commission to
19 get another subpoena. So the subpoena is still in
20 effect.

21 MR. FRULLA: I guess from my perspective your
22 authority to do that is your authority to do that. I'm

1 not acquiescing to your statement. If you believe that
2 that's what you can do --

3 MR. WISE: And the reporter will furnish a copy
4 of this to your client so he can, you know, read it over
5 and see if it is true and sign it and furnish it back to
6 us.

7 MR. FRULLA: Can we go off the record just a
8 second?

9 MR. WISE: Oh, sure. But first, let the
10 record reflect that the witness is consulting with his
11 counsel.

12 (Witness conferred with counsel.)

13 MR. WISE: Okay, now off the record.

14 (Discussion off the record.)

15 MR. WISE: Back on the record.

16 MR. FRULLA: Our position, to further clarify,
17 is that we would very much prefer that this deposition
18 conclude today. Mr. Gaubert is here. He's traveled from
19 Texas at substantial taxpayer expense to do this. And we
20 certainly see no reason why it need to be continued. But
21 that's your prerogative if you believe it is.

22 MR. WISE: Your position is on the record, duly

1 noted.

2 MR. FRULLA: Thank you.

3 (Whereupon, at 10:17 a.m., the deposition was

4 concluded.)

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THOMAS MERRILL GAUBERT

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CERTIFICATE OF NOTARY PUBLIC & REPORTER

21

I, MARLENE KNOWLES, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.


Notary Public in and for the
District of Columbia

My Commission Expires FEBRUARY 28, 1997

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

DELIVERED BY FAX

September 18, 1992

David E. Frulla, Esquire
Brand & Lowell
923 Fifteenth Street, N.W.
Washington, D.C. 20005

RE: MUR 2982
East Texas First FAC and its
treasurer
(Thomas Gaubert, Chairman)

Dear Mr. Frulla:

On August 7, 1992, your client appeared at the Office of the General Counsel and was deposed. Your client expressed a desire in being reimbursed for the expenses he incurred. You and he were informed that to receive reimbursement receipts must be furnished to this Office. To date no receipts have been forthcoming.

Please inform Mr. Gaubert that he must furnish this Office with all receipts for funds expended with regard to this deposition. If no receipts are received Mr. Gaubert will only receive the standard \$40.00 witness fee. If you have any questions please contact me at (202) 219-3400.

Sincerely,

Phillip L. Wise
Phillip L. Wise
Attorney

93040925462



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

October 15, 1992

David E. Frulla, Esquire
Brand & Lowell
923 Fifteenth Street, N.W.
Washington, D.C. 20005

RE: MUR 2982
East Texas First PAC and its
treasurer
(Thomas Gaubert, Chairman)

Dear Mr. Frulla:

On August 7, 1992, your client appeared at the Office of the General Counsel and was deposed. Your client expressed a desire in being reimbursed for the expenses he incurred. You and he were informed that to receive reimbursement receipts must be furnished to this Office. To date no receipts have been forthcoming.

Without the above referenced receipts the Commission is unable to determine the actual expenses, if any, incurred by Mr. Gaubert. Since no receipts have been received, at this time, the Commission has only enclosed a check for the standard \$40.00 witness fee. If you have any questions please contact me at (202) 219-3400.

Sincerely,

Phillip L. Wise
Phillip L. Wise
Attorney



United States Treasury



Pay to
the order of

10 05 92 17 WASHINGTON, DC
769586 0 THOMAS M GAUBERT
THOMAS M GAUBERT F E C WASH DC

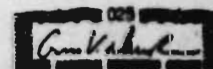
Check No.

3007 33885580
95350001

\$*****40*00

VOID AFTER ONE YEAR

PO NO 2AW090 WITNESS FEE



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000000518 338855803 011092

RECEIVED
F.E.C.
SECRETARIAT

BEFORE THE FEDERAL ELECTION COMMISSION

52 DEC -7 AM 11:53

In the Matter of

East Texas First Political Action Committee
and its treasurer

Jim Chapman for Congress and Nancy J. Rooks,
as treasurer

Democratic Congressional Campaign Committee,
and Leslie C. Francis, as treasurer

MUR 2982

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On August 13, 1991, the Commission found reason to believe that East Texas First Political Action Committee ("ETF-PAC") and its treasurer violated 2 U.S.C. § 441a(a); that Jim Chapman for Congress ("Chapman Committee") and Nancy J. Rooks, as treasurer, violated 2 U.S.C. § 441a(f); and that the Democratic Congressional Campaign Committee ("DCCC") and Leslie C. Francis, as treasurer, violated 2 U.S.C. § 441a(f), with regard to expenditures made by ETF-PAC in relation to the 1985 special election to fill a vacancy in the First Congressional District of Texas.

II. ANALYSIS

A. SUMMARY OF ALLEGATIONS

Fred Meyer, the complainant, asserted that ETF-PAC existed for only 10 months, filing its statement of organization on May 28, 1985 and terminating on March 26, 1986. According to Meyer, ETF-PAC, during its 10 months of existence made expenditures in only one race, the 1985 special election to fill a vacancy in the First Congressional District of Texas. Meyer

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alleges that ETF-PAC raised and spent more than \$100,000 in this special election and "never spent a penny in any other election or for any other purpose."

According to Meyer, ETF-PAC filed reports and represented to the Commission that its expenditures were all independent expenditures made in opposition to the candidacy of Republican Edd Hargett in the special Congressional election, in the First Congressional District, held June 29 (initial election) and August 3 (run-off), 1985, to fill the vacancy in that seat. In the run-off election, Democratic candidate Jim Chapman defeated Republican Edd Hargett by 1,933 votes. The complainant alleges that the expenditures were not independent. He asserts that Thomas Gaubert, the founder and chairman of ETF-PAC, boasted that his committee's spending made Jim Chapman a Congressman. Meyer describes Gaubert as an active Democratic fundraiser with close ties to the Democratic Congressional Campaign Committee, its then chairman, Tony Coelho, and then House Majority Leader Jim Wright.^{1/}

B. RESPONSES TO REASON TO BELIEVE FINDINGS

1. Chapman Committee's Response

On November 26, 1991, this Office received the Chapman Committee's response to the Commission's reason to

^{1/} As House Majority Leader, Jim Wright was an ex-officio member of the Democratic Congressional Campaign Committee. In MUR 3000 it was established that Thomas Gaubert accompanied Jim Wright on an eight-city jet trip from June 30, 1985 to July 2, 1985. This trip was in preparation of a \$1,000,000 fundraiser held several months later in Fort Worth and billed as the "Cowntown Jamboree."

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believe notification, which included answers to interrogatories as requested by the Commission. In their answers, the treasurer stated that the Chapman Committee did not give information to, or receive any information from, Gaubert, ETF-PAC, Jim Wright, or any aides thereof. (See Attachment 2 of the General Counsel's Report, signed May 7, 1992.)

2. DCCC's Response

On December 19, 1991, this Office received the DCCC's response to the Commission's reason to believe notification, which included answers to interrogatories as requested by the Commission. (See Attachment 3 of the General Counsel's Report, signed May 7, 1992.) In response to the Commission's reason to believe notification and in answering the interrogatories, counsel stated that in its original response to the complaint:

The DCCC submitted sworn affidavits by key staff members who would have known of, and been responsible for directing and supervising, any such effort had it existed. In these affidavits, signed under penalty of perjury, the individuals again denied any coordination or cooperation with or involvement in the operation of East Texas First.

In answering the interrogatories the treasurer of DCCC stated, "Mr. Gaubert did not offer to or request from any staff member of the DCCC any information about the operation of East Texas First with respect to the campaign of Jim Chapman." The treasurer also answered, "No staff member of the DCCC discussed Chapman's campaign with anyone with regard to the activity taken

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or to be taken by East Texas First."^{2/} In addition, the treasurer stated, "DCCC gave no information to Jim Chapman for Congress about East Texas First's activities and plans to help Chapman's campaign."

3. Gaubert's Response

On October 22, 1991, counsel responded on behalf of Thomas Gaubert. On December 12, 1991, the Commission approved the sending of a subpoena and order to Thomas Gaubert. On January 7, 1992, counsel on behalf of Gaubert responded to the Commission's subpoena.

In responding to the Commission's subpoena to Gaubert, counsel stated, "Regarding the Commission's request for written answers, Mr. Gaubert must respectfully assert his constitutional rights in lieu of responding to the Commission's request therefor." No information was furnished to provide a basis for that constitutional claim. Therefore, on May 19, 1992, the Commission authorized the Office of the General Counsel to seek enforcement of the subpoena sent to Thomas Gaubert in the United States District Court.

^{2/} This response by DCCC was made in answer to a question which also included an inquiry into any possible role former Congressman Jim Wright may have played with regard to Chapman's campaign and ETF-PAC's activities. This response appears to indicate that DCCC did not discuss this information with Jim Wright or any of his aides.

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After receiving notification of the Commission's subpoena enforcement suit authorization, counsel for Gaubert telephoned this Office to express surprise and concern at the Commission's action, asserting that Gaubert's prior "Fifth Amendment privilege claim" precluded any further action by the Commission regarding the subpoena and order. Since Gaubert had not previously expressly claimed the privilege against self-incrimination -- his counsel had only asserted unspecified "constitutional rights" -- this Office offered Gaubert an opportunity to document his purported privilege claim in writing so that the Commission could better evaluate Gaubert's legal position. Gaubert's attorney also made an offer, later withdrawn, to submit an accompanying letter from counsel explaining why he believes the Fifth Amendment privilege is applicable in this situation. Such an explanation is of particular importance since most, if not all, criminal provisions potentially applicable to the 1985 activity at issue here likely have already expired. At the suggestion of Gaubert's attorney, this Office also discussed the possibility of Gaubert voluntarily appearing for a deposition. Although Gaubert's counsel indicated that Gaubert would appear for a wide-ranging deposition if subpoenaed by the Commission, Gaubert's attorney later offered to make his client available voluntarily for deposition only if the scope of the deposition were sharply limited. Counsel later indicated that Gaubert might claim privilege even to simple background questions. On June 30, 1992, this Office received written confirmation of the

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above telephone assertions from Gaubert's counsel. In this letter counsel also indicated they would accept service of a subpoena and that Gaubert would make himself available for a formal deposition.

On August 7, 1992, Thomas M. Gaubert was deposed by a staff member from the Office of the General Counsel. During this deposition Gaubert refused to answer any questions beyond stating his name. In response to all other questions posed Gaubert merely alleged that "on the advice of counsel, I respectfully decline to answer this question and any further questions pursuant to my rights under the Fifth Amendment to the United States Constitution."

This Office does not concede that Gaubert has a constitutional right not to answer the interrogatories contained in the Commission's subpoena and questions posed during the deposition. No facts were presented which would lay a foundation for a Fifth Amendment right not to answer questions.

C. CONCLUSION

With the denials of the DCCC and the Chapman Committee, and Gaubert's refusal to answer interrogatories or to answer questions when deposed, the Commission has various options: (1) take no further action and close this matter; (2) authorize subpoena enforcement in the District Court to compel Gaubert to answer interrogatories and to answer questions

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posed during his deposition^{3/}; and (3) authorize depositions of other persons who may have the information desired by the Commission.

Based on the facts that DCCC and the Chapman Committee have both denied any coordination or having given Gaubert any information about the Chapman Committee's campaign activities; that Gaubert refuses to answer any questions concerning this matter; that ETF-PAC terminated in 1986; and that the DCCC, Chapman Committee, and Gaubert have not furnished information supportive of any violations of the Act, this Office concludes that the expenditure of any further resources would be economically unsound and would probably fail to uncover any evidence of wrongdoing by DCCC, ETF-PAC, and the Chapman Committee with regard to the 1985 Special Election in the First Congressional District of Texas.^{4/}

^{3/} As a result of Gaubert's refusal to submit written answers to the subpoena and interrogatories issued by the Commission, on May 19, 1992, the Commission authorized the Office of the General Counsel to institute a civil action for relief in the United States District Court, pursuant to 2 U.S.C. § 437d(b) seeking enforcement of the subpoena to produce documents and the order to answer written questions issued to Thomas Gaubert.

^{4/} This Office did analyze the possibility of pursuing this matter further by drawing the adverse inference from Gaubert's alleged Fifth Amendment constitutional right not to answer questions during his deposition, that coordinated campaign activity did take place. Such a plea by Gaubert indicates that he believes the answers would subject him to a fine, penalty, or forfeiture.

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Accordingly this Office recommends that the Commission take no further action and close the file in this matter.

III. RECOMMENDATIONS

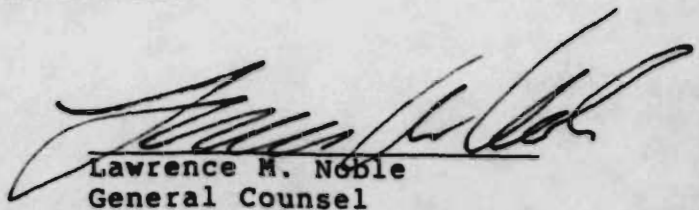
1. Take no further action against East Texas First Political Action Committee and its treasurer, Jim Chapman for Congress and Nancy J. Rooks, as treasurer, and Democratic Congressional Campaign Committee and Leslie C. Francis, as treasurer.

2. Close the file.

3. Approve the appropriate letters.

Date

12/4/92


Lawrence M. Noble
General Counsel

Staff assigned: Phillip L. Wise


93040925471



FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/BONNIE J. ROSS 
COMMISSION SECRETARY

DATE: DECEMBER 10, 1992

SUBJECT: MUR 2982 - GENERAL COUNSEL'S REPORT
DATED DECEMBER 4, 1992.

The above-captioned document was circulated to the
Commission on Monday, December 7, 1992 at 4:00 p.m..

Objection(s) have been received from the
Commissioner(s) as indicated by the name(s) checked below:

Commissioner Aikens	<u>XXX</u>
Commissioner Elliott	<u> </u>
Commissioner McDonald	<u> </u>
Commissioner McGarry	<u> </u>
Commissioner Potter	<u>XXX</u>
Commissioner Thomas	<u> </u>

This matter will be placed on the meeting agenda
for Tuesday, December 15, 1992.

Please notify us who will represent your Division before
the Commission on this matter.

93040925472

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2982
East Texas First Political Action)
Committee and its treasurer;)
Jim Chapman for Congress and Nancy)
J. Rooks, as treasurer;)
Democratic Congressional Campaign)
Committee, and Leslie C. Francis,)
as treasurer)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the
Federal Election Commission executive session on
December 15, 1992, do hereby certify that the Commission
decided by a vote of 6-0 to take the following actions in
MUR 2982:

1. Take no further action against East
Texas First Political Action Committee
and its treasurer, Jim Chapman for
Congress and Nancy J. Rooks, as treasurer,
and Democratic Congressional Campaign
Committee and Leslie C. Francis, as
treasurer.
2. Close the file.

(continued)

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3. Approve the appropriate letters as recommended in the General Counsel's report dated December 4, 1992.

Commissioners Aikens, Elliott, McDonald, McGarry, Potter, and Thomas voted affirmatively for the decision.

Attest:

12-16-92
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

93040925474



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 24, 1992

David E. Frulla, Esquire
Brand & Lowell
923 Fifteenth Street, N.W.
Washington, D.C. 20005

RE: MUR 2982
East Texas First PAC and its
treasurer
(Thomas Gaubert, Chairman)

Dear Mr. Frulla:

On or about October 7, 1991, you were notified that the Federal Election Commission found reason to believe that East Texas First PAC and its treasurer violated 2 U.S.C. § 441a(a). After considering the circumstances of the matter, the Commission determined on December 15, 1992, to take no further action against East Texas First PAC and its treasurer, and closed the file in this matter.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Phillip L. Wise
Phillip L. Wise
Attorney

93040925475



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 24, 1992

Robert F. Bauer, Esq.
B. Holly Schadler, Esq.
Perkins Cole
607 Fourteenth Street, N.W.
Washington, D.C. 20005-2011

RE: MUR 2982
Jim Chapman for Congress and
Nancy J. Rooks, as treasurer

Dear Mr. Bauer and Ms. Schadler:

On or about October 7, 1991, you were notified that the Federal Election Commission found reason to believe that your clients, Jim Chapman for Congress and Nancy J. Rooks, as treasurer, violated 2 U.S.C. § 441a(f). On November 26, 1991, you submitted a response, on your clients' behalf, to the Commission's reason to believe finding. After considering the circumstances of the matter, the Commission determined on December 15, 1992, to take no further action against Jim Chapman for Congress and Nancy J. Rooks, as treasurer, and closed the file in this matter.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Phillip L. Wise
Phillip L. Wise
Attorney

93040925476



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 24, 1992

Robert F. Bauer, Esq.
B. Holly Schadler, Esq.
Perkins Coie
607 Fourteenth Street, N.W.
Washington, D.C. 20005-2011

RE: MUR 2982
Democratic Congressional
Campaign Committee and
Leslie C. Francis, as
treasurer

Dear Mr. Bauer and Ms. Schadler:

On or about October 7, 1991, you were notified that the Federal Election Commission found reason to believe that your clients, the Democratic Congressional Campaign Committee and Leslie C. Francis, as treasurer, violated 2 U.S.C. § 441a(f). On December 19, 1991, you submitted a response, on your clients' behalf, to the Commission's reason to believe finding. After considering the circumstances of the matter, the Commission determined on December 15, 1992, to take no further action against the Democratic Congressional Campaign Committee and Leslie C. Francis, as treasurer, and closed the file in this matter.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Phillip L. Wise

Phillip L. Wise
Attorney

93040925477



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 24, 1992

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Fred Meyer, State Chairman
Republican Party of Texas
211 E. 7th Street, Suite 620
Austin, Texas 78701

RE: MUR 2982

Dear Mr. Meyer:

This is in reference to the complaint you filed with the Federal Election Commission on September 18, 1992, concerning the 1985 Special Election in the First Congressional District of Texas.

Based on that complaint, on August 13, 1991, the Commission found that there was reason to believe East Texas First Political Action Committee and its treasurer, violated 2 U.S.C. § 441a(a), and reason to believe that the Democratic Congressional Campaign Committee and Leslie C. Francis, as treasurer, and Jim Chapman for Congress and Nancy J. Rooks, as treasurer, each violated 2 U.S.C. § 441a(f) provisions of the Federal Election Campaign Act of 1971, as amended, and instituted an investigation of this matter. However, after considering the circumstances of this matter, the Commission determined to take no further action against East Texas First Political Action Committee and its treasurer, the Democratic Congressional Campaign Committee and Leslie C. Francis, as treasurer, and Jim Chapman for Congress and Nancy J. Rooks, as treasurer, and closed the file in this matter on December 15, 1992. This matter will become part of the public record within 30 days. The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Phillip L. Wise
Phillip L. Wise
Attorney

Enclosure
General Counsel's Report

93040925478
CLOSED



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 2982
DATE FILMED 1-8-93 CAMERA NO. 4
CAMERAMAN LEE

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463



Microfilm

Public Record

Press

THE FOLLOWING DOCUMENTATION IS ADDED TO

THE PUBLIC RECORD IN CLOSED MJR 2982.

9/1/94

240435641360



FEDERAL ELECTION COMMISSION

AUGUST 1, 1994

BY FEDERAL EXPRESS

Dwayne Yoshina, Deputy Executive Officer
Election Services Division
Office of the Lieutenant Governor
State Capitol
Honolulu, HI 96813

RE: MUR 2892

Dear Mr. Yoshina:

2 4 0 4 3 5 6 4 3 6 1

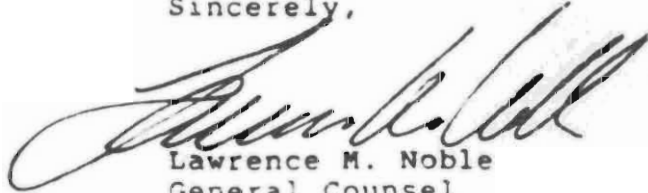
The Federal Election Commission ("Commission") has exclusive jurisdiction with respect to the civil enforcement of the Federal Election Campaign Act of 1971, as amended ("the Act"), 2 U.S.C. §§ 431-455. The Commission received complaints alleging that numerous foreign nationals contributed to state and local candidates in Hawaii in violation of 2 U.S.C. § 441e. This provision of the Act and Commission regulations prohibit foreign nationals from making contributions directly or through any other person, or making expenditures, in connection with federal, state, or local elections. It is also unlawful to solicit, accept or receive any such contributions. See 11 C.F.R. § 110.4(a). In addition, the Commission has determined that it is a violation of 2 U.S.C. § 441e for foreign-owned domestic corporations to make, and for anyone to solicit or accept, contributions where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Commission Advisory Opinions 1992-16, 1990-8, and 1989-20. Finally, the prohibition extends to the participating foreign nationals personally. 11 C.F.R. § 110.4(a)(3). The Commission emphasizes that it takes very seriously the application of section 441e to state and local, as well as federal, election campaigns.

The Commission has completed its investigation of the complaints in this matter and has entered into conciliation agreements with 26 entities and individuals. The agreements contain admissions of violations of 2 U.S.C. § 441e and provide for the payment of civil penalties. See 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). For your information, we have enclosed the conciliation agreements. The investigation is now closed, and these agreements are part of the public case file.

Dwayne Yoshina, Deputy Executive Officer
Election Services Division
Office of the Lieutenant Governor
Page 2

If you have any questions, please contact Erik Morrison in
the Office of the General Counsel at (202) 219-3400 or (800)
424-9530.

Sincerely,



Lawrence M. Noble
General Counsel

Attachments

2 4 0 4 3 5 6 4 3 5 2



FEDERAL ELECTION COMMISSION

AUGUST 1, 1994

BY FEDERAL EXPRESS

Daniel J. Mollway, Executive Director
State Ethics Commission
1001 Bishop Street
Pacific Tower, Suite 970
Honolulu, HI 96813

RE: MUR 2892

Dear Mr. Mollway:

24043564363

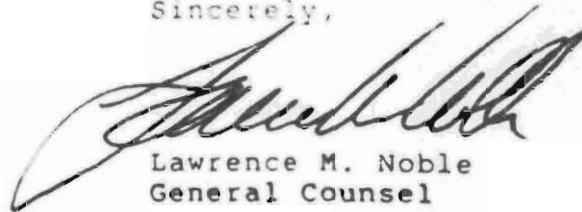
The Federal Election Commission ("Commission") has exclusive jurisdiction with respect to the civil enforcement of the Federal Election Campaign Act of 1971, as amended ("the Act"), 2 U.S.C. §§ 431-455. The Commission received complaints alleging that numerous foreign nationals contributed to state and local candidates in Hawaii in violation of 2 U.S.C. § 441e. This provision of the Act and Commission regulations prohibit foreign nationals from making contributions directly or through any other person, or making expenditures, in connection with federal, state, or local elections. It is also unlawful to solicit, accept or receive any such contributions. See 11 C.F.R. § 110.4(a). In addition, the Commission has determined that it is a violation of 2 U.S.C. § 441e for foreign-owned domestic corporations to make, and for anyone to solicit or accept, contributions where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Commission Advisory Opinions 1992-16, 1990-8, and 1989-20. Finally, the prohibition extends to the participating foreign nationals personally. 11 C.F.R. § 110.4(a)(3). The Commission emphasizes that it takes very seriously the application of section 441e to state and local, as well as federal, election campaigns.

The Commission has completed its investigation of the complaints in this matter and has entered into conciliation agreements with 26 entities and individuals. The agreements contain admissions of violations of 2 U.S.C. § 441e and provide for the payment of civil penalties. See 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). For your information, we have enclosed the conciliation agreements. The investigation is now closed, and these agreements are part of the public case file.

Daniel J. Mollway, Executive Director
State Ethics Commission
Page 2

If you have any questions, please contact Erik Morrison in
the Office of the General Counsel at (202) 219-3400 or (800)
424-9530.

Sincerely,



Lawrence M. Noble
General Counsel

Attachments

94043564364



FEDERAL ELECTION COMMISSION

AUGUST 1, 1994

BY FEDERAL EXPRESS

**Executive Director
Campaign Spending Commission
335 Merchant Street
Room 244B
Honolulu, HI 96813**

RE: MUR 2892

Dear Executive Director:

24043564055
The Federal Election Commission ("Commission") has exclusive jurisdiction with respect to the civil enforcement of the Federal Election Campaign Act of 1971, as amended ("the Act"), 2 U.S.C. §§ 431-455. The Commission received complaints alleging that numerous foreign nationals contributed to state and local candidates in Hawaii in violation of 2 U.S.C. § 441e. This provision of the Act and Commission regulations prohibit foreign nationals from making contributions directly or through any other person, or making expenditures, in connection with federal, state, or local elections. It is also unlawful to solicit, accept or receive any such contributions. See 11 C.F.R. § 110.4(a). In addition, the Commission has determined that it is a violation of 2 U.S.C. § 441e for foreign-owned domestic corporations to make, and for anyone to solicit or accept, contributions where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Commission Advisory Opinions 1992-16, 1990-8, and 1989-20. Finally, the prohibition extends to the participating foreign nationals personally. 11 C.F.R. § 110.4(a)(3). The Commission emphasizes that it takes very seriously the application of section 441e to state and local, as well as federal, election campaigns.

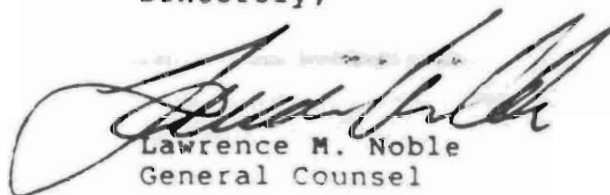
The Commission has completed its investigation of the complaints in this matter and has entered into conciliation agreements with 26 entities and individuals. The agreements contain admissions of violations of 2 U.S.C. § 441e and provide for the payment of civil penalties. See 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). For your information, we have enclosed the conciliation agreements. The investigation is now closed, and these agreements are part of the public case file.

Executive Director
Campaign Spending Commission
Page 2

Finally, on July 22, 1991, the Commission reported to the Hawaii Campaign Spending Commission information obtained in the course of the investigation regarding apparent violations of Hawaii state law. Please inform the Office of the General Counsel regarding the status or disposition of the Commission's report.

If you have any questions, please contact Erik Morrison in the Office of the General Counsel at (202) 219-3400 or (800) 424-9530.

Sincerely,



Lawrence M. Noble
General Counsel

Attachments

24043564866



FEDERAL ELECTION COMMISSION

AUGUST 1, 1994

BY FEDERAL EXPRESS

Robert Marks, Attorney General
425 Queen Street
Honolulu, HI 96813

RE: MUR 2892

Dear Mr. Marks:

24043564367

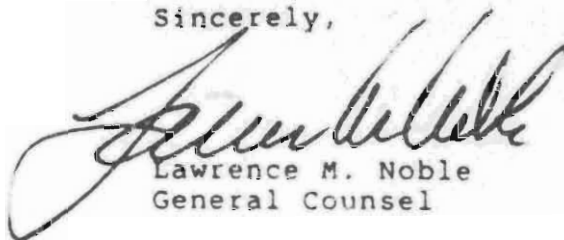
The Federal Election Commission ("Commission") has exclusive jurisdiction with respect to the civil enforcement of the Federal Election Campaign Act of 1971, as amended ("the Act"), 2 U.S.C. §§ 431-455. The Commission received complaints alleging that numerous foreign nationals contributed to state and local candidates in Hawaii in violation of 2 U.S.C. § 441e. This provision of the Act and Commission regulations prohibit foreign nationals from making contributions directly or through any other person, or making expenditures, in connection with federal, state, or local elections. It is also unlawful to solicit, accept or receive any such contributions. See 11 C.F.R. § 110.4(a). In addition, the Commission has determined that it is a violation of 2 U.S.C. § 441e for foreign-owned domestic corporations to make, and for anyone to solicit or accept, contributions where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Commission Advisory Opinions 1992-16, 1990-8, and 1989-20. Finally, the prohibition extends to the participating foreign nationals personally. 11 C.F.R. § 110.4(a)(3). The Commission emphasizes that it takes very seriously the application of section 441e to state and local, as well as federal, election campaigns.

The Commission has completed its investigation of the complaints in this matter and has entered into conciliation agreements with 26 entities and individuals. The agreements contain admissions of violations of 2 U.S.C. § 441e and provide for the payment of civil penalties. See 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). For your information, we have enclosed the conciliation agreements. The investigation is now closed, and these agreements are part of the public case file.

Robert Marks, Attorney General
Page 2

If you have any questions, please contact Erik Morrison in the Office of the General Counsel at (202) 219-3400 or (800) 424-9530.

Sincerely,



Lawrence M. Noble
General Counsel

Attachments

2404356468



FEDERAL ELECTION COMMISSION

AUG 03 1994

Keith M. Kaneshiro
Friends of Keith Kaneshiro
3138 Waialae Ave #707
Honolulu, HI 96816

RE: MUR 2892

Dear Mr. Kaneshiro:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Keith Kaneshiro ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

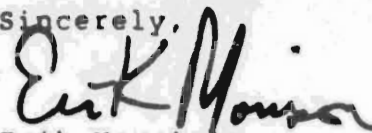
The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

Keith M. Kaneshiro
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures

744064070

Impermissible Contributions Received

<u>CONTRIBUTION</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
TAIYO HAWAII COMPANY, LTD	KANESHIRO	26-JUL-1988	\$100.00
WEST BEACH ESTATES	KANESHIRO	22-AUG-1988	\$750.00
		TOTAL:	\$850.00

94043564071



FEDERAL ELECTION COMMISSION

AUG 03 1994

Cal Kawamoto
Elect Cal Kawamoto Campaign Committee
94-444 Kipou St
Waipahu, Hi 96797

RE: MUR 2892

Dear Mr. Kawamoto:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Elect Cal Kawamoto Campaign Committee ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

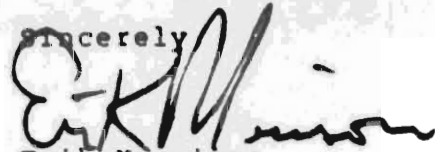
The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

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Cal Kawamoto
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely



Erik Morrison
Staff Member

Enclosures

2 4 0 4 3 5 6 4 3 3

Impermissible Contribution Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
WEST BEACH ESTATES	KAWAMOTO	22-AUG-1988	\$2,000.00

24043564314



FEDERAL ELECTION COMMISSION

AUG 03 1994

Patrick Kawano, Sr.
Campaign of Patrick F. Kawano
PO Box 1346
Kaunakakai, HI 96748

RE: MUR 2892

Dear Mr. Kawano:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Campaign of Patrick F. Kawano ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

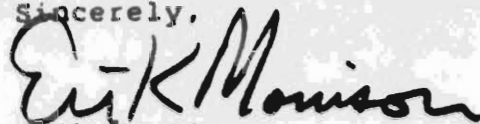
The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

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Patrick Kawano, Sr.
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures

24043564376

Impermissible Contributions Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
HAWAII OMORI CORPORATION	KAWANO	30-NOV-1987	\$250.00
HAWAII OMORI CORPORATION	KAWANO	30-NOV-1987	\$500.00
HAWAII OMORI CORPORATION	KAWANO	15-JUL-1988	\$120.00
HAWAII OMORI CORPORATION	KAWANO	15-JUL-1988	\$500.00
HAWAII OMORI CORPORATION	KAWANO	30-NOV-1989	\$300.00
TOTAL:			\$1,670.00

24043564017



FEDERAL ELECTION COMMISSION

AUG 03 1994

Donna Mercado Kim
Friends of Donna Mercado Kim
1745 Ala Moana #A11
Honolulu, Hi 96819-1715

RE: MUR 2892

Dear Ms. Kim:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Donna Mercado Kim ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

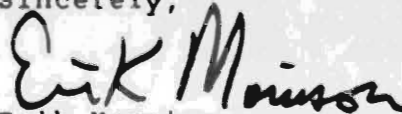
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Donna Mercado Kim
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,

A handwritten signature in black ink that reads "Erik Morrison". The signature is written in a cursive, flowing style.

Erik Morrison
Staff Member

Enclosures

94043564017

Impermissible Contributions Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
HASEKO (HAWAII) INC f/k/a HASEGAWA KOMUTEN (HAWAII) INC	KIM	20-JAN-1989	\$200.00
MOKULEIA LAND CO/SANKYO TSUSHO	KIM	20-OCT-1987	\$750.00
MOKULEIA LAND CO/SANKYO TSUSHO	KIM	10-JAN-1989	\$400.00
WEST BEACH ESTATES	KIM	1986	\$2,000.00
WEST BEACH ESTATES	KIM	1987	\$850.00
HALEKULANI CORP	KIM	1987	\$100.00
HASEKO (HAWAII) INC f/k/a	KIM	15-JUN-1990	\$1,000.00
HASEGAWA KOMUTEN (HAWAII) INC			
HASEKO (EWA) INC	KIM	08-JAN-1992	\$2,000.00
		TOTAL:	\$7,300.00

24043564080



FEDERAL ELECTION COMMISSION

AUG 03 1994

Duke T. Kawasaki
Friends of Duke Kawasaki
2918 Holua Way
Honolulu, HI 96819

RE: MUR 2892

Dear Mr. Kawasaki:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Duke Kawasaki ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

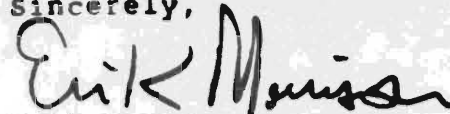
The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

Duke T. Kawasaki
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures

24043564882

Impermissible Contributions Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
HASEKO (HAWAII) f/k/a HASEGAWA KOMUTEN (HAWAII) INC	KAWASAKI	14-APR-1986	\$100.00
HASEKO (HAWAII) f/k/a HASEGAWA KOMUTEN (HAWAII) INC	KAWASAKI	11-SEP-1986	\$200.00
JAPAN TRAVEL BUREAU INT'L WEST BEACH ESTATES	KAWASAKI KAWASAKI	26-MAR-1986 1986	\$100.00 \$500.00
		TOTAL:	\$900.00

0404356433



FEDERAL ELECTION COMMISSION

AUG 03 1994

Russell Sadami Kokubun
Friends of Russell Kokubun
PO Box 357
Volcano, Hi 96785

RE: MUR 2892

Dear Mr. Kokubun:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Russell Kokubun ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

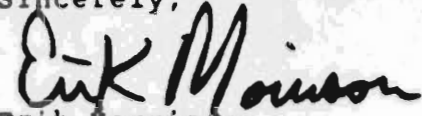
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Russell Sadami Kokubun
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,

A handwritten signature in black ink that reads "Erik Morrison". The signature is written in a cursive, flowing style.

Erik Morrison
Staff Member

Enclosures

2404356455

Impermissible Contribution Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
MAUNA LANI RESORT PAC	KOKUBUN	07-NOV-1988	\$200.00

74043564306



FEDERAL ELECTION COMMISSION

AUG 03 1994

Ronald Kouchi
Friends of Ronald Kouchi
PO Box 527
Lihue, Hi 96766

RE: MUR 2892

Dear Mr. Kouchi:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Ronald Kouchi ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

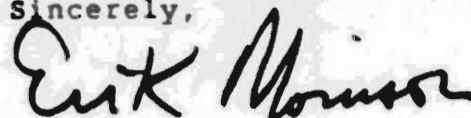
The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

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Ronald Kouchi
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures

94043564003

Impermissible Contribution Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
HASEKO (HAWAII) f/k/a HASEGAWA KOMUTEN (HAWAII) INC	KOUCHI	11-SEP-1986	\$1,000.00

24043564332



FEDERAL ELECTION COMMISSION

AUG 03 1994

Joe S. Tanaka
Friends of Joe Tanaka
PO Box 1652
Kahului, HI 96732

RE: MUR 2892

Dear Mr. Tanaka:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Joe Tanaka ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

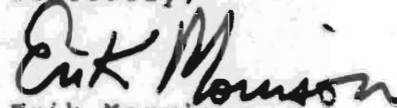
The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

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Joe S. Tanaka
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures

24043564321

Impermissible Contributions Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
HAWAII OMORI CORPORATION	TANAKA	05-JUL-1986	\$200.00
HAWAII OMORI CORPORATION	TANAKA	25-AUG-1988	\$150.00
HAWAII OMORI CORPORATION	TANAKA	15-OCT-1987	\$240.00
HAWAII OMORI CORPORATION	TANAKA	15-OCT-1987	\$500.00
HAWAII OMORI CORPORATION	TANAKA	16-JUN-1988	\$120.00
HAWAII OMORI CORPORATION	TANAKA	15-JUN-1988	\$500.00
HAWAII OMORI CORPORATION	TANAKA	25-SEP-1989	\$300.00
HAWAII OMORI CORPORATION	TANAKA	25-SEP-1989	\$120.00
TOTAL:			\$2,130.00

94045564672



FEDERAL ELECTION COMMISSION

AUG 03 1994

Eloise Tungpalan
Friends of Eloise Tungpalan
2559 Komo Mai Dr
Pearl City, Hi 96782

RE: MUR 2892

Dear Ms. Tungpalan:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Eloise Tungpalan ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

Eloise Tungpalan
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,


Erik Morrison
Staff Member

Enclosures

2404356404

Impermissible Contributions Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
WEST BEACH ESTATES	TUNGPALAN	1986	\$250.00
WEST BEACH ESTATES	TUNGPALAN	28-MAR-1988	\$250.00
WEST BEACH ESTATES	TUNGPALAN	28-NOV-1988	\$100.00
WEST BEACH ESTATES	TUNGPALAN	27-MAR-1989	\$500.00
		TOTAL:	\$1,100.00

94043564095



FEDERAL ELECTION COMMISSION

AUG 03 1994

Terrance W. H. Tom
Friends for Tom
46-216 Alaloa Pl
Kaneohe, Hi 96744

RE: MUR 2892

Dear Mr. Tom:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends for Tom ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

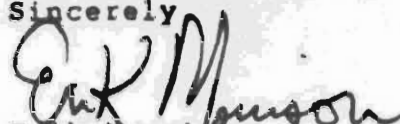
The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

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Terrance W. H. Tom
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely



Erik Morrison
Staff Member

Enclosures

24043564007

Impermissible Contribution Received

<u>Contributor</u>	<u>Recipient</u>	<u>Date</u>	<u>Amount</u>
HASEKO (HAWAII) INC f/k/a HASEGAWA KOMUTEN (HAWAII) INC	TOM	14-JUN-1991	\$250.00

24043564328



FEDERAL ELECTION COMMISSION

AUG 03 1994

James Kehaulani "Jimmy" Wong
Friends of Jimmy Wong
46-194 Nona Loop
Kaneohe, HI 96744

RE: MUR 2892

Dear Mr. Wong:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Jimmy Wong ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

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James Kehaulani "Jimmy" Wong
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,

Erik Morrison
Erik Morrison
Staff Member

Enclosures

94043564210

Impermissible Contribution Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
WEST BEACH ESTATES	WONG (JIMMY)	25-APR-1988	\$500.00

94043564901



FEDERAL ELECTION COMMISSION

AUG 03 1994

Velma's Aikanes
253 Awapuhi Place
Wailuku, HI 96793

RE: MUR 2892

Dear Sir or Madam:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that Velma's Aikanes ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

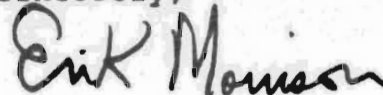
The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

Velma's Aikanes
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures

24043564903

Impermissible Contributions Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
HAWAII OMORI CORPORATION	VELMA'S AIKANES	27-AUG-1987	\$250.00
HAWAII OMORI CORPORATION	VELMA'S AIKANES	15-JUL-1988	\$500.00
HAWAII OMORI CORPORATION	VELMA'S AIKANES	06-JUL-1989	\$350.00
TOTAL:			\$1,100.00

9404356474



FEDERAL ELECTION COMMISSION

AUG 03 1994

Dwight L. Yoshimura
Friends of Dwight Yoshimura
1756-B Gulick Ave
Honolulu, Hi 96819

RE: MUR 2892

Dear Mr. Yoshimura:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Dwight Yoshimura ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

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Dwight L. Yoshimura
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,

Erik Morrison

Erik Morrison
Staff Member

Enclosures

94043564706

Impermissible Contribution Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
WEST BEACH ESTATES	YOSHIMURA	28-MAR-1988	\$375.00

940435647007



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20543

AUG 03 1994

Patsy K. Young
Friends of Patsy Kikue Young
PO Box 22356
Honolulu, HI 96823

RE: MUR 2892

Dear Ms. Young:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Patsy Kikue Young ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

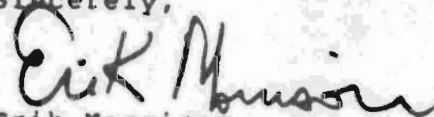
The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

Patsy K. Young
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,

A handwritten signature in cursive script, appearing to read "Erik Morrison".

Erik Morrison
Staff Member

Enclosures

94043564202

Impermissible Contribution Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
WEST BEACH ESTATES	YOUNG (PATSY)	1986	\$225.00
		TOTAL:	\$225.00

24043564210



FEDERAL ELECTION COMMISSION

John Desoto
Committee to Elect John Desoto
PO Box 581
Honolulu, HI 96809-0581

AUG 6 1992

RE: MUR 2892

Dear Mr. Desoto:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Committee to Elect John Desoto ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

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24043364711

John Desoto
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,

Erik Morrison

Erik Morrison
Staff Member

Enclosures

24043564212

Impermissible Contributions Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
HASEKO (HAWAII) f/k/a	DESOTO	28-FEB-1990	\$250.00
HASEGAWA KOMUTEN (HAWAII) INC			
WEST BEACH ESTATES	DESOTO	1986	\$500.00
WEST BEACH ESTATES	DESOTO	1987	\$2,000.00
HASEKO (HAWAII) INC f/k/a	DESOTO	24-OCT-1990	\$250.00
HASEGAWA KOMUTEN (HAWAII) INC			
HASEKO (HAWAII) INC f/k/a	DESOTO	05-JUL-1991	\$250.00
HASEGAWA KOMUTEN (HAWAII) INC			
HASEKO (EWA) INC	DESOTO	16-APR-1992	\$1,000.00
		TOTAL:	\$4,250.00

24043564913



FEDERAL ELECTION COMMISSION

AUG 03 1994

Jesse Fukushima
Friends of Jesse Fukushima
PO Box 282
Kapaa, HI 96746

RE: MUR 2892

Dear Mr. Fukushima:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Jesse Fukushima ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).


The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

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Jesse Fukushima
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures

74043564215

Impermissible Contribution Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
HASEKO (HAWAII) f/k/a HASEGAWA KOMUTEN (HAWAII) INC	FUKUSHIMA	11-SEP-1986	\$500.00

24043564216



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20543

AUG 03 1994

Gary Gill
Gary Gill Cares Committee
255 Huala St #105
Honolulu, HI 96813

RE: MUR 2892

Dear Mr. Gill:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Gary Gill Cares Committee ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

24043564917
The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

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Gary Gill
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures

94043564218

Impermissible Contributions Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
HASEKO (HAWAII) INC f/k/a HASEGAWA KOMUTEN (HAWAII) INC	GILL	03-APR-1990	\$50.00
MOKULEIA LAND CO/SANKYO TSUSHO	GILL	10-SEP-1987	\$250.00
MOKULEIA LAND CO/SANKYO TSUSHO	GILL	29-JUL-1988	\$100.00
MOKULEIA LAND CO/SANKYO TSUSHO	GILL	09-MAY-1989	\$250.00
HASEKO (HAWAII) INC f/k/a HASEGAWA KOMUTEN (HAWAII) INC	GILL	27-JUL-1990	\$20.00
HASEKO (HAWAII) INC f/k/a HASEGAWA KOMUTEN (HAWAII) INC	GILL	03-APR-1990	\$100.00
	TOTAL:		\$770.00

24043564919



FEDERAL ELECTION COMMISSION

AUG 03 1994

Helene H. Hale
Helene Hale Committee
PO Box 1409
Pahoa, HI 96778

RE: MUR 2892

Dear Ms. Hale:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Helene Hale Committee ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

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Helene H. Hale
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,

Erik Morrison
Erik Morrison
Staff Member

Enclosures

94043564921

Impermissible Contribution Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
MAUNA LANI RESORT PAC	HALE	07-NOV-1988	\$100.00

24043564222



FEDERAL ELECTION COMMISSION

AUG 03 1994

Clayton H. W. Hee
Clayton Hee Committee
PO Box 4849
Kaneohe, HI 96744

RE: MUR 2892

Dear Mr. Hee:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Clayton Hee Committee ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

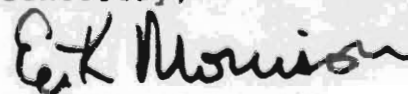
The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

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Clayton H. W. Hee
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures

94043564924

Impermissible Contribution Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
WEST BEACH ESTATES	HEE	1987	\$2,000.00

940443564425



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20543

AUG 03 1994

Cec Heftel
Citizens for Heftel for Governor
1414-A Mele Manu Street
Hilo, HI 96720

RE: MUR 2892

Dear Mr. Heftel:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Citizens for Heftel for Governor ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

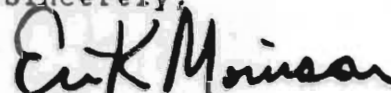
The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

Cec Heftel
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures

94043564227

Impermissible Contributions Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
MAUNA LANI RESORT PAC	HEFTEL	15-JUL-1986	\$100.00
WEST BEACH ESTATES	HEFTEL	1986	\$2,000.00
		TOTAL:	\$2,100.00

244043564223



FEDERAL ELECTION COMMISSION

AUG 03 1994

Joann Yukimura
Joann Yukimura's Many Friends
PO Box 3582
Lihue, Hi 96766

RE: MUR 2892

Dear Ms. Yukimura:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that Joann Yukimura's Many Friends ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

24043564222

Joann Yukimura
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures

94043564230

Impermissible Contribution Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
HASEKO (HAWAII) INC f/k/a HASEGAWA KOMUTEN (HAWAII) INC	YUKIMURA	31-JUL-1990	\$100.00

9404356421



FEDERAL ELECTION COMMISSION

AUG 03 1994

Tony Navares
Friends of Tony Navares
2913 Holua Way
Honolulu, Hi 96819

RE: MUR 2892

Dear Mr. Navares:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Tony Navares ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

Tony Navares
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,

Erik Morrison

Erik Morrison
Staff Member

Enclosures

94043564733

Impermissible Contributions Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
HALEKULANI CORP.	NAVARES	1986	\$50.00
WEST BEACH ESTATES	NAVARES	1986	\$2,000.00
		TOTAL:	\$2,050.00

9404356494



FEDERAL ELECTION COMMISSION

AUG 03 1994

Mike O'Kieffe
Friends of Mike O'Kieffe
PO Box 1596
Kamuela, HI 96743

RE: MUR 2892

Dear Mr. O'Kieffe:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Mike O'Kieffe ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

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Mike O'Kieffe
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,

Erik Morrison
Erik Morrison
Staff Member

Enclosures

94043564236

Impermissible Contributions Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
MAUNA LANI RESORT PAC	O'KIEFFE	30-SEP-1986	\$150.00
MAUNA LANI RESORT PAC	O'KIEFFE	30-SEP-1987	\$75.00
MAUNA LANI RESORT PAC	O'KIEFFE	20-OCT-1987	\$75.00
MAUNA LANI RESORT PAC	O'KIEFFE	10-OCT-1988	\$300.00
		TOTAL:	\$600.00

24043564937



FEDERAL ELECTION COMMISSION

AUG 03 1994

Rod Tam
O'hana O Rod Tam
2751 C-2 Booth Rd
Honolulu, Hi 96813

RE: MUR 2892

Dear Mr. Tam:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that O'hana O Rod Tam ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

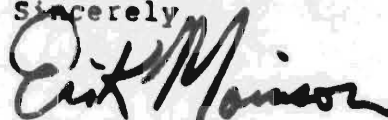
The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

Rod Tam
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely

A handwritten signature in black ink, appearing to read "Erik Morrison". The signature is fluid and cursive, with the first name "Erik" and last name "Morrison" clearly distinguishable.

Erik Morrison
Staff Member

Enclosures

94043564239

Impermissible Contributions Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
WEST BEACH ESTATES	OHANA O ROD TAM	1987	\$62.50
WEST BEACH ESTATES	OHANA O ROD TAM	25-MAY-1988	\$62.50
HASEKO (HAWAII) INC f/k/a	OHANA O ROD TAM	31-AUG-1990	\$30.00
HASEGAWA KOMUTEN (HAWAII) INC			
	TOTAL:		\$155.00

9404356420



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20543

AUG 03 1994

Dwight Yoshiharu Takamine
Friends for Dwight Takamine
PO Box M
Hakalau, Hi 96710

RE: MUR 2892

Dear Mr. Takamine:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends for Dwight Takamine ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

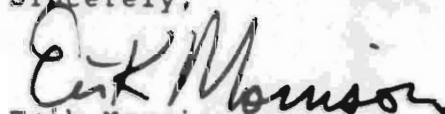
For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

24043564911

Dwight Yoshiharu Takamine
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures

94043564242

Impermissible Contributions Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
MAUNA LANI RESORT PAC	TAKAMINE	21-MAR-1988	\$250.00
MAUNA LANI RESORT PAC	TAKAMINE	15-AUG-1988	\$50.00
		TOTAL:	\$300.00

94043564243



FEDERAL ELECTION COMMISSION

AUG 03 1994

Harvey Tajiri
Friends of Tajiri
100 Holomua St
Hilo, Hi 96720

RE: MUR 2892

Dear Mr. Tajiri:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Tajiri ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

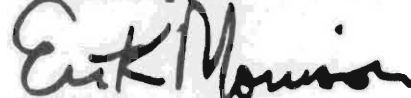
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Harvey Tajiri
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures

24043564245

Impermissible Contributions Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
HALEKULANI CORP.	TAJIRI	1986	\$50.00
HAYASHIDA, YOSHINORI-KEN	TAJIRI	13-MAR-1986	\$300.00
MAUNA LANI RESORT PAC	TAJIRI	10-APR-1987	\$100.00
		TOTAL:	\$450.00

94043564246



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20543

AUG 03 1994

Joseph M. Souki
Friends of Souki
PO Box 632
Wailuku, HI 96793

RE: MUR 2892

Dear Mr. Souki:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Souki ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

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Joseph M. Souki
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,

Erik Morrison
Erik Morrison
Staff Member

Enclosures

24043564243

Impermissible Contributions Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
HAWAII OMORI CORPORATION	SOUKI	25-JUN-1986	\$150.00
HAWAII OMORI CORPORATION	SOUKI	20-SEP-1988	\$100.00
HAWAII OMORI CORPORATION	SOUKI	21-SEP-1989	\$200.00
JAPAN TRAVEL BUREAU INT'L	SOUKI	17-MAR-1989	\$250.00
TOTAL:			\$700.00

24043564249



FEDERAL ELECTION COMMISSION

AUG 03 1994

Judy Sobin
Friends of Judy Sobin
3337 Emekona Place
Honolulu, Hi 96822

RE: MUR 2892

Dear Ms. Sobin:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Judy Sobin ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

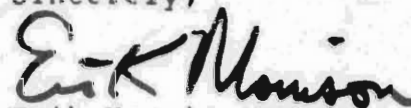
The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

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Judy Sobin
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures

24043564951

Impermissible Contributions Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
WEST BEACH ESTATES	SOBIN	1987	\$300.00
WEST BEACH ESTATES	SOBIN	25-MAY-1988	\$200.00
WEST BEACH ESTATES	SOBIN	16-AUG-1988	\$500.00
	TOTAL:		\$1,000.00

24043564252



FEDERAL ELECTION COMMISSION

AUG 03 1994

Spencer Kalani Schutte
Friends of Kalani Schutte
PO Box 506
Kamuela, HI 96743

RE: MUR 2892

Dear Mr. Schutte:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Kalani Schutte ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

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Spencer Kalani Schutte
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,

Erik Morrison
Erik Morrison
Staff Member

Enclosures

2 4 0 4 3 5 6 4 2 4

Impermissible Contributions Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
AZABU U.S.A. CORP	SCHUTTE	27-MAR-1988	\$1,000.00
MAUNA LANI RESORT PAC	SCHUTTE	31-JUL-1986	\$250.00
MAUNA LANI RESORT PAC	SCHUTTE	30-JUN-1988	\$2,000.00
		TOTAL:	\$3,250.00

2404356425



FEDERAL ELECTION COMMISSION

AUG 03 1994

Republican Party of Hawaii
50 Beretania Street
Suite C-211D
Honolulu, Hi 96813

RE: MUR 2892

Dear Sir or Madam:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Republican Party of Hawaii ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

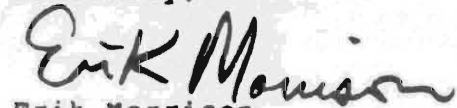
The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

Page 2

If you have any questions, please call me in the Office of the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures

14043564907

Impermissible Contributions Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
HALEKULANI CORP.	REPUBLICAN PTY OF HI	1986	\$300.00
WEST BEACH ESTATES	REPUBLICAN PTY OF HI	1986	\$100.00
	TOTAL:		\$400.00

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FEDERAL ELECTION COMMISSION

AUG 03 1994

Hotel-Pac
2270 Kalakaua Avenue
#1103
Honolulu, Hi 96815

RE: MUR 2892

Dear Sirs or Madams:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Hotel-Pac ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

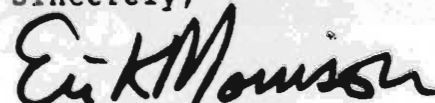
The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,

A handwritten signature in black ink, appearing to read "Erik Morrison". The signature is written in a cursive, slightly slanted style.

Erik Morrison
Staff Member

Enclosures

24043564900

Impermissible Contributions Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
HALEKULANI CORP.	HOTEL PAC	1987	\$750.00
HALEKULANI CORP.	HOTEL PAC	1988	\$750.00
		TOTAL:	\$1,500.00

24043564961



FEDERAL ELECTION COMMISSION

AUG 03 1994

Virginia Isbell
Friends of Isbell
PO Box 926
Kealahou, HI 96750

RE: MUR 2892

Dear Mrs. Isbell:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Isbell ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

Virginia Isbell
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures

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Impermissible Contribution Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
AZABU REALTY, INC	ISBELL	??-MAR-1988	\$125.00

24043564904



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AUG 03 1994

Andy Levin
Friends for Andrew Levin
116 Kam Avenue
Hilo, HI 96720

RE: MUR 2892

Dear Mr. Levin:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends for Andrew Levin ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

24043564965

Andy Levin
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,

Erik Morrison
Erik Morrison
Staff Member

Enclosures

24043564936

Impermissible Contributions Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
MAUNA LANI RESORT PAC	LEVIN	30-MAY-1988	\$262.64
MAUNA LANI RESORT PAC	LEVIN	11-SEP-1988	\$295.46
MAUNA LANI RESORT PAC	LEVIN	27-SEP-1988	\$150.00
MAUNA LANI RESORT PAC	LEVIN	30-SEP-1988	\$100.00
TOTAL:			\$808.10

94043564937



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20543

AUG 03 1994

Rene Mansho
Mansho for City Council
94-428 Kahulialii St
Mililani, HI 96789

RE: MUR 2892

Dear Rene Mansho:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that Mansho for City Council ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

Rene Mansho
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,

Erik Morrison
Erik Morrison
Staff Member

Enclosures

24043564959

Impermissible Contributions Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
HASEKO (HAWAII) f/k/a HASEGAWA KOMUTEN (HAWAII) INC	MANSHO	23-JAN-1990	\$500.00
WEST BEACH ESTATES	MANSHO	15-SEP-1988	\$2,000.00
HASEKO (HAWAII) INC f/k/a HASEGAWA KOMUTEN (HAWAII) INC	MANSHO	24-JAN-1991	\$1,025.00
HASEKO (HAWAII) INC HASEGAWA KOMUTEN (HAWAII) INC	MANSHO	15-APR-1991	\$250.00
HASEKO (ENGINEERING) INC	MANSHO	23-MAR-1992	\$270.00
HASKEO (EWA) INC	MANSHO	08-JAN-1992	\$975.00
		TOTAL:	\$5,020.00

24043564970



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20543

AUG 03 1994

Barbara Marumoto
Time for Barbara Marumoto
1438 Ihiloa Lp
Honolulu, HI 96821

RE: MUR 2892

Dear Ms. Marumoto:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that Time for Barbara Marumoto ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

Barbara Marumoto
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,

Erik Morrison

Erik Morrison
Staff Member

Enclosures

24043564212

Impermissible Contribution Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
JAPAN TRAVEL BUREAU INT'L	MARUMOTO	08-APR-1987	\$50.00

04043564273



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20461

AUG 03 1994

Mary-Jane McMurdo
Friends of Mary Jane McMurdo
469 Ena Rd #2403
Honolulu, HI 96815

RE: MUR 2892

Dear Ms. McMurdo:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Mary Jane McMurdo ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

Mary-Jane McMurdo
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,

Erik Morrison
Erik Morrison
Staff Member

Enclosures

94043564275

Impermissible Contribution Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
JAPAN TRAVEL BUREAU INT'L	McMURDO	27-FEB-1987	\$100.00

94043564276



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20543

AUG 03 1994

Robert H. Nakasone
Friends of Councilman Nakasone
140 Alamaha St
Kahului, HI 96732

RE: MUR 2892

Dear Mr. Nakasone:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Councilman Nakasone ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

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94043564211

Robert H. Nakasone
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,

Erik Morrison
Erik Morrison
Staff Member

Enclosures

94043564778

Impermissible Contributions Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
HAWAII OMORI CORPORATION	NAKASONE	05-JUL-1986	\$300.00
HAWAII OMORI CORPORATION	NAKASONE	22-OCT-1986	\$625.00
HAWAII OMORI CORPORATION	NAKASONE	26-JUL-1988	\$200.00
		TOTAL:	\$1,125.00

94043564219



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20540

AUG 03 1994

Wayne Metcalf III
Friends of Wayne Metcalf
101 Aupuni St #248
Hilo, HI 96720

RE: MUR 2892

Dear Mr. Metcalf:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Wayne Metcalf ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

Wayne Metcalf III
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,


Erik Morrison
Staff Member

Enclosures

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Impermissible Contributions Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
MAUNA LANI RESORT PAC	METCALF	20-APR-1987	\$50.00
MAUNA LANI RESORT PAC	METCALF	30-SEP-1987	\$50.00
HASEKO (HAWAII) INC f/k/a	METCALF	28-SEP-1990	\$125.00
HASEGAMA KOMUTEN (HAWAII) INC			
HASEKO (ENGINEERING) INC	METCALF	15-OCT-1990	\$125.00
		TOTAL:	\$350.00

94043564932



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20543

AUG 03 1994

Ricardo (Rick) Medina
Friends of Rick Medina
373 Liholiho St
Wailuku, HI 96793-2509

RE: MUR 2892

Dear Mr. Medina:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Rick Medina ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

Ricardo (Rick) Medina
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,

Erik Morrison
Erik Morrison
Staff Member

Enclosures

2404356424

Impermissible Contributions Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
HAWAII OMORI CORPORATION	MEDINA	25-MAY-1988	\$100.00
HAWAII OMORI CORPORATION	MEDINA	18-OCT-1988	\$250.00
		TOTAL:	\$350.00

24043564203



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20403

AUG 03 1994

Andrew K. Mirikitani
Mirikitani Campaign
518 Hakaka Place
Honolulu, HI 96816

RE: MUR 2892

Dear Mr. Mirikitani:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Mirikitani Campaign ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

Andrew K. Mirikitani
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures

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Impermissible Contribution Received

<u>Contributions</u>	<u>Recipient</u>	<u>Date</u>	<u>Amount</u>
HABEKO (HAWAII) INC f/k/a NINIKITANI HASEGAWA KOMUTEN (HAWAII) INC		10-SEP-1990	\$2,000.00

24043564200



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

AUG 03 1994

Dennis O'Connor
Dennis O'Connor for Mayor
1349 Kapiolani Blvd
Honolulu, HI 96814

RE: MUR 2892

Dear Mr. O'Connor:

~~In the ordinary course of exercising its supervisory~~
responsibilities, the Federal Election Commission ("Commission")
has discovered that Dennis O'Connor for Mayor ("Committee")
appears to have received contributions in violation of 2 U.S.C.
§ 441e, a provision of the the Federal Election Campaign Act of
1971, as amended. Section 441e forbids the acceptance of
contributions from foreign nationals directly or through any other
person in connection with federal, state, or local elections. See
11 C.F.R. § 110.4(a).

The Commission informs you that it is also a violation of
2 U.S.C. § 441e to receive contributions from domestic
subsidiaries of foreign national corporations where 1) foreign
national individuals participate in election-related activities
such as decisions concerning the making of contributions or the
administration of a political committee, or 2) the contribution
funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3);
Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take
immediate steps to insure that contributions from domestic
subsidiaries do not in any way involve foreign nationals. In
addition, the Commission suggests that you include a statement
regarding the section 441e ban in future fundraising
solicitations. Please find enclosed a Commission brochure on
section 441e.

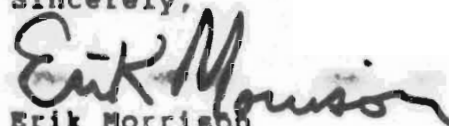
For your information, we have also included a list of the
impermissible contributions on the attached sheet. These
contributions are identified in various conciliation agreements
entered into with the Commission by certain contributors in
enforcement matter under review ("MUR") 2892, see 2 U.S.C.
§ 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now
closed, and these agreements are part of the public case file. In
light of the impermissible nature of these contributions, the
Commission instructs you to refund or otherwise disgorge these
contributions.

24043564909

Dennis O'Connor
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures

94043564970

Impermissible Contributions Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
HASEKO (HAWAII) f/k/a	O'CONNOR	09-OCT-1986	\$100.00
HASEGAWA KOMUTEN (HAWAII) INC			
HASEKO (HAWAII) f/k/a	O'CONNOR	23-APR-1987	\$200.00
HASEGAWA KOMUTEN (HAWAII) INC			
WEST BEACH ESTATES	O'CONNOR (DENNIS)	1986	\$1,550.00
WEST BEACH ESTATES	O'CONNOR (DENNIS)	25-APR-1988	\$400.00
WEST BEACH ESTATES	O'CONNOR (DENNIS)	18-AUG-1988	\$1,000.00
HASEKO (ENGINEERING) INC	O'CONNOR	04-MAR-1988	\$250.00
HASEKO (ENGINEERING) INC	O'CONNOR	05-JUL-1988	\$400.00
HASEKO (ENGINEERING) INC	O'CONNOR	26-AUG-1988	\$100.00
		TOTAL:	\$4,000.00

24743564991



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20543

AUG 03 1994

Wayne K. Nishiki
Friends of Wayne Nishiki
600 Kaikoo Street
Mailuku, HI 96793

RE: MUR 2892

Dear Mr. Nishiki:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Wayne Nishiki ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

24043564972

Wayne K. Nishiki
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,

Erik Morrison
Erik Morrison
Staff Member

Enclosures

2404356493

Impermissible Contribution Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
HAWAII OMORI CORPORATION	NISHIKI	25-SEP-1986	\$300.00

24043564924



FEDERAL ELECTION COMMISSION

AUG 03 1994

Democratic Party of Hawaii
50 Beretania Street
Suite C-101B
Honolulu, HI 96813

RE: MUR 2892

Dear Sirs or Madams:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Democratic Party of Hawaii ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

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24043564215

Page 2

If you have any questions, please call me in the Office of the General Counsel at (800) 424-9530.

Sincerely,

A handwritten signature in black ink, appearing to read "Erik Morrison". The signature is fluid and cursive, with the first name "Erik" and last name "Morrison" clearly distinguishable.

Erik Morrison
Staff Member

Enclosures

74043564976

Impermissible Contributions Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
HASEKO (HAWAII) INC f/k/a HASEGAWA KOMUTEN (HAWAII) INC	DEM PARTY OF HAWAII	15-OCT-1986	\$450.00
MOKULEIA LAND CO/SANKYO TSUSHO	DEM PARTY OF HAWAII	28-SEP-1988	\$250.00
MOKULEIA LAND CO/SANKYO TSUSHO	DEM PARTY OF HAWAII	27-OCT-1988	\$220.00
WEST BEACH ESTATES	DEM PARTY OF HAWAII	05-OCT-1988	\$50.00
MAUNA LANI RESORT PAC	STATE DEM PARTY	24-OCT-1988	\$1,000.00
HASEKO (HAWAII) INC f/k/a HASEGAWA KOMUTEN (HAWAII) INC	DEM PARTY OF HAWAII	30-SEP-1991	\$820.00
HASEKO (ENGINEERING) INC	DEM PARTY OF HAWAII	30-SEP-1991	\$410.00
HASEKO (EWA)	DEM PARTY OF HAWAII	08-JUL-1992	\$1,000.00
	TOTAL:		\$4,200.00

94043564997



FEDERAL ELECTION COMMISSION

AUG 03 1994

Brian Jon Delima
Brian J. Delima Committee
194 Kaiulani St
Hilo, Hi Hilo, Hi 96720

RE: MUR 2892

Dear Mr. Delima:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Brian J. Delima Committee ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

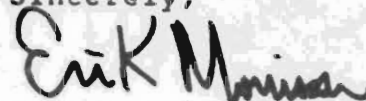
The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

Brian Jon Delima
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,

A handwritten signature in dark ink, appearing to read "Erik Morrison". The signature is written in a cursive, flowing style.

Erik Morrison
Staff Member

Enclosures

94043564229

Impermissible Contributions Received

<u>Contributor</u>	<u>Recipient</u>	<u>Date</u>	<u>Amount</u>
HASEKO (HAWAII) INC f/k/a HASEGAWA KOMUTEN (HAWAII) INC	DELIMA	15-NOV-1990	\$125.00
HASEKO (HAWAII) INC f/k/a HASEGAWA KOMUTEN (HAWAII) INC	DELIMA	30-SEP-1991	\$120.00
HASEKO (ENGINEERING) INC	DELIMA	13-NOV-1990	\$125.00
		TOTAL:	\$370.00

2404356000



FEDERAL ELECTION COMMISSION

AUG 03 1994

Maxine Correa
Friends of Maxine Correa
PO Box 624
Lawai, Hi 96765

RE: MUR 2892

Dear Ms. Correa:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Maxine Correa ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

Maxine Correa
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures

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Impermissible Contribution Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
HASEKO (HAWAII) f/k/a HASEGAWA KOMUTEN (HAWAII) INC	CORREA	11-SEP-1986	\$500.00

24043565003



FEDERAL ELECTION COMMISSION

AUG 03 1994

Robert "Bobby" Bunda
Friends of Robert Bunda
1745 Royal Palm Dr
Wahiawa, Hi 96786

RE: MUR 2892

Dear Mr. Bunda:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Robert Bunda ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

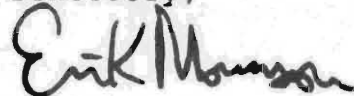
The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

Robert "Bobby" Bunda
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,

A handwritten signature in dark ink, appearing to read "Erik Morrison". The signature is fluid and cursive, with the first name "Erik" being more prominent and the last name "Morrison" following in a similar style.

Erik Morrison
Staff Member

Enclosures

24043565003

Impermissible Contribution Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
HASEKO (HAWAII) INC f/k/a HASEGAWA KOMUTEN (HAWAII) INC	BUNDA INC	03-MAR-1992	\$250.00

94043565006



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20543

AUG 03 1994

Senate Republican Committee
P.O. Box 222
Kailua, HI 96734

RE: MUR 2892

Dear Sir or Madam,

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Senate Republican Committee ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

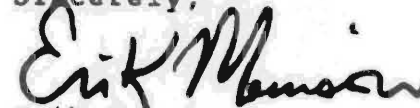
The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

Senate Republican Committee
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures

94043560005

Impermissible Contribution Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
WEST BEACH ESTATES	SENATE REPUBLICANS	1986	\$100.00

2404356002



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20543

AUG 03 1994

Abraham Aiona
Friends of Aiona
511 Waikala St
Kahului, HI 96732

RE: MUR 2892

Dear Mr. Aiona:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Aiona ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

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24043565010

Abraham Aiona
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures

24043565011

Impermissible Contributions Received

<u>Contributor</u>	<u>Recipient</u>	<u>Date</u>	<u>Amount</u>
HAWAII OMORI CORPORATION	AIONA	25-JUN-1986	\$300.00

24043565012



FEDERAL ELECTION COMMISSION

AUG 03 1994

Vince G. Bagoyo, Jr.
Friends of Vince G. Bagoyo, Jr.
PO Box 1235
Wailuku, HI 96793

RE: MUR 2892

Dear Mr. Bagoyo:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that Friends of Vince G. Bagoyo, Jr. ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

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Vince G. Bagoyo, Jr.
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,


Erik Morrison
Staff Member

Enclosures

94043565014

Impermissible Contribution Received

<u>Contributor</u>	<u>Recipient</u>	<u>Date</u>	<u>Amount</u>
HASEKO (HAWAII) INC	BAGOYO	15-JAN-1992	\$250.0

94043565015



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20543

AUG 03 1994

Herbert J. Honda
Friends of Herbert Honda
427 Palani Pl.
Wailuku, HI 96793

RE: MUR 2892

Dear Mr. Honda:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Herbert J. Honda Committee ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

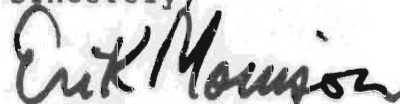
For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

94043565018

Friends of Herbert J. Honda
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures

94043563017

Impermissible Contribution Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
HAWAII OMORI CORPORATION	HONDA	25-JUN-1986	\$750.00

94043565013



FEDERAL ELECTION COMMISSION

AUG 03 1994

John Henry Felix
Friends of John Henry Felix
PO Box 3470
Honolulu, HI 96801-3470

RE: MUR 2892

Dear Mr. Felix:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of John Henry Felix ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

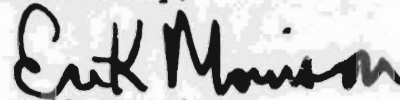
The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

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John Henry Felix
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures

24043565020

Impermissible Contributions Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
HALEKULANI CORP.	FELIX	1988	\$200.00
WEST BEACH ESTATES	FELIX	15-SEP-1988	\$2,000.00
HASEKO (ENGINEERING) INC	FELIX	13-JUL-1992	\$1,000.00
HASEKO (EWA) INC	FELIX	14-JUL-1992	\$1,000.00
		TOTAL:	\$4,200.00

24043565021



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20543

AUG 03 1994

Carol Fukunaga
Committee to Re-Elect Fukunaga
PO Box 61414
Honolulu, HI 96822

RE: MUR 2892

Dear Ms. Fukunaga:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Committee to Re-Elect Fukunaga ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

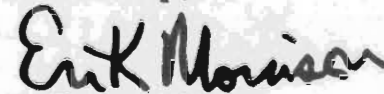
For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

24043565022

Carol Fukunaga
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures

24043565023

Impermissible Contribution Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
JAPAN TRAVEL BUREAU INT'L	FUKUNAGA	31-MAR-1989	\$50.00

94043565024



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

AUG 03 1994

Russell A. Honma
Friends of Honma
PO Box 1201
Honolulu, Hi 96807

RE: MUR 2892

Dear Mr. Honma:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Honma ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

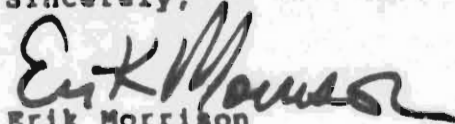
The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

Russell A. Honma
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures

94043565026

Impermissible Contribution Received

<u>Contributor</u>	<u>Recipient</u>	<u>Date</u>	<u>Amount</u>
HASEKO (HAWAII) INC f/k/a HASEGAWA KOMUTEN (HAWAII) INC	HONMA	14-SEP-1990	\$2,000.00

24043565027



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

AUG 03 1994

Stephen A. Holmes
Holmes for City Council Committee
116 Hekili St #205
Kailua, HI 96734

RE: MUR 2892

Dear Mr. Holmes:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Holmes for City Council Committee ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

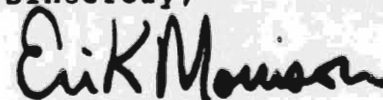
The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

Stephen A. Holmes
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures

24043565022

Impermissible Contribution Received

<u>Contributor</u>	<u>Recipient</u>	<u>Date</u>	<u>Amount</u>
HASEKO (HAWAII) INC f/k/a HASEGAWA KOMUTEN (HAWAII) INC	HOLMES	22-FEB-1991	\$500.00

24043565000



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AUG 03 1994

Goro Hokama
Friends of Goro Hokama
PO Box H
Lanai City, HI 96763

RE: MUR 2892

Dear Goro Hokama:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Goro Hokama ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

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Goro Hokama
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,

Erik Morrison

Erik Morrison
Staff Member

Enclosures

9404356502

Impermissible Contributions Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
HAWAII OMORI CORPORATION	HOKAMA	21-FEB-1986	\$200.00
HAWAII OMORI CORPORATION	HOKAMA	22-APR-1986	\$400.00
HAWAII OMORI CORPORATION	HOKAMA	21-JUN-1989	\$249.00
		TOTAL:	\$849.00

2404356003



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

AUG 03 1994

Robert N. Herkes
Friends of Bob Herkes
PO Box 313
Volcano, HI 96785

RE: MUR 2892

Dear Mr. Herkes:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Bob Herkes ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

Robert N. Herkes
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures

2 4 0 4 3 5 6 5 0 5

Impermissible Contributions Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
HALEKULANI CORP.	HERKES	1988	\$100.00
MAUNA LANI RESORT PAC	HERKES	31-MAR-1988	\$50.00
MAUNA LANI RESORT PAC	HERKES	08-NOV-1988	\$500.00
TAIYO HAWAII COMPANY, LTD	HERKES	24-MAR-1988	\$50.00
		TOTAL:	\$700.00

24043565036



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20461

AUG 03 1994

Kevin Kuroda
Friends of Kevin Kuroda
1454 Hoochulu St
Pearl City, HI 96782

RE: MUR 2892

Dear Mr. Kuroda:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Kevin Kuroda ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

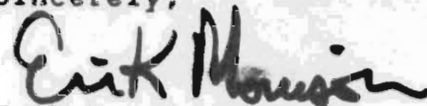
The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

Kevin Kuroda
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures

2404356503

Impermissible Contributions Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
HALEKULANI CORP.	KURODA	1986	\$70.00
HASEKO (HAWAII) f/k/a	KURODA	12-JUN-1986	\$2,000.00
HASEGAWA KOMUTEN (HAWAII) INC			
HAYASHIDA, YOSHINORI-KEN	KURODA	24-JUN-1986	\$140.00
JAPAN TRAVEL BUREAU INT'L	KURODA	01-JUN-1986	\$200.00
JAPAN TRAVEL BUREAU INT'L	KURODA	10-JUN-1986	\$140.00
WEST BEACH ESTATES	KURODA	1986	\$875.00
		TOTAL:	\$3,425.00

24043565089



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AUG 03 1994

Merle K. Lai
Friends of Merle K. Lai
RRL, Box 170
Paisanhou, MI 96701

RE: MUR 2892

Dear Merle Lai:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Merle K. Lai ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

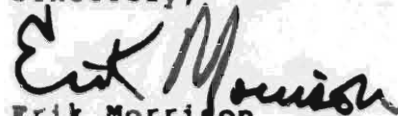
The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

Merle K. Lai
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures

24043565011

Impermissible Contribution Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
MAUNA LANI RESORT PAC	LAI	29-APR-1988	\$125.00

94043565042



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

AUG 03 1994

Alice Lee
Friends of Alice Lee
PO Box 1606
Kahului, HI 96732

RE: MUR 2892

Dear Ms. Lee:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Alice Lee ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

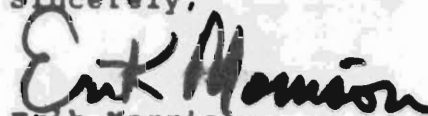
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Alice Lee
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures

94043560044

Impermissible Contributions Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
HAWAII OMORI CORPORATION	LEE	15-JUL-1988	\$100.00
HAWAII OMORI CORPORATION	LEE	08-SEP-1989	\$100.00
		TOTAL:	\$200.00

24043565045



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20543

AUG 03 1994

Rowena Akana
Friends of Akana
5562 Kalanianaʻole Hwy
Honolulu, HI 96821

RE: MUR 2892

Dear Rowena Akana:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Akana ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

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Rowena Akana
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,

Erik Morrison
Erik Morrison
Staff Member

Enclosures

24043565047

Impermissible Contributions Received

<u>Contributor</u>	<u>Recipient</u>	<u>Date</u>	<u>Amount</u>
MAUNA LANI RESORT PAC	AKANA	20-APR-1988	\$150.00

9404356048



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

AUG 03 1994

George R. Ariyoshi
Friends of Ariyoshi
PO Box 4045
Honolulu, HI 96813

RE: MUR 2892

Dear Mr. Ariyoshi:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Ariyoshi ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

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George R. Ariyoshi
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures

94043565050

Impermissible Contribution Received

<u>Contributor</u>	<u>Recipient</u>	<u>Date</u>	<u>Amount</u>
MAUNA LANI RESORT PAC	ARIYOSHI	10-MAR-1987	\$75.00

2404356081



FEDERAL ELECTION COMMISSION

AUG 03 1994

James Y. Arakaki
Campaign of James Arakaki
465 Hinano Street
Hilo, HI 96720

RE: MUR 2892

Dear Mr. Arakaki:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Campaign of James Arakaki ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

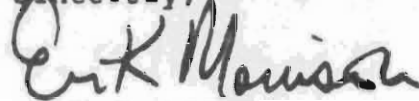
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James Y. Arakaki
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures

94043565053

Impermissible Contributions Received

<u>Contributor</u>	<u>Recipient</u>	<u>Date</u>	<u>Amount</u>
HASEKO (HAWAII) INC f/k/a HASEGAWA KOMUTEN (HAWAII) INC	ARAKAKI	15-NOV-1990	\$125.00
HASEKO (ENGINEERING) INC	ARAKAKI	31-OCT-1990	\$125.00
HASEKO (ENGINEERING) INC	ARAKAKI	08-NOV-1991	\$250.00
		TOTAL:	\$500.00

94043565054



FEDERAL ELECTION COMMISSION

AUG 03 1994

Whitney T. Anderson
Friends of Whitney T. Anderson
PO Box 1437
Kailua, HI 96734

RE: MUR 2892

Dear Whitney Anderson:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Whitney T. Anderson ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

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Whitney T. Anderson
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,

A handwritten signature in dark ink, appearing to read "Erik Morrison". The signature is fluid and cursive, with the first name "Erik" and last name "Morrison" clearly distinguishable.

Erik Morrison
Staff Member

Enclosures

2404356506

Impermissible Contribution Received

<u>Contributor</u>	<u>Recipient</u>	<u>Date</u>	<u>Amount</u>
JAPAN TRAVEL BUREAU INT'L	ANDERSON (WHITNEY)	01-MAR-1988	\$50.00

94043565057



FEDERAL ELECTION COMMISSION

AUG 03 1994

Emilio Alcon
Emilio Alcon Committee
PO Box 29894
Honolulu, HI 96820

RE: MUR 2892

Dear Mr. Alcon:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Emilio Alcon Committee ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

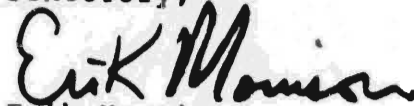
The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

Emilio Alcon
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,

A handwritten signature in black ink that reads "Erik Morrison". The signature is written in a cursive, slightly slanted style.

Erik Morrison
Staff Member

Enclosures

94040560059

Impermissible Contribution Received

<u>Contributor</u>	<u>Recipient</u>	<u>Date</u>	<u>Amount</u>
HASEKO (HAWAII) INC	ALCON	16-APR-1992	\$250.00

94043565060



FEDERAL ELECTION COMMISSION

Arnold Morgado, Jr.
Friends of Morgado, Jr.
PO Box 670
Pearl City, Hi 96782

AUG 03 1994

RE: MUR 2892

Dear Mr. Morgado:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that Friends of Morgado, Jr. ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

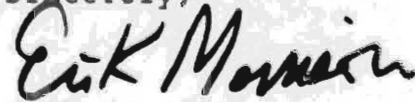
For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

Arnold Morgado, Jr.

Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,

A handwritten signature in black ink, appearing to read "Erik Morrison". The signature is written in a cursive, flowing style.

Erik Morrison
Staff Member

Enclosures

940435650662

Impermissible Contributions Received

<u>CONTRIBUTOR</u>	<u>RECIPIENT</u>	<u>DATE</u>	<u>AMOUNT</u>
HALEKULANI CORP.	MORGADO	1986	\$50.00
WEST BEACH ESTATES	MORGADO	1986	\$1,730.00
WEST BEACH ESTATES	MORGADO	1987	\$2,000.00
		TOTAL:	\$3,780.00

2404356503



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20543

AUG 03 1994

Annelle Amaral
Friends of Amaral
PO Box 240282
Honolulu, HI 96824

RE: MUR 2892

Dear Annelle Amaral:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Amaral ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

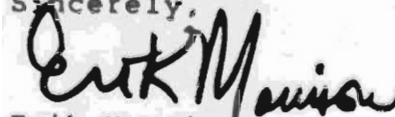
The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

Annelie Amaral
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures



24043565055

Impermissible Contributions Received

<u>Contributor</u>	<u>Recipient</u>	<u>Date</u>	<u>Amount</u>
HASEKO (HAWAII) f/k/a HASEGAWA KOMUTEN (HAWAII) INC	AMARAL	29-APR-1992	\$250.00
HASEKO (HAWAII) f/k/a HASEGAWA KOMUTEN (HAWAII) INC	AMARAL	02-APR-1990	\$400.00
Total:			\$650.00

0 4 0 4 3 5 6 5 0 5 6



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20461

AUG 03 1994

BUILD-PAC HAWAII
1727 Dillingham Blvd
Honolulu, Hi 96819

RE: MUR 2892

Dear Sir or Madam:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that BUILD-PAC HAWAII ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

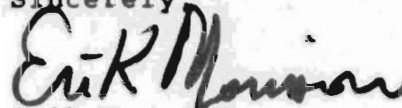
For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

BUILD-PAC HAWAII

Page 2

If you have any questions, please call me in the Office of the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures

94043565003

Impermissible Contributions Received

<u>Contributor</u>	<u>Recipient</u>	<u>Date</u>	<u>Amount</u>
TAIYO HAWAII COMPANY, LTD	BUILD-PAC HAWAII	20-JAN-1987	\$50.00
TAIYO HAWAII COMPANY, LTD	BUILD-PAC HAWAII	15-JAN-1988	\$50.00
TAIYO HAWAII COMPANY, LTD	BUILD-PAC HAWAII	04-APR-1989	\$125.00
TAIYO HAWAII COMPANY, LTD	BUILD-PAC HAWAII	22-JAN-1990	\$100.00
HASEKO HAWAII INC f/k/a	BUILD-PAC	04-FEB-1991	\$100.00
HASEGAWA KOMUTEN (HAWAII) INC			
Total:			\$425.00

24043563009



FEDERAL ELECTION COMMISSION

AUG 03 1994

Reb Bellinger
Friends of Reb Bellinger
PO Box 513
Kaaawa, Hi 96730

RE: MUR 2892

Dear Reb Bellinger:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Reb Bellinger ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

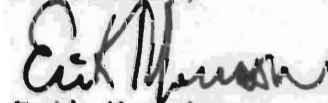
The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

Reb Bellinger
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures

940435630/1

Impermissible Contributions Received

<u>Contributor</u>	<u>Recipient</u>	<u>Date</u>	<u>Amount</u>
ALL NIPPON AIRWAYS	BELLINGER	14-APR-1987	\$100.00
ALL NIPPON AIRWAYS	BELLINGER	04-APR-1988	\$50.00
		Total:	\$150.00

24043565072



FEDERAL ELECTION COMMISSION

AUG 03 1994

Rosalyn H. Baker
Friends of Rosalyn Baker
PO Box 10394
Lahaina, Hi 96761

RE: MUR 2892

Dear Ms. Baker:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Friends of Rosalyn Baker ("Committee") appears to have received contributions in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

For your information, we have also included a list of the impermissible contributions on the attached sheet. These contributions are identified in various conciliation agreements entered into with the Commission by certain contributors in enforcement matter under review ("MUR") 2892, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and these agreements are part of the public case file. In light of the impermissible nature of these contributions, the Commission instructs you to refund or otherwise disgorge these contributions.

Rosalyn H. Baker
Page 2

If you have any questions, please call me in the Office of
the General Counsel at (800) 424-9530.

Sincerely,



Erik Morrison
Staff Member

Enclosures

24043565074

Impermissible Contributions Received

<u>Contributor</u>	<u>Recipient</u>	<u>Date</u>	<u>Amount</u>
HAWAII OMORI CORPORATION	BAKER	11-AUG-1986	\$300.00
HAWAII OMORI CORPORATION	BAKER	22-APR-1988	\$250.00
HAWAII OMORI CORPORATION	BAKER	11-JUL-1988	\$140.00
HAWAII OMORI CORPORATION	BAKER	14-MAR-1989	\$250.00
HAWAII OMORI CORPORATION	BAKER	20-JUL-1989	\$140.00
WEST BEACH ESTATES	BAKER	1986	\$1,000.00
		Total:	\$2,080.00

240435650/5

TAKUSHI FUNAKI WONG & STONE

ATTORNEYS AT LAW A LAW CORPORATION

GROSVENOR CENTER
733 BISHOP STREET
SUITE 1400
HONOLULU, HAWAII 96813
PHONE (808) 541-0800
FAX (808) 541-0805

ROY E. TAKUSHI
JAMES T. FUNAKI
ALFRED M. K. WONG
ROBERT M. EHRLICH, JR.
DICKSON C. H. LEE
PETER T. STONE

JAMES N. H. YEE
ANNE KURIHARA
CHRISTINE E. MURAI
JACQUELINE KONG
ELIZABETH A. KANE

AUG 8 11 37 AM '94

August 4, 1994

Federal Election Commission
Washington, D.C. 20463

Attention: Erik Morrison

RE: Campaign of Peter Apo
Campaign of Romy Cachola
Campaign of Ken Hiraki
Friends of Karen Horita
Friends of Marshall Ige
Campaign of Ezra Kanoho
Campaign of Bertha Kawakami
Friends of Danny Kihano
Friends of Joe Leong
Friends of Tom Okamura
Friends of Paul Oshiro
Friends of Henry Peters
MUR 2892

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
AUG 8 3 24 PM '94

Dear Sir:

This letter refers to the July 28, 1994 letter from the Federal Election Commission which instructed the committees of various candidates for state and local offices to refund or disgorge certain contributions that the Commission has determined to be impermissible.

Over a year ago, all of the foregoing committees were informed by the Commission that after considering the circumstances, the Commission determined to take no action against the foregoing committees, and closed the file as it pertains to those committees.

Without seeking to reopen the matter, we are requesting that the Commission provide or confirm the information with respect to the following committees.

Joseph Leong

The Commission's letter acknowledges that Mr. Leong passed away a few years ago and that his committee is closed. We are confirming that the Commission is not instructing his committee, which we assume no longer exists, to take any action.

24043565076

Erik Morrison
Federal Election Commission
August 4, 1994
Page Two

Bertha Kawakami

Although the Commission was of the impression that the committee for Bertha Kawakami was closed and that it need not take any further action for that reason, we informed you that the Kawakami committee was still in existence. The Commission may have had the impression that the Kawakami committee had been closed because it may have mistaken her husband's committee with hers. A few years ago, Ms. Kawakami was appointed to serve the remainder of her husband's term after he had passed away. After informing you of the circumstances, we received your August 2, 1994 FAX transmittal of a list of 8 contributions which the Commission considered to be impermissible. 6 of the 8 contributions which the Commission listed were from "The Westin Kauai". Please provide us with evidence supporting the Commission's determination that "The Westin Kauai" hotel made contributions to the committee and if it did, why such contributions were impermissible.

According to the committee treasurer, the hotel did not make any contributions corresponding with the Commission's list. The committee did receive, however, contributions from "Hemmeter/VMS", which was the owner of the hotel. At times relevant to the Commission's investigation, Chris Hemmeter was a Hawaii resident and is a United States citizen. Upon information and belief, VMS was a realty fund based in Chicago, Illinois. It was reasonable then as it is now to assume Hemmeter/VMS was owned and controlled by United States citizens.

Unless there is other evidence to the contrary, the Commission is respectfully requested to delete the reference to "The Westin Kauai" hotel from the list of impermissible contributions to the Kawakami committee.

Karen Horita and Danny Kihano

Karen Horita was not re-elected and Danny Kihano did not run for re-election in the 1992 election. We forwarded the Commission's letter to them. We do not know whether those committees are still in existence. If those committees have been closed, is the Commission requiring any further action?

Erik Morrison
Federal Election Commission
August 4, 1994
Page Three


Tom Okamura

We were informed that Mr. Okamura's committee had previously taken action many months ago consistent with the Commission's recent instructions. The Commission's list shows that West Beach Estates contributed a total of \$50 in "1987". Mr. Okamura's committee was not able to confirm that contribution based only on a reference to "1987". It would be helpful in confirming whether such a contribution was made in 1987 if the Commission were to provide documentation supporting same.

Very truly yours,

TAKUSHI FUNAKI WONG & STONE
ATTORNEYS AT LAW
A LAW CORPORATION

By


Dickson C.H. Lee

94043565078

Clayton H.W. Hee
Clayton Hee Committee
P.O. Box 4849
Kaneohe, Hawaii 96744

August 8, 1994

Aug 15 9 04 AM '94

Erik Morrison
Staff Member
Federal Election Commission
Washington, D.C. 20463

RE: MUR 2892

Dear Mr. Morrison:

I am in receipt of your letter, dated August 3, 1994, wherein you inform me of a campaign contribution made to my election committee in 1987, when I was seeking reelection to the Hawaii State Senate. I did not know in 1987 that West Beach Estates was a foreign corporation.

Please be advised that upon receipt of your letter a check has been mailed to West Beach Estates. The check is addressed to:

Mr. William Blaisdell
General Manager
West Beach Estates
91-100 Kamoana Place
Kapolei, Hawaii 96707.

A copy of the check is attached to this letter.

Please call me at (808) 239-5105 should you have any questions. I intend to be in total compliance with the federal elections laws as well as the state election laws and appreciate this information.

Thank you very much.

Yours truly,


CLAYTON H.W. HEE

CC: William Blaisdell
West Beach Estates

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF THE
CLERK
Aug 15 10 21 AM '94

24043565079

FRIENDS OF CLAYTON HEE
P. O. BOX 4484
KANELOE, HI 96744

759

August 8 94

88-005/201

Pay to the order of West Beach Estates \$ 2,000.00

*** Two thousand dollars and no cents ***



MOLOKAI BRANCH
414 MALAMA STREET
KALINAKANA, HAWAII 96748

Clayton Hee

refund

⑆32⑆370765⑆0759 24⑆26029⑆⑆

24043565080

MATSUBARA, LEE & KOTAKE

ATTORNEYS AT LAW

A LAW CORPORATION

CHARLES R. KENDALL BUILDING

888 MILILANI STREET, EIGHTH FLOOR

HONOLULU, HAWAII 96813-2918

BENJAMIN M. MATSUBARA

GARY B. K. T. LEE

MERVYN M. KOTAKE

HOWARD M. NOBUNAGA

CURTIS T. TABATA

COUNSEL

JASON M. YOSHIDA

TELEPHONE (808) 526-9566

FACSIMILE (808) 536-3000

August 2, 1994

Mr. Erik Morrison
Staff Member
Federal Election Commission
Washington, D. C. 20463

Re: MUR 2892
Hiroshi Kobayashi

Dear Mr. Morrison:

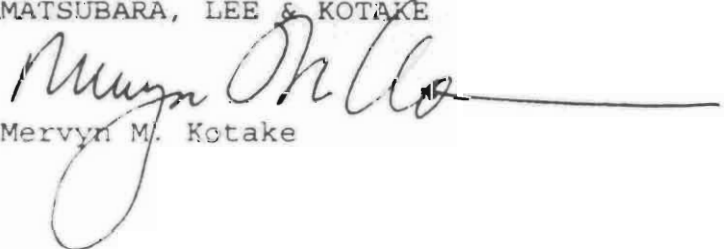
This will confirm our telephone conversation of August 2, 1994 regarding your letter to me dated July 28, 1994. You confirmed that the investigation against Mr. Kobayashi was closed approximately one year ago. You also informed me that no further action will be taken. Your July 28th letter is notification that the total investigation is now closed and that your files now become public record.

You indicated that no penalty or fine will be imposed against Mr. Kobayashi.

Thank you for your assistance in this matter.

Very truly yours,

MATSUBARA, LEE & KOTAKE


Mervyn M. Kotake

MMK/gt
cc: Mr. Hiroshi Kobayashi

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
AUG 15 2 32 PM '94

94043565081

Friends of
Ann Kobayashi

3657 Waialoa Way · Honolulu, Hawaii 96822 · Telephone: 988-2918

August 10, 1994

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
AUG 16 12 03 PM '94

Mr. Erik Morrison, Staff Member
Federal Election Commission
Washington, D. C. 20463

RE : MUR 2892

Dear Mr. Morrison:

This is to confirm that the Friends of Ann Kobayashi ("Committee") has "disgorged" the amount of \$2,700 to two separate Honolulu non-profit associations, in accordance with your letter of July 28, 1994, and your telephone conversation with Senator Kobayashi earlier this month.

I have enclosed a photocopy of the two separate checks which have been signed by the Committee Treasurer, and I affirm that the checks were transmitted to the non-profit associations.

If you have any further inquiries or comments on this matter, please contact me at your earliest convenience at the above address. Alternately, you may contact me directly by telephone at (808) 521-5180 or via facsimile at (808) 599-3657.

Sincerely,



Peter Yanagawa
Campaign Manager

encl

94043565062

1243

FRIENDS OF ANN KOBAYASHI

3657 WAALOA WAY
HONOLULU, HI 96822

8-4

1994

59-169/1213

PAY TO THE
ORDER OF

Domestic Violence Legal Hotline

\$ 700.00

Seven hundred

00/100 DOLLARS



CITY BANK

MC CULLY BRANCH
2002 S. King St. Honolulu, Hawaii 96829

MEMO

Kip KS Luy

⑈001243⑈ ⑆121301691⑆

02262940⑈01

1242

FRIENDS OF ANN KOBAYASHI

3657 WAALOA WAY
HONOLULU, HI 96822

8-4

1994

59-169/1213

PAY TO THE
ORDER OF

Hope Domestic Violence

\$ 2,000

Two thousand

00/100 DOLLARS



CITY BANK

MC CULLY BRANCH
2002 S. King St. Honolulu, Hawaii 96829

MEMO

Kip KS Luy

⑈001242⑈ ⑆121301691⑆

02262940⑈01

24043565083

Time for

BARBARA MARUMOTO

August 8, 1994

Erik Morrison
Federal Election Commission
Washington D.C. 20463

Re: MUR 2892

Dear Mr. Morrison:

Thank you for your letter informing me that my campaign committee received a \$50 donation from a foreign national in 1987.

I will ask the person who was my treasurer at that time to ascertain the acceptance of this check, and if indeed this amount was received, I will refund the money immediately.

My past treasurer is currently on the mainland for three weeks and will attend to the matter immediately upon her return.

Sincerely,

Barbara Marumoto
Barbara Marumoto

Time for Barbara Marumoto
1438 Ihiloa Loop
Honolulu, HI 96821

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
AUG 19 9 54 AM '94

RECEIVED
FEDERAL ELECTION
COMMISSION
AUG 19 10 07 AM '94



"Sensible Government with Helene H. Hale"
Council District #5

August 10, 1994

TOUGH & CARING

Mrs. Susan Labrenz,
Executive Director, YWCA
145 Ululani St.
Hilo, Hi. 96720

mur 2892

Aug 19 10 08 AM '94
RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

Dear Susan:

I received a notice from the Federal Election Commission that I violated the federal laws by accepting a donation from Mauna Lani Resort PAC on November 7, 1988 in the amount of \$100.00.

I understand that I may contribute this money to a non-profit organization. Since the YWCA does so much for women, I am sending it to you as you see fit.

Noone knew that state and local officials came under this law. This contribution came to me on the day after election, although I guess it was sent before then.

Anyhow I hope this puts this matter to rest.

Sincerely,

Helene Hale
Helene Hale

cc: Federal Election Commission

2404356065

0800 2274 700 1213 301 7721

Donation

Helene Hale

HAWAII NATIONAL BANK
HAWAII

***** ONE HUNDRED AND NO/100 *****

DOLLARS

\$ 100.00

August 8 19 94

59-177 1213

NO 249

HELENE HALE CAMPAIGN FUND
People For Hale
P.O. Box 1409
Paia, Hawaii 96728

ORDER OF
Y W C A

PAY TO THE

LORRAINE JITCHAKU INOUE
175 E. Kawaihani Street
Hilo, Hawaii 96720

August 15, 1994

RECEIVED
FEDERAL ELECTION
COMMISSION
AUG 19 11 42 AM '94

Erik Morrison
Staff Member
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

AUG 19 3 19 PM '94

RE: MUR 2892

Dear Mr. Morrison:

Due to our inability to contact you by telephone, as we attempted on August 11 and 12, 1994, we are writing to seek clarification on the above-referenced matter and also to state our intentions for the record.

Based upon a letter from Mark Allen, an attorney for the Federal Election Commission, dated July 10, 1993, which advised us of the Commission's decision to take no further action against the Committee for Lorraine Jitchaku Inouye and that the file had been closed on this matter. Your letter dated July 28, 1994, again advises us that the matter has been closed, but instructs us to return or otherwise disgorge certain contributions which the Commission contends are impermissible. It is difficult for us to understand the purpose or propriety of your letter in light of Mr. Allen's closure letter which preceded yours by approximately one year.

We would appreciate any explanation you can give us regarding these conflicting letters.

As indicated in our very first response letter to the Commission dated March 15, 1991, we have been interested in participating in a conciliation of this matter. Although our request has been rejected, we intend to comply with the Commission's instructions as to the contributions which the Commission contends as impermissible. Toward this end, we request clarification from you as to the meaning of "disgorge" in the context of disposing of such contributions. Please send us a copy of any Commission rule or policy which would guide our future actions in compliance with the Commission's instructions.

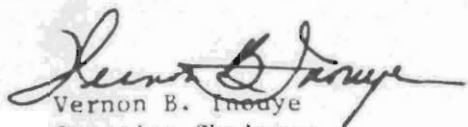
We also request that you doublecheck and confirm to us the date a contribution from Haseko (Hawaii), Inc., dated June 26, 1991. We do not believe this date is accurate. We suspect a typographical error and that the year should be 1990.

Lastly, we would state here for the record that although we desire that this matter be put behind us through our compliance with the Commission's instructions we do not intend by our compliance to indicate our recognition of the applicability of 2 U.S.C. § 441e in this matter, and we do not waive any rights with regard to that issue.

Erik Morrison
August 15, 1994
Page 2 of 2

We look forward to receiving clarification from you on the items discussed above.

Very truly yours,



Vernon B. Inouye
Campaign Chairman

VBI:ap

94043565087

STEVEN J. T. CHOW
RALPH R. LAFONTAINE
COLBERT M. MATSUMOTO
NANCY J. RYAN

MATSUMOTO LAFONTAINE & CHOW

MATSUMOTO LAFONTAINE & CHOW CORPORATION

SUITE 1100, AMFAC TOWER
700 BISHOP STREET
HONOLULU, HAWAII 96813

PHONE
(808) 523-2999

FACSIMILE
(808) 523-2995
FEDERAL ELECTION
COMMISSION
RECEIVED
OFFICE OF GENERAL
COUNSEL

August 16, 1994

AUG 22 9 51 AM '94

Federal Election Commission
Washington, D.C. 20463

Attn.: Eric Morrison, Esq.

Re: MUR 2892 - Benjamin J. Cayetano Campaign Committee


Dear Mr. Morrison:

This is to confirm our telephone conversation during which you confirmed that the Benjamin J. Cayetano Campaign Committee was not joined as a respondent in the above-referenced matter by the FEC. You advised me, however, that because the Committee received contributions from entities which have entered into conciliation agreements with the FEC, those contributions are required to be refunded or disgorged by the Committee. You also informed me that contributions by the Committee of the funds in question to non-profit entities will satisfy the disgorgement requirement of the FEC. Accordingly, the Committee will disgorge any prohibited contributions which have not already been disgorged.

Thank you for your courtesy and speedy response. Should you have any questions regarding the foregoing, please contact me.

Very truly yours,

MATSUMOTO LAFONTAINE & CHOW
Attorneys at Law, A Law
Corporation


By COLBERT M. MATSUMOTO

CMM:ln

cc: Benjamin J. Cayetano Campaign Committee

AUG 22 9 01 AM '94

FEDERAL ELECTION
COMMISSION
RECEIVED
OFFICE OF GENERAL
COUNSEL

24043565088

NEW DIRECTIONS FUND
P. O. BOX 1917
KAILUA, HAWAII 96734
808/262-4900 Fax: 808/262-0682

AUG 22 10 51 AM

AUG 22 2 28 PM '94
FEDERAL ELECTION COMMISSION
OFFICE OF THE CLERK

August 15, 1994

Mark Allen, Esq.
Federal Election Commission
Washington, D. C. 20463

MUR 2892

Re: I. Request for Copies of Federal Election Commission Letters to Recipients of Illegal Campaign Donations in Hawai'i by Candidates/Committees; FEC Brochure.
II. Report on Fund Formation and Solicitations, and Donations Received to Date.

Dear Mr. Allen:

One of the Hawai'i complainants, Anthony Locricchio, advises that additional FEC letters have gone out to Candidates/Committees beyond those originally contacted, and are now a matter of public record. May I have copies of your letters with addresses, to send invitations for donations to the New Directions Fund? May we also have several copies (two or three) of your federal campaign guide brochure? They will be greatly appreciated.

The Fax number listed above has been made available to us by Hawaii's 1000 Friends, a not-for-profit land use watchdog organization. We have opened a non-interest bearing checking account (Number 3-280997) at the Kailua Branch of Territorial Savings. Two candidates, Honolulu Councilman Stephen Holmes, and former Councilman (now Mayoral candidate) Gary Gill, donated to the Fund at the request of the complainants; copies of their checks are enclosed and complainants have been notified through Mr. Locricchio. I also enclose a copy of the Fund letter sent to the candidates/committees, and recent print media coverage.

Board member Roni Johnson is fine-tuning our charter and by-laws, a copy of which will be provided to you when completed. She had attempted to reach you regarding a suitable category for the fund: must we establish a 501(c)(3) organization with the IRS, or is another, less time-consuming category possible? As we have indicated, our intent is not to create a long-term organization; rather, we hope to be a short-lived clearinghouse with citizen oversight, seeking meaningful Hawai'i campaign reform.

Mahalo for your suggestions and assistance.

Sincerely,

Muriel B. Seto
Muriel B. Seto

Enclosures



August 10, 1994

Muriel Seto
New Directions Fund
P.O. Box 1917
Kailua, HI 96734

Dear Ms. Seto:

On behalf of the Gary Gill Cares Committee, enclosed is our check in the amount of \$870.00. Yesterday, we received confirmation from Eric Morrison at the Federal Elections Commission that this the correct total amount for the foreign contributions Gary received.

We applaud the purpose of your fund, and hope you will be able to help improve the campaign contributions process.

Very truly yours,

JEFF CRABTREE
Campaign Co-Chair

h Bank of Hawaii

ALA MOANA BRANCH, HONOLULU, HAWAII

No. 01315

59-102/1213

August 10, 1994

PAY TO THE ORDER OF NEW DIRECTIONS FUND \$ 870.00

EIGHT HUNDRED SEVENTY DOLLARS ONLY DOLLARS

GARY GILL CARES COMMITTEE
255 HUALI STREET #105
HONOLULU, HAWAII 96813

For Contribution re: foreign contributions

⑈001315⑈ ⑆321301028⑆ 0017⑈018493⑈

HOLMES FOR CITY COUNCIL COMMITTEE
118 HEKILI ST., STE. 205 263-3511
KAILUA, HI 96734

58-101/1213

468

8-11 19 94

PAY TO THE
ORDER OF

New Directions Fund

\$ 500⁰⁰

five hundred dollars and no cents

DOLLARS



KAILUA BRANCH
First Hawaiian Bank

705 KAILUA ROAD
KAILUA, HAWAII 96734

MEMO

Haseko rebate

Stephen A. Holmes

⑆ 2 2 3 0 1 0 1 5 ⑆ 0 4 6 8 3 6 ⑆ 0 6 7 0 5 5 ⑆

24043565071

**NEW DIRECTIONS FUND
P. O. BOX 1917
KAILUA, HAWAII 96734
808/262-4900**

August 12, 1994

Candidate Name
Address
Town/State-zip

RE: Dispersal of Illegal Foreign Contributions to Campaign Funds

Dear Candidate:

At the request of successful complainants to the Federal Election Commission (FEC) on the above matter, our volunteer citizens' committee has formed the New Directions Fund to facilitate following FEC instructions requiring dispossession of illegally donated funds you may have unwittingly accepted. We offer a valuable service to you and to the public at no cost.

We have opened an account at Territorial Savings to receive these monies. We will provide FEC attorney, Mark Allen, with proof of repayment, as he has requested, as well as to complainants, who have legal standing. We are pleased that the FEC has encouraged our concept of a citizen's central clearinghouse for final resolution of this matter. The public will be told who has contributed to the Fund, and will be kept informed of Fund dispersal decisions.

Our goal is to promote understanding of and compliance with federal, state, and local campaign spending laws by all candidates. It is instructive that those entrusted to oversee fair and legal election processes in Hawaii were as unaware of the law as the many candidates who accepted donations. Members of our committee have spoken with leaders of community organizations such as the League of Women Voters and Common Cause Hawaii. They are pleased to develop suggestions for use of the Fund. Your ideas regarding Fund uses are also welcome.

Sincerely,

Muriel B. Seto

Sun Press

Voluntary Payment For Four-Weeks' Home Delivery \$1.30

WEEK OF AUGUST 11-17, 1994

Kailuans eye 'profit' from unlawful gifts

Illegal donations would fund program to educate public about election reform

By ELOISE AGUIAR

News Editor

KAILUA — A group of Kailua residents has formed a "clearing-house" to collect and redistribute illegal campaign contributions from foreign sources that a Federal Election Commission investigation recently uncovered.

Longtime environmental activist Muriel Seto, attorney Roni Johnson, landscape architect Edward Short and entertainer Bennet Namahoe will serve on the board of the New Direction Fund. The organization intends to channel the contributions into election education programs, said Seto, temporary NDF chairwoman.

"It would be nice to take a sow's ear and turn it into a silk purse," she said Tuesday.

The Federal Election Commission announced last week that 68 foreign entities violated federal law when they contributed more than \$310,000 to Hawaii candidates or political groups.

The groups and politicians must "refund or disgorge" contributions from their accounts, the commission's public affairs specialist Ian Stirton said Wednesday. How the money is disbursed is up to the candidate or political group, he added.

"Our concern is that no foreign national money is to be used in connection with any election, whe-

ther federal, state or local," he said.

Stirton said the FEC has no rules covering the distribution of illegal donations, but suggested people use the "excess campaign regulation" as a guide. Under that policy, politicians may disburse surplus contributions to charities, among other things, he said. The money must not go for personal use.

Seto said that the Kailua residents who originally filed the complaint with FEC in 1989 against Hawaii politicians suggested establishing the fund. They are Vicky Creed, Karin Kosoc, Donna Wong and Anthony Locricchio.

Wong acknowledged that she had suggested forming a clearinghouse, but said the original complainants have "divested" themselves of any involvement in it.

The FEC suggests that candidates return illegal contributions or give them to a nonprofit group, but the agency also has approved sending the checks to the fund, Seto said. The committee would then record the returned money and use it for election education. The FEC and the public would receive copies of the returned checks, she said.

"Then the FEC will have in their records proof that all of these politicians have corrected an unfortunate error," Seto said. "One FEC attorney said he was delighted that we're handling it this way."

See FUND on A-8

24043565093



FEDERAL ELECTION COMMISSION

WASHINGTON D.C. 20463

August 23, 1994

BY FACSIMILE AND FIRST CLASS MAIL

Ms. Muriel B. Seto
New Directions Fund
P.O. Box 1917
Kailua, Hawaii 96734

RE: MUR 2892

Dear Ms. Seto:

On August 22, 1994 the Office of the General Counsel received your letter dated August 15, 1994 that requested documents from the MUR 2892 public file and Commission foreign national brochures. Your letter also stated your intention to write to various committees asking them to disgorge their impermissible contributions to the New Directions Fund ("NDF").

Your document request has been forwarded to the Commission's Public Disclosure Division. If you have any questions about your request, please call Public Disclosure at (202) 219-4140. We have asked the Information Division to provide several brochures.

Portions of your proposed letter requesting disgorgement to the NDF appear to be the result of a misunderstanding. This Office strongly objects to all language suggesting the Commission's endorsement of or involvement in the NDF and its program. The Commission will not and cannot be involved in any such group or project. Please remove the endorsement language and the name of Commission staff attorney Mark Allen. To the extent that you have already sent this letter to committees, we request that you immediately write to those committees regarding this misunderstanding and clarify that the Commission has no role in the NDF. Please copy this Office on these letters so we may respond to any inquiries resulting therefrom. In the alternative, provide this Office with the names of the committees to whom you have written, and this Office will notify the committees of the misunderstanding.

Should you wish to discuss these issues further, I can be reached at (202) 219-3690.

Sincerely,

A handwritten signature in dark ink, appearing to read "Lois G. Lerner", is written above the typed name.

Lois G. Lerner
Associate General Counsel

24043565024

FRIENDS OF ROWENA AKANA
5562 Kalaniana'ole Hwy
Honolulu, HI 96821

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

AUG 23 9 06 AM '94

August 9, 1994

Erik Morrison
Staff Member
Federal Election Commission
Washington D.C. 20463

RE: MUR 2892

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
AUG 23 9 11 AM '94

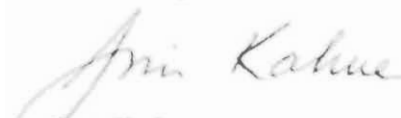
Dear Erik Morrison:

Thank you for returning my call and allowing me to explain that as Ms. Akana's current campaign Treasurer, the contributions records for 1988 does not show any record of campaign funds received by this candidate from Mauna Lani Resort PAC, (dated 20-April-1988 for \$150) in that year or at any time henceforth.

As I indicated, there was a mayoral candidate(Bernard Akana) seeking election for the County of Hilo, Hawaii in 1988 with the same last name. It would be more logical for that candidate to have received those campaign funds from that organization since they do business on that island. Please recheck your records for the possibility that this donation was misdirected or misreported by the donor and/or the mayoral candidate, Mr. Bernard Akana.

Unless we receive further information and directions from you regarding this matter, we will not be refunding or disgorging this amount.

Sincerely and Aloha!


Jim Kahue
Ph. (808)-395-8072

24043565075



FEDERAL ELECTION COMMISSION

WASHINGTON DC 20463

August 24, 1994

BY FACSIMILE AND FIRST CLASS MAIL

Mr. Andrew Mirikitani
Mirikitani Campaign
1717 Mott-Smith Drive #1501
Honolulu, HI 96822

RE: MUR 2892

Dear Mr. Mirikitani:

On August 3, 1994, this Office wrote to the Mirikitani Campaign ("Committee") instructing you to refund or disgorge a \$2,000 contribution from Haseko (Hawaii), Inc. dated September 10, 1990. In subsequent conversations with myself and Erik Morrison, you stated that the Committee could find no record of this contribution. We examined the documents in the case file, which indicate that Haseko (Hawaii) wrote the contribution check on September 10, 1990 but that the check was never cashed. Therefore, it appears that the Committee did not receive the contribution, and consequently need not refund or disgorge it. I apologize for any confusion this may have caused.

If you have any questions, please call me at (800) 424-9530.

Sincerely,

Mark Allen
Attorney

94043565076

RECEIVED
FEDERAL ELECTION
COMMISSION
ADMIN

AUG 25 11 12 AM '94

MUR 2892

August 18, 1994

Erik Morrison
Staff Member
Federal Election Commission
Washington, DC 20463

AUG 25 4 11 PM '94

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

Dear Mr. Morrison:

Thank you for your letter regarding foreign contributions. Please be rest assured that my campaign is making every effort not to accept contributions from foreign nationals and we intend to comply with the law by divesting our campaign of these funds.

In the past, my campaign has made over \$3,000 in contributions to needy organizations on the Big Island of Hawaii. I will be making a contribution of \$500 to the Waiakea-Uka Athletic Association in compliance of your request to "disgorge" the funds from my campaign. The Waiakea-Uka Athletic Association helps youngsters stay off the streets and away from gangs by actively involving over 300 children in baseball, basketball, and other activities. Their parents and families are encouraged to participate in the Association thus strengthening the community ties and bringing them closer together.

Enclosed is a copy of the check as evidenced by our "disbursement" of foreign funds. Please advise me if this donation of foreign funds is appropriate or not.

Yours very truly,


James Y. Azeaki, Councilmember
Hawaii County Council

Enclosure

xc: Campaign Spending Commission

14043565027

FRIENDS OF JAMES ARAKAKI
92 PONAHAUAI ST. 935-6886
HILO, HAWAII 96720

58-7086/3213
BRANCH 54

0147

July 31 1994

Pay to the
Order of Waianae-Uka Athletic Association \$ 500.00

Five Hundred Dollars and 00 cents Dollars

HONFED BANK

Hilo-Kilauea Branch
505 Kilauea Avenue
Hilo, Hawaii 96720
A Federal Savings Bank

3a International Bank
First National League / First City League

Bya Tomono
Dr. Fred A. Fawcett

⑆321370655⑆ 31652510⑆ 0147

04040565073

ALICE L. LEE
Councilwoman

RECEIVED
FEDERAL ELECTION
COMMISSION

AUG 29 9 07 AM '94

August 22, 1994

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF FEDERAL
COUNCILWOMAN
AUG 29 10 37 AM '94

Mr. Erik Morrison
Staff Member
Federal Election Commission
Washington, D.C. 20463

RE: MUR 2892

Dear Mr. Morrison:

I am in receipt of your letter informing me that I am in violation of 2 U.S.C. Sec. 441e, forbidding the acceptance of contributions from foreign nationals.

I am refunding the \$200.00 contribution to Hawaii Omori Corporation as this contribution was found to be impermissible and in violation of the aforementioned law.

Please be assured that the violation was not deliberate.

Thank you very much for informing me of the above.

Sincerely,



ALICE L. LEE
Councilwoman

24043565099



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

AUGUST 30, 1994

Vernon B. Inouye, Chairman
Campaign of Lorraine Jitchaku Inouye
175 E. Kawaihani Street
Hilo, HI 96720

RE: MUR 2892

Dear Mr. Inouye:

On July 28, 1994, this Office notified the Campaign of Lorraine Jitchaku Inouye ("Committee") that the entire file in this matter was closed and instructed the Committee to refund or disgorge \$6,500 in impermissible contributions. In your letter dated August 15, 1994, you ask for an explanation of the July 10, 1993 letter advising the Committee of the Commission's no further action determination and the closing of the file as to the Committee and the subsequent July 28, 1994 letter. The Commission made its no further action determination prior to the close of the entire investigation in this matter. Only at the close of the entire investigation had the Commission determined the liability of all respondents in this matter, and only then could the Commission instruct the Committee to refund or disgorge specific impermissible contributions. Moreover, the Federal Election Campaign Act of 1971, as amended ("the Act"), forbids the Commission or any other person from making public an investigation without the written consent of the parties to the investigation. 2 U.S.C. § 437g(a)(12)(A).

You also ask for a clarification of the Commission's disgorgement instruction. The Commission's concern at the close of this matter is that the impermissible contributions be removed from political committee accounts. The Commission has not ruled in the specific context of disgorging contributions received in violation of 2 U.S.C. § 441e, the foreign national prohibition, but has ruled in other contexts that disgorgements may be made for any lawful purpose unrelated to any local, state, or federal election or candidate. Appropriate payees would so include the United States Treasury, any state or local government entity, or a qualified charitable organization described in 26 U.S.C. § 170(c). See Advisory Opinions 1991-20 and 1991-39.

Vernon B. Inouye, Chairman
page 2

If you have any questions, please call me at (800) 424-9530.

Sincerely,

Mark Allen

Mark Allen
Attorney

2404356101



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

AUGUST 30, 1994

Mr. James Y. Arakaki
Campaign of James Arakaki
92 Ponahawai Street
Hilo, HI 96720

RE: MUR 2892

Dear Mr. Arakaki:

On August 3, 1994, this Office wrote to the Campaign of James Arakaki ("Committee") instructing you to refund or disgorge \$500 in contributions from Haseko (Hawaii), Inc. and Haseko Engineering, Inc. In your letter dated August 18, 1994, you state that the Committee will be disgorging the \$500 to the Waiakea-Uka Athletic Association, and you ask whether such disgorgement is appropriate.

The Commission's concern at the close of this matter is that the impermissible contributions be removed from political committee accounts. The Commission has not ruled in the specific context of disgorging contributions received in violation of 2 U.S.C. § 441e, the foreign national prohibition, but has ruled in other contexts that disgorgements may be made for any lawful purpose unrelated to any local, state, or federal election or candidate. Appropriate payees would so include the United States Treasury, any state or local government entity, or a qualified charitable organization described in 26 U.S.C. § 170(c). See Advisory Opinions 1991-20 and 1991-39.

If you have any questions, please call me at: (800) 424-9530.

Sincerely,

Mark Allen

Mark Allen
Attorney

24043563102