



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20461

THIS IS THE BEGINNING OF MUR # 3782

DATE FILMED 7/26/93 CAMERA NO. 4

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

April 13, 1993

MEMORANDUM

TO: Robert J. Costa  
Assistant Staff Director  
Audit Division

THROUGH: John C. Surina  
Staff Director

FROM: Lawrence M. Noble *LMN*  
General Counsel

Kim L. Bright-Coleman *KBC*  
Associate General Counsel

Carmen R. Johnson *CRJ*  
Assistant General Counsel

Gregory R. Baker *GRB*  
Attorney

SUBJECT: Proposed Final Audit Report on Milder for Congress  
Exploratory Committee (LRA #433/AR #91-06)

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The Office of General Counsel has reviewed the proposed Final Audit Report on Milder for Congress Exploratory Committee ("the Committee") submitted to this Office on October 8, 1992.<sup>1/</sup> We note that on December 18, 1992, the Audit Division forwarded the Committee's supplemental response to the Interim Audit Report to this Office. On January 11, 1993, the Committee submitted additional documentation in response to the Interim Audit Report. The information submitted addressed the findings in the Interim Audit Report relevant to apparent excessive contributions from individuals and apparent prohibited contributions.

The Committee is the principal campaign committee for Ally Milder who ran for Congress in the 2nd Congressional District of Nebraska in 1990. Ms. Milder, a Republican, won the primary election, garnering 57% of the vote; however, she lost in the

<sup>1/</sup> Parenthetical references are to the placement of findings in the proposed Final Audit Report. Throughout our comments, "FECA" refers to the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. §§ 431-455.

general election. We note, initially, that we concur with the Audit Division's conclusions that no further action be taken with respect to the five recommendations contained in the proposed report: (1) apparent prohibited contributions (II.A.); (2) itemization of contributions from political committees and unregistered organizations (II.B.); (3) misstatement of financial activity (II.C.); (4) disclosure of loan from candidate (II.D.); and (5) reporting of debts and obligations (II.E.). The Committee has materially complied with the recommendations set forth in the Interim Audit Report regarding these findings; thus, no further action is required. We also note that we concur with the Audit Division's recommendation to refer the matters relevant to Apparent Excessive Contributions (Exhibit A) to this Office. The following memorandum contains our legal analysis of the findings in the proposed report. If you should have any questions concerning our comments, please contact Gregory R. Baker, the attorney assigned to this audit.

I. APPARENT PROHIBITED CONTRIBUTIONS (II.A.)

The Audit staff identified 34 contributions from 27 corporations, totaling \$8,693.82, which had not been refunded.<sup>2/</sup> The Audit staff, in an effort to clarify the situation, sent the Committee a schedule of the prohibited contributions. However, the Committee did not provide the Audit staff with any further documentation. Thus, the Audit staff recommended in the Interim Audit Report that the Committee: (1) provide evidence that the contributions were not prohibited; or (2) refund the prohibited contributions and provide evidence of such refunds; or (3) disclose the prohibited contributions as debts owed to the Committee.

In its response to the Interim Audit Report, the Committee provided letters signed by the contributors for several of the contributions from entities verified as corporations. The letters stated that the contributions were drawn from nonrepayable corporate drawing accounts and were, therefore, permissible. In its supplemental response, the Committee provided additional documentation addressing \$2,168.82 of the \$4,293.82 reflected in the proposed report. More specifically, the Committee submitted 6 letters which stated that the contributions in question were drawn from either the contributors personal funds or a non-repayable corporate drawing account.<sup>3/</sup>

<sup>2/</sup> The Audit staff states that included in this total were four in-kind contributions, totaling \$1,618.82.

<sup>3/</sup> On January 11, 1993, the Committee provided the Audit staff with additional documentation addressing \$375 in apparent corporate contributions.

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Based on its review of the information provided, the Audit staff concluded in the proposed Final Audit Report that the contributions covered by the letters were not prohibited. The Audit staff notes that it is permissible for corporate employees to make contributions by making personal draws against salary, profits or commissions. As a result, the Audit staff believes that the Committee has materially complied with the recommendations set forth in the Interim Audit Report. Therefore, the Audit staff recommends that no further action be taken with respect to this matter.

The Office of General Counsel concurs with the Audit Division's recommendation that no further action be taken. The Committee has materially complied with the recommendations set forth in the Interim Audit Report and provided documentation supporting the permissibility of the contributions in question. Specifically, the Committee has adequately demonstrated that the funds were not drawn from prohibited sources (*i.e.*, corporate funds). Thus, it does not appear that an apparent 2 U.S.C. § 441b violation has taken place in this instance. Therefore, consistent with the materiality thresholds, this Office believes that a further investigation of this matter is not warranted.

## II. APPARENT EXCESSIVE CONTRIBUTIONS FROM INDIVIDUALS (EXHIBIT A)

The Audit staff reviewed contributions from individuals and determined that the Committee had accepted 47 contributions from 33 individuals and one non-incorporated partnership which were in excess of the limitation by \$33,950.00. See 2 U.S.C. § 441a(a)(1)(A). Although a \$200 refund was made to one individual who had contributed \$2,200 to the primary election, the Audit staff noted that this refund was made approximately six months after the date of the excessive contribution and was therefore not made within the sixty days required by the Commission's regulations. See 11 C.F.R. § 103.3(b)(3). In other instances, the Audit staff noted that the Committee designated contributions which aggregated in excess of \$1,000 per election to either the primary or general election without written redesignations and the required signatures (11 excessive portions of contributions, totaling \$6,550).<sup>4/</sup> The Audit staff noted further that the Committee accepted a \$1,500 check from an apparent partnership which was verified as a non-incorporated entity. The Committee attributed \$1,000 of this contribution to one of the apparent partners and \$500 to the other partner. The only information provided by the Committee was a photocopy of the partnership's contributor check. The Audit staff concluded that this contribution was in excess of the limit by \$500. The Audit staff also noted that the Committee reported three general

<sup>4/</sup> The Audit staff determined that the Committee had sufficient net debts outstanding as of May 15, 1990, the date of the primary, to accommodate these redesignated contributions.

election contributions from one contributor which aggregated to \$1,250 and therefore exceeded the limit by \$250.5/

A Committee official stated that letters requesting contributors to reattribute or redesignate their contributions were never utilized by the Committee. The Committee official explained that contributors were contacted by telephone and were asked permission to redesignate or reattribute the contributions. The Audit staff informed the Committee at the exit conference that its methods were insufficient to substantiate the reattributions and redesignations. The Audit staff informed the Committee that it was necessary for the Committee to provide written authorizations from the contributors, along with the required signatures, in accordance with 11 C.F.R. §§ 110.1(b) and 110.1(k). The Audit staff found neither a separate account for the deposit of contributions which were possibly excessive, nor a method to monitor an amount required to be kept in the Committee's regular accounts while the acceptability determination was being made. Thus, the Audit staff recommended in the Interim Audit Report that the Committee: (1) provide evidence that the contributions in question were not excessive; (2) refund the excessive contributions and provide evidence of such refunds; or (3) disclose the excessive contributions as debts owed by the Committee.

In its response to the Interim Audit Report, the Committee provided reattribution and redesignation letters which addressed \$23,950.00 of the \$33,950.00 contributions noted in the Interim report as being in excess of the contribution limits. These letters, dated June 17, 1992, were sent to the contributors after the Committee received the Interim Audit Report. However, the Committee's response did not address the remaining \$10,000 in excessive contributions. The Committee's supplemental response addressed an additional \$4,050.00 in excessive contributions; thus, the Committee has failed to address \$5,950.00 in apparent excessive contributions.

The Audit staff has concluded in the proposed Final Audit Report that, since the letters related to the \$28,000.00 in excessive contributions were not provided by the contributors within 60 days of the treasurer's receipt of the contributions, they were not resolved in a timely manner. Since no action has been taken with respect to the remaining \$5,950.00, the Audit staff considers them unresolved. Accordingly, the Audit staff recommends that this matter be referred to this Office.

The Office of General Counsel concurs with the Audit staff's recommendation. Individuals are not permitted to make contributions to an authorized political committee for a federal

5/ The Committee's computerized contribution file excluded a \$250 contribution from this contributor.

election which, in the aggregate, exceed \$1,000. 2 U.S.C. § 441a(a)(1)(A). If the contribution exceeds the individual contribution limitation, the treasurer must return the contribution to the contributor or deposit it and obtain a letter of reattribution or redesignation from the contributor within 60 days from the date of receipt of the contribution. 11 C.F.R. § 103.3(b)(3). A failure to acquire the letter of reattribution or redesignation within the stated time will require the treasurer to refund the contribution within the same period. Id. Although the Committee's actions were not timely, it resolved approximately 82% of the apparent excessive contributions, totaling \$28,000. Thus, only \$5,950 in unresolved contributions remain. However, since the excessive contributions were not reattributed, redesignated, or refunded in a timely manner, we agree with the Audit staff that this matter warrants a referral to our Office.

### III. SUNSHINE RECOMMENDATION

The Commission's Sunshine Act procedures provide that the Office of General Counsel make Sunshine recommendations on documents submitted to this Office for review. Section 2.4(a) of the Commission's Sunshine Act regulations provides for the consideration of matters in closed session if they are specifically exempted from disclosure by statute. Additional bases for closing such meetings include when an open meeting is likely to result in the disclosure of non-public audit procedures, policies or investigative techniques or information the premature disclosure of which would be likely to have an adverse effect on the implementation of a proposed Commission action. 11 C.F.R. §§ 2.4(b)(1) and 2.4(b)(6).

This Office believes that Commission discussion of this document should be conducted in closed session. The Commission may eventually decide to pursue an investigation of matters contained in this report. Therefore, we believe that sections 2.4(a) and 2.4(b)(6) of the Commission's Sunshine regulations provide sufficient bases for exempting from disclosure the Commission's deliberations at this stage of the process.

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

FIRST GENERAL COUNSEL'S REPORT

LRA #433/AR #91-06  
STAFF MEMBER: Gregory R. Baker

SOURCE: INTERNALLY GENERATED

RESPONDENTS: Milder for Congress Exploratory Committee and  
Ed Fogarty, as Treasurer

RELEVANT STATUTES: 2 U.S.C. § 441a(a)(1)(A)  
2 U.S.C. § 441a(f)  
11 C.F.R. § 103.3(b)  
11 C.F.R. § 110.1(e)  
11 C.F.R. § 110.1(k)

INTERNAL REPORTS CHECKED: Audit Documents

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

This matter was generated by an audit of Milder for Congress Exploratory Committee ("the Committee") and Ed Fogarty, as Treasurer, undertaken in accordance with 2 U.S.C. § 438(b). The Audit Division's referral materials are attached.

Attachment 1. The Committee is the principal campaign committee for Ally Milder who ran for Congress in the 2nd Congressional district of Nebraska in 1990. Ms. Milder, a Republican, won the primary election, garnering 57% of the vote. However, Ms. Milder lost in the general election.

II. FACTUAL AND LEGAL ANALYSIS

The Federal Election Campaign Act of 1971, as amended ("the Act"), provides that no person may make contributions to any

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candidate and his or her authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$1,000. 2 U.S.C. § 441a(a)(1)(A). The Act prohibits candidates and their political committees from knowingly accepting any contributions in excess of the section 441a(a) limitations. 2 U.S.C. § 441a(f). Pursuant to 11 C.F.R. § 103.3(b), the treasurer of a political committee shall be responsible for examining all contributions received for evidence of illegality and for ascertaining whether the contribution, when aggregated with other contributions from the same contributor, exceeds the contribution limitations. Contributions which on their face exceed the contribution limitations of the Act and contributions which do not exceed the limits on their face, but which exceed the contribution limits when aggregated with other contributions from the same contributor, may either be deposited into a campaign depository or returned to the contributor. 11 C.F.R. § 103.3(b)(3). If a redesignation or reattribution is not obtained, the treasurer shall, within sixty (60) days of the treasurer's receipt of the contribution, refund the contribution to the contributor. Id.

In addition, the Commission's regulations provide that any contribution made by more than one person, except for a contribution made by a partnership, shall include the signature of each contributor on the check, money order, or other negotiable instrument or in a separate writing. A contribution made by more than one person that does not indicate the amount to be attributed to each contributor shall be attributed equally

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to each contributor. 11 C.F.R. § 110.1(k). Furthermore, when a contribution exceeds the limitations on contributions set forth in 2 U.S.C. § 441a(a), the treasurer of the recipient political committee may ask the contributor whether the contribution was intended to be a joint contribution by more than one person. 11 C.F.R. § 110.1(k)(3). In order for a contribution to be considered reattributed to another contributor, the treasurer must first inform the contributor that the contribution may be refunded. See 11 C.F.R. § 110.1(k)(3)(ii)(A). Next, within sixty days from the date of the treasurer's receipt of the contribution, the contributors must provide the treasurer with a written reattribution of the contribution. This written reattribution must be signed by each contributor and indicate the amount to be attributed to each contributor if equal attribution is not intended. Id.

Commission regulations further provide that if a political committee receives a written redesignation or reattribution of a contribution, the treasurer shall retain the written redesignation or reattribution signed by each contributor. 11 C.F.R. § 110.1(l). If a political committee does not retain the required written records, the redesignation or reattribution is not effective and the initial designation or attribution shall control. Id.

The audit referral notes that 33 individuals and one non-incorporated partnership made contributions in excess of their contribution limitations, the excessive portions of which total \$33,950. See Attachment 1, pages 29-32. In most

instances, the Committee designated contributions which aggregated in excess of \$1,000 per election to either the primary or general election without written redesignations and the required signatures (11 excessive portions of contributions, totaling \$6,550).<sup>1/</sup> The Committee also accepted a \$1,500 check from an apparent partnership which was verified as a non-incorporated entity. The Committee attributed \$1,000 of this contribution to one of the apparent partners and \$500 to the other partner. The only information provided by the Committee was a photocopy of the partnership's contributor check. Thus, this contribution by the partnership was in excess of the limit by \$500. See 11 C.F.R. § 110.1(e). In addition, the Committee reported three general election contributions from one contributor which aggregated to \$1,250 and therefore exceeded the limit by \$250.<sup>2/</sup>

The Committee accepted 47 contributions from 33 individuals and one non-incorporated partnership which were in excess of the limitation by \$33,950.00. See 2 U.S.C. § 441a(a)(1)(A). Although the Committee addressed contributions totaling \$28,000, the excessive portions were not refunded or properly reattributed or redesignated in a timely manner by the Committee. Therefore, there is reason to believe that the Milder for Congress Exploratory Committee and Ed Fogarty, as

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1/ The Committee had sufficient net debts outstanding as of May 15, 1990, the date of the primary, to accommodate these redesignated contributions.

2/ The Committee's computerized contribution file excluded a \$250 contribution from this contributor.

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Treasurer ("Respondents"), accepted contributions from 33 individuals and one non-incorporated partnership, which exceeded the contribution limitations by a total of \$33,950, in violation of 2 U.S.C. § 441a(f). In addition, this Office notes that two individuals, C.W. Durham and Barbara Vopnford, made total contributions to the Committee which exceeded the applicable limits. Thus, there is reason to believe that C.W. Durham and Barbara Vopnford ("Respondents") violated 2 U.S.C. § 441a(a)(1)(A) by making excessive contributions to the Milder for Congress Exploratory Committee.

Based on the circumstances of this case and consistent with the proper ordering of the Commission's resources and priorities, we recommend that the Commission take no further action with respect to the Committee, C.W. Durham and Barbara Vopnford. See Heckler v. Chaney, 470 U.S. 821 (1985). The Committee addressed \$28,000, or 82%, of the contributions at issue. Thus, if the Commission adopts this recommendation, we will send an admonishment letter to the Committee emphasizing the importance of adhering to the Act and the Commission's regulations governing the receipt of excessive contributions.

**III. RECOMMENDATIONS**

1. Find reason to believe that the Milder for Congress Exploratory Committee and Ed Fogarty, as Treasurer violated 2 U.S.C. § 441a(f), but take no further action.
2. Find reason to believe that C.W. Durham violated 2 U.S.C. § 441a(a)(1)(A), but take no further action.
3. Find reason to believe that Barbara Vopnford violated 2 U.S.C. § 441a(a)(1)(A), but take no further action.
4. Close the file.
5. Approve the appropriate letters.

Lawrence M. Noble  
General Counsel

5/12/93  
Date

BY:

Kim Bright-Coleman  
Kim Bright-Coleman  
Associate General Counsel

**Attachments:**

1. Final Audit Report and Referral Materials
2. Additional Documentation

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
Milder for Congress Exploratory ) A91-06  
Committee - Final Audit Report and )  
Matter Referable to the Office of )  
General Counsel )

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on May 18, 1993, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions with respect to A91-06:

1. Find reason to believe that the Milder for Congress Exploratory Committee and Ed Fogarty, as treasurer, violated 2 U.S.C. § 441a(f), but take no further action.
2. Find reason to believe that C.W. Durham violated 2 U.S.C. § 441a(a)(1)(A), but take no further action.
3. Find reason to believe that Barbara Vopnford violated 2 U.S.C. § 441a(a)(1)(A), but take no further action.

(continued)

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Federal Election Commission  
Certification: Milder for Congress  
Exploratory Committee Referral  
May 18, 1993.

Page 2

4. Close the file.
5. Approve the appropriate letters as recommended in the General Counsel's report dated May 7, 1993.

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

Attest:

5/21/93  
Date

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

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FEDERAL ELECTION COMMISSION  
WASHINGTON D.C. 20461

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JUN 23 1993  
**SENSITIVE**

May 21, 1993

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble  
General Counsel

BY: Kim Bright-Coleman *KBC*  
Associate General Counsel

SUBJECT: Milder for Congress Exploratory Committee  
(LRA #433/AR #91-06) -- Final Audit Report, Matters  
Referable and First General Counsel's Report

On May 18, 1993, the Commission voted to find reason to believe that the Milder for Congress Exploratory Committee ("the Committee") and Ed Fogarty, as Treasurer, violated 2 U.S.C. § 441a(f), but take no further action. In addition, the Commission voted to find reason to believe that Barbara Vopnford and C.W. Durham violated 2 U.S.C. § 441a(a)(1)(A), but take no further action. The Commission also voted to close the file with respect to this matter and to approve the appropriate letters. Although the Commission approved these recommendations, the report failed to instruct the Commission to open a Matter Under Review ("MUR") in this instance. Accordingly, this Office recommends that the Commission open a MUR in this instance.

RECOMMENDATION

The Office of General Counsel recommends that the Commission open a MUR with respect to this matter.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )

Milder for Congress Exploratory Committee )  
-- Final Audit Report, Matters Referable )  
and First General Counsel's Report. )

(LRA #433/AR #91-06)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on May 27, 1993, the Commission decided by a vote of 6-0 to open a MUR with respect to the above-captioned matter, as recommended in the General Counsel's Memorandum dated May 21, 1993.

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

Attest:

5-27-93  
Date

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

Received in the Secretariat:  
Circulated to the Commission  
Deadline for vote:

Fri., May 21, 1993 3:38 p.m.  
Mon., May 24, 1993 11:00 a.m.  
Thurs., May 27, 1993 4:00 p.m.

dr

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20461

JUNE 30, 1993

Ed Fogarty, Treasurer  
Milder for Congress Exploratory Committee  
Suite 440  
11422 Miracle Hills Drive  
Omaha, Nebraska 68154

RE: MUR 3782  
Milder for Congress  
Exploratory Committee and  
Ed Fogarty, as Treasurer

Dear Mr. Fogarty:

On May 18, 1993, the Federal Election Commission found reason to believe that the Milder for Congress Exploratory Committee ("Committee") and you, as treasurer, violated 2 U.S.C. § 441a(f) of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission also determined to take no further action and closed its file. Initially, the First General Counsel's Report, which formed the basis for the Commission's findings, did not include a recommendation to open a Matter Under Review ("MUR") with respect to this matter. Therefore, subsequent to the other findings, on May 27, 1993, the Commission voted to open a MUR. The First General Counsel's Report is attached for your information.

The Commission reminds you that the Committee's receipt of excessive contributions appears to be in violation of 2 U.S.C. § 441a(f). Thus, you should take immediate steps to insure that this activity does not occur in the future.

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.

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To Barbara Vopnford  
Page 2

If you have any questions, please contact Gregory R. Baker, the attorney assigned to this matter, at (800)424-9530 or (202)219-3690.

Sincerely,



Scott E. Thomas  
Chairman

Enclosures

First General Counsel's Report  
Memorandum to the Commission, dated May 21, 1993  
Certification

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20461

JUNE 30, 1993

C.W. Durham  
8401 West Dodge Road  
Omaha, Nebraska 68114

RE: MUR 3782  
Milder for Congress  
Exploratory Committee

Dear Mr. Durham:

On May 18, 1993, the Federal Election Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A) of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission also determined to take no further action and closed its file. Initially, the First General Counsel's Report, which formed the basis for the Commission's findings, did not include a recommendation to open a Matter Under Review ("MUR") with respect to this matter. Therefore, subsequent to the other findings, on May 27, 1993, the Commission voted to open a MUR. The First General Counsel's Report is attached for your information.

The Commission reminds you that the making of excessive contributions appears to be in violation of 2 U.S.C. § 441a(a)(1)(A). Thus, you should take immediate steps to insure that this activity does not occur in the future.

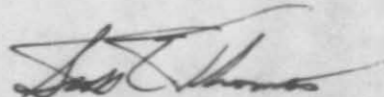
The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any 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.

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To C.W. Durham  
Page 2

If you have any questions, please contact Gregory R. Baker,  
the attorney assigned to this matter, at (800)424-9530 or  
(202)219-3690.

Sincerely,



Scott E. Thomas  
Chairman

Enclosures

First General Counsel's Report  
Memorandum to the Commission, dated May 21, 1993  
Certification

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FEDERAL ELECTION COMMISSION  
WASHINGTON D.C. 20461

JUNE 30, 1993

Barbara Vopnford  
Box 471  
Blair, Nebraska 68008

RE: MUR 3782  
Milder for Congress  
Exploratory Committee

Dear Ms. Vopnford:

On May 18, 1993, the Federal Election Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A) of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission also determined to take no further action and closed its file. Initially, the First General Counsel's Report, which formed the basis for the Commission's findings, did not include a recommendation to open a Matter Under Review ("MUR") with respect to this matter. Therefore, subsequent to the other findings, on May 27, 1993, the Commission voted to open a MUR. The First General Counsel's Report is attached for your information.

The Commission reminds you that the making of excessive contributions appears to be in violation of 2 U.S.C. § 441a(a)(1)(A). Thus, you should take immediate steps to insure that this activity does not occur in the future.

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.

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To Barbara Vopnford  
Page 2

If you have any questions, please contact Gregory R. Baker, the attorney assigned to this matter, at (800)424-9530 or (202)219-3690.

Sincerely,



Scott E. Thomas  
Chairman

Enclosures

First General Counsel's Report  
Memorandum to the Commission, dated May 21, 1993  
Certification

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UNC 7556  
Dana and Barb Vopnford  
P. O. Box 471 Blair, Nebraska 68008

July 3, 1993

Mr. Gregory Baker, Esq.  
c/o Scott Thomas, Chairman  
Federal Election Commission  
999 E. Street, N. W.  
Washington, D. C. 20463

Dear Mr. Baker and Mr. Thomas:

RE: MUR 3782  
Milder for Congress  
Exploratory Committee

I am writing in regard to the above-mentioned matter,  
in response to your letter dated June 30, 1993. Thank  
you for your correspondence.

Frankly, I was surprised to learn of this whole matter.  
The over-donation was purely a miscalculation, with  
donations being made to different races at different  
times and different functions. I do not recall the  
exact amount of time later, but a refund was made to  
me by the Milder for Congress Campaign in a short  
amount of time. A matter of two to three weeks sticks  
in my mind. As soon as they were aware of the mistake,  
a refund was sent. I hope that this will help in this  
matter. Please re-check their records. I think you  
will find that they were following all rules, and con-  
ducted themselves in the proper manner.

*Dana Vopnford*

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3782

DATE FILMED 7/26/93 CAMERA NO. 4

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