



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 3966

DATE FILMED 2-7-95 CAMERA NO. 2

CAMERAMAN JMN

25043624695

OAC 5467



DEFENSE CONTRACT AUDIT AGENCY
CAMERON STATION
ALEXANDRIA, VA 22304-6178



9 APR 1993

93 APR 19 AM 10:38

RECEIVED
FEDERAL ELECTION COMMISSION

IN REPLY REFER TO

OAD 702.2.4

Pre-Mur 279

Mr. Russell F. Miller
Inspector General
Federal Election Commission
999 E Street NW
Washington DC 20463

Dear Mr. Miller:

The enclosed memorandum, which describes suspected illegal political contributions made by Department of Energy contractor KMS Fusion, Inc., Ann Arbor, MI, is forwarded for appropriate action. This office has been designated as the Agency fraud monitor under Joint Policy Memorandum Number 2 (Coordination by Audit and Investigative Organizations Involving Allegations of Fraud). Please request any investigative agency to which this matter is referred to provide us with their case control number; the investigating agent's name, telephone number, and address; and any information regarding significant events in the investigation. In any event, we would appreciate being informed of the disposition of this case. Communications should reference our Case Number 93-049.

The DCAA point of contact for audit matters is Mr. Francis A. Leonatti, Branch Manager, who can be reached at (313) 226-7260. The DCAA point of contact for fraud matters is Ms. Linda Willard, Justice Liaison Auditor, who can be reached at (202) 514-0832 or (703) 274-7775.

Sincerely,

William J. Sharkey
William J. Sharkey
Assistant Director
Operations

Enclosure

DCAA Case No. 93-049

Copy furnished:

RD, Northeastern Region
Branch Manager, Great Lakes Branch Office
DoD OAIG-CIPO

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IN REPLY REFER TO

2261
730.1

DEFENSE CONTRACT AUDIT AGENCY
NORTHEASTERN REGION
Great Lakes Branch Office
Patrick V. McNamara Building
477 Michigan Avenue Suite 400
Detroit Michigan 48226-2571

26 March 1993
93-093

MEMORANDUM FOR HEADQUARTERS, DCAA, CAMERON STATION, BUILDING 4,
ALEXANDRIA, VA 22304-6178

ATTENTION: OAD

SUBJECT: Suspected Irregularities -
Political Contributions
KMS Fusion, Inc.

While reviewing documentation in support of Director's fees under the contractor's CY 1991 incurred cost and final overhead submission, we found what may be an irregularity concerning political contributions. This issue is referred to your office in consonance with CAM 4-706.4 direction.

Attached to the voucher detail for each of the Director's quarterly payments were copies of two internal memorandums. One was dated 5 July 1988 which increased the rate of Director compensation from \$750.00 to \$1,000.00 per month - effective 1 April 1988. The second memo, signed by each Director on various dates in July stated "Until further notice, please deduct \$250.00 from my Director's check for a contribution to the KMS Fusion, Inc. Political Action Fund."

We made a written request, dated 11 March 1993, to KMS for access to the files of the Minutes to the Board of Director's meetings for CY's 1988 through 1992 and the KMS Fusion, Inc. Political Action Fund files for the same period.

In a letter from KMS, dated 17 March 1993, they enclosed copies of the Minutes of the Board of Directors for 1988 through 1992 (we had requested access to the files not copies) and stated a denial of access to the files of the KMS Fusion, Inc. Political Action Fund (PAF).

The amount contributed by the Board of Directors to the PAF for CY 1991 was \$5,000.00. However, we do not know what the total contributions by all employees were or how they were spent.

The contractor's primary customer was/is the DOE with administrative responsibilities out of their San Francisco office. However, because of its inability to obtain a follow on contract with DOE, KMS is currently on the verge of going out of business and is pursuing an aggressive posture

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26 March 1993
93-093

with DOE to negotiate a "Global Settlement" over issues associated with its former contract. In this regard there has been considerable congressional inquiry/pressure for the DOE to make a settlement with KMS which may not be in the best interests of the government.

Sincerely

F. A. Leonatti
Francis A. Leonatti
Branch Manager

cf: RS-2

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MAY 11, 1993

William J. Sharkey,
Assistant Director, Operations
Defense Contract Audit Agency
Cameron Station
Alexandria, VA 22304-6178

RE: Pre-MUR 279

Dear Mr. Sharkey:

This is to acknowledge receipt of your letter dated April 16, 1993, advising us of the possibility of a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") by KMS Fusion, Inc. We are currently reviewing the matter and will advise you of the Commission's determination.

If you have any questions, please call (202) 219-3690 and ask to speak with a member of the Central Enforcement Docket (CED). Our file number for this matter is Pre-MUR 279.

Pursuant to 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A), the Commission's review of this matter shall remain confidential until the file has been closed.

Sincerely,

Lawrence M. Noble
General Counsel

BY:


Lois G. Lerner
Associate General Counsel

25043624699



DEFENSE CONTRACT AUDIT AGENCY
GREAT LAKES BRANCH OFFICE
PATRICK V. MCNAMARA BUILDING
477 MICHIGAN AVENUE, SUITE 400
DETROIT, MICHIGAN 48226-2571

cc 791

04/05/94 11:50

FAX TRANSMITTAL

Pre-mur 249

DATE: 4-5-94

FAX CONTROL NO.:

TO: CRAIG REPPNER

FROM: GREAT LAKES BRANCH OFFICE

LOCATION: FED'L ELECT. COMM.
WASH., D.C.

PHONE NO.: (313) 226-7339

FAX NO.: 202-219-3923

FAX NO.: (313) 226-6482

PHONE NO.: 202-219-3690

ORIGINATOR: PHIL CAPION

COVER PLUS: 8

MESSAGE AREA

CRAIG - HERE ARE COPIES OF THE DOCUMENTS
YOU REQUESTED VIA FAX OF 3/31/94. IF YOU
NEED ADDITIONAL AUDIT SERVICES, THE
REQUEST SHOULD BE MADE THROUGH OUR
REGIONAL DIRECTOR AT THE FOLLOWING
ADDRESS:

DEFENSE CONTRACT AUDIT AGENCY
NORTHWESTERN REGION
83 Hartwell Avenue
Lexington, MA 02173-3163

TITLE

Regional Director

SYMBOL NAME

RD-2

Francis P. Summers, Jr.

TELEPHONE

377-9710

PHIL
CAPION

25743624700

04/05/94

10:47

GREAT LAKES BRANCH

002

**lans
industries
inc.**

Internal Communication

July 5, 1988

Memorandum to: Rebecca Hochkins

Copy to: P. B. Long
T. C. Liddy
W. H. Tao

From L. D. Johnson 

Subject KMSI Board Compensation

Please increase the rate of Director Compensation from \$750.00 to \$1,000.00 per month - effective 1 April 1988.

04 JUL 5 AM 11:50

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INTERNAL COMMUNICATION

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GREAT LAKES BRANCH

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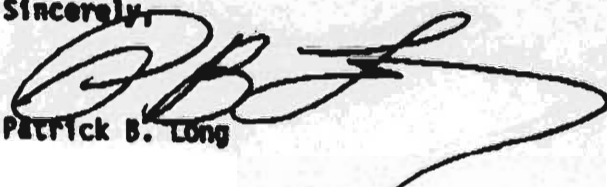
7 12 91

Patrick B. Long
KMS Industries, Inc.
P. O. Box 1778
Ann Arbor, MI 48106-1778

KMS Fusion, Inc.
Attn: KMS Fusion Political Action Fund
P. O. Box 1567
Ann Arbor, MI 48106-1567

Until further notice, please deduct \$250.00 from my Director's check for a contribution to the KMS Fusion, Inc. Political Action Fund.

Sincerely,


Patrick B. LongDated: 7/6/80

cc:

P. M. Barrett, PAF Treasurer
L. D. Johnson
R. S. Hochkins
C. F. White, PAF Bookkeeper

5-13 d 1/47

04/05/94

10:47

GREAT LAKES BRANCH

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1 4 01

Robert A. Carrane
Carrane, Zwirn Newman &
Freifeld
100 N. LaSalle,
#600, 6th Fl.
Chicago, IL 60602

KMS Industries, Inc.
Attn: T. C. Liddy
P. O. Box 1778
Ann Arbor, MI 48106-1778

Dear Mr. Liddy:

Until further notice, please deduct \$250.00 from my Director's check
for a contribution to the KMS Fusion, Inc. Political Action Fund.

Dated:

7/8/88

Sincerely,

Robert A. Carrane

S-138 3/47

PAID

1 4 31

Lt. Gen. Thomas P. Stafford
General Technical Services Inc.
3212 East I-240
Oklahoma City, OK 73135

KMS Industries, Inc.
Attn: T. C. Liddy
P. O. Box 1778
Ann Arbor, MI 48106-1778

Dear Mr. Liddy:

Until further notice, please deduct \$250.00 from my Director's check for a contribution to the KMS Fusion, Inc. Political Action Fund.

Sincerely,

Thomas P. Stafford
Thomas P. Stafford

Dated: July 14, 1988

DISTRIBUTION:
Hochkins, R ✓
Barrett, P.
Orig: PAF File

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10:48

GREAT LAKES BRANCH

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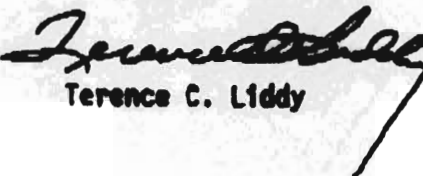
7 12 91

Terence C. Liddy
IMS Industries, Inc.
P. O. Box 1778
Ann Arbor, MI 48106-1778

IMS Fusion, Inc.
Attn: IMS Fusion Political Action Fund
P. O. Box 1567
Ann Arbor, MI 48106-1567

Until further notice, please deduct \$250.00 from my Director's check for a contribution to the IMS Fusion, Inc. Political Action Fund.

Sincerely,


Terence C. Liddy

Dated: 7/6/88

cc: L. D. Johnson
R. S. Hochkins
P. M. Barrett
C. F. White

S. 13d $\frac{25}{47}$

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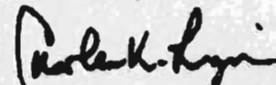
Charles K. Ligon
ALCOA Materials Science Div.
1501 ALCOA Building
Pittsburgh, PA 15219

KMS Industries, Inc.
Attn: T. C. Liddy
P. O. Box 1778
Ann Arbor, MI 48106-1778

Dear Mr. Liddy:

Until further notice, please deduct \$250.00 from my Director's check for a contribution to the KMS Fusion, Inc. Political Action Fund.

Sincerely,


Charles K. Ligon

Dated: 1/12/88

Distribution:
R. Hochkins
P. Cussigh
P. Barrett
Orig: PAF Files

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04/05/94

10:49

GREAT LAKES BRANCH

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PAID

1 4 4 4

James C. Bard
2191 Club House Drive
Prescott, AZ 86301

KMS Industries, Inc.
Attn: T. C. Liddy
P. O. Box 1778
Ann Arbor, MI 48106-1778

Dear Mr. Liddy:

Until further notice, please deduct \$250.00 from my Director's check for a contribution to the KMS Fusion, Inc. Political Action Fund.

Sincerely,

James C. Bard

James C. Bard

Dated 7/12/88

DISTRIBUTION:
Hochkins
Barrett
Orig: PAF File

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04/05/94

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GREAT LAKES BRANCH

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Ned C. Lautenbach
343 Old Hickory Road
Fairfield, CT 06430

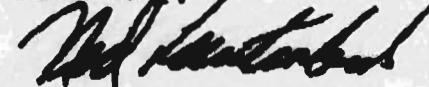
KMS Industries, Inc.
Attn: T. C. Liddy
P.O. Box 1778
Ann Arbor, MI 48106-1778

Dear Mr. Liddy:

Until further notice, please deduct \$250.00 from my Director's check for a contribution to the KMS Fusion, Inc. Political Action Fund.

This contribution is made by me in my capacity as a private citizen and not on behalf of the IBM Corporation.

Sincerely,


Ned C. Lautenbach

Dated: 7-13-88

DISTRIBUTION
Hochkins
Barrett
Orig: PAF File

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F.E.C.
SECRETARIAT

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

04 APR 18 AM 9:15

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

Pre-MUR # 279
Activation Date: 09/27/93
STAFF MEMBER Craig D. Reffner

SOURCE: INTERNALLY GENERATED

RESPONDENTS: KMS Fusion, Inc.
KMS Fusion, Inc., Political Action Fund

RELEVANT STATUTES: 2 U.S.C. § 441b
2 U.S.C. § 441c
2 U.S.C. § 441f

INTERNAL REPORTS CHECKED: Disclosure Materials
Contributor Index

FEDERAL AGENCIES CHECKED: Department of Defense

I. GENERATION OF MATTER

This matter was generated by a referral from the Department of Defense ("DOD"). According to the referral materials, KMS Fusion, Inc. ("KMS"), apparently reimbursed a number of its directors for their contributions to the firm's separate segregated fund, the KMS Fusion, Inc., Political Action Fund ("KMS-SSF") in violation of 2 U.S.C. §§ 441b and 441f. In addition, the referral materials show that KMS held a contract with a Federal agency at the time of the purported reimbursements. Thus, it appears that a violation of 2 U.S.C. § 441c may have also occurred.

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II. FACTUAL AND LEGAL ANALYSIS

A. Statement of the Law

Pursuant to Section 441f of the Act, "[n]o person shall make a contribution in the name of another or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person."

Under Section 441b of the Act, corporations are prohibited from making contributions or expenditures from their general treasury funds in connection with Federal elections. Furthermore, no officer or director of a corporation may consent to any contribution or expenditure by the corporation. 2 U.S.C. § 441b(a).

The Act also prohibits any person who enters into a contract with the United States or any department or agency thereof from making any contribution of money or other things of value, or to promise expressly or impliedly to make any such contribution to any political party, committee, or candidate for public office or to any person for any political purpose or use; or knowingly to solicit any such contribution from any person for any such person for any such purpose during any such period. 2 U.S.C. § 441c. This prohibition applies to any contract for either the rendition of personal services or the furnishing of any material, supplies, or equipment to the United States or any department or agency thereof or for the selling of any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material,

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supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress. In addition, this prohibition applies at any time between the commencement of negotiations for and the later of (A) the completion of performance under; or (B) the termination of negotiations for such contract or furnishings of material, supplies, equipment, land, or buildings.

B. Analysis

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According to the referral materials, a DOD review of documentation in support of KMS's Directors' fees disclosed two internal KMS memoranda indicating that KMS directors may have been reimbursed for their contributions to KMS-SSF. The first memorandum, dated July 5, 1988, shows that KMS purportedly "increased the rate of Director compensation from \$750 to \$1000 per month - effective 1 April 1988." Referral at 2. The second memorandum, purportedly signed by each director on various dates in July 1988 provides: "'Until further notice, please deduct \$250.00 from my Director's check for a contribution to the KMS Fusion, Inc. Political Action Fund.'" Id.¹ The referral states that DOD requested access to the files of KMS-SSF as well as the minutes of the KMS Board of Director's meetings for 1988 through 1992. According to the referral, KMS denied the request, and

1. In response to our request for these underlying documents, DOD produced copies of the July 5, 1988 memorandum authorizing an increase in the rate of Director Compensation as well as the corresponding payroll deduction authorization forms for seven of the ten directors. Attachment G.

instead enclosed copies of the Minutes of the Board of Directors for 1988 through 1992.

Disclosure materials show that between 1988 and 1993, ten individuals identified as directors at KMS regularly made \$250 contributions to KMS-SSF. Attachment E. Most recently, on July 14, 1993, three of these directors each contributed \$295 to the KMS-SSF. In all, these contributions, which were often made on the same dates on what appears to be a quarterly basis, total \$28,885. In addition, the referral materials show that KMS increased its directors' salaries by \$250 at approximately the same time that various KMS directors authorized a \$250 deduction from their paychecks for the KMS-SSF. These contributions thus appear suspect given that the directors made them in the same amounts, on the same dates and at a time when their compensation was increased by the amount they were regularly contributing. Furthermore, these contributions were apparently reimbursed at a time when KMS Fusion held a contract with the United States government.

Accordingly, this Office recommends that the Commission find reason to believe that KMS Fusion, Inc., knowingly and wilfully violated 2 U.S.C. §§ 441b, 441c and 441f.

With regard to the ten KMS directors who contributed to the KMS-SSF, this Office recommends that the Commission find reason to believe that Donald Musinski, Robert Carrane, James Bard, Ned Lautenbach, Patrick Long, Charles Ligon, Thomas Stafford, Raymond Halcomb, Terence Liddy, and Richard Fry knowingly and wilfully violated 2 U.S.C. § 441f, by allowing their names to be used to

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make corporate contributions. The Act also prohibits any officer or director from consenting to a corporate contribution and the available information here shows that these ten directors may have authorized the reimbursements for their contributions.

Accordingly, this Office recommends that the Commission find reason to believe that KMS Fusion, Inc., and Donald Musinski, Robert Carrane, James Bard, Ned Lautenbach, Patrick Long, Charles Ligon, Thomas Stafford, Raymond Halcomb, Terence Liddy, and Richard Fry, as directors of KMS Fusion, Inc., each knowingly and wilfully violated 2 U.S.C. § 441b by consenting to contributions by the corporation.

In addition, the Act prohibits any person, including a political committee, from accepting a contribution made in the name of another. In the matter at hand, the available information shows that Terence C. Liddy, one of the directors who began contributing to KMS-SSF in 1989, now serves as the treasurer of KMS-SSF. In this regard, Mr. Liddy may have been acutely aware that KMS was reimbursing its directors for their contributions to the KMS-SSF. Accordingly, this Office recommends that the Commission find reason to believe that the KMS Fusion, Inc., Political Action Fund and Terence C. Liddy, as treasurer, knowingly and wilfully violated 2 U.S.C. §§ 441b and 441f.

C. Discovery

It is presently unclear how many directors served at KMS during the time period in question and whether each was reimbursed for their contributions to the KMS-SSF. It is also unclear whether the directors' compensation actually increased \$250 "per

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month" since their respective contributions to KMS-SSF appear to have been made quarterly. In addition, disclosure materials show that several KMS directors made contributions to various Federal candidates. Attachment F. Although some of the contributions were made in the same amounts to the same candidate on the same day, it is unclear, at this time, whether these directors were reimbursed for these contributions.

Accordingly, this Office recommends that the Commission approve Subpoenas for the Production of Documents and Orders to Submit Written Answers to KMS, the KMS-SSF and the named ten directors. Attachments D (subpoena to KMS and KMS-SSF) and E (sample subpoena for directors). When answered, these subpoenas should resolve many of the issues in this matter. In addition, they will enable us to assess whether deposition testimony is warranted and, if so, which directors and other employees should be subpoenaed to provide testimony. We will report to the Commission after the responses to these subpoenas are received.

III. RECOMMENDATIONS


1. Open a MUR.
2. Find reason to believe that KMS Fusion, Inc., knowingly and wilfully violated 2 U.S.C. §§ 441b, 441c and 441f.
3. Find reason to believe that the KMS Fusion, Inc., Political Action Fund and Terence C. Liddy, as treasurer, knowingly and wilfully violated 2 U.S.C. §§ 441b and 441f.

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4. Find reason to believe that the following KMS Fusion, Inc., directors, Donald Musinski, Robert Carrane, James Bard, Ned Lautenbach, Patrick Long, Charles Ligon, Thomas Stafford, Raymond Halcomb, Terence Liddy, and Richard Fry each knowingly and wilfully violated 2 U.S.C. §§ 441b and 441f.
5. Approve the attached Factual and Legal Analyses, the attached subpoenas and the appropriate letters.

Lawrence M. Noble
General Counsel

4/15/94
Date

BY: 
Lois G. Lerner
Associate General Counsel

Attachments:

- A. Proposed Factual and Legal Analyses to KMS and KMS-SSF
- B. Proposed Sample Factual & Legal Analysis for Directors
- C. Subpoena to KMS and KMS-SSF
- D. Sample Subpoena for directors
- E. Chart of contributions to KMS-SSF
- F. Chart of contributions to Federal candidates
- G. Documents produced by DOD


25043624/15



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/BONNIE J. ROSS 
COMMISSION SECRETARY

DATE: APRIL 20, 1994

SUBJECT: PRE-MUR 279 - FIRST GENERAL COUNSEL'S REPORT
DATED APRIL 15, 1994.

The above-captioned document was circulated to the
Commission on Monday, April 18, 1994 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 McDonald	<u>XXX</u>
Commissioner McGarry	_____
Commissioner Potter	_____
Commissioner Thomas	<u>XXX</u>

This matter will be placed on the meeting agenda
for Tuesday, May 3, 1994.

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

25043624716

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

KMS Fusion, Inc.;

KMS Fusion, Inc., Political Action Fund)

)
) Pre-MUR 279
)

MUR 3966

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on May 10, 1994, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions with respect to Pre-MUR 279:

1. Open a MUR.
2. Find reason to believe that KMS Fusion, Inc., knowingly and wilfully violated 2 U.S.C. §§ 441b, 441c, and 441f.
3. Find reason to believe that the KMS Fusion, Inc., Political Action Fund and Terence C. Liddy, as treasurer, knowingly and wilfully violated 2 U.S.C. §§ 441b and 441f.
4. Find reason to believe that the following KMS Fusion, Inc., directors, Donald Musinski, Robert Carrane, James Bard, Ned Lautenbach, Patrick Long, Charles Ligon, Thomas Stafford, Raymond Halcomb, Terence Liddy, and Richard Fry each knowingly and wilfully violated 2 U.S.C. §§ 441b and 441f.

(continued)

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Federal Election Commission
Certification for Pre-MUR 279
May 10, 1994

Page 2

5. Approve the Factual and Legal Analyses,
the subpoenas and the appropriate
letters as recommended in the General
Counsel's report dated April 15, 1994.

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

Attest:

5-11-94
Date

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



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MAY 17, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ned C. Lautenbach
343 Old Hickory Road
Fairfield, Connecticut 06430

RE: MUR 3966
Ned C. Lautenbach

Dear Mr. Lautenbach:

On May 10, 1994, the Federal Election Commission found that there is reason to believe you knowingly and wilfully violated 2 U.S.C. §§ 441b and 441f, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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 30 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, 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 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.

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Ned C. Lautenbach

Page 2

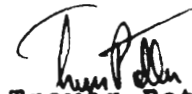
Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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.

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 investigation to be made public.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Craig D. Reffner, the attorney assigned to this matter, at (202) 219-3400.

For the Commission,



Trevor Potter
Chairman

Enclosures

Factual and Legal Analysis
Procedures
Designation of Counsel Form
Questions

25043624720

FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Ned C. Lautenbach

RE: MUR 3966

Pursuant to Section 441f of the Federal Election Campaign Act of 1971, as amended (the "Act"), "[n]o person shall make a contribution in the name of another or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person." Under Section 441b of the Act, corporations are prohibited from making contributions or expenditures from their general treasury funds in connection with Federal elections. Furthermore, no officer or director of a corporation may consent to any contribution or expenditure by the corporation. 2 U.S.C. § 441b(a).

Based upon information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities, see 2 U.S.C. § 437g(a)(2), it appears that KMS Fusion, Inc. ("KMS"), reimbursed Ned C. Lautenbach for his contributions to the KMS Fusion, Inc., Political Action Fund ("KMS-SSF"). Indeed, an audit of KMS conducted by the Department of Defense shows that KMS increased its directors' salaries by \$250 at approximately the same time that various directors for KMS authorized a \$250 payroll deduction for the KMS-SSF. Disclosure materials filed with the Commission confirm that between 1988 and 1993 various individuals identified

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as directors at KMS, including Mr. Lautenbach, regularly made \$250 contributions to KMS-SSF. Most recently, on July 14, 1993, three of these directors each contributed \$295 to the KMS-SSF.

Mr. Lautenbach's contributions thus appear suspect as having been reimbursed given that he made them in the same amounts, on the same dates and at a time when his compensation was increased by the amount he was regularly contributing. Furthermore, the Act prohibits any officer or director from consenting to a corporate contribution and it appears that Mr. Lautenbach, as a director, consented to his reimbursements by KMS.

Therefore, there is reason to believe that Ned C. Lautenbach knowingly and wilfully violated 2 U.S.C. § 441f, by permitting his name to be used to make a contribution in the name of another, and 2 U.S.C. § 441b, by consenting to contributions by a corporation.

25043624722

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
) MUR 3966
)

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Ned C. Lautenbach
343 Old Hickory Road
Fairfield, Connecticut 06430

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 30 days of receipt of this Order and Subpoena.

25043624723

MUR 3966
Ned C. Lautenbach
Page 2

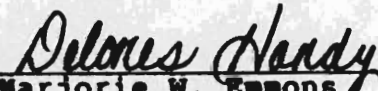
WHEREFORE, the Chairman of the Federal Election Commission
has hereunto set his hand in Washington, D.C. on this 17th
, day of May, 1994.

For the Commission,



Trevor Potter
Chairman

ATTEST:

for 
Marjorie W. Emmons
Secretary to the Commission

Attachment

Questions and Request for Production of Documents
with Instructions and Definitions

25043624724

QUESTIONS AND REQUEST FOR PRODUCTION OF DOCUMENTS

INSTRUCTIONS

In answering these questions 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 question 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 questions 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 January 1, 1987 to the present.

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.

25043624725

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.

"Compensation" shall mean money or any other item of value.

"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 request for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

25043624726

QUESTIONS AND REQUEST FOR PRODUCTION OF DOCUMENTS

QUESTIONS

- 25043624127
1. Identify all contributions you made to the KMS Fusion, Inc., Political Action Fund., including the amount of each contribution and the date it was made. In addition, for each contribution, state:
 - a. whether you made the contribution in response to a solicitation and, if so, describe the solicitation, including the identify of the persons who made the solicitation and all communications between you and the persons identified in your response concerning the solicitation; and
 - b. whether you received any compensation for the contribution and, if so, describe in detail how you were compensated, including the total amount you received, whether you requested the compensation, the identity of the persons who authorized the compensation and all communications between you and the persons identified in your response concerning such compensation.
 2. Identify all contributions you made to any Federal candidates or Federal political committees (other than the KMS Fusion, Inc., Political Action Fund), including the amount of the contribution, the date it was made and the identity of the Federal candidate or Federal political committee who received the contribution. In addition, for each contribution, state:
 - a. whether you made the contribution in response to a solicitation and, if so, describe the solicitation, including the identify of the persons who made the solicitation and all communications between you and the persons identified in your response concerning the solicitation; and
 - b. whether you received any compensation for the contribution and, if so, describe in detail how you were compensated, including the total amount you received, whether you requested the compensation, the identity of the persons who authorized the compensation and all communications between you and the persons identified in your response concerning the contribution.

MUR 3966
Ned C. Lautenbach
Page 4

3. Produce all documents that relate or pertain to your answers to the above questions including, but not limited to, any requests for compensation or reimbursement, diaries, copies of canceled checks, check registers and solicitations.

25043624728



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MAY 17, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert A. Carrane
Robert A. Carrane & Associates
100 N. LaSalle, #600
Chicago, Illinois 60602

RE: MUR 3966
Robert A. Carrane

Dear Mr. Carrane:

On May 10, 1994, the Federal Election Commission found that there is reason to believe you knowingly and wilfully violated 2 U.S.C. §§ 441b and 441f, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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 30 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, 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 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.

25043624129

Robert A. Carrane
Page 2

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.

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.

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 investigation to be made public.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Craig D. Reffner, the attorney assigned to this matter, at (202) 219-3400.

For the Commission,


Trevor Potter
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form
Questions

25043624730

**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: Robert A. Carrane

RE: MUR 3966

Pursuant to Section 441f of the Federal Election Campaign Act of 1971, as amended (the "Act"), "[n]o person shall make a contribution in the name of another or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person." Under Section 441b of the Act, corporations are prohibited from making contributions or expenditures from their general treasury funds in connection with Federal elections. Furthermore, no officer or director of a corporation may consent to any contribution or expenditure by the corporation. 2 U.S.C. § 441b(a).

Based upon information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities, see 2 U.S.C. § 437g(a)(2), it appears that KMS Fusion, Inc. ("KMS"), reimbursed Robert A. Carrane for his contributions to the KMS Fusion, Inc., Political Action Fund ("KMS-SSF"). Indeed, an audit of KMS conducted by the Department of Defense shows that KMS increased its directors' salaries by \$250 at approximately the same time that various directors for KMS authorized a \$250 payroll deduction for the KMS-SSF. Disclosure materials filed with the Commission confirm that between 1988 and 1993 various individuals identified as

directors at KMS, including Mr. Carrane, regularly made \$250 contributions to KMS-SSF. Most recently, on July 14, 1993, three of these directors each contributed \$295 to the KMS-SSF.

Mr. Carrane's contributions thus appear suspect as having been reimbursed given that he made them in the same amounts, on the same dates and at a time when his compensation was increased by the amount he was regularly contributing. Furthermore, the Act prohibits any officer or director from consenting to a corporate contribution and it appears that Mr. Carrane, as a director, consented to his reimbursements by KMS.

Therefore, there is reason to believe that Robert A. Carrane knowingly and wilfully violated 2 U.S.C. § 441f, by permitting his name to be used to make a contribution in the name of another, and 2 U.S.C. § 441b, by consenting to contributions by a corporation.

2504362472

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
) MUR 3966
)

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Robert A. Carrane
Robert A. Carrane & Associates
100 N. LaSalle, #600
Chicago, Illinois 60602

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 30 days of receipt of this Order and Subpoena.

25043624133

MUR 3966
Robert A. Carrane
Page 2

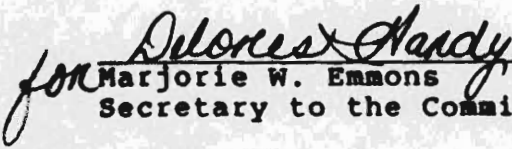
WHEREFORE, the Chairman of the Federal Election Commission
has hereunto set his hand in Washington, D.C. on this 17th
, day of May, 1994.

For the Commission,



Trevor Potter
Chairman

ATTEST:


for Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions and Request for Production of Documents
with Instructions and Definitions

25043624734

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.

"Compensation" shall mean money or any other item of value.

"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 request for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

25043624735

QUESTIONS AND REQUEST FOR PRODUCTION OF DOCUMENTS

QUESTIONS

1. Identify all contributions you made to the KMS Fusion, Inc., Political Action Fund., including the amount of each contribution and the date it was made. In addition, for each contribution, state:
- a. whether you made the contribution in response to a solicitation and, if so, describe the solicitation, including the identify of the persons who made the solicitation and all communications between you and the persons identified in your response concerning the solicitation; and
 - b. whether you received any compensation for the contribution and, if so, describe in detail how you were compensated, including the total amount you received, whether you requested the compensation, the identity of the persons who authorized the compensation and all communications between you and the persons identified in your response concerning such compensation.
2. Identify all contributions you made to any Federal candidates or Federal political committees (other than the KMS Fusion, Inc., Political Action Fund), including the amount of the contribution, the date it was made and the identity of the Federal candidate or Federal political committee who received the contribution. In addition, for each contribution, state:
- a. whether you made the contribution in response to a solicitation and, if so, describe the solicitation, including the identify of the persons who made the solicitation and all communications between you and the persons identified in your response concerning the solicitation; and
 - b. whether you received any compensation for the contribution and, if so, describe in detail how you were compensated, including the total amount you received, whether you requested the compensation, the identity of the persons who authorized the compensation and all communications between you and the persons identified in your response concerning the contribution.

25043624/36

MUR 3966
Robert A. Carrane
Page 4

3. Produce all documents that relate or pertain to your answers to the above questions including, but not limited to, any requests for compensation or reimbursement, diaries, copies of canceled checks, check registers and solicitations.

25043624137



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MAY 17, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Richard E. Fry
2101 Hill Street
Ann Arbor, Michigan 48104

RE: MUR 3966
Richard E. Fry

Dear Mr. Fry:

On May 10, 1994, the Federal Election Commission found that there is reason to believe you knowingly and wilfully violated 2 U.S.C. §§ 441b and 441f, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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 30 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, 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 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.

25043624738

Richard E. Fry
Page 2


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.

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.

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 investigation to be made public.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Craig D. Reffner, the attorney assigned to this matter, at (202) 219-3400.

For the Commission,


Trevor Potter
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form
Questions

25043624739

**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: Richard E. Fry

RE: MUR 3966

Pursuant to Section 441f of the Federal Election Campaign Act of 1971, as amended (the "Act"), "[n]o person shall make a contribution in the name of another or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person." Under Section 441b of the Act, corporations are prohibited from making contributions or expenditures from their general treasury funds in connection with Federal elections. Furthermore, no officer or director of a corporation may consent to any contribution or expenditure by the corporation. 2 U.S.C. § 441b(a).

Based upon information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities, see 2 U.S.C. § 437g(a)(2), it appears that KMS Fusion, Inc. ("KMS"), reimbursed Richard E. Fry for his contributions to the KMS Fusion, Inc., Political Action Fund ("KMS-SSF"). Indeed, an audit of KMS conducted by the Department of Defense shows that KMS increased its directors' salaries by \$250 at approximately the same time that various directors for KMS authorized a \$250 payroll deduction for the KMS-SSF. Disclosure materials filed with the Commission confirm that between 1988 and 1993 various individuals identified as

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directors at KMS, including Mr. Fry, regularly made \$250 contributions to KMS-SSF. Most recently, on July 14, 1993, three of these directors each contributed \$295 to the KMS-SSF. Mr. Fry's contributions thus appear suspect as having been reimbursed given that he made them in the same amounts, on the same dates and at a time when his compensation was increased by the amount he was regularly contributing. Furthermore, the Act prohibits any officer or director from consenting to a corporate contribution and it appears that Mr. Fry, as a director, consented to his reimbursements by KMS.

Therefore, there is reason to believe that Richard E. Fry knowingly and wilfully violated 2 U.S.C. § 441f, by permitting his name to be used to make a contribution in the name of another, and 2 U.S.C. § 441b, by consenting to contributions by a corporation.

2504362471

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
) MUR 3966
)

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Richard E. Fry
2101 Hill street
Ann Arbor, Michigan 48104

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 30 days of receipt of this Order and Subpoena.

25043624742

MUR 3966
Richard E. Fry
Page 2

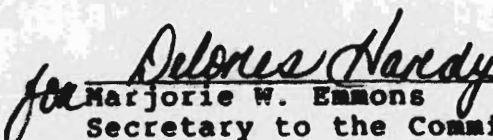
WHEREFORE, the Chairman of the Federal Election Commission
has hereunto set his hand in Washington, D.C. on this 17th
, day of May, 1994.

For the Commission,



Trevor Potter
Chairman

ATTEST:



Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions and Request for Production of Documents
with Instructions and Definitions

25043624743

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.

"Compensation" shall mean money or any other item of value.

"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 request for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

25043624744

QUESTIONS AND REQUEST FOR PRODUCTION OF DOCUMENTS

QUESTIONS

1. Identify all contributions you made to the KMS Fusion, Inc., Political Action Fund., including the amount of each contribution and the date it was made. In addition, for each contribution, state:
 - a. whether you made the contribution in response to a solicitation and, if so, describe the solicitation, including the identify of the persons who made the solicitation and all communications between you and the persons identified in your response concerning the solicitation; and
 - b. whether you received any compensation for the contribution and, if so, describe in detail how you were compensated, including the total amount you received, whether you requested the compensation, the identity of the persons who authorized the compensation and all communications between you and the persons identified in your response concerning such compensation.
2. Identify all contributions you made to any Federal candidates or Federal political committees (other than the KMS Fusion, Inc., Political Action Fund), including the amount of the contribution, the date it was made and the identity of the Federal candidate or Federal political committee who received the contribution. In addition, for each contribution, state:
 - a. whether you made the contribution in response to a solicitation and, if so, describe the solicitation, including the identify of the persons who made the solicitation and all communications between you and the persons identified in your response concerning the solicitation; and
 - b. whether you received any compensation for the contribution and, if so, describe in detail how you were compensated, including the total amount you received, whether you requested the compensation, the identity of the persons who authorized the compensation and all communications between you and the persons identified in your response concerning the contribution.

25043624745

MUR 3966
Richard E. Fry
Page 4

3. Produce all documents that relate or pertain to your answers to the above questions including, but not limited to, any requests for compensation or reimbursement, diaries, copies of canceled checks, check registers and solicitations.

25043624716



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MAY 17, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Patrick B. Long, Chairman and
Chief Executive Officer
KMS Fusion, Inc.
and
Terence G. Liddy, Treasurer
KMS Fusion, Inc., Political Action fund

101 N. Main Street, Suite 410
Ann Arbor, Michigan 48106

RE: MUR 3966
KMS Fusion, Inc.
KMS Fusion, Inc., Political Action fund
and Terence G. Liddy, as treasurer

Dear Messrs. Long and Liddy:

On May 10, 1994, the Federal Election Commission found that there is reason to believe KMS Fusion, Inc., knowingly and wilfully violated 2 U.S.C. §§ 441b, 441f and 441c, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). By the same date, the Commission also found reason to believe that the KMS Fusion, Inc., Political Action Fund and Terence G. Liddy, as treasurer, knowingly and wilfully violated 2 U.S.C. §§ 441b and 441f. The Factual and Legal Analysis, which formed a basis for the Commission's findings, is attached for your information.

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 30 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, 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

25043624717

Patrick B. Long, Chairman and
Chief Executive Officer
KMS Fusion, Inc.
and
Terence G. Liddy, Treasurer
KMS Fusion, Inc., Political Action fund
Page 2

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.

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.

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 investigation to be made public.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Craig D. Reffner, the attorney assigned to this matter, at (202) 219-3400.

For the Commission,


Trevor Potter
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form
Questions

25943624748

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: KMS Fusion, Inc.
KMS Fusion, Inc.,
Political Action Fund and
Terence C. Liddy, as treasurer

RE: MUR 3966

Pursuant to Section 441f of the Federal Election Campaign Act of 1971, as amended (the "Act"), "[n]o person shall make a contribution in the name of another or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person." Under Section 441b of the Act, corporations are prohibited from making contributions or expenditures from their general treasury funds in connection with Federal elections.

The Act also prohibits any person who enters into a contract with the United States or any department or agency thereof from making any contribution of money or other things of value, or to promise expressly or impliedly to make any such contribution to any political party, committee, or candidate for public office or to any person for any political purpose or use; or knowingly to solicit any such contribution from any person for any such person for any such purpose during any such period. 2 U.S.C. § 441c. This prohibition applies to any contract for either the rendition of personal services or the furnishing of any material, supplies, or equipment to the United States or any department or agency thereof or for the selling of any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material,

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supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress. In addition, this prohibition applies at any time between the commencement of negotiations for and the later of (A) the completion of performance under; or (B) the termination of negotiations for such contract or furnishings of material, supplies, equipment, land, or buildings.

Based upon information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities, see 2 U.S.C. § 437g(a)(2), it appears that KMS Fusion, Inc. ("KMS") reimbursed various directors for their \$250 contributions to the KMS Fusion, Inc., Political Action Fund ("KMS-SSF"). A Department of Defense Audit of KMS shows that KMS increased its directors' salaries by \$250 at approximately the same time that various KMS directors authorized a \$250 deduction from their paychecks for the KMS-SSF. Disclosure materials filed with the Commission show that between 1988 and 1993, ten individuals identified as directors at KMS regularly made \$250 contributions to KMS-SSF. Most recently, on July 14, 1993, three of these directors each contributed \$295 to the KMS-SSF. In all, these contributions, which were often made on the same dates on what appears to be a quarterly basis, total \$28,885. In short, the directors' contributions to KMS-SSF appear suspect given that the directors made them in the same amounts, on the same dates and at a time when their compensation was increased

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by the amount they were regularly contributing. Furthermore, these contributions were apparently reimbursed at a time when KMS held a contract with the United States government.

Therefore, there is reason to believe that KMS Fusion, Inc., knowingly and wilfully violated 2 U.S.C. §§ 441b, 441c and 441f.

With regard to KMS-SSF, the Act prohibits any person, including a political committee, from accepting a contribution made in the name of another. In the matter at hand, the available information shows that Terence C. Liddy, one of the directors who began contributing to KMS-SSF in 1989, now serves as the treasurer of KMS-SSF. In this regard, Mr. Liddy may have been acutely aware that KMS was reimbursing its directors for their contributions to the KMS-SSF.

Therefore, there is reason to believe that the KMS Fusion, Inc., Political Action Fund and Terence C. Liddy, as treasurer, knowingly and wilfully violated 2 U.S.C. §§ 441b and 441f.

25043624751

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
) MUR 3966
)

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: KMS Fusion, Inc.
KMS Fusion, Inc., Political Action Fund and
Terence G. Liddy, as treasurer
101 N. Main Street, Suite 410
Ann Arbor, Michigan 48106

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 30 days of receipt of this Order and Subpoena.

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MUR 3966

KMS Fusion, Inc.

KMS Fusion, Inc., Political Action Fund and

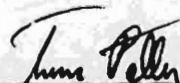
Terence G. Liddy, as treasurer

Page 2

WHEREFORE, the Chairman of the Federal Election Commission
has hereunto set his hand in Washington, D.C. on this

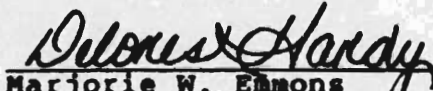
1th, day of May, 1994.

For the Commission,



Trevor Potter
Chairman

ATTEST:



for Marjorie W. Emmons
Secretary to the Commission

Attachments

Questions and Request for Production of Documents
with Instructions and Definitions

25043624753

25043624734
MUR 3966

KMS Fusion, Inc.

KMS Fusion, Inc., Political Action Fund and

Terence G. Liddy, as treasurer

Page 2

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.

"Compensation" shall mean money or any other item of value.

"Director" shall mean one of a group of persons chosen to control or govern the affairs of KMS Fusion, Inc., or one who is identified by such a title.

"KMS Fusion, Inc." shall mean the incorporated entity and its affiliates, subsidiaries, divisions, branches wherever they are located and the officers, directors, agents and employees of all such entities.

"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.

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MUR 3966

KMS Fusion, Inc.

KMS Fusion, Inc., Political Action Fund and

Terence G. Liddy, as treasurer

Page 3

"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 request for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

QUESTIONS AND REQUEST FOR PRODUCTION OF DOCUMENTS

1. Identify all directors for KMS Fusion, Inc., since January 1, 1988. For each person identified in your response:
 - a. state the dates that person was a director;
 - b. state whether that person is or was also an employee of KMS, Fusion, Inc., and, if so, the dates of that person's employment;
 - c. state the total amount of compensation that person received as a director from KMS Fusion, Inc.; and
 - d. describe in detail the basis for determining the amount of compensation provided to directors.
2.
 - a. Describe in detail the purpose of the "increase [in] the rate of Director Compensation" as evidenced in the document attached to this Subpoena, including the identity of the persons who received the increase and the persons who authorized the increase.
 - b. Identify any other increases in the rate of Director Compensation. Describe in detail the purpose for each such increase, including the amount and date of the increase and the identify the persons who received the increase and the persons who authorized the increase.

MUR 3966

KMS Fusion, Inc.

KMS Fusion, Inc., Political Action Fund and

Terence G. Liddy, as treasurer

Page 4

3. Identify all contributors whom KMS Fusion, Inc., reimbursed or in any way compensated for making contributions to either the KMS Fusion, Inc., Political Action Fund, any Federal candidates or other Federal political committees. For each such contributor:
 - a. identify the Federal political committee or Federal candidate who received the contribution;
 - b. state the amount of the contribution and the date that the contribution was made; and
 - c. describe in detail how KMS Fusion, Inc., reimbursed or otherwise compensated the contributor, including the date the contributor was reimbursed, the amount of the reimbursement and whether the director or employee requested to be reimbursed or otherwise compensated for making a contribution.
4. Identify all persons whom KMS Fusion, Inc., solicited to make contributions to Federal candidates or Federal political committees (other than the KMS Fusion, Inc., Political Action Fund). For each person identified in response to this question, describe each solicitation made, including the date of each solicitation, the identity of the persons who made each solicitation, and the identity of the Federal candidate or Federal political committee whom the solicitation was made on behalf of.
5. Identify all contracts that KMS Fusion, Inc., has entered into with the United States or any department of agency thereof. For each contract identified in your response, describe the nature or purpose of the contract, including the dates when the contract was in effect, the dates when KMS Fusion received compensation under the contract, the amount of compensation received and whether the contract provided for the rendition of personal services or the furnishing of any materials, supplies, equipment, land or building.
6. Produce all documents that relate or pertain to your answers to the above questions including, but not limited to, contracts, canceled checks, check registers, any requests for compensation or reimbursement, solicitations, minutes from the Board of Directors' Meetings and any Board of Directors' Resolutions.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MAY 17, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Patrick B. Long
2107 Hill Street
Ann Arbor, Michigan 48104

RE: MUR 3966
Patrick B. Long

Dear Mr. Long:

On May 10, 1994, the Federal Election Commission found that there is reason to believe you knowingly and wilfully violated 2 U.S.C. §§ 441b and 441f, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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 30 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, 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 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.

25043624757

Patrick B. Long
Page 2

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.

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.

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 investigation to be made public.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Craig D. Reffner, the attorney assigned to this matter, at (202) 219-3400.

For the Commission,


Trevor Potter
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form
Questions

25043624758

**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: Patrick B. Long

RE: MUR 3966

Pursuant to Section 441f of the Federal Election Campaign Act of 1971, as amended (the "Act"), "[n]o person shall make a contribution in the name of another or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person." Under Section 441b of the Act, corporations are prohibited from making contributions or expenditures from their general treasury funds in connection with Federal elections. Furthermore, no officer or director of a corporation may consent to any contribution or expenditure by the corporation. 2 U.S.C. § 441b(a).

Based upon information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities, see 2 U.S.C. § 437g(a)(2), it appears that KMS Fusion, Inc. ("KMS"), reimbursed Patrick B. Long for his contributions to the KMS Fusion, Inc., Political Action Fund ("KMS-SSF"). Indeed, an audit of KMS conducted by the Department of Defense shows that KMS increased its directors' salaries by \$250 at approximately the same time that various directors for KMS authorized a \$250 payroll deduction for the KMS-SSF. Disclosure materials filed with the Commission confirm that between 1988 and 1993 various individuals identified as

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directors at KMS, including Mr. Long, regularly made \$250 contributions to KMS-SSF. Most recently, on July 14, 1993, three of these directors each contributed \$295 to the KMS-SSF.

Mr. Long's contributions thus appear suspect as having been reimbursed given that he made them in the same amounts, on the same dates and at a time when his compensation was increased by the amount he was regularly contributing. Furthermore, the Act prohibits any officer or director from consenting to a corporate contribution and it appears that Mr. Long, as a director, consented to his reimbursements by KMS.

Therefore, there is reason to believe that Patrick B. Long knowingly and wilfully violated 2 U.S.C. § 441f, by permitting his name to be used to make a contribution in the name of another, and 2 U.S.C. § 441b, by consenting to contributions by a corporation.

25043624130

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
) MUR 3966
)

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Patrick B. Long
2107 Hill Street
Ann Arbor, Michigan 48104

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.

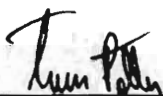
Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 30 days of receipt of this Order and Subpoena.

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MUR 3966
Patrick B. Long
Page 2

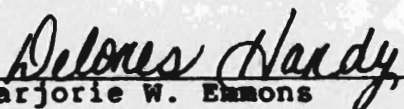
WHEREFORE, the Chairman of the Federal Election Commission
has hereunto set his hand in Washington, D.C. on this 17th
, day of May, 1994.

For the Commission,



Trevor Potter
Chairman

ATTEST:

for 

Marjorie W. Emmons
Secretary to the Commission

Attachment

Questions and Request for Production of Documents
with Instructions and Definitions

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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.

"Compensation" shall mean money or any other item of value.

"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 request for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

QUESTIONS AND REQUEST FOR PRODUCTION OF DOCUMENTS

QUESTIONS

1. Identify all contributions you made to the KMS Fusion, Inc., Political Action Fund., including the amount of each contribution and the date it was made. In addition, for each contribution, state:
 - a. whether you made the contribution in response to a solicitation and, if so, describe the solicitation, including the identify of the persons who made the solicitation and all communications between you and the persons identified in your response concerning the solicitation; and
 - b. whether you received any compensation for the contribution and, if so, describe in detail how you were compensated, including the total amount you received, whether you requested the compensation, the identity of the persons who authorized the compensation and all communications between you and the persons identified in your response concerning such compensation.
2. Identify all contributions you made to any Federal candidates or Federal political committees (other than the KMS Fusion, Inc., Political Action Fund), including the amount of the contribution, the date it was made and the identity of the Federal candidate or Federal political committee who received the contribution. In addition, for each contribution, state:
 - a. whether you made the contribution in response to a solicitation and, if so, describe the solicitation, including the identify of the persons who made the solicitation and all communications between you and the persons identified in your response concerning the solicitation; and
 - b. whether you received any compensation for the contribution and, if so, describe in detail how you were compensated, including the total amount you received, whether you requested the compensation, the identity of the persons who authorized the compensation and all communications between you and the persons identified in your response concerning the contribution.

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MUR 3966
Patrick B. Long
Page 4

3. Produce all documents that relate or pertain to your answers to the above questions including, but not limited to, any requests for compensation or reimbursement, diaries, copies of canceled checks, check registers and solicitations.

25043624765



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MAY 17, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Donald L. Musinski
1135 Jeffrey
Saline, Michigan 48178

RE: MUR 3966
Donald L. Musinski

Dear Mr. Musinski:

On May 10, 1994, the Federal Election Commission found that there is reason to believe you knowingly and wilfully violated 2 U.S.C. §§ 441b and 441f, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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 30 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, 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 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.

Donald L. Musinski
Page 2

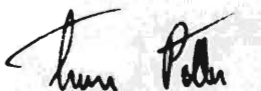
Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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.

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 investigation to be made public.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Craig D. Reffner, the attorney assigned to this matter, at (202) 219-3400.

For the Commission,


Trevor Potter
Chairman

Enclosures

Factual and Legal Analysis
Procedures
Designation of Counsel Form
Questions

25043624767

FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Donald L. Musinski

RE: MUR 3966

Pursuant to Section 441f of the Federal Election Campaign Act of 1971, as amended (the "Act"), "[n]o person shall make a contribution in the name of another or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person." Under Section 441b of the Act, corporations are prohibited from making contributions or expenditures from their general treasury funds in connection with Federal elections. Furthermore, no officer or director of a corporation may consent to any contribution or expenditure by the corporation. 2 U.S.C. § 441b(a).

Based upon information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities, see 2 U.S.C. § 437g(a)(2), it appears that KMS Fusion, Inc. ("KMS"), reimbursed Donald L. Musinski for his contributions to the KMS Fusion, Inc., Political Action Fund ("KMS-SSF"). Indeed, an audit of KMS conducted by the Department of Defense shows that KMS increased its directors' salaries by \$250 at approximately the same time that various directors for KMS authorized a \$250 payroll deduction for the KMS-SSF. Disclosure materials filed with the Commission confirm that between 1988 and 1993 various individuals identified as

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directors at KMS, including Mr. Musinski, regularly made \$250 contributions to KMS-SSF. Most recently, on July 14, 1993, three of these directors each contributed \$295 to the KMS-SSF.

Mr. Musinski's contributions thus appear suspect as having been reimbursed given that he made them in the same amounts, on the same dates and at a time when his compensation was increased by the amount he was regularly contributing. Furthermore, the Act prohibits any officer or director from consenting to a corporate contribution and it appears that Mr. Musinski, as a director, consented to his reimbursements by KMS.

Therefore, there is reason to believe that Donald L. Musinski knowingly and wilfully violated 2 U.S.C. § 441f, by permitting his name to be used to make a contribution in the name of another, and 2 U.S.C. § 441b, by consenting to contributions by a corporation.

25043624769

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
) MUR 3966
)

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Donald L. Musinski
1135 Jeffrey
Saline, Michigan 48178

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.

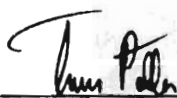
Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 30 days of receipt of this Order and Subpoena.

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MUR 3966
Donald L. Musinski
Page 2

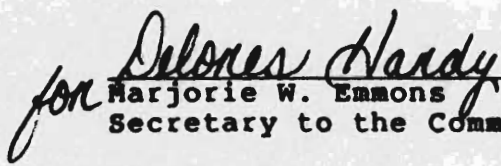
WHEREFORE, the Chairman of the Federal Election Commission
has hereunto set his hand in Washington, D.C. on this 17th
, day of May, 1994.

For the Commission,



Trevor Potter
Chairman

ATTEST:



Marjorie W. Emmons
Secretary to the Commission

Attachment

Questions and Request for Production of Documents
with Instructions and Definitions

25043624711

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.

"Compensation" shall mean money or any other item of value.

"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 request for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

25043624712

QUESTIONS AND REQUEST FOR PRODUCTION OF DOCUMENTS

QUESTIONS

1. Identify all contributions you made to the KMS Fusion, Inc., Political Action Fund., including the amount of each contribution and the date it was made. In addition, for each contribution, state:
 - a. whether you made the contribution in response to a solicitation and, if so, describe the solicitation, including the identify of the persons who made the solicitation and all communications between you and the persons identified in your response concerning the solicitation; and
 - b. whether you received any compensation for the contribution and, if so, describe in detail how you were compensated, including the total amount you received, whether you requested the compensation, the identity of the persons who authorized the compensation and all communications between you and the persons identified in your response concerning such compensation.
2. Identify all contributions you made to any Federal candidates or Federal political committees (other than the KMS Fusion, Inc., Political Action Fund), including the amount of the contribution, the date it was made and the identity of the Federal candidate or Federal political committee who received the contribution. In addition, for each contribution, state:
 - a. whether you made the contribution in response to a solicitation and, if so, describe the solicitation, including the identify of the persons who made the solicitation and all communications between you and the persons identified in your response concerning the solicitation; and
 - b. whether you received any compensation for the contribution and, if so, describe in detail how you were compensated, including the total amount you received, whether you requested the compensation, the identity of the persons who authorized the compensation and all communications between you and the persons identified in your response concerning the contribution.

05043624773

MUR 3966
Donald L. Musinski
Page 4

3. Produce all documents that relate or pertain to your answers to the above questions including, but not limited to, any requests for compensation or reimbursement, diaries, copies of canceled checks, check registers and solicitations.

2504362474



FEDERAL ELECTION COMMISSION

WASHINGTON D.C. 20463

MAY 17, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Terence C. Liddy
3546 River Pine Drive
Ann Arbor, Michigan 48103

RE: MUR 3966
Terence C. Liddy

Dear Mr. Liddy:

On May 10, 1994, the Federal Election Commission found that there is reason to believe you knowingly and wilfully violated 2 U.S.C. §§ 441b and 441f, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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 30 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, 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 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.

2504362475

Terence C. Liddy
Page 2

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.

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.

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 investigation to be made public.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Craig D. Reffner, the attorney assigned to this matter, at (202) 219-3400.

For the Commission,



Trevor Potter
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form
Questions

25043624716

**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: Terence C. Liddy

RE: MUR 3966

Pursuant to Section 441f of the Federal Election Campaign Act of 1971, as amended (the "Act"), "[n]o person shall make a contribution in the name of another or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person." Under Section 441b of the Act, corporations are prohibited from making contributions or expenditures from their general treasury funds in connection with Federal elections. Furthermore, no officer or director of a corporation may consent to any contribution or expenditure by the corporation. 2 U.S.C. § 441b(a).

Based upon information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities, see 2 U.S.C. § 437g(a)(2), it appears that KMS Fusion, Inc. ("KMS"), reimbursed Terence C. Liddy for his contributions to the KMS Fusion, Inc., Political Action Fund ("KMS-SSF"). Indeed, an audit of KMS conducted by the Department of Defense shows that KMS increased its directors' salaries by \$250 at approximately the same time that various directors for KMS authorized a \$250 payroll deduction for the KMS-SSF. Disclosure materials filed with the Commission confirm that between 1988 and 1993 various individuals identified as

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directors at KMS, including Mr. Liddy, regularly made \$250 contributions to KMS-SSF. Most recently, on July 14, 1993, three of these directors each contributed \$295 to the KMS-SSF. Mr. Liddy's contributions thus appear suspect as having been reimbursed given that he made them in the same amounts, on the same dates and at a time when his compensation was increased by the amount he was regularly contributing. Furthermore, the Act prohibits any officer or director from consenting to a corporate contribution and it appears that Mr. Liddy, as a director, consented to his reimbursements by KMS.

Therefore, there is reason to believe that Terence C. Liddy knowingly and wilfully violated 2 U.S.C. § 441f, by permitting his name to be used to make a contribution in the name of another, and 2 U.S.C. § 441b, by consenting to contributions by a corporation.

2504362478

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
) MUR 3966
)

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Terence C. Liddy
3546 River Pine Drive
Ann Arbor, Michigan 48103

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 30 days of receipt of this Order and Subpoena.

25043624719

MUR 3966
Terence C. Liddy
Page 2

WHEREFORE, the Chairman of the Federal Election Commission
has hereunto set his hand in Washington, D.C. on this 17th
, day of May, 1994.

For the Commission,



Trevor Potter
Chairman

ATTEST:

for Delores Hardy
Marjorie W. Emmons
Secretary to the Commission

Attachment

Questions and Request for Production of Documents
with Instructions and Definitions

05043624730

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.

"Compensation" shall mean money or any other item of value.

"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 request for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

25043624731

QUESTIONS AND REQUEST FOR PRODUCTION OF DOCUMENTS

QUESTIONS

1. Identify all contributions you made to the KMS Fusion, Inc., Political Action Fund., including the amount of each contribution and the date it was made. In addition, for each contribution, state:
 - a. whether you made the contribution in response to a solicitation and, if so, describe the solicitation, including the identify of the persons who made the solicitation and all communications between you and the persons identified in your response concerning the solicitation; and
 - b. whether you received any compensation for the contribution and, if so, describe in detail how you were compensated, including the total amount you received, whether you requested the compensation, the identity of the persons who authorized the compensation and all communications between you and the persons identified in your response concerning such compensation.
2. Identify all contributions you made to any Federal candidates or Federal political committees (other than the KMS Fusion, Inc., Political Action Fund), including the amount of the contribution, the date it was made and the identity of the Federal candidate or Federal political committee who received the contribution. In addition, for each contribution, state:
 - a. whether you made the contribution in response to a solicitation and, if so, describe the solicitation, including the identify of the persons who made the solicitation and all communications between you and the persons identified in your response concerning the solicitation; and
 - b. whether you received any compensation for the contribution and, if so, describe in detail how you were compensated, including the total amount you received, whether you requested the compensation, the identity of the persons who authorized the compensation and all communications between you and the persons identified in your response concerning the contribution.

25043624732

MUR 3966
Terence C. Liddy
Page 4

3. Produce all documents that relate or pertain to your answers to the above questions including, but not limited to, any requests for compensation or reimbursement, diaries, copies of canceled checks, check registers and solicitations.

25043624733



FEDERAL ELECTION COMMISSION

WASHINGTON D.C. 20463

MAY 17, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Thomas P. Stafford
1006 N. Royal Street
Alexandria, Virginia 22314

RE: MUR 3966
Thomas P. Stafford

Dear Mr. Stafford:

On May 10, 1994, the Federal Election Commission found that there is reason to believe you knowingly and wilfully violated 2 U.S.C. §§ 441b and 441f, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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 30 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, 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 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.

25043624734

Thomas P. Stafford
Page 2

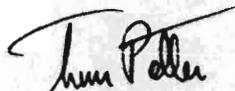
Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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.

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 investigation to be made public.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Craig D. Reffner, the attorney assigned to this matter, at (202) 219-3400.

For the Commission,



Trevor Potter
Chairman

Enclosures

Factual and Legal Analysis
Procedures
Designation of Counsel Form
Questions

25043624735

**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: Thomas P. Stafford

RE: MUR 3966

Pursuant to Section 441f of the Federal Election Campaign Act of 1971, as amended (the "Act"), "[n]o person shall make a contribution in the name of another or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person." Under Section 441b of the Act, corporations are prohibited from making contributions or expenditures from their general treasury funds in connection with Federal elections. Furthermore, no officer or director of a corporation may consent to any contribution or expenditure by the corporation. 2 U.S.C. § 441b(a).

Based upon information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities, see 2 U.S.C. § 437g(a)(2), it appears that KMS Fusion, Inc. ("KMS"), reimbursed Thomas P. Stafford for his contributions to the KMS Fusion, Inc., Political Action Fund ("KMS-SSF"). Indeed, an audit of KMS conducted by the Department of Defense shows that KMS increased its directors' salaries by \$250 at approximately the same time that various directors for KMS authorized a \$250 payroll deduction for the KMS-SSF. Disclosure materials filed with the Commission confirm that between 1988 and 1993 various individuals identified as

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directors at KMS, including Mr. Stafford, regularly made \$250 contributions to KMS-SSF. Most recently, on July 14, 1993, three of these directors each contributed \$295 to the KMS-SSF.

Mr. Stafford's contributions thus appear suspect as having been reimbursed given that he made them in the same amounts, on the same dates and at a time when his compensation was increased by the amount he was regularly contributing. Furthermore, the Act prohibits any officer or director from consenting to a corporate contribution and it appears that Mr. Stafford, as a director, consented to his reimbursements by KMS.

Therefore, there is reason to believe that Thomas P. Stafford knowingly and wilfully violated 2 U.S.C. § 441f, by permitting his name to be used to make a contribution in the name of another, and 2 U.S.C. § 441b, by consenting to contributions by a corporation.

25043624737

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
) MUR 3966
)

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Thomas P. Stafford
1006 N. Royal Street
Alexandria, Virginia 22314

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 30 days of receipt of this Order and Subpoena.

25043624738

MUR 3966
Thomas P. Stafford
Page 2

WHEREFORE, the Chairman of the Federal Election Commission
has hereunto set his hand in Washington, D.C. on this 17th
, day of May, 1994.

For the Commission,



Trevor Potter
Chairman

ATTEST:

for Delores Hardy
Marjorie W. Emmons
Secretary to the Commission

Attachment

Questions and Request for Production of Documents
with Instructions and Definitions

25043624139

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.

"Compensation" shall mean money or any other item of value.

"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 request for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

25043624790

QUESTIONS AND REQUEST FOR PRODUCTION OF DOCUMENTS

QUESTIONS

1. Identify all contributions you made to the KMS Fusion, Inc., Political Action Fund., including the amount of each contribution and the date it was made. In addition, for each contribution, state:
 - a. whether you made the contribution in response to a solicitation and, if so, describe the solicitation, including the identify of the persons who made the solicitation and all communications between you and the persons identified in your response concerning the solicitation; and
 - b. whether you received any compensation for the contribution and, if so, describe in detail how you were compensated, including the total amount you received, whether you requested the compensation, the identity of the persons who authorized the compensation and all communications between you and the persons identified in your response concerning such compensation.
2. Identify all contributions you made to any Federal candidates or Federal political committees (other than the KMS Fusion, Inc., Political Action Fund), including the amount of the contribution, the date it was made and the identity of the Federal candidate or Federal political committee who received the contribution. In addition, for each contribution, state:
 - a. whether you made the contribution in response to a solicitation and, if so, describe the solicitation, including the identify of the persons who made the solicitation and all communications between you and the persons identified in your response concerning the solicitation; and
 - b. whether you received any compensation for the contribution and, if so, describe in detail how you were compensated, including the total amount you received, whether you requested the compensation, the identity of the persons who authorized the compensation and all communications between you and the persons identified in your response concerning the contribution.

25043624791

MUR 3966
Thomas P. Stafford
Page 4

3. Produce all documents that relate or pertain to your answers to the above questions including, but not limited to, any requests for compensation or reimbursement, diaries, copies of canceled checks, check registers and solicitations.

25043624792



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MAY 17, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James C. Bard
2191 Club House Drive
Prescott, Arizona 86301

RE: MUR 3966
James C. Bard

Dear Mr. Bard:

On May 10, 1994, the Federal Election Commission found that there is reason to believe you knowingly and wilfully violated 2 U.S.C. §§ 441b and 441f, provisions of the Federal Election Campaign Act of 1971, as amended (the "Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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 30 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, 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 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.

25043624793

James C. Bard
Page 2

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.

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.

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 investigation to be made public.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Craig D. Reffner, the attorney assigned to this matter, at (202) 219-3400.

For the Commission,



Trevor Potter
Chairman

Enclosures

Factual and Legal Analysis
Procedures
Designation of Counsel Form
Questions

25043624794

**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: James C. Bard

RE: MUR 3966

Pursuant to Section 441f of the Federal Election Campaign Act of 1971, as amended (the "Act"), "[n]o person shall make a contribution in the name of another or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person." Under Section 441b of the Act, corporations are prohibited from making contributions or expenditures from their general treasury funds in connection with Federal elections. Furthermore, no officer or director of a corporation may consent to any contribution or expenditure by the corporation. 2 U.S.C. § 441b(a).

Based upon information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities, see 2 U.S.C. § 437g(a)(2), it appears that KMS Fusion, Inc. ("KMS"), reimbursed James C. Bard for his contributions to the KMS Fusion, Inc., Political Action Fund ("KMS-SSF"). Indeed, an audit of KMS conducted by the Department of Defense shows that KMS increased its directors' salaries by \$250 at approximately the same time that various directors for KMS authorized a \$250 payroll deduction for the KMS-SSF. Disclosure materials filed with the Commission confirm that between 1988 and 1993 various individuals identified as

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directors at KMS, including Mr. Bard, regularly made \$250 contributions to KMS-SSF. Most recently, on July 14, 1993, three of these directors each contributed \$295 to the KMS-SSF. Mr. Bard's contributions thus appear suspect as having been reimbursed given that he made them in the same amounts, on the same dates and at a time when his compensation was increased by the amount he was regularly contributing. Furthermore, the Act prohibits any officer or director from consenting to a corporate contribution and it appears that Mr. Bard, as a director, consented to his reimbursements by KMS.

Therefore, there is reason to believe that James C. Bard knowingly and wilfully violated 2 U.S.C. § 441f, by permitting his name to be used to make a contribution in the name of another, and 2 U.S.C. § 441b, by consenting to contributions by a corporation.

25043624196

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
) MUR 3966
)

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: James C. Bard
2191 Club House Drive
Prescott, Arizona 86301

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 30 days of receipt of this Order and Subpoena.

25043624797

MUR 3966
James C. Bard
Page 2

WHEREFORE, the Chairman of the Federal Election Commission
has hereunto set his hand in Washington, D.C. on this *MTB*
, day of *May*, 1994.

For the Commission,

Trevor Potter

Trevor Potter
Chairman

ATTEST:

for Delores Hardy

Marjorie W. Emmons
Secretary to the Commission

Attachment

Questions and Request for Production of Documents
with Instructions and Definitions

25043624798

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.

"Compensation" shall mean money or any other item of value.

"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 request for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

25043624799

QUESTIONS AND REQUEST FOR PRODUCTION OF DOCUMENTS

QUESTIONS

1. Identify all contributions you made to the KMS Fusion, Inc., Political Action Fund., including the amount of each contribution and the date it was made. In addition, for each contribution, state:
 - a. whether you made the contribution in response to a solicitation and, if so, describe the solicitation, including the identify of the persons who made the solicitation and all communications between you and the persons identified in your response concerning the solicitation; and
 - b. whether you received any compensation for the contribution and, if so, describe in detail how you were compensated, including the total amount you received, whether you requested the compensation, the identity of the persons who authorized the compensation and all communications between you and the persons identified in your response concerning such compensation.
2. Identify all contributions you made to any Federal candidates or Federal political committees (other than the KMS Fusion, Inc., Political Action Fund), including the amount of the contribution, the date it was made and the identity of the Federal candidate or Federal political committee who received the contribution. In addition, for each contribution, state:
 - a. whether you made the contribution in response to a solicitation and, if so, describe the solicitation, including the identify of the persons who made the solicitation and all communications between you and the persons identified in your response concerning the solicitation; and
 - b. whether you received any compensation for the contribution and, if so, describe in detail how you were compensated, including the total amount you received, whether you requested the compensation, the identity of the persons who authorized the compensation and all communications between you and the persons identified in your response concerning the contribution.

25043624300

MUR 3966
James C. Bard
Page 4

3. Produce all documents that relate or pertain to your answers to the above questions including, but not limited to, any requests for compensation or reimbursement, diaries, copies of canceled checks, check registers and solicitations.

25043624801



FEDERAL ELECTION COMMISSION
WASHINGTON DC 20461

MAY 17, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Raymond L. Holcomb
1460 Pear
Ann Arbor, Michigan 48105

RE: MUR 3966
Raymond L. Holcomb

Dear Mr. Holcomb:

On May 10, 1994, the Federal Election Commission found that there is reason to believe you knowingly and wilfully violated 2 U.S.C. §§ 441b and 441f, provisions of the Federal Election Campaign Act of 1971, as amended (the "Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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 30 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, 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 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.

25043624302

Raymond L. Holcomb
Page 2

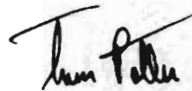
Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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.

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 investigation to be made public.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Craig D. Reffner, the attorney assigned to this matter, at (202) 219-3400.

For the Commission,



Trevor Potter
Chairman

Enclosures

Factual and Legal Analysis
Procedures
Designation of Counsel Form
Questions

5043624303

FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Raymond L. Holcomb

RE: MUR 3966

Pursuant to Section 441f of the Federal Election Campaign Act of 1971, as amended (the "Act"), "[n]o person shall make a contribution in the name of another or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person." Under Section 441b of the Act, corporations are prohibited from making contributions or expenditures from their general treasury funds in connection with Federal elections. Furthermore, no officer or director of a corporation may consent to any contribution or expenditure by the corporation. 2 U.S.C. § 441b(a).

Based upon information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities, see 2 U.S.C. § 437g(a)(2), it appears that KMS Fusion, Inc. ("KMS"), reimbursed Raymond L. Holcomb for his contributions to the KMS Fusion, Inc., Political Action Fund ("KMS-SSF"). Indeed, an audit of KMS conducted by the Department of Defense shows that KMS increased its directors' salaries by \$250 at approximately the same time that various directors for KMS authorized a \$250 payroll deduction for the KMS-SSF. Disclosure materials filed with the Commission confirm that between 1988 and 1993 various individuals identified as

25043624904

directors at KMS, including Mr. Holcomb, regularly made \$250 contributions to KMS-SSF. Most recently, on July 14, 1993, three of these directors each contributed \$295 to the KMS-SSF.

Mr. Holcomb's contributions thus appear suspect as having been reimbursed given that he made them in the same amounts, on the same dates and at a time when his compensation was increased by the amount he was regularly contributing. Furthermore, the Act prohibits any officer or director from consenting to a corporate contribution and it appears that Mr. Holcomb, as a director, consented to his reimbursements by KMS.

Therefore, there is reason to believe that Raymond L. Holcomb knowingly and wilfully violated 2 U.S.C. § 441f, by permitting his name to be used to make a contribution in the name of another, and 2 U.S.C. § 441b, by consenting to contributions by a corporation.

2504362405

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
) MUR 3966
)

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Raymond L. Holcomb
1460 Pear
Ann Arbor, Michigan 48105

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.

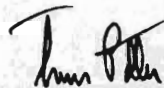
Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 30 days of receipt of this Order and Subpoena.

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MUR 3966
Raymond L. Holcomb
Page 2

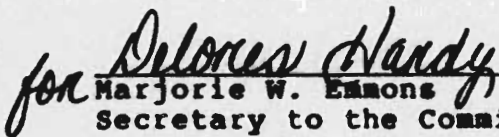
WHEREFORE, the Chairman of the Federal Election Commission
has hereunto set his hand in Washington, D.C. on this *17th*
, day of *May*, 1994.

For the Commission,



Trevor Potter
Chairman

ATTEST:



Marjorie W. Emons
Secretary to the Commission

Attachment

Questions and Request for Production of Documents
with Instructions and Definitions

25043624807

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.

"Compensation" shall mean money or any other item of value.

"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 request for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

25043624808

QUESTIONS AND REQUEST FOR PRODUCTION OF DOCUMENTS

QUESTIONS

1. Identify all contributions you made to the KMS Fusion, Inc., Political Action Fund., including the amount of each contribution and the date it was made. In addition, for each contribution, state:
 - a. whether you made the contribution in response to a solicitation and, if so, describe the solicitation, including the identify of the persons who made the solicitation and all communications between you and the persons identified in your response concerning the solicitation; and
 - b. whether you received any compensation for the contribution and, if so, describe in detail how you were compensated, including the total amount you received, whether you requested the compensation, the identity of the persons who authorized the compensation and all communications between you and the persons identified in your response concerning such compensation.
2. Identify all contributions you made to any Federal candidates or Federal political committees (other than the KMS Fusion, Inc., Political Action Fund), including the amount of the contribution, the date it was made and the identity of the Federal candidate or Federal political committee who received the contribution. In addition, for each contribution, state:
 - a. whether you made the contribution in response to a solicitation and, if so, describe the solicitation, including the identify of the persons who made the solicitation and all communications between you and the persons identified in your response concerning the solicitation; and
 - b. whether you received any compensation for the contribution and, if so, describe in detail how you were compensated, including the total amount you received, whether you requested the compensation, the identity of the persons who authorized the compensation and all communications between you and the persons identified in your response concerning the contribution.

25043624809

MUR 3966
Raymond L. Holcomb
Page 4

3. Produce all documents that relate or pertain to your answers to the above questions including, but not limited to, any requests for compensation or reimbursement, diaries, copies of canceled checks, check registers and solicitations.

25043624810



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MAY 17, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Charles K. Ligon
610 Whidbey Court
Rosewell, Georgia 30075

RE: MUR 3966
Charles K. Ligon

Dear Mr. Ligon:

On May 10, 1994, the Federal Election Commission found that there is reason to believe you knowingly and wilfully violated 2 U.S.C. §§ 441b and 441f, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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 30 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, 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 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.

Charles K. Ligon
Page 2

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.

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.

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 investigation to be made public.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Craig D. Reffner, the attorney assigned to this matter, at (202) 219-3400.

For the Commission,



Trevor Potter
Chairman

Enclosures

Factual and Legal Analysis
Procedures
Designation of Counsel Form
Questions

25043624312

**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: Charles K. Ligon

RE: MUR 3966

Pursuant to Section 441f of the Federal Election Campaign Act of 1971, as amended (the "Act"), "[n]o person shall make a contribution in the name of another or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person." Under Section 441b of the Act, corporations are prohibited from making contributions or expenditures from their general treasury funds in connection with Federal elections. Furthermore, no officer or director of a corporation may consent to any contribution or expenditure by the corporation. 2 U.S.C. § 441b(a).

Based upon information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities, see 2 U.S.C. § 437g(a)(2), it appears that KMS Fusion, Inc. ("KMS"), reimbursed Charles K. Ligon for his contributions to the KMS Fusion, Inc., Political Action Fund ("KMS-SSF"). Indeed, an audit of KMS conducted by the Department of Defense shows that KMS increased its directors' salaries by \$250 at approximately the same time that various directors for KMS authorized a \$250 payroll deduction for the KMS-SSF. Disclosure materials filed with the Commission confirm that between 1988 and 1993 various individuals identified as directors at KMS, including Mr. Ligon, regularly made \$250

25043624313

contributions to KMS-SSF. Most recently, on July 14, 1993, three of these directors each contributed \$295 to the KMS-SSF.

Mr. Ligon's contributions thus appear suspect as having been reimbursed given that he made them in the same amounts, on the same dates and at a time when his compensation was increased by the amount he was regularly contributing. Furthermore, the Act prohibits any officer or director from consenting to a corporate contribution and it appears that Mr. Bard, as a director, consented to his reimbursements by KMS.

Therefore, there is reason to believe that Charles K. Ligon knowingly and wilfully violated 2 U.S.C. § 441f, by permitting his name to be used to make a contribution in the name of another, and 2 U.S.C. § 441b, by consenting to contributions by a corporation.

25043624314

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
) MUR 3966
)

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Charles K. Ligon
610 Whidbey Court
Rosewell, Georgia 30075

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.

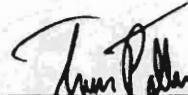
Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 30 days of receipt of this Order and Subpoena.

25043624815

MUR 3966
Charles K. Ligon
Page 2

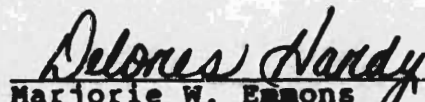
WHEREFORE, the Chairman of the Federal Election Commission
has hereunto set his hand in Washington, D.C. on this 17th
, day of May, 1994.

For the Commission,



Trevor Potter
Chairman

ATTEST:

for 

Marjorie W. Emmons
Secretary to the Commission

Attachment

Questions and Request for Production of Documents
with Instructions and Definitions

25043624316

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.

"Compensation" shall mean money or any other item of value.

"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 request for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

25043624317

QUESTIONS AND REQUEST FOR PRODUCTION OF DOCUMENTS

QUESTIONS

1. Identify all contributions you made to the KMS Fusion, Inc., Political Action Fund., including the amount of each contribution and the date it was made. In addition, for each contribution, state:
 - a. whether you made the contribution in response to a solicitation and, if so, describe the solicitation, including the identify of the persons who made the solicitation and all communications between you and the persons identified in your response concerning the solicitation; and
 - b. whether you received any compensation for the contribution and, if so, describe in detail how you were compensated, including the total amount you received, whether you requested the compensation, the identity of the persons who authorized the compensation and all communications between you and the persons identified in your response concerning such compensation.
2. Identify all contributions you made to any Federal candidates or Federal political committees (other than the KMS Fusion, Inc., Political Action Fund), including the amount of the contribution, the date it was made and the identity of the Federal candidate or Federal political committee who received the contribution. In addition, for each contribution, state:
 - a. whether you made the contribution in response to a solicitation and, if so, describe the solicitation, including the identify of the persons who made the solicitation and all communications between you and the persons identified in your response concerning the solicitation; and
 - b. whether you received any compensation for the contribution and, if so, describe in detail how you were compensated, including the total amount you received, whether you requested the compensation, the identity of the persons who authorized the compensation and all communications between you and the persons identified in your response concerning the contribution.

25043624818

MUR 3966
Charles K. Ligon
Page 4

3. Produce all documents that relate or pertain to your answers to the above questions including, but not limited to, any requests for compensation or reimbursement, diaries, copies of canceled checks, check registers and solicitations.

25043624319

CAGC # 1510

STATEMENT OF DESIGNATION OF COUNSELRECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

JUN 1 3 03 PM '94

NO. 3966

NAME OF COUNSEL:

Timothy Sullivan, Esq

ADDRESS:

Dykema GossettSuite 300 West1300 I Street NW202-522-8608Washington DC
20005-3306

TELEPHONE:

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.

6-1-94

Date

Robert B. Long CEO

Signature

RESPONDENT'S NAME:

KMS Fusion, Inc., KMS Fusion Inc PAF

ADDRESS:

Suite 410101 N Main StreetAnn Arbor MI 48106and Terence C.
Liddy as
Treasurer

HOME PHONE:

BUSINESS PHONE:

313-769-8500

ATTN: CRAIG D. REFFNER, ESQ, FEC

Via Fax: 202 219-3923

CC: Timothy Sullivan

25043624020

OGC # 1524

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

JUN 2 4 33 PM '94

LAW OFFICES

DYKEMA GOSSETT
PROFESSIONAL LIMITED LIABILITY COMPANY

FRANKLIN SQUARE

SUITE 300 WEST

1300 I STREET, N.W.

WASHINGTON, D.C. 20005-3306

TELEPHONE (202) 522-8600

FAX (202) 522-8669

ANN ARBOR, MICHIGAN
BLOOMFIELD HILLS, MICHIGAN
CHICAGO, ILLINOIS

DETROIT, MICHIGAN
GRAND RAPIDS, MICHIGAN
LANSING, MICHIGAN

June 2, 1994

HAND-DELIVERED

Honorable Trevor Potter
Chairman
Federal Election Commission
6th Floor
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 3966

Dear Mr. Potter:

We have enclosed a Motion to Modify the subpoena recently issued in connection with MUR 3966. Our clients are prepared to cooperate with the Commission in this proceeding; however, under the circumstances, the granting of this Motion would greatly enhance their ability to cooperate.

Respectfully submitted,

DYKEMA GOSSETT

By:

Timothy Sullivan
Timothy Sullivan
Counsel to KMS Fusion, Inc.,
KMS Fusion, Inc. Political
Action Fund, and Mr.
Terence C. Liddy, as
Treasurer

TS:bjd
5937S
Enclosure

5043624821

JUN 2 4 33 PM '94

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
)
_____)

MUR 3966

MOTION TO MODIFY SUBPOENA

KMS Fusion, Inc. ("KMSF"), the KMS Fusion, Inc. Political Action Fund, and Mr. Terence C. Liddy, as Treasurer, through their attorneys, Dykema Gossett, hereby move to modify the subpoena issued on May 17, 1994 by the Federal Election Commission in connection with MUR 3966.

All three of our clients believe that they have done nothing in violation of Federal election laws or regulations, and all three intend to file a full written explanation of their position within the 15-day period prescribed by 11 C.F.R. § 111.6. That submission will address Items 1 through 3 of the subpoena. With respect to Items 4, 5 and 6, we request their modification for the following reasons:

Item 4 states as follows:

Identify all persons whom KMS Fusion, Inc., solicited to make contributions to Federal candidates or Federal political committees (other than the KMS Fusion, Inc., Political Action Fund). For each person identified in response to this question, describe each solicitation made, including the date of each solicitation, the identity of the persons who made each solicitation, and the identity of the Federal candidate or Federal political committee whom the solicitation was made on behalf of.

250433621823

The "Definitions" section of the subpoena defines "KMS Fusion, Inc." to mean "the incorporated entity and its affiliates, subsidiaries, divisions, branches wherever they are located and the officers, directors, agents and employees of all such entities." This expansive definition would impose a significant burden on our clients. During the early years of the timeframe covered by the subpoena, KMS Fusion, Inc. employed well over 200 employees. Due to the loss of the contract that generated most of KMSF's revenues, KMSF now employs three people and nearly all pertinent records are in a warehouse. KMS neither has the personnel nor the financial resources to conduct the type of investigation contemplated by Item 4. Accordingly, we request that this item of the subpoena be reduced in scope to cover only KMSF, the KMSF PAF and Mr. Liddy, as Treasurer.

Item 5 reads as follows:

Identify all contracts that KMS Fusion, Inc., has entered into with the United States or any department of agency thereof. For each contract identified in your response, describe the nature or purpose of the contract, including the dates when the contract was in effect, the dates when KMS Fusion received compensation under the contract, the amount of compensation received and whether the contract provided for the rendition of personal services or the furnishing of any materials, supplies, equipment, land or building.

Most of KMSF's documents are in storage. While KMSF could obtain the requested documents, KMSF cannot deny that it was a

Government contractor. KMSF clearly was a Government contractor for the period in question. Furthermore, the information requested appears to have no relationship to the subject matter of this proceeding. Accordingly, we request that Item 5 be deleted in its entirety.

Item 6 reads as follows:

Produce all documents that relate or pertain to your answers to the above questions including, but not limited to, contracts, canceled checks, check registers, any requests for compensation or reimbursement, solicitations, minutes from the Board of Directors' Meetings and any Board of Directors' Resolutions.

For the reasons set forth above, we request that Item 6 be modified to delete the need for copies of contracts, and to limit the request for cancelled checks and check registers to those of KMSF, the KMSF PAF and Mr. Liddy, as Treasurer.

Based on the above, we respectfully request that this Motion be granted.

Respectfully submitted,

DYKEMA GOSSETT PLLC

DATED:

June 2, 1994

By:

Timothy Sullivan
Timothy Sullivan
Counsel to KMS Fusion, Inc.,
KMS Fusion, Inc. Political
Action Fund, and Mr.
Terence C. Liddy, as
Treasurer

TS:bjd
5936S



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JUNE 6, 1994

Timothy Sullivan, Esq.
Judy Jenkins, Esq.
Dykema Gossett
1300 I Street, N.W.
Suite 300 West
Washington, D.C. 20005-3306

RE: MUR 3966

Dear Mr. Sullivan and Ms. Jenkins:

This will confirm this Office's receipt, on June 2, 1994, of your Motion to Modify the subpoena issued by the Commission in connection with the above-referenced matter. As I explained to Ms. Jenkins on June 6, 1994, this Office will postpone presenting your Motion to Modify to the Commission pending receipt of your response to the Commission's Factual and Legal Analysis as well as those portions of the Commission's subpoena which are not at issue in your Motion to Modify. If, after reviewing your response, it is determined that the information requested in those portions of the Commission's subpoena which you are seeking to modify is necessary to complete the investigation in this matter, we will, at that time, present your Motion to Modify to the Commission.

Should you have any questions, or if this letter does not accurately reflect our agreement regarding your clients' response to the Commission's subpoena, please do not hesitate to contact me at (202) 219-3690.

Sincerely,

Craig D. Reffner

25043624325

OGC #1541

RECEIVED
FEDERAL ELECTION
COMMISSION
ADMINISTRATIVE

JUN 6 9 01 AM '94

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3966

NAME OF COUNSEL: Mr. Tim Sullivan, Esq.

ADDRESS: Dukema Gossett
Franklin Square, Suite 300 West Tower
1300 I Street, N.W.
Washington, DC 20005

TELEPHONE: (202) 522-8608
FAX NUMBER: (202) 522-8669

JUN 6 9 49 AM '94

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

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.

June 3, 1994
Date

Thomas P. Stafford
Signature

RESPONDENT'S NAME: Thomas P. Stafford

ADDRESS: 1006 Cameron Street
Alexandria, VA 22314

HOME PHONE:
BUSINESS PHONE: (703) 836-2696

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FEDERAL ELECTION
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BEFORE THE FEDERAL ELECTION COMMISSION

JUN 10 4 03 PM '94

In the Matter of)

KMS Fusion, Inc., et al.)

MUR 3966

SENSITIVE

GENERAL COUNSEL'S REPORT

On May 10, 1994, the Commission found reason to believe that KMS Fusion, Inc. ("KMS"), the KMS Fusion, Inc., Political Action Fund ("KMS-SSF") and ten (10) individual directors at KMS violated 2 U.S.C. §§ 441b and 441f. The basis for the Commission's finding arose from a Department of Defense referral which showed that KMS apparently reimbursed various directors for their contributions to the KMS-SSF. The Commission also found reason to believe that KMS violated 2 U.S.C. § 441c, which prohibits government contractors from making or soliciting contributions to Federal candidates or political committees.


Respondents were notified of the Commission's findings on May 17, 1994. At that time, Respondents were also provided with subpoenas that the Commission approved in furtherance of the investigation in this matter. On June 2, 1994, counsel for KMS and KMS-SSF submitted a Motion to Modify the Commission's subpoena to his clients. In telephone conversations with staff of this Office, counsel has stated that he intends to timely file a response to the Commission's Factual and Legal Analysis as well as those portions of the Commission's subpoena which are not at issue in his Motion to Modify. Counsel steadfastly maintains that his clients are not in violation of any provision of the Act and has explained that the information he will be submitting will clarify the circumstances in this matter accordingly. Based upon this

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representation, this Office informed counsel that we would postpone presenting his Motion to Modify to the Commission pending receipt of his response. If, after reviewing counsel's response, it is determined that the information sought in those portions of the Commission's subpoena which counsel is seeking to modify is necessary to complete the investigation in this matter, we will, at that time, present counsel's Motion to Modify to the Commission. This Office will keep the Commission informed of developments in this matter.

Lawrence M. Noble
General Counsel

25043624328
Date 6-10-94

BY: 
Lois G. Lerner
Associate General Counsel

Staff Assigned: Craig D. Reffner

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3966

NAME OF COUNSEL: Tim Sullivan

ADDRESS: Dykema Gossett
Sixth Floor, 1752 N. Street, N.W.
Washington, DC 20036

TELEPHONE: 202-522-8608

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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.

June 8, 1994

Date

Ned C. Lautenbach
 Signature

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 COMMISSION
 OFFICE OF GENERAL
 COUNSEL

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RESPONDENT'S NAME: Ned C. Lautenbach

ADDRESS: Old Orchard Road
Armonk, New York 10504

HOME PHONE:

BUSINESS PHONE: 914-765-4007

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LAW OFFICES
DYKEMA GOSSETT
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SUITE 300 WEST
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June 16, 1994

VIA TELECOPIER

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

Re: MUR 3966

Dear Mr. Reffner:

The purpose of this letter is to follow-up on your telephone conversation yesterday with my colleague, Judy Jenkins, regarding the subpoenas served on Mr. Raymond L. Holcomb and Mr. Donald L. Musinski in connection with the above-referenced investigation being conducted by the Federal Election Commission (the "FEC").

We are writing on behalf of Messrs. Holcomb and Musinski to request that the time within which Messrs. Holcomb and Musinski must respond to their subpoenas be postponed until after the FEC has had an opportunity to review the June 24, 1994 submission of KMS Fusion, Inc., the KMS Fusion Political Action Fund ("PAF"), Mr. Terrence Liddy as its treasurer, and numerous individuals, including Messrs. Holcomb and Musinski. The basis for our request is that neither Mr. Holcomb nor Mr. Musinski has ever been a member of the KMS Industries, Inc. ("KMS") Board of Directors nor any other corporation affiliated with KMS. Mr. Holcomb was employed by KMS Fusion during the period between November 1983 and May 1992. In 1985, he became the Controller of KMS Fusion and was promoted to Vice President in 1989. Mr. Musinski was employed by KMS Fusion during the period between November 1975 and June 1991, first as a research scientist, and later as a Senior Technical Manager. In late

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DYKEMA GOSSETT
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Craig D. Reffner, Esq.
June 16, 1994
Page 2

1990 or early 1991, he was transferred to KMS Fusion's marketing group.

Although neither of these gentlemen was ever a Director, they each received subpoenas from the FEC with cover letters asserting that the FEC had found that there is reason to believe that they knowingly and willfully violated 20 U.S.C. §§ 441b and 441f, provisions of the Federal Election Campaign Act of 1971, as amended (the "Act"). The letter also stated that the "Factual and Legal Analysis" attached to the letter "formed a basis for the Commission's finding."

The Factual and Legal Analysis alleges that Messrs. Holcomb and Musinski were members of KMS's Board of Directors and that KMS reimbursed them for their contributions to the KMS Fusion PAF by increasing their Directors' salaries. In our view, the subpoenas were erroneously issued to Messrs. Holcomb and Musinski since these individuals were never Directors and the FEC's basis for issuing the subpoenas is an alleged connection between an increase in Directors' salaries and Directors' contributions to the KMS Fusion PAF. Even though Messrs. Holcomb and Musinski were never Directors, the June 24, 1994 submission will provide detailed information concerning their status as non-Directors and their contributions to the KMS PAF, along with affidavits.

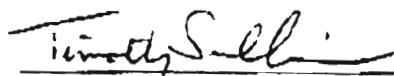
Under the circumstances, we think it would be unfair to require Messrs. Holcomb and Musinski to individually respond to the FEC's subpoenas. We hope you will agree to either withdraw the subpoenas or postpone the due date for responding to them until the FEC has had an opportunity to review the June 24, 1994 submission.

Thank you for your consideration of this request.

Very truly yours,

DYKEMA GOSSETT PLLC

By:


Timothy Sullivan
Counsel to Mr. Raymond L.
Holcomb and Mr. Donald L.
Musinski

TS:jjp
2885J

STATEMENT OF DESIGNATION OF COUNSEL

MUR MUR 3966

NAME OF COUNSEL: Tim Sullivan

ADDRESS: Dykeno Garrett
1300 "I" Street N.W. Suite 300 West
Washington, D.C. 20005

TELEPHONE: 202-522-8600 FAX 202-522-8669

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COUNSEL

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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.

6/13/94
Date

Donald L. Musinski
Signature

RESPONDENT'S NAME: Donald L. Musinski, Ph.D.

ADDRESS: 1135 T. S. S. way home

Saline, MI 48126

HOME PHONE:

BUSINESS PHONE: 313-973-7160

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3134745650

GEOSTRIP

P01

STATEMENT OF DESIGNATION OF COUNSELNOR 3966NAME OF COUNSEL: Dykema Gossett / Tim Sullivan, Esq.ADDRESS: Franklin Square Suite 300 West
13001 Eye Street NW
Washington DC 20005-3306TELEPHONE: (202) 522-8600
(202) 522-8669 FAX

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.

20 June 1994
Date
SignatureRESPONDENT'S NAME: Raymond L. HulcombADDRESS: 1460 Law Street
Ann Arbor, MI 48105HOME PHONE: BUSINESS PHONE: (810) 474-5650RECEIVED
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COMMISSION
OFFICE OF GENERAL
COUNSEL

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STATEMENT OF DESIGNATION OF COUNSEL

MUR _____

NAME OF COUNSEL: TIMOTHY SULLIVAN ESQ.ADDRESS: DYKEMA GOSSET PLLC
SUITE 300 WEST TOWER
1300 I STREET N.W.WASHINGTON, D.C. 20005TELEPHONE: (202) 522-8669 (FAX)
(202) 522-8608 (TEL)

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.

06-14-94
Date
SignatureRESPONDENT'S NAME: RICHARD E. FRY PALAADDRESS: 308 WEST WURON STREET
ANN ARBOR, MI 48103

HOME PHONE:

BUSINESS PHONE: (313) 761-4022

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

JUNE 22, 1994

Timothy Sullivan, Esq.
Judy Jenkins, Esq.
Dykema Gossett
1300 I Street, N.W.
Suite 300 West
Washington, D.C. 20005-3306

RE: MUR 3966
Donald Musinski
Raymond Holcomb

Dear Mr. Sullivan and Ms. Jenkins:

25043624375
This is in response to your letter dated June 16, 1994, requesting a postponement in which to respond to the subpoenas issued to Messrs. Holcomb and Musinski in connection with the above-referenced matter. As we discussed during our June 20, 1994 telephone conversation, this Office will agree to such a postponement pending receipt of your response to the Commission's Factual and Legal Analysis and subpoena issued to KMS Fusion, Inc., and the KMS Fusion, Inc., Political Action Fund and Terence Liddy, as treasurer. If, after reviewing this response, it is determined that the information requested in the subpoenas issued to Messrs. Holcomb and Musinski is necessary to complete the investigation in this matter, we will notify you accordingly and, at that time, arrange a time period for you to respond to those subpoenas.

Should you have any questions, or if this letter does not accurately reflect our agreement concerning the subpoenas issued to Messrs. Holcomb and Musinski, please do not hesitate to contact me at (202) 219-3690.

Sincerely,



Craig D. Reffner

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COUNSEL
LAW OFFICES
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PROFESSIONAL LIMITED LIABILITY COMPANY

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CHICAGO, ILLINOIS

DETROIT, MICHIGAN
GRAND RAPIDS, MICHIGAN
LANSING, MICHIGAN

June 24, 1994

HAND-DELIVERED

Craig Reffner, Esq.
Federal Election Commission
Office of the General Counsel
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 3966

Dear Mr. Reffner:

Enclosed for filing in connection with the above-referenced investigation being conducted by the Federal Election Commission are the Responses of (1) KMS Fusion, Inc., the KMS Fusion, Inc., PAF, and Mr. Terence C. Liddy, as its Treasurer; (2) Mr. Terence C. Liddy, individually; (3) Mr. Patrick B. Long; (4) Mr. Richard E. Fry; (5) Mr. Charles Ligon; (6) Mr. Thomas P. Stafford, and (6) Mr. Ned C. Lautenbach to the FEC's subpoenas to produce documents and order to submit written answers.

Also enclosed is a copy of a submission to Chairman Potter in response to the FEC's "Factual and Legal Analysis" in MUR 3966 on behalf of the above identified entities and individuals, as well as Mr. Raymond Holcomb and Mr. Donald Musinski.

Very truly yours,

Timothy Sullivan

Timothy Sullivan

TS:ama
2915J
Enclosure

cc: Patrick B. Long, Esq.

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LANSING, MICHIGAN

June 24, 1994

HAND-DELIVERED

Honorable Trevor Potter
Chairman
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 3966

Dear Mr. Chairman:

We are writing on behalf of KMS Fusion, Inc., the KMS Fusion Political Action Fund (hereinafter referred to as the "PAF"), Mr. Terence C. Liddy, as treasurer of the PAF, and the individuals listed below, in response to the Federal Election Commission's ("FEC" or the "Commission") findings that there is reason to believe that KMS Fusion, the PAF, Mr. Liddy, as its treasurer, and numerous individuals knowingly and willfully violated the Federal Election Campaign Act of 1971, as amended (hereinafter referred to as the "Act").

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PLLC

Honorable Trevor Potter
June 24, 1994
Page 2

Specifically, the FEC has found that there is reason to believe that KMS Fusion knowingly and willfully violated §§ 441b, 441f and 441c of the Act, and that the PAF, Mr. Terence Liddy, as its treasurer, and the following individuals, who are or were either members of the KMS Industries, Inc.'s Board of Directors, or employees of KMS Fusion, knowingly and willfully violated §§ 441b and 441f of the Act: Mr. Patrick Long, Mr. Terence Liddy, Mr. Raymond Holcomb, Mr. Thomas Stafford, Mr. Donald Musinski, Mr. Charles Ligon, Mr. Ned Lautenbach and Mr. Richard Fry (hereinafter jointly referred to as the "individuals"). The Commission's findings are based upon a "Factual and Legal Analysis" which alleges that KMS Industries, Inc. (hereinafter referred to as "KMS") reimbursed Directors for their contributions to the PAF.

The purpose of this submission is to present the Commission with evidence refuting the Factual and Legal Analysis and establishing that neither KMS Fusion, the PAF, Mr. Terence Liddy as its treasurer, nor any of the individuals identified above violated §§ 441b, 441c or 441f of the Act.

INTRODUCTION AND SUMMARY

KMS Fusion is a subsidiary of KMS Industries, Inc. ("KMS" or the "Company"), a Delaware corporation formed in 1971. KMS

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Page 3

Fusion was (and is) a contractor to the United States Government. Although KMS Fusion had as many as 240 employees as recently as 1988, KMS Fusion lost its primary contract in late 1991, and KMS Fusion now has only three employees. Neither KMS Fusion, nor its parent, KMS, nor any other corporation affiliated with KMS, has ever made any political contributions in violation of the Act, or reimbursed any person for any contributions to the PAF.

**I. The May 25, 1988 Increase In Directors' Fees
Was Unrelated To Directors' Contributions
To the PAF.**

KMS's Board of Directors is elected annually by a vote of the approximately 12,000 shareholders of the corporation. Members of the Board have received a Director's fee for their services since the Company's inception.^{1/} Board members of affiliated corporations, including KMS Fusion, have never received a fee for acting as Board members.

^{1/}When Patrick B. Long and Terence C. Liddy became members of the Board in 1978, the Directors' fee was \$6,000 annually. In September 1985, KMS's Board of Directors voted to increase the Directors' fee from \$6,000 to \$9,000 annually, effective January 1986. See Exhibit A.

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PLLC

Honorable Trevor Potter
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Page 4

25043624810
KMS's Board of Directors is empowered to establish its own compensation and does so in accordance with Delaware law. On May 25, 1988, following the annual meeting of the shareholders of KMS, the Board voted to increase the annual fees paid to individual Board members from \$9,000 to \$12,000, retroactive to April 1, 1988, the beginning of the second quarter. See Minutes of May 25, 1988 Board Meeting, enclosed herewith as Exhibit B. At no time during the deliberations was there any discussion or consideration by the Board, or any individual Director, about Directors' contributions to the PAF, and there was never even a suggestion that there was any connection between the compensation increase and future political contributions. See Affidavits of Patrick Long, Ned C. Lautenbach, Charles K. Ligon, Terence C. Liddy, Thomas P. Stafford, Richard E. Fry and Raynold A. Schmick (counsel to KMS), attached hereto as Exhibits C through I.

The Board's decision to increase the Directors' fees was based upon the belief among the members of the Board that the Directors' compensation was not commensurate with the Board members' duties and responsibilities and lagged behind that of many other similarly situated corporations. See Exhibits C - I. It had nothing whatsoever to do with the PAF. Id.

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Honorable Trevor Potter
June 24, 1994
Page 5

II. The PAF Was Established In 1980, And During
The Period Between Its Establishment And The
Present, Directors Made Contributions In Various
Amounts And At Different Times To The PAF.

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The Factual and Legal Analysis alleges that KMS "increased its directors' fees by \$250 at approximately the same time that various KMS directors authorized a \$250 deduction from their paychecks for the KMS-SSF." It concludes that "... the directors' contributions to KMS-SSF appear suspect given that the directors made them in the same amounts, on the same dates and at a time when their compensation was increased by the amount they were regularly contributing." As we shall explain below, the FEC's suspicions are unfounded.

During the period between March 1988 and December 1990, the following individuals were members of KMS's Board of Directors: James C. Bard, Robert A. Carrane, Ned C. Lautenbach, Terence C. Liddy, Charles K. Ligon, Patrick B. Long and Thomas P. Stafford. During the period between December 1990 and May 1993, the following individuals resigned from, or were appointed to, the Board of Directors: James C. Bard (resigned December 1990); Ned C. Lautenbach (resigned April 1991); Robert A. Carrane (resigned March 1992); Richard E. Fry (appointed September 1992); Thomas P. Stafford (resigned August 1992); Charles K. Ligon (resigned May 1993). Since May 1993,

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Honorable Trevor Potter
June 24, 1994
Page 6

KMS has had only three Directors: Richard E. Fry, Terence C. Liddy and Patrick B. Long. See List of Members of KMS's Board of Directors between January 1988 and the Present, attached hereto as Exhibit J.

As explained above, the Board's May 25, 1988 vote to increase Directors fees by \$3,000 annually was not linked in any manner to Directors' contributions to the PAF. Moreover, contrary to the allegation contained in the Factual and Legal Analysis, Directors' fees were not increased by the same amount as Directors' contributions to the PAF. Specifically, due to the \$3,000 per annum increase, Directors' quarterly compensation increased from \$2,250 to \$3,000, beginning with their second quarter paychecks. Additionally, approximately five months passed between the Board's vote to increase Directors' fees and the \$250 contributions by Directors which apparently triggered the FEC's investigation in this matter.

As explained in more detail below, as a result of KMS's institution of a pre-authorized Directors' quarterly paycheck deduction system in July 1988, each of the Directors authorized that \$250 be taken from his quarterly paycheck and contributed to the PAF until further notice. The Directors' quarterly contributions to the PAF were far beneath the actual quarterly

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PLLC

Honorable Trevor Potter
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Page 7

increase in Directors' fees resulting from the \$3,000 per annum increase. Moreover, although the Directors voted on May 25, 1988 to increase individual Director's fees by \$3,000 annually, the Directors' \$250 quarterly contributions to the PAF did not begin until October 1988.

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KMS also believes it is important for the FEC to understand that 1988 was not the first time that KMS Directors made contributions to the PAF. Indeed, KMS Directors have had a long history of making significant personal contributions to the PAF. In 1980, for example, Patrick Long contributed \$2,000 and Mr. Donald Houpt contributed \$250. In 1986, the following directors made \$1,000 contributions to the PAF by means of a \$1,000 deduction from their Director's paycheck: Patrick Long, James C. Bard, Robert A. Carrane, Alexander Glass, Terence C. Liddy, Roy E. Ritts, and Thomas P. Stafford.^{2/} See Exhibits K through Q. Patrick Long and Terence Liddy each made an

^{2/}An informal payroll deduction system was in place in 1986, but at that time, Directors authorized one-time contributions to the PAF. See Exhibits K through Q. In July 1988, KMS instituted a new system which allowed Directors to authorize quarterly contributions to the PAF which continued until the Director resigned or directed that they be discontinued. See Exhibits S through Z.

DYKEMA GOSSETT
PLLC

Honorable Trevor Potter
June 24, 1994
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additional \$2,000 contribution by means of a personal check to the PAF in 1986. Roy Ritts made an additional \$1,200 contribution by payroll deduction. Exhibit R.

In July 1988, KMS instituted a procedure allowing Directors to contribute a portion of their Director's paychecks to the PAF each quarter.^{3/} This procedure was similar to a procedure that had previously been in place for KMS shareholder employees. Taking advantage of the new procedure, Directors Bard, Carrane, Lautenbach, Liddy, Ligon, Long, Stafford, and later, Fry, directed KMS to deduct \$250 from their quarterly Director's check for a contribution to the PAF until further notice. See Exhibits S through Z.

Thus, contrary to the allegations contained in the Factual and Legal Analysis, there was no relationship in timing or amount between each Director's individual decision to authorize a \$250 contribution to the PAF from his quarterly Director's

^{3/}KMS's payroll deduction system for shareholder employees permitted such employees to contribute a total amount for a particular year and to authorize that a particular amount be withheld from their paychecks each pay period to achieve such total contribution.

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PLLC

Honorable Trevor Potter
June 24, 1994
Page 9

check and the May 1988 increase in his Directors' fee. All of the Directors had made at least \$1,000 contributions via paycheck deduction to the PAF in 1986. In October 1988, every Director made an individual contribution of \$250 from his final quarterly Director's check even though that check had been increased by \$750 pursuant to the Board's May 25 vote.

Furthermore, and contrary to the allegations in the Factual and Legal Analysis, Directors' contributions were not all in the same amount during 1988. Mr. Long made a contribution of \$250 from his final quarterly Director's check and a separate contribution by personal check of \$2,000, for a total of \$2,250 in contributions during 1988. Mr. Liddy made a contribution of \$250 from his final quarterly Director's check and a separate contribution by payroll deduction of \$200, for a total of \$450.00 during 1988. Thus, although many of the Directors opted to contribute \$250 per quarter to the PAF, not all Directors made contributions in the same amounts or at the same times to the PAF.

In 1989, Messrs. Bard, Lautenbach, Liddy, Ligon, Stafford and Carrane each contributed four quarterly payments from their Director's check of \$250, or a total of \$1,000, to the PAF. Mr. Long contributed four quarterly payments of \$250.00 and an

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PLLC

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June 24, 1994
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additional \$500 by personal check. In 1990, Messrs. Bard, Carrane Lautenbach, Liddy, Ligon, Long and Stafford each contributed four quarterly \$250 payments from his Director's check, or a total of \$1,000, to the PAF.

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The Directors' preauthorized quarterly contributions to the PAF typically continued until such time as they resigned from the Board. During the period between January 1988 and the present, five Directors resigned from the Board, but only one new member, Mr. Richard Fry, joined the Board. In October 1992, Mr. Fry authorized that \$250 be deducted from his quarterly Director's paychecks and contributed to the PAF. This also negates any inference that Directors' quarterly contributions were linked to the May 1988 salary increase. See Exhibit Z.

KMS recently terminated its PAF and plans to notify the FEC of such termination in its next quarterly filing.

III. Messrs. Holcomb and Musinski Were Never Members Of The KMS Board of Directors.

In early June 1994, Mr. Raymond Holcomb and Mr. Donald Musinski received subpoenas to produce documents and respond to interrogatories identical to those sent to Messrs. Long, Liddy, Lautenbach, Ligon and Stafford. The subpoenas were accompanied by letters which stated that the FEC had concluded there is

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PLLC

Honorable Trevor Potter
June 24, 1994
Page 11

reason to believe that Messrs. Holcomb and Musinski knowingly and willfully violated § 441b and 441f of the Act and attached the same "Factual and Legal Analysis" forming the basis for the Commission's findings as to KMS Fusion, the PAF, Terence Liddy as its treasurer, and Messrs. Long, Liddy, Lautenbach, Ligon and Stafford, as individuals.

As set forth above, the Factual and Legal Analysis alleges that KMS reimbursed Directors for their contributions to the PAF by increasing Directors' salaries. Neither Mr. Holcomb nor Mr. Musinski has ever been a member of the KMS Board of Directors, or any of its affiliated companies; accordingly, they never received the increase in Directors' fees which apparently prompted the FEC to undertake this investigation.

Although Mr. Holcomb and Mr. Musinski both made contributions to the PAF during the years they were employed by KMS Fusion, neither Mr. Holcomb nor Mr. Musinski ever made regular contributions to the KMS PAF. See Affidavit of Raymond Holcomb, attached hereto as Exhibit AA. Specifically, Mr. Holcomb made contributions, by personal check, in December 1986 (\$240); in May 1988 (\$120); in December 1988 (\$250); and in January 1990 (\$250). Mr. Musinski made contributions, by personal check in May 1988 (\$250); December 1988 (\$150) and by payroll deduction in 1990 (\$240). See Affidavit of Donald

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DYKEMA GOSSETT
PLLC

Honorable Trevor Potter
June 24, 1994
Page 12

Musinski, attached hereto as Exhibit BB. Messrs. Holcomb and Musinski have searched their records and have been unable to locate any solicitation letters which may have prompted their contributions to the PAF. See Exhibits AA and BB.

CONCLUSION

2504362488
The FEC's finding that KMS's increase in its Directors' compensation and the decisions of individual Directors to make quarterly contributions to the PAF is "suspect" is based on factual errors contained in the Factual and Legal Analysis. In point of fact, there was absolutely no connection between the Board's decision to increase its compensation and subsequent donations to the KMS PAF by individual KMS Directors. Indeed, KMS has scrupulously followed the statute and regulations relating to political contributions. Contrary to the FEC's assertions, Director's individual contributions to the KMS PAF were not made in the same amount, or at the same time, as the May 1988 increase in Directors' compensation.

For the reasons set forth above, KMS Fusion, the PAF, Mr. Terence Liddy as its Treasurer, and the individuals referenced above, request that the FEC close its investigation because

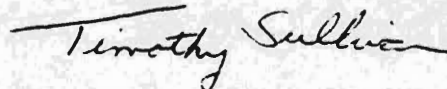
DYKEMA GOSSETT
PLLC

Honorable Trevor Potter
June 24, 1994
Page 13

there is no basis to conclude that these entities or individuals violated the Act.

We trust that this letter adequately addresses the FEC's allegations concerning the 1988 increase in Directors' compensation. Should the Commission have any continuing questions or concerns, KMS respectfully requests an opportunity to respond to such questions or concerns before the FEC takes any further action in this matter.

Very truly yours,



Timothy Sullivan

TS:jjj
2880J

Exhibits AA - BB

25743624849

BEFORE THE FEDERAL ELECTION COMMISSION

STATE OF MICHIGAN)
)
COUNTY OF WASHTENAW)

AFFIDAVIT OF PATRICK B. LONG

Patrick B. Long, being duly sworn, deposes and says:

1. I am currently the Chairman and Chief Executive Officer of KMS Fusion, Inc., and reside at 2107 Hill Street, Ann Arbor, Michigan. KMS Fusion has been a federal government contractor since 1980.

2. On or about May 26, 1994, KMS Fusion, Inc., the KMS Fusion Political Action Fund (hereinafter referred to as the "PAF") and Mr. Terence C. Liddy, as its treasurer, received a copy of a Subpoena to Produce Documents and Order to Submit Written Answers in connection with MUR 3966, an investigation being conducted by the Federal Election Commission (the "FEC" or the "Commission") in connection with the FEC's finding that it has reason to believe that KMS Fusion, the PAF, and Mr. Terence Liddy, as its treasurer, knowingly and willfully violated certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act").

3. On June 16, 1994, my lawyer, Mr. Timothy Sullivan, a partner in the law firm of Dykema Gossett, 1300 I Street, N.W., Suite 300 West, Washington, D.C., 20005, accepted service of a Subpoena to Produce Documents and Order to Submit Written Answers in connection with MUR 3966 on my behalf. The

25043624850

subpoena was directed at me, individually, in my capacity as a member of the Board of Directors of KMS Industries, Inc. It is my understanding that other individuals who were either members of the KMS Board of Directors or employees of KMS Fusion have also received subpoenas in connection with the FEC's investigation.

4. I am familiar with the "Factual and Legal Analysis" which accompanied the FEC subpoenas and upon which the FEC's findings are based. It alleges that KMS "increased its directors' salaries by \$250 at approximately the same time that various KMS directors authorized a \$250 deduction from their paychecks for the KMS-SSF." It concludes that "... the directors contributions to KMS-SSF appear suspect given that the directors made them at a time when their compensation was increased by the amount they were regularly contributing."

5. I have been a member of the Board of Directors of KMS Industries, Inc. ("KMS"), the parent of KMS Fusion, since 1978. As a Director of KMS, I have always received a Director's fee. In May 1988, the Board of Directors of KMS voted to increase the individual Director's fee from \$9,000 to \$12,000 annually, effective April 1, 1988. Since that time, my quarterly Director's compensation has been in the amount of \$3,000.

6. My recollection is that the Board's decision to increase the Directors' fees was based upon its belief that KMS's Directors' fees lagged behind those of similarly situated corporations and should be increased. Specifically, several

25043624852
Board members had indicated that they did not believe KMS's Directors' fees were commensurate with the amount of time they were committing to the Company, the potential liability problems they faced, or the fees received by directors in similarly situated companies. At no time during the May 25, 1988 meeting, nor at any other time, was there any discussion or consideration by the Board, or between any individual Director or Directors and me, concerning any relationship between the increase in Directors' fees and Directors' contributions to the PAF.

7. Since the PAF was established in 1980, I have made significant personal contributions, in the form of personal checks or paycheck deductions, to the PAF. For example, in 1980 I contributed \$2,000 to the PAF. In 1986, I authorized that \$1,000 be deducted from my Director's fee check and contributed to the PAF, and I also contributed an additional \$2,000 in the form of a personal check.

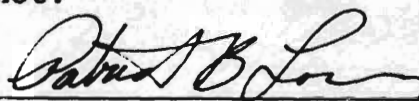
8. To the best of my recollection, in approximately July 1988 KMS modified its Directors' deduction system to permit Directors to pre-authorize quarterly deductions from their Directors' paychecks. The system was consistent with one which had been in place for shareholder employees. In July 1988, I authorized KMS to deduct \$250.00 from my Director's check for a contribution to the PAF until further notice. The first such deduction took place in October 1988. During 1988, however, I also made a separate contribution by personal check

of \$2,000 to the PAF. Similarly, in 1989, I contributed four quarterly payments of \$250.000 to the PAF, as well as an additional \$500 by personal check.

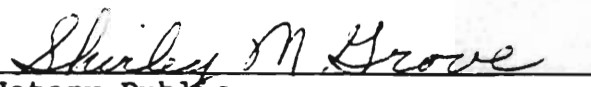
9. My contributions to the PAF were entirely voluntary and were based upon my belief that the PAF played an important role in furthering the interests of KMS Fusion, its employees and its shareholders. At no time did I make any contribution to the PAF with the understanding, explicit or implicit, that such contribution would be reimbursed by KMS.

10. KMS and all of its subsidiaries, including KMS Fusion, have suffered severe business reversals in recent years. KMS currently has only three employees and the number of members of the Board of Directors was reduced to three in 1993. My last contribution to the KMS PAF was in July 1993 in the amount of \$250. I and the other Directors still receive an annual Director's fee of \$12,000, however.

Further affiant saith not.


Patrick B. Long

Subscribed and sworn to before me this 22nd day of June 1994.


Notary Public
SHIRLEY M. GROVE
Notary Public, Washtenaw County, Michigan
My Commission Expires July 12, 1995

My Commission Expires:

2888J

BEFORE THE FEDERAL ELECTION COMMISSION

STATE OF NEW YORK)

COUNTY OF WESTCHESTER)

AFFIDAVIT OF NED C. LAUTENBACH

Ned C. Lautenbach, being duly sworn, deposes and says:

1. I am currently employed by IBM, where I serve as a Senior Vice President. During the period between approximately June 1987 and April 1991, I was a member of the Board of Directors of KMS Industries, Inc. ("KMS"), a company now located at 1010 North Main Street, Suite 410, Ann Arbor, Michigan 48104.

2. It is my understanding that KMS Fusion, Inc., a subsidiary of KMS, the KMS Fusion Political Action Fund (hereinafter referred to as the "PAF") and Mr. Terence C. Liddy, as its treasurer, recently received a Subpoena to Produce Documents and Order to Submit Written Answers in connection with MUR 3966, an investigation being conducted by the Federal Election Commission (the "FEC" or the "Commission") in connection with the FEC's finding that it has reason to believe that KMS Fusion, the PAF and Mr. Terence Liddy, as its treasurer, knowingly and willfully violated certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act").

3. On June 6, 1994, I received a Subpoena to Produce Documents and Order to Submit Written Answers in connection

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with MUR 3966. The subpoena was directed at me, individually, in my capacity as a member of the KMS Board of Directors. It is my understanding that other individuals who were either members of the KMS Board of Directors or employees of KMS Fusion have also received subpoenas in connection with the FEC's investigation of alleged violations of the Act.

4. I am familiar with the "Factual and Legal Analysis" which accompanied the FEC subpoenas and upon which the FEC's findings are based. It alleges that KMS "increased its directors salaries by \$250 at approximately the same time that various KMS directors authorized a \$250 deduction from their paychecks for the KMS-SSF." It concludes that "... the directors contributions to KMS-SSF appear suspect given that the directors made them at a time when their compensation was increased by the amount they were regularly contributing."

5. As a Director of KMS, I always received a Director's fee. In May 1988, the Board of Directors of KMS voted to increase the individual Director's fee from \$9,000 to \$12,000 annually, effective April 1, 1988.

6. My recollection is that the Board's decision to increase the Directors' fees was based upon its belief that KMS's Directors' fees lagged behind those of similarly situated corporations and should be increased. At no time during the May 25, 1988 meeting, nor at any other time, was there any discussion or consideration by the Board, or between any

individual Director or Directors and me, concerning any connection between the increase in Directors' fees and Directors' contributions to the PAF.

25043624956
7. To the best of my recollection, in July 1988, KMS modified its Directors' paycheck deduction system to permit Directors to pre-authorize quarterly deductions from their Director's paychecks. The system was consistent with one which had been in place for shareholder employees. In July 1988, I authorized KMS to deduct \$250.00 from my Director's check for a contribution to the PAF until further notice, but the first such deduction did not take place until October 1988. During 1988, therefore, I made one quarterly contribution of \$250 to the PAF. To the best of my recollection, based upon my July 1988 authorization, I continued to make contributions of \$250 from my quarterly Director's paycheck until such time as I resigned from the Board in 1991.

8. My contributions to the PAF were entirely voluntary and were based upon my belief that the PAF played an important role in furthering the interests of KMS Fusion, its employees and its shareholders. At no time did I make any contribution to the PAF with the understanding, either explicit or implicit, that such contribution would be reimbursed by KMS.

Further affiant saith not

Ned C. Lautenbach
Ned. C. Lautenbach

Subscribed and sworn to before me this 22nd day of June
1994.

Joyce A. Bergman
Notary Public

My Commission Expires: _____

2891J

JOYCE A. BERGMAN
Notary Public, State of New York
No. 4942285
Qualified in Westchester County
Commission Expires September 19, 1994

BEFORE THE FEDERAL ELECTION COMMISSION

STATE OF GEORGIA)

COUNTY OF FULTON)

AFFIDAVIT OF CHARLES K. LIGON

Charles K. Ligon, being duly sworn, deposes and says:

1. I am currently semi-retired and reside at 1925 Dinsmore Road, Alpharetta, Georgia 30201. During the period between March 1988 and May 1993, I was a member of the Board of Directors of KMS Industries, Inc. ("KMS"), a company now located at 101 North Main Street, Suite 410, Ann Arbor, Michigan 48104. At the time I joined the KMS Board, I was a Group Vice President for the Material Service Group of the Aluminum Company of America ("ALCOA") in Pittsburgh. I retired from ALCOA in September 1991.

2. It is my understanding that KMS Fusion, Inc., a subsidiary of KMS, the KMS Fusion Political Action Fund (hereinafter referred to as the "PAF") and Mr. Terence C. Liddy, as its treasurer, recently received a Subpoena to Produce Documents and Order to Submit Written Answers in connection with MUR 3966, an investigation being conducted by the Federal Election Commission (the "FEC" or the "Commission") in connection with the FEC's finding that it has reason to believe that KMS Fusion, the PAF and Mr. Terence Liddy, as its treasurer, knowingly and willfully violated certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act").

25043624358

3. In late May 1994, I received a Subpoena to Produce Documents and Order to Submit Written Answers in connection with MUR 3966. The subpoena was directed at me, individually, in my capacity as a member of the KMS Board of Directors. It is my understanding that other individuals who were either members of the KMS Board of Directors or employees of KMS Fusion have also received subpoenas in connection with the FEC's investigation of alleged violations of the Act.

4. I am familiar with the "Factual and Legal Analysis" which accompanied the FEC subpoenas and upon which the FEC's findings are based. It alleges that KMS "increased its directors salaries by \$250 at approximately the same time that various KMS directors authorized a \$250 deduction from their paychecks for the KMS-SSF." It concludes that "... the directors contributions to KMS-SSF appear suspect given that the directors made them at a time when their compensation was increased by the amount they were regularly contributing."

5. As a Director of KMS, I always received a Director's fee. In May 1988, the Board of Directors of KMS voted to increase the individual Director's fee from \$9,000 to \$12,000 annually, effective April 1, 1988.

6. My recollection is that the Board's decision to increase the Director's fee was based upon its belief that KMS Directors' fees lagged behind those of similarly situated corporations and should be increased. At no time during the

May 25, 1988 meeting, nor at any other time, was there any discussion or consideration by the Board, or between any individual Director or Directors and me, concerning any relationship between the increase in Directors' fees and Directors' contributions to the PAF.

7. To the best of my recollection, in July 1988, KMS modified its paycheck deduction system to permit Directors to pre-authorize quarterly deductions from their Director's paychecks. The system was consistent with one which had been in place for shareholder employees. In July 1988, I authorized KMS to deduct \$250.00 from my Director's check for a contribution to the PAF until further notice, but the first such deduction did not take place until October 1988. During 1988, therefore, I made one quarterly contribution of \$250 to the PAF. To the best of my recollection, based upon my July 1988 authorization, I continued to make contributions of \$250 from my quarterly Director's paycheck until such time as I resigned from the Board in 1993.

8. My contributions to the PAF were entirely voluntary and were based upon my belief that the PAF played an important role in furthering the interests of KMS Fusion, its employees and its shareholders. At no time did I make any contribution to the PAF with the understanding, either explicit or implicit, that such contribution would be reimbursed by KMS.

Further affiant saith not.

Charles K. Ligon
Charles K. Ligon

Subscribed and sworn to before me this ____ day of June
1994.

John C. Sanders
Notary Public

My Commission Expires: Notary Public, State at Large, Georgia
My Commission Expires February 1, 1998

2890J

25043624861

3. On June 2, 1994, I received a Subpoena to Produce Documents and Order to Submit Written Answers in connection with MUR 3966 which was directed at me, individually, in my capacity as a member of the Board of Directors of KMS Industries, Inc. It is my understanding that other individuals who were either members of the KMS Board of Directors or

employees of KMS Fusion have also received subpoenas in connection with the FEC's investigation.

4. I am familiar with the "Factual and Legal Analysis" which accompanied the FEC subpoenas and upon which the FEC's findings are based. It alleges that KMS "increased its directors salaries by \$250 at approximately the same time that various KMS directors authorized a \$250 deduction from their paychecks for the KMS-SSF." It concludes that "... the directors contributions to KMS-SSF appear suspect given that the directors made them at a time when their compensation was increased by the amount they were regularly contributing."

5. I have been a member of the Board of Directors of KMS Industries, Inc. ("KMS"), the parent of KMS Fusion, since 1978. As a Director of KMS, I have always received a Director's fee. In May 1988, the Board of Directors of KMS voted to increase the individual Director's fee from \$9,000 to \$12,000 annually, effective April 1, 1988. Since that time, my quarterly Director's compensation has been in the amount of \$3,000.

6. During the May 25, 1988 meeting of the KMS Board of Directors, I moved that the individual Director's annual fee be increased from \$9,000 to \$12,000. My recollection is that my recommendation was based on my belief, and that of my fellow Directors, that our \$9,000 annual compensation was not commensurate with our duties and responsibilities, particularly

the time commitment that each of us was making to KMS, and lagged behind that of other similarly situated corporations. At no time during the May 25, 1988 meeting, nor at any other time, was there any discussion or consideration by the Board, or between any individual Director or Directors and me, concerning any connection between the increase in Directors' fees and Directors' contributions to the PAF.

7. Since the PAF was established in 1980, I have made significant personal contributions, in the form of personal checks or paycheck deductions, to the PAF. For example, in 1986, I authorized that \$1,000 be deducted from my Director's fee check and contributed to the PAF, and I contributed an additional \$2,000 in the form of a personal check.

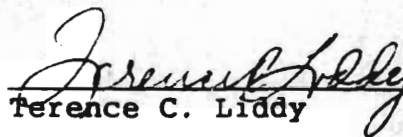
8. To the best of my recollection, in July 1988 KMS modified its Directors' deduction system to permit Directors to pre-authorize quarterly deductions from their Directors' paychecks. The system was consistent with one which had been in place for shareholder employees. In July 1988, I authorized KMS to deduct \$250.00 from my quarterly Director's check and to contribute such amount to the KMS PAF until further notice. The first such deduction did not take place until October 1988. During 1988, I also made a separate contribution of \$200 by payroll deduction to the PAF.

9. Due to the \$3,000 per annum increase in individual Director's fees effective April 1, 1988, each Director's quarterly compensation increased from \$2,250 to \$3,000 beginning with their second quarter paychecks. Thus, each Director's \$250 quarterly contribution to the PAF was a sum far beneath the actual increase in his quarterly compensation.

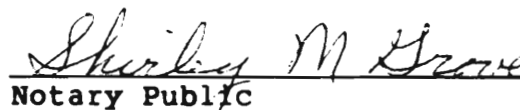
10. My contributions to the PAF were entirely voluntary and were based upon my belief that the PAF played an important role in furthering the interests of KMS Fusion, its employees and its shareholders. At no time did I make any contribution to the PAF with the understanding, either explicit or implicit, that such contribution would be reimbursed by KMS.

10. On or about July 1993, KMS terminated the Directors' paycheck deduction system. Recently, KMS terminated its PAF and the company intends to notify the FEC of such termination in its next quarterly filing.

Further affiant saith not.


Terence C. Liddy

Subscribed and sworn to before me this 22nd day of June 1994.


Notary Public

SHIRLEY M. GROVE
Notary Public, Washtenaw County, Michigan
My Commission Expires July 12, 1995

My Commission Expires:

2895J

BEFORE THE FEDERAL ELECTION COMMISSION

STATE OF ARIZONA)
)
 COUNTY OF MARICOPA)

AFFIDAVIT OF THOMAS P. STAFFORD

Thomas P. Stafford, being duly sworn, deposes and says:

1. I am a 1952 honors graduate of the United States Naval Academy. Upon graduation, I was commissioned into the United States Air Force. In 1962, I was selected as one of the second group of astronauts and participated in, or commanded, two Gemini and two Apollo missions. In addition to my assignments as an astronaut, in 1978 I served as the Air Force Deputy Chief of Staff for Research, Development and Acquisition, in which capacity, among other things, I personally directed the start of the F-117A Stealth Fighter Program. In November 1979, I retired from the Air Force with the rank of Lieutenant General. I am the co-founder of the technical consulting firm of Stafford, Burke and Hecker, 1006 Cameron Street, Alexandria, Virginia 22314. I sit on the Board of Directors of seven publicly-held corporations and two privately-held corporations.

2. During the period between January 1980 and August 1992, I was a member of the Board of Directors of KMS Industries, Inc. ("KMS") a company now located at 101 North Main Street, Suite 410, Ann Arbor, Michigan 48104.

25043624366

3. It is my understanding that KMS Fusion, Inc., a subsidiary of KMS, the KMS Fusion Political Action Fund (hereinafter referred to as the "PAF") and Mr. Terence C. Liddy, as its treasurer, recently received a Subpoena to Produce Documents and an Order to Submit Written Answers in connection with MUR 3966, an investigation being conducted by the Federal Election Commission (the "FEC" or the "Commission") in connection with the FEC's finding that it has reason to believe that KMS Fusion, the PAF and Mr. Terence Liddy, as its treasurer, knowingly and willfully violated certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act").

4. On or about May 19, 1994, I received a Subpoena to Produce Documents and Order to Submit Written Answers in connection with MUR 3966. The subpoena was directed at me, individually, in my capacity as a member of the KMS Board of Directors. It is my understanding that other individuals who were either members of the KMS Board of Directors or employees of KMS Fusion have also received subpoenas in connection with the FEC's investigation of alleged violations of the Act.

5. I am familiar with the "Factual and Legal Analysis" which accompanied the FEC subpoenas and upon which the FEC's findings are based. It alleges that KMS "increased its directors salaries by \$250 at approximately the same time that various KMS directors authorized a \$250 deduction from

2 5 0 4 3 6 2 4 8 6 8

their paychecks for the KMS-SSF." It concludes that "... the directors contributions to KMS-SSF appear suspect given that the directors made them at a time when their compensation was increased by the amount they were regularly contributing."

6. As a Director of KMS, I always received a Director's fee. In May 1988, the Board of Directors of KMS voted to increase the individual Director's fee from \$9,000 to \$12,000 annually, effective April 1, 1988.

7. My recollection is that the Board's decision to increase the Directors' fees was based upon its belief that KMS Directors' fees lagged behind those of similarly situated corporations and should be increased. Indeed, my experience on other corporate boards confirmed that belief. At no time during the May 25, 1988 meeting, nor at any other time, was there any discussion or consideration by the Board, or between any individual Director or Directors and me, concerning any connection between the increase in Directors' fees and Directors' contributions to the PAF.

8. As a Director of KMS, I made significant contributions to the PAF. In 1986, for example, I authorized that \$1,000 be deducted from my Director's fee check. To the best of my recollection, in July 1988 KMS modified its Directors' paycheck deduction system to permit Directors to pre-authorize quarterly deductions from their Director's paychecks. The system was consistent with one which had been

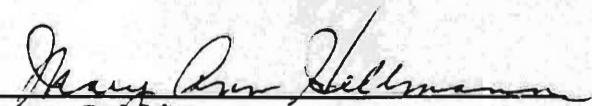
in place for shareholder employees. In July 1988, I authorized KMS to deduct \$250.00 from my Director's check for a contribution to the PAF until further notice, but the first such deduction did not take place until October 1988. During 1988, therefore, I made one quarterly contribution of \$250 to the PAF. To the best of my recollection, based upon my July 1988 authorization, I continued to make contributions of \$250 from my quarterly Director's paycheck until such time as I resigned from the Board in 1992.

9. My contributions to the PAF were entirely voluntary and were based upon my belief that the PAF played an important role in furthering the interests of KMS Fusion, its employees and its shareholders. At no time did I make any contribution to the PAF with the understanding, either explicit or implicit, that such contribution would be reimbursed by KMS.

Further affiant saith not.


Thomas P. Stafford

Subscribed and sworn to before me this 22 day of June 1994.


Notary Public

My Commission Expires:

3/31/97

2889J

BEFORE THE FEDERAL ELECTION COMMISSION

STATE OF MICHIGAN)
)
 COUNTY OF WASHTENAW)

AFFIDAVIT OF RICHARD E. FRY

Richard E. Fry, being duly sworn, deposes and says:

1. I am currently President of Richard E. Fry, AIA, Ltd., Architects & Planners, 308 W. Huron, Ann Arbor, Michigan 48105. During the period between September 1992 and the present, I have been a member of the Board of Directors of KMS Industries, Inc. ("KMS") a company now located at 101 North Main Street, Suite 410, Ann Arbor, Michigan 48104.
2. It is my understanding that KMS Fusion, Inc., a subsidiary of KMS, the KMS Fusion Political Action Fund (hereinafter referred to as the "PAF") and Mr. Terence C. Liddy, as its treasurer, recently received a Subpoena to Produce Documents and Order to Submit Written Answers in connection with MUR 3966, an investigation being conducted by the Federal Election Commission (the "FEC" or the "Commission") in connection with the FEC's finding that it has reason to believe that KMS Fusion, the PAF and Mr. Terence Liddy, as its treasurer, knowingly and willfully violated certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act").
3. On May 21, 1994, I received a Subpoena to Produce Documents and Order to Submit Written Answers in connection

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with MUR 3966. The subpoena was directed at me, individually, in my capacity as a member of the KMS Board of Directors. It is my understanding that other individuals who were either members of the KMS Board of Directors or employees of KMS Fusion have also received subpoenas in connection with the FEC's investigation of alleged violations of the Act.

4. I am familiar with the "Factual and Legal Analysis" which accompanied the FEC subpoenas and upon which the FEC's findings are based. It alleges that KMS "increased its directors salaries by \$250 at approximately the same time that various KMS directors authorized a \$250 deduction from their paychecks for the KMS-SSF." It concludes that "... the directors contributions to KMS-SSF appear suspect given that the directors made them at a time when their compensation was increased by the amount they were regularly contributing."

5. As a Director of KMS, I always received a Director's fee of \$12,000 annually.

6. In October 1992, I authorized KMS to make deductions of \$250 from my quarterly Director's paycheck and to contribute such money to the KMS PAF. Based upon that authorization, I continued to make contributions of \$250 to the PAF from my quarterly Director's paycheck until July 1993.

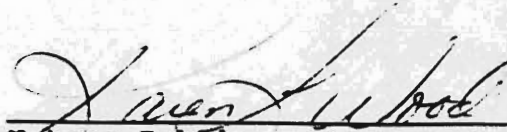
7. My contributions to the PAF were entirely voluntary and were based upon my belief that the PAF played an important role in furthering the interests of KMS Fusion, its

employees and its shareholders. At no time did I make any contribution to the PAF with the understanding, either explicit or implicit, that such contribution would be reimbursed by KMS.

Further affiant saith not.


Richard E. Fry

Subscribed and sworn to before me this 22 day of June 1994.


Notary Public

KAREN L. WOOD
NOTARY PUBLIC - WASHTENAW COUNTY, MICH
MY COMMISSION EXPIRES 6-7-95

My Commission Expires: _____

2892J

25043624372

BEFORE THE FEDERAL ELECTION COMMISSION

STATE OF MICHIGAN)

COUNTY OF WAYNE)

AFFIDAVIT OF RAYNOLD A. SCHMICK

Raynold A. Schmick, being duly sworn, deposes and says:

1. I am a partner in the law firm of Dykema Gossett PLLC, which has served as legal counsel to KMS Industries, Inc. ("KMS") and its affiliated corporations, including KMS Fusion, Inc., for over 15 years.

2. During the past month, KMS Fusion, Inc., the KMS Fusion Political Action Fund (hereinafter referred to as the "PAF"), Mr. Terence Liddy, as treasurer of the KMS PAF, and numerous individuals who are or were members of the KMS Board of Directors or employees of KMS Fusion have received a Subpoena to Produce Documents and Order to Submit Written Answers in connection with MUR 3966, an investigation being conducted by the Federal Election Commission (the "FEC" or the "Commission") in connection with the FEC's finding that it has reason to believe that KMS Fusion, the PAF, Mr. Liddy, as treasurer of the PAF, and the individuals knowingly and willfully violated certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act").

3. I am familiar with the "Factual and Legal Analysis" which accompanied the FEC subpoenas and upon which the FEC's findings are based. It alleges that KMS "increased its directors salaries by \$250 at approximately the same time that various KMS directors authorized a \$250 deduction from

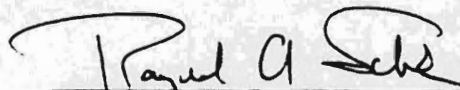
25043624373

their paychecks for the KMS-SSF." It concludes that "... the directors contributions to KMS-SSF appear suspect given that the directors made them at a time when their compensation was increased by the amount they were regularly contributing."

4. I attended the May 25, 1988 meeting of the KMS Board of Directors which was held in Chicago, Illinois. During the meeting, Mr. Liddy moved that the Directors' annual fee be increased from \$9,000 to \$12,000. My recollection is that Mr. Liddy's recommendation that the Directors' fee be increased was based on the Directors' view that KMS' Directors fees lagged behind those of other similarly situated Corporations.

5. At no time during the May 25, 1988 meeting was there any discussion or consideration by the Board concerning any relationship between the increase in Directors' fees and Directors' contributions to the PAF.

Further affiant saith not.


Raynold A. Schmick

Subscribed and sworn to before me this 20th day of June 1994.


Notary Public

My Commission Expires: _____

2896J

LINDA M. FRY
Notary Public, Livingston County, MI
My Commission Expires Oct. 10, 1995

Acting in Washtenaw County

1/88 - 5/88

James C. Bard

Robert A. Carrane

Ned C. Lautenbach

Terence C. Liddy

Charles K. Ligon Appt 3/88

Patrick B. Long

Thomas P. Stafford

5/88 - 5/89

James C. Bard

Robert A. Carrane

Ned C. Lautenbach

Terence C. Liddy

Charles K. Ligon

Patrick B. Long

Thomas P. Stafford

5/89 - 5/90

James C. Bard

Robert A. Carrane

Ned C. Lautenbach

Terence C. Liddy

Charles K. Ligon

Patrick B. Long

Thomas P. Stafford

5/90 - 5/91

James C. Bard

Robert A. Carrane

Ned C. Lautenbach

Terence C. Liddy

Charles K. Ligon

Patrick B. Long

Thomas P. Stafford

Resigns: 12/90

Resigns: 4/91

25043624375

5/91 - 5/92

Robert A. Carrane
Terence C. Liddy
Charles K. Ligon
Patrick B. Long
Thomas P. Stafford

Resigns: 3/92

5/92 - 5/93

Richard E. Fry
Terence C. Liddy
Charles K. Ligon
Patrick B. Long
Thomas P. Stafford

Appt: 9/92

5/93

Resigns: 8/92

5/93 - 5/94

Richard E. Fry
Terence C. Liddy
Patrick B. Long

5/94 - 5/95

Richard E. Fry
Terence C. Liddy
Patrick B. Long

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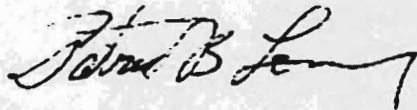
Patrick B. Long
KMS Industries, Inc.
P. O. Box 1778
Ann Arbor MI 48106

KMS Industries, Inc.
P. O. Box 1778
Ann Arbor MI 48106

Gentlemen:

Please pay the KMS Fusion, Inc. Political Action Fund the amount of \$1000.00, from my Director's Fee check. This is my contribution to the KMSF PAF.

Sincerely,



Patrick B. Long

Dated: 6-2-86

25043624877

James C. Bard
2195 Club House Dr.
Prescott AZ 86301

KMS Industries, Inc.
P. O. Box 1778
Ann Arbor MI 48106

Gentlemen:

Please pay the KMS Fusion, Inc. Political Action Fund the amount of \$1000.00, from my Director's Fee check. This is my contribution to the KMSF PAF.

Sincerely,

James C. Bard

James C. Bard

Dated: 6/8/86

25043624878

Robert A. Carrane
Carrane, Zirin & Freifeld
100 N. LaSalle, #600 6th Fl.
Chicago IL 60602

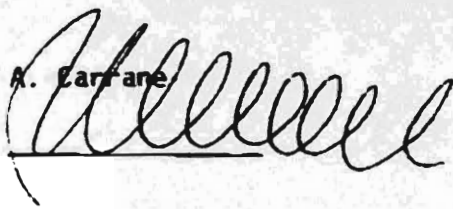
KMS Industries, Inc.
P. O. Box 1778
Ann Arbor MI 48106

Gentlemen:

Please pay the KMS Fusion, Inc. Political Action Fund the amount of \$1000.00, from my Director's Fee check. This is my contribution to the KMSF PAF.

Sincerely,

Robert A. Carrane

Dated: 

25043624879

Exhibit N

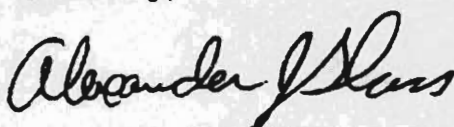
Alexander J. Glass
KMS Fusion, Inc.
P. O. Box 1567
Ann Arbor MI 48106

KMS Industries, Inc.
P. O. Box 1778
Ann Arbor MI 48106

Gentlemen:

Please pay the KMS Fusion, Inc. Political Action Fund the amount of \$1000.00, from my Director's Fee check. This is my contribution to the KMSF PAF.

Sincerely,



Alexander J. Glass

Dated: 4.10.86

25043624330

Terence C. Liddy
KMS Fusion, Inc.
P. O. Box 1567
Ann Arbor MI 48106

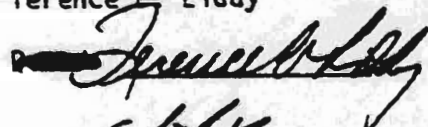
KMS Industries, Inc.
P. O. Box 1778
Ann Arbor MI 48106

Gentlemen:

Please pay the KMS Fusion, Inc. Political Action Fund the amount of \$1000.00, from my Director's Fee check. This is my contribution to the KMSF PAF.

Sincerely,

Terence C. Liddy


6/2/86

25043624881

Exhibit P

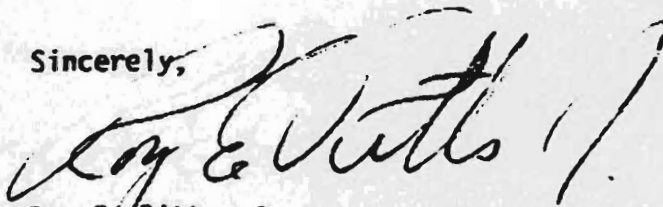
Roy E. Ritts, Jr. MD
3900 Hidden Way NE
Rochester MN 55901

KMS Industries, Inc.
P. O. Box 1778
Ann Arbor MI 48106

Gentlemen:

Please pay the KMS Fusion, Inc. Political Action Fund the amount of \$1000.00, from my Director's Fee check. This is my contribution to the KMSF PAF.

Sincerely,



Roy E. Ritts, Jr.

Dated: June 6, 1986

25043624382

Thomas P. Stafford
General Technical Services, Inc.
501 Northwest Exy, # 515
Oklahoma City OK 73118

KMS Industries, Inc.
P. O. Box 1778
Ann Arbor MI 48106

Gentlemen:

Please pay the KMS Fusion, Inc. Political Action Fund the amount of \$1000.00, from my Director's Fee check. This is my contribution to the KMSF PAF.

Sincerely,



Thomas P. Stafford

Dated:

7 June 1986

25043624883

KMS FUSION, INC
THE KMS POLITICAL ACTION FUND
P.O. Box 1278
Ann Arbor, MI 48106-1778

Exhibit R

EMPLOYEE'S NAME Alexander J. Glass EMPLOYEE # 659

ADDRESS (required): 2025 Hill St Ann Arbor MI 48104

I hereby volunteer a contribution to the KMS Political Action Fund (KMS-PAF) for the calendar year 1986. You are directed to allocate my contribution for the use of candidates selected by the KMSF-PAF.

I enclose payment, or, I wish to take advantage of the Payroll Deduction Plan and authorize an amount to be withheld from my paycheck each pay period and transmitted to the KMSF-PAF account during the calendar year of 1986 in the following manner:

MY TOTAL CONTRIBUTION FOR 1986 IS \$ 1200

I authorize the following deduction:

Or, I enclose payment of:

\$10/pay _____ \$20/pay _____ \$ _____

\$15/pay _____ \$100/pay Monthly

EMPLOYEE'S SIGNATURE _____ DATE _____

RETURN THIS ENTIRE FORM TO PAULA BARRETT IN THE PAYROLL OFFICE

NOTE: A copy of our Political Action Fund is filed with the Federal Election Commission and is available for purchase from Federal Election Commission, Washington, DC 20463

####

This bottom portion for Payroll Office use only

Employee Name A. Glass Employee # 659

RECEIPT FOR KMS-PAF CONTRIBUTION FOR CALENDAR YEAR 1986

Total Contributed \$ 1200.-

Amount Received \$ -

Payroll Deduction \$ 100 per pay

Effective date: 1-1-86 thru 12-31-86

Paula R. Barrett, Treasurer
Signature of KMSF-PAF Officer

Date: 12-31-85

Revised 1/4/85

NO. 11 35

Exhibit S

James C. Bard
2191 Club House Drive
Prescott, AZ 86301

KMS Industries, Inc.
Attn: T. C. Liddy
P. O. Box 1778
Ann Arbor, MI 48106-1778

Dear Mr. Liddy:

Until further notice, please deduct \$250.00 from my Director's check
for a contribution to the KMS Fusion, Inc. Political Action Fund.

Sincerely,

James C. Bard

James C. Bard

Dated 7/12/88

DISTRIBUTION:
Hochkins
Barrett
Orig: PAF File

25043624335

Exhibit T

JUL 13 1988

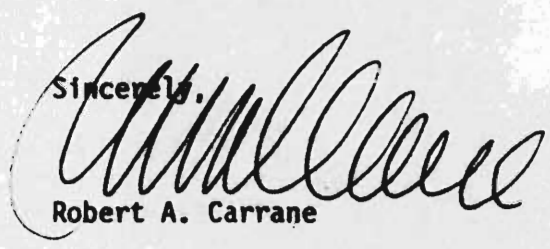
Robert A. Carrane
Carrane, Zwirn Newman &
Freifeld
100 N. LaSalle,
#600, 6th Fl.
Chicago, IL 60602

KMS Industries, Inc.
Attn: T. C. Liddy
P. O. Box 1778
Ann Arbor, MI 48106-1778

Dear Mr. Liddy:

Until further notice, please deduct \$250.00 from my Director's check
for a contribution to the KMS Fusion, Inc. Political Action Fund.

7/8/88
Dated: _____

Sincerely,

Robert A. Carrane

25043624336

Ned C. Lautenbach
343 Old Hicory Road
Fairfield, CT 06430

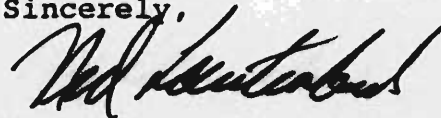
KMS Industries, Inc.
Attn: T. C. Liddy
P.O. Box 1778
Ann Arbor, MI 48106-1778

Dear Mr. Liddy:

Until further notice, please deduct \$250.00 from my Director's check for a contribution to the KMS Fusion, Inc. Political Action Fund.

This contribution is made by me in my capacity as a private citizen and not on behalf of the IBM Corporation.

Sincerely,



Ned C. Lautenbach

Dated: 7-13-88

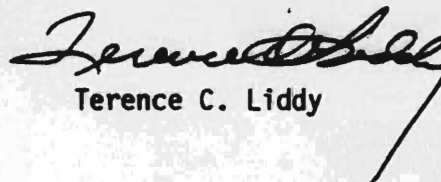
DISTRIBUTION
Hochkins
Barrett
Orig: PAF File

Terence C. Liddy
KMS Industries, Inc.
P. O. Box 1778
Ann Arbor, MI 48106-1778

KMS Fusion, Inc.
Attn: KMS Fusion Political Action Fund
P. O. Box 1567
Ann Arbor, MI 48106-1567

Until further notice, please deduct \$250.00 from my Director's check for a contribution to the KMS Fusion, Inc. Political Action Fund.

Sincerely,


Terence C. Liddy

Dated: 7/6/88

cc: L. D. Johnson
R. S. Hochkins
P. M. Barrett
C. F. White

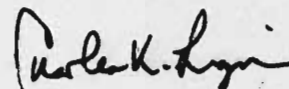
Charles K. Ligon
ALCOA Materials Science Div.
1501 ALCOA Building
Pittsburgh, PA 15219

KMS Industries, Inc.
Attn: T. C. Liddy
P. O. Box 1778
Ann Arbor, MI 48106-1778

Dear Mr. Liddy:

Until further notice, please deduct \$250.00 from my Director's check
for a contribution to the KMS Fusion, Inc. Political Action Fund.

Sincerely,


Charles K. Ligon

Dated: 1/12/88

Distribution:
R. Hochkins
P. Cussigh
P. Barrett
Orig: PAF Files

05043624339

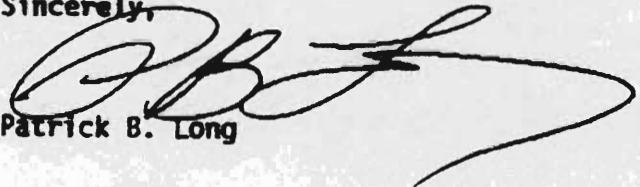
Exhibit X

Patrick B. Long
KMS Industries, Inc.
P. O. Box 1778
Ann Arbor, MI 48106-1778

KMS Fusion, Inc.
Attn: KMS Fusion Political Action Fund
P. O. Box 1567
Ann Arbor, MI 48106-1567

Until further notice, please deduct \$250.00 from my Director's check for a contribution to the KMS Fusion, Inc. Political Action Fund.

Sincerely,


Patrick B. Long

Dated: 7/6/88

cc:
P. M. Barrett, PAF Treasurer
L. D. Johnson
R. S. Hochkins
C. F. White, PAF Bookkeeper

Exhibit Y

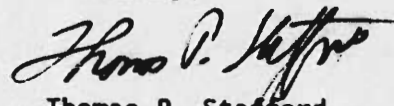
Lt. Gen. Thomas P. Stafford
General Technical Services Inc.
3212 East I-240
Oklahoma City, OK 73135

KMS Industries, Inc.
Attn: T. C. Liddy
P. O. Box 1778
Ann Arbor, MI 48106-1778

Dear Mr. Liddy:

Until further notice, please deduct \$250.00 from my Director's check for a contribution to the KMS Fusion, Inc. Political Action Fund.

Sincerely,


Thomas P. Stafford

Dated: July 14, 1988

DISTRIBUTION:
Hochkins, R
Barrett, P.
Orig: PAF File

1 9 8 8 0 4 3 6 2 4 3 9 1

Richard Fry
2101 Hill Street
Ann Arbor, MI 48104

Exhibit 2

KMS Fusion, Inc.
Attn: KMS Fusion Political Action Fund
P.O. Box 1567
Ann Arbor, MI 48106-1567

Until further notice, please deduct \$250.00 from my Director's
check for a contribution to the KMS Fusion, Inc. Political Action
Fund.

Sincerely,

RF Fry
Richard Fry

10/2/92
Date

25043624892

BEFORE THE FEDERAL ELECTION COMMISSION

STATE OF MICHIGAN)
)
 COUNTY OF WASHTENAW)

AFFIDAVIT OF RAYMOND L. HOLCOMB

Raymond L. Holcomb, being duly sworn, deposes and says:

1. I am currently President of Geostrip Systems, Inc. and reside at 1460 Pear Street, Ann Arbor, Michigan 48105. During the period between November 15, 1983 and May 1992, I was employed by KMS Fusion, Inc., initially as Controller, and later, as a Vice President. I have been a KMS stockholder since approximately 1984.

2. It is my understanding that KMS Fusion, Inc., a subsidiary of KMS, the KMS Fusion Political Action Fund (hereinafter referred to as the "PAF") and Mr. Terence C. Liddy, as its treasurer, recently received a Subpoena to Produce Documents and Order to Submit Written Answers in connection with MUR 3966, an investigation being conducted by the Federal Election Commission (the "FEC" or the "Commission") in connection with the FEC's finding that it has reason to believe that KMS Fusion, the PAF and Mr. Terence Liddy, as its treasurer, knowingly and willfully violated certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act").

3. On May 27, 1994, I received a Subpoena to Produce Documents and Order to Submit Written Answers in connection

25043624893

with MUR 3966. The subpoena was directed at me, individually, ostensibly in my capacity as a member of the KMS Board of Directors. It is my understanding that other individuals who were either members of the KMS Board of Directors or employees of KMS Fusion have also received subpoenas in connection with the FEC's investigation of alleged violations of the Act.

4. I am familiar with the "Factual and Legal Analysis" which accompanied the FEC subpoenas and upon which the FEC's findings are based. It alleges that KMS "increased its directors salaries by \$250 at approximately the same time that various KMS directors authorized a \$250 deduction from their paychecks for the KMS-SSF." It concludes that "... the directors contributions to KMS-SSF appear suspect given that the directors made them at a time when their compensation was increased by the amount they were regularly contributing."

5. I have never been a member of the KMS Board of Directors or the Board of Directors of any other corporation affiliated with KMS.

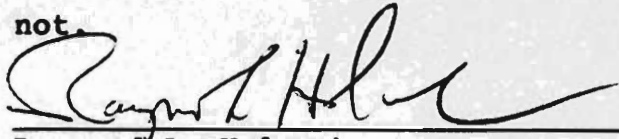
6. Based upon an examination of my records, I have concluded that I made four contributions to the KMS PAF during the period between December 1986 and January 1990, as follows: December 16, 1986 (\$240); May 2, 1988 (\$120); December 14, 1988 (\$250), and January 15, 1990 (\$250). See Exhibit A, attached hereto.

7. At no time were any of my personal contributions to the PAF related in any way to any compensation increases I may have received as an employee of KMS Fusion. At no time did KMS ever reimburse me for any such contributions.

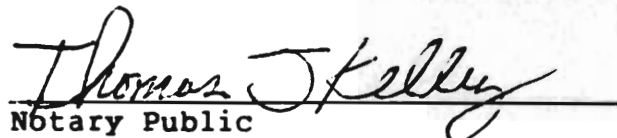
8. My general recollection is that I may have made some or all of the above-referenced contributions in response to written solicitations for such contributions. I have conducted a search of my records and have been unable to locate any copies of any letters or other documents I may have received soliciting contributions to the KMS PAF.

9. My contributions to the PAF were based upon my belief that the PAF played an important role in furthering the interests of KMS Fusion, its employees and its shareholders. At no time did I make any contribution to the PAF with the understanding, explicit or implicit, that such contribution would be reimbursed by KMS.

Further affiant saith not.


Raymond L. Holcomb

Subscribed and sworn to before me this 21 day of June 1994.


Notary Public

My Commission Expires:

4-24-95

2893J

THOMAS J. KELLEY
Notary Public, Wayne County, MI
My Commission Expires April 24, 1995
Acting in _____

EXHIBIT A

250436224396

1480 PEAR ST
ANN ARBOR, MI 48106

22-1086

PAY 16 Dec 1986

74-100
724

PAY TO THE
ORDER OF

KMS Fusion PAF

\$ 240.00

Two hundred forty and 00/100

DOLLARS

FIRST OF
AMERICA

ANN ARBOR, MI 48106
1817 ARBOR

FOR C486 completion

[Signature]

RAYMOND L. OR PEGGY S. HOLCOMB
1480 PEAR ST
ANN ARBOR, MI 48106

7113

PAY TO THE
ORDER OF

KMS Fusion Political Action Fund

\$ 120.00

One hundred twenty and 00/100

DOLLARS

FIRST OF
AMERICA

FOR PAF

[Signature]

RAYMOND L. OR PEGGY S. HOLCOMB
1480 PEAR ST.
ANN ARBOR, MI 48106

7301

12/14 1986

PAY TO THE
ORDER OF

KMS Political Action Fund

\$ 250.00

Two hundred fifty and 00/100

DOLLARS

FIRST OF
AMERICA

[Signature]

RAYMOND L. OR PEGGY S. HOLCOMB
1480 PEAR ST.
ANN ARBOR, MI 48106

7691

15 Jan 1990

PAY TO THE
ORDER OF

KMS Fusion PAF

\$ 250.00

Two hundred fifty and 00/100

DOLLARS

FIRST OF
AMERICA

[Signature]

25043624397

62940102 204420 1
08/PAY ANYBANK REG NBD AA/9-32/08 JAN-02-87

74-104 PAY ANY BANK, P.E.G.
CITIZENS TRUST
FORMERLY
ANN ARBOR TRUST
AND
CITIZENS BANK OF SALINE
ANN ARBOR, MICHIGAN
74-104

761 101100 0212294

JAN-02-87 80876957

PAY TO THE ORDER OF
CITIZENS TRUST
ANN ARBOR, MICHIGAN 48107
FOR DEPOSIT ONLY

KMS FUSION, INC.
POLITICAL ACTION FUND
0300 00549

5555

07/PAY ANYBANK REG NBD AA/9-32/07 MAY-02-88

74-104 PAY ANY BANK, P.E.G.
CITIZENS TRUST
FORMERLY
ANN ARBOR TRUST
AND
CITIZENS TRUST OF SALINE
ANN ARBOR, MI
74-104

761 042000 0613648

MAY-02-88 70283150

PAY TO THE ORDER OF
CITIZENS TRUST
ANN ARBOR, MICHIGAN 48107
FOR DEPOSIT ONLY

KMS FUSION, INC.
POLITICAL ACTION FUND
0300 00549

MY 08 02-

PAY ANY BANK, P.E.G.
CITIZENS TRUST
OF DETROIT, MI 48226

072000326 JAN-04-89

JA 89 04 2
761 042000 0613648

JAN-04-89 72154596

PAY TO THE ORDER OF
CITIZENS TRUST
ANN ARBOR, MICHIGAN 48107
FOR DEPOSIT ONLY

KMS FUSION, INC.
POLITICAL ACTION FUND
0300 00549

101710-118-013 61000

072000326 JAN-22-90

TRUMPETER
ANN ARBOR, MI
48106-1100

JAN-22-90 82518509

PAY TO THE ORDER OF
CITIZENS TRUST
ANN ARBOR, MICHIGAN 48107
FOR DEPOSIT ONLY

KMS FUSION, INC.
POLITICAL ACTION FUND
0300 00549

8
9
8
4
2
6
3
4
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5
0

BEFORE THE FEDERAL ELECTION COMMISSION

STATE OF MICHIGAN)
)
 COUNTY OF WASHTENAW)

AFFIDAVIT OF DONALD L. MUSINSKI

Donald L. Musinski, being duly sworn, deposes and says:

1. I am currently employed by Diamond General Development Corporation and reside at 1135 Jeffrey, Saline, Michigan 48178. During the period between November 3, 1975 and June 28, 1991, I was employed by KMS Fusion, first as a research scientist, and later as a senior technical manager. I have been a KMS stockholder since 1979.

2. It is my understanding that KMS Fusion, Inc., a subsidiary of KMS, the KMS Fusion Political Action Fund (hereinafter referred to as the "PAF") and Mr. Terence C. Liddy, as its treasurer, recently received a Subpoena to Produce Documents and Order to Submit Written Answers in connection with MUR 3966, an investigation being conducted by the Federal Election Commission (the "FEC" or the "Commission") in connection with the FEC's finding that it has reason to believe that KMS Fusion, the PAF and Mr. Terence Liddy, as its treasurer, knowingly and willfully violated certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act").

3. On June 4, 1994, I received a Subpoena to Produce Documents and Order to Submit Written Answers in connection

25043624399

with MUR 3966. The subpoena was directed at me, individually, ostensibly in my capacity as a member of the KMS Board of Directors. It is my understanding that other individuals who were either members of the KMS Board of Directors or employees of KMS Fusion have also received subpoenas in connection with the FEC's investigation of alleged violations of the Act.

4. I am familiar with the "Factual and Legal Analysis" which accompanied the FEC subpoenas and upon which the FEC's findings are based. It alleges that KMS "increased its directors salaries by \$250 at approximately the same time that various KMS directors authorized a \$250 deduction from their paychecks for the KMS-SSF." It concludes that "... the directors contributions to KMS-SSF appear suspect given that the directors made them at a time when their compensation was increased by the amount they were regularly contributing."

5. I have never been a member of the KMS Board of Directors or the Board of Directors of any other corporation affiliated with KMS.

6. Based upon an examination of my records, I have concluded that I made three contributions to the KMS PAF during the period between May 1988 and December 1990, as (1) May 1988 (\$250 by personal check); (2) December 28, 1988 (\$150 by personal check); and (3) 1990 (automatic payroll deduction of \$20 monthly or a total of \$240). See Exhibits A - C, attached hereto.

7. At no time were any of my personal contributions to the PAF related in any way to any compensation increases I may have received as an employee of KMS Fusion. At no time did KMS ever reimburse me for any such contributions.

8. My general recollection is that I may have made some or all of the above-referenced contributions in response to written solicitations for such contributions. I have conducted a search of my records and have been unable to locate any copies of any letters or other documents I may have received soliciting contributions to the KMS PAF.

9. My contributions to the PAF were based upon my belief that the PAF played an important role in furthering the interests of KMS Fusion, its employees and its shareholders. At no time did I make any contribution to the PAF with the understanding, explicit or implicit, that such contribution would be reimbursed by KMS.

Further affiant saith not.

Donald L. Musinski, Ph.D.
Donald L. Musinski

Subscribed and sworn to before me this 21 day of June 1994.

Christine M. Clisham
Notary Public

My Commission Expires:

12-11-94

CHRISTINE M. CLISHAM
NOTARY PUBLIC - WASHTENAW COUNTY, MICH.
MY COMMISSION EXPIRES 12-11-94

2894J

DONALD L. MUSINSKI
 JEAN E. MUSINSKI
 1135 JEFFREY LANE
 SALINE, MI 48176

3608

Pay to the order of NMS Fusion Political Action Fund

Two Hundred, Fifty & 00/100

Comerica Bank Ann Arbor
 Ann Arbor, Michigan 48105

\$250.00

Dollars

Memo

Donald L. Musinski

25043624902

[illegible]

Exhibit B

M DONALD L. MUSINSKI
JEAN E. MUSINSKI
1135 JEFFERSON AVE 722 01-04-89 000000000000 00
SALINE, MI 48176

12/22/88 19 3863

Pay to the order of KMSF PAF \$ 150 00 %

One Hundred, Fifty & 00/100 Dollars

Comerica Bank-Ann Arbor
Ann Arbor, Michigan 48106

Memorandum *Donald L. Musinski*

[REDACTED]

15043624903

PROCESSED
072000326 JAN-04-89

280101722 01-04-89

JAN-04-89 12154597

PAY TO THE ORDER OF
CITIZENS TRUST
ANN ARBOR, MICHIGAN 48107
FOA DEPOSIT ONLY
KMS FUSION, INC.
POLITICAL ACTION FUND
C300 00549 2 1 1

Exhibit C DPZ

KMS FUSION, INC. POLITICAL ACTION FUND

**P.O. Box 1567
Ann Arbor, MI 48106**

Receipt

Contributor's Name:

Donald L. Musinski

Total Amount Pledged for 1990:

\$240⁰⁰

Amount Received:

Payroll Deduction:

\$240⁰⁰

Paula M Barrett
Paula Barrett, Treasurer

1.15.90
Date

250443624904

LAW OFFICES
DYKEMA GOSSETT
PROFESSIONAL LIMITED LIABILITY COMPANY

FRANKLIN SQUARE
SUITE 300 WEST

1300 I STREET, N.W.

WASHINGTON, D.C. 20005-3308

TELEPHONE (202) 522 8600

FAX (202) 522 8669

RECEIVED
FEDERAL ELECTION
COMMISSION
ADMINISTRATIVE

JUL 14 8 48 AM '94

ANN ARBOR, MICHIGAN
BLOOMFIELD HILLS, MICHIGAN
CHICAGO, ILLINOIS

DETROIT, MICHIGAN
GRAND RAPIDS, MICHIGAN
LANSING, MICHIGAN

July 12, 1994

VIA TELECOPY

Craig Reffner, Esq.
Federal Election Commission
Office of the General Counsel
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 3966

Dear Mr. Reffner:

As we discussed during our July 8, 1994 telephone conversation, we recently received a letter from Robert A. Carrane in which he authorized us to represent him in connection with the above-captioned investigation.

As you know, Mr. Carrane is currently incarcerated in a Federal Prison Camp in Terre Haute, Indiana. Mr. Carrane's letter to me stated that he is attempting to obtain approval to call me, but is unlikely to receive such approval for another two to three weeks.

Mr. Carrane's letter stated that he received a copy of the FEC's subpoena in the above-referenced matter on or about June 15, 1994. Given Mr. Carrane's circumstances and his inability to confer with counsel, however, we are requesting that the time within which he must respond to the subpoena be extended until sometime after he is able to contact me by telephone.

Although I do not know at the present time when Mr. Carrane will be in a position to respond to the subpoena, I will call you as soon as he calls me.

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

JUL 14 9 16 AM '94

5043624905

DYKEMA GOSSETT

Craig Reffner, Esq.
July 12, 1994
Page 2

Thank you for your cooperation.

Very truly yours,



Judy Parker Jenkins

JPJE:jjp
2935J

cc: Mr. Terence Liddy

25043624906

James C. Bard
7454 N. Desert Tree Drive
Tucson, Arizona 85704

July 20, 1994

Mr. Craig D. Refner, Esq.
Office of the General Counsel
Federal Election Committee
999 E Street, N.W.
Washington, D.C. 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
JUL 27 11 07 AM '94

Dear Mr. Refner

Re: MUR 3966

Preface:

First, thank you for the courteous and informative phone calls.

Second, the mailing reached me in Tucson, Arizona on June 11, the day before I departed on an extended road trip. My misunderstanding of the inquiry was an innocent but very unfortunate oversight, which I truly regret. The mailing went into my briefcase in the trunk of my car!

Third, all of my ancient files and records relating to my service as an outside director of KMS Industries, Inc., are in Tucson, Arizona; I am presently in Park City, Utah, and will not return to Tucson until late September. No one has access to my files during my absence.

Fourth, I now realize full-well the legal importance of this matter. Due to logistical circumstances, The information which follows can only be rendered to the best of my recollection. I willingly supply it under oath, for I have nothing to hide.

Answers to Questions:

1. To the best of my knowledge, I agreed to only a limited number of contributions in the amount of \$250 each. The incidents took place some 3 or 4 years ago. I did not contribute regularly over an extended period of time.

(a) The contribution was solicited by Terry Liddy, vice president and secretary of KMS Industries, Inc., who handled all such matters. He has all the pertinent records. The entire matter of contributions was casually and informally presented verbally at KMS Industries board meetings. There may have been a written communication from Liddy to directors on the matter. The contribution request was never a demand or obligatory issue. As I recall, the fund had become depleted; directors were approached to replenish it. At no time did I specifically consent to contributions by KMS Fusion nor did I authorize my name to be used to make a contribution in the name of another.

05043624907

James C. Bard
7454 N. Desert Tree Drive
Tucson, Arizona 85704

Page 2.

1. (a) continued)

Let the record show I was not a director of KMS Fusion and had no knowledge whatsoever of its political contributions or related activities. Therefore, what KMS Fusion did with such funds was totally beyond my knowledge or control. I was never supplied any information on the disposition of funds by KMS Fusion, a subsidiary of KMS Industries, Inc.

(b) For convenience purposes, my limited contribution to KMS-SSF was deducted from the director fee. It was simply an in-house bookkeeping entry. I never received any cash compensation for the amount and considered it merely a needed contribution!

2. I made no contributions to any Federal candidates or Federal Political Committees. Moreover, I served only as a director of KMS Industries, Inc., not KMS Fusion. My limited tenure as an outside director (in the area of investments) was solely at the request of Patrick Long, President.

3. I have no documents in my immediate possession at this time. In all candor, Terry Liddy should be able to produce all documentation to support my answers.

For the Record:

1. I resigned voluntarily as a director of KMS Industries, Inc. in 1990 or 1991.

2. I did not make on-going contributions to KMS-SSF. My compensation as a director up to my resignation was not increased regularly at the time of contribution.

3. The KMS Industries, Inc. Board of Directors included potent legal and governmental expertise, namely in the form of attorneys-Patrick Long and Robert Carrane plus Retired General Thomas B. Stafford (astronaut) who served as a consultant to the Department of Defense as well as a director of numerous other publicly owned companies. At no time was the legality of contributions to the KMS-SSF ever mentioned by any of these experts, or anyone else. On the contrary, all outside directors were given reason to believe by Liddy it was valid and needed. The casual nature of the entire matter cannot be overemphasized. I agreed to participate modestly in good faith without questioning the legality of the request.

25043624908

James C. Bard
7454 N. Desert Tree Drive
Tucson, Arizona 85704

Page 3.

Finally, on a personal but relevant note, I spent 40 years in the investment business, working to build a reputation of integrity, professionalism, and reliability. My personal credentials are in order for anyone to investigate. These include the designation as a Chartered Financial Analyst, former registration with the SEC as an investment advisor, former officer of the firm of Brown Brothers Harriman, among other achievements.

Never in my entire life have I "knowingly or wilfully" violated any law - Federal or other! Even the thought or possible accusation is totally repugnant and insulting to my integrity and personal record of conduct.

If my nominal and short-lived participation in a fund controlled and administered by KMS Fusion officials is now deemed a potential violation of Federal law, then I stand tall as a totally innocent victim of violations by other parties! The true fact is I merely complied in good faith to a request from KMS Industries officers. At no time did I have a voice or control over the specific disposition of funds by KMS Fusion officials. Therefore, I respectfully request that any and all potential charges against me be dismissed.

The above information is supplied under oath.

Sincerely,

James C. Bard.

James C. Bard

My current mailing address:
P.O. Box 681173
Park City, UT 84068

25043624909



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 18, 1994

Timothy Sullivan, Esq.
Dykema Gossett
1300 I Street, NW
Suite 300 West
Washington, DC 20005-3306

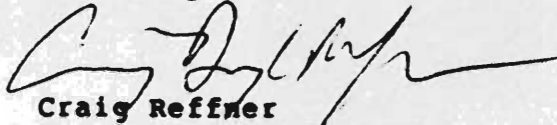
RE: MUR 3966

Dear Mr. Sullivan:

On June 27, 1994, your client, the KMS Fusion Political Action Fund, requested that the Federal Election Commission the ("Commission") permit it to terminate pursuant to 2 U.S.C. § 433(d) and Section 102.3 of the Commission's Regulations. Because of the ongoing enforcement matter involving your client, this request has been denied. Therefore, you are reminded that your client must continue to file all the required reports with the Commission until such time as the enforcement matter has been closed.

If you have any questions, please contact me at
(202) 219-3400.

Sincerely,


Craig Reffner
Attorney

cc: Reports Analysis Division

25043624910

James C. Bard
7454 N. Desert Tree Drive
Tucson, Arizona 85704

August 10, 1994

Mr. Craig D. Refner, Esq.
Office of the General Counsel
Federal Election Committee
999 E Street, N.W.
Washington, D.C. 20463

Dear Mr. Refner,

Re: MUR 3966

You have requested additional information on the subject of KMS Industries director fee increases and the possible inter-relationship with contributions to KMS-SSF. I am pleased to respond to the best of my recollection.

The matter of an increase in director fees came up at a regular board meeting in Ann Arbor. I do not remember the date. The subject was raised by Patrick Long, president, who was the sole spokesman on all such financial matters. As I recall, he discussed and recommended an annual increase on the basis that it was not only warranted in terms of time allocation and hard work but also was consistent with fees paid by other comparable publicly owned companies. He had researched the matter personally. In my judgement, the amount was not considered inordinately large.

Turning to the subject of contribution to the KMS-SSF, this was handled by Terry Liddy, vice president and secretary, who also kept the minutes at every board meeting. Liddy visited Washington regularly and was the primary company contact with government officials, lobbyists, congressmen, etc.. He controlled KMS-SSF activities and allocation of funds along with input from Patrick Long. I had no knowledge or influence whatsoever on the administration of KMS-SSF matters, including contributions. In fact, I never knew what they were doing!

Finally, I have searched my memory diligently as to the timing of the director fee increase and the request for contribution to KMS-SSF. The latter may have arisen at the same meeting an increase in compensation was granted; if so, the request occurred after the fee increase was voted. In all candor, I do not believe personally the fee increase was instituted by Long to motivate directors to contribute to KMS-SSF. In my mind, the compensation increase was a separate and distinct issue; it stood on its own merit and was granted solely on recognition of director service to the company! Otherwise, I would not have agreed to the request for contribution.

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ADMIN

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OFFICE OF GENERAL
COUNSEL

25043624911

James C. Bard
7454 N. Desert Tree Drive
Tucson, Arizona 85704

Page 2.

It is my fervent hope the above information is of value to your difficult investigation. I have endeavored to cooperate in every way; moreover, I continue to stand tall on this entire issue for I have absolutely nothing to hide!

I did not knowingly or wilfully violate any law.

My words are supplied under oath.

Sincerely,

James C. Bard

James C. Bard

25043624912

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

KMS Fusion, Inc., et al.)

Nov 7 12 26 PM '94

MUR 3966

GENERAL COUNSEL'S REPORT

SENSITIVE

I. BACKGROUND

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The Commission previously found reason to believe that KMS Fusion, Inc. ("KMS"), the KMS Fusion Political Action Fund and its treasurer ("KMS-SSF") and ten individual directors of KMS each knowingly and wilfully violated 2 U.S.C. §§ 441b and 441f. The basis for the Commission's finding arose from a Department of Defense ("DOD") referral which showed that KMS had apparently reimbursed its directors for their contributions to the KMS-SSF and possibly even for their contributions to certain Federal candidates. In addition, since the available information showed that KMS was a government contractor during the time in question, the Commission found reason to believe that KMS also knowingly and wilfully violated 2 U.S.C. § 441c. In furtherance of the investigation in this matter, the Commission issued subpoenas to the various Respondents. Responses have been received.

Attachments A-J.

II. DISCUSSION

At the time of the Commission's reason-to-believe findings, the referral materials included a memorandum dated July 5, 1988, calling for an increase in the KMS directors' fees of \$250 per month, effective April 1, 1988. Also included were memoranda from various KMS directors authorizing a \$250 deduction to the KMS-SSF

from their director's fee checks. Each of these memoranda were also dated in July 1988.

Counsel for KMS does not deny that the directors' fees were increased in 1988 nor does he deny that the various individuals in this matter authorized a deduction to the KMS-SSF. In fact, counsel included a copy of the minutes of the KMS Board meeting for May 25, 1988 showing that the increase in question occurred. Attachment A at 17-20. KMS also does not deny that it was a government contractor during the time period in question. KMS, however, flatly denies that the increase in directors' fees was for the purpose of reimbursing the directors for their contributions to the KMS-SSF.¹

In support of his assertion, counsel explains that the increase in directors' fees at issue here was "based upon the belief among the members of the Board that the Directors' compensation was not commensurate with the Board members' duties and responsibilities and lagged behind that of many other similarly situated corporations." Attachment A at 4. Counsel further explains that KMS directors have received a fee for their service since the company's inception and that the increase in 1988 was not the first time directors' fees were increased. In 1978, for example, the directors' fees were \$6,000. In September

1. For purposes of clarification, counsel explains that the directors in this matter actually received their fees from KMS Industries, Inc. According to counsel, KMS Fusion, Inc., is a wholly owned subsidiary of KMS Industries, Inc., which was formed and incorporated in 1971. Counsel explains that while directors of KMS Industries receive a fee for their services, the directors at other wholly owned subsidiaries, including KMS Fusion, have never received a fee.

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1985, the fees were increased to \$9,000. Currently, the annual directors' fees at KMS are \$12,000, as reflected the last increase in 1988.²

In addition, counsel argues that the \$3,000 fee increase in 1988 is more than the amount contributed to the KMS-SSF by each director, which was \$1,000 annually or \$250 on a quarterly basis. Counsel also notes that the directors, as a group, did not even begin making their \$250 contributions until October 1988, some five months after the retroactive date of the increase.³ Counsel explains that it was not until July 1988 that KMS instituted a procedure that allowed directors to authorize deductions from their quarterly fee payments; prior to this time, directors could only authorize one deduction per year. Thus, counsel argues the directors' quarterly contributions of \$250 show that they took advantage of this new procedure for deductions and that "there was no relationship in timing or amount between each . . . \$250 contribution to the [KMS-SSF] . . . and the May 1988 increase in" directors' fees. Attachment A at 8-9.

2. The minutes of the May 25, 1988 Board meeting, however, do not reflect any purpose for increasing the directors' fees, although the minutes from the September 11, 1985 Board meeting, which was when the Directors' fees were increased from \$6,000 to \$9,000, do show that the purpose for that increase was "to more accurately reflect the time and effort required by Directors."

3. Although counsel does not explain why the increase in directors' fees was made retroactive to April 1, 1988, it would appear to coincide with the beginning of the second quarterly director's fee for the calendar year.

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Counsel further notes even before the increase in fees, KMS directors regularly contributed to the KMS-SSF. For example, counsel notes that in 1986, various directors, including Messrs. Long, Bard, Carrane, Liddy and Stafford, each contributed \$1,000 to the KMS-SSF. Moreover, the directors each made their 1986 contributions through a payroll deduction memorandum much like their July 1988 memoranda which authorized the \$250 deductions at issue here. Attachment A at 29-35.

For their part, eight of the ten individual Respondents submitted signed affidavits acknowledging that they contributed to the KMS-SSF, but flatly denying that they were reimbursed for their contributions.⁴ Two of these individuals, Messrs. Holcomb and Musinski, each stated that they were employees of KMS and not directors, but nonetheless denied that their "personal contributions to the KMS-SSF related in any way to any compensation increases I may have received as an employee of KMS Fusion." Attachments H (affidavit of Mr. Musinski) and I (affidavit of Mr. Holcomb).⁵

4. These individuals are all represented by the same counsel who represents KMS and KMS-SSF.

5. KMS also acknowledges that Messrs. Musinski and Holcomb were not directors, but rather employees who contributed to the KMS-SSF. The available evidence shows that Mr. Musinski was employed by KMS from November 3, 1975 until June 1991. He first held the position of research scientist and later the position of senior technical manager. Mr. Holcomb was employed by KMS between November 15, 1983 and May 1992. Initially, he held the position of Controller and later that of Vice President.

In addition, although it is unclear whether Messrs. Holcomb and Musinski were solicited to make their contributions to the KMS-SSF, their responses show that they were shareholders of KMS Industries. As such, KMS would not be subject to the

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The six other individuals who submitted affidavits, Messrs. Long, Liddy, Stafford, Ligon, Lautenbach and Fry, each acknowledged that they were directors at KMS and that they received fees for their services, but that "[a]t no time did [they] make any contribution to the [KMS-SSF] with the understanding, explicit or implicit, that such contribution would be reimbursed by KMS." Attachments B (affidavit of Mr. Ligon), C (affidavit of Mr. Liddy), D (affidavit of Mr. Stafford), E (affidavit of Mr. Fry), F (affidavit of Mr. Long) and G (affidavit of Mr. Lautenbach). In addition, with the exception of Mr. Fry, who was not a Board member in 1988 at the time of the increase, these Respondents each state that:

[their] recollection [of the May 25, 1988 Board meeting] is that that the Board's decision to increase the Director's fee was based upon its belief that KMS Directors' fees lagged behind those of similarly situated corporations and should be increased. At no time during the May 25, 1988 meeting, nor at any other time, was there any discussion or consideration by the Board, or between any individual Director or Directors and me, concerning any relationship between the increase in Directors' fees and Directors' contributions to the [KMS-SSF].

Attachments B (affidavit of Mr. Ligon), C (affidavit of Mr. Liddy), D (affidavit of Mr. Stafford), F (affidavit of Mr. Long) and G (affidavit of Mr. Lautenbach).

(Footnote 5 continued from previous page)
solicitation limitations for employees set forth in the Commission's regulations. 11 C.F.R. §§ 114.4 and 114.6.

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The ninth individual, James Bard, also acknowledges that he was a KMS director and that he contributed to the KMS-SSF. He too denies that he "received any cash compensation" for his contributions and specifically notes that he did not "authorize [his] name to be used to make a contribution in the name of another." Attachment J at 1. Mr. Bard further explains that he was present during the May 25, 1988 meeting when the fee increase occurred and he recalls that it "was not only warranted in terms of time allocation and hard work but also consistent with fees paid by other comparable publicly owned companies." Id. at 4. A review of the Board's minutes for the May 25, 1988 meeting, a copy of which was provided in KMS' response, shows that Mr. Bard was present and that he seconded the motion to increase the fees. Attachment A at 17-20.

The tenth individual, Robert Carrane, is currently incarcerated in a Federal prison in Terre Haute, Indiana.⁶ Counsel for Mr. Carrane acknowledged that his client received the Commission's subpoena and requested an extension to respond to the subpoena "until sometime after [Mr. Carrane] is able to contact [him] by telephone." Attachment A at 47. Counsel noted that he was having difficulty speaking directly with his client, but that once he did he would contact this Office. To date, however,

6. Mr. Carrane was indicted on and pled guilty to various charges of bank and mail fraud. United States v. Robert A. Carrane, CR 92-20041 (C.D. Ill. 1992); United States v. Robert A. Carrane, CR 92-00989 (N.D. Ill. 1992); and United States v. Robert A. Carrane, CR 93-00330 (N.D. Ill. 1993).

counsel has not contacted this Office with regard to Mr. Carrane.⁷ We know, however, that Mr. Carrane was a director at KMS from at least January 1, 1988, until he resigned in March 1992. We also know that he contributed to the KMS-SSF.

Although counsel's comparison of the amount of the increase to the amount of the directors' contributions and the timing of the increase to the timing of the contributions is not conclusive, the evidence in this matter would suggest that the directors were not reimbursed. In fact, there is no evidence that the directors actually were reimbursed. Indeed, eight of the individual Respondents, including the two Respondents who were not directors but employees, have flatly denied that they were reimbursed for their contributions to the KMS-SSF or to any Federal candidates. Furthermore, five of these Respondents as well as Mr. Bard, who also denied being reimbursed but whose statement was not made under oath, have each acknowledged that they were present at the May 25, 1988 Board meeting and that they do not recall any discussion of using the increase in Directors' fees as a means of contribution reimbursement.

Based upon the information received, including the denials made by the individual directors, this Office does not believe that any further investigation is warranted. In addition, we also note that KMS, according to counsel, has lost its government contract and currently employs only three people. In addition

7. Mr. Carrane is represented by the same counsel representing KMS, KMS-SSF and the eight individual respondents who submitted affidavits in this matter.

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KMS-SSF has requested to terminate. Based upon the above considerations, we recommend that the Commission take no further action and close the file in this matter.

III. RECOMMENDATIONS


1. Take no further action and close the file as to all Respondents.
2. Approve the appropriate letters.

Lawrence M. Noble
General Counsel

Date

11/7/94

BY:


Lois G. Lerner
Associate General Counsel

Attachments

- A. Response of KMS and KMS-SSF
- B. Response of Mr. Ligon
- C. Response of Mr. Liddy
- D. Response of Mr. Stafford
- E. Response of Mr. Fry
- F. Response of Mr. Long
- G. Response of Mr. Lautenbach
- H. Response of Mr. Musinski
- I. Response of Mr. Holcomb
- J. Response of Mr. Bard

Staff Assigned: Craig D. Reffner
Eric S. Brown

05043624920

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

KMS Fusion, Inc., et al.

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MUR 3966

AMENDED CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on November 15, 1994, do hereby certify that the Commission decided by a vote of 5-0 to direct the Office of General Counsel to prepare no probable cause to believe briefs in MUR 3966.

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

Attest:

11-16-94
Date

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

25043624921



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 7, 1994

James C. Bard
7454 N. Desert Tree Drive
Tucson, Arizona 85704

RE: MUR 3966

Dear Mr. Bard:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, on May 10, 1994, the Federal Election Commission found reason to believe that you knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f, and instituted an investigation in this matter.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation occurred.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten copies if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

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James C. Bard
Page 2

Should you have any questions, please contact
Craig D. Reffner, the attorney assigned to this matter, at
(202) 219-3690.

Sincerely,

Lawrence M. Noble (by Jek)
Lawrence M. Noble
General Counsel

Enclosure
Brief

25043624923

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of
James Bard

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MUR 3966

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

The Commission previously found reason to believe that James Bard, a director at KMS Industries, Inc. ("KMS"), knowingly and willfully violated 2 U.S.C. §§ 441b and 441f. The basis for the Commission's finding arose from materials provided by the Department of Defense ("DOD") which showed that KMS apparently reimbursed its directors, including Mr. Bard, for their contributions to the KMS Fusion, Inc., Political Action Fund ("KMS-SSF").

II. DISCUSSION

Pursuant to Section 441f of the Federal Election Campaign Act of 1971, as amended (the "Act"), "[n]o person shall make a contribution in the name of another or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person." Under Section 441b of the Act, corporations are prohibited from making contributions or expenditures from their general treasury funds in connection with Federal elections. Furthermore, no officer or director of a corporation may consent to any contribution or expenditure by the corporation. 2 U.S.C. § 441b(a).

At the time of the Commission's reason-to-believe findings, the DOD materials included an internal KMS memorandum dated July

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5, 1988, calling for an increase in directors' fees of \$250 per month, effective April 1, 1988. Also included were other memoranda from various KMS directors, including Mr. Bard, authorizing a \$250 deduction to the KMS-SSF from their director's fee checks. These memoranda were all dated in July 1988.

Mr. Bard submitted a statement acknowledging that he contributed to the KMS-SSF, but flatly denying that he "received any cash compensation" for his contributions. He specifically states that he did not "authorize [his] name to be used to make a contribution in the name of another." In addition, the evidence gathered during the investigation in this matter shows that KMS directors have received increases in their fees in the past and that these increases were "based upon the belief among the members of the Board that the Directors' compensation was not commensurate with the Board members' duties and responsibilities and lagged behind that of many other similarly situated corporations." Indeed, a copy of the minutes from a September 1985 KMS Board meeting show that the KMS directors received a fee increase of \$6,000 to \$9,000 for this very purpose. Similarly, a copy of the minutes from the May 25, 1988 Board shows the directors receiving the increase in fees from \$9,000 to \$12,000 at issue here and, in his response, Mr. Bard explains that he was present during that meeting and he recalls that the increase "was not only warranted in terms of time allocation and hard work but also consistent with fees paid by other comparable publicly owned companies." A review of the minutes from the May 25, 1988 Board meeting shows that Mr. Bard was present and that he seconded the motion to increase the

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fees.

In short, the evidence in this matter would suggest that Mr. Bard was not reimbursed. In fact, the investigation in this matter has not produced any evidence which shows that he actually was reimbursed.

Accordingly, the General Counsel is prepared to recommend that the Commission find no probable cause to believe that James Bard knowingly and wilfully violated 2 U.S.C. §§ 441b and 441f.

III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe that James Bard knowingly and willfully violated 2 U.S.C. §§ 441b and 441f.

Date

12/7/94

Lawrence M. Noble
General Counsel

Lawrence M. Noble
(Signature)

05043624926



FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

December 7, 1994

Timothy Sullivan, Esq.
Dykema Gossett
Franklin Square
Suite 300 West
1300 I Street, N.W.
Washington, D.C. 20005-3306

RE: MUR 3966
KMS Fusion, Inc.
KMS Fusion, Inc., Political Action Fund
and Terence Liddy, as treasurer
Donald Musinski
Robert Carrane
Ned Lautenbach
Patrick Long
Terence Liddy
Charles Ligon
Thomas Stafford
Raymond Halcomb
Richard Fry

Dear Mr. Sullivan:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, on May 10, 1994, the Federal Election Commission found reason to believe that each of your clients identified above knowingly and willfully violated 2 U.S.C. §§ 441b and 441f. In addition, on this same date, the Commission found reason to believe that your client, KMS Fusion, Inc., also violated 2 U.S.C. § 441c. The Commission then instituted an investigation in this matter.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find noprobable cause to believe that any violations have occurred.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten copies if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible.) The General Counsel's brief

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Timothy Sullivan, Esq.
Page 2

and any brief which you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

Should you have any questions, please contact Craig D. Reffner, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
Lawrence M. Noble (by JER)
General Counsel

Enclosure
Brief

25043624928

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

MUR 3966

KMS Fusion, Inc.)
KMS Fusion, Inc., Political)
Action Fund and)
Terence Liddy, as treasurer)
Donald Musinski)
Robert Carrane)
Ned Lautenbach)
Patrick Long)
Charles Ligon)
Thomas Stafford)
Raymond Halcomb)
Terence Liddy)
Richard Fry)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

The Commission previously found reason to believe that KMS Fusion, Inc. ("KMS"), the KMS Fusion Political Action Fund and its treasurer ("KMS-SSF") and the nine individual KMS directors, identified above, each knowingly and wilfully violated 2 U.S.C. §§ 441b and 441f. The basis for the Commission's finding arose from materials provided by the Department of Defense ("DOD") which showed that KMS apparently reimbursed its directors for their contributions to the KMS-SSF. In addition, since the available information showed that KMS was a government contractor during the time in question, the Commission found reason to believe that KMS knowingly and wilfully violated 2 U.S.C. § 441c.

II. DISCUSSION

Pursuant to Section 441f of the Federal Election Campaign Act of 1971, as amended (the "Act"), "[n]o person shall make a contribution in the name of another or knowingly permit his name

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to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person."

Under Section 441b of the Act, corporations are prohibited from making contributions or expenditures from their general treasury funds in connection with Federal elections. Furthermore, no officer or director of a corporation may consent to any contribution or expenditure by the corporation. 2 U.S.C. § 441b(a).

The Act also prohibits any person who enters into a contract with the United States or any department or agency thereof from making any contribution of money or other things of value, or to promise expressly or impliedly to make any such contribution to any political party, committee, or candidate for public office or to any person for any political purpose or use; or knowingly to solicit any such contribution from any person for any such person for any such purpose during any such period. 2 U.S.C. § 441c. This prohibition applies to any contract for either the rendition of personal services or the furnishing of any material, supplies, or equipment to the United States or any department or agency thereof or for the selling of any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress. In addition, this prohibition applies at any time between the commencement of negotiations for and the later of (A) the completion of

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performance under; or (B) the termination of negotiations for such contract or furnishings of material, supplies, equipment, land, or buildings.

At the time of the Commission's reason-to-believe findings, the DOD materials included an internal KMS memorandum dated July 5, 1988, calling for an increase in directors' fees of \$250 per month, effective April 1, 1988. Also included were other memoranda from various KMS directors authorizing a \$250 deduction to the KMS-SSF from their director's fee checks. These memoranda were all dated in July 1988.

Respondents do not deny that the directors' fees were increased in 1988 nor do they deny that the various individuals in this matter authorized a deduction to the KMS-SSF. In fact, they produced a copy of the minutes from the May 25, 1988 KMS Board meeting showing the fee increase from \$9,000 to \$12,000 per year or \$250 per month. Respondents also do not deny that KMS was a government contractor during the time period in question. However, Respondents flatly deny that the increase in directors' fees was for the purpose of reimbursing the directors for their contributions to the KMS-SSF.

In support of this assertion, Respondents explain that the increase in directors' fees at issue here was "based upon the belief among the members of the Board that the Directors' compensation was not commensurate with the Board members' duties and responsibilities and lagged behind that of many other similarly situated corporations." They further explain that KMS directors have received a fee for their service since the

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company's inception and that the increase in 1988 was not the first time directors' fees were increased. In 1978, for example, the directors' fees were \$6,000. In September 1985, the fees were increased to \$9,000. Currently, the annual directors' fees at KMS are \$12,000, as reflected the last increase in 1988.¹

In addition, Respondents argue that the \$3,000 fee increase in 1988 is more than the amount contributed to the KMS-SSF by each director, which was \$1,000 annually or \$250 on a quarterly basis. Counsel also notes that the directors, as a group, did not even begin making their \$250 contributions until October 1988, some five months after the retroactive date of the increase. Respondents explain that it was not until July 1988 that KMS instituted a procedure that allowed directors to authorize deductions from their quarterly fee payments; prior to this time, directors could only authorize one deduction per year. Thus, Respondents argue that the directors' quarterly contributions of \$250 show that they took advantage of this new procedure for deductions and that "there was no relationship in timing or amount between each . . . \$250 contribution to the [KMS-SSF] . . . and the May 1988 increase in" directors' fees.

Respondents further note that even before the increase in fees, KMS directors regularly contributed to the KMS-SSF. For example, in 1986, various directors, including Messrs. Long,

1. We note that the minutes of the May 25, 1988 Board meeting do not reflect any purpose for increasing the directors' fees, although the minutes from the September 11, 1985 Board meeting, which was when the Directors' fees were increased from \$6,000 to \$9,000, do show that the purpose for that increase was "to more accurately reflect the time and effort required by Directors."

Carrane, Liddy and Stafford, each contributed \$1,000 to the KMS-SSF. Moreover, the directors each made their 1986 contributions through a payroll deduction memorandum much like their July 1988 memoranda which authorized the \$250 deductions at issue here.

In addition, eight KMS directors submitted signed affidavits acknowledging that they contributed to the KMS-SSF, but flatly denying that they were reimbursed for their contributions. Two of these individuals, Messrs. Holcomb and Musinski, each stated that they were employees of KMS and not directors, but nonetheless denied that their "personal contributions to the KMS-SSF related in any way to any compensation increases I may have received as an employee of KMS Fusion." The other six individuals, Messrs. Long, Liddy, Stafford, Ligon, Lautenbach and Fry, acknowledged that they were directors at KMS and that they received fees for their services, but maintained that "[a]t no time did [they] make any contribution to the [KMS-SSF] with the understanding, explicit or implicit, that such contribution would be reimbursed by KMS."

In short, although the comparison of the amount of the increase to the amount of the directors contributions and the timing of the increase is not conclusive, the evidence in this matter would suggest that the directors were not reimbursed. In fact, the investigation in this matter has not produced any evidence which shows that any of the KMS directors actually were reimbursed. Rather, eight of the individual directors have produced signed affidavits flatly denying that they were reimbursed for their contributions to the KMS-SSF.

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Accordingly, the General Counsel is prepared to recommend that the Commission find no probable cause to believe that RMS Fusion, Inc., knowingly and willfully violated 2 U.S.C. §§ 441b, 441f and 441c; that the RMS Fusion, Inc., Political Action Fund and Terence Liddy, as treasurer, knowingly and willfully violated 2 U.S.C. §§ 441b and 441f; and that Donald Musinski, Robert Carrane, Ned Lautenbach, Patrick Long, Charles Ligon, Thomas Stafford, Raymond Halcomb, Terence Liddy and Richard Fry knowingly and wilfully violated 2 U.S.C. §§ 441b and 441f.

III. GENERAL COUNSEL'S RECOMMENDATIONS

1. Find no probable cause to believe that RMS Fusion, Inc., knowingly and willfully violated 2 U.S.C. §§ 441b, 441f and 441c.
2. Find no probable cause to believe that the RMS Fusion, Inc., Political Action Fund and Terence Liddy, as treasurer, knowingly and willfully violated 2 U.S.C. §§ 441b and 441f.
3. Find no probable cause to believe that Donald Musinski, Robert Carrane, Ned Lautenbach, Patrick Long, Charles Ligon, Thomas Stafford, Raymond Halcomb, Terence Liddy and Richard Fry knowingly and willfully violated 2 U.S.C. §§ 441b and 441f.

25043624934
Date

12-7-94

Lawrence M. Noble
Lawrence M. Noble
General Counsel (by JEC)

LAW OFFICES
DYKEMA GOSSETT
PROFESSIONAL LIMITED LIABILITY COMPANY

FRANKLIN SQUARE
SUITE 300 WEST
1300 I STREET, N.W.

WASHINGTON, D.C. 20005-3306

TELEPHONE (202) 522-8600

FAX (202) 522-8669

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COMMISSION
OFFICE OF GENERAL
COUNSEL

DEC 22 4 59 PM '94

ANN ARBOR, MICHIGAN
BLOOMFIELD HILLS, MICHIGAN
CHICAGO, ILLINOIS

DETROIT, MICHIGAN
GRAND RAPIDS, MICHIGAN
LANSING, MICHIGAN

December 22, 1994

VIA HAND DELIVERY

Secretary
Federal Election Commission
Washington, D.C. 20463

RE: MUR 3966
KMS Fusion, Inc.
MS Fusion, Inc., Political Action Fund and
Terence Liddy as Treasurer
Donald Musinski
Robert Carrane
Ned Lautenbach
Patrick Long
Terence Liddy
Charles Ligon
Thomas Stafford
Raymond Halcomb
Richard Fry

Dear Sir:

On behalf of the above clients, we are writing to express our full agreement with the conclusions reached in the General Counsel's Brief dated December 7, 1994. Accordingly, we request that the Commission adopt the recommendation set forth in the Brief.

Thank you for your cooperation.

Respectfully submitted

DYKEMA GOSSETT

By:


Timothy Sullivan

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SECRETARIAT

BEFORE THE FEDERAL ELECTION COMMISSION

JAN 13 10 11 AM '95

In the Matter of)

KMS Fusion, Inc., et al.)

MUR 3966

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

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The Commission previously found reason to believe that KMS Fusion, Inc. ("KMS"), the KMS Fusion Political Action Fund and its treasurer ("KMS-SSF") and ten individual directors of KMS each knowingly and wilfully violated 2 U.S.C. §§ 441b and 441f. The basis for the Commission's finding arose from a Department of Defense ("DOD") referral which showed that KMS had apparently reimbursed its directors for their contributions to the KMS-SSF and possibly even for their contributions to certain Federal candidates through an increase in the directors' fees. In addition, since the available information showed that KMS was a government contractor during the time in question, the Commission found reason to believe that KMS also knowingly and wilfully violated 2 U.S.C. § 441c.

II. DISCUSSION

After reviewing the various responses to the Commission's subpoenas, this Office recommended that the Commission take no further action against all the Respondents. However, on November 15, 1994, the Commission rejected this recommendation and directed this Office to send briefs to the Respondents notifying them that the General Counsel was prepared to recommend that the Commission find no probable cause to believe that any violations occurred. This Office prepared these briefs and mailed them to the

Respondents on December 7, 1994. Counsel for KMS, KMS-SSF and nine of the individual respondents submitted a response stating that he concurred with the General Counsel's recommendation. Attachment. In a telephone conversation with staff of this Office, the tenth director stated that he would not be submitting a brief because he too concurred with the General Counsel's recommendation.

As noted in the General Counsel's Briefs, incorporated herein by reference, the investigation in this matter has failed to produce any evidence establishing that the various directors actually were reimbursed. Indeed, all of the evidence adduced suggests that KMS did not reimburse the individual respondents for their contributions and that the increase in directors' fees resulted from wholly unrelated considerations. See General Counsel's Brief to KMS, et al., at 3-6 and General Counsel's Brief to James Bard at 2-3. See also General Counsel's Report signed November 7, 1994 at 2-8 with accompanying attachments.

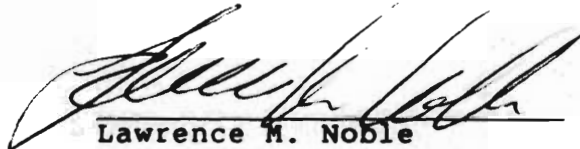
In light of the information adduced during the investigation, this Office recommends that the Commission find no probable cause to believe that KMS Fusion, Inc., knowingly and willfully violated 2 U.S.C. §§ 441b, 441f and 441c; that the KMS Fusion, Inc., Political Action Fund and Terence Liddy, as treasurer, knowingly and willfully violated 2 U.S.C. §§ 441b and 441f; and that Donald Musinski, Robert Carrane, Ned Lautenbach, Patrick Long, Charles Ligon, Thomas Stafford, Raymond Holcomb, Terence Liddy, James Bard and Richard Fry knowingly and wilfully violated 2 U.S.C. §§ 441b and 441f.

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III. RECOMMENDATIONS

1. Find no probable cause to believe that KMS Fusion, Inc., knowingly and willfully violated 2 U.S.C. §§ 441b, 441f and 441c.
2. Find no probable cause to believe that the KMS Fusion, Inc., Political Action Fund and Terence Liddy, as treasurer, knowingly and willfully violated 2 U.S.C. §§ 441b and 441f.
3. Find no probable cause to believe that Donald Musinski, Robert Carrane, Ned Lautenbach, Patrick Long, Charles Ligon, Thomas Stafford, Raymond Holcomb, Terence Liddy, James Bard and Richard Fry knowingly and willfully violated 2 U.S.C. §§ 441b and 441f.
4. Close the file as to all Respondents and approve the appropriate letters.

1/13/95
Date


Lawrence M. Noble
General Counsel

Attachments
Response to General Counsel's Brief

Staff Assigned: Craig D. Reffner
Eric S. Brown

25043624938

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

KMS Fusion, Inc., et al.

)
) MUR 3966
)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on January 19, 1995, the Commission decided by a vote of 6-0 to take the following actions in MUR 3966:

1. Find no probable cause to believe that KMS Fusion, Inc., knowingly and willfully violated 2 U.S.C. §§ 441b, 441f and 441c.
2. Find no probable cause to believe that the KMS Fusion, Inc., Political Action Fund and Terence Liddy, as treasurer, knowingly and willfully violated 2 U.S.C. §§ 441b and 441f.

(continued)

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Federal Election Commission
Certification for MUR 3966
January 19, 1995

Page 2

3. Find no probable cause to believe that Donald Musinski, Robert Carrane, Ned Lautenbach, Patrick Long, Charles Ligon, Thomas Stafford, Raymond Holcomb, Terence Liddy, James Bard and Richard Fry knowingly and willfully violated 2 U.S.C. §§ 441b and 441f.
4. Close the file as to all Respondents and approve the appropriate letters, as recommended in the General Counsel's Report dated January 3, 1995.

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

Attest:

1-19-95
Date

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

Received in the Secretariat: Fri., Jan. 13, 1995 10:19 a.m.
Circulated to the Commission: Fri., Jan. 13, 1995 12:00 p.m.
Deadline for vote: Thurs., Jan. 19, 1995 4:00 p.m.

bjr

25043624910



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

February 1, 1995

**William J. Sharkey
Assistant Director, Operations
Defense Contract Audit Agency
Cameron Station
Alexandria, VA 22304-6178**

RE: MUR 3966

Dear Mr. Sharkey:

This is in reference to the matter involving KMS Fusion, Inc., which your office referred to the Federal Election Commission on April 16, 1993.

On January 19, 1995, the Commission made several determinations in this matter. The Commission found that there was no probable cause to believe that KMS Fusion, Inc., knowingly and willfully violated 2 U.S.C. §§ 441b, 441f, and 441c; no probable cause to believe that KMS Fusion, Inc., Political Action Fund and Terence Liddy, as treasurer knowingly and willfully violated 2 U.S.C. §§ 441b and 441f; and no probable cause to believe that Donald Musinski, Robert Carrane, Ned Lautenbach, Patrick Long, Charles Ligon, Thomas Stafford, Raymond Holcomb, Terence Liddy, James Bard, and Richard Fry knowingly and willfully violated 2 U.S.C. §§ 441b and 441f. These determinations were based on responses to the Commission's discovery requests and briefs prepared by this Office.

We appreciate your cooperation in helping the Commission meet its enforcement responsibilities under the Act. If you have any questions, please contact Craig D. Reffner, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

A handwritten signature, likely of Lois G. Lerner, is written in dark ink. The signature is stylized, with a large, flowing 'L' and 'G'.

BY: Lois G. Lerner
Associate General Counsel

25043624941



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

February 1, 1995

James Bard
7454 N. Desert Tree Drive
Tucson, AZ 85704

RE: MUR 3966
James Bard

Dear Mr. Bard:

This is to advise you that on January 19, 1995, the Federal Election Commission found that there is no probable cause to believe that you knowingly and willfully violated 2 U.S.C. §§ 441b and 441f. Accordingly, the file in this matter has been closed.

The file will be made part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days. Such materials should be sent to the Office of the General Counsel.

If you have any questions, please contact Craig D. Reffner, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

A handwritten signature in dark ink, appearing to read "Lawrence M. Noble", is written over the typed name.

Lawrence M. Noble
General Counsel

25043624942



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

February 1, 1995

Timothy Sullivan, Esq.
Dykema Gossett
Franklin Square
Suite 300 West
1300 I Street, N.W.
Washington, DC 20005-3306

RE: MUR 3966
KMS Fusion, Inc.
KMS Fusion, Inc., Political
Action Fund and
Terence Liddy, as treasurer
Donald Musinski
Robert Carrane
Ned Lautenbach
Patrick Long
Terence Liddy
Charles Ligon
Thomas Stafford
Raymond Holcomb
Richard Fry

Dear Mr. Sullivan:

This is to advise you that on January 19, 1995, the Federal Election Commission found that there is no probable cause to believe that KMS Fusion, Inc., knowingly and willfully violated 2 U.S.C. §§ 441b, 441f, and 441c; no probable cause to believe that the KMS Fusion, Inc., Political Action Fund and Terence Liddy, as treasurer, knowingly and willfully violated 2 U.S.C. §§ 441b and 441f; and no probable cause to believe that Donald Musinski, Robert Carrane, Ned Lautenbach, Patrick Long, Charles Ligon, Thomas Stafford, Raymond Holcomb, Terence Liddy, and Richard Fry knowingly and willfully violated 2 U.S.C. §§ 441b and 441f. Accordingly, the file in this matter has been closed as it pertains to your clients.

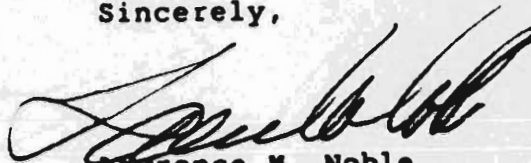
The file will be made part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days. Such materials should be sent to the Office of the General Counsel.

25043624943

Timothy Sullivan, Esq.
Page 2

If you have any questions, please contact Craig D. Reffner,
the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

A handwritten signature in dark ink, appearing to read "Lawrence M. Noble", written in a cursive style.

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3966

DATE FILMED 2-7-95 CAMERA NO. 2

CAMERAMAN JMH

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