

FEDERAL ELECTION COMMISSION

1275 A STREET, N.W.
WASHINGTON, D.C. 20541

THIS IS THE END OF FILM #

1144

Date Filmed 9/10/80 Camera No. — 2

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FEDERAL ELECTION COMMISSION

Conciliation attempts including proposed
civil suit, recommended to Commission
letter to and from respondent's counsel
and Comm. authorization & certification. 24 pages.

The above-described material was removed from this file pursuant to the following exemption provided in the Freedom of Information Act, 5 U.S.C. Section 552(b):

- | | |
|--|---|
| <input type="checkbox"/> (1) Classified Information | <input type="checkbox"/> (6) Personal privacy |
| <input type="checkbox"/> (2) Internal rules and practices | <input type="checkbox"/> (7) Investigatory files |
| <input checked="" type="checkbox"/> (3) Exempted by other statute | <input type="checkbox"/> (8) Banking Information |
| <input type="checkbox"/> (4) Trade secrets and commercial or financial information | <input type="checkbox"/> (9) Well Information (geographic or geophysical) |
| <input type="checkbox"/> (5) Internal Documents | |

Signed

Robert B. Byn

Date

7-31-80



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20543

July 24, 1980

Marion Edwyn Harrison
Barnett, Alagia & Carney
1627 K Street, N.W.
Washington, D.C. 20006

Re: MUR 1144 (80)

Dear Mr. Harrison:

On July 22, 1980, the Commission accepted the conciliation agreement signed by Tom Townsend, Treasurer of ADEPT, and a civil penalty in settlement of a violation of 2 U.S.C. § 441b(b)(4) and 11 C.F.R. § 114.6(e). Accordingly, the file has been closed in this matter, and it will become a part of the public record within thirty days. However, 2 U.S.C. § 437g(a)(4)(B) prohibits any information derived in connection with any conciliation attempt from becoming public without the written consent of the respondent and the Commission. Should you wish any such information to become part of the public record, please advise us in writing.

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

Sincerely,

Charles R. Steele
General Counsel

Enclosure:

Conciliation Agreement

0004030512



FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D.C. 20535

Marion Edwys Harrison
Barnett, Alagia & Carey
1627 K Street, N.W.
Washington, D.C. 20006

Re: MUR 1144 (80)

Dear Mr. Harrison:

On July , 1980, the Commission accepted the conciliation agreement signed by Tom Townsend, Treasurer of ADEPT, and a civil penalty in settlement of a violation of 2 U.S.C. § 441b(b)(4) and 11 C.F.R. § 114.6(e). Accordingly, the file has been closed in this matter, and it will become a part of the public record within thirty days. However, 2 U.S.C. § 437g(a)(4)(B) prohibits any information derived in connection with any conciliation attempt from becoming public without the written consent of the respondent and the Commission. Should you wish any such information to become part of the public record, please advise us in writing.

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

Sincerely,

Charles N. Steele
General Counsel

Enclosure:

Conciliation Agreement

RB
7/24/80

00040205123

This matter having been initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities, an investigation having been conducted after the Commission found reason to believe that Mid-America Dairyman, Inc. ("Mid-Am") and/or Agricultural and Dairy Educational Political Trust ("ADEPT") violated 2 U.S.C. § 441b(b)(4) and 11 C.F.R. § 114.6(e) by soliciting contributions from ineligible individuals and by facilitating the making of contributions through a payroll deduction system;

NOW, THEREFORE, the Commission, Mid-Am and ADEPT, having duly participated in informal methods of conciliation, do hereby agree as follows:

- I. The Commission has jurisdiction over Mid-Am and ADEPT and the subject matter of this proceeding, and this Agreement has the effect of a conciliation agreement under 2 U.S.C. § 437g(a)(4)(A).
- II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- III. Respondents enter voluntarily into this Agreement with the Commission.

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

- A. Mid-Am is an agricultural cooperative marketing association of which ADEPT is a separate segregated fund.
- B. The Audit Division undertook an audit of ADEPT. The audit covered the period from January 1, 1977, through September 30, 1979.
- C. Mid-Am has 3,031 employees. Of these 2,482 are wage and hour employees. Of these 2,482 employees, 30 contributed to ADEPT through a payroll deduction plan in the calendar year 1980, and an additional eight contributed to ADEPT through a payroll deduction plan in one or more years among the years 1976-1979.
- D. During the year 1980, ADEPT collected the sum of \$303.73 from its wage and hour employees through a payroll deduction plan. For the period beginning January 1, 1976, the aggregate figure is \$3,077.94.
- E. There are 317 independently contracted milk haulers who work with Mid-Am. Of this total, 37 (three of whom are Mid-Am members) have contributed to ADEPT by having a portion of their money to which they are entitled withheld from their checks.

WHEREFORE, Respondent agrees that:

- V. Under 11 C.F.R. § 114.6(e) Mid-Am and/or ADEPT is prohibited from using a payroll deduction plan to deduct contributions from an employee's paycheck as a method of making contributions

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for those employees subject to twice yearly written solicitations. Since Mid-Am/ADEPT used a payroll deduction plan to facilitate the making of contributions from its employees other than administrative or executive personnel, the respondents violated 11 C.F.R. § 114.6(e).

- VI. The Commission has found that ADEPT/Mid-Am's continual deduction from a non-employee's contractual payments constitutes a solicitation in violation of 2 U.S.C. § 441b(b)(4). According to such finding Respondents violated § 441b(b)(4) by soliciting non-employees since ADEPT/Mid-Am entered into an arrangement with the milk haulers to deduct contributions from their contractual payments.
- VII. ADEPT/Mid-Am will pay a civil penalty of \$1,500 to the United States Treasury pursuant to 2 U.S.C. § 437g(a)(5)(A).
- VIII. Respondents agree that they shall not undertake any activity which is in violation of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431, et seq.

GENERAL CONDITIONS:

- IX. The Commission, upon request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1), concerning the matters at issue herein, or on its own motion, may

00040205126


-4-

review compliance with this Agreement. If the Commission believes that this Agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

- X. It is further agreed that the Conciliation Agreement is entered into in accordance with 2 U.S.C. § 437g (a)(5)(A), and that this Agreement, unless violated, shall constitute a complete bar to any further action by the Commission with regard to the matters set forth in this Agreement.
- XI. It is mutually agreed that this Agreement will become effective on the date that all parties hereto have executed the same and the Commission has approved the entire Agreement.
- XII. It is agreed that respondents shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirement contained in this agreement and to so notify the Commission.

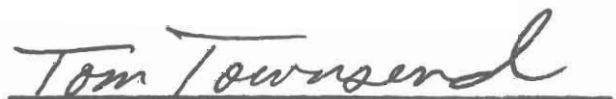
24 July 1980
Date

BY:


Charles N. Steele
General Counsel
Federal Election Commission

6-27-80
Date

BY:


Tom Townsend
Treasurer
ADEPT

00040205127

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Mid-America Dairymen, Inc.
Agricultural and Dairy Educa-
tional Political Trust

NUR 1144

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on July 22, 1980, the Commission decided by a vote of 5-0 to take the following actions regarding NUR 1144:

1. Authorize the General Counsel to enter into the conciliation agreement with respondent.
2. Send the letter, as attached to the General Counsel's July 16, 1980 memorandum, to the respondent.
3. Close the file.

Voting for this determination were Commissioners Aikens, Friedersdorf, Harris, McGarry, and Reiche.

Attest:

7/23/80

Date



Marjorie W. Emmons
Secretary to the Commission

Received in Office of the Commission Secretary: 7-16-80, 11:13
Circulated on 48 hour vote basis: 7-16-80, 4:00

20040205128

BY HAND

Re: MUR 1144 (80)

We submit herewith our client's check #1989, dated June 27, 1980, in the sum of \$1,500.00, and the executed Conciliation Agreement, received by us from our client on June 30.

We appreciate your cooperation.

Sincerely,

MEH: kg

End

cc Robert I. Bogin Esquire

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Mid-America Dairymen, Inc.
Agricultural and Dairy Educa-
tional Political Trust

MUR 1144(SD)



CONCILIATION AGREEMENT

00040205131
This matter having been initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities, an investigation having been conducted after the Commission found reason to believe that Mid-America Dairymen, Inc. ("Mid-Am") and/or Agricultural and Dairy Educational Political Trust ("ADEPT") violated 2 U.S.C. § 441b(b)(4) and 11 C.F.R. § 114.6(e) by soliciting contributions from ineligible individuals and by facilitating the making of contributions through a payroll deduction system;

NOW, THEREFORE, the Commission, Mid-Am and ADEPT, having duly participated in informal methods of conciliation, do hereby agree as follows:

- I. The Commission has jurisdiction over Mid-Am and ADEPT and the subject matter of this proceeding, and this Agreement has the effect of a conciliation agreement under 2 U.S.C. § 437g(a)(4)(A).
- II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- III. Respondents enter voluntarily into this Agreement with the Commission.

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

- A. Mid-Am is an agricultural cooperative marketing association of which ADEPT is a separate segregated fund.
- B. The Audit Division undertook an audit of ADEPT. The audit covered the period from January 1, 1977, through September 30, 1979.
- C. Mid-Am has 3,031 employees. Of these 2,482 are wage and hour employees. Of these 2,482 employees, 30 contributed to ADEPT through a payroll deduction plan in the calendar year 1980, and an additional eight contributed to ADEPT through a payroll deduction plan in one or more years among the years 1976-1979.
- D. During the year 1980, ADEPT collected the sum of \$303.73 from its wage and hour employees through a payroll deduction plan. For the period beginning January 1, 1976, the aggregate figure is \$3,077.94.
- E. There are 317 independently contracted milk haulers who work with Mid-Am. Of this total, 37 (three of whom are Mid-Am members) have contributed to ADEPT by having a portion of their money to which they are entitled withheld from their checks.

WHEREFORE, Respondent agrees that:

- V. Under 11 C.F.R. § 114.6(e) Mid-Am and/or ADEPT is prohibited from using a payroll deduction plan to deduct contributions from an employee's paycheck as a method of making contributions

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for those employees subject to twice yearly written solicitations. Since Mid-Am/ADEPT used a payroll deduction plan to facilitate the making of contributions from its employees other than administrative or executive personnel, the respondents violated 11 C.F.R. § 114.5(e).

- 00040205133
- VI. The Commission has found that ADEPT/Mid-Am's continual deduction from a non-employee's contractual payments constitutes a solicitation in violation of 2 U.S.C. § 441b(b)(4). According to such finding Respondents violated § 441b(b)(4) by soliciting non-employees since ADEPT/Mid-Am entered into an arrangement with the milk haulers to deduct contributions from their contractual payments.
- VII. ADEPT/Mid-Am will pay a civil penalty of \$1,500 to the United States Treasury pursuant to 2 U.S.C. § 437g(a)(5)(A).
- VIII. Respondents agree that they shall not undertake any activity which is in violation of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431, et seq.

GENERAL CONDITIONS:

- IX. The Commission, upon request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1), concerning the matters at issue herein, or on its own motion, may

review compliance with this Agreement. If the Commission believes that this Agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

- X. It is further agreed that the Conciliation Agreement is entered into in accordance with 2 U.S.C. § 437g (a)(5)(A), and that this Agreement, unless violated, shall constitute a complete bar to any further action by the Commission with regard to the matters set forth in this Agreement.
- XI. It is mutually agreed that this Agreement will become effective on the date that all parties hereto have executed the same and the Commission has approved the entire Agreement.
- XII. It is agreed that respondents shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirement contained in this agreement and to so notify the Commission.

Date

6-27-80

Date

BY:

Charles N. Steele
General Counsel
Federal Election Commission

BY:

Tom Townsend
Tom Townsend
Treasurer
AD EPT

00040305134

0 0 0 0 5 1 3 5

MID-AM DAIRYMEN ADEPT
Box 1837, S.S.S. SPRINGFIELD, MO. 65805

1989

June 27 19 80

PAY
TO THE
ORDER OF

United States Treasury

\$ 1,500.00

One Thousand Five Hundred and no/100 ----- DOLLARS

Commerce Bank
of Springfield
1651 Boonville Avenue, 869-5411
Springfield, Missouri 65803

EDWARD NIERMAN, CHAIRMAN - TOM TOWNSEND, TREASURER

MUR 1144 (80)

Tom Townsend

010865001421

010564005015

D. PAUL ALLEN
WILLIAM A. CANN
ALLAN B. BOLGER
RICHARD B. BROWN
MICHAEL S. LAMONT
ST. JOHN BARNETT
ROBERT S. BLANCKEN
CHARLES DANSON BARNETT
GREGORY S. STANBROOK
CAROL W. BURMAN
WIL CARL PUST
GARY S. BARNISON
JOSEPH L. HAMILTON
JOHN S. REED
JOHN S. LYNN
HUGH MAMILLAN, JR.
IVAN H. RICH, JR.
JACK E. RUCK
JOHN P. SHERLOCK III
MARY JO WINKLER

1325 K STREET, N.W.
WASHINGTON, D.C. 20463

(202) 782-1200
CABLE ALL OFFICES ALBANY

BARNETT & ALAGIA
KENTUCKY HOME LIFE BUILDING
202-1170
LOUISVILLE, KENTUCKY 40201
(502) 582-4121

BARNETT, ALAGIA & PROSPER
1000 PALM BLVD
PALM BEACH, FLORIDA 33480
(407) 832-4200

BARNETT, ALAGIA & YESSIN
P.O. DRAWER 5
FRANKFORT, KENTUCKY 40601
(502) 527-1200

STANLEY BARNETT
EDWARD G. HARRISON
EDWARD H. GUTWINE
JOHN H. HARRISON
J. PAUL HARRISON
JAMES L. HARRISON
PATRICIA G. HARRISON
STEVEN G. HARRISON
FRANKLIN HARRISON
JOHN E. HARRISON
RONALD L. HARRISON
WILLIAM S. HARRISON
JOHN M. HARRISON
H. DAVID HARRISON
MARY CHERYL MATHEIS
DONALD F. WHITMIRE
JEFFREY S. HITTEN

OF COUNSEL
RUFUS E. WILSON

July 1, 1980

BY HAND

Charles N. Steele, Esquire
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D. C. 20463

Re: MUR 1144 (80)

Dear Mr. Steele:

We submit herewith our client's check #1989, dated June 27, 1980, in the sum of \$1,500.00, and the executed Conciliation Agreement, received by us from our client on June 30.

Please note that on page 2, §IV, 1C, the client has changed the figures 549 to 2482 both times they appear and has initialed the same. Please feel free to retype the page if you prefer.

We appreciate your cooperation.

Sincerely,

Marion Edwyn Harrison

MARION EDWYN HARRISON

MEH:kg

Enc

cc Robert I. Bogin, Esquire

80 JUL 2 A 9:37

RECEIVED
OFFICE OF THE
GENERAL COUNSEL

00040205136

8 0 0 4 0 2 0 5 1 3 7

BARNETT, ALAGIA & CAREY

1627 K STREET, N.W.

WASHINGTON, D.C. 20006

DELIVERED BY HAND

Charles N. Steele, Esquire
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D. C. 20463

DELIVERED BY HAND

8 0 0 4 0 2 0 5 1 3 8

BARNETT, ALAGIA & CAREY

1627 K STREET, N.W.

WASHINGTON, D.C. 20006

DELIVERED BY HAND

Robert I. Bogin, Esquire
Federal Election Commission
1325 K Street, N.W.
Washington, D. C. 20463

DELIVERED BY HAND

BARNETT, ALAGIA & COMPANY

1627 K STREET, N.W.

WASHINGTON, D.C. 20005

(202) 785-0872

CABLE ALL OFFICES ALBAR

BARNETT & ALAGIA*
KENTUCKY HOUSING LOT BUILDING
2075 11TH
LOUISVILLE, KENTUCKY 40201
(502) 522-4121

BARNETT, ALAGIA & PROSPER**
BIRCHDALE PALM BEACH
PALM BEACH, FLORIDA 33480
(407) 832-6200

BARNETT, ALAGIA & YESSIN***
P.O. DRAWER 8
FRANKFORT, KENTUCKY 40601
(502) 221-7200

May 1, 1980

D. PAUL ALAGIA, JR.
WILLIAM A. GARRY
ALLAN D. SOLOMON
RUSK YESSIN***
MICHAEL E. LAMBERT
ST. JOHN BARNETT
ROBERT A. GLADSTONE
CHARLES DANSON BARNETT
SEYMOUR S. DICKINSON**
DARRYL W. DURHAM
WILLIAM CARL FUST
GARY D. GARRISON
JOSEPH L. HAMILTON
JOHN S. REOR
JOHN S. LYNN
HUGH MACMILLAN, JR.**
IVAN K. RICH, JR.
JACK E. RUCK
JOHN F. SHERLOCK III
MARY JO WINKLER

EDWARD R. BARNETT
EDITH KATHY HARRISON
EDWARD R. BARNETT
JOHN E. BARNETT
D. PAUL ALAGIA, JR.
JOHN L. GARRISON
PATRICIA C. GARRISON
EDITH KATHY HARRISON
EDWARD R. BARNETT
JOHN E. BARNETT
RONALD L. GARRISON
WILLIAM A. GARRY
JOHN K. HAMILTON
W. DAVID HARRISON
MARY CHERYL MATHEIS
DONALD F. HINTON
JEFFREY A. RITTER

OF COUNSEL
RUFUS E. WILSON

BY HAND

The Honorable Robert O. Tiernan
Chairman
Federal Election Commission
1325 K Street, N.W.
Washington, D. C. 20463

907823

Re: MUR 1144 (80)

Dear Mr. Tiernan:

We are glad to furnish additional information requested in this matter by Robert I. Bogin, Esquire.

We attach two charts.

Each chart lists the names of independent contractors in the trucking business who at any time during the period January 1, 1976 through March 31, 1980 have hauled milk on contract for Mid-America Dairymen, Inc. ("Mid-Am") and who have contributed to the Agricultural and Dairy Educational Political Trust ("ADEPT"). Each such contract hauler is an independent contractor doing business by contract with Mid-Am and in no way is an employee. Those haulers before whose name there appears an asterisk are members of Mid-Am.

81:64 2 MW 08

RECEIVED
GENERAL COUNSEL
MAY 2 1980

BARNETT, ALAGIA & CAREY

The Honorable Robert O. Tiernan
May 1, 1980
Page two

Each chart shows the same information but presents it differently. One chart shows each contributor by year, with the amount contributed; the other chart shows the amount each contributor contributed for each year, with the total contribution.

The total contribution for all years for all hauler contributors is \$7,690.87. Although neither chart shows it, the total amount contributed by haulers who are not Mid-Am members is \$6,887.15.

We again invite your attention to the fact that each of these haulers is an independent contractor; there is no payroll; the deductions are an authorized offset against a contractual check.

If you would like further information, we can talk further.

Sincerely,



MARION EDWYN HARRISON

MEH:kg

Enc

cc Harry L. Ponder, Esquire

Robert I. Bogin, Esquire

30040205140

Contributed

Mid-America

Contributed to ADEPT through the Mid-America Boat Raising Fund

Year	Name	Amount
1976	Don Larue	\$45.00
	Joseph V. Tappahorn	65.00
	*W. H. Beck	99.96
	Don Feller	99.96
	Cleon Hansen	20.01
	Glen Griffin	42.00
	Lewis G. Lindburg	41.30
	Andrew Hanenburg	30.00
	Norman Faymerville	30.00
	James or Joyce Janicula	99.96
	Art Altrichter	35.00
	*John Lefebvre	92.33
	Conrad Locnikar	60.00
	Erwin J. Arens	96.00
	Elford A. Stern	99.96
	Wallace C. Jaunich	99.96
	Robert W. Innes	60.00
	Leo Kimmes	10.00
	Raleigh Tiedeman	60.00
	Ed Boeckman	99.96
1977	Ed Boeckman	99.96
	Don Larue	99.96
	Joseph V. Tappahorn	55.00
	*W. H. Beck	99.96
	Don Feller	99.96
	Glen Griffin	21.00
	Norman Faymerville	30.00
	James or Joyce Janicula	99.96
	*John Lefebvre	99.96
	Elford Stern	99.96
	Conrad Locnikar	60.00
	Erwin J. Arens	96.00

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1978

William
Robert W.
Raleigh Tiedeman	...
Ronald Posusta	18.00
Arthur W. Johnson	...
Quentin Johnson	89.57
Glenn A. Bear	4.99
Jackie Lee Hull	5.99
Ed Beochman	99.99
*W. H. Beck	99.99
Bernard E. Bobbett	73.00
Glenn A. Bear	48.00
Don Larue	99.99
Arthur W. Johnson	27.03
Quentin Johnson	99.99
Don Feller	99.99
Joseph V. Tappahorn	60.00
Jackie Lee Hull	60.00
Norman Faymerville	27.50
Erwin J. Arens	89.57
Ronald Posusta	18.00
James or Joyce Janicula	99.99
*John Lefebvre	99.99
Elford A. Stern	99.99
Conrad Locnikar	60.00
Wallace C. Jaunich	99.99
Robert W. Innes	60.00
Raleigh Tiedeman	60.00
Donald Waller	22.00
Cliff Lalk	72.00
Bill Ferguson	72.00
Wayne Lucas	24.00
*Wesley Frenzel	16.00
Ervin Dwayne Davis	85.75
Roy Springer	40.00
Joe Kremer	12.00
Rollin D. Mallery	2.00
Lawrence Thompson	34.06

30040205143

1970

LeRoy Dierks	24.00
Arlyn Huribert	24.00
Dennis L. Keltner	20.00
Olberding Trucking	60.00
Roy Dean Ferguson	60.00
Wayne Lums	22.00
CHIT Lalk	22.00
Bill Ferguson	22.00
Ervin Dwayne Davis	22.00
*W. H. Beck	50.31
Bernard E. Bobbett	72.00
Glenn A. Baer	48.00
Don Larue	22.00
Roy Dean Ferguson	60.00
Quentin Johnson	70.50
Don Feller	22.00
LeRoy Dierks	24.00
Joe Kremer	24.00
Olberding Trucking	60.00
Dennis L. Keltner	20.00
Arlyn Huribert	24.00
Donald Waller	24.00
Joseph V. Tappehorn	60.00
Jackie Lee Hull	5.00
Lawrence Thompson	72.00
Erwin J. Arens	96.00
Ronald Posusta	16.00
James or Joyce Janicula	99.96
*John Lefebvre	99.96
Elford A. Stern	99.96
Conrad Locnikar	60.00
Wallace C. Jaunich	99.96
*Wesley Frenzel	4.00
Robert W. Innes	50.00
Raleigh Tiedeman	60.00
Roy Springer	64.00
Lewis G. Lindberg	22.00
Dvorak Bros.	22.00
Ed Boeckman	99.96

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1988 (Thru
3/31)

Malvin [unclear]	
Merle [unclear]	
Myron Fischer	
Howard Liles	
Arlington Bulk Milk	8.00
Alfred Luetjen	4.00
H. Pat and/or Thelma Girth	18.00
Wayne Lucas	12.00
Chiff Lalk	32.00
Bill Ferguson	32.00
Howard Liles	20.00
Ervin Dwayne Davis	80.52
Roy Springer	32.00
H. Pat or Thelma Girth	20.00
Bernard Bobbitt	24.00
Alfred Luetjen	4.00
Glenn A. Baer	18.00
Myron Fischer	32.00
Don Larue	33.32
Roy Dean Ferguson	20.00
Don Feller	33.32
Arlington Bulk Milk	8.00
Lewis G. Lindburg	8.00
LeRoy Dierks	8.00
Dvorak Bros.	8.00
Joe Kremer	8.00
Olberding Trucking	20.00
Melvin Koops	8.00
Arlyn Hurlbert	8.00
Donald Waller	8.00
Joseph V. Tappehorn	20.00
Robert W. Innes	20.00
Lawrence Thompson	18.00
Erwin J. Arens	32.00
Ronald Posusta	2.00
James or Joyce Janicula	33.32
*John Lefebvre	33.32

80040305145

*Denotes Mid-Am Member

John J. [illegible]	22.00
John J. [illegible]	10.00
John J. [illegible]	74.30
John J. [illegible]	10.00
John J. [illegible]	23.32

**Contract Haulers
of
Mid-America Dairymen, Inc.
Who Contributed to ADEPT through Deduction from Hauling Check**

Total Amount Contributed					
<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>1980</u> (thru 3/31)	<u>Total</u>
\$ 99.96	\$ 99.96	\$ 99.96	\$ 99.96	\$ 33.32	\$ 433.16
60.00	55.00	60.00	60.00	20.00	255.00
99.96	99.96	99.96	58.31		358.19
99.96	99.96	99.96	99.96	33.32	433.16
28.91					28.91
43.00	21.00				63.00
41.30			22.00	8.00	71.30
30.00					30.00
30.00	30.00	27.50			87.50
99.96	99.96	99.96	99.96	33.32	433.16
35.00					35.00
92.33	99.96	99.96	99.96	33.32	425.53
60.00	60.00	60.00	60.00	20.00	260.00
96.06	96.00	89.57	96.00	32.00	409.57
99.96	99.96	99.96	99.96	33.32	433.16
99.96	99.96	99.96	99.96	33.32	433.16
60.00	60.00	60.00	50.00	20.00	250.00
10.00					10.00
60.00	60.00	60.00	60.00	20.00	260.00
99.96	99.96	99.96	99.96	33.32	433.16
	10.50	16.00	16.00	2.00	46.50
	45.75	27.03			72.78
	50.57	99.96	79.50		230.03
	4.00	48.00	48.00	16.00	116.00
	5.00	60.00	5.00		70.00

6 0 0 4 0 2 0 5 1 4 6

	Total Amount Contributed					Total
	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>1980</u> (thru 3/31)	
			\$ 72.00	\$ 72.00	\$ 24.00	\$ 168.00
			22.00	24.00	8.00	54.00
			72.00	96.00	32.00	200.00
			72.00	96.00	32.00	200.00
			24.00	36.00	12.00	72.00
			16.00	4.00		20.00
			85.75	99.96	80.52	266.23
			40.00	64.00	32.00	136.00
			12.00	24.00	8.00	44.00
			2.00			2.00
			34.06	72.00	18.00	124.06
			10.00	24.00	8.00	42.00
			8.00	24.00	8.00	40.00
			6.00	20.00		26.00
			10.00	60.00	20.00	90.00
			5.00	60.00	20.00	85.00
				22.00	8.00	30.00
				20.00	8.00	28.00
				40.65		40.65
				64.00	32.00	96.00
				35.00	20.00	55.00
				14.00	8.00	22.00
				6.00	4.00	10.00
				10.00	20.00	30.00
					24.00	24.00
					16.64	16.64
					74.36	74.36

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Total Amount Contributed					
<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>1980</u> (thru 3/31)	<u>Total</u>
				\$ 16.66	\$ 16.66
\$1,345.20	\$1,297.50	\$1,900.55	\$2,242.14	\$ 905.42	\$7,690.87

THE HONORABLE ROBERT O. TIERNAN

Chairman

Federal Election Commission

1325 K Street, N.W.

Washington, D. C. 20463

DELIVERED BY HAND

6 1 5 0 2 0 4 0 0 3

E. PAUL JONES, JR.
 WALTER A. BERRY
 ALAN E. COLLIER
 BOB WRIGHT
 MICHAEL E. LAMONT
 ST. JOHN BARNETT
 WILLIAM A. BLANCHARD
 CHARLES SAMUEL BARNETT
 GREGORY A. BARNETT
 CAROL W. BARNETT
 WIL. CARL FLETCHER
 GARY D. BARNETT
 JOSEPH L. HAMILTON
 JOHN E. BERRY
 JOHN E. LYNN
 HARRY BRIDGEMAN, JR.
 IVAN H. BUCK, JR.
 JACK E. BUCK
 JOHN F. BRIDGEMAN III
 MARY JO WHITLER

WASHINGTON, D.C.
 CABLE ALL INFORMATION
 BARNETT & BLANCHARD
 UNIVERSITY MICROFILMS
 300 N. ZEEB
 LOUISVILLE, KENTUCKY 40202
 BARNETT, ALABAMA, FRANKLIN
 1000 N. WILSON
 PALM BEACH, FLORIDA 33480
 BARNETT, ALABAMA & VIRGINIA
 P.O. BOX 1000
 FRANKFORD, KENTUCKY 40323

JAMES E. BARNETT
 STEVEN G. BARNETT
 FRANKLIN BARNETT
 JOHN E. BARNETT
 DONALD L. BARNETT
 WILLIAM E. BARNETT
 JOHN E. BARNETT
 W. DAVID BARNETT
 MARY CROWE MATHER
 DONALD F. MATHER
 JEFFREY D. MATHER
 OF COUNSEL
 RUFUS E. WILSON

May 1, 1980

BY HAND

The Honorable Robert O. Tiernan
 Chairman
 Federal Election Commission
 1325 K Street, N.W.
 Washington, D. C. 20463

Re: MUR 1144 (80)

Dear Mr. Tiernan:

We are glad to furnish additional information requested in this matter by Robert I. Bogin, Esquire.

We attach two charts.

Each chart lists the names of independent contractors in the trucking business who at any time during the period January 1, 1976 through March 31, 1980 have hauled milk on contract for Mid-America Dairymen, Inc. ("Mid-Am") and who have contributed to the Agricultural and Dairy Educational Political Trust ("ADEPT"). Each such contract hauler is an independent contractor doing business by contract with Mid-Am and in no way is an employee. Those haulers before whose name there appears an asterisk are members of Mid-Am.

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80 MAY 1 PM 4:02

RECEIVED
OFFICE OF THE
GENERAL COUNSEL

BARNETT, ALAGIA & CAREY

The Honorable Robert O. Tiernan
May 1, 1980
Page two

Each chart shows the same information but presents it differently. One chart shows each contributor by year, with the amount contributed; the other chart shows the amount each contributor contributed for each year, with the total contribution.

The total contribution for all years for all hauler contributors is \$7,690.87. Although neither chart shows it, the total amount contributed by haulers who are not Mid-Am members is \$6,887.15.

We again invite your attention to the fact that each of these haulers is an independent contractor; there is no payroll; the deductions are an authorized offset against a contractual check.

If you would like further information, we can talk further.

Sincerely,



MARION EDWYN HARRISON

MEH:kg
Enc

cc Harry L. Ponder, Esquire
Robert I. Bogin, Esquire

00040205151

Mid-Atlantic
Contributed to ADEPT

<u>Year</u>	<u>Name</u>	<u>Amount</u>
1976	Don Larue	99.96
	Joseph V. Tappehorn	55.00
	*W. H. Beck	99.96
	Don Feller	99.96
	Cleon Hansen	28.91
	Glen Griffin	42.00
	Lewis G. Lindburg	41.30
	Andrew Hanenburg	30.00
	Norman Faymoville	30.00
	James or Joyce Janicula	99.96
	Art Altrichter	35.00
	*John Lefebvre	92.33
	Conrad Locnikar	60.00
	Erwin J. Arens	96.00
	Elford A. Stern	99.96
	Wallace C. Jaunich	99.96
	Robert W. Innes	60.00
	Leo Kimmes	10.00
	Raleigh Tiedeman	60.00
	Ed Boeckman	99.96
1977	Ed Boeckman	99.96
	Don Larue	99.96
	Joseph V. Tappehorn	55.00
	*W. H. Beck	99.96
	Don Feller	99.96
	Glen Griffin	21.00
	Norman Faymoville	30.00
	James or Joyce Janicula	99.96
	*John Lefebvre	99.96
	Elford Stern	99.96
	Conrad Locnikar	60.00
	Erwin J. Arens	96.00

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1978

William Johnson	99.96
Robert W. Innes	60.00
Raleigh Tiedeman	60.00
Ronald Posusta	18.00
Arthur W. Johnson	27.03
Quentin Johnson	99.96
Glenn A. Baer	48.00
Jackie Lee Hull	60.00
Ed Beckman	99.96
*W. H. Beck	99.96
Bernard E. Bobbett	72.00
Glenn A. Baer	48.00
Don Larue	99.96
Arthur W. Johnson	27.03
Quentin Johnson	99.96
Don Feller	99.96
Joseph V. Tappahorn	60.00
Jackie Lee Hull	60.00
Norman Faymerville	27.50
Erwin J. Arens	89.57
Ronald Posusta	18.00
James or Joyce Janicula	99.96
*John Lefebvre	99.96
Elford A. Stern	99.96
Conrad Locnikar	60.00
Wallace C. Jaunich	99.96
Robert W. Innes	60.00
Raleigh Tiedeman	60.00
Donald Waller	22.00
Cliff Lalk	72.00
Bill Ferguson	72.00
Wayne Lucas	24.00
*Wesley Frenzel	16.00
Ervin Dwayne Davis	85.75
Roy Springer	40.00
Joe Kremer	12.00
Rollin D. Mallery	2.00
Lawrence Thompson	34.06

1970

LeRoy Dierks	24.00
Arlyn Hurlbert	24.00
Dennis L. Keltner	20.00
Olberding Trucking	60.00
Roy Dean Ferguson	60.00
Wayne Lucas	24.00
Chiff Lalk	24.00
Bill Ferguson	60.00
Ervin Dwayne Davis	99.96
*W. H. Beck	58.31
Bernard E. Bobbett	72.00
Glenn A. Bear	48.00
Don Larue	99.96
Roy Dean Ferguson	60.00
Quantin Johnson	79.50
Don Feller	99.96
LeRoy Dierks	24.00
Joe Kremer	24.00
Olberding Trucking	60.00
Dennis L. Keltner	20.00
Arlyn Hurlbert	24.00
Donald Waller	24.00
Joseph V. Tappehorn	60.00
Jackie Lee Hull	5.00
Lawrence Thompson	72.00
Erwin J. Arens	96.00
Ronald Posusta	16.00
James or Joyce Janicula	99.96
*John Lefebvre	99.96
Elford A. Stern	99.96
Conrad Locnikar	60.00
Wallace C. Jaunich	99.96
*Wesley Frenzel	4.00
Robert W. Innes	50.00
Raleigh Tiedeman	60.00
Roy Springer	64.00
Lewis G. Lindberg	22.00
Dvorak Bros.	22.00
Ed Boeckman	99.96

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1950 (Thru 3/31)	Malvin [unclear]	12.00
	Merle [unclear]	12.00
	Myron [unclear]	12.00
	Howard [unclear]	12.00
	Arlington Bulk Milk	12.00
	Alfred Lustjan	8.00
	H. Pat and/or Thelma Girth	18.00
1950 (Thru 3/31)	Wayne Lucas	12.00
	Cliff Lalk	32.00
	Bill Ferguson	32.00
	Howard Liles	20.00
	Ervin Dwayne Davis	60.52
	Roy Springer	32.00
	H. Pat or Thelma Girth	20.00
	Bernard Bobbitt	24.00
	Alfred Lustjan	4.00
	Glenn A. Baer	16.00
	Myron Fischer	32.00
	Don Larus	33.32
	Roy Dean Ferguson	20.00
	Don Feller	33.32
	Arlington Bulk Milk	8.00
	Lewis G. Lindburg	8.00
	LeRoy Dierks	8.00
	Dvorak Bros.	8.00
	Joe Kremer	8.00
	Olberding Trucking	20.00
	Melvin Koops	8.00
	Arlyn Hurlbert	8.00
	Donald Waller	8.00
	Joseph V. Tappehorn	20.00
	Robert W. Innes	20.00
	Lawrence Thompson	18.00
	Erwin J. Arens	32.00
	Ronald Posusta	2.00
	James or Joyce Janicula	33.32
	*John Lefebvre	33.32

Robert A. Anderson	18.00
Robert Anderson	18.00
Robert A. Anderson	18.00
John Anderson	18.00
John Anderson & Sons	74.30
Robert Anderson	18.00
Ed Anderson	33.02

*Denotes Mid-Am Member

00040205156

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Contract Haulers
of

Mid-America Dairymen, Inc.

Who Contributed to ADEPT through Deduction from Hauling Check

Total Amount Contributed

Name	1976	1977	1978	1979	1980 (thru 3/31)	1981
Don Larue	\$ 99.96	\$ 99.96	\$ 99.96	\$ 99.96	\$ 33.33	\$ 46.67
Joseph V. Tappehorn	60.00	55.00	60.00	60.00	20.00	25.00
*W. H. Beck	99.96	99.96	99.96	88.31		20.00
Don Feller	99.96	99.96	99.96	99.96	33.33	20.00
Cleon Hansen	28.91					
Glen Griffin	42.00	21.00				
Lewis G. Lindburg	41.30			23.00	5.00	
Andrew Hanenburg	30.00					
Norman Faymoville	30.00	30.00	27.50			
James or Joyce Janicula	99.96	99.96	99.96	99.96	33.33	46.67
Art Altrichter	35.00					
*John Lefebvre	92.33	99.96	99.96	99.96	33.33	46.67
Conrad Locnikar	60.00	60.00	60.00	60.00	20.00	20.00
Erwin J. Arens	96.00	96.00	89.57	96.00	33.00	42.57
Elford A. Stern	99.96	99.96	99.96	99.96	33.33	46.67
Wallace C. Jaunich	99.96	99.96	99.96	99.96	33.33	46.67
Robert W. Innes	60.00	60.00	60.00	50.00	20.00	20.00
Leo Kimmes	10.00					
Raleigh Tiedeman	60.00	60.00	60.00	60.00	20.00	20.00
Ed Boeckman	99.96	99.96	99.96	99.96	33.33	46.67
Ronald Posusta		10.50	13.00	16.00	2.00	
Arthur W. Johnsen		45.75	27.03			
Quentin Johnson		50.57	99.96	79.50		
Glenn A. Baer		4.00	48.00	48.00	16.00	112.00
Jackie Lee Hull		5.00	60.00	5.00		

8 0 0 4 0 2 0 5 1 5 8

Total Amount Contributed

<u>Name</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>1980</u> (thru 3/31)	<u>Total</u>
Bernard E. Bobbett			\$ 72.00	\$ 72.00	\$ 24.00	\$ 168.00
Donald Waller			22.00	24.00	8.00	54.00
Cliff Lalk			72.00	96.00	22.00	190.00
Bill Ferguson			72.00	96.00	22.00	190.00
Wayne Lucas			24.00	26.00	12.00	72.00
*Wesley Frenzel			16.00	4.00		20.00
Ervin Dwayne Davis			85.75	99.96	60.52	246.23
Roy Springer			40.00	64.00	22.00	126.00
Joe Kremer			12.00	24.00	8.00	44.00
Rollin D. Mallery			2.00			2.00
Lawrence Thompson			24.00	72.00	18.00	114.00
LeRoy Dierks			10.00	24.00	8.00	42.00
Arlyn Hurlbert			8.00	24.00	8.00	40.00
Dennis L. Keltner			6.00	20.00		26.00
Olberding Trucking			10.00	60.00	20.00	90.00
Roy Dean Ferguson			5.00	60.00	20.00	85.00
Dvorak Bros.				22.00	8.00	30.00
Melvin Koops				20.00	8.00	28.00
Merle Halls Trucking				40.65		40.65
Myron Fischer				64.00	22.00	86.00
Howard Liles				35.00	20.00	55.00
Arlington Bulk Milk Service				14.00	8.00	22.00
Alfred Luetjen				8.00	4.00	12.00
H. Pat and/or Thelma Girth				10.00	20.00	30.00
Verlon L. Haworth					24.00	24.00
Jack Morris					18.00	18.00
John Anderson & Sons					74.00	74.00

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Total Amount Contributed

Name

1976

1977

1978

1979

1980
(thru 2/22)

Ronnie McHargue

\$ 16.00 \$ 16.00

Totals

\$1,345.26

\$1,297.50

\$1,900.55

\$2,242.14

\$ 905.00

*Denotes Mid-Am Member

BARNETT, ALAGIA & CAREY
1027 K STREET, N.W.
WASHINGTON, D.C. 20006

DELIVERED BY HAND

Harry L. Ponder, Esquire
Assistant General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D. C. 20463

DELIVERED BY HAND

BARNETT, ALAGIA & CAREY

1027 K STREET, N.W.

WASHINGTON, D.C. 20006

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Robert I Bogin, Esquire

Federal Election Commission

1325 K Street, N.W.

Washington, D. C. 20463

B. P. ALABAMA, JR.
WILLIAM A. BERRY
NANCY S. BOLANOS
N. J. BOWEN, JR.
JAMES M. BRY
A. R. BRYAN
ED. J. BRYAN
CHARLES BRYAN BARNETT
FRANKLIN BRANT
JOHN E. EVANS
RONALD L. GAPPNEY
WILLIAM E. GLADINE
JOHN S. KECK
KARL F. LOWERS, II
DONALD P. SMITH
JACK S. BUCH
JOHN F. SHERLOCK III
LEE S. SUMMERS
MARY JO WHILDER

WASHINGTON, D.C. 20004
TELEPHONE (202) 331-3333
CABLE ALBANY 33-33

BARNETT & ALABAMA
REPRESENTATIVE
SUITE 1175
LOUISVILLE, KENTUCKY 40201
TELEPHONE (502) 582-4121

BARNETT, ALABAMA & PROSPER
2100 BAYVIEW BLVD.
PALM BEACH, FLORIDA 33480
TELEPHONE (407) 832-8888

ROBERT O. BARNETT
JAMES BARNETT HARRISON
NANCY S. BOLANOS
JOHN E. BRYAN
WILLIAM E. BRYAN
NANCY S. BOLANOS
PATRICIA M. BRYAN
ANTHONY M. BRYAN
BARNETT & ALABAMA
WIL. GARY, JR.
GARY S. BRYAN
JOHN E. BRYAN
W. DAVID BRYAN
MARY CRYSTAL MATHEIS
IVAN RICH

OF COUNSEL
RUFUS E. WILSON

April 4, 1980

BY HAND

The Honorable Robert O. Tiernan
Chairman
Federal Election Commission
1325 K Street, N.W.
Washington, D. C. 20463

Re: MUR 1144 (80)

Dear Mr. Tiernan:

By this letter we supplement oral and documentary information presented to Federal Election Commission ("FEC") counsel by telephone through Mr. Tom Townsend, Treasurer, Agricultural and Dairy Educational Political Trust ("ADEPT"), and through me in a personal meeting.

1. Documentation

FEC counsel have before them samples of the two contracts which at all times material have been, and are, in effect between independent contract haulers and Mid-America Dairymen, Inc. ("Mid-Am"), of which ADEPT is a separate segregated fund. 2 USCA §441c(b).

We now further submit the following.

30040205162

BARNETT ALAGIA & CAREY

The Honorable Robert O. Tiernan
April 4, 1980
Page two

1. An Affidavit of the Treasurer of ADEPT sworn to March 25, 1980.
2. Volume XXXVIII, \$10, NEWS FOR DAIRY CO-OPS, (March 7, 1980), a publication of the National Milk Producers Federation, 30 F Street, N.W., Washington, D.C., 20001.
3. A chart showing by name and then year, calendar years 1976 through March 8, 1980, contributions to ADEPT by hourly paid employees.
4. A chart showing by year and then name, same period of time, contributions to ADEPT by hourly paid employees.
5. A chart showing total number of independent contract haulers doing business with Mid-Am as of March 7, 1980.

2. Pertinent Facts

a. There are presently 317 independent contract haulers. Of these 37 are ADEPT contributors. Of the 37, three also are members of Mid-Am.

There is a strong relationship between the independent hauler and the dairy cooperative with which he contracts.

b. Mid-Am has 3,031 employees. Of these 549 are wage and hour employees. Of these 549 employees, 30 were ADEPT contributors in the calendar year 1980 and an additional eight (making a total of 38) in one or more years among the years 1976, 1977, 1978 and 1979 were ADEPT contributors.

ADEPT notified all 30 shortly after receipt of the FEC complaint herein that their participation in ADEPT was discontinued.

During the year 1980 the total sum of all wage and hour employee contributions to ADEPT is \$303.73. For the period beginning January 1, 1976, the aggregate figure is \$3,077.94.

0040205163

The Honorable Robert O. Tiernan
April 4, 1980
Page three

c. No person other than a Mid-Am administrative employee, Mid-Am executive employee or Mid-Am member has been solicited.

3. The Haulers Solicitation Issue

FEC auditors suggest "... that ADEPT was possibly soliciting milk haulers who were not employees of ADEPT." Such solicitation concededly would violate the provisions of 2 USCA §441b(b)(4). However, as noted supra, there has been no solicitation of haulers and, hence, no violation of the statute.

It is not surprising that haulers have elected voluntarily to contribute to ADEPT. As noted supra, their relationship with Mid-Am and with the dairy farmer members of Mid-Am is close. See, e.g., Attachment 2. ADEPT has been operative for almost ten years; is known and respected; and enjoys relatively substantial membership considering the lack of solicitation effort to induce membership. If there were anything surprising about the fact that some haulers without solicitation have contributed to ADEPT it would be the fact that only 37 (three of whom are Mid-Am members) of 317 do so. One would expect a greater number.

Accordingly, there is no violation of §441b(b)(4) which provides pertinently that "... it shall be unlawful ... for [Mid-Am] or [ADEPT] ... to solicit contributions to [ADEPT] from any person other than its stockholders and their families and its executive or administrative personnel and their families ..."

4. Non-Administrative/Executive Mid-Am Employees

FEC auditors suggest "... that ADEPT possibly used a payroll deduction plan to facilitate the making of contributions from its employees other than administrative or executive personnel ..." FEC auditors assert that "These employees included [a] milk haulers as well as [b] those headquarters personnel who are not employed in an administrative or executive capacity ..."

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BARNETT, ALAGIA & CAREY

The Honorable Robert O. Tiernan
April 4, 1980
Page four

a. As the contracts for the haulers clearly show, the haulers are not employees. Further, a contract common carrier would not be an employee under the Internal Revenue Code. 26 CFR §31.3401(c)-1.

Thus, because the independent contract hauler is not an employee and the compensation he receives is not part of a payroll, there is no prohibition against receipt of contributions from a hauler.

b. However, unquestionably the 38 wage and hour employees who at one time or another contributed to ADEPT are ineligible Mid-Am employees. 11 CFR §114.6(a).

There is no certain explanation as to how a handful of ineligible employees managed to be placed upon the ADEPT rolls. ADEPT has had the same Treasurer since prior to 1976 and I have been its counsel during that period. Each of us is well aware that non-administrative/executive employees are not qualified. The violation is de minimis in terms of numbers of employees and total contributions (\$3,077.94 of several million dollars).

Promptly upon receiving FEC's letter herein ADEPT terminated the ADEPT participation of these personnel. Had the Treasurer become aware of this participation earlier, he would have terminated that participation earlier.

Unlike some separate segregated funds, ADEPT relies principally upon its reputation, the political interest of farmers and word of mouth for exposition of its work in lieu of solicitation. Therefore, it perhaps is not surprising that a small number of ineligible personnel sought to join ADEPT by means of a payroll deduction. It is somewhat surprising that the names of as many as 38 would have been accepted for payroll deduction in view of the fact those responsible have known of the prohibitions. However, if the secretary administering the program, who exercises broad administrative and discretionary functions, did not know the individuals, she would have to check basic documents to determine their identity and evidently did not do so. The demography of the 38 shows no pattern - it is just a matter of a name having slipped through here and there over the vast multi-state region of the Midwest and

BARNETT, ALAGIA & CAREY

The Honorable Robert O. Tiernan
April 4, 1980
Page five

Northcentral States in which Mid-Am operates.

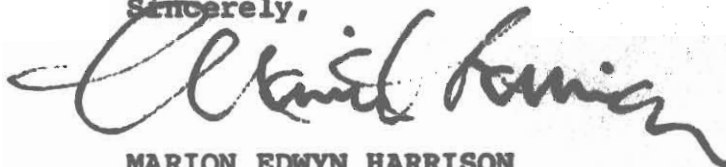
5. Conclusion

FEC should take no further action as to the matter of the haulers because there is no violation.

ADEPT would be amenable to execution of a consent agreement as to the matter of the non-administrative/executive employees inasmuch as there is a violation, even though insignificant in terms of numbers and of dollars contributed.

I am available for further discussion with FEC counsel. We are just a few blocks away.

Sincerely,



MARION EDWYN HARRISON

MEH:kg

Enc

cc Harry L. Ponder, Esquire
Robert I. Bogin, Esquire

30040205166

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of:

AGRICULTURAL & DAIRY EDUCATIONAL
POLITICAL TRUST

MUR1144 (88)

AFFIDAVIT OF MR. TOM TOWNSEND

TOM TOWNSEND, first sworn, deposes and says as follows:

1. I am the Treasurer of Agricultural & Dairy Educational Political Trust ("ADEPT"), Respondent in this matter; and I have been Treasurer of ADEPT since March, 1976.
2. I am responsible for the administration of ADEPT and have had that responsibility as aforesaid.
3. I also am Vice President of Mid-America Dairymen, Inc., of which ADEPT is a separate segregated fund; and I have been in that capacity since prior to 1976.
4. As the Treasurer of ADEPT and as the officer of Mid-America Dairymen, Inc. assigned to coordinate the operation of ADEPT, at all times material I have been familiar with the operations of Mid-America Dairymen, Inc. and of ADEPT with respect to the soliciting of contributions to ADEPT.
5. To my knowledge, neither Mid-America Dairymen, Inc. nor ADEPT, at no time in or after the year 1976, has solicited a contribution for ADEPT from an individual who is neither an administrative employee, executive employee nor member of Mid-America Dairymen, Inc. In my opinion, I would have been aware of such a solicitation had it occurred.

Further Affiant sayeth not.

Tom Townsend
TOM TOWNSEND

STATE OF MISSOURI
COUNTY OF GREENE, ss:

Subscribed and sworn to before me this 25th day of March, 1980.

Allen M. Wade
NOTARY PUBLIC

My Commission expires: July 12, 1980



MOR 1/1

CLASS



NEWS FOR DAIRY CO-OPS

VOL. XXXVIII No. 10

March 7, 1980

Reconstituted Milk Hearings Opposed

Members of Congress continue to voice their concern over the proposal to amend Federal Milk Marketing Orders with respect to the classification and pricing of reconstituted fluid milk.

Congressman Dave Obey of Wisconsin has told Secretary of Agriculture Bergland that the proposed changes could "bring more harm than good" to consumers by upsetting stability in the dairy industry, worsening surplus conditions for certain milk products and increasing processing costs. Urging rejection of the petition for a hearing to amend the market orders, Obey said the suggested changes could seriously disrupt the Federal Milk Marketing Order system. This he termed a "step backward" in the effort to establish long-term stability in the industry, the maintenance of a decent level of income for dairy farmers and the maintenance of adequate supplies of domestically produced milk to meet current and future consumer needs.

Senator Quentin N. Burdick of North Dakota urged cancellation of consideration of the petition. He noted that the consumer currently has the option of using reconstituted milk. Burdick expressed the concern that the proposed amendments would do irreparable harm to the family farm dairy operation, stating, "In my state, many family farm operations exist only because dairying provides the margin of difference that makes a successful economic unit." He pointed out that the market order program has been a major factor in this situation.

Kansas Senator Bob Dole said the proposal is "poorly advised" in that it is contrary to the requirements of the law itself, would yield no benefits to the consumer, and would set the stage for havoc in the dairy economy. Dole stated that, "It would be a mistake to pull the

continued

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Instituted
Milk
(continued)

rug out from under a market system which has worked so well." In calling for a halt to plans for the convening of a hearing, the Kansas lawmaker said, "Any action which will disrupt the balance we have achieved over so many years of experience should be carefully weighed before we cast caution to the wind to delve into a hearing which cannot bring improvements to either milk producers or consumers."

* * * * *

NMFF Testifies
on Transportation
Regulation

The Federation has presented testimony to both the Senate and the House on legislation proposing changes in the regulation of motor carriers. Comments were expressed on provisions changing the agricultural commodities exemption, establishing an owner-operator exemption, inter-corporate hauling by private carriers and written contracts to cover movement of agricultural commodities.

Addressing the written contract provision, NMFF said, "Within the dairy industry there is a strong relationship between the independent hauler, the cooperative and the dairy farmer. This relationship, in some cases, spans several generations. This close relationship is in the best interest of both the hauler, the cooperative and the farmer. There is no need within our industry to have the ICC interjected into this relationship through their stipulating a contract be negotiated and signed every time milk is to be moved from the farm to the market. This would place an extreme burden on all parties involved and would malign a relationship which has been established and which is working to the benefit of the ultimate consumer of dairy products."

NMFF also encouraged the Congress to expand the cooperative exemption which permits the hauling on nonmember nonfarm traffic to 50 percent in order to realize the additional economies which will be passed on to the consumer. "It is senseless to force the truck which serves agricultural cooperatives to run partially full or even empty on a haul because of this limitation on hauling nonmember traffic. It is also imperative that no new reporting requirements be placed on cooperatives."

* * * * *

Farm Credit Act
Amendments
Supported

Testifying before the Credit and Conservation Subcommittee of the House Agriculture Committee this week, the Federation supported legislation to amend and update the authorities under which the units of the Farm Credit System operate so as to permit them to more nearly meet the needs of agriculture.

The system is comprised of the Banks of Cooperatives, the Federal Land Banks and the Production Credit Associations. Operating on a cooperative basis, the units are owned by borrowers and operate so as to assure availability of needed credit within agriculture. The Federation said that the proposed amendments would strengthen the system, permit it to function more effectively as a complete system and allow it to respond to the changing needs of agriculture.

Concern was raised over the possible interpretation of authorities for the Federal Land Banks and Production Credit Associations to provide expanded credit for basic processing and marketing operations related directly to borrower's operations and those of other farmers. The

continued

Price Credit
(continued)

provision in the legislation raises questions regarding the status of producer-handlers under Federal Milk Marketing Orders. The Federation recommended that the Committee include provisions in the report on the bill, making it clear that these provisions are not to be construed as altering the legal status of producer-handlers of milk under the terms of the Agricultural Marketing Agreement Act.

* * * * *

USDA Works on
Foot-and-Mouth
Vaccine

The U.S. Department of Agriculture has signed a cooperative agreement with a San Francisco based research firm, Genetech, Inc., to conduct research aimed at development of an inexpensive, safe and effective vaccine against foot-and-mouth disease.

The effort will be directed toward using recombinant DNA technology in the development of such a vaccine. This will be the first time such an approach has been used in the development of a vaccine for human or animal diseases. The work will be done at USDA's Plum Island research facility under stringent security to prevent any possible contamination.

* * * * *

February Parity
Price

The February parity price for all milk sold at wholesale was announced at \$17.60 per hundredweight, and \$15.49 for manufacturing milk, both for milk of average butterfat content. The February Index of Prices Paid by Farmers for Commodities and Services, Interest, Taxes and Wage Rates was 922 compared to 913 (revised) for January and 812 for February 1979.

The price support level, \$11.22 per hundredweight (3.5 percent butterfat), was 74.2 percent of parity. Farmers received an average price per hundredweight of \$12.43 for all milk and \$11.30 for manufacturing milk (both on a 3.5 percent butterfat basis).

* * * * *

January Production
Highlights

Butter production was 104 million pounds in January, 24 percent more than December and 7 percent above January 1979. American type cheese output totaled 182 million pounds, 6 percent above last month and up 5 percent output from a year ago. Total cheese output (except cottage) was 310 million pounds, up 2 percent from December 1979 and 7 percent above January 1979. Production of nonfat dry milk for human food was 75.0 million pounds, up 36 percent from January 1979.

* * * * *

Federation
Meetings

- | | |
|-------------------|---|
| March 10-11, 1980 | Federal Order Task Force, Federation Office
Washington, D.C., 9:30 a.m. |
| March 17, 1980 | Subcommittee on Cheese Standards of the
Dairy Products and Standards Committee
Hyatt Regency, Capitol Hill, Washington, D.C.
2:00 p.m. |
| March 18, 1980 | Food Labeling Subcommittee of the
Dairy Products and Standards Committee
Hyatt Regency, Capitol Hill, Washington, D.C.
9:30 a.m. |

National Milk Producers Federation Weekly Market Report — March 7, 1980

WEEKLY PRICES (in dollars per pound)

Butter—Spot (cartons)	AA	Chicago A	B	AA	New York A	B
March 7	1.3150	1.2950	1.2700			
Feb. 29	1.3150	1.2900	1.2650			
Cheese—National Cheese Exchange		40# Blocks	20# Blocks			
March 7		1.2500	1.2700			
Feb. 29		1.2300	1.2700			

MONTHLY PRICE STATISTICS

		Month	Prior Month	Last Year
All milk wholesale, U.S., 3.5%, cont.	Feb.	12.43	12.37	11.52
Manufacturing milk, U.S., 3.5%, cont.	Feb.	11.30	11.31	10.44
Minn.-Wis. Mfg. milk, 3.5%, cont.	Feb.	11.35	11.37	10.52
Butter, Chicago, Grade A, USDA, lb.	Feb.	1.3028	1.3016	1.1130
Cheddar cheese, 40# blocks, Wis., lb.	Feb.	1.2600	1.2564	1.1864
Cheddar cheese, barrels, Wis., lb.	Feb.	1.1986	1.2043	1.1057
Nonfat dry milk, spray, Chicago area, lb.	Feb.	.8378	.8370	.7579
Milk-feed price ratio ¹	Feb.	1.57	1.54	1.59
Milk-cull cow price ratio ²	Jan.	3.88	3.81	4.12

PRODUCTION STATISTICS (millions)

	Week Ending Feb. 28	Prior Week	Last Year	Cumulative from Dec. 28, '79	Dec. 29, '78
Butter, lbs.	22.8	23.4	21.8	206.8	196.5
Cheese, lbs.	42.1	43.0	41.5	375.4	364.0
	Month	Prior Month	Last Year	Cumulative from Jan. 1, '80	Jan. 1, '79
Milk, lbs.	Jan. 10,260	10,061	10,004	10,260	10,004
Creamery butter, lbs.	Jan. 103.8	83.8	97.4	103.8	97.4
American cheese, lbs.	Jan. 182.0	172.5	173.8	182.0	173.8
Total cheese ³ , lbs.	Jan. 310.5	304.6	288.9	310.5	288.9
Creamed cottage cheese, lbs.	Jan. 67.1	61.8	69.0	67.1	69.0
Ice cream, gals.	Jan. 57.4	51.8	55.7	57.4	55.7
Evaporated milk ⁴ , lbs.	Jan. 59.8	58.5	58.0	59.8	58.0
Nonfat dry milk, lbs.	Jan. 75.0	73.3	55.1	75.0	55.1
Whey (solids content):					
Human food, lbs.	Jan. 44.2	39.9	42.9	44.2	42.9
Animal feed, lbs.	Jan. 14.4	10.9	17.6	14.4	17.6

IMPORTS

	1979	1978
Milk Equivalent of Butterfat (million pounds) Jan. 1 through December	2,298.6	2,305.2

PRICE SUPPORT PURCHASES AND AVAILABILITY (million pounds—delivery basis)

	Butter		Cheese		Nonfat Dry Milk	
	This Year	Last Year	This Year	Last Year	This Year	Last Year
Month of February	10.4	2.0	22.1	.0	32.1	1.1
Oct. 1 to date	62.4	11.3	68.2	.0	135.0	19.5
Available for programs ⁵	165.3	160.6	33.3	0.2	391.6	476.5

CCC PURCHASE PRICES

Butter: New York	1.3400	Chicago	1.3133	Cheese: Blocks	1.2400	Barrels	1.2100
Nonfat Dry Milk, non fortified	.8400	fortified	.8525				

¹Pounds 16% dairy ration equal to one lb. milk. ²Price cull cows—Price of all milk. ³Excludes part skim cheese. ⁴Includes sweetened condensed whole milk. ⁵Includes products contracted for delivery to CCC.

Mid-America College, Inc.
Who Contributed to A.M.E. Through Payroll Deductions

<u>Year</u>	<u>Name</u>	<u>Total Amount Contributed</u>
1976	C. Harmon	\$ 37.47
	C.W. Pope	30.70
	R. Dickison	32.40
	N. C. West	29.72
	J. D. Lockwood	43.05
	C.E. Burrus	41.27
	A. Q. Worthington	41.56
	L. Nesbit	33.00
1977	C. Harmon	45.92
	C. W. Pope	46.70
	R. Dickison	36.16
	N. C. West	32.33
	E. P. Haley	36.91
	J. D. Lockwood	51.12
	C. E. Burrus	43.02
	A. Q. Worthington	42.53
	L. Nesbit	36.35
	D. R. Fusselman	26.25
	T. J. Mann	10.62
	W. W. Wendt	20.37
	M. Koops	17.44
	J. Kremer	14.13
	R. H. Carlson	21.97
1978	C. Harmon	53.18
	C. W. Pope	51.80
	R. Dickison	39.96
	N. C. West	2.57
	E. P. Haley	45.62
	J. D. Lockwood	59.81
	C. E. Burrus	48.24

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<u>Year</u>	<u>Name</u>	<u>Amount</u>
1978 (Cont'd.)	A. Q. Worthington	4.00
	L. Nesbit	25.00
	D. R. Fusselman	45.47
	N. E. Bialas	24.42
	W. W. Wendt	45.53
	B. H. Carlson	3.76
	D. J. Bickmann	10.00
	R. C. Doering	10.00
	S. Kiecker	10.00
	D. J. Dukhorn	10.00
	A. K. Bents	6.00
	C. R. Briggs	31.65
	W. E. Van Wyk	30.27
	T. L. Oppliger	25.03
	D. L. Marks	19.79
	R. C. Haskin	19.05
	H. E. Nielsen	24.55
	L. V. Keyes	18.53
	E. Norton	8.54
	J. R. Ellenberger	1.37
	W. E. Thomas	39.22
1979	C. Harmon	55.16
	C. W. Pope	60.17
	R. Dickison	45.31
	E. P. Haley	46.78
	J. D. Lockwood	63.32
	C. E. Burrus	51.41
	A. Q. Worthington	53.46
	L. Nesbit	42.30
	D. E. Miller	12.60
	R. E. Baxter	6.33
	D. R. Fusselman	53.32
	N. E. Bialas	44.54
	D. W. May	10.57
	C. H. Spies	19.01

1979
(Cont'd.)

D. J. Blanton	\$ 12.00
R. C. Deering	12.00
S. Elacher	12.00
D. J. Dabbs	12.00
C. R. Briggs	46.25
W. E. Van Wyk	44.55
T. L. Oppiger	60.94
D. L. Marks	53.71
R. C. Haskin	53.62
H. E. Nielsen	61.74
L. V. Keyes	67.18
E. Norton	24.58
J. R. Ellenberger	25.77
M. Ellenberger	21.40
R. C. Moenning	5.13
J. D. Lawless	17.34
W. W. Wendt	52.73
W. E. Thomas	63.83

1980
(Jan. 1 thru
March 8)

D. E. Miller	10.80
L. Nesbit	9.93
C. R. Briggs	10.45
W. E. Van Wyk	9.95
R. Dickison	10.55
C. Harmon	12.67
C. W. Pope	12.11
E. P. Haley	11.52
J. D. Lockwood	13.33
C. E. Burrus	11.71
A. Q. Worthington	11.74
R. E. Baxter	10.19
N. E. Bialas	10.36
D. R. Fusselman	11.47
D. W. May	6.10
C. H. Spies	12.40
J. R. Ellenberger	5.08
R. C. Haskin	11.79
L. V. Keyes	13.34

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Year

1940
(Jan. 1 thru
March 6)

Name

J. D. Leathers
D. L. Maize
R. C. Moening
H. E. Nelson
T. L. Oppiger
W. W. Wandt
D. J. Bickmann
R. C. Deering
D. J. Dukhorn
S. Klecker
W. E. Thomas

Total
Amount Contributed

\$ 10.03
11.04
7.98
15.54
14.62
10.63
2.00
3.00
3.00
3.00
15.60

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**Hourly Paid Employees
of
Mid-America Dairymen, Inc.
Who Contributed to ADEPT Through Payroll Deduction**

<u>Name</u>	<u>Total Amount Contributed</u>					<u>Total</u>
	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>1980</u> (1/1 - 3/8)	
C. Harmon	\$37.47	\$45.92	\$53.18	\$55.16	\$12.67	\$ 204.40
G. W. Page	38.78	46.76	51.80	60.17	12.11	209.62
R. Mathews	32.48	38.16	39.96	45.31	10.55	164.46
H. C. Neal	29.72	32.33	2.57			64.62
J. D. Lockwood	43.65	51.12	59.81	63.32	13.33	231.23
E. S. Durran	41.27	43.02	48.24	51.41	11.71	195.65
A. G. Worthington	41.56	42.53	49.44	53.46	11.74	198.73
L. Smith	33.80	36.36	38.95	42.30	9.93	161.33
H. P. Selby		36.91	45.62	46.78	11.52	140.83
G. E. Farnsworth		26.25	45.47	53.32	11.47	136.51
T. J. Allen		10.62				10.62
H. W. Ward		30.37	45.53	52.73	10.63	129.26
H. Selby		17.44				17.44
J. Selby		14.13				14.13
H. J. Wilson		21.97	3.76			25.73
H. J. Wilson			34.42	44.54	10.36	89.32
H. J. Wilson			10.00	12.00	2.00	24.00
H. G. Manning			10.00	12.00	3.00	25.00
H. G. Manning			10.00	12.00	3.00	25.00
H. J. Dethorn			10.00	12.00	3.00	25.00
A. E. Reitz			6.00			6.00
C. R. Briggs			31.65	46.25	10.45	88.35
H. E. Van Wyk			30.27	44.35	9.95	84.57
T. L. Gyller			25.03	60.94	14.62	100.59

	Total Amount Deducted					
	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>1980</u> (1/1 - 3/8)	<u>Total</u>
D. L. Marks			\$19.79	\$53.71	\$11.84	\$ 85.34
E. O. Martin			19.05	53.62	11.79	84.46
M. E. Nelson			24.55	61.74	15.54	101.83
S. V. Koyas			18.53	67.18	13.34	99.05
E. Martin			8.54	24.58		33.12
J. E. Stuehler			1.37	25.77	5.08	32.22
M. E. Thomas			39.22	63.83	15.80	118.85
E. E. Miller				12.60	10.80	23.40
E. E. Barker				6.33	10.19	16.52
E. E. Ray				10.57	6.10	16.67
E. E. Miller				19.01	12.40	31.41
E. E. Miller				21.40		21.40
E. E. Miller				5.13	7.98	12.11
E. E. Miller				17.34	10.83	28.17
	<u>\$298.73</u>	<u>\$481.88</u>	<u>\$782.75</u>	<u>\$1,210.85</u>	<u>\$303.73</u>	<u>\$3,077.94</u>

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WED-AMERICA BANKING, INC.

Independent Contract Bankers

<u>Division</u>	<u>Total No. of Bankers</u>
Southern Division	79
St. Louis Division	38
Kansas City Division	56
Central States Division	44
Northern Division	79
Iowa Division	<u>21</u>
TOTAL	317

March 7, 1980

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ALAGIA & CAREY
1627 K STREET, N.W.
WASHINGTON, D.C. 20006

DELIVERED BY HAND

Hon. Robert O. Tiernan
Chairman
Federal Election Commission
1325 K Street, N.W.
Washington, D. C. 20463

SARRETT, ALABAMA & COMPANY

1007 E. SPRING AVE.

MOBILE, ALABAMA 36602

TELEPHONE (205) 782-4273

CABLE ALL OFFICES ALBAN

SARRETT & ALABAMA

1007 E. SPRING AVE.

MOBILE, ALA.

1007 E. SPRING AVE.

TELEPHONE (205) 782-4273

SARRETT, ALABAMA & COMPANY

1007 E. SPRING AVE.

MOBILE, ALABAMA 36602

TELEPHONE (205) 782-4273

April 4, 1980

D. PAUL ALABAMA, JR.
WILLIAM A. SARRETT
ALAN S. SARRETT
H. EDWARD SARRETT
JOSEPH H. SARRETT
H. PAUL SARRETT
ST. JOHN SARRETT
CHARLES SARRETT SARRETT
FRANKLIN SARRETT
JOHN S. SARRETT
RONALD L. SARRETT
WILLIAM S. SARRETT
JOHN S. SARRETT
KARL F. SARRETT
DONALD F. SARRETT
JACK E. SARRETT
JOHN F. SARRETT
LEE C. SARRETT
MARY JO SARRETT

JOHN S. SARRETT
WILLIAM A. SARRETT
ALAN S. SARRETT
H. EDWARD SARRETT
JOSEPH H. SARRETT
H. PAUL SARRETT
ST. JOHN SARRETT
CHARLES SARRETT SARRETT
FRANKLIN SARRETT
JOHN S. SARRETT
RONALD L. SARRETT
WILLIAM S. SARRETT
JOHN S. SARRETT
KARL F. SARRETT
DONALD F. SARRETT
JACK E. SARRETT
JOHN F. SARRETT
LEE C. SARRETT
MARY JO SARRETT

OF COUNSEL
RUFUS E. WILSON

BY HAND

The Honorable Robert O. Tiernan
Chairman
Federal Election Commission
1325 K Street, N.W.
Washington, D. C. 20463

Re: MUR 1144 (80)

Dear Mr. Tiernan:

By this letter we supplement oral and documentary information presented to Federal Election Commission ("FEC") counsel by telephone through Mr. Tom Townsend, Treasurer, Agricultural and Dairy Educational Political Trust ("ADEPT"), and through me in a personal meeting.

1. Documentation

FEC counsel have before them samples of the two contracts which at all times material have been, and are, in effect between independent contract haulers and Mid-America Dairymen, Inc. ("Mid-Am"), of which ADEPT is a separate segregated fund. 2 USCA §441c(b).

We now further submit the following.

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OFFICE OF THE
GENERAL COUNSEL

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BARNETT, ALAGIA & CARNEY

The Honorable Robert O. Tiernan

April 4, 1980

Page two

1. An Affidavit of the Treasurer of ADEPT sworn to March 25, 1980.
2. Volume XXVIII, \$10, NEWS FOR DAIRY CO-OPS, (March 7, 1980), a publication of the National Milk Producers Federation, 30 F Street, N.W., Washington, D.C., 20001.
3. A chart showing by name and then year, calendar years 1976 through March 8, 1980, contributions to ADEPT by hourly paid employees.
4. A chart showing by year and then name, same period of time, contributions to ADEPT by hourly paid employees.
5. A chart showing total number of independent contract haulers doing business with Mid-Am as of March 7, 1980.

2. Pertinent Facts

a. There are presently 317 independent contract haulers. Of these 37 are ADEPT contributors. Of the 37, three also are members of Mid-Am.

There is a strong relationship between the independent hauler and the dairy cooperative with which he contracts.

b. Mid-Am has 3,031 employees. Of these 549 are wage and hour employees. Of these 549 employees, 30 were ADEPT contributors in the calendar year 1980 and an additional eight (making a total of 38) in one or more years among the years 1976, 1977, 1978 and 1979 were ADEPT contributors.

ADEPT notified all 30 shortly after receipt of the FEC complaint herein that their participation in ADEPT was discontinued.

During the year 1980 the total sum of all wage and hour employee contributions to ADEPT is \$303.73. For the period beginning January 1, 1976, the aggregate figure is \$3,077.94.

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The Honorable Robert O. Tiernan
April 4, 1980
Page three

c. No person other than a Mid-Am administrative employee, Mid-Am executive employee or Mid-Am member has been solicited.

3. The Haulers Solicitation Issue

FEC auditors suggest "... that ADEPT was possibly soliciting milk haulers who were not employees of ADEPT." Such solicitation concededly would violate the provisions of 2 USCA §441b(b)(4). However, as noted supra, there has been no solicitation of haulers and, hence, no violation of the statute.

It is not surprising that haulers have elected voluntarily to contribute to ADEPT. As noted supra, their relationship with Mid-Am and with the dairy farmer members of Mid-Am is close. See, e.g., Attachment 2. ADEPT has been operative for almost ten years; is known and respected; and enjoys relatively substantial membership considering the lack of solicitation effort to induce membership. If there were anything surprising about the fact that some haulers without solicitation have contributed to ADEPT it would be the fact that only 37 (three of whom are Mid-Am members) of 317 do so. One would expect a greater number.

Accordingly, there is no violation of §441b(b)(4) which provides pertinently that "... it shall be unlawful ... for [Mid-Am] or [ADEPT] ... to solicit contributions to [ADEPT] from any person other than its stockholders and their families and its executive or administrative personnel and their families ..."

4. Non-Administrative/Executive Mid-Am Employees

FEC auditors suggest "... that ADEPT possibly used a payroll deduction plan to facilitate the making of contributions from its employees other than administrative or executive personnel ...". FEC auditors assert that "These employees included [a] milk haulers as well as [b] those headquarters personnel who are not employed in an administrative or executive capacity ..."

BARNETT, ALAGIA & CAREY

The Honorable Robert O. Tiernan
April 4, 1980
Page four

a. As the contracts for the haulers clearly show, the haulers are not employees. Further, a contract common carrier would not be an employee under the Internal Revenue Code. 26 CFR §31.3401(c)-1.

Thus, because the independent contract hauler is not an employee and the compensation he receives is not part of a payroll, there is no prohibition against receipt of contributions from a hauler.

b. However, unquestionably the 38 wage and hour employees who at one time or another contributed to ADEPT are ineligible Mid-Am employees. 11 CFR §114.6(a).

There is no certain explanation as to how a handful of ineligible employees managed to be placed upon the ADEPT rolls. ADEPT has had the same Treasurer since prior to 1976 and I have been its counsel during that period. Each of us is well aware that non-administrative/executive employees are not qualified. The violation is de minimis in terms of numbers of employees and total contributions (\$3,077.94 of several million dollars).

Promptly upon receiving FEC's letter herein ADEPT terminated the ADEPT participation of these personnel. Had the Treasurer become aware of this participation earlier, he would have terminated that participation earlier.

Unlike some separate segregated funds, ADEPT relies principally upon its reputation, the political interest of farmers and word of mouth for exposition of its work in lieu of solicitation. Therefore, it perhaps is not surprising that a small number of ineligible personnel sought to join ADEPT by means of a payroll deduction. It is somewhat surprising that the names of as many as 38 would have been accepted for payroll deduction in view of the fact those responsible have known of the prohibitions. However, if the secretary administering the program, who exercises broad administrative and discretionary functions, did not know the individuals, she would have to check basic documents to determine their identity and evidently did not do so. The demography of the 38 shows no pattern - it is just a matter of a name having slipped through here and there over the vast multi-state region of the Midwest and

BARNETT, ALAGIA & CAREY

The Honorable Robert O. Tiernan
April 4, 1980
Page five

Northcentral States in which Mid-Am operates.

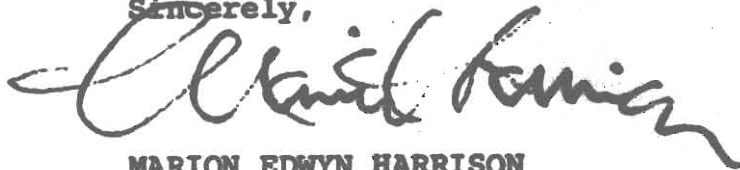
5. Conclusion

FEC should take no further action as to the matter of the haulers because there is no violation.

ADEPT would be amenable to execution of a consent agreement as to the matter of the non-administrative/executive employees inasmuch as there is a violation, even though insignificant in terms of numbers and of dollars contributed.

I am available for further discussion with FEC counsel. We are just a few blocks away.

Sincerely,



MARION EDWYN HARRISON

MEH:kg

Enc

cc Harry L. Ponder, Esquire
Robert I. Bogin, Esquire

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of:

AGRICULTURAL & DAIRY EDUCATIONAL
POLITICAL TRUST

MUR 1144 (80)

AFFIDAVIT OF MR. TOM TOWNSEND

TOM TOWNSEND, first sworn, deposes and says as follows:

1. I am the Treasurer of Agricultural & Dairy Educational Political Trust ("ADEPT"), Respondent in this matter; and I have been Treasurer of ADEPT since March, 1976.
2. I am responsible for the administration of ADEPT and have had that responsibility as aforesaid.
3. I also am Vice President of Mid-America Dairymen, Inc., of which ADEPT is a separate segregated fund; and I have been in that capacity since prior to 1976.
4. As the Treasurer of ADEPT and as the officer of Mid-America Dairymen, Inc. assigned to coordinate the operation of ADEPT, at all times material I have been familiar with the operations of Mid-America Dairymen, Inc. and of ADEPT with respect to the soliciting of contributions to ADEPT.
5. To my knowledge, neither Mid-America Dairymen, Inc. nor ADEPT, at no time in or after the year 1976, has solicited a contribution for ADEPT from an individual who is neither an administrative employee, executive employee nor member of Mid-America Dairymen, Inc. In my opinion, I would have been aware of such a solicitation had it occurred.

Further Affiant sayeth not.

Tom Townsend
TOM TOWNSEND

STATE OF MISSOURI
COUNTY OF GREENE, ss:

Subscribed and sworn to before me this 25th day of March, 1980.

Alice M. Wade
NOTARY PUBLIC

My Commission expires: July 12, 1980

NATIONAL MILK PRODUCERS FEDERATION/30 F STREET, N.W. WASHINGTON, D. C. 20001



MUR

1/17

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NEWS FOR DAIRY CO-OPS

VOL. XXXVIII No. 10

March 7, 1980

Reconstituted Milk Hearings Opposed

Members of Congress continue to voice their concern over the proposal to amend Federal Milk Marketing Orders with respect to the classification and pricing of reconstituted fluid milk.

Congressman Dave Obey of Wisconsin has told Secretary of Agriculture Bergland that the proposed changes could "bring more harm than good" to consumers by upsetting stability in the dairy industry, worsening surplus conditions for certain milk products and increasing processing costs. Urging rejection of the petition for a hearing to amend the market orders, Obey said the suggested changes could seriously disrupt the Federal Milk Marketing Order system. This he termed a "step backward" in the effort to establish long-term stability in the industry, the maintenance of a decent level of income for dairy farmers and the maintenance of adequate supplies of domestically produced milk to meet current and future consumer needs.

Senator Quentin N. Burdick of North Dakota urged cancellation of consideration of the petition. He noted that the consumer currently has the option of using reconstituted milk. Burdick expressed the concern that the proposed amendments would do irreparable harm to the family farm dairy operation, stating, "In my state, many family farm operations exist only because dairying provides the margin of difference that makes a successful economic unit." He pointed out that the market order program has been a major factor in this situation.

Kansas Senator Bob Dole said the proposal is "poorly advised" in that it is contrary to the requirements of the law itself, would yield no benefits to the consumer, and would set the stage for havoc in the dairy economy. Dole stated that, "It would be a mistake to pull the

continued

Constituted
(continued)

NMFF Testifies
on Transportation
Regulation

rug out from under a market system which has worked so well." In calling for a halt to plans for the convening of a hearing, the Kansas lawmaker said, "Any action which will disrupt the balance we have achieved over so many years of experience should be carefully weighed before we cast caution to the wind to delve into a hearing which cannot bring improvements to either milk producers or consumers."

* * * * *

The Federation has presented testimony to both the Senate and the House on legislation proposing changes in the regulation of motor carriers. Comments were expressed on provisions changing the agricultural commodities exemption, establishing an owner-operator exemption, inter-corporate hauling by private carriers and written contracts to cover movement of agricultural commodities.

Addressing the written contract provision, NMFF said, "Within the dairy industry there is a strong relationship between the independent hauler, the cooperative and the dairy farmer. This relationship, in some cases, spans several generations. This close relationship is in the best interest of both the hauler, the cooperative and the farmer. There is no need within our industry to have the ICC interjected into this relationship through their stipulating a contract be negotiated and signed every time milk is to be moved from the farm to the market. This would place an extreme burden on all parties involved and would malign a relationship which has been established and which is working to the benefit of the ultimate consumer of dairy products."

NMFF also encouraged the Congress to expand the cooperative exemption which permits the hauling on nonmember nonfarm traffic to 50 percent in order to realize the additional economies which will be passed on to the consumer. "It is senseless to force the truck which serves agricultural cooperatives to run partially full or even empty on a haul because of this limitation on hauling nonmember traffic. It is also imperative that no new reporting requirements be placed on cooperatives."

* * * * *

Farm Credit Act
Amendments
Supported

Testifying before the Credit and Conservation Subcommittee of the House Agriculture Committee this week, the Federation supported legislation to amend and update the authorities under which the units of the Farm Credit System operate so as to permit them to more nearly meet the needs of agriculture.

The system is comprised of the Banks of Cooperatives, the Federal Land Banks and the Production Credit Associations. Operating on a cooperative basis, the units are owned by borrowers and operate so as to assure availability of needed credit within agriculture. The Federation said that the proposed amendments would strengthen the system, permit it to function more effectively as a complete system and allow it to respond to the changing needs of agriculture.

Concern was raised over the possible interpretation of authorities for the Federal Land Banks and Production Credit Associations to provide expanded credit for basic processing and marketing operations related directly to borrower's operations and those of other farmers. The

continued

**Bank Credit
(continued)**

provision in the legislation raises questions regarding the status of producer-handlers under Federal Milk Marketing Orders. The Federation recommended that the Committee include provisions in the report on the bill, making it clear that these provisions are not to be construed as altering the legal status of producer-handlers of milk under the terms of the Agricultural Marketing Agreement Act.

The U.S. Department of Agriculture has signed a cooperative agreement with a San Francisco based research firm, Genetech, Inc., to conduct research aimed at development of an inexpensive, safe and effective vaccine against foot-and-mouth disease.

The effort will be directed toward using recombinant DNA technology in the development of such a vaccine. This will be the first time such an approach has been used in the development of a vaccine for human or animal diseases. The work will be done at USDA's Plum Island research facility under stringent security to prevent any possible contamination.

**Foot-and-Mouth
Vaccine**

**February Parity
Price**

The February parity price for all milk sold at wholesale was announced at \$17.60 per hundredweight, and \$15.49 for manufacturing milk, both for milk of average butterfat content. The February Index of Prices Paid by Farmers for Commodities and Services, Interest, Taxes and Wage Rates was 922 compared to 913 (revised) for January and 812 for February 1979.

The price support level, \$11.22 per hundredweight (3.5 percent butterfat), was 74.2 percent of parity. Farmers received an average price per hundredweight of \$12.43 for all milk and \$11.30 for manufacturing milk (both on a 3.5 percent butterfat basis).

**January Production
Highlights**

Butter production was 104 million pounds in January, 24 percent more than December and 7 percent above January 1979. American type cheese output totaled 182 million pounds, 6 percent above last month and up 5 percent output from a year ago. Total cheese output (except cottage) was 310 million pounds, up 2 percent from December 1979 and 7 percent above January 1979. Production of nonfat dry milk for human food was 75.0 million pounds, up 36 percent from January 1979.

**Federation
Meetings**

March 10-11, 1980	Federal Order Task Force, Federation Office Washington, D.C., 9:30 a.m.
March 17, 1980	Subcommittee on Cheese Standards of the Dairy Products and Standards Committee Hyatt Regency, Capitol Hill, Washington, D.C. 2:00 p.m.
March 18, 1980	Food Labeling Subcommittee of the Dairy Products and Standards Committee Hyatt Regency, Capitol Hill, Washington, D.C. 9:30 a.m.

6004705189

Buller—Spot (carlots)	AA	Chicago A	B	AA	New York A
March 7	1.3150	1.2950	1.2700		
Feb. 29	1.3150	1.2900	1.2650	— — — — —	DISCONTINUED — — —
Cheese—National Cheese Exchange		40¢ blocks	blocks		
March 7		1.2500	1.1700		
Feb. 29		1.2300	1.1700		

	Month	Prior Month	Last Year
All milk wholesale, U.S., 3.5%, cwt.	Feb.	12.43	11.52
Manufacturing milk, U.S., 3.5%, cwt.	Feb.	11.30	10.44
Minn.-Wis. Mfg. milk, 3.5%, cwt.	Feb.	11.35	10.52
Butter, Chicago, Grade A, USDA, lb.	Feb.	1.3028	1.1130
Cheddar cheese, 40# blocks, Wis., lb.	Feb.	1.2600	1.1864
Cheddar cheese, barrels, Wis., lb.	Feb.	1.1986	1.1057
Nonfat dry milk, spray, Chicago area, lb.	Feb.	.8378	.7579
Milk-feed price ratio ¹	Feb.	1.57	1.59
Milk-cull cow price ratio ²	Jan.	3.88	4.12

	Best Rating	Five Year	Last Year
1	100	100	100
2	95	95	95
3	90	90	90
4	85	85	85
5	80	80	80
6	75	75	75
7	70	70	70
8	65	65	65
9	60	60	60
10	55	55	55
11	50	50	50
12	45	45	45
13	40	40	40
14	35	35	35
15	30	30	30
16	25	25	25
17	20	20	20
18	15	15	15
19	10	10	10
20	5	5	5
21	0	0	0

		Week Ending Feb. 28	Prior Week	Last Year	Cumulative from	
					Dec. 28, '79	Dec. 29, '78
Butter, lbs.		22.8	23.4	21.8	206.8	196.5
Cheese, lbs.		42.1	43.0	41.5	375.4	364.0
		Month	Prior Month	Last Year	Cumulative from	
					Jan. 1, '80	Jan. 1, '79
Milk, lbs.	Jan.	10,260	10,061	10,004	10,260	10,004
Creamery butter, lbs.	Jan.	103.8	83.8	97.4	103.8	97.4
American cheese, lbs.	Jan.	182.0	172.5	173.8	182.0	173.8
Total cheese ¹ , lbs.	Jan.	310.5	304.6	288.9	310.5	288.9
Creamed cottage cheese, lbs.	Jan.	67.1	61.8	69.0	67.1	69.0
Ice cream, gals.	Jan.	57.4	51.8	55.7	57.4	55.7
Evaporated milk ⁴ , lbs.	Jan.	59.8	58.5	58.0	59.8	58.0
Nonfat dry milk, lbs.	Jan.	75.0	73.3	55.1	75.0	55.1
Whey (solids content):						
Human food, lbs.	Jan.	44.2	39.9	42.9	44.2	42.9
Animal feed, lbs.	Jan.	14.4	10.9	17.6	14.4	17.6

December

IMPORTS		1979	1978
Milk Equivalent of Butterfat (million pounds)	Jan. 1 through December	2,298.6	2,305.2

Butter	Cheese	Margarine
---------------	---------------	------------------

		Butter		Cheese		Nonfat Dry Milk	
		This Year	Last Year	This Year	Last Year	This Year	Last Year
Month of	February	10.4	2.0	22.1	.0	32.1	1.1
Oct. 1 to date		62.4	11.3	68.2	.0	135.0	19.5
Available for programs ^a		165.3	160.6	33.3	0.2	391.6	476.5

2122 **Stress Plate** 1 2400

Butter: New York 1.3400, Chicago, 1.3133 Cheese: Blocks 1.2400 Barrels 1.2100
Nonfat Dry Milk, non fortified .8400 fortified .8525

*Pounds 16% dairy ration equal to one lb. milk. *Price cull cows + Prices of all milk. *Excludes part skim cheese. *Includes sweetened condensed whole milk. *Includes products contracted for delivery to CCC.

Monthly Paid Employees
of
Mid-America Dryclean, Inc.
Who Contributed to ADEPT Through Payroll Deduction

<u>Year</u>	<u>Name</u>	<u>Total Amount Contributed</u>
1976	C. Harmon	\$ 37.47
	C.W. Pope	38.78
	R. Dickison	32.48
	N. C. West	29.72
	J. D. Lockwood	43.85
	C.E. Burrus	41.27
	A. Q. Worthington	41.56
1977	L. Nesbit	33.00
	C. Harmon	45.92
	C. W. Pope	46.78
	R. Dickison	36.16
	N. C. West	32.33
	E. P. Haley	36.91
	J. D. Lockwood	51.12
	C. E. Burrus	43.02
	A. Q. Worthington	42.53
	L. Nesbit	36.35
	D. R. Fusselman	26.25
	T. J. Mann	10.62
	W. W. Wendt	20.37
	M. Koops	17.44
	J. Kremer	14.13
R. H. Carlson	21.97	
1978	C. Harmon	53.18
	C. W. Pope	51.80
	R. Dickison	39.96
	N. C. West	2.57
	E. P. Haley	45.62
	J. D. Lockwood	59.81
	C. E. Burrus	48.24

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Name

Total Amount

A. Q. Worthington	\$ 42.44
L. Nesbit	30.00
D. R. Fusselman	45.47
N. E. Bialas	34.43
W. W. Wendt	45.53
R. H. Carlson	3.78
D. J. Bickmann	10.00
R. C. Doering	10.00
S. Kiecker	10.00
D. J. Dukhorn	10.00
A. K. Bents	6.00
C. R. Briggs	31.65
W. E. Van Wyk	30.27
T. L. Opplinger	25.03
D. L. Marks	19.79
R. C. Harkin	19.05
H. E. Nielsen	24.55
L. V. Keyes	18.53
E. Norton	8.54
J. R. Ellenberger	1.37
W. E. Thomas	39.22

1979

C. Harmon	55.16
C. W. Pope	60.17
R. Dickison	45.31
E. P. Haley	46.78
J. D. Lockwood	63.32
C. E. Burrus	51.41
A. Q. Worthington	53.46
L. Nesbit	42.30
D. E. Miller	12.60
R. E. Baxter	6.33
D. R. Fusselman	53.32
N. E. Bialas	44.54
D. W. May	10.57
C. H. Spies	19.01

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1979
(Cont'd.)

D. J. Dabbs	\$ 12.99
R. C. Dabbs	12.99
S. Elster	12.99
D. J. Dabbs	12.99
C. R. Briggs	46.25
W. E. Van Wyk	44.35
T. L. Oppiger	60.94
D. L. Marks	53.71
R. C. Haskin	53.62
H. E. Nielsen	61.74
L. V. Keyes	67.18
E. Norton	24.58
J. R. Ellenberger	25.77
M. Ellenberger	21.40
R. C. Moanning	5.13
J. D. Lawless	17.34
W. W. Wendt	52.73
W. E. Thomas	63.83

1980
(Jan. 1 thru
March 8)

D. E. Miller	10.80
L. Nesbit	9.93
C. R. Briggs	10.45
W. E. Van Wyk	9.95
R. Dickison	10.55
C. Harmon	12.67
C. W. Pope	12.11
E. P. Haley	11.52
J. D. Lockwood	13.33
C. E. Burrus	11.71
A. Q. Worthington	11.74
R. E. Baxter	10.19
N. E. Bialas	10.36
D. R. Fusselman	11.47
D. W. May	6.10
C. H. Spies	12.40
J. R. Ellenberger	5.08
R. C. Haskin	11.79
L. V. Keyes	13.34

**Hourly Paid Employees
of
Mid-America Dairymen, Inc.
Who Contributed to ADEPT Through Payroll Deduction**

<u>Name</u>	<u>Total Amount Contributed</u>					<u>Total</u>
	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>1980</u> (1/1 - 3/8)	
C. Harmon	\$37.47	\$45.92	\$53.18	\$55.16	\$12.67	\$ 204.40
G. W. Pope	38.78	46.76	51.80	60.17	12.11	209.62
R. Dickson	32.48	36.16	39.96	45.31	10.55	164.46
H. C. West	29.72	32.33	2.57			64.62
J. D. Lockwood	43.65	51.12	59.81	63.32	13.33	231.23
C. E. Burrus	41.27	43.02	48.24	51.41	11.71	195.65
A. G. Worthington	41.56	42.53	49.44	53.46	11.74	198.73
A. Bond	33.80	36.35	38.95	42.30	9.93	161.33
B. P. Haley		36.91	45.62	46.78	11.52	140.83
D. B. Fusselman		26.25	45.47	53.32	11.47	136.51
T. J. Mann		10.62				10.62
W. W. Wandt		20.37	45.53	52.73	10.63	129.26
M. Kope		17.44				17.44
J. Kewer		14.13				14.13
D. H. Carlson		21.97	3.76			25.73
A. E. Stokes			34.42	44.54	10.36	89.32
B. J. Shuman			10.00	12.00	2.00	24.00
B. G. Hawley			10.00	12.00	3.00	25.00
B. Hinkley			10.00	12.00	3.00	25.00
D. J. Dufhorn			10.00	12.00	3.00	25.00
A. K. Bents			6.00			6.00
C. B. Briggs			31.65	46.25	10.45	88.35
E. L. Van Wyk			30.27	44.35	9.95	84.57
E. L. Oppiger			25.03	60.94	14.62	100.59

Name	Total Amount Deducted			Total		
	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>1980</u> (1/1 - 3/8)	
P. L. Martin			\$19.79	\$53.71	\$11.84	\$ 85.34
R. C. Martin			19.05	53.62	11.79	84.46
R. D. Martin			24.55	61.74	15.54	101.83
L. V. Martin			18.53	67.18	13.34	99.05
R. Martin			8.54	24.58		33.12
J. E. Blankberger			1.37	25.77	5.08	32.22
R. E. Thomas			39.22	63.83	15.80	118.85
R. E. Miller				12.60	10.80	23.40
R. E. Barker				6.33	10.19	16.52
R. E. Ray				10.57	6.10	16.67
R. E. Spivey				19.01	12.40	31.41
R. Blankberger				21.40		21.40
R. E. Manning				5.13	7.98	13.11
R. E. Lawson				17.34	10.83	28.17

	\$296.73	\$481.98	\$782.75	\$1,210.85	\$303.73	\$3,077.94
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MID-AMERICA TRANSPORT, INC.

Independent Contract Haulers

<u>Division</u>	<u>Total No. of Haulers</u>
Southern Division	79
St. Louis Division	38
Kansas City Division	58
Central States Division	44
Northern Division	79
Iowa Division	<u>21</u>
TOTAL	317

March 7, 1980

60040305196

BARNETT, ALAGIA & CAREY
1627 K STREET, N.W.
WASHINGTON, D.C. 20006

60040205197

UNITED BY LAW

Robert I. Bogin, Esquire
Federal Election Commission
1325 K Street, N.W.
Washington, D. C. 20463

BARNETT, ALAGIA & CAREY

1627 K STREET, N.W.

WASHINGTON, D.C. 20006

00040205

DELIVERED BY HAND

RECEIVED
OFFICE OF THE
GENERAL COUNSEL

APR 4 P5:10

Harry L. Ponder, Esquire
Federal Election Commission
1325 K Street, N.W.
Washington, D. C. 20463

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20460

MEMORANDUM TO: CHARLES STEELE *made*
FROM: MARJORIE W. EMMONS/MARGARET CHANEY *me*
DATE: APRIL 2, 1980
SUBJECT: MUR 1144 - Interim Investigative Report #1
dated 3-31-80; Received in OCS
3-31-80, 4:12

The above-named document was circulated to the
Commission on a 24 hour no-objection basis at 11:00,
April 1, 1980.

There were no objections to the Interim Investigative
Report at the time of the deadline.

00040205199

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Agriculture and Dairy Educational
Political Trust (ADEPT)
Mid-America Dairymen, Inc. (Mid-Am)

80 MAR 31 1980
MAR 29 1980

INTERIM INVESTIGATIVE REPORT # 1

On February 12, 1980, the Commission found reason to believe that ADEPT and/or Mid-Am may have violated 2 U.S.C. § 441b(b)(4) and 11 C.F.R. § 114.6(e). On March 14, 1980, we met to discuss this matter with counsel for respondent. Counsel represents that he will respond to the Commission's finding by April 4, 1980.

31 March 1980

Date


Charles N. Steele
General Counsel

60040305201

00040205202

RECEIVED
FEDERAL ELECTION
COMMISSION
MAR 9 1960
AGRICULTURAL & DAIRY EDUCATIONAL POLITICAL TRUST
P. O. BOX 1837 L.S. STATION, SPRINGFIELD, MO. 65805 • 417/522-9441

March 6, 1960

Robert Bogin, Esquire
Federal Election Commission
1325 K Street, N.W.
Washington, D. C. 20463

Re: MUR 1144 (80)

906835

Dear Mr. Bogin:

As we discussed on March 3, I am glad to advise you that we are checking the facts concerning the matters raised in Chairman Robert O. Tiernan's letter to me of February 19.

Our attorney, Marion Edwyn Harrison, Esquire, who wrote you under date of February 28, will contact you just about the time you receive this letter and we believe we will have all information of interest to you at that time.

Sincerely,

Tom Townsend

TOM TOWNSEND
Treasurer

TT:nr

Tom Townsend
Treasurer
ADEPT

Box 1837, SS Station
Springfield, Missouri 65805

RECEIVED
FEDERAL ELECTION
COMMISSION

PM

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1980

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Robert Bogin, Esquire
Federal Election Commission
1325 K Street, N.W.
Washington, D. C. 20463

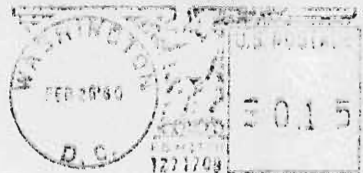
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BARNETT, ALAGIA & CAREY

1627 K STREET, N.W.

WASHINGTON, D.C. 20006



Hon. Robert O. Tiernan
Chairman
Federal Election Commission
1325 K Street, N.W.
Washington, D. C. 20463

FEDERAL ELECTION
COMMISSION

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BARNETT, ALAGIA & CAREY

1627 K STREET, N.W.

WASHINGTON, D.C. 20006

Robert Bogin, Esquire
Federal Election Commission
1325 K Street, N.W.
Washington, D. C. 20463



040203207

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Agricultural and Dairy)
Educational Political)
Trust (ADEPT))
Mid-America Dairyman, Inc.,)
(Mid-Am)

MEF 1146

CERTIFICATION

I, Marjorie W. Emons, Recording Secretary for the Federal Election Commission's Executive Session on February 12, 1980, do hereby certify that the Commission decided by a vote of 5-0 to find REASON TO BELIEVE that ADEPT and/or Mid-Am may have violated 2 U.S.C. §441b(b) (4) and 11 C.F.R. §114.6(a).

Commissioners Friedersdorf, Harris, McGarry, Reiche, and Tiernan voted affirmatively for the finding; Commissioner Aikens did not vote in this matter.

Attest:

2/15/80

Date

Marjorie W. Emons
Marjorie W. Emons
Secretary to the Commission

00040205208



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

February 29, 1980

MEMORANDUM

TO: Marge Emmons
FROM: Charles N. Steele *CS*
SUBJECT: Certification - MUR 1144

The citing of 11 C.F.R. § 114.6(d) in the certification for MUR 1144 is incorrect. The correct cite is 11 C.F.R. § 114.6(e).



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20543

February 12, 1972

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Tom Townsend, Treasurer
Agricultural and Dairy Educational
Political Trust
800 West Tampa
Springfield, Missouri 65805

MUR 1144 (30)

Dear Mr. Townsend:

This letter is to notify you that the Federal Election Commission, in the normal course of its supervisory responsibilities has found reason to believe that, your committee and/or Mid-Am Dairy, Inc. (Mid-Am) may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A summary of the possible violation(s) is enclosed.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against your committee and Mid-Am in connection with this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter within 10 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

In absence of any information which demonstrates that no further action should be taken against your committee and Mid-Am, the Commission may find probable cause to believe that a violation has occurred, and proceed with formal conciliation. Of course, this does not preclude the settlement of this matter through informal conciliation prior to a finding of probable cause to believe if you so desire.

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

00040205210

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

If you have

If you have any questions, please contact Robert Bogin, the attorney assigned to this matter at (202) 533-4073. For your information, we have attached a brief description of the Commission's procedures for handling possible violations.

Sincerely,

Robert O. Tiernan
Chairman

Enclosures

1. Summary of Possible Violations
2. Procedures

1. ARTICLE ADDRESS TO: 80 ECHINGST POSTMASTER FOR FEES 10-10-1980		2. ARTICLE ADDRESSED TO: 8-10-1980	
3. ARTICLE DESCRIPTION: REGISTERED NO. 943804 INSURED NO.		4. I have received this article described below: SIGNATURE <input checked="" type="checkbox"/> Address <input checked="" type="checkbox"/> Initials <input checked="" type="checkbox"/> DATE OF DELIVERY 22 FEBRUARY 1980	
5. ADDRESS (Complete only if registered) 6. UNABLE TO DELIVER BECAUSE:		7. CLERK'S INITIALS:	

DATE

DATE: 1977
FEDERAL ELECTION COMMISSION, 2000 M ST. N.W.,
WASHINGTON, D.C. 20543

RESPONDENT: Agricultural & Dairy Educational
Political Trust (ADEPT)
Mid-Am Dairy, Inc. (Mid-Am)

(202) 523-4073

SOURCE OF INFO: INTERNALLY GENERATED

BACKGROUND

Upon review of an audit performed in the normal course of carrying out its supervisory responsibilities the Commission found reason to believe that ADEPT and/or Mid-Am violated 2 U.S.C. § 441b (b)(4) and 11 C.F.R. § 114.6(e) by soliciting ineligible individuals and using a payroll deduction plan to facilitate the payment of contributions from employees other than administrative or executive personnel.

FACTUAL BASIS AND LEGAL ANALYSIS

During the recent audit of ADEPT it was uncovered that ADEPT was possibly soliciting milk haulers who were not employees of ADEPT. 2 U.S.C. § 441b(b)(4) does not permit an entity such as ADEPT and/or Mid-Am to solicit non-employees unless they are members of Mid-Am or family of administrative or executive personnel.

In addition it was uncovered that ADEPT possibly used a payroll deduction plan to facilitate the making of contributions from its employees other than administrative or executive personnel. These employees included milk haulers as well as those headquarters personnel who are not employed in an administrative or executive capacity. The Commission's Regulations prohibit the use of a payroll deduction plan which deducts contributions from an employee's paycheck as a method of making contributions for those employees subject to twice yearly written solicitations pursuant to 11 C.F.R. § 114.6(e).

Based on the foregoing analysis, the Federal Election Commission has found:

1. Reason to believe ADEPT and/or Mid-Am violated 2 U.S.C. § 441b(b)(4)
2. Reason to believe ADEPT and/or Mid-Am violated 11 C.F.R. § 114.6(e)

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Agricultural and Dairy)
Educational Political)
Trust (ADEPT))
Mid-America Dairymen, Inc.,)
(Mid-Am)

MIR 1144

CERTIFICATION

I, Marjorie W. Emmons, Recording Secretary for the Federal Election Commission's Executive Session on February 12, 1980, do hereby certify that the Commission decided by a vote of 5-0 to find REASON TO BELIEVE that ADEPT and/or Mid-Am may have violated 2 U.S.C. §441b(b) (4) and 11 C.F.R. §114.6(d).

Commissioners Friedersdorf, Harris, McGarry, Reiche, and Tiernan voted affirmatively for the finding; Commissioner Aikens did not vote in this matter.

Attest:

2/15/80

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

00040205213



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE
FROM: MARJORIE W. EMMONS/MARGARET CHANEY *mc*
DATE: FEBRUARY 5, 1980
SUBJECT: COMMENTS REGARDING MUR 1144

Attached is a copy of Commissioner McGarry's
vote sheet with comments regarding MUR 1144.

You were notified on February 4, 1980 of an objection by
Commissioner Friedersdorf.

ATTACHMENT:
Copy of Vote Sheet

50040205214



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON D.C. 20043

Date and Time Transmitted: FRIDAY, 2-1-80
2:00

Commissioner FRIEDERSDORF, AIKENS, TIERNAN, MCGARRY, REICHE, FARRIS

RETURN TO OFFICE OF COMMISSION SECRETARY BY: TUESDAY, FEBRUARY 5, 1980
2:00

MJR No. 1144 - First General Counsel's Report dated 2-1-80

- (☒) I approve the recommendation
() I object to the recommendation

COMMENTS: see line 4 p.2

Date: 2/4/80 Signature: [Signature]

THE OFFICE OF GENERAL COUNSEL WILL TAKE NO ACTION IN THIS MATTER UNTIL THE APPROVAL OF FOUR COMMISSIONERS IS RECEIVED. PLEASE RETURN ALL PAPERS NO LATER THAN THE DATE AND TIME SHOWN ABOVE TO THE OFFICE OF COMMISSION SECRETARY. ONE OBJECTION PLACES THE ITEM ON THE EXECUTIVE SESSION AGENDA.

disagree w/ statement on p.2 but MC. is OK.

ADEPT receives contributions from member dairy farmers, Mid-Am headquarters personnel and milk haulers. The milk haulers are in general independent contractors, but some are employees of Mid-Am and others are employees of the member dairymen. Most all of the contributions are made by monthly payroll deductions which are forwarded to ADEPT by Mid-Am check.

Page
A cooperative or corporation without capital stock or its separate segregated fund may solicit contributions to such a fund from its members. 2 U.S.C. § 441b(b)(4)(C). The statute and regulations are somewhat ambiguous as to which other persons may be solicited by a cooperative or corporation without capital stock or its separate segregated fund. However, it is clear from the legislative history that such entities are subject to the same solicitation requirements as is a corporation with capital stock. The only difference is that where a corporation may solicit its stockholders, a cooperative may solicit its members. 122 Cong. Rec. § 3812 (daily ed. March 18, 1976) (remarks of Senators Allen and Cannon) (attached). Thus, Mid-Am and/or ADEPT may solicit its members, its executive or administrative personnel and their families 2 U.S.C. § 441b(b)(4)(A)(i), and its employees pursuant to 2 U.S.C. § 441b(b)(4)(B).

One of the findings made by the audit staff was that the independent milk haulers or those who are employees of Mid-Am's members were possibly being solicited. There is no provision in the Act or Regulations which allows a corporation or cooperative with or without capital stock to solicit independent contractors or employees of its shareholders or members. Thus, if ADEPT or Mid-Am solicited those milk haulers who were not its employees it would constitute a violation of 2 U.S.C. § 441b(b)(4).

To facilitate the making of contributions of its employees other than executive or administrative personnel, ADEPT utilizes a payroll deduction plan. 11 C.F.R. § 114.6(e) states that a corporation or its separated segregated fund may not use a payroll deduction plan which deducts contributions from an employees paycheck as a method of facilitating the making of contributions under 11 C.F.R. § 114.6. As discussed above, Mid-Am and/or ADEPT is subject to this prohibition. Mid-Am apparently uses such payroll deduction to collect contributions from its milk haulers and its headquarters personnel who are not in an executive or administrative capacity. Such use would be in violation of 11 C.F.R. § 114.6(e).

Recommendation

Find reason to believe that ADEPT and/or Mid-Am may have violated 2 U.S.C. § 441b(b)(4) and 11 C.F.R. § 114.6(e).

Attachments

1. Audit Report
2. Letter to Respondent
3. Notification of Reason to Believe Finding

MEMORANDUM TO: CHARLES STABLE

FROM: MARJORIE W. HODGES/ADMINISTRATIVE SERVICES

DATE: FEBRUARY 4, 1980

SUBJECT: OBJECTION - NUR 1144 - First General Council's
Report dated 2-1-80; Received in ACS
2-1-80, 9:34

The above-named document was circulated on a 48 hour
vote basis at 2:00, February 1, 1980.

Commissioner Friedersdorf submitted an objection
at 3:47, this date, thereby placing NUR 1144 on the
Executive Session Agenda for February 12, 1980.

DATE AND TIME OF TRANSMITTAL

BY DOC TO THE COMMISSION FEB 1 1980

MR : 1144

STAFF MEMBER(S)

Robert Bogin

SOURCE OF MUR: INTERNALLY GENERATED

RESPONDENT'S NAME: Agricultural and Dairy Educational Political Trust (ADEPT)
Mid-America Dairymen, Inc. (Mid-Am)

RELEVANT STATUTE: 2 U.S.C. § 441b(b)(4); 11 C.F.R. § 114.6(e)

INTERNAL REPORTS CHECKED: A.O. 1977-71; legislative history

FEDERAL AGENCIES CHECKED: None

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY
80 FEB 1 9 54

SUMMARY OF ALLEGATIONS

That Mid-Am and/or ADEPT solicited individuals prohibited by
2 U.S.C. § 441b(b)(4).

That Mid-Am used a payroll deduction plan to deduct a contribution
from an employee's paycheck in violation of Commission Regulation 11
C.F.R. § 114.6(e).

FACTUAL AND LEGAL ANALYSIS

This matter was initiated upon review of an interim audit report
(see attachment) on the Agriculture and Dairy Educational Political Trust
(ADEPT), the separate segregated fund of Mid-America Dairymen, Inc. (Mid-
Am), an incorporated cooperative of dairy farmers without capitol stock.

ADEPT received contributions from member dairy farmers, Mid-Am headquarters personnel and milk haulers. The milk haulers are in general independent contractors, but some are employees of Mid-Am and others are employees of the member dairymen. Most all of the contributions are made by monthly payroll deductions which are forwarded to ADEPT by Mid-Am check.

A cooperative or corporation without capital stock or its separate segregated fund may solicit contributions to such a fund from its members. 2 U.S.C. § 441b(b)(4)(C). The statute and regulations are somewhat ambiguous as to which other persons may be solicited by a cooperative or corporation without capital stock or its separate segregated fund. However, it is clear from the legislative history that such entities are subject to the same solicitation requirements as is a corporation with capital stock. The only difference is that where a corporation may solicit its stockholders, a cooperative may solicit its members. 122 Cong. Rec. § 3812 (daily ed. March 18, 1976) (remarks of Senators Allen and Cannon) (attached). Thus, Mid-Am and/or ADEPT may solicit its members, its executive or administrative personnel and their families 2 U.S.C. § 441b(b)(4)(A)(i), and its employees pursuant to 2 U.S.C. § 441b(b)(4)(B).

One of the findings made by the audit staff was that the independent milk haulers or those who are employees of Mid-Am's members were possibly being solicited. There is no provision in the Act or Regulations which allows a corporation or cooperative with or without capital stock to solicit independent contractors or employees of its shareholders or members. Thus, if ADEPT or Mid-Am solicited those milk haulers who were not its employees it would constitute a violation of 2 U.S.C. § 441b(b)(4).

To facilitate the making of contributions of its employees other than executive or administrative personnel, ADEPT utilizes a payroll deduction plan. 11 C.F.R. § 114.6(e) states that a corporation or its separated segregated fund may not use a payroll deduction plan which deducts contributions from an employees paycheck as a method of facilitating the making of contributions under 11 C.F.R. § 114.6. As discussed above, Mid-Am and/or ADEPT is subject to this prohibition. Mid-Am apparently uses such payroll deduction to collect contributions from its milk haulers and its headquarters personnel who are not in an executive or administrative capacity. Such use would be in violation of 11 C.F.R. § 114.6(e).

Recommendation

Find reason to believe that ADEPT and/or Mid-Am may have violated 2 U.S.C. § 441b(b)(4) and 11 C.F.R. § 114.6(e).

Attachments

1. Audit Report
2. Letter to Respondent
3. Notification of Reason to Believe Finding



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

INTERIM REPORT OF THE AUDIT DIVISION
ON THE
AGRICULTURAL AND DAIRY EDUCATIONAL POLITICAL TRUST

I. Background

A. Overview

This interim report is based on an audit of the Agricultural and Dairy Educational Political Trust (ADEPT) ("the Committee"), undertaken by the Audit Division of the Federal Election Commission in accordance with the Commission's audit policy to determine whether there has been compliance with the provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The audit was conducted pursuant to Section 438(a)(8) of Title 2 of the United States Code which directs the Commission to make from time to time audits and field investigations with respect to reports and statements filed under the provisions of the Act.

The Committee registered with the U.S. House of Representatives on April 17, 1972. It is the official political action committee of Mid-America Dairymen, Inc., and was established to give dairy farmers a strong political voice. The Committee maintains its headquarters in Springfield, Missouri.

The audit covered the period from January 1, 1977 through September 30, 1979, the final coverage date of the most recent report filed by the Committee at the time of the audit. The Committee reported a beginning cash balance on January 1, 1977 of \$29,729.32; total receipts for the period of \$557,078.23; total expenditures for the period of \$516,378.72; and a closing cash balance on September 30, 1979 of \$70,428.83.

This audit report is based on documents and working papers which support each of the factual statements. They form part of the record upon which the Commission based its decisions on the matters in the report and were available to Commissioners and appropriate staff for review.

8004020523

B. Key Personnel

The principal officers of the Committee during the period audited were:

Chairman

Mr. Lloyd Schaefer

January 1, 1977 through
June 11, 1978

Mr. Edward Nieman

June 12, 1978 to the present

Treasurer

Mr. Thomas Townsend

January 1, 1977 to the
present

C. Scope

The audit included such tests as verification of total reported receipts and expenditures and individual transactions; review of required supporting documentation and analysis of Committee debts and obligations; and such other audit procedures as deemed necessary under the circumstances.

II. Audit Findings and Recommendations

A. Solicitation of Contributions

Section 114.6 of Title 11 of the Code of Federal Regulations states, in part: that a corporation and/or its separate segregated fund may make a total of two (2) written solicitations for contributions to its separate segregated fund per calendar year of its employees other than stockholders, executive or administrative personnel and their families; that solicitations may be made only by mail addressed to employees at their residence; and that the separate segregated fund shall establish a custodial arrangement for collecting the contributions.

Section 114.7(a) of Title 11 of the Code of Federal Regulations states that, "Membership organizations, cooperatives, or corporations without capital stock, or separate segregated funds established by such persons may solicit contributions to the fund from members of the organization, cooperative or corporation without capital stock."

ADEPT is the separate segregated fund of Mid-America Dairymen, Inc. (Mid-Am), a dairy farmer's cooperative without capital stock. In addition to receiving contributions from the member dairy farmers, ADEPT is also receiving contributions from Mid-Am employees (consisting of personnel at the Mid-Am headquarters) and milk haulers (persons who transport milk from the farms to processing plants). The contributions are made by monthly payroll deduction which are forwarded to ADEPT by Mid-Am check.

The contributions from the headquarters personnel total \$30,316.37 for the period January 1, 1977 to September 30, 1979. This represents 5.44% of the total contributions received during the period. The Committee treasurer stated that nearly all of these contributions were from "executive and administrative personnel" as defined by 11 CFR of the Code of Federal Regulations. Because of the nature of the Committee records, it was impossible to determine which of the contributions were from "executive and administrative" personnel and which were from other personnel.

The milk haulers, in general, are independently contracted; however, some are employees of Mid-Am and others are employees of the member farmers. Contributions from the milk haulers are also made by payroll deduction. A record of the milk haulers' contributions and the farmers' contributions are included on the same computer print-out and cannot be distinguished from each other. Consequently, the total amount of contributions received from the milk haulers was not determined.

The above facts raise two questions: 1) may a cooperative without capital stock solicit contributions from employees other than "administrative and executive" and 2) may Mid-America Dairymen, Inc. solicit the milk haulers?

Recommendation

We recommend that this matter be referred to the Office of General Counsel for their review and consideration.

80040205223



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20543

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Tom Townsend, Treasurer
Agricultural and Dairy Educational
Political Trust
800 West Tampa
Springfield, Missouri 65805

MUR 1144 (80)

Dear Mr. Townsend:

This letter is to notify you that the Federal Election Commission, in the normal course of its supervisory responsibilities, has found reason to believe that, your committee and/or Mid-Am Dairy, Inc. (Mid-Am) may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A summary of the possible violation(s) is enclosed.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against your committee and Mid-Am in connection with this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter within 10 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

In absence of any information which demonstrates that no further action should be taken against your committee and Mid-Am, the Commission may find probable cause to believe that a violation has occurred, and proceed with formal conciliation. Of course, this does not preclude the settlement of this matter through informal conciliation prior to a finding of probable cause to believe if you so desire.

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

80040205224

Tom Townsend
Page 2

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

If you have any questions, please contact Robert Begin, the attorney assigned to this matter at (202) 523-4073. For your information, we have attached a brief description of the Commission's procedures for handling possible violations.

Sincerely,

Enclosures

1. Summary of Possible Violations
2. Procedures

80040305225

FEDERAL ELECTION COMMISSION

NOTIFICATION OF REASON TO BELIEVE VIOLATION

DATE _____ MUR NO. 1244
STAFF MEMBER(S) & TEL. NO.
Robert Doyle
RESPONDENT Agricultural & Dairy Educational
Political Trust (ADEPT) (202) 523-4073
Mid-Am Dairy, Inc. (Mid-Am)
SOURCE OF MUR: INTERNALLY GENERATED

BACKGROUND

Upon review of an audit performed in the normal course of carrying out its supervisory responsibilities the Commission found reason to believe that ADEPT and/or Mid-Am violated 2 U.S.C. § 441b(b)(4) and 11 C.F.R. § 114.6(e) by soliciting ineligible individuals and using a payroll deduction plan to facilitate the payment of contributions from employees other than administrative or executive personnel.

FACTUAL BASIS AND LEGAL ANALYSIS

During the recent audit of ADEPT it was uncovered that ADEPT was possibly soliciting milk haulers who were not employees of ADEPT. 2 U.S.C. § 441b(b)(4) does not permit an entity such as ADEPT and/or Mid-Am to solicit non-employees unless they are members of Mid-Am or family of administrative or executive personnel.

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Based on the foregoing analysis, the Federal Election Commission has found:

1. Reason to believe ADEPT and/or Mid-Am violated 2 U.S.C. § 441b(b)(4)
2. Reason to believe ADEPT and/or Mid-Am violated 11 C.F.R. § 114.6(e)

00040205236

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 14, 1980

MEMORANDUM

TO: CHARLES STEELE
GENERAL COUNSEL

THROUGH: ORLANDO B. POTTER
STAFF DIRECTOR

FROM: BOB COSTA

SUBJECT: AGRICULTURAL AND DAIRY EDUCATIONAL
POLITICAL TRUST (ADEPT)

Per Ray Lisi's conversation of January 9, 1980 with Bob Bogin of your office, we are again referring to your office the interim audit report on Agricultural and Dairy Educational Political Trust (ADEPT). It is our understanding that a compliance action will be initiated on the matter of prohibited solicitations mentioned in the report. Therefore, we will be issuing a final report to the Committee including a statement that matters relating to the Committee's solicitation of contributions have been referred to the Office of General Counsel.

Per your request, the Committee's treasurer and address are:

Mr. Tom Townsend, Treasurer
Agricultural and Dairy Educational Political
Trust
800 West Tampa
Springfield, Missouri 65805

If you have any questions please contact Ray Lisi or Wanda Jones on extension 3-4155.

Attachment as stated

00040205227



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

INTERIM REPORT OF THE AUDIT DIVISION
ON THE
AGRICULTURAL AND DAIRY EDUCATIONAL POLITICAL TRUST

I. Background

A. Overview

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June 11, 1978

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June 12, 1978 to the present

Treasurer

Mr. Thomas Townsend

January 1, 1977 to the
present

C. Scope

The audit included such tests as verification of total reported receipts and expenditures and individual transactions; review of required supporting documentation and analysis of Committee debts and obligations; and such other audit procedures as deemed necessary under the circumstances.

II. Audit Findings and Recommendations

A. Solicitation of Contributions

Section 114.5 of Title 11 of the Code of Federal Regulations states, in part: that a corporation and/or its separate segregated fund may make a total of two (2) written solicitations for contributions to its separate segregated fund per calendar year of its employees other than stockholders, executive or administrative personnel and their families; that solicitations may be made only by mail addressed to employees at their residence; and that the separate segregated fund shall establish a custodial arrangement for collecting the contributions.

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The above facts raise two questions: 1) may a cooperative without capital stock solicit contributions from employees other than "administrative and executive" and 2) may Mid-America Dairymen, Inc. solicit the milk haulers?

Recommendation

We recommend that this matter be referred to the Office of General Counsel for their review and consideration.

800400520

00040205231



FEDERAL ELECTION COMMISSION

205 F STREET N.W.
WASHINGTON, D.C. 20543

THIS IS THE BEGINNING OF FUR # 1144

Date Filmed 9/10/80 Camera No. --- 2

Cameraman SPE