



FEDERAL ELECTION COMMISSION

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

THIS IS THE END OF MUR # 2080

Date Filmed 1/29/87 Camera No. --- 2

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FEDERAL ELECTION COMMISSION

NWK 2080

assignment memorandum, blue routing cards, references to internal
policies, documents pertaining to conciliation, other internal documents,
12 day reports, comments, pre-brief reports, comments.

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 checked="" 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 checked="" type="checkbox"/> (5) Internal Documents | |

Signed

Lawrence E. Tobey

date

Jan 16, 1987

FEC 9-21-77

87040524075

1/27/87



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 16, 1986

Rex Weil, Esquire
Thomas R. Asher, P.C.
1819 H Street, N.W. #620
Washington, D.C. 20006

RE: MUR 2080
Health USA Political Action
Committee, and Bernard Filner,
M.D., individually and as
treasurer

Dear Mr. Weil:

On December 11, 1986, the Commission accepted the conciliation agreements signed by you as counsel for your clients and civil penalties in settlement of violations of 2 U.S.C. § 441a(a)(1)(C) by Bernard Filner, M.D. in his individual capacity and 2 U.S.C. § 441a(f) by Health USA Political Action Committee and Bernard Filner, M.D. as treasurer.

Accordingly, the file has been closed in this matter, and it will become 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


By: Lawrence M. Noble
Deputy General Counsel

Enclosure
Conciliation Agreements(2)

87040524076

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Health USA Political Action Committee,)
and Bernard Filner, M.D., as treasurer)

MUR 2080

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission (hereinafter "the Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found probable cause to believe that Health USA Political Action Committee and Bernard Filner, M.D., as treasurer ("Respondent" or "Health USA PAC") violated 2 U.S.C. § 441a(f) by knowingly accepting a prohibited contribution from Bernard Filner, M.D.

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

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

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

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

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

1. Respondent is a political committee within the meaning of 2 U.S.C. §§ 431(4)(A) and 441a(a)(1)(C).

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2. Bernard Filner, M.D. is the treasurer of Respondent Health U.S.A. PAC.

3. Bernard Filner, M.D. in his individual capacity made the following contributions to Health USA Political Action Committee during 1984:

- a. a \$2,000 contribution on March 22, 1984
- b. a \$3,000 loan on March 22, 1984
- c. a \$15,000 loan on October 10, 1984

4. The \$15,000 loan was partially repaid to Dr. Filner on or before April 11, 1985.

V. WHEREFORE, Respondent agrees:

1. The Federal Election Campaign Act of 1971, as amended, (hereinafter "the Act") provides that no person shall make contributions to a political committee in any calendar year which in the aggregate, exceed \$5,000. 2 U.S.C. § 441a(a)(1)(C).

2. The Act further provides that a loan or advance of money constitutes a contribution. 2 U.S.C. § 431(8)(A)(i).

3. The Act further provides that no political committee shall knowingly accept any prohibited contribution. 2 U.S.C. § 441a(f).

4. Respondent Health USA PAC's knowing acceptance of the \$15,000 loan from Dr. Filner in 1984 constituted knowing acceptance of a contribution prohibited by 2 U.S.C. § 441a(a)(1)(C) in violation of 2 U.S.C. § 441a(f).

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VI. Respondent will pay a civil penalty to the Treasurer of the United States in the amount of Five Hundred Dollars (\$500), pursuant to 2 U.S.C. § 437g(a)(5)(A).

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

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

IX. Respondent shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

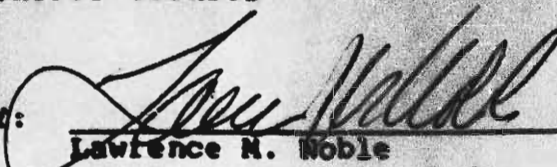
X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be valid.

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FOR THE COMMISSION:

Charles N. Steele
General Counsel

BY:


Lawrence N. Noble
Deputy General Counsel

Date

12/16/86

FOR THE RESPONDENTS:


Rex Weil, Attorney for Respondent

Date

December 4, 1986

87040524080

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Bernard Filner, M.D.)

MUR 2080

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission (hereinafter "the Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found probable cause to believe that Bernard Filner, M.D. ("Respondent") violated 2 U.S.C. § 441a(a)(1)(C) by making an excessive contribution to Health U.S.A. Political Action Committee.

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

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

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

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

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

1. Bernard Filner, M.D. is the treasurer of Health U.S.A. Political Action Committee.

2. During 1984, Bernard Filner, M.D. made the following contributions to Health U.S.A. Political Action Committee:

a. a \$2,000 contribution on March 22, 1984.

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b. a \$3,000 loan on March 22, 1984.

c. a \$15,000 loan on October 10, 1984.

3. The \$15,000 loan was partially repaid to Dr. Filner on or before April 11, 1985.

V. WHEREFORE, Respondent agrees:

1. The Federal Election Campaign Act of 1971, as amended, (hereinafter "the Act") provides that no person shall make contributions to a political committee in any calendar year which in the aggregate, exceed \$5,000. 2 U.S.C. § 441a(a)(1)(C).

2. The Act further provides that a loan or advance of money constitutes a contribution. 2 U.S.C. § 431(8)(A)(i).

3. Respondent's contribution of \$15,000 to Health USA PAC in 1984 was in excess of the contribution limitation by \$15,000 in violation of 2 U.S.C. § 441a(a)(1)(C).

VI. Respondent will pay a civil penalty to the Treasurer of the United States in the amount of Two Thousand Five Hundred Dollars (\$2,500) pursuant to 2 U.S.C. § 437g(a)(5)(A).

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

VIII. This agreement shall become effective as of the date

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all parties hereto have executed the same and the Commission has approved the entire agreement.

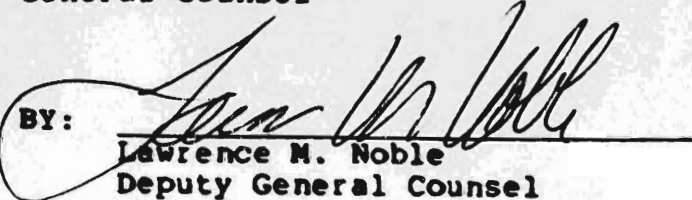
IX. Respondent shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be valid.

FOR THE COMMISSION:


Charles N. Steele
General Counsel

BY:


Lawrence M. Noble
Deputy General Counsel

12/16/86
Date

FOR THE RESPONDENTS:


Rex Weil, Attorney for Respondent

December 4, 1986

Date

87040524083

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Health USA Political Action)
Committee, and Bernard Filner)
M.D., individually and as)
treasurer)

MUR 2080

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on December 11, 1986, the Commission decided by a vote of 6-0 to take the following actions in MUR 2080:

1. Accept the conciliation agreement and civil penalty submitted by Bernard Filner, M.D., in his individual capacity, as recommended in the General Counsel's Report signed December 9, 1986.
2. Accept the conciliation agreement and civil penalty submitted by Health USA Political Action Committee, and Bernard Filner, M.D., as treasurer, as recommended in the General Counsel's Report signed December 9, 1986.
3. Approve and send the letter, as recommended in the General Counsel's Report signed December 9, 1986.
4. Close the file.

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

Attest:

12-12-86

Date

Cheryl A. Filner
for Marjorie W. Emmons
Secretary of the Commission

Received in Office of Commission Secretary:	Tues., 12-9-86,	11:36
Circulated on 48 hour tally basis:	Tues., 12-9-86,	4:00
Deadline for vote:	Thurs., 12-11-86,	4:00

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Health USA Political Action)
Committee, and Bernard Filner,)
M.D., individually and as)
treasurer)

MUR 2080

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the
Federal Election Commission executive session of November 18,
1986, do hereby certify that the Commission decided by a vote
of 6-0 to take the following actions in MUR 2080:

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3. Authorize the Office of General Counsel to file a civil suit for relief in the United States District Court against Health USA Political Action Committee, and Bernard Filner, M.D., individually and as treasurer
4. Approve the send the letter attached to the General Counsel's report dated November 12, 1986.

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

Attest:

11-18-86

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

87040324086

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Health USA Political Action Committee,)
and Bernard Filner, M.D., individually)
and as treasurer)

MUR 2080

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the
Federal Election Commission executive session of September 16,
1986, do hereby certify that the Commission decided by a vote
of 5-1 to take the following actions in MUR 2080:

- 1.
- 2.
- 3.
4. Direct the Office of General Counsel to send
appropriate letters pursuant to the above actions.

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

Attest:

9-18-86

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 17, 1986

Thomas R. Asher, P.C.
Attn: Rex Weil
1819 H Street, N.W. #620
Washington, D.C. 20006

RE: MUR 2080
Health USA Political Action
Committee, and Bernard
Filner, M.D., individually
and as treasurer

Dear Mr. Weil:

On June 3, 1986, the Commission determined that there is probable cause to believe that Bernard Filner, M.D. violated 2 U.S.C. § 441a(a)(1)(C) in connection with a contribution to Health USA Political Action Committee in 1984. On the same date, the Commission determined that there is probable cause to believe that Health USA Political Action Committee and Bernard Filner, M.D., as treasurer, violated 2 U.S.C. § 441a(f) by knowingly accepting a prohibited contribution from Bernard Filner, M.D. in 1984.

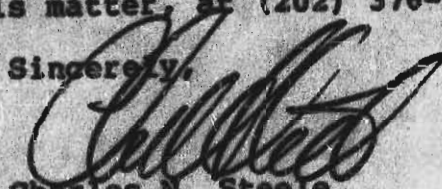
The Commission has a duty to attempt to correct such violations for a period of thirty to ninety days by informal methods of conference, conciliation and persuasion, and by entering into a conciliation agreement. If we are unable to reach an agreement during that period, the Commission may institute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

We enclose conciliation agreements that this office is prepared to recommend to the Commission in settlement of this matter. If your clients agree with the provisions of the enclosed agreements, please sign and return them along with the civil penalty to the Commission within ten days. I will then recommend that the Commission approve the agreements. Please make your check for the civil penalty payable to the U.S. Treasurer.

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If you have any questions or suggestions for changes in the enclosed conciliation agreements, please contact Laurence E. Tobey, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,



Charles N. Steele
General Counsel

Enclosure
Conciliation Agreements (2)

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Health USA Political Action)
Committee, and Bernard Filner,)
M.D., individually and as)
treasurer)

MUR 2080

CERTIFICATION

I, Mary W. Dove, recording secretary for the Federal Election Commission executive session of June 3, 1986, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 2080:

1. Find probable cause to believe that Bernard Filner, M.D. violated 2 U.S.C. § 441a(a)(1)(C).
2. Find probable cause to believe that Health USA Political Action Committee and Bernard Filner, M.D., as treasurer, violated 2 U.S.C. § 441a(f).
3. Approve and send the conciliation agreement attached to the General Counsel's report signed May 22, 1986
4. Approve and send the appropriate letter.

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

Attest:

6-4-86

Date

Mary W. Dove
Mary W. Dove
Administrative Assistant

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BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of)

Health USA Political Action)
Committee, and Bernard Filner,)
M.D., individually and as)
treasurer)

MUR 2080, 2

EXECUTIVE SESSION

JUN 03 1986

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter was referred to the Office of General Counsel by the Reports Analysis Division (hereinafter, "RAD"). RAD indicated that Bernard Filner, M.D. (hereinafter, "Respondent") made an apparent excessive contribution to Health USA Political Action Committee (hereinafter, "Health USA PAC" or "Respondent") during 1984. Dr. Filner is also the treasurer of Health USA PAC. On September 4, 1985, the Commission found reason to believe that Dr. Filner had violated 2 U.S.C. § 441a(a)(1)(C) by making an excessive contribution to Health USA PAC. On the same date, the Commission found reason to believe that Health USA PAC and Bernard Filner, M.D. as treasurer violated 2 U.S.C. § 441a(f) by knowingly accepting a contribution prohibited by 2 U.S.C. § 441a(a)(1)(C).

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On March 20, 1986, this Office sent its briefs to Respondents' counsel. Respondents requested an extension of time to file their reply until April 18, 1986, and this request was granted. Respondents submitted their reply brief on April 18, 1986.

II. LEGAL ANALYSIS

This Office has set forth its analysis of this matter in its briefs signed March 19, 1986. This section will consider the submission by the Respondents. Respondents have submitted one brief for both Health USA PAC and Dr. Filner. Respondents make the following arguments.

First, Respondents note that the contribution was a loan which was partially repaid after RAD notified Health USA PAC that it was excessive. RAD sent a letter to Health USA PAC on March 27, 1985 notifying Health USA PAC of the apparent excessive contribution. Health USA PAC responded on April 11, 1985, stating that \$10,000 had been refunded plus interest to Dr. Filner and \$5,000 was owed to Judith Filner. Respondents note in their brief that RAD advised Health USA PAC that repayment would be considered in mitigation of any violation.

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Respondents next contend that if an excessive contribution was made by Dr. Filner, the excessive amount was \$10,000 and not \$15,000, as alleged by the General Counsel. Respondents claim that when Health USA PAC responded to RAD's notification, Health USA PAC reattributed the contribution as \$10,000 to Dr. Filner, and \$5,000 to Judith Filner. Respondents note that the General Counsel's Factual and Legal Analysis stated that the excessive contribution was \$10,000. They contend, in effect, that the General Counsel is bound by the lower figure because this was stated in the Factual and Legal Analysis.

This Office rejects this contention. The attribution issue in this case could not be resolved until the Respondents submitted a copy of the contribution check. As stated in the General Counsel's Brief, this check, dated October 10, 1984, was for \$15,000. It was signed by only "Bernard Filner". The check contained no indication that it was a contribution from anyone other than Bernard Filner. The check was not accompanied by any written statement attributing part of the contribution to Judith Filner.

Commission regulations provide that:

Absent evidence to the contrary, any contribution made by check ... shall be reported as a contribution by the last person signing the instrument prior to delivery to the ... committee.

11 C.F.R. § 104.8(c). Commission regulations also provide that

Any contribution which represents a contribution by more than one person shall indicate on the written instrument

or on an accompanying written statement signed by all contributors the amount to be attributed to each contributor.

11 C.F.R. § 104.8(d).

Because the last signer on the check was Bernard Filner, and because the check contained no statement on the instrument itself or on an accompanying memorandum indicating that some portion should be attributed to Judith Filner, Commission regulations require that the entire amount of the check - \$15,000 - be attributed to Dr. Filner. Finally, this Office does not accept the contention that because the General Counsel's Factual and Legal Analysis stated that the excessive contribution was \$10,000, the General Counsel is bound by that statement, as respondents appear to argue. Such a contention implies that the Commission has no right to conduct an investigation into the facts of the case, while as a matter of law, such investigation is required by statute and regulation.

Respondents next contend that Dr. Filner's loan was used solely to pay for a fund-raising appeal, and that none of the \$15,000 was used for contributions to candidates or political committees. Therefore, respondents contend that the contribution was not made for the purpose of influencing a federal election. Respondents cite 2 U.S.C. § 441b(b)(2)(C) which permits corporations and labor organizations to pay for the expenses of soliciting contributions for their separate segregated funds, and suggest that Dr. Filner should be allowed to pay for the solicitation expenses of Health USA PAC.

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This argument fails because it ignores the fact that if Congress had meant to permit individuals the right to pay for the solicitation expenses of their political committees, it would have drafted the statute accordingly. On the contrary, Congress treated corporate and labor organization separate segregated funds differently from other political committees. The basis of such a distinction is that political committees formed by individuals (such as Dr. Filner) have the right to solicit the general public, but separate segregated funds sponsored by corporations or labor organizations are restricted to soliciting a limited class of stockholders or members, and executive and administrative personnel and their families. See 2 U.S.C. § 441b(b)(2)(C).

Finally, Respondents raise the following matters as additional mitigating factors: Health USA PAC had no professional or paid staff; Dr. Filner received advice from a "former attorney" who erroneously suggested that the contemplated transaction would have no adverse legal consequences; and Respondents have cooperated with the General Counsel's Office in this investigation. While the Commission may consider some or all of these matters in partial mitigation of the violations, this Office does not believe that (singly or combined) these matters alter the conclusion that Respondents violated the Act, or that they should substantially affect the civil penalties.

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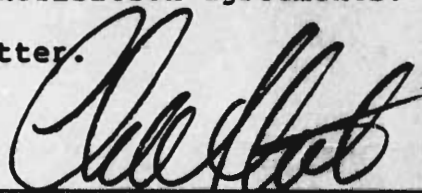
III. DISCUSSION OF CONCILIATION AND CIVIL PENALTIES

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IV. RECOMMENDATIONS

1. Find probable cause to believe that Bernard Filner, M.D. violated 2 U.S.C. § 441a(a)(1)(C).
2. Find probable cause to believe that Health USA Political Action Committee and Bernard Filner, M.D., as treasurer, violated 2 U.S.C. § 441a(f).
3. Approve and send the attached conciliation agreements.
4. Approve and send the attached letter.

22 May 1986
Date



Charles N. Steele
General Counsel

Attachments

1. Proposed conciliation agreements (2)
2. Proposed letter to respondents (1)

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Health USA-Physicians and
Dentists for a Healthier America

and

Bernard E. Filner, M.D.

FEC MUR 2080

BRIEF OF RESPONDENTS HEALTH USA-PHYSICIANS AND DENTISTS
FOR A HEALTHIER AMERICA AND BERNARD E. FILNER, M.D.I. Statement of the Case.

The General Counsel alleges Federal Election Campaign Act ("FECA") violations arising out of a \$15,000 loan in 1984 from Dr. Bernard Filner and his wife, Judith Filner, to Health USA-Physicians and Dentists for a Healthier America ("Health USA"), an independent committee registered with the Commission. Dr. Filner is treasurer of Health USA. Dr. Filner had already made a \$2,000 contribution and a \$3,000 loan to Health USA in 1984.

The loan was duly reported to the Commission by Health USA. Upon being informed by the Reports Analysis Division ("RAD") that the loan could constitute an excessive contribution, Health USA promptly repaid \$10,000 to Dr. Filner. Health USA's volunteer administrator, by letter of April 9, 1985, informed RAD of the repayment and the allocation of the \$5,000 balance to

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Judith Filner.*

II. Analysis.

Respondents from the outset have made every attempt to comply with FECA. Moreover, Respondents are open to reasonable conciliation positions to resolve this matter. However, the original conciliation position of the General Counsel's office (calling for a total of \$7,500 in penalties), in our view, was (1) drastically out of line with the nature of the violation alleged and (2) unrealistic given the financial condition of the PAC (in debt). Thus, effective settlement negotiations were thwarted.

The alleged violations stem from innocent mistakes as to the scope of the definition of contributions. Accordingly, we ask that the Commission find that there is no probable cause to pursue this matter because the loan is arguably outside FECA's coverage (not one penny was spent to support or oppose a federal

* The loan was drawn on a family checking account and the check signed by Dr. Filner. Both Dr. Filner's and Judith Filner's names are printed on the check. RAD's original letter on the subject urged repayment of the loan and stated that repayment would be considered in mitigation of any later charged violation. RAD never responded to Health USA's letter of April 9, 1985 with any indication that the allocation described above was ineffective.

Moreover, the General Counsel's Factual and Legal Analysis alleges that (1) the Committee knowingly accepted contributions which aggregated \$15,000 from Dr. Filner in 1984 and (2) "Bernard E. Filner, M.D., made excessive contributions to Health USA in 1984 in the amount of \$10,000." Thus, the General Counsel's office also gave every indication that the allocation was effective. The General Counsel now appears to contend that the entire \$15,000 loan should be attributed to Dr. Filner. We contend that, under the circumstances, the Filner's allocation of the loan should be accepted.

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candidate) and was made in good faith. Moreover, any FECA violations arising from the loan have already been substantially remedied. The following points, which derive from Dr. Filner's October 6, 1985 affidavit herein, demonstrate this position:

- (1) No contributions to political candidates or other political committees were made by Health USA with the loan. The loan was made (and the proceeds spent) solely to contact members of the general public in order to solicit contributions for Health USA.* It is noteworthy that corporations and labor organizations may spend freely and without any specific limit from their corporate and union treasuries on solicitations. 2 USC §441b(b)(2)(C).** Moreover, the precise language of the statute casts doubt on the characterization of this transaction as a contribution at all since it was not made "for the purpose of influencing any election for Federal office..." 2 USC §431(8)(A)(1).
- (2) Health USA and Dr. Filner made immediate arrangements to cure the alleged violation upon notification from RAD. Moreover, they cooperated fully with the staff's investigation throughout the process.
- (3) Health USA had no professional or paid staff and neither Dr. Filner nor the volunteer administrator had prior

* The mailing cost \$23,000 and raised approximately \$3,000.

** This further underscores the fact that the FEC's enforcement objectives in this case do not support the fine sought in the previous conciliation process.

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experience with FECA. Neither Dr. and Judith Filner nor the volunteer administrator were aware that the loan constituted a contribution when it was made. In fact, though it is the staff's position that this has no bearing on the Commission's disposition of this case, Dr. Filner had been advised by a former attorney that interest bearing loans to Health USA were simple commercial transactions with no FECA consequences.*

III. Conclusion.

Health USA was a benevolent gesture by Dr. Filner and a few like-minded associates to enter the electoral process on behalf of a more humane national health policy. The Filners' loan was an effort to help this effort get off the ground. Unfortunately, this initial effort failed. Moreover, the Filners' were less than well advised on the legal consequences of the loan.

Under these circumstances, we respectfully submit that substantial resources of both the government and Respondent have already been absorbed by the investigation of this case, and from Respondents' point of view, the cost of handling this action to date already constitutes a substantial penalty.

We understand that the Commission cannot ignore even technical violations of FECA. However, as the Commission has acknowledged, it, too, has limited resources and must allocate

* Counsel for Respondents learned of this fact after Dr. Filner's original affidavit was filed. We will be happy to provide a supplemental affidavit to substantiate this fact, if the Commission deems it relevant to disposition of this matter.

those resources carefully to maximize the effectuation of the public policy expressed in FECA. Antosh v. Federal Election Commission, 599 F Supp. 850, (D.D.C. 1984).

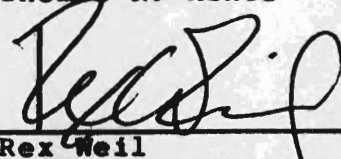
In this case, where no federal election was affected, the Commission has already achieved a remedy through informal means -- Respondents did their best to remedy the alleged violation before a "reason to believe" finding was made. Moreover, throughout the process Respondents have indicated their desire to comply with FECA and their willingness to enter into an agreement containing assurances to that effect.

Therefore, since the net impact on federal elections of the Filners' loan to Health USA is insignificant, at most, we request that the Commission (1) find no probable cause to pursue this matter or, in the alternative, (2) adopt a conciliation position in keeping with the inadvertent nature of the alleged violation and which duly reflects the mitigating factors explained above.

Respectfully submitted,



Thomas R. Asher

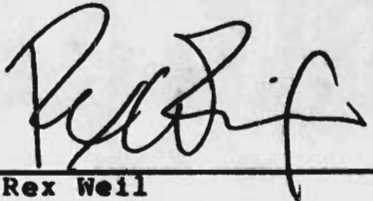


Rex Weil

Thomas R. Asher, P.C.
1819 H Street, N.W., #620
Washington, D.C. 20006
202-452-1540
Attorney for Respondents

CERTIFICATE OF SERVICE

I, Rex Weil, hereby certify that a copy of the foregoing Respondents' Brief was served this 18th day of April, 1986, by first class mail, postage prepaid, on Charles Steele, General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20005.


Rex Weil

87040524103



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 8, 1986

Thomas R. Asher, P.C.
Attn: Rex Weil
1819 H Street, N.W.
Washington, DC 20006

re: MUR 2080- Health USA Political
Action Committee and Bernard
Filner, M.D., individually and
as treasurer

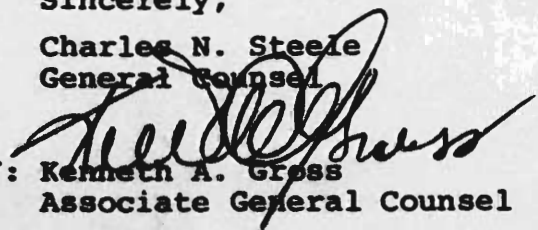
Dear Mr. Weil:

This is in reference to your letter dated April 3, 1986, requesting an extension of ten days until April 18, 1986 to respond to the General Counsel's Briefs. After considering the circumstances presented in your letter, the Commission has determined to grant your request for an extension. Accordingly, your response will be due on April 18, 1986.

If you have any questions, please contact Laurence E. Tobey, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Charles N. Steele
General Counsel

BY: 
Kenneth A. Gross
Associate General Counsel

87040624104

Toberg

LAW OFFICES
 THOMAS R. ASHER, P. C.
 1819 H STREET, N. W.
 SUITE 620
 WASHINGTON, D. C. 20006
 (202) 452-1540

36 APR 3 P 3: 06

RECEIVED
GENERAL COUNSEL

THOMAS R. ASHER
 REX WEIL

April 3, 1986

By Hand

Charles N. Steele, General Counsel
 Federal Election Commission
 999 E Street, N.W.
 Washington, D.C. 20005

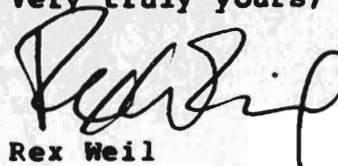
Re: FEC MUR 2080 -- Health USA-Physicians and Dentists for
 a Healthier America -- Dr. Bernard Filner

Dear Mr. Steele:

We are hereby requesting an extension of time for filing responsive briefs in the above captioned matters until Friday, April 18, 1986.*

The reason for this request is prior work commitments and scheduling conflicts, which will prevent us from devoting adequate time to this matter next week.

Very truly yours,



Rex Weil

87040524105

* We received briefs from the Office of General Counsel on March 24, 1986. Responsive briefs are now due April 8, 1986.



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 20, 1986

Thomas R. Asher, P.C.
Attn: Rex Weil
1819 H Street, N.W., #620
Washington, D.C. 20006

RE: MUR 2080
Health USA PAC and Bernard
Filner, M.D., as treasurer and
in his individual capacity

Dear Mr. Weil:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 4, 1985, found reason to believe that your clients had violated 2 U.S.C. §§441a(a)(1)(C) and 441a(f), and instituted an investigation in this matter.

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

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

If you are unable to file a responsive brief within 15 days, you may submit a written request to the Commission for an extension of time in which to file a brief. The Commission will not grant any extensions beyond 20 days. All requests for extension of time must be submitted 5 days prior to the due date and must be in writing. Further, good cause must be shown.


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Rex Weil
Page 2

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

Should you have any questions, please contact Laurence E. Tobey, the attorney assigned to handle this matter, at (202) 376-8200.

Sincerely,



Charles N. Steele
General Counsel

Enclosure
Briefs (2)

87040524107

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Health USA Political Action Committee)
and Bernard Filner, M.D., as treasurer)

MUR 2080

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

This matter was brought to the Commission's attention by the Reports Analysis Division (hereinafter, "RAD"). RAD indicated that Health U.S.A. Political Action Committee and Bernard Filner, M.D. violated 2 U.S.C. § 441a(f) by knowingly accepting an excessive contribution prohibited by 2 U.S.C. § 441a(a)(1)(C) from an individual. The contributor was Bernard Filner, M.D. in his individual capacity. On September 6, 1985, the Commission found reason to believe that Health U.S.A. PAC violated 2 U.S.C. § 441a(f) by knowingly accepting a prohibited contribution.

During 1984, Bernard Filner, M.D. made the following contributions to Health USA PAC: 1). a \$2,000 contribution on March 22, 1984; 2). a \$3,000 loan on March 22, 1984; and 3). a \$15,000 loan on October 10, 1984.

On March 27, 1985, RAD notified Health USA PAC that it had accepted an apparent excessive contribution, and requested that the excessive amount be refunded or transferred to a non-federal account. On April 12, 1985, Health USA PAC advised RAD that it had refunded \$10,000 plus interest to Dr. Filner and that it considered the balance of \$5,000 to be a debt owed to Dr. Filner's wife, Judith Filner.

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II. LEGAL ANALYSIS

Health USA PAC is a political committee within the meaning of 2 U.S.C. §§ 431(4)(A) and 441a(a)(1)(C). The Federal Election Campaign Act of 1971, as amended, (hereinafter, "the Act") provides that no person shall make contributions to any political committee (such as Health USA PAC) which exceed \$5,000 in any calendar year. 2 U.S.C. § 441a(a)(1)(C). The Act further provides that no political committee shall knowingly accept contributions prohibited by 2 U.S.C. § 441a. 2 U.S.C. § 441a(f). For purposes of the Act, the term "contribution" includes a loan. 2 U.S.C. § 431(8)(A)(i).

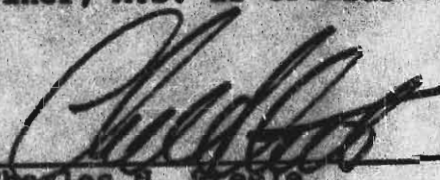
By accepting the \$15,000 loan from Bernard Filner, M.D., Health USA PAC violated 2 U.S.C. § 441a(f) because that \$15,000 loan was a contribution which was prohibited by 2 U.S.C. § 441a(a)(1)(C). Even if a portion of the loan were attributed to Dr. Filner's wife, Judith Filner, the \$15,000 loan would have been an excessive contribution under the limits imposed by 2 U.S.C. § 441a(a)(1)(C), and therefore prohibited. The fact that a portion of the excessive contribution was refunded to the contributor does not cure the violation, but it is a fact which may be considered in mitigation. Thus, there is probable cause to believe that Health USA PAC violated 2 U.S.C. § 441a(f).

87040524109

III. RECOMMENDATION

1. Find probable cause to believe that Health USA Political Action Committee and Bernard Filner, M.D. as treasurer, violated 2 U.S.C. § 441a(f).

19 Dec 1986
Date



Charles N. Steele
General Counsel

87040524110

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of
Bernard Filner, M.D.

)
)
)

MUR 2080

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

This matter was brought to the Commission's attention by the Reports Analysis Division (hereinafter, "RAD"). RAD indicated that Bernard Filner, M.D., (in his individual capacity) violated 2 U.S.C. § 441a(a)(1)(C) by making an excessive contribution to Health USA Political Action Committee (hereinafter, "Health USA PAC"), a political committee registered with the Commission. Bernard Filner, M.D. is also the treasurer of Health USA PAC. On September 6, 1985, the Commission found reason to believe that Bernard Filner, M.D. violated 2 U.S.C. § 441a(a)(1)(C).

During 1984, Bernard Filner, M.D. made the following contributions to Health USA PAC: 1). a \$2,000 contribution on March 22, 1984; 2). a \$3,000 loan on March 22, 1984; and 3). a \$15,000 loan on October 10, 1984.

The \$15,000 loan on October 10, 1984 was given in the form of a check drawn on an account held jointly by Bernard and Judith Filner. The check bore the inscription "Bernard or Judith Filner". The check was signed only by Dr. Filner. There was no statement allocating any portion of the loan to Judith Filner.

On March 27, 1985, RAD notified Health USA PAC that Health USA PAC had accepted an apparent excessive contribution. RAD requested that the excessive amount be refunded or transferred to a non-federal account. On April 11, 1985, Health USA PAC advised

R 7 0 4 0 5 2 4 1 1

RAD that it had refunded \$10,000 plus interest to Dr. Filner, and that it considered the balance of \$5,000 to be a debt owed to Dr. Filner's wife, Judith Filner.

II. LEGAL ANALYSIS

Health USA PAC is a political committee within the meaning of 2 U.S.C. §§ 431(4)(A) and 441a(a)(1)(C). The Federal Election Campaign Act of 1971, as amended, (hereinafter, "the Act") provides that no person shall make contributions to any political committee (such as Health USA PAC) which exceed \$5,000 in any calendar year. 2 U.S.C. § 441a(a)(1)(C). For purposes of the Act, the term "contribution" includes a loan. 2 U.S.C. § 431(8)(A)(i). By making a \$15,000 loan on October 10, 1984 to Health USA PAC, Bernard Filner, M.D. violated 2 U.S.C. § 441a(a)(1)(C).

Because Bernard Filner, M.D. had made prior contributions during 1984 which in the aggregate amounted to \$5,000, the entire amount of the \$15,000 loan of October 10, 1984 is an excessive contribution under 2 U.S.C. § 441a(a)(1)(C). This excessive contribution must be attributed entirely to Bernard Filner, M.D., because there was no effective allocation of any portion of it to Judith Filner. Commission regulations provide that

a contribution which represents contributions from more than one person shall indicate on the written instrument, or on an accompanying written statement signed by all contributors the amount to be attributed to each contributor.

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11 C.F.R. § 104.8(d). No such allocation, either on the written instrument (check) or on an accompanying memorandum was made in this case.

Commission regulations also provide that

absent evidence to the contrary, any contribution made by check shall be reported as a contribution by the last person signing the check prior to delivery to the committee.

11 C.F.R. § 104.8(c); see also Advisory Opinion 1980-67.

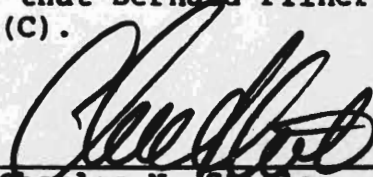
The check in this case was signed only by Dr. Filner. Because no allocation was made on the written instrument, and because Dr. Filner was the last person to sign the check, Commission regulations require that the entire amount of the excessive contribution (\$15,000) be allocated solely to Dr. Filner, and no portion of it can be allocated to Judith Filner.

Insofar as Bernard Filner, M.D., made an excessive contribution of \$15,000 to Health USA PAC, there is probable cause to believe that Bernard Filner, M.D. violated 2 U.S.C. § 441a(a)(1)(C).

III. RECOMMENDATION

1. Find probable cause to believe that Bernard Filner, M.D. violated 2 U.S.C. § 441a(a)(1)(C).

19 March 1986
Date


Charles N. Steele
General Counsel

8704052413

BEFORE THE FEDERAL ELECTION COMMISSION

ED
SENSITIVE


In the Matter of)
Health USA Political Action)
Committee and Bernard Filner,)
M.D., individually and as)
treasurer)

MUR 20 MAR 17 AIO: 12

GENERAL COUNSEL'S REPORT

The Office of General Counsel is prepared to close the investigation in this matter as to Health USA Political Action Committee and Bernard Filner, M.D. as treasurer and in his individual capacity, based on the assessment of the information presently available.

13 March 1986
Date


Charles N. Steele
General Counsel

87040324114

CCC# 9787

LAW OFFICES
THOMAS R. ASHER, P. C.
1819 H STREET, N. W.
SUITE 620
WASHINGTON, D. C. 20006
(202) 452-1540

36 FEB 21 P 1:28

RECEIVED
GENERAL COUNSEL

THOMAS R. ASHER
REX WEIL

February 21, 1986

Mr. Laurence Tobey
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: FEC MUR 2080 -- Health USA-Physicians and Dentists
for a Healthier America -- Dr. Bernard Filner

Dear Mr. Tobey:

Enclosed is a copy of the original check from Dr. and Mrs.
Filner to Health USA.

If you have any questions, please call me.

Cordially,

Rex Weil

Enclosure

3704052115

INSURED MONEY MARKET ACCOUNT
BERNARD OR JUDITH FILNER

104

1984

Health USA

\$ 15,000.00

Exactly fifteen thousand

15-120

UNLESS OTHERWISE NOTED

CLOSED

POST/STATE DATE

05-00-11047

15-120

0001500000

FRONT

Memo on front on check reads: "Loan at 12% Int. for mailing"

1214152

PAID STAMP

CANCELLED

BACK

87040524116

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of
Bernard Filner, M.D.,
et al.

MUR 2080

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of November 19, 1985, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 2080:

1. Enter into pre-probable cause conciliation with Bernard Filner, M.D. in his individual capacity.
2. Enter into pre-probable cause conciliation with Health U.S.A. Political Action Committee and Bernard Filner, M.D., as treasurer.
3. Approve and send the proposed conciliation agreements attached to the General Counsel's report dated November 7, 1985.
4. Approve and send the letters attached to the General Counsel's report dated November 7, 1985.

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

Attest:

11-21-85

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

87040324117

LAW OFFICES
THOMAS R. ASHER, P. C.
1819 H STREET, N. W.
SUITE 620
WASHINGTON, D. C. 20006
(202) 452-1540

THOMAS R. ASHER
REX WEIL

November 12, 1985

Office of the General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463
Attn: Mr. Laurence Tobey

Re: MUR 2080

Dear Mr. Tobey:

Rex Weil asked that I send this on to you. We received the affidavit today from Dr. Filner.

If you have any questions regarding the affidavit please contact Rex immediately. Thank you.

Very truly yours,


Gregg G. Kantak
Administrator

RECEIVED AT THE FEC
GCC#8730
85 NOV 14 8:24
MUR 2080
Tobey

35 NOV 14 9:05

GENERAL COUNSEL

87040324118

Federal Election Commission
Washington, D.C.

IN THE MATTER OF
Bernard E. Filner, M.D.
and
Health USA-Physicians and
Dentists for a Healthier
America

MUR 2080

AFFIDAVIT

District of Columbia: ss

Bernard E. Filner, M.D., being duly sworn, hereby states the following:

1. I am treasurer of Health USA -- Physicians and Dentists for a Healthier America ("Health USA").
2. Health USA is a non-connected political committee and is registered with the FEC (Identification Number: C00165613).
3. Health USA was initiated by me and others in order to help focus public debate on access to adequate health care for all Americans. Our initial goal is to galvanize significant numbers of doctors and dentists behind the concept that they have a major social responsibility to lead efforts to create a system of accessible, affordable health care, and, generally, a healthy and peaceful environment for all citizens. Health USA plans to support candidates that are committed to its goals and to provide

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doctors and dentists an organized method of selecting and supporting such candidates.

4. I have not had any prior experience initiating or administering political action committees.

5. In October 1984, my wife and I made a loan to Health USA of \$15,000. We allocated \$10,000 of the loan to me and \$5,000 of the loan to my wife. The loan was duly reported to the FEC. In March 1985, Health USA was informed that the loan might constitute an excessive contribution. Health USA's volunteer research director made arrangements to repay the \$10,000, with interest, to me and notified the FEC of this action by letter on April 9, 1985.

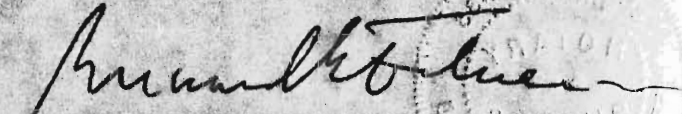
6. When I made the loan to Health USA, I thought the transaction was similar to a commercial bank loan -- that it would not be a contribution because the loan would be repaid with interest. I was not familiar with the relevant sections of the Federal Election Campaign Act and the resulting excess contribution was unintentional. I am now aware that loans by individuals are contributions.

7. Health USA has no professional paid staff. We rely on volunteers who are interested and involved in public health issues and are attracted by the public interest nature of our work.


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8. I did not make the loan to Health USA to finance contributions to candidates or other political action committees. The loan was made to help finance a direct mail solicitation. The mailing cost approximately \$23,000. We raised less than \$3,000 in contributions as a result of this mailing. In fact, Health USA made contributions to campaigns of only approximately \$1,500 in 1984.

I, Bernard E. Filner, M.D., have read the foregoing Affidavit and affirm that it is true and correct to the best of my knowledge and belief.


Bernard E. Filner, M.D.

Subscribed and sworn to before me this 16th day of October, 1985.


Notary Public
~~District of Columbia~~
State of Maryland

July 1986
My commission expires:

87040524121

QCC#8720

LAW OFFICES
THOMAS R. ASHER, P. C.
1819 H STREET, N. W.
SUITE 620
WASHINGTON, D. C. 20006
(202) 452-1540

THOMAS R. ASHER
REX WEIL

October 11, 1985

Office of the General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463
Attn: Mr. Laurence Tobey

5 OCT 15 11:42
GENERAL COUNSEL

Re: FEC MUR 2080 -- Health USA-Physicians and Dentists
for a Healthier America -- Dr. Bernard Filner

Dear Mr. Tobey:

We represent Health USA-Physicians and Dentists for a Healthier America ("Health USA") and Dr. Bernard E. Filner, as an individual and as treasurer of Health USA in the above-captioned matter.* This letter is our statement of position on the issues raised in this matter.

By letter dated September 18, 1985, the Commission notified our clients that there is reason to believe they violated 2 U.S.C. §§441a(a)(1)(C) and 441a(f) of the Federal Election Campaign Act ("FECA"). The gist of the violation alleged by the staff, as described in the General Counsel's Factual and Legal Analysis is that Dr. Filner made a total of \$10,000 in loans to Health USA in 1984, constituting \$5,000 in excessive contributions.

This matter was first brought to the attention of Health USA by letter dated March 27, 1985 from the Reports Analysis Division. Upon being informed that the loan could constitute an excessive contribution, Health USA promptly repaid the loan, with interest. The Reports Analysis Division was informed that the repayment had been made in a letter from Health USA dated April 9, 1985.

* Statement of Designation of Counsel forms are on file with the Commission.

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Health USA is a small, non-connected political action committee. It received a total of approximately \$10,500 in contributions in 1984, not including the \$15,000 loan that is the subject of MUR 2080. It made contributions to campaigns of only \$1,500. The balance of Health USA's funds were spent on fundraising efforts, including the mailing described below.

The general purposes of Health USA are philanthropic. It is not organized to advance the professional interests of physicians or any other "interest" group. Rather, it seeks to support candidates who will advance the prospects for access to effective medical and dental care for all segments of the American public.

Health USA has no professional or paid staff. Because of its public interest nature, it has been able to attract volunteers to assist with administration. A volunteer "Research Director" was the only staff member during the period covered by MUR 2080. Dr. Filner has no experience as a political action committee treasurer other than initiating Health USA.

Dr. Filner considered the loan no different than a simple commercial bank loan and was unaware that, under FECA, a loan from an individual is tantamount to a contribution. At the time, Dr. Filner was not familiar with §431(8)(A)(i) or Regs. §100.7(a)(1) et seq. Under the circumstances, Dr. Filner's view was not unreasonable and certainly not motivated by any desire to avoid the contribution limits. The loan was duly reported to the FEC and, of course, repaid promptly when Health USA was first notified of the pertinent law. Moreover, Health USA has not accepted, nor will it accept in the future, any further loans or contributions in excess of the contribution limits.

Health USA's reports indicate that the loan amount was not made in order to finance campaign contributions, but rather to finance a solicitation of physicians and dentists for contributions to Health USA*. The mailing cost approximately \$23,000 and raised less than \$3,000. Therefore, there is no indication that the loan frustrated major enforcement objectives of the Commission -- the loan was not used to make contributions to or otherwise support any candidate. The net impact of the loan on federal elections for 1984 (or any particular election contest), by any estimation, is de minimis.

* It is noteworthy that corporations and labor organizations (which are prohibited from making any contributions or expenditures) finance fundraising solicitations of employees or members for separate segregated funds without any limitations on the cost. See Regs. §114.1(b) (definition of "establishment, administration and solicitation cost").

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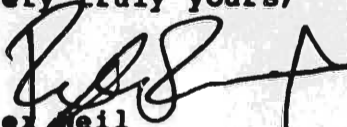
Laurence Tobey
re FEC MUR 2080 - Health USA
October 11, 1985
Page 3

Finally, there are no other pending or past enforcement proceedings against Health USA.

Accordingly, we respectfully request that you recommend to the Commission, based on the unintentional and de minimis nature of the violation in this case (1) that its reason to believe finding be reconsidered and that this matter be closed or, in the alternative, (2) that there is no probable cause to proceed with this matter. Pending Commission review, we request the staff's position on pre-probable cause conciliation if you are not inclined, for any reason, to take one of the above suggested actions.

We will submit an affidavit of Dr. Filner confirming the facts outlined in this letter as soon as possible. If there is any further information we can furnish to assist in your handling of this matter in the meantime, please give me a call.

Very truly yours,



Rex Weil
Attorney for Respondents

cc: Dr. Bernard Filner
Health USA

87040624124

G00# 8643

LAW OFFICES
THOMAS R. ASHER, P. C.
1819 H STREET, N. W.
SUITE 620
WASHINGTON, D. C. 20006
(202) 438-1540

THOMAS R. ASHER
REX WEIL

September 26, 1985

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RECEIVED
OFFICE OF THE
COMMISSIONER
SECRETARY

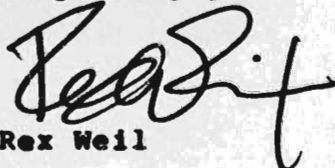
Mr. John Warren McGarry
Chairman
Federal Election Commission
Washington, D.C. 20463

Re: MUR 2080: Health USA; Bernard E. Filner, M.D.

Dear Chairman McGarry:

Please be advised that the undersigned represents Health USA -- Physicians and Dentists for a Healthier America ("Health USA") and Dr. Bernard E. Filner, as an individual and as treasurer of Health USA, in the above-captioned matter. Appropriate FEC "Statement of Designation of Counsel" forms are enclosed. Please direct all further correspondence or inquiries directly to my office.

Very truly yours,


Rex Weil

Enclosure
cc: Dr. Bernard Filner

RECEIVED
GENERAL COUNCIL
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STATEMENT OF DESIGNATION OF COUNSEL

MUR 2080

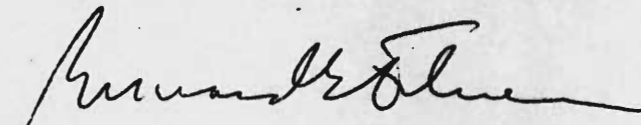
NAME OF COUNSEL: Thomas R. Asher & Rex Weil

ADDRESS: 1819 H Street, N.W., #620
Washington, D.C. 20006

TELEPHONE: 202-452-1540

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

Date _____


Signature _____

RESPONDENT'S NAME: Health USA - Physicians for A Healthier America PAC

ADDRESS: 7910 Woodmont Avenue
Suite 915
Bethesda, MD 20814

HOME PHONE: _____

BUSINESS PHONE: 656-7900

87040524126

87040524127

BUSINESS PHONE: 656-7900



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 18, 1985

Bernard E. Filner, M.D.
9706 Hilbridge Drive
Kensington, Maryland 20895

RE: MUR 2080
Bernard E. Filner, M.D.

Dear Dr. Filner:

On September 5, 1985, the Federal Election Commission determined that there is reason to believe you violated 2 U.S.C. §441a(a)(1)(C), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The General Counsel's factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

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

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

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

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause

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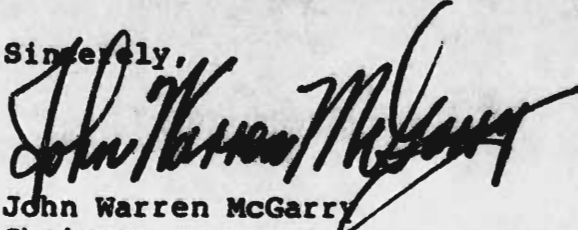
must be demonstrated. In addition, the Office of General Counsel is not authorized to give extensions beyond 20 days.

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

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Laurence Tobey, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,



John Warren McGarry
Chairman

Enclosures

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

87040524129

**FEDERAL ELECTION COMMISSION
GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS**

MUR NO. 2080

STAFF MEMBER AND TEL. NO.:
Stephen Levin (202) 523-4143

RESPONDENT: Bernard E. Filner, M.D.

SUMMARY OF ALLEGATIONS

Bernard E. Filner, M.D., allegedly violated 2 U.S.C. § 441a(a)(1)(C) by making contributions to Health USA-Physicians for a Healthier America Political Action Committee (hereinafter "Health USA" or the "Committee") a political committee, which in the aggregate, exceeded \$5,000 in 1984.

FACTUAL AND LEGAL ANALYSIS

No person is permitted to make contributions to political committees, such as Health USA, in any calendar year which, in the aggregate, exceed \$5,000. 2 U.S.C. § 441a(a)(1)(C). Health USA's 1984 April quarterly report disclosed receipt of a \$2,000 contribution and a \$3,000 loan from Bernard E. Filner, M.D., on March 22, 1984.^{1/} The Committee's 1984 30 day post-general election report disclosed a \$15,000 loan to Health USA from Bernard and Judith Filner on October 10, 1984. The Committee did not provide an allocation of that loan among the contributors. Therefore, pursuant to 11 C.F.R. § 100.7(a)(1)(i)(C), half of the loan was attributed to each of the contributors (\$7,500 each).

^{1/} An amended 1984 year end report appeared to convert the \$3,000 loan to a direct contribution.

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On March 27, 1985, the Commission's Reports Analysis Division ("RAD") sent a Request for Additional Information ("RFAI") to the Committee, noting the receipt of the apparent excessive contribution in question. RAD requested that the Committee either refund the amount in excess of \$5,000 or transfer that excess amount to a non-Federal account.

The Committee replied on April 11, 1985, informing RAD that the excessive amount of the contribution at issue had been refunded, plus interest, to the contributor. The Committee's response also included an allocation of the amount of the loan among the two contributors, \$10,000 was attributed to Bernard Filner and \$5,000 was attributed to Judith Filner, rather than the amounts originally attributed to the contributors, i.e., \$7,500 each. The Committee's reports disclosed a refund of \$10,000 plus \$600 in interest to Bernard Filner on April 9, 1985 and an outstanding balance of \$5,000 owed to Judith Filner.

Insofar as Bernard E. Filner, M.D., made excessive contributions to Health USA in 1984 in the amount of \$10,000, the Office of General Counsel recommends that the Commission open a Matter Under Review (MUR) in this case and find reason to believe that Bernard E. Filner, M.D., violated 2 U.S.C. § 441a(a)(1)(C).

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 18, 1985

**Bernard E. Filner, M.D., Treasurer
Health USA-Physicians for a
Healthier America Political
Action Committee
7940 Norfolk Avenue
Bethesda, Maryland 20814**

**RE: MUR 2080
Health USA-Physicians for a
Healthier America Political
Action Committee
Bernard E. Filner, M.D.,
as treasurer**

Dear Dr. Filner:

On September 5, 1985, the Federal Election Commission determined that there is reason to believe Health USA-Physicians for a Healthier America Political Action Committee and you, as treasurer, violated 2 U.S.C. § 441a(f), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The General Counsel's factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

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

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

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

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

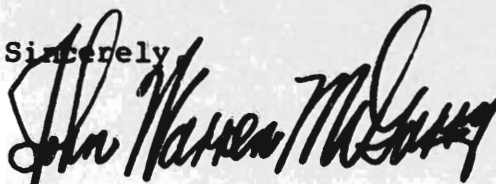
Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of General Counsel is not authorized to give extensions beyond 20 days.

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

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Laurence Tobey, the staff member attorney assigned to this matter, at (202) 523-4143.

Sincerely,



John Warren McGarry
Chairman

Enclosures

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

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**FEDERAL ELECTION COMMISSION
GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS**

MUR NO. 2080

STAFF MEMBER AND TEL. NO.:
Stephen Levin (202) 523-4143

RESPONDENT: Health USA-Physicians for a Healthier America
Political Action Committee
Bernard E. Filner, M.D., as treasurer

SUMMARY OF ALLEGATIONS

Health USA-Physicians for a Healthier America Political Action Committee and Bernard E. Filner, M.D., as treasurer, (hereinafter the "Committee" or "Health USA"), allegedly violated 2 U.S.C. § 441a(f) by knowingly accepting an excessive contribution in 1984 from an individual.

FACTUAL AND LEGAL ANALYSIS

No person is permitted to make contributions to political committees, such as the Committee Respondent, in any calendar year which, in the aggregate, exceed \$5,000. 2 U.S.C. § 441a(a)(1)(C). Accordingly, no political committee may knowingly accept any contribution in violation of such contribution limitations. 2 U.S.C. § 441a(f). Health USA's 1984 April quarterly report disclosed receipt of a \$2,000 contribution and a \$3,000 loan from Bernard E. Filner, M.D., on March 22, 1984.^{1/} The Committee's 1984 30 day post-general election report disclosed a \$15,000 loan to Health USA from Bernard and Judith Filner on October 10, 1984. The Committee did not provide an

^{1/} An amended 1984 year end report appeared to convert the \$3,000 loan to a direct contribution.

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allocation of that loan among the contributors. Therefore, pursuant to 11 C.F.R. § 100.7(a)(1)(i)(C), half of the loan was attributed to each of the contributors (\$7,500 each).

On March 27, 1985, RAD sent a Request for Additional Information ("RFAI") to the Committee, noting the receipt of the apparent excessive contribution in question. RAD requested that the Committee either refund the amount in excess of \$5,000 or transfer that excess amount to a non-Federal account.

The Committee replied on April 11, 1985, informing RAD that the excessive amount of the contribution at issue had been refunded, plus interest, to the contributor. The Committee's response also included an allocation of the amount of the loan among the two contributors, \$10,000 was attributed to Bernard Filner and \$5,000 was attributed to Judith Filner, rather than the amounts originally attributed to the contributors, i.e., \$7,500 each. The Committee's reports disclosed a refund of \$10,000 plus \$600 in interest to Bernard Filner on April 9, 1985 and an outstanding balance of \$5,000 owed to Judith Filner.

Insofar as the Committee knowingly accepted contributions which aggregated \$15,000 from Bernard Filner in 1984, the Office of General Counsel recommends that the Commission open a Matter Under Review in this case and find there is reason to believe that Health USA-Physicians for a Healthier American Political Action Committee and Bernard E. Filner, M.D., as treasurer,

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violated 2 U.S.C. § 441(f) by knowingly accepting an excessive contribution in the amount of \$10,000.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Bernard Filner, M.D.,)
et al.)

RAD REFERRAL NO. 85L-20

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of September 4, 1985, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in RAD Referral 84L-20:

1. Open a Matter Under Review.
2. Find reason to believe that Health USA-Physicians for a Healthier America Political Action Committee and Bernard E. Filner, M.D., as treasurer, violated 2 U.S.C. § 441a(f).
3. Find reason to believe that Bernard E. Filner, M.D., violated 2 U.S.C. § 441a(a)(1)(C).
4. Approve the General Counsel's Factual and Legal Analysis.
5. Approve and send the letters attached to the General Counsel's report dated August 8, 1985.

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

Attest:

9-6-85

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

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

RECEIVED
OFFICE OF THE FEC
COMMISSION SECRETARY

FIRST GENERAL COUNSEL'S REPORT

85 AUG 9 P 3: 59

DATE AND TIME OF TRANSMITTAL
BY OGC TO THE COMMISSION:

RAD REFERRAL NO. 85L-20
STAFF MEMBER:
Laurence Tobey

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

RESPONDENTS' NAMES: Bernard Filner, M.D.

Health U.S.A-Physicians for a
Healthier America Political
Action Committee
Bernard E. Filner, M.D., as treasurer

SENSITIVE

RELEVANT STATUTES: 2 U.S.C. § 441a(a)(1)(C)
2 U.S.C. § 441a(f)

INTERNAL REPORTS CHECKED: Committee reports

GENERATION OF MATTER

This matter arose as a result of a referral to the Office of General Counsel from the Reports Analysis Division (hereinafter "RAD"), pursuant to RAD's Review and Referral Procedures for Unauthorized Committees. The referral states that Health U.S.A. - Physicians for a Healthier America Political Action Committee and Bernard E. Filner, M.D., as treasurer (the "Committee" or "Health USA"), violated 2 U.S.C. § 441a(f) by knowingly accepting an excessive contribution in 1984 from an individual (which has been refunded). Accordingly, the contributor, Bernard E. Filner, M.D. violated 2 U.S.C. § 441a(a)(1)(c) by making such an excessive contribution.

FACTUAL AND LEGAL ANALYSIS

No person is permitted to make contributions to political committees, such as the Committee Respondent, in any calendar

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year which, in the aggregate, exceed \$5,000. 2 U.S.C. § 441a(a)(1)(C). Accordingly, no political committee may knowingly accept any contribution in violation of such contribution limitations. 2 U.S.C. § 441a(f). Health USA's 1984 April quarterly report disclosed receipt of a \$2,000 contribution and a \$3,000 loan from Bernard E. Filner, M.D., on March 22, 1984.^{1/} The Committee's 1984 30 day post-general election report disclosed a \$15,000 loan to Health USA from Bernard and Judith Filner on October 10, 1984. The Committee did not provide an allocation of that loan among the contributors. Therefore, pursuant to 11 C.F.R. § 100.7(a)(1)(i)(C), half of the loan was attributed to each of the contributors (\$7,500 each).

On March 27, 1985, RAD Sent a Request for Additional Information ("RFAI") to the Committee, noting the receipt of the apparent excessive contribution in question. RAD requested that the Committee either refund the amount in excess of \$5,000 or transfer that excess amount to a non-Federal account.

The Committee replied on April 11, 1985, informing RAD that the excessive amount of the contribution at issue had been refunded, plus interest, to the contributor. The Committee's response also included an allocation of the amount of the loan among the two contributors, \$10,000 was attributed to Bernard

^{1/} An amended 1984 year end report appeared to convert the \$3,000 loan to a direct contribution.

Filner and \$5,000 was attributed to Judith Filner, rather than the amounts originally attributed to the contributors, i.e., \$7,500 each. The Committee's reports disclosed a refund of \$10,000 plus \$600 in interest to Bernard Filner on April 9, 1985 and an outstanding balance of \$5,000 owed to Judith Filner.

Insofar as the Committee knowingly accepted contributions which aggregated \$15,000 from Bernard Filner in 1984, the Office of General Counsel recommends that the Commission open a Matter Under Review in this case and find there is reason to believe that Health USA-Physicians for a Healthier American Political Action Committee and Bernard E. Filner, M.D., as treasurer, violated 2 U.S.C. § 441(f) by knowingly accepting an excessive contribution in the amount of \$10,000. Further, this Office recommends that the Commission find there is reason to believe that Bernard E. Filner, M.D. violated 2 U.S.C. § 441a(a)(1)(C) by making such an excessive contribution to Health USA.

RECOMMENDATIONS

1. Open a Matter Under Review.
2. Find reason to believe that Health USA-Physicians for a Healthier America Political Action Committee and Bernard E. Filner, M.D., as treasurer, violated 2 U.S.C. § 441a(f).
3. Find reason to believe that Bernard E. Filner, M.D., violated 2 U.S.C., § 441a(a)(1)(C).
4. Approve the General Counsel's Factual and Legal Analysis.

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5. Approve and send the attached letters.

Charles N. Steele
General Counsel

August 8, 1985
Date

BY:

Kenneth A. Gross
Associate General Counsel

Attachments

RAD Referral

Letters to Respondents

General Counsel's Factual and Legal Analyses.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

8 May 1985

MEMORANDUM

TO: CHARLES N. STEELE
GENERAL COUNSEL

THROUGH: JOHN C. SURINA
STAFF DIRECTOR

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

SUBJECT: REFERRAL OF HEALTH USA - PHYSICIANS FOR A
HEALTHIER AMERICA POLITICAL ACTION COMMITTEE

This is a referral of Health USA - Physicians for a Healthier America Political Action Committee ("the Committee"). The Committee received an excessive contribution from an individual, which has been refunded.

If you have any questions on this matter, please contact Paul Kolesa at 523-4048.

Attachment

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ATTACHMENT

REPORTS ANALYSIS REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: 8 May 1985

ANALYST: Paul Kolesa

I. COMMITTEE: Health USA - Physicians for a Healthier
America Political Action Committee
(C00165613)
Bernard E. Filner, M.D.
7940 Norfolk Avenue
Bethesda, MD 20814

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

III. BACKGROUND:

Receipt of Apparent Excessive Contributions

Health USA - Physicians for a Healthier America Political Action Committee ("the Committee") received contributions totalling \$15,000 during 1984 from an individual, Dr. Bernard E. Filner. This resulted in the receipt of an apparent excessive contribution of \$10,000.

The 1984 April Quarterly Report disclosed receipt of a \$2,000 contribution and a \$3,000 loan from Dr. Filner on March 22, 1984 (Attachments 2 and 3, respectively).^{1/} The 1984 30 Day Post-General Report filed by the Committee disclosed on October 10, 1984, a \$15,000 loan on Schedule C from Bernard and Judith Filner (Attachment 4). The Committee did not provide an allocation between the contributors. The Reports Analysis Division ("RAD") analyst relied on the provisions of 11 CFR 100.7(a)(1)(i)(C); therefore, \$7,500 was attributed to each individual.

^{1/} An Amended 1984 Year End Report appeared to convert the \$3,000 loan to a direct contribution (Attachment 11).

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HEALTH USA - PHYSICIANS FOR A
HEALTHIER AMERICA POLITICAL
ACTION COMMITTEE
REPORTS ANALYSIS OGC REFERRAL
PAGE 2

On March 27, 1985, a Request for Additional Information ("RFAI") was sent to the Committee noting the receipt of an apparent excessive contribution in the form of a loan. The Committee was asked to either refund or transfer-out to a non-Federal account the amount in excess of \$5,000 (Attachment 5). The Committee responded on April 11, 1985, that the amount in excess plus interest has been repaid (Attachment 6). Based on the Committee's response, \$10,000 of the loan was attributed to Dr. Filner and \$5,000 attributed to Mrs. Filner rather than as originally calculated by the RAD analyst. Schedule B disclosed a \$10,000 repayment to Dr. Filner on 4/9/85, as well as a Schedule C with an outstanding balance of \$5,000 owed to Mrs. Filner (Attachments 7 and 8).

In conversations with the RAD analyst on April 18 and 24, 1985, the Committee's representative, Ms. Pitlick, expressed concern about the excessive loan that the Committee had received from Dr. Filner. She also stated that at the time of the loan, she did not know that a loan counted toward the same contribution limit as a direct contribution. Ms. Pitlick further stated that she now understands how loans and contributions aggregate toward the same contribution limit (Attachments 9 and 10).

On April 30, 1985, the Committee filed an Amended 1984 Year End Report. In a cover letter, the Committee stated, "...[t]he \$15,000 loan for the year 1984 has been divided into three (3) \$5,000 loans." On Schedule C of the Amendment however, two (2) \$5,000 loans were noted incurred on April 9, 1985 and one (1) \$5,000 loan was incurred on October 10, 1984 (Attachment 11).

IV. OTHER PENDING MATTERS INITIATED BY RAD:

None.

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FEDERAL ELECTION COMMISSION
COMMITTEE INDEX OF DISCLOSURE DOCUMENTS - (C) (03-84)

DATE: MAY 1984
PAGE: 1

NON-PARTY RELATED

COMMITTEE	DOCUMENT	RECEIPTS	DISBURSEMENTS	TYPE OF FILER COVERAGE DATES	1 OF PAGES	NICEDFILE LOCATION
HEALTH USA PHYSICIANS FOR A HEALTHIER AMERICA PAC CONNECTED ORGANIZATION: NONE				NON-PARTY NON-QUALIFIED ID IC00165613		
1983	STATEMENT OF ORGANIZATION			18FEB83	3	03FEC/266/3792
	MID-YEAR REPORT	6,525	5,797	18FEB83 -30JUN83	0	03FEC/279/2211
	YEAR-END	10,035	9,621	1JUL83 -31DEC83	8	04FEC/293/0494
1984	MISCELLANEOUS REPORT			27APR84 TO FEC	1	04FEC/312/4479
	APRIL QUARTERLY - TERMINATED	5,700	4,306	1JAN84 -31MAR84	7	04FEC/312/4480
	APRIL QUARTERLY - AMENDMENT	-	-	1JAN84 -31MAR84	2	04FEC/316/4415
	APRIL QUARTERLY - AMENDMENT	6,175	2,292	1JAN84 -31MAR84	6	04FEC/330/2514
	APRIL QUARTERLY - AMENDMENT	-	-	1JAN84 -31MAR84	3	05FEC/372/0073
	APRIL QUARTERLY - AMENDMENT	6,175	2,292	1JAN84 -31MAR84	5	05FEC/372/2779
	REQUEST FOR ADDITIONAL INFORMATION			1JAN84 -31MAR84	1	05FEC/369/1495
	JULY QUARTERLY	0	4,245	1APR84 -30JUN84	5	04FEC/319/1905
	JULY QUARTERLY - AMENDMENT	0	4,245	1APR84 -30JUN84	5	04FEC/338/2509
	JULY QUARTERLY - AMENDMENT	-	-	1APR84 -30JUN84	1	05FEC/370/3106
	REQUEST FOR ADDITIONAL INFORMATION			1APR84 -30JUN84	1	05FEC/369/0999
	OCTOBER QUARTERLY	665	407	1JUL84 -30SEP84	5	04FEC/338/2504
	POST-GENERAL	17,791	17,309	1OCT84 -26NOV84	6	04FEC/353/0479
	POST-GENERAL - AMENDMENT	-	-	1OCT84 -26NOV84	6	05FEC/370/1067
	POST-GENERAL - AMENDMENT	-	-	1OCT84 -26NOV84	5	05FEC/371/4395
	REQUEST FOR ADDITIONAL INFORMATION			1OCT84 -26NOV84	3	05FEC/369/1001
	YEAR-END	1,571	2,528	26NOV84 -31DEC84	0	05FEC/361/1474
	YEAR-END - AMENDMENT	-	-	27NOV84 -31DEC84	3	05FEC/370/1990
	YEAR-END - AMENDMENT	11,571	22,520	26NOV84 -31DEC84	0	05FEC/372/2771
	REQUEST FOR ADDITIONAL INFORMATION			27NOV84 -31DEC84	2	05FEC/369/1005
	1ST LETTER INFORMATIONAL NOTICE			1JAN84 -31MAR84	1	04FEC/316/3136
TOTAL		52,762 *	0 62,199 *	0	99	TOTAL PAGES

All reports reviewed.

Cash on hand as of 12/31/84: \$560.

Debts owed to the committee: \$ 0

Debts owed by the Committee: \$ 15,000

* Based on the Committee's Amended 1984 Year End Report certain math discrepancies appear.

Total Reciepts should be: \$1517

Total Disbursements should be: \$2528

SCHEDULE A

ITEMIZED RECEIPTS

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

Name of Committee (in Full)

HEALTH USA--Physicians & Dentists for a Healthier America

A. Full Name, Mailing Address and ZIP Code

John E. Threlfall, M.D.
9 Chevy Chase Circle
Chevy Chase, MD 20815

Name of Employer

Self

Date (month,
day, year)

1/11/84

Amount of Each
Receipt This Period

\$700.00

Receipt For

Primary

General

Other (specify)

Occupation

Physician

Aggregate Year-to-Date-\$ 700.00

B. Full Name, Mailing Address and ZIP Code

Bernard E. Filner, M.D.
9706 Hillridge Dr.
Kensington, MD 20795

Name of Employer

Shady Grove
Adventist HospitalDate (month,
day, year)

3/22/84

Amount of Each
Receipt This Period

\$2000.00

Receipt For

Primary

General

Other (specify)

Occupation

Physician

Aggregate Year-to-Date-\$2,000.00

C. Full Name, Mailing Address and ZIP Code

Name of Employer

Date (month,
day, year)Amount of Each
Receipt This Period

Receipt For

Primary

General

Other (specify)

Occupation

Aggregate Year-to-Date-\$

D. Full Name, Mailing Address and ZIP Code

Name of Employer

Date (month,
day, year)Amount of Each
Receipt This Period

Receipt For

Primary

General

Other (specify)

Occupation

Aggregate Year-to-Date-\$

E. Full Name, Mailing Address and ZIP Code

Name of Employer

Date (month,
day, year)Amount of Each
Receipt This Period

Receipt For

Primary

General

Other (specify)

Occupation

Aggregate Year-to-Date-\$

F. Full Name, Mailing Address and ZIP Code

Name of Employer

Date (month,
day, year)Amount of Each
Receipt This Period

Receipt For

Primary

General

Other (specify)

Occupation

Aggregate Year-to-Date-\$

G. Full Name, Mailing Address and ZIP Code

Name of Employer

Date (month,
day, year)Amount of Each
Receipt This Period

Receipt For

Primary

General

Other (specify)

Occupation

Aggregate Year-to-Date-\$

SUBTOTAL

\$2,700.00

\$2,700.00

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SCHEDULE C
(Revised 3/80)

LOANS

Attachment 3
Page 1 of 1 for
LINE NUMBER 13
(Use separate schedules
for each numbered line)

Name of Committee (or Full)			
HEALTH USA--Physicians and Dentists for a Healthier America			
A. Full Name, Mailing Address and ZIP Code of Loan Source Bernard E. Filner, M.D. 9706 Hillridge Dr. Kensington, MD 20795		Original Amount of Loan \$3,000.00	Balance Outstanding at Close of This Period \$3,000.00
Election: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		Cumulative Payments To Date 0	
Term: Date Incurred 3/22/84 Date Due NONE Interest Rate (NONE %)		<input type="checkbox"/> Secured	
List All Endorsers or Guarantors (if any) to Item A			
1. Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding	
2. Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding	
3. Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding	
B. Full Name, Mailing Address and ZIP Code of Loan Source		Original Amount of Loan	Balance Outstanding at Close of This Period
Election: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		Cumulative Payments To Date	
Term: Date Incurred Date Due Interest Rate <input type="checkbox"/> Secured			
List All Endorsers or Guarantors (if any) to Item B			
1. Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding	
2. Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding	
3. Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding	

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SCHEDULE C
(Revised 3/80)

LOANS

Attachment 4
Page of for
LINE NUMBER
(Use separate schedules
for each numbered line)

Name of Contributor (in Full) HEALTH USA: PHYSICIANS + ARTISTS FOR A HEALTHIER AMERICA				
A. Full Name, Mailing Address and ZIP Code of Loan Source F. INC., BERNARD E. + JUDITH A 9706 HILDRIFE DR KENSINGTON MD 20995		Original Amount of Loan 15,000.00	Cumulative Payments To Date 0	Balance Outstanding at Close of This Period 15,000.00
Election: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):		Terms Date Incurred 10-84 Date Due — Interest Rate 12 % (year)		<input type="checkbox"/> Secured
List All Endorsers or Guarantors (if any) to Item A				
1. Full Name, Mailing Address and ZIP Code		Name of Employer Occupation Amount Guaranteed Outstanding \$		
2. Full Name, Mailing Address and ZIP Code		Name of Employer Occupation Amount Guaranteed Outstanding \$		
3. Full Name, Mailing Address and ZIP Code		Name of Employer Occupation Amount Guaranteed Outstanding \$		
B. Full Name, Mailing Address and ZIP Code of Loan Source F. INC., BERNARD E. (Same as Above)		Original Amount of Loan 3,000.00	Cumulative Payments To Date 0	Balance Outstanding at Close of This Period 3,000.00
Election: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):		Terms Date Incurred 3-22-84 Date Due — Interest Rate — % (year)		<input type="checkbox"/> Secured
List All Endorsers or Guarantors (if any) to Item B				
1. Full Name, Mailing Address and ZIP Code		Name of Employer Occupation Amount Guaranteed Outstanding \$		
2. Full Name, Mailing Address and ZIP Code		Name of Employer Occupation Amount Guaranteed Outstanding \$		
3. Full Name, Mailing Address and ZIP Code		Name of Employer Occupation Amount Guaranteed Outstanding \$		
SUBTOTALS This Period This Page (optional)				
TOTALS This Period (first page in this line only)				

7, 8, 7, 0; 4: 2, 4, 4, 8

PK



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20541

RQ-2

Bernard E. Filner, M.D.
Health USA - Physicians for a
Healthier America Political
Action Committee
7940 Norfolk Avenue
Bethesda, MD 20814

MAR 27 1985

Identification Number: C00165613

Reference: 30 Day Post-General Report (10/1/84-11/26/84)

Dear Dr. Filner:

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

-Schedule C of your report (pertinent portion(s) attached) discloses a contribution(s) which appears to exceed the limits set forth in the Act. The Act precludes a committee from receiving contributions from another political committee or a person in excess of \$5,000 per calendar year. (2 U.S.C. 5441a(f)) If you have received a contribution that exceeds the limits, the Commission recommends that you refund to the donor, or transfer-out to a non-Federal account, the amount in excess of \$5,000. Please inform the Commission immediately in writing and provide a photocopy of your check for the refund or transfer-out. In addition, the disbursement of the amount in excess should be disclosed on a supporting Schedule B for Line 26 or 27 of your next report.

If the contribution(s) in question was incorrectly reported and/or you have additional information, you may wish to submit documentation for the public record.

Although the Commission may take further legal steps concerning the acceptance of an excessive contribution(s), your prompt refund or transfer-out of the excessive amount will be taken into consideration.

-Please clarify all expenditures made for printing, direct mail, newspaper, graphic design, and postage. If a portion or all of these expenditures were made on behalf of specifically identified Federal candidates, they should be disclosed on Schedule B or E for Line 21 or 22 and include the amount, name, address and office sought by each candidate. 11 CFR 104.3(b) and 106.1.

9570034303421410419

PK

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

-The 1983 Year End Report disclosed a \$2,000 loan from Dr. Bernard Filner. This report, however, does not include a Schedule C to disclose the status of the loan, nor are there any loan repayments on Schedule B. Please provide a Schedule C to show the status of the loan and/or a Schedule B to show loan repayments. Loans must be continuously reported until they are repaid. 11 CFR 104.3(d).

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

Sincerely,

Paul Kolesa

Paul Kolesa
Reports Analyst
Reports Analysis Division

8394934152



7940 Norfolk Avenue
Bethesda, Maryland 20814, (301) 656-7900

85 APR 11 4:01

Identification Number: C00165613

EDWARD E. FILNER, M.D.
TREASURER

CHIEF OF STAFF
EDWARD E. FILNER, M.D.
R. J. B. BAKER, M.D.
JOHN D. BAKER, M.D.
JOHN D. BAKER, M.D.
JOHN D. BAKER, M.D.
JOHN D. BAKER, M.D.
JOHN D. BAKER, M.D.

April 9, 1985

Paul Kolesa
Federal Election Commission
Washington, D.C. 20463

Dear Mr. Kolesa:

I hope that this letter will clarify those questions that you asked in your letter of March 27, 1985. This letter will cover those questions asked about our 30 Day Post-General Report (10/1/84-11/26/84). I am responding with these questions in a letter as you suggested during our phone conversation.

Due to a misunderstanding on our part of FEC regulations, HEALTH USA inadvertently accepted a loan in the amount of \$15,000 from Dr. and Mrs. Filner. The amount in excess plus interest has been promptly repaid. Please refer to the attached Schedule B and Schedule C. These can be attached to the Post General Report. This information will be reported again in our next scheduled report if appropriate. PK

All expenditures made for printing, direct mail, newspaper, graphic design, and postage were made in connection with a direct mail fundraising effort on behalf of the PAC and not on behalf of any specific candidate. Any additional postage costs have been in connection with general correspondence that the PAC sends on its own behalf.

The \$2,000 loan disclosed on the 1983 Year End Report from Dr. Bernard Filner should have been changed to a contribution. I am enclosing a Schedule A to clarify that question.

Should you have any further questions, please feel free to call me.

Sincerely,

Ruth R. Pitlick
Ruth R. Pitlick
Research Director

SCHEDULE D

ITEMIZED DISBURSEMENTS

Attachment 7
 Page 28
 LINE NUMBER 28
 (Use separate schedule(s) for each category of the Detailed Summary Page)

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

Name of Committee (in Full)

HEALTH USA -- Physicians & Dentists for a Healthier America

A. Full Name, Mailing Address and ZIP Code Bernard E. Filner, M.D. 9706 Hillridge Road Kensington, MD 20895	Purpose of Disbursement repayment of 10/10/84 loan Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Date (month, day, year) 4/9/85	Amount of Each Disbursement This Period \$10,000.00
B. Full Name, Mailing Address and ZIP Code Bernard E. Filner, M.D. 9706 Hillridge Rd. Kensington, MD 20895	Purpose of Disbursement interest on 10/10/84 loan Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Date (month, day, year) 4/9/95	Amount of Each Disbursement This Period \$600.00
C. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Date (month, day, year)	Amount of Each Disbursement This Period
D. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Date (month, day, year)	Amount of Each Disbursement This Period
E. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Date (month, day, year)	Amount of Each Disbursement This Period
F. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Date (month, day, year)	Amount of Each Disbursement This Period
G. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Date (month, day, year)	Amount of Each Disbursement This Period
H. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Date (month, day, year)	Amount of Each Disbursement This Period
I. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Date (month, day, year)	Amount of Each Disbursement This Period
ETC TOTAL of Disbursements This Page (optional)			
TOTAL This Period (last page this line number only)			10,600.00

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SCHEDULE C
(Revised 3/83)

LOANS

Page 2 of 2 for
LINE NUMBER 25
Also prepare schedules
for each numbered line

Name of Committee (in Full) HEALTH USA -- Physicians & Dentists for a Healthier America			
A. Full Name, Mailing Address and ZIP Code of Loan Source Judith Filner 9706 Hillridge Road Kensington, MD 20895	Original Amount of Loan \$5,000.00	Cumulative Payments To Date 0	Balance Outstanding at Close of This Period \$5,000.00
Election: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):			
Terms: Date Incurred <u>10/10/84</u> Date Due <u>10/10/85</u> Interest Rate <u>12</u> % (Specify) <input type="checkbox"/> Secured			
List All Endorsers or Guarantors (if any) to Item A			
1. Full Name, Mailing Address and ZIP Code	Name of Employer	Occupation	Amount Guaranteed Outstanding: \$
2. Full Name, Mailing Address and ZIP Code	Name of Employer	Occupation	Amount Guaranteed Outstanding: \$
3. Full Name, Mailing Address and ZIP Code	Name of Employer	Occupation	Amount Guaranteed Outstanding: \$
B. Full Name, Mailing Address and ZIP Code of Loan Source			
Election: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):			
Terms: Date Incurred _____ Date Due _____ Interest Rate _____ % (Specify) <input type="checkbox"/> Secured			
List All Endorsers or Guarantors (if any) to Item B			
1. Full Name, Mailing Address and ZIP Code	Name of Employer	Occupation	Amount Guaranteed Outstanding: \$
2. Full Name, Mailing Address and ZIP Code	Name of Employer	Occupation	Amount Guaranteed Outstanding: \$
3. Full Name, Mailing Address and ZIP Code	Name of Employer	Occupation	Amount Guaranteed Outstanding: \$
SUBTOTALS This Period This Page (optional) _____			15,000.00
TOTALS This Period (last page in this line only) _____			15,000.00
Carry outstanding balance only to LINE 3, Schedule D, for this line. If no Schedule D, carry forward to appropriate line of Summary			

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8303370107

ANALYST: Kolesa

CONVERSATION WITH: Ruth Pitlick

COMMITTEE: Health USA-Physicians for a Healthier America Political
Action Committee

DATE: April 18, 1985

SUBJECT(S): Contribution of December 31, 1984

I phoned Miss Pitlick to inquire about a contribution made on the Committee's 1984 Year End Report. I asked whether this reflected changing a \$3,000 loan received from Dr. Bernard Filner on the 1984 April Quarterly Report. Miss Pitlick stated that was the case because the Committee wanted to ensure Dr. Filner would not exceed the \$5,000 per year contribution limit. Miss Pitlick also stated that now she understood how loans and contributions aggregate toward the same contribution limit.

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MEETING WITH: Ruth Pitlick, Health USA-Physicians for a Healthier America
Political Action Committee

PRESENT: Paul Kolesa, Lisa Stolaruk

DATE: April 24, 1985

REGARDING: Health USA Reports

Miss Pitlick visited to clarify discrepancies in the Committee's filings. A loan of \$3,000 incurred on March 22, 1984 was changed to a contribution, and Miss Pitlick amended the 1984 April Quarterly Report with the wrong amount disclosed on a Schedule A. The Year End Report also must be amended because Miss Pitlick showed this loan coming into the Committee again (in the form of a contribution); inflating her cash. In addition, since a loan was repaid her Debts and Obligations Owed should properly reflect \$5,000. Miss Pitlick stated that she would not be in the office this week but would get a response to the Commission on the following Monday (April 29, 1985).

87040624155 [Miss Pitlick was also concerned about an excessive loan the Committee received from Dr. Bernard Filner. She stated that the Committee did not realize that a loan counted toward the same contribution limit as a direct contribution. The loan has been repaid.] PK

Health USA

Physicians and Dentists for a Healthier America

ATTACHMENT 11

1 of 3

7940 Norfolk Avenue
Bethesda, Maryland 20814, (301) 656-7900

05 APR 30 11:51

Bernard E. Filner, M.D.
Treasurer

Board of Directors
Bernard E. Filner, M.D.
Jack Gelger, M.D.
David D. Kaufman, M.D.
John Baker Miller, M.D.
Victor W. Sidel, M.D.
James A. Snyder, D.D.S.
John E. Threlfall, M.D.

April 28, 1985

Paul Kolesa
Federal Election Commission
Washington, D.C. 20463

Dear Mr. Kolesa:

I have enclosed two amended reports with the hope of clarifying any further questions on the part of the Federal Election Commission.

The April 15 Quarterly Report is amended to reflect the receipt of a \$5,000 contribution from Dr. Bernard Filner. As we have discussed, this contribution was originally recorded as a \$2,000 contribution and a \$3,000 loan for the year of 1984. The \$3,000 loan has been changed to a contribution, thus arriving at the total of a \$5,000 for the year of 1984.

The second amended report is the January 31 Year End Report. This report was amended to reflect the change in Schedule C. The \$15,000 loan for the year 1984 has been divided into three \$5,000 loans. As previously discussed in my letter of April 9, this loan was repaid with interest (on April 9, 1985) as soon as the discrepancy was pointed out to Health USA. This will account for an April 9, 1985 date being found with the names of Rose Mostow and Elmer Mostow listed on Schedule C.

Should you have any further questions, please feel free to call me.

Sincerely,

Ruth R. Pitlick

Ruth R. Pitlick
Research Director

87040524156

Name of Committee (in Full)

HEALTH USA -- Physicians & Dentists for a Healthier America

A. Full Name, Mailing Address and ZIP Code of Loan Source	Original Amount of Loan	Cumulative Payment To Date	Balance Outstanding at Close of This Period
Rose Mostow 3402 Woolsey Drive Chevy Chase, MD 20815 Election: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify):	\$5,000.00	0	\$5,000.00

Terms: Date Incurred 4/9/85 Date Due 4/9/86 Interest Rate 10 %(apr) ☐ Secured

List All Endorsers or Guarantors (if any) to Item A

1. Full Name, Mailing Address and ZIP Code	Name of Employer
	Occupation
	Amount Guaranteed Outstanding: \$
2. Full Name, Mailing Address and ZIP Code	Name of Employer
	Occupation
	Amount Guaranteed Outstanding: \$
3. Full Name, Mailing Address and ZIP Code	Name of Employer
	Occupation
	Amount Guaranteed Outstanding: \$

B. Full Name, Mailing Address and ZIP Code of Loan Source	Original Amount of Loan	Cumulative Payment To Date	Balance Outstanding at Close of This Period
Elmer Mostow 3402 Woolsey Drive Chevy Chase, MD 20815 Election: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify):	\$5,000.00	0	\$5,000.00

Terms: Date Incurred 4/9/85 Date Due 4/9/86 Interest Rate 10 %(apr) ☐ Secured

List All Endorsers or Guarantors (if any) to Item B

1. Full Name, Mailing Address and ZIP Code	Name of Employer
	Occupation
	Amount Guaranteed Outstanding: \$
2. Full Name, Mailing Address and ZIP Code	Name of Employer
	Occupation
	Amount Guaranteed Outstanding: \$
3. Full Name, Mailing Address and ZIP Code	Name of Employer
	Occupation
	Amount Guaranteed Outstanding: \$

SUBTOTALS This Period This Page (optional)

TOTALS This Period (last page in this line only)

Carry outstanding balance only to LINE 3, Schedule D, for this line. If no Schedule D, carry forward to appropriate line of Summary.

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Name of Committee (in Full)			
HEALTH USA -- Physicians & Dentists for a Healthier America			
A Full Name, Mailing Address and ZIP Code of Loan Source		Original Amount of Loan	Cumulative Payment To Date
Judith Filner 9706 Hillridge Road Kensington, MD 20895		\$5,000.00	0
Election: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):			Balance Outstanding at Close of This Period
			\$5,000.00
Term: Date Incurred <u>10/10/84</u> Date Due <u>10/10/85</u> Interest Rate <u>12</u> % (april)		<input type="checkbox"/> Secured	
List All Endorsers or Guarantors (if any) to Item A			
1. Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding: \$	
2. Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding: \$	
3. Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding: \$	
B Full Name, Mailing Address and ZIP Code of Loan Source		Original Amount of Loan	Cumulative Payments To Date
Election: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):			Balance Outstanding at Close of This Period
Term: Date Incurred _____ Date Due _____ Interest Rate _____ % (april)		<input type="checkbox"/> Secured	
List All Endorsers or Guarantors (if any) to Item B			
1. Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding: \$	
2. Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding: \$	
3. Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding: \$	
SUBTOTALS This Period This Page (optional)			
TOTALS This Period (last page in this line only)			15,000.00
Carry outstanding balance only to LINE 3, Schedule D, for this line. If no Schedule D, carry forward to appropriate line of Summary.			

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

**Bernard E. Filner, M.D., Treasurer
Health USA-Physicians for a
Healthier America Political
Action Committee
7940 Norfolk Avenue
Bethesda, Maryland 20814**

**RE: MUR
Health USA-Physicians for a
Healthier America Political
Action Committee
Bernard E. Filner, M.D.,
as treasurer**

Dear Dr. Filner:

On , 1985, the Federal Election Commission determined that there is reason to believe Health USA-Physicians for a Healthier America Political Action Committee and you, as treasurer, violated 2 U.S.C. § 441a(f), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The General Counsel's factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

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

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

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

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

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

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

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Laurence Tobey, the staff member attorney assigned to this matter, at (202) 523-4143.

Sincerely,

John Warren McGarry
Chairman

Enclosures

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

87040524160



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Bernard E. Filner, M.D.
9706 Hilbridge Drive
Kensington, Maryland 20895

RE: MUR
Bernard E. Filner, M.D.

Dear Dr. Filner:

On , 1985, the Federal Election Commission determined that there is reason to believe you violated 2 U.S.C. §441a(a)(1)(C) , a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The General Counsel's factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

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

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

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

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause

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must be demonstrated. In addition, the Office of General Counsel is not authorized to give extensions beyond 20 days.

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

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Laurence Tobey, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

John Warren McGarry
Chairman

Enclosures

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

87040524162

FEDERAL ELECTION COMMISSION
GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO.

STAFF MEMBER AND TEL. NO.:
Stephen Levin (202) 523-4143

RESPONDENT: Health USA-Physicians for a Healthier America
Political Action Committee
Bernard E. Filner, M.D., as treasurer

SUMMARY OF ALLEGATIONS

Health USA-Physicians for a Healthier America Political Action Committee and Bernard E. Filner, M.D., as treasurer, (hereinafter the "Committee" or "Health USA"), allegedly violated 2 U.S.C. § 441a(f) by knowingly accepting an excessive contribution in 1984 from an individual.

FACTUAL AND LEGAL ANALYSIS

No person is permitted to make contributions to political committees, such as the Committee Respondent, in any calendar year which, in the aggregate, exceed \$5,000. 2 U.S.C. § 441a(a)(1)(C). Accordingly, no political committee may knowingly accept any contribution in violation of such contribution limitations. 2 U.S.C. § 441a(f). Health USA's 1984 April quarterly report disclosed receipt of a \$2,000 contribution and a \$3,000 loan from Bernard E. Filner, M.D., on March 22, 1984.^{1/} The Committee's 1984 30 day post-general election report disclosed a \$15,000 loan to Health USA from Bernard and Judith Filner on October 10, 1984. The Committee did not provide an

^{1/} An amended 1984 year end report appeared to convert the \$3,000 loan to a direct contribution.

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allocation of that loan among the contributors. Therefore, pursuant to 11 C.F.R. § 100.7(a)(1)(i)(C), half of the loan was attributed to each of the contributors (\$7,500 each).

On March 27, 1985, RAD sent a Request for Additional Information ("RFAI") to the Committee, noting the receipt of the apparent excessive contribution in question. RAD requested that the Committee either refund the amount in excess of \$5,000 or transfer that excess amount to a non-Federal account.

The Committee replied on April 11, 1985, informing RAD that the excessive amount of the contribution at issue had been refunded, plus interest, to the contributor. The Committee's response also included an allocation of the amount of the loan among the two contributors, \$10,000 was attributed to Bernard Filner and \$5,000 was attributed to Judith Filner, rather than the amounts originally attributed to the contributors, i.e., \$7,500 each. The Committee's reports disclosed a refund of \$10,000 plus \$600 in interest to Bernard Filner on April 9, 1985 and an outstanding balance of \$5,000 owed to Judith Filner.

Insofar as the Committee knowingly accepted contributions which aggregated \$15,000 from Bernard Filner in 1984, the Office of General Counsel recommends that the Commission open a Matter Under Review in this case and find there is reason to believe that Health USA-Physicians for a Healthier American Political Action Committee and Bernard E. Filner, M.D., as treasurer,

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violated 2 U.S.C. § 441(f) by knowingly accepting an excessive contribution in the amount of \$10,000.

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**FEDERAL ELECTION COMMISSION
GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS**

MUR NO.

STAFF MEMBER AND TEL. NO.:
Stephen Levin (202) 523-4143

RESPONDENT: Bernard E. Filner, M.D.

SUMMARY OF ALLEGATIONS

Bernard E. Filner, M.D., allegedly violated 2 U.S.C. § 441a(a)(1)(C) by making contributions to Health USA-Physicians for a Healthier America Political Action Committee (hereinafter "Health USA" or the "Committee") a political committee, which in the aggregate, exceeded \$5,000 in 1984.

FACTUAL AND LEGAL ANALYSIS

No person is permitted to make contributions to political committees, such as Health USA, in any calendar year which, in the aggregate, exceed \$5,000. 2 U.S.C. § 441a(a)(1)(C). Health USA's 1984 April quarterly report disclosed receipt of a \$2,000 contribution and a \$3,000 loan from Bernard E. Filner, M.D., on March 22, 1984.^{1/} The Committee's 1984 30 day post-general election report disclosed a \$15,000 loan to Health USA from Bernard and Judith Filner on October 10, 1984. The Committee did not provide an allocation of that loan among the contributors. Therefore, pursuant to 11 C.F.R. § 100.7(a)(1)(i)(C), half of the loan was attributed to each of the contributors (\$7,500 each).

^{1/} An amended 1984 year end report appeared to convert the \$3,000 loan to a direct contribution.

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On March 27, 1985, the Commission's Reports Analysis Division ("RAD") sent a Request for Additional Information ("RFAI") to the Committee, noting the receipt of the apparent excessive contribution in question. RAD requested that the Committee either refund the amount in excess of \$5,000 or transfer that excess amount to a non-Federal account.

The Committee replied on April 11, 1985, informing RAD that the excessive amount of the contribution at issue had been refunded, plus interest, to the contributor. The Committee's response also included an allocation of the amount of the loan among the two contributors, \$10,000 was attributed to Bernard Filner and \$5,000 was attributed to Judith Filner, rather than the amounts originally attributed to the contributors, i.e., \$7,500 each. The Committee's reports disclosed a refund of \$10,000 plus \$600 in interest to Bernard Filner on April 9, 1985 and an outstanding balance of \$5,000 owed to Judith Filner.

Insofar as Bernard E. Filner, M.D., made excessive contributions to Health USA in 1984 in the amount of \$10,000, the Office of General Counsel recommends that the Commission open a Matter Under Review (MUR) in this case and find reason to believe that Bernard E. Filner, M.D., violated 2 U.S.C. § 441a(a)(1)(C).

87040524157



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

8 May 1985

MEMORANDUM

TO: CHARLES N. STEELE
GENERAL COUNSEL

THROUGH: JOHN C. SURINA
STAFF DIRECTOR

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

SUBJECT: REFERRAL OF HEALTH USA - PHYSICIANS FOR A
HEALTHIER AMERICA POLITICAL ACTION COMMITTEE

This is a referral of Health USA - Physicians for a Healthier America Political Action Committee ("the Committee"). The Committee received an excessive contribution from an individual, which has been refunded.

If you have any questions on this matter, please contact Paul Kolesa at 523-4048.

Attachment

87040524168

REPORTS ANALYSIS REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: 8 May 1985

ANALYST: Paul Kolesa

I. COMMITTEE:

Health USA - Physicians for a Healthier
America Political Action Committee
(C00165613)

Bernard E. Filner, M.D.
7940 Norfolk Avenue
Bethesda, MD 20814

II. RELEVANT STATUTE:

2 U.S.C. §441a(f)

III. BACKGROUND:

Receipt of Apparent Excessive Contributions

Health USA - Physicians for a Healthier America Political Action Committee ("the Committee") received contributions totalling \$15,000 during 1984 from an individual, Dr. Bernard E. Filner. This resulted in the receipt of an apparent excessive contribution of \$10,000.

The 1984 April Quarterly Report disclosed receipt of a \$2,000 contribution and a \$3,000 loan from Dr. Filner on March 22, 1984 (Attachments 2 and 3, respectively).^{1/} The 1984 30 Day Post-General Report filed by the Committee disclosed on October 10, 1984, a \$15,000 loan on Schedule C from Bernard and Judith Filner (Attachment 4). The Committee did not provide an allocation between the contributors. The Reports Analysis Division ("RAD") analyst relied on the provisions of 11 CFR 100.7(a)(1)(i)(C); therefore, \$7,500 was attributed to each individual.

^{1/} An Amended 1984 Year End Report appeared to convert the \$3,000 loan to a direct contribution (Attachment 11).

87040624169

HEALTH USA - PHYSICIANS FOR A
HEALTHIER AMERICA POLITICAL
ACTION COMMITTEE
REPORTS ANALYSIS OGC REFERRAL
PAGE 2

On March 27, 1985, a Request for Additional Information ("RFAI") was sent to the Committee noting the receipt of an apparent excessive contribution in the form of a loan. The Committee was asked to either refund or transfer-out to a non-Federal account the amount in excess of \$5,000 (Attachment 5). The Committee responded on April 11, 1985, that the amount in excess plus interest has been repaid (Attachment 6). Based on the Committee's response, \$10,000 of the loan was attributed to Dr. Filner and \$5,000 attributed to Mrs. Filner rather than as originally calculated by the RAD analyst. Schedule B disclosed a \$10,000 repayment to Dr. Filner on 4/9/85, as well as a Schedule C with an outstanding balance of \$5,000 owed to Mrs. Filner (Attachments 7 and 8).

In conversations with the RAD analyst on April 18 and 24, 1985, the Committee's representative, Ms. Pitlick, expressed concern about the excessive loan that the Committee had received from Dr. Filner. She also stated that at the time of the loan, she did not know that a loan counted toward the same contribution limit as a direct contribution. Ms. Pitlick further stated that she now understands how loans and contributions aggregate toward the same contribution limit (Attachments 9 and 10).

On April 30, 1985, the Committee filed an Amended 1984 Year End Report. In a cover letter, the Committee stated, "...[t]he \$15,000 loan for the year 1984 has been divided into three (3) \$5,000 loans." On Schedule C of the Amendment however, two (2) \$5,000 loans were noted incurred on April 9, 1985 and one (1) \$5,000 loan was incurred on October 10, 1984 (Attachment 11).

IV. OTHER PENDING MATTERS INITIATED BY RAD:

None.

87040524170

8 7 0 4 0 5 2 4 1 7 1
FEDERAL ELECTION COMMISSION
COMMITTEE INDEX OF DISCLOSURE DOCUMENTS - (C) (83-84)

DATE 3MAY85
PAGE 1

NON-PARTY RELATED

COMMITTEE	DOCUMENT	RECEIPTS	DISBURSEMENTS	TYPE OF FILER COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
HEALTH USA PHYSICIANS FOR A HEALTHIER AMERICA PAC CONNECTED ORGANIZATION: NONE				NON-PARTY NON-QUALIFIED ID #C00165613		
1983	STATEMENT OF ORGANIZATION			18FEB83	3	83FEC/266/3792
	MID-YEAR REPORT	6,525	5,797	18FEB83 -30JUN83	8	83FEC/279/2211
	YEAR-END	10,035	9,621	1JUL83 -31DEC83	8	84FEC/293/0494
1984	MISCELLANEOUS REPORT			27APR84 TO FEC	1	84FEC/312/4479
	APRIL QUARTERLY - TERMINATED	5,700	4,306	1JAN84 -31MAR84	7	84FEC/312/4480
	APRIL QUARTERLY - AMENDMENT	-	-	1JAN84 -31MAR84	2	84FEC/316/4415
	APRIL QUARTERLY - AMENDMENT	6,175	2,292	1JAN84 -31MAR84	6	84FEC/338/2514
	APRIL QUARTERLY - AMENDMENT	-	-	1JAN84 -31MAR84	3	85FEC/370/1073
	APRIL QUARTERLY - AMENDMENT	6,175	2,292	1JAN84 -31MAR84	5	85FEC/372/2779
	REQUEST FOR ADDITIONAL INFORMATION			1JAN84 -31MAR84	1	85FEC/369/1495
	JULY QUARTERLY	0	4,245	1APR84 -30JUN84	5	84FEC/319/1905
	JULY QUARTERLY - AMENDMENT	0	4,245	1APR84 -30JUN84	5	84FEC/338/2509
	JULY QUARTERLY - AMENDMENT	-	-	1APR84 -30JUN84	1	85FEC/370/3106
	REQUEST FOR ADDITIONAL INFORMATION			1APR84 -30JUN84	1	85FEC/369/0999
	OCTOBER QUARTERLY	665	407	1JUL84 -30SEP84	5	84FEC/338/2504
	POST-GENERAL	17,791	17,309	1OCT84 -26NOV84	6	84FEC/353/0479
	POST-GENERAL - AMENDMENT	-	-	1OCT84 -26NOV84	6	85FEC/370/1067
	POST-GENERAL - AMENDMENT	-	-	1OCT84 -26NOV84	3	85FEC/371/4395
	REQUEST FOR ADDITIONAL INFORMATION			1OCT84 -26NOV84	3	85FEC/369/1001
	YEAR-END	1,571	2,528	26NOV84 -31DEC84	6	85FEC/361/1474
	YEAR-END - AMENDMENT	-	-	27NOV84 -31DEC84	3	85FEC/370/1998
	YEAR-END - AMENDMENT	11,571	22,528	26NOV84 -31DEC84	8	85FEC/372/2771
	REQUEST FOR ADDITIONAL INFORMATION			27NOV84 -31DEC84	2	85FEC/369/1005
	1'ST LETTER INFORMATIONAL NOTICE			1JAN84 -31MAR84	1	84FEC/316/3136
TOTAL		52,762 *	0	62,199 *	0	99 TOTAL PAGES

All reports reviewed.

Cash on hand as of 12/31/84: \$560.

Debts owed to the committee: \$ 0

Debts owed by the Committee: \$ 15,000

* Based on the Committee's Amended 1984 Year End Report certain math discrepancies appear.

Total Reciepts should be: \$1517

Total Disbursements should be: \$2528

SCHEDULE A

ITEMIZED RECEIPTS

Attachment 2

Page 1 of 1 by
LINE NUMBER 11 (d)
(Use separate schedules for each
category of the limited
category Page)

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

Name of Committee (in Full)

HEALTH USA--Physicians & Dentists for a Healthier America

A. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
John E. Threlfall, M.D. 9 Chevy Chase Circle Chevy Chase, MD 20815	Self	1/11/84	\$700.00
Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General (Other (specify))	Occupation: Physician Aggregate Year-to-Date-\$ 700.00		
B. Full Name, Mailing Address and ZIP Code Bernard E. Filner, M.D. 9706 Hillridge Dr. Kensington, MD 20795	Name of Employer Shady Grove Adventist Hospital	Date (month, day, year) 3/22/84	Amount of Each Receipt This Period \$2000.00
Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General (Other (specify))	Occupation: Physician Aggregate Year-to-Date-\$2,000.00		
C. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General (Other (specify))	Occupation		
D. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General (Other (specify))	Occupation		
E. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General (Other (specify))	Occupation		
F. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General (Other (specify))	Occupation		
G. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General (Other (specify))	Occupation		
SUBTOTAL			\$2,700.00
TOTAL			\$2,700.00

947131-4192

SCHEDULE C
(Revised 3/80)

LOANS

Attachment 3

Page 1 of 1 for
LINE NUMBER 11
Also attach schedules
for each numbered line

Name (or Committee (in Full)) HEALTH USA--Physicians and Dentists for a Healthier America			
A Full Name, Mailing Address and ZIP Code of Loan Source Bernard E. Filner, M.D. 9706 Hillridge Dr. Kensington, MD 20795		Original Amount of Loan \$3,000.00	Balance Outstanding at Close of This Period \$3,000.00
Election: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):		Cumulative Payments To Date 0	
Terms: Date Incurred 3/22/84 Date Due NONE Interest Rate NONE (Specify)		Is Secured	
List All Endorsers or Guarantors (if any) to Item A			
1 Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding \$	
2 Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding \$	
3 Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding \$	
B Full Name, Mailing Address and ZIP Code of Loan Source		Original Amount of Loan	Balance Outstanding at Close of This Period
Election: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		Cumulative Payments To Date	
Terms: Date Incurred Date Due Interest Rate (Specify)		Is Secured	
List All Endorsers or Guarantors (if any) to Item B			
1 Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding \$	
2 Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding \$	
3 Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding \$	

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SCHEDULE C
(Revised 3/89)

LOANS

Attachment 4
Page 1 of 1
LINE NUMBER
(Use separate schedules for each numbered line)

Name of Commission (in Full) HEALTH USA: Physicians + Artists for a Healthier America			
A. Full Name, Mailing Address and ZIP Code of Loan Source F. INCER, BERNARD E. + JUDITH A 9706 HILDRIFE DR KENSINGTON MD 20895		Original Amount of Loan 15,000.00	Balance Outstanding at Close of This Period 15,000.00 PK
Election: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):		Comprehensive Payments To Date 0	
Terms: Date Incurred 10-84 Date Due — Interest Rate 12 % (per)		<input type="checkbox"/> Secured	
List All Endorsers or Guarantors (if any) to Item A			
1. Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding \$	
2. Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding \$	
3. Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding \$	
B. Full Name, Mailing Address and ZIP Code of Loan Source F. INCER, BERNARD E. (Same as Above)		Original Amount of Loan 3,000.00	Balance Outstanding at Close of This Period 3,000.00
Election: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		Comprehensive Payments To Date 0	
Terms: Date Incurred 3-22-84 Date Due — Interest Rate — % (per)		<input type="checkbox"/> Secured	
List All Endorsers or Guarantors (if any) to Item B			
1. Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding \$	
2. Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding \$	
3. Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding \$	
SUBTOTALS This Period This Page (optional)			
TOTALS This Period (last page in this line only)			
Carry outstanding balance only to LINE 3, Schedule D, for this line. If no Schedule D, carry forward to appropriate line of Summary			

31370405294174



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20543

RG-2

Bernard E. Filner, M.D.
Health USA - Physicians for a
Healthier America Political
Action Committee
7940 Norfolk Avenue
Bethesda, MD 20814

MAR 27 1985

Identification Number: C00165613

Reference: 30 Day Post-General Report (10/1/84-11/26/84)

Dear Dr. Filner:

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

-Schedule C of your report (pertinent portion(s) attached) discloses a contribution(s) which appears to exceed the limits set forth in the Act. The Act precludes a committee from receiving contributions from another political committee or a person in excess of \$5,000 per calendar year. (2 U.S.C. §441a(f)) If you have received a contribution that exceeds the limits, the Commission recommends that you refund to the donor, or transfer-out to a non-Federal account, the amount in excess of \$5,000. Please inform the Commission immediately in writing and provide a photocopy of your check for the refund or transfer-out. In addition, the disbursement of the amount in excess should be disclosed on a supporting Schedule B for Line 26 or 27 of your next report.

If the contribution(s) in question was incorrectly reported and/or you have additional information, you may wish to submit documentation for the public record.

Although the Commission may take further legal steps concerning the acceptance of an excessive contribution(s), your prompt refund or transfer-out of the excessive amount will be taken into consideration.

-Please clarify all expenditures made for printing, direct mail, newspaper, graphic design, and postage. If a portion or all of these expenditures were made on behalf of specifically identified Federal candidates, they should be disclosed on Schedule B or E for Line 21 or 22 and include the amount, name, address and office sought by each candidate. 11 CFR 104.3(b) and 106.1.

9857034303240175

PK

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

-The 1983 Year End Report disclosed a \$2,000 loan from Dr. Bernard Filner. This report, however, does not include a Schedule C to disclose the status of the loan, nor are there any loan repayments on Schedule B. Please provide a Schedule C to show the status of the loan and/or a Schedule B to show loan repayments. Loans must be continuously reported until they are repaid. 11 CFR 104.3(d).

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

Sincerely,



Paul Kolesa
Reports Analyst
Reports Analysis Division

87040524176
9503391002

Attachment 6
FEC

Health USA

7940 Norfolk Avenue
Bethesda, Maryland 20814 (301) 656-7900

85 APR 11 11:41

Identification Number: C00165613

Bernard E. Filner, M.D.
Treasurer

Chairman of Directors
Bernard E. Filner, M.D.
Dr. Jack Cohen, M.D.
Dr. H. H. H. H. H. H.
John E. H. H. H. H. H.
John E. H. H. H. H. H.
John E. H. H. H. H. H.
John E. H. H. H. H. H.

April 9, 1985

Paul Kolesa
Federal Election Commission
Washington, D.C. 20463

Dear Mr. Kolesa:

I hope that this letter will clarify those questions that you asked in your letter of March 27, 1985. This letter will cover those questions asked about our 30 Day Post-General Report (10/1/84-11/26/84). I am responding with these questions in a letter as you suggested during our phone conversation.

Due to a misunderstanding on our part of FEC regulations, HEALTH USA inadvertently accepted a loan in the amount of \$15,000 from Dr. and Mrs. Filner. The amount in excess plus interest has been promptly repaid. Please refer to the attached Schedule B and Schedule C. These can be attached to the Post General Report. This information will be reported again in our next scheduled report if appropriate. PK

All expenditures made for printing, direct mail, newspaper, graphic design, and postage were made in connection with a direct mail fundraising effort on behalf of the PAC and not on behalf of any specific candidate. Any additional postage costs have been in connection with general correspondence that the PAC sends on its own behalf.

The \$2,000 loan disclosed on the 1983 Year End Report from Dr. Bernard Filner should have been changed to a contribution. I am enclosing a Schedule A to clarify that question.

Should you have any further questions, please feel free to call me.

Sincerely,

Ruth R. Pitlick
Ruth R. Pitlick
Research Director

030703347010477

SCHEDULE B

ITEMIZED DISBURSEMENTS

Attachment 7
 Line Number 99
 (Use separate schedule for each category of the Detailed Summary Page)

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

Name of Committee (in Full)

HEALTH USA -- Physicians & Dentists for a Healthier America

A. Full Name, Mailing Address and ZIP Code Bernard E. Filner, M.D. 9706 Hillridge Road Kensington, MD 20895	Purpose of Disbursement repayment of 10/10/84 loan Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Date (month, day, year) 4/9/85	Amount of Each Disbursement This Period \$10,000.00
B. Full Name, Mailing Address and ZIP Code Bernard E. Filner, M.D. 9706 Hillridge Rd. Kensington, MD 20895	Purpose of Disbursement interest on 10/10/84 loan Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Date (month, day, year) 4/9/95	Amount of Each Disbursement This Period \$600.00
C. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Date (month, day, year)	Amount of Each Disbursement This Period
D. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Date (month, day, year)	Amount of Each Disbursement This Period
E. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Date (month, day, year)	Amount of Each Disbursement This Period
F. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Date (month, day, year)	Amount of Each Disbursement This Period
G. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Date (month, day, year)	Amount of Each Disbursement This Period
H. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Date (month, day, year)	Amount of Each Disbursement This Period
I. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Date (month, day, year)	Amount of Each Disbursement This Period
SUBTOTAL of Disbursements This Page (optional)			
TOTAL This Period (last page this line number only)			10,600.00

9 3 0 3 3 7 0 1 0 6 9

SCHEDULE C
 (Revised 2/88)

LOANS

 Page 2 of 2 for
 LINE NUMBER 35
 Also complete schedule
 for each numbered line

Name of Lender (Do Not)			
HEALTH USA -- Physicians & Dentists for a Healthier America			
A. Full Name, Mailing Address and ZIP Code of Loan Source		Original Amount of Loan	Balance Outstanding at Close of This Period
Judith Filner 9706 Hillridge Road Kensington, MD 20895		\$5,000.00	\$5,000.00
Election: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):			
Terms: Date Incurred <u>10/10/84</u> Date Due <u>10/10/85</u> Interest Rate <u>12</u> (Mort) <input type="checkbox"/> Secured			
List All Endorsers or Guarantors (if any) to Item A			
1. Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding \$	
2. Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding \$	
3. Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding \$	
B. Full Name, Mailing Address and ZIP Code of Loan Source		Original Amount of Loan	Balance Outstanding at Close of This Period
Election: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):			
Terms: Date Incurred _____ Date Due _____ Interest Rate _____ (Mort) <input type="checkbox"/> Secured			
List All Endorsers or Guarantors (if any) to Item B			
1. Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding \$	
2. Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding \$	
3. Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding \$	
SUBTOTALS This Period This Page (optional)			
TOTALS This Period (last page in this line only)			15,000.00
Carry outstanding balance only to LINE 3, Schedule D, for this line. If no Schedule D, carry forward to appropriate line of Summary.			

 87040524179
 83033701071

ANALYST: Kolesa

CONVERSATION WITH: Ruth Pitlick

COMMITTEE: Health USA-Physicians for a Healthier America Political
Action Committee

DATE: April 18, 1985

SUBJECT(S): Contribution of December 31, 1984

I phoned Miss Pitlick to inquire about a contribution made on the Committee's 1984 Year End Report. I asked whether this reflected changing a \$3,000 loan received from Dr. Bernard Filner on the 1984 April Quarterly Report. Miss Pitlick stated that was the case because the Committee wanted to ensure Dr. Filner would not exceed the \$5,000 per year contribution limit. Miss Pitlick also stated that now she understood how loans and contributions aggregate toward the same contribution limit.

87040524190

MEMORANDUM TO THE FILE

ATTACHMENT 10

MEETING WITH: Ruth Pitlick, Health USA-Physicians for a Healthier America
Political Action Committee

PRESENT: Paul Kolesa, Lisa Stolaruk

DATE: April 24, 1985

REGARDING: Health USA Reports

Miss Pitlick visited to clarify discrepancies in the Committee's filings. A loan of \$3,000 incurred on March 22, 1984 was changed to a contribution, and Miss Pitlick amended the 1984 April Quarterly Report with the wrong amount disclosed on a Schedule A. The Year End Report also must be amended because Miss Pitlick showed this loan coming into the Committee again (in the form of a contribution); inflating her cash. In addition, since a loan was repaid her Debts and Obligations Owed should properly reflect \$5,000. Miss Pitlick stated that she would not be in the office this week but would get a response to the Commission on the following Monday (April 29, 1985).

[Miss Pitlick was also concerned about an excessive loan the Committee received from Dr. Bernard Filner. She stated that the Committee did not realize that a loan counted toward the same contribution limit as a direct contribution. The loan has been repaid.] PK

87040624191

Health USA

Physicians and Dentists for a Healthier America

THE FEC
ATTACHMENT 11
1 of 3

7940 Norfolk Avenue
Bethesda, Maryland 20814, (301) 656-7900

95 APR 30 All: 51

Bernard E. Filner, M.D.
Treasurer

Board of Directors
Bernard E. Filner, M.D.
H. Jack Gelger, M.D.
Neal D. Kaufman, M.D.
Joan Baker Miller, M.D.
Victor W. Sidel, M.D.
James A. Snyder, D.D.S.
John E. Threlfall, M.D.

April 28, 1985

Paul Kolesa
Federal Election Commission
Washington, D.C. 20463

Dear Mr. Kolesa:

I have enclosed two amended reports with the hope of clarifying any further questions on the part of the Federal Election Commission.

The April 15 Quarterly Report is amended to reflect the receipt of a \$5,000 contribution from Dr. Bernard Filner. As we have discussed, this contribution was originally recorded as a \$2,000 contribution and a \$3,000 loan for the year of 1984. The \$3,000 loan has been changed to a contribution, thus arriving at the total of a \$5,000 for the year of 1984.

The second amended report is the January 31 Year End Report. This report was amended to reflect the change in Schedule C. The \$15,000 loan for the year 1984 has been divided into three \$5,000 loans. As previously discussed in my letter of April 9, this loan was repaid with interest (on April 9, 1985) as soon as the discrepancy was pointed out to Health USA. This will account for an April 9, 1985 date being found with the names of Rose Mostow and Elmer Mostow listed on Schedule C.

PK

Should you have any further questions, please feel free to call me.

Sincerely,

Ruth R. Pitlick

Ruth R. Pitlick
Research Director

87040524182

SCHEDULE C
(Revised 3/80)

LOANS

ATTACHMENT 11
2 of 2
Page 1 of 2 for
LINE NUMBER 23
(Use separate schedules
for each numbered line)

Name of Committee (in Full) HEALTH USA -- Physicians & Dentists for a Healthier America			
A. Full Name, Mailing Address and ZIP Code of Loan Source Rose Mostow 3402 Woolsey Drive Chevy Chase, MD 20815 Election: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Original Amount of Loan \$5,000.00	Cumulative Payment To Date 0	Balance Outstanding at Close of This Period \$5,000.00
Terms: Date Incurred <u>4/9/85</u> Date Due <u>4/9/86</u> Interest Rate <u>10</u> % (apr) <input type="checkbox"/> Secured			
List All Endorsers or Guarantors (if any) to Item A			
1. Full Name, Mailing Address and ZIP Code	Name of Employer		
	Occupation		
	Amount Guaranteed Outstanding: \$		
2. Full Name, Mailing Address and ZIP Code	Name of Employer		
	Occupation		
	Amount Guaranteed Outstanding: \$		
3. Full Name, Mailing Address and ZIP Code	Name of Employer		
	Occupation		
	Amount Guaranteed Outstanding: \$		
B. Full Name, Mailing Address and ZIP Code of Loan Source Elmer Mostow 3402 Woolsey Drive Chevy Chase, MD 20815 Election: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):			
Original Amount of Loan \$5,000.00		Cumulative Payment To Date 0	Balance Outstanding at Close of This Period \$5,000.00
Terms: Date Incurred <u>4/9/85</u> Date Due <u>4/9/86</u> Interest Rate <u>10</u> % (apr) <input type="checkbox"/> Secured			
List All Endorsers or Guarantors (if any) to Item B			
1. Full Name, Mailing Address and ZIP Code	Name of Employer		
	Occupation		
	Amount Guaranteed Outstanding: \$		
2. Full Name, Mailing Address and ZIP Code	Name of Employer		
	Occupation		
	Amount Guaranteed Outstanding: \$		
3. Full Name, Mailing Address and ZIP Code	Name of Employer		
	Occupation		
	Amount Guaranteed Outstanding: \$		
SUBTOTALS This Period This Page (optional)			
TOTALS This Period (last page in this line only)			
Carry outstanding balance only to LINE 3, Schedule D, for this line. If no Schedule D, carry forward to appropriate line of Summary.			

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Name of Committee (in Full) HEALTH USA -- Physicians & Dentists for a Healthier America			
A. Full Name, Mailing Address and ZIP Code of Loan Source Judith Filner 9706 Hillridge Road Kensington, MD 20895	Original Amount of Loan \$5,000.00	Cumulative Payment To Date 0	Balance Outstanding at Close of This Period \$5,000.00
Election: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify): _____			
Terms: Date Incurred <u>10/10/84</u> Date Due <u>10/10/85</u> Interest Rate <u>12</u> % (apr) <input type="checkbox"/> Secured			
List All Endorsers or Guarantors (if any) to Item A			
1. Full Name, Mailing Address and ZIP Code	Name of Employer Occupation Amount Guaranteed Outstanding: \$		
2. Full Name, Mailing Address and ZIP Code	Name of Employer Occupation Amount Guaranteed Outstanding: \$		
3. Full Name, Mailing Address and ZIP Code	Name of Employer Occupation Amount Guaranteed Outstanding: \$		
B. Full Name, Mailing Address and ZIP Code of Loan Source			
Election: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify): _____			
Terms: Date Incurred _____ Date Due _____ Interest Rate _____ % (apr) <input type="checkbox"/> Secured			
List All Endorsers or Guarantors (if any) to Item B			
1. Full Name, Mailing Address and ZIP Code	Name of Employer Occupation Amount Guaranteed Outstanding: \$		
2. Full Name, Mailing Address and ZIP Code	Name of Employer Occupation Amount Guaranteed Outstanding: \$		
3. Full Name, Mailing Address and ZIP Code	Name of Employer Occupation Amount Guaranteed Outstanding: \$		
SUBTOTALS This Period This Page (optional)			
TOTALS This Period (last page in this line only)			
			15,000.00
Carry outstanding balance only to LINE 3, Schedule D, for this line. If no Schedule D, carry forward to appropriate line of Summary.			

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FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF FUR # 2080

Date Filmed 1/29/82 Camera No. --- 2

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