



FEDERAL ELECTION COMMISSION  
WASHINGTON, D C 20463

THIS IS THE BEGINNING OF MUR # 2418

DATE FILMED 2/17/88 CAMERA NO. 3

CAMERAMAN GR

33040572529

PUBLIC RECORD INDEX - MUR 241

1. Complaint, dtd 19 May 87, filed by Nettie Crosley.
2. ltr, dtd 29 May 87, George F. Rishel (Acting Associate General Counsel) to N. Crosley.
3. ltr, dtd 29 May 87, G.F. Rishel to Robert Barnett (Treas, Committee to Elect Gary L. Ackerman, Inc.).
4. Statement of Designation of Counsel, 11 June 87. (Nicholas G. Garaul is named as counsel for R. Barnett - Cmte to Elect Gary Ackerman).
5. ltr, dtd 17 June 87, N.G. Garaufis to FEC.
6. Ltr, dtd 25 June 87, N.G. Garanfis to FEC w/encl.
7. First General Counsel's Report, 26 Aug 87.
8. Memo, 10 Sept 87, M.W. Emmons to L.M. Noble, Subj: Objections to First G.C. Report, dtd 26 Aug 87.
9. Certification of Commission Action, 16 Sept. 87
10. Ltr, dtd 22 Sept 87, Scott E. Thomas (Chairman, FEC) to N.G. Garaufis.
11. Ltr, dtd 2 Oct. 87, N.G. Garaufis to FEC.
12. Ltr, dtd 7 Oct 87, Lois G. Lerner (Assoc. General Counsel) to N.G. Garaufis.
13. Ltr, dtd 30 Oct. 87, N.G. Garaufis to FEC, w/atch (Affidavit of R. Barnett) (Memo in Opposition).
14. General Counsel's Report, 21 Dec 87.
15. Memo, dtd 6 Jan 88, M.W. Emmons to L.M. Noble, Subj: Objections to G.C. Report.
16. Certification of Commission action, 12 Jan 88.
17. Clsg ltrs (2), 13 Jan 88, L.M. Noble to a) N.G. Garaugis, b) N. Crosley.

-END-

NOTE: In preparing its file for the public record, O.G.C. routinely removes those documents in which it perceives little or no public interest, and those documents, or portions thereof, which are exempt from disclosure under the Freedom of Information Act.

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RECEIVED AT THE FEC.  
GCC#3428  
87 MAY 21 AM: 58

May 19, 1987

37 MAY 21 P 2: 15

RECEIVED  
GENERAL COUNSEL

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

Dear Commissioners:

It is my understanding that a Member of Congress, Rep. Gary L. Ackerman, 7th C. D., New York, and the Committee to Elect Gary L. Ackerman, Inc., have failed to file copies of Receipts and Disbursements for an Authorized Committee with the New York State Board of Elections, Albany, New York.

This filing is required under the Federal Election Commission's Regulations, 11 CFR 108.3.

There are no reports filed by Congressman Ackerman or the Committee to Elect Gary L. Ackerman, Inc., for the following periods:

July 1, 1984 to November 26, 1984

July 1, 1985 to December 31, 1985

April 1, 1986 to the present

This failure to file appears to be a violation of federal law. There may be other missing reports.

Please advise me of the results of your investigation.

Very truly yours,

*Nettie Crosley*

Nettie Crosley  
10 Top of the Ridge Road  
Mamaroneck, New York 10543

Sworn to before me  
this 19th day of May, 1987

*Ellen A. Rice*  
NOTARY PUBLIC

ELLEN A. RICE  
Notary Public, State of New York  
No. 450212  
Qualified in Westchester County  
Commission Expires August 31, 1988

93740372531



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

May 29, 1987

Ms. Nettie Crosley  
10 Top of the Ridge Road  
Mamaroneck, NY 10543

RE: MUR 2418

Dear Ms. Crosley:

This letter acknowledges receipt of your complaint, received on May 21, 1987, alleging possible violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by the Committee To Elect Gary L. Ackerman, Inc. and Robert Barnett, as treasurer. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 2418. Please refer to this number in all future correspondence. For your information, we have attached a brief description of the Commission's procedures for handling complaints. If you have any questions, please contact Retha Dixon, Docket Chief, at (202) 376-3110.

Sincerely,

Lawrence M. Noble  
Acting General Counsel

  
George F. Riebel  
Acting Associate General Counsel

Enclosures  
Procedures



**FEDERAL ELECTION COMMISSION**  
WASHINGTON, D.C. 20463

May 29, 1987

Robert Barnett, Treasurer  
Committee To Elect Gary L. Ackerman, Inc.  
PO Box 95  
Fresh Meadows, NY 11365

RE: MUR 2418  
Committee To Elect Gary L.  
Ackerman, Inc.  
Robert Barnett, Treasurer

Dear Mr. Barnett:

The Federal Election Commission received a complaint which alleges that the Committee To Elect Gary L. Ackerman, Inc. and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2418. Please refer to this number in all future correspondence.

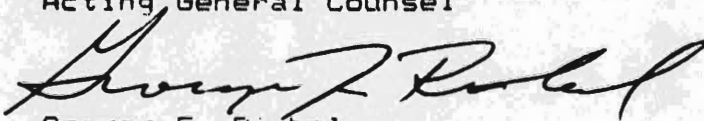
Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you and the Committee To Elect Gary L. Ackerman, Inc. in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where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

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

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

Sincerely,

Lawrence M. Noble  
Acting General Counsel



By: George F. Rishel  
Acting Associate General Counsel

Enclosures

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

cc: The Honorable Gary L. Ackerman

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**STATEMENT OF DESIGNATION OF COUNSEL**

RECEIVED AT THE FEC

CCC#3406

37 JUN 15 AM 10:48

MUR 2418

NAME OF COUNSEL: Nicholas G. Garaufis

ADDRESS: 216-18 Corbett Road

Bayside, NY 11361

TELEPHONE: (718) 229-2424

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

6/11/67  
Date

Robert Barnett Treasurer  
Signature

RESPONDENT'S NAME: Robert Barnett

ADDRESS: 43 Hennessy Drive

Huntington, NY 11743

HOME PHONE: (516) 549-1178

BUSINESS PHONE: same

37 JUN 15 PM 3:19

RECEIVED AT THE FEC  
COC#3637  
27 JUN 18 10:47

**NICHOLAS G. GARAUFIS**

ATTORNEY AT LAW  
216-18 CORBETT ROAD  
BAYSIDE, NEW YORK 11361  
(718) 229-2424

FEDERAL EXPRESS

June 17, 1987

Lawrence M. Noble, Esq.  
Acting General Counsel  
Federal Election Commission  
Washington, D.C. 20463

Attention: George F. Rishel, Esq.

Re: Committee to Elect Gary L.  
Ackerman, Inc.  
MUR 2418

Dear Mr. Noble:

This is with respect to your letter dated May 29, 1987 respecting a complaint which you received from Nettie Crosley with regard to the Committee to Elect Gary L. Ackerman, Inc.

I am the attorney for Robert Barnett, Treasurer of the Committee to Elect Gary L. Ackerman, Inc. I have discussed the substance of the above referenced complaint with Mr. Barnett and have reviewed the filing requirements set forth in 2 U.S.C. Sec. 439(a)(1) and 439(a)(2), as well as 11 C.F.R. Sec. 108.1.

Mr. Barnett has advised me that he has filed all reports with the New York State Board of Elections in compliance with the above referenced statutes and regulations. In the event that the New York State Board of Elections is unable to locate any FEC reports for the Committee to Elect Gary L. Ackerman, Inc., he will be happy to forward duplicate copies of all such filings.

It is Mr. Barnett's practice to provide copies of the FEC filings for this committee to the State Board of Elections at the time of the FEC filing.

Should you require any further information, please do not hesitate to contact me.

Very truly yours,

*Nicholas G. Garaufis*  
Nicholas G. Garaufis

cc: Robert Barnett

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**HAND DELIVERED**  
87 JUN 29 AIO: 00

**NICHOLAS G. GARAUFIS**

ATTORNEY AT LAW  
216-18 CORBETT ROAD  
BAYSIDE, NEW YORK 11361

FEDERAL EXPRESS

(718) 229-2424

June 25, 1987

Lawrence M. Noble, Esq.  
Acting General Counsel  
Federal Election Commission  
Washington, D.C. 20463

Attention: George F. Rishel, Esq.

Re: Committee to Elect Gary L.  
Ackerman -- MUR 2418

Dear Mr. Noble:

Pursuant to my telephone discussion of yesterday with your Mr. Wise, I have compiled a list of FEC report mailing dates for those periods covered by the complaint by Nettie Crosley with respect to submissions to the New York State Board of Elections.

According to Robert Barnett, Treasurer of the Committee to Elect Gary L. Ackerman, Inc. ("Committee"), all reports for the periods in question were mailed to the New York State Board of Elections by ordinary mail on the dates set forth on the enclosed "Addendum" to this letter. I have asked Mr. Barnett to submit duplicate copies of all the listed reports to the New York State Board of Elections by certified mail, return receipt requested, and he advises me that he will do so forthwith. All future submissions to the State Board will be made in a like manner to provide proof of mailing.

Mr. Barnett informs me that it has always been his policy to comply with any requests for documents from both the FEC and the State Board of Elections. If any notice has been received by him due to an oversight, it has been addressed and resolved promptly. He knows of no outstanding request for reports by the New York State Board of Elections.

I regret that the specific information as to dates of mailing was not provided in my letter of June 17, 1987. However, your initial request did not specifically request such details.

Should you desire further information, do not hesitate to contact me.

Very truly yours,

*Nicholas G. Garaufis*  
Nicholas G. Garaufis

NGG/do  
Enclosure (1)  
cc: Robert Barnett

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RECEIVED  
GENERAL  
FEDERAL ELECTION COMMISSION

ADDENDUM

COMMITTEE TO ELECT GARY L. ACKERMAN, INC.  
FILINGS WITH NEW YORK  
STATE BOARD OF ELECTIONS

<u>Reporting Period</u>	<u>Date of Mailing</u>
7/1/84 to 9/30/84	10/14/84
10/1/84 to 10/17/84	10/25/84
10/18/84 to 11/26/84	12/6/84
7/1/85 to 12/31/85	1/31/86
4/1/86 to 6/30/86	7/14/86
7/1/86 to 8/20/86	9/7/86
8/21/86 to 9/30/86	10/14/86
10/1/86 to 10/15/86	10/20/86
10/16/86 to 11/24/86	12/1/86
11/25/86 to 12/31/86	1/30/87

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

**FIRST GENERAL COUNSEL'S REPORT**

MUR # 2418  
DATE COMPLAINT RECEIVED  
BY OGC May 21, 1987  
DATE OF NOTIFICATION TO  
RESPONDENT(S) May 29, 1987  
STAFF MEMBER: Phillip L. Wise

COMPLAINANT: Ms. Nattie Crosley  
10 Top of the Ridge Road  
Mamaroneck, NY 10543

RESPONDENTS: The Committee to Elect Gary L. Ackerman,  
Inc., and Robert Barnett as Treasurer

RELEVANT STATUTES: 2 U.S.C. § 439(a) (1)  
2 U.S.C. § 439(a) (2)  
11 C.F.R. § 108.1  
11 C.F.R. § 108.3

INTERNAL REPORTS  
CHECKED: None

FEDERAL AGENCIES  
CHECKED: None

**I. GENERATION OF MATTER**

Nattie Crosley of 10 Top of the Ridge Road, Mamaroneck, New York alleges that Congressman Gary L. Ackerman, 7th Congressional District, New York, and the Committee to Elect Gary L. Ackerman, Inc., ("Committee") failed to file Receipts and Disbursements Reports with the New York State Board of Elections, for July 1, 1984 to November 26, 1984, July 1, 1985 to December 31, 1985, and April 1, 1986 to present.<sup>1/</sup> Attachment 1.

<sup>1/</sup> The Committee has filed all required reports in a timely manner with the Commission.

## II. FACTUAL AND LEGAL ANALYSIS

The attorney representing both the Committee and Robert Barnett, its treasurer, states that he was advised by Mr. Barnett that all reports were filed with the New York State Board of Elections in compliance with 2 U.S.C. §439(a)(1) and 2 U.S.C. § 439(a)(2), as well as 11 C.F.R. § 108.1. Attachment 2. Respondents also compiled a list of alleged mailing dates of reports to the New York State Board of Elections. Attachments 2(a) & 2(b).

In a telephone conversation with a staff member from this Office, on June 23, 1987, the New York State Board of Elections stated that the Committee has only filed three Receipts and Disbursements Reports with the State of New York from 1984 to the present.<sup>2/</sup> These reports were the 1984 July Quarterly (filed August 7, 1984), 1985 July Quarterly (filed November 18, 1985), and 1986 April Quarterly (filed July 3, 1986).

Pursuant to 2 U.S.C. § 439(a)(1), a copy of each report and statement required to be filed by any person under this Act shall be filed by such person with the Secretary of State (or equivalent State officer) of the appropriate State, or if different, the Officer of such State who is charged by State law with maintaining State election campaign reports.

<sup>2/</sup> By letter dated July 10, 1987 addressed to the New York State Board of Elections, Robert Barnett acknowledged the fact that several reports were not on file with the State of New York; he filed some of the missing reports at the same time, however the 1984 April Quarterly, and 1984 Year End, must also be filed. Attachment 2(c).

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The Act at 2 U.S.C. §§ 434(a)(2)(A) and (B) requires the treasurer of the principal campaign committee of a candidate for the House of Representatives, in any calendar year with a regularly scheduled election to file a pre-election report, a post-general election report, and quarterly reports. In any other calendar year the treasurer shall file a report covering the period beginning January 1 and ending June 30, which shall be filed no later than July 31; and a report covering the period beginning July 1 and ending December 31, which shall be filed no later than January 31 of the following calendar year.

Therefore, the failure of the Committee to file with the State of New York its 1984 April Quarterly, October Quarterly, Pre-General Election Report, Post-General Election Report and Year End Report; its 1985 Year End Report; and its 1986 July Quarterly, October Quarterly, Pre-General Election Report, Post-General Election Report, and Year End Report in a timely manner as required by 2 U.S.C. §§ 434(a)(2)(A) and (B), is a violation of 2 U.S.C. § 439 (a)(1).

### III. RECOMMENDATIONS

1. Find reason to believe that the Committee to Elect Gary L. Ackerman, Inc., and Robert Barnett, as treasurer, violated 2 U.S.C. § 439(a)(1).

2. Approve the attached letter.

8/26/87  
Date

Lawrence M. Noble (LMS)  
Lawrence M. Noble  
Acting General Counsel

Attachments

1. Complaint
2. Response to Complaint
3. Proposed Letter

93040672542



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20461

MEMORANDUM TO: LAWRENCE M. NOBLE  
ACTING GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JERYL L. WARREN *JW*

DATE: SEPTEMBER 10, 1987

SUBJECT: OBJECTION TO MUR 2418 - FIRST GENERAL COUNSEL'S  
REPORT  
SIGNED AUGUST 26, 1987

The above-captioned document was circulated to the  
Commission on Thursday, August 27, 1987 at 4:00.

Objections have been received from the Commissioners  
as indicated by the name(s) checked:

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

This matter will be placed on the Executive Session  
agenda for Tuesday, September 15, 1987.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
The Committee to Elect Gary L.) MUR 2418  
Ackerman, Inc., and Robert )  
Barnett, as Treasurer )

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of September 15, 1987, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 2418:

1. Find reason to believe that the Committee to Elect Gary L. Ackerman, Inc. and Robert Barnett, as treasurer, violated 2 U.S.C. § 439(a)(1).
2. Approve the letter attached to the General Counsel's report dated August 26, 1987.

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

Attest:

9-16-87

Date

Marjorie W. Emmons

Marjorie W. Emmons  
Secretary of the Commission





FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 22, 1987

Nicholas G. Garaufis, Esquire  
216-18 Corbett Road  
Bayside, New York 11361

RE: MUR 2418  
The Committee to Elect  
Gary L. Ackerman, Inc.,  
and Robert Barnett,  
as treasurer

Dear Mr. Garaufis:

On May 29, 1987, the Federal Election Commission notified your client, The Committee to Elect Gary L. Ackerman, Inc., and Robert Barnett, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your client at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on September 15, 1987, found that there is reason to believe the Committee and Robert Barnett, as treasurer, violated 2 U.S.C. § 439(a)(1), a provision of the Act. Specifically, it appears that the Committee to Elect Gary L. Ackerman, Inc., and Robert Barnett, as treasurer, failed to file several Receipts and Disbursements Reports required by 2 U.S.C. § 434(a)(2)(A) and (B) in a timely manner with the New York State Board of Elections in violation of 2 U.S.C. § 439(a)(1). These reports were the 1984 April Quarterly Report, the 1984 October Quarterly Report, the 1984 Pre-General Election Report, the 1984 Post-General Election Report and the 1984 Year End Report; the 1985 Year End Report; and the 1986 July Quarterly Report, the 1986 October Quarterly Report, the 1986 Pre-General Election Report, the 1986 Post-General Election Report, and the 1986 Year End Report.

Under the Act you have an opportunity to demonstrate that no action should be taken against the Committee and Robert Barnett, as treasurer. You may submit any factual or legal materials that

Letter to Nicholas G. Garaufis  
Page 2

you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against the Committee and Robert Barnett, 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 the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

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

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

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

Sincerely,



Scott E. Thomas  
Chairman

**NICHOLAS G. GARAUFIS**

ATTORNEY AT LAW  
216-18 CORBETT ROAD  
BAYSIDE, NEW YORK 11361

(718) 229-2424

GCC#4492  
RECEIVED  
FEDERAL ELECTION COMMISSION  
MAIL ROOM  
87 OCT -5 AM 9:16

October 2, 1987

Hon. Scott E. Thomas  
Chairman  
Federal Election Commission  
Washington, D.C. 20463

Attention: Phillip L. Wise, Esq.

Re: MUR 2418  
The Committee to Elect  
Gary L. Ackerman, Inc.

RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE OF GENERAL COUNSEL  
87 OCT -5 AM 10:37

Dear Mr. Thomas:

Your letter dated September 22, 1987, received by me on September 25, 1987, is under careful review by Robert Barnett, Treasurer of the above-referenced committee.

However, in order to garner the facts relative to the alleged violations of the Federal Election Campaign Act of 1971, as amended, and to conduct the necessary legal research to provide you with a proper response, an extension of time is hereby requested for the filing of such submission to and including October 30, 1987.

Thank you for considering this request.

Very truly yours,

*Nicholas G. Garaufis*  
Nicholas G. Garaufis

cc: Robert Barnett

FEDERAL EXPRESS

33040672547

//



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

7 October 1987

Nicholas G. Garaufis, Esquire  
216-18 Corbett Road  
Bayside, New York 11361

RE: MUR 2418  
The Committee to Elect  
Gary L. Ackerman, Inc.,  
and Robert Barnett, as  
treasurer

Dear Mr. Garaufis:

This is in response to your letter dated October 2, 1987, which we received on October 5, 1987, requesting an extension of 20 days until October 30, 1987, to respond to the reason to believe notification. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by close of business on October 30, 1987.

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

Sincerely,

Lawrence M. Noble  
Acting General Counsel

BY: Lois G. Lerner  
Associate General Counsel

88340672548

87 OCT 30 PM 4:52

**NICHOLAS G. GARAUFIS**

ATTORNEY AT LAW  
216-18 CORBETT ROAD  
BAYSIDE, NEW YORK 11361

(718) 229-2424

**HAND DELIVERED**

BY HAND

October 30, 1987

Lawrence M. Noble, Esquire  
Acting General Counsel  
Federal Election Commission  
Washington, D.C. 20463

Attention: Phillip L. Wise, Esquire

Re: MUR No. 2418  
The Committee to Elect  
Gary L. Ackerman, Inc.  
and Robert Barnett

Dear Mr. Wise:

Enclosed herewith in response to the above-referenced complaint is the Affidavit of Robert Barnett and a Memorandum in Opposition to the Complaint.

Thank you for your consideration of these materials.

Respectfully submitted, .

*Nicholas G. Garaufis*  
Nicholas G. Garaufis

Enclosures (2)

RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE OF GENERAL COUNSEL  
87 NOV -2 AM 10:50

UNITED STATES OF AMERICA  
FEDERAL ELECTION COMMISSION

-----x  
Nettie Crosley,  
10 Top of the Ridge Road  
Mamaroneck, New York 10543

Complainant,

v.

MUR No. 2418

The Committee to Elect Gary L. Ackerman,  
Inc. and Robert Barnett, as treasurer,

Respondents.  
-----x

Memorandum in Opposition to Complaint

This memorandum is submitted on behalf of The Committee to Elect Gary L. Ackerman, Inc. (the "Committee") and Robert Barnett, as Treasurer of the Committee, in response to the complaint filed by Nettie Crosley.

The complaint filed makes one charge, to wit, that the Committee did not properly file copies of its reports with the New York State Board of Elections.

Argument

As the affidavit of Robert Barnett (the "Barnett affidavit") indicates, copies of the Committee reports have been properly filed with the New York State Board of Elections. Moreover, upon the receipt of the complaint herein, duplicate copies of the filings identified in the complaint were again filed with the New York State Board of Elections.

98040672551

Respondents acknowledge their continuing obligation to file copies of their Federal Election Commission reports with the New York State Board of Elections pursuant to the provisions of 2 U.S.C. §439(a)(1). However, the Barnett affidavit and Exhibit "A" attached thereto indicate that the New York State Board of Elections has a system of recordkeeping and document access for the public which does not appear to afford careful logging of documents received or protection against pilferage or misplacement of documents in the custody of the agency.

Cases Alleging §439(a) Violations

The Commission has consistently decided to take no action in cases of alleged failure by a committee to make filings with a state election board, even where it found reason to believe a violation of the statute had occurred.

In General Aviation PAC, et al. (MUR No. 1403), the Commission found reason to believe that a violation of the statute had occurred in the State of Florida's failure to receive copies of filings by the Fund for a Conservative Majority, but it took no further action and closed the file.

The Barnett affidavit indicates that duplicate copies of all the reports alleged by the complainant not to have been filed have now been filed with the New York State Board of Elections. The Commission concluded in the matter of the Senator Moynihan Re-Election Campaign, Inc, et al. (MUR No. 1489) that although respondent Special Committee on Political Action (SCOPA) may have violated Section 439(a), it would take no further action. In reaching that result, the General Counsel noted that "SCOPA is currently filing the required reports."



83040672552

The Commission also found reason to believe that a violation of Section 439(a) had occurred in Howard for Congress, et al. (MUR No. 1488) in which two local unions had failed to file copies of their reports with the State of New Jersey. Without explanation, the Commission reached that conclusion and took no action. Where a respondent claimed to have mailed a report to a state which filing was not received in full and a second copy was subsequently submitted, the Commission found no reason to believe a violation had occurred. Concerned Citizens for Representative Government (MUR No. 1169). See also Dempsey for Congress (MUR No. 1291) and Norfolk Southern Corp. (MUR No. 1907) wherein the Commission took no further action upon finding of similar violations of filing requirements as those alleged herein.

#### Conclusion

For the above reasons, it is respectfully requested that the Federal Election Commission should take no further action with respect to MUR No. 2418.

Dated: Bayside, New York  
October 29, 1987

Respectfully submitted,  
  
Nicholas G. Garaufis  
Counsel for Respondents  
The Committee to Elect  
Gary L. Ackerman, Inc.  
and Robert Barnett  
216-18 Corbett Road  
Bayside, New York 11361  
Telephone 718 229-2424



UNITED STATES OF AMERICA  
FEDERAL ELECTION COMMISSION

-----x  
Nettie Crosley,  
10 Top of the Ridge Road  
Mamaroneck, New York 10543

Complainant,

v.

MUR No. 2418

The Committee to Elect Gary L. Ackerman,  
Inc. and Robert Barnett, as treasurer,

AFFIDAVIT

Respondents.  
-----x

ROBERT BARNETT, being duly sworn, deposes and says:

1. I am the Treasurer of The Committee to Elect Gary L. Ackerman, Inc. (the "Committee"), and I submit this affidavit in connection with MUR No. 2418.

2. I have reviewed the allegations contained in the Federal Election Commission's (the "Commission") letter dated September 22, 1987 (the "Commission's letter") and the complaint of Nettie Crosley dated May 19, 1987 (the "Crosley complaint").

3. With respect to our filing with the New York State Board of Elections of Receipts and Disbursement reports for the eleven (11) periods set forth in the Commission's letter, I am informed and believe that we have duly filed all reports with the New York State Board of Elections.

4. It has been the practice of the Committee to forward such Receipts and Disbursement reports at the time of filing with the Commission.

2 3 0 4 0 6 7 2 5 5 4

5. Apparently, in the past the Commission has monitored the Committee's compliance with State filing requirements. Indeed, for one filing period identified in the Commission's letter, to wit, 1985 Year End Report, I received a letter from the Commission indicating that the New York State Board of Elections had not received our filing and I then forwarded a duplicate copy of that report to the New York State Board of Elections. The Commission's letter dated April 30, 1986 is attached hereto as Exhibit "A".

6. I do not recall receiving a similar notice for any other filing period identified in the Crosley complaint or the Commission's letter. As a Certified Public Accountant and an attorney licensed to practice law in the Commonwealth of Virginia I am mindful of filing requirements of many types and this situation is unique in my experience and extremely distressing to me.

7. Subsequent to the receipt of the Crosley complaint, and notwithstanding that we previously filed all the reports as required, the Committee contacted Donald McCarthy, enforcement counsel to the New York State Board of Elections, to determine which, if any, reports were not in its possession. On July 10, 1987 after Mr. McCarthy provided the Committee's representative with that list, I forwarded by certified mail return receipt requested to the New York State Board of Elections duplicate copies of all reports which I had been advised were so identified by Mr. McCarthy. A copy of the cover letter which accompanied those reports is appended hereto as Exhibit "B".

3 3 0 4 0 6 7 2 5 5 5

8. In reviewing the Commission's "reason to believe" letter, dated September 22, 1987, addressed to Nicholas G. Garaufis, our counsel, I have noted that two of the reports which the Commission identified as not having been filed were apparently not so identified by Mr. McCarthy in July. They are the 1984 April Quarterly Report and the 1984 Year End Report. Furthermore, Mr. McCarthy's list apparently contained one report which the Commission has not listed in the "reason to believe" letter, to wit, the 1986 April Quarterly Report.

9. I respectfully advise the Commission that our investigation of the recordkeeping practices of the New York State Board of Elections has ascertained that the Board of Elections maintains a record of the Committee's report filings by making hand entries on 3x5 index cards. This index card was photostated in the Albany office of the New York State Board of Elections by our representative and is attached hereto as Exhibit "C". Please note existence of strike overs, crossing out of an entry, incomplete entries and illegible entries as evidence of poor recordkeeping by the New York State Board of Elections.

10. I understand that the original reports which we tendered to the New York State Board of Elections are themselves kept in a file folder and given out to any person who requests to see them.

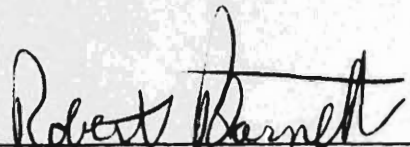
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11. Apparently, inadequate security measures are taken to safeguard these records against possible pilferage by persons reviewing the documents.

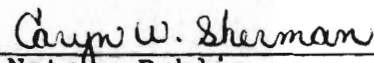
12. Moreover, a representative of our Committee obtained the list of persons who have requested to see the Committee's reports in at the Albany office of the New York State Board of Elections since January 1, 1986, and the list provided to me is attached hereto as Exhibit "D". Please note that one person, "Thomas Worth", gave a different address and telephone number on each of five visits to see our Committee's filings. On his four visits, "Errol Stephens" apparently could also not remember his address. I understand that when calls were placed to "Thomas Worth" at each of the telephone numbers provided by him, our representatives were told that no person by that name could be found at that number. Hence, it is apparent that little effort is taken to check the identities of persons requesting these records.

13. Please be assured that in the future, the Committee will obtain proof-of-mailing receipts and certified mail return receipts for all filings with the New York State Board of Elections to avoid an repetition of the type of complaint made by Nettie Crosley.

14. Finally, as further evidence of our adherence to the various applicable filing requirements, please be advised that to the best of my knowledge and recollection, all Receipts and Expenditures reports required to be filed by the Committee have been timely filed with the Clerk of the House of Representatives.

  
Robert Barnett

Sworn to before me this 30th Day  
of October 1987

  
Notary Public

CARYN W. SHERMAN  
NOTARY PUBLIC, State of New York  
No. 31-4836801  
Qualified in New York County  
Commission Expires ~~March 30, 1988~~  
August 31, 1988 cws

98040672558

Exhibit A



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

April 30, 1986

Dear Treasurer:

The Federal Election Campaign Act at 2 U.S.C. Section 439 requires that copies of all reports and statements filed with the Federal Government also be filed with the appropriate state election officials. The attached listing of titles and addresses identifies the point of receipt for all 50 states.

A cross-check with our state counterparts indicates that you may not have filed your Year-End Report with your state, or other state(s) where you have contributed to a Federal candidate. If such is the case, you should send them a copy within ten days of the receipt of this letter.

If you need additional information, please contact me on our toll-free line (800) 424-9530. In the Washington, D.C. area call (202) 376-3146.

Sincerely,

*Richard C. Thomas*

Richard C. Thomas  
Deputy Assistant Staff Director  
for Disclosure

CERTIFIED  
RETURN RECEIPT REQUESTED

R 3 0 4 0 6 7 2 5 6 0

Exhibit B



**ackerman**  
Democrat for Congress

## Ackerman for Congress

P.O. Box 95  
Fresh Meadows, New York 11365

July 10, 1987

Mr. Donald McCarthy, Jr.  
N.Y. State Board of Elections  
P.O. Box 4  
One Commerce Plaza  
Albany, NY 12260

Dear Mr. McCarthy:

Pursuant to our conversations with your office, we have been advised that several of our filings are not in your files.

As we informed you, it is our policy to mail a copy of each FEC filing to the State at the time of mailing to the FEC.

We enclose duplicate filings for the following periods:

11/25/86 thru 12/31/86	1/1/86 thru 3/31/86
10/16/86 thru 11/24/86	7/1/85 thru 12/31/85
10/1/86 thru 10/15/86	10/18/84 thru 11/26/84
8/21/86 thru 9/30/86	10/1/84 thru 10/17/84
7/1/86 thru 8/20/86	7/1/84 thru 9/30/84
4/1/86 thru 6/30/86	

I would appreciate your acknowledging receipt of these filings and confirming that the file is complete. Please feel free to contact me if you need any additional information.

Cordially,

Robert Barnett  
Treasurer

RB:tth  
Enclosures  
cc: Federal Election Commission

13

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Exhibit C

(Side 2)

700 1424

Gary L. Ackerman

Comm. to Elect Gary L. Ackerman, Jr.  
Robert Bennett, Treasurer

Candidate

Personal Financial Statement 5/15

" " " 5/15

7/15 Report on 9/1/84

Financial dis. Personal on 5/20/85

Financial dis. Personal on 5/23/85

Committee

7/31 made up on 5/7/84

11/31 year end on 5/7/84

July 15<sup>th</sup> quarterly report

41.51% regularly (11/86-5/87)

51.3% on 7/1/87

12 day pre-emptive committee on 7/1/87

12 day pre-emptive committee on 7/1/87

(Side 2)

88040572564

<u>Parish State</u>	<u>Committee</u>
Fin. div. personnel on 3/3/86	7/1/84 to 9/30/84 - 7/14/87
Letter to General Fund on 5/2/86	1/31/87 on 7/17/87
Financial div. on 5/2/86	30 day post general on 7/17/87
amendment for material report on 7/14/87	12 day pre general committee on 7/17/87
	12 day pre general on 7/17/87
	10/15/86 on 7/17/87
	12 day pre primary on 7/17/87
	7/15/86 on 7/17/87
	4/15/86 on 7/17/87
	1/31/86 amendment on 7/17/87
	1/31/86 on 7/17/87
	30 day post general on 7/17/87
	7/1/87 on 7/17/87

88740672565

Exhibit D

PERSONS REQUESTING COPIES OF FILINGS FOR COMMITTEE TO ELECT  
GARY L. ACKERMAN SINCE 1-1-86:

4-1-86 Thomas Worth  
220 E. 20 St.  
N.Y., N.Y. 10010 212-460-9997

11-14-86 E. Thomas Worth  
65 E. 21 Street  
N.Y., N.Y. 10010 212-460-6521

1-14-87 Thomas Worth  
210 E. 20 Street  
N.Y., N.Y. 212-460-0210

1-21-87 Thomas Worth  
228 E. 20 Street  
N.Y., N.Y. 10010 212-460-0228

4-16-87 Thomas Worth  
26 E. 22 St.  
N.Y., N.Y. 10010 212-460-6521

2-4-86 Errol Stephens  
Committee for a  
Better NY  
125 Park Ave. So.

5-6-86 Errol Stephens  
Committee for a  
Better NY  
15 Park Ave. South

8-5-86 Errol Stephens  
Committee for a  
Better NY

4-10-87 Errol Steven  
Committee for a  
Better NY  
Broadway

4-16-87 Toby Ann Stavisky  
162-21 Powells Cove Blvd. 718 767-0234

8-21-87 Toby Ann Stavisky  
162-21 Powells Cove Blvd. 767-0234

10-9-87 Toby Stavisky  
162-21 Powells Cove Blvd. 718-767-0234

87 DEC 21 PM 3:47

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of

The Committee to Elect Gary L. Ackerman,  
Inc., and Robert Barnett, as treasurer

) **JAN 12 1988**  
)  
) **MUR 2418**  
)

**GENERAL COUNSEL'S REPORT**

**I. BACKGROUND**

Nattie Crosley of 10 Top of the Ridge Road, Mamaroneck, New York alleged that Congressman Gary L. Ackerman, 7th Congressional District, New York, and the Committee to Elect Gary L. Ackerman, Inc., ("Respondents") failed to file receipts and disbursements reports with the New York State Board of Elections, for July 1, 1984 to November 26, 1984, July 1, 1985 to December 31, 1985, and April 1, 1986 to present.

On May 29, 1987 the Federal Election Commission ("the Commission") notified Respondents that a complaint had been filed alleging violations of certain sections of the act.

The attorney representing both the Committee and Robert Barnett, its treasurer, stated that he was advised by Mr. Barnett that all reports were filed with the New York State Board of Elections in compliance with 2 U.S.C. §439(a)(1) and 2 U.S.C. § 439(a)(2), as well as 11 C.F.R. § 108.1. Respondents also compiled a list of alleged mailing dates of reports to the New York State Board of Elections.

In a telephone conversation with a staff member from this Office on June 23, 1987, the New York State Board of Elections stated that the Committee has only filed three Receipts and Disbursements Reports with the State of New York from 1984 to the date of our inquiry.

2 3 0 4 0 6 7 2 5 6 7

On September 15, 1987, the Commission found that there is reason to believe the Committee, and Robert Barnett, as treasurer, violated 2 U.S.C. § 439(a)(1). On September 22, 1987 the reason to believe notification was mailed to the Respondents. By letter dated October 2, 1987 Respondents requested an extension of time to respond (Attachment 1). This extension of time was granted (Attachment 2). The Commission received Respondents' response on October 30, 1987 (Attachment 3).

## II. ANALYSIS

Pursuant to 2 U.S.C. § 439(a)(1), a copy of each report and statement required to be filed by any person under this Act shall be filed by such person with the Secretary of State (or equivalent State officer) of the appropriate State, or if different, the Officer of such State who is charged by State law with maintaining State election campaign reports.

The Act at 2 U.S.C. § 434(a)(2)(A) and (B) requires the treasurer of the principal campaign committee of a candidate for the House of Representatives, in any calendar year with a regularly scheduled election to file a pre-election report, a post-general election report, and quarterly reports. In any other calendar year the treasurer shall file a report covering the period beginning January 1 and ending June 30, which shall be filed no later than July 31; and a report covering the period beginning July 1 and ending December 31, which shall be filed no later than January 31 of the following calendar year.



Therefore, the failure of the Committee to file with the State of New York its 1984 April Quarterly, October Quarterly, Pre-General Election Report, Post-General Election Report and Year End Report; its 1985 Year End Report; and its 1986 July Quarterly, October Quarterly, Pre-General Election Report, Post-General Election Report, and Year End Report in a timely manner as required by 2 U.S.C. § 434(a)(2)(A) and (B), is a violation of 2 U.S.C. § 439 (a)(1).

Counsel's response and accompanying affidavit of Robert Barnett request that the Commission follow the action it has taken in past MURs, with similar facts, and decide to take no further action. To support this request Respondents contend that the New York State Board of Elections method of documenting filings on 3/5 index cards is ineffective; that keeping filed reports in folders and allowing anyone access to such folders is inadequate security to safeguard these records against possible pilferage by persons reviewing the documents; and that all the alleged late reports have now been filed with the New York State Board of Elections.


In view of the above, and of the Commission's determination in such a MUR as 1403, 2/ this Office recommends that the

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1/ In Mur 1403 the Commission found reason to believe when the State of Florida did not receive copies of reports from the Fund for a Conservative Majority; however, no further action was taken because a duplicate copy was later mailed.

### III. RECOMMENDATIONS

- Date 12/21/87

  
Lawrence M. Noble  
General Counsel

1. Request for extension of time
2. Letter granting extension of time
3. Response/information obtained
4. Letter to respondents
5. Letter to complainant

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Attachments to General  
Counsel's Report

have been removed from this position in the Public Record File either because they duplicate documents located elsewhere in this file, or because they reflect exempt information.

For Attachment	<u>1</u>	see	<u>11</u>
	<u>2</u>		<u>12</u>
	<u>3</u>		<u>13</u>
	<u>4</u>		<u>17a</u>
	<u>5</u>		<u>17b</u>

33040672571

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20461

MEMORANDUM TO: LAWRENCE M. NOBLE  
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS / JOSHUA MCFADDEN *JM*

DATE: JANUARY 6, 1988

SUBJECT: OBJECTION TO MUR 2418 - General Counsel's Report  
Signed December 21, 1987

The above-captioned document was circulated to the  
Commission on Tuesday, December 22, 1987 at 11:00 A.M.

Objections have been received from the Commissioners  
as indicated by the name(s) checked:

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

This matter will be placed on the Executive Session  
agenda for January 12, 1988.

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

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )

The Committee to Elect Gary L. Ackerman,  
Inc., and Robert Barnett, as treasurer )

MUR 2418

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the  
Federal Election Commission executive session of January 12,  
1988, do hereby certify that the Commission decided by a  
vote of 6-0 to take the following actions in MUR 2418:

1. Take no further action against the Committee  
to Elect Gary L. Ackerman, Inc., and Robert  
Barnett, as treasurer.
2. Close the file.
3. Approve the letters attached to the General  
Counsel's report dated December 21, 1987.

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

Attest:

Jan. 12, 1988

Date

Marjorie W. Emmons

Marjorie W. Emmons  
Secretary of the Commission



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

January 13, 1988

Nicholas G. Garaufis, Esquire  
216-18 Corbett Road  
Bayside, New York 11361

RE: MUR 2418  
The Committee to Elect  
Gary L. Ackerman, Inc.,  
and Robert Barnett,  
as treasurer

Dear Mr. Garaufis:

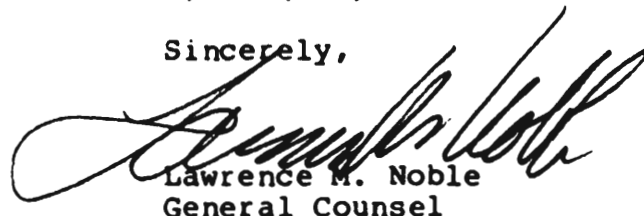
On September 22, 1987, you were notified that the Federal Election Commission found reason to believe that The Committee to Elect Gary L. Ackerman, Inc., and Robert Barnett, as treasurer, violated 2 U.S.C. § 439(a)(1). On October 30, 1987, you submitted a response to the Commission's reason to believe finding in this matter.

After considering the circumstances of the matter, the Commission determined on January 12, 1988, to take no further action and closed its file. The file will be made part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days of your receipt of this letter. Such materials should be sent to the Office of the General Counsel.

The Commission reminds you that failure to file receipts and disbursements reports in a timely manner with the New York State Board of Elections appears to be a violation of 2 U.S.C. § 439(a)(1). Your clients should take immediate steps to insure that this activity does not occur in the future.

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

Sincerely,

  
Lawrence M. Noble  
General Counsel

17a

08740572574



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

January 13, 1988

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Ms. Nettie Crosley  
10 Top of the Ridge Road  
Mamaroneck, New York 10543

RE: MUR 2418

Dear Ms. Crosley:

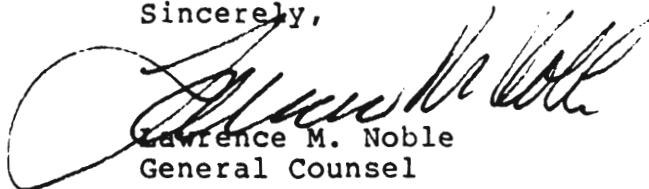
This is in reference to the complaint you filed with the Federal Election Commission on May 21, 1987, concerning the Committee to Elect Gary L. Ackerman, Inc. and Robert Barnett, as treasurer.

Based on that complaint, on September 15, 1987, the Commission found that there was reason to believe the Committee to Elect Gary L. Ackerman, Inc. and Robert Barnett, as treasurer violated 2 U.S.C. § 439(a)(1), a provision of the Federal Election Campaign Act of 1971, as amended and instituted an investigation of this matter. However, after considering the circumstances of this matter, the Commission determined to take no further action and closed the file in this matter on January 12, 1988. This matter will become part of the public record within 30 days.

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

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

Sincerely,

  
Lawrence M. Noble  
General Counsel

Enclosure  
General Counsel's Report

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 2418

DATE FILMED 2/17/88 CAMERA NO. 3

CAMERAMAN GPC

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