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ROBERT F. BAUER
(202) 434-1602

December 5, 1997

Lawrence Noble, Esq.
Office of General Counsel
Federal Election Commission
6th Floor
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 4682

Dear Mr. Noble:

We are replying on behalf of the Gejdenson for Congress Committee to a complaint filed by the Chairman of the Connecticut Republican Party, alleging that the Committee may have violated the Act in the acceptance of certain contributions. The complaint bases its concerns on an article appearing in The Hartford Courant on August 5, 1997, which raised questions about contributions received by the Committee through the efforts of individuals in the Asian-American community.

To this day, the Committee has no knowledge that the contributions were illegal. Having nevertheless taken all actions possible and required to inquire about these contributions and then refund them, it requests that this matter, as it concerns the Committee, be dismissed.

The Committee cannot speak to all of the allegations in the The Hartford Courant. It can, however, address the facts as it knows them, which are that all of the contributions it received through the efforts of the individual in question appeared to be in good order.¹ They were apparently made through personal checking accounts within the limits of Federal law. The Treasurer reviewed them as required by Commission regulations. To the extent that additional information was required, such

¹ If true, the Connecticut Republicans' assertion in their complaint that the "true sources" sought to conceal their activities only further explains the Committee's inability to find anything demonstrably wrong with the contributions.

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as the occupation of the donors, he made his best efforts to obtain that information by written inquiry to the donors. Contacted by reporters for the Courant, a Commission spokesperson confirmed that the Committee had taken the steps necessary to meet its legal obligations.

This is not to say that there is no cause for concern about the way in which the contributions came to be made. The Courant article suggested that some of these contributors at best may have been unaware of the candidate whom they were supporting -- and at worst, may have lent their names to contributions funded by or through other persons. But these are factual questions the Committee is in no position to address.²

The Gejdenson Committee has acknowledged that the contributions were generated through the efforts of one of Mr. Gejdenson's long-time supporters, Mr. Andrew Huang, and of others known to Mr. Huang. The Committee knew that Mr. Huang would make contact with any number of people who might be willing to support Mr. Gejdenson's campaign. The Committee was pleased to have his help and was also pleased to accept apparently lawful contributions. The Committee was not involved in the raising of the contributions in question, which occurred in Texas.

In accepting those contributions the Committee complied meticulously with the requirements of the law. All of the contributions were checked for compliance with the limitations and then fully disclosed. Best efforts were made to obtain additional information. The Committee's reporting serves indeed as the very basis for the Courant story. The Committee did not have then and will not institute a policy of declining checks from Asian-American contributors not personally known to the candidate -- and certainly not because of their ethnic origin. The Committee will always, as it has in the past, attend to the requirements of the law in the review of all contributions from all contributors as required by Commission regulations.

² The Courant is not very explicit on this point. It organizes its story, and the complaint in turn is derivatively based, on two factual circumstances. One of them is that the contributions in question came from individuals residing outside the state of Connecticut and that they were all made toward the end of the campaign on roughly the same day. A second source of concern are the comments made by various contributors contacted by the Courant for an explanation.

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The Committee also understands that the regulations compel its attention to any public reports suggesting possible problems with contributions already received. The Courant story came promptly to the Committee's attention. Upon reviewing the story in its entirety and in particular noting that some contributors upon first contact appeared unaware that they had ever supported the Congressman, the Committee concluded that refunds were required.

It is emphasized that the Committee did not conclude that the contributions were illegal. It has no factual basis for doing so. It concluded simply that the appearances of the matter required a refund. One option considered by the Committee was to contact the various contributors and ask them to certify that the contributions reflected a knowing donation of their own funds. The Committee elected against this option, believing that such an inquiry would establish a bad precedent for its dealings with donors and could prove offensive to them. Instead the Committee faced a simple choice of retaining the funds, or returning them on the basis that the issues raised in public reports could not be acceptable either to the Committee or to the donors.

On September 15, 1997, the Committee refunded these contributions. It did so entirely on the basis of the Courant report and not because of any other information in its possession to raise questions about the contributions. A simple letter was forwarded to the contributors in explanation of the refund, copies of which are attached.

Even if the contributions in question prove to have been illegally made, that alone does not justify a finding of reason to believe that the Committee violated the Act. The Commission has acknowledged the problems faced by those committees which unknowingly receive illegal contributions. Its regulations separate innocent, unknowing recipients from those with reason to know of active involvement in illegal contributions. Moreover, the Commission has consistently refused to initiate enforcement actions against unknowing recipients without some evidence that the committee should have known of the illegal contribution, or that it failed to comply with the regulations.

Because the Committee had no reason to suspect that the contributions may have been illegal when they were received, and because the Committee strictly followed the requirements of the regulations as soon as questions about the contributions come to its attention, the Commission should take no further action against the Committee.

The Commission has acknowledged that "there are situations where contributions are accepted without any knowledge, or reason to know, of the unlawful nature of the contributions at the time of receipt." Advisory Opinion 1984-52. In these cases, enforcement action against the recipients is inappropriate and, from the agency's perspective, imprudent. It is a poor use of the Commission's resources to direct its prosecutorial power against an unknowing recipient, when those same resources could be directed toward those who may have acted recklessly or with illegal intent. Such situations also raise issues of fundamental fairness. A committee should not be forced to devote time and treasure to contest an enforcement action when the record has consistently demonstrated that it did nothing wrong.

The Commission has responded by promulgating regulations which effectively separate unknowing recipients of illegal contributions from these committees which treat the law cavalierly and invite enforcement action. 11 C.F.R. § 103.3(b) (1997). When a contribution is first received, the regulations require a treasurer to examine it for evidence of illegality. Id. If a campaign deposits a check that presents genuine questions as to whether it was made by a corporation, labor organization, foreign national or Federal contractor, the treasurer must make "best efforts" to determine the contribution's legality, including at least one written or oral request for evidence of its legality. § 103.3(b)(1). If a contribution raises no such questions at the time of its receipt, but is later revealed to have been illegal by new evidence unavailable to the treasurer at the time of the receipt, the treasurer must refund the contribution within thirty days of having discovered the illegality. § 103.3(b)(2). At least one court has relied on a committee's failure to observe these regulations in finding that its receipt of an illegal contribution satisfied the elements of a violation. See, e.g., F.E.C. v. John A. Dramesi for Congress Committee, 640 F. Supp. 985, 987 (D. N.J. 1986) (in finding violation of § 441a(f), court cites treasurer's failure to comply with § 103.3(b)'s "best efforts" requirement).

The Commission has consistently refused to find reason to believe that a political committee which unknowingly received illegal contributions has violated the Act, without at least some evidence that the committee should have known the contribution was illegal, or that the committee failed to comply with the regulations. An example is MUR 4090. In this matter, top officials of a corporation contrived to make an array of illegal contributions in the name of its foreign-national president. The Commission declined to find reason to believe that the recipient political

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committees had violated the Act, while finding reason to believe that several involved in making the contributions did commit a violation.

The Commission again declined to find reason to believe against an unknowing recipient in MUR 3110. A complaint charged that a Colorado home building company pressured its subcontractors into making illegal corporate contributions on its behalf, for which the subcontractors were later reimbursed. News reports revealed that the campaign of Colorado U.S. Senator Hank Brown received several of the contributions. The General Counsel recommended that in the absence of any knowledge or participation by the Brown campaign in the reimbursement scheme, the Commission should take no action against the Brown campaign. The Commission followed the General Counsel's recommendation and decided to take no action against the campaign, while finding reason to believe that the donors had violated the Act.

The Commission yet again declined to find reason to believe that a recipient violated the Act in MUR 2735. In this matter, the Dole for President Committee learned through an FBI investigation that it may have received illegal corporate contributions and contributions in the name of another from a New York auto company. The General Counsel, characterizing the Dole committee as "an unknowing recipient," recommended no action against it, while recommending that the Commission find reason to believe that the donor had acted illegally. Again, the Commission followed the General Counsel's recommendations and took no action regarding the Dole campaign.

In MUR 2582, it was Dole's Senate campaign which learned from a newspaper story that it received corporate contributions and contributions in the name of another. Even though a longtime Dole fundraiser had been a paid consultant for the corporation while it was reimbursing its executives for contributions made to the Dole campaign, the Commission, relying on the Dole committee's assertion that it had no knowledge of the scheme, declined to find reason to believe that the campaign had violated the Act.

In each of these matters, the Commission had before it an unknowing recipient of potentially illegal contributions. In declining to initiate enforcement against these committees, and choosing instead to direct its efforts at potential wrongdoers, the Commission made the most effective use of its prosecutorial resources, and took action only against those whose conduct merited it. This matter compels the same result.

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In this matter also, the Committee had no reason to think that the contributions received may have been illegally made. The Treasurer completely complied with 11 C.F.R. § 103.3(b). When the contributions became a source of public controversy, the Treasurer refunded the contributions promptly, even though he had not discovered the contributions to be illegal on the basis of reliable fact, and was thus not obliged to refund them under § 103.3(b)(2).

These are the exact same circumstances which have consistently led the Commission to forego a finding of reason to believe in the past. The Commission should follow its own example, and seek no further action against the Committee or its Treasurer in this matter.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Robert F. Bauer", with a long horizontal line extending to the left.

Robert F. Bauer

RFB:jic

Enclosures



Congressman Sam Gejdenson

September 15, 1997

Mr. Steve Hsu
P.O. Box 73346
Houston, TX 77273

Dear Mr. Hsu,

Enclosed please find a check in the amount of \$1,000 from the Gejdenson Re-Election Committee as a refund of your contribution dated October 16, 1996.

We have been unable to obtain adequate information to satisfy questions regarding the manner in which these funds were raised on behalf of the Committee. Because we have been unable to obtain this information we are returning your contribution.

The Gejdenson Re-Election Committee has no reason to believe that any of the contributions we are refunding today are improper in any way. Nonetheless, we are certain you will understand why we have chosen to refund your contribution.

Should you have any questions, please do not hesitate to contact our office at 860/886-0581.

Sincerely,

A handwritten signature in cursive script that reads "Pat LaGrega".

Pat LaGrega, Treasurer
Gejdenson Re-Election Committee

P.O. Box 1818, Bozrah, CT 06334 ★ 203/886-0581



Congressman Sam Gejdenson

September 15, 1997

Chia-Hui Lin
3593 Woodmere
Sugar Land, TX 77479

Dear Chia-Hui Lin,

Enclosed please find a check in the amount of \$1,000 from the Gejdenson Re-Election Committee as a refund of your contribution dated October 14, 1996.

We have been unable to obtain adequate information to satisfy questions regarding the manner in which these funds were raised on behalf of the Committee. Because we have been unable to obtain this information we are returning your contribution.

The Gejdenson Re-Election Committee has no reason to believe that any of the contributions we are refunding today are improper in any way. Nonetheless, we are certain you will understand why we have chosen to refund your contribution.

Should you have any questions, please do not hesitate to contact our office at 860/886-0581.

Sincerely,

A handwritten signature in cursive script that reads "Pat LaGrega".

Pat LaGrega, Treasurer
Gejdenson Re-Election Committee



Congressman Sam Gejdenson

September 15, 1997

Ms. Monica Pickus
1201 Tinnin Ford Road, #51
Austin, TX 78741

Dear Ms. Pickus,

Enclosed please find a check in the amount of \$1,000 from the Gejdenson Re-Election Committee as a refund of your contribution dated October 31, 1996.

We have been unable to obtain adequate information to satisfy questions regarding the manner in which these funds were raised on behalf of the Committee. Because we have been unable to obtain this information we are returning your contribution.

The Gejdenson Re-Election Committee has no reason to believe that any of the contributions we are refunding today are improper in any way. Nonetheless, we are certain you will understand why we have chosen to refund your contribution.

Should you have any questions, please do not hesitate to contact our office at 860/886-0581.

Sincerely,

A handwritten signature in cursive script that reads "Pat LaGrega".

Pat LaGrega, Treasurer
Gejdenson Re-Election Committee

P.O. Box 1818, Bozrah, CT 06334 ★ 203/886-0581



Congressman Sam Gejdenson

September 15, 1997

Ms. Katherine Lim
18351 Kuykendahl, #190
Spring, TX 77379

Dear Ms. Lim,

Enclosed please find a check in the amount of \$1,000 from the Gejdenson Re-Election Committee as a refund of your contribution dated October 16, 1996.

We have been unable to obtain adequate information to satisfy questions regarding the manner in which these funds were raised on behalf of the Committee. Because we have been unable to obtain this information we are returning your contribution.

The Gejdenson Re-Election Committee has no reason to believe that any of the contributions we are refunding today are improper in any way. Nonetheless, we are certain you will understand why we have chosen to refund your contribution.

Should you have any questions, please do not hesitate to contact our office at 860/886-0581.

Sincerely,

A handwritten signature in cursive script that reads "Pat LaGrega".

Pat LaGrega, Treasurer
Gejdenson Re-Election Committee



Congressman Sam Gejdenson

September 15, 1997

Shu Ying Hsu
17427 Sandy Cliffs
Houston, TX 77090

Dear Shu Ying Hsu,

Enclosed please find a check in the amount of \$1,000 from the Gejdenson Re-Election Committee as a refund of your contribution dated October 31, 1996.

We have been unable to obtain adequate information to satisfy questions regarding the manner in which these funds were raised on behalf of the Committee. Because we have been unable to obtain this information we are returning your contribution.

The Gejdenson Re-Election Committee has no reason to believe that any of the contributions we are refunding today are improper in any way. Nonetheless, we are certain you will understand why we have chosen to refund your contribution.

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Sincerely,

A handwritten signature in cursive script that reads "Pat LaGrega".

Pat LaGrega, Treasurer
Gejdenson Re-Election Committee



Congressman Sam Gejdenson

September 15, 1997

Mr. Charles Grimes
15919 I-10 East
Channelview, TX 77530

Dear Mr. Grimes,

Enclosed please find a check in the amount of \$1,000 from the Gejdenson Re-Election Committee as a refund of your contribution dated October 24, 1996.

We have been unable to obtain adequate information to satisfy questions regarding the manner in which these funds were raised on behalf of the Committee. Because we have been unable to obtain this information we are returning your contribution.

The Gejdenson Re-Election Committee has no reason to believe that any of the contributions we are refunding today are improper in any way. Nonetheless, we are certain you will understand why we have chosen to refund your contribution.

Should you have any questions, please do not hesitate to contact our office at 860/886-0581.

Sincerely,

Pat LaGrega, Treasurer
Gejdenson Re-Election Committee

P.O. Box 1818, Bozrah, CT 06334 ★ 203/886-0581



Congressman Sam Gejdenson

September 15, 1997

Mr. Shaw Yaw Chang
906 Lennette Ct
Bellaire, TX 77461

Dear Mr. Chang,

Enclosed please find a check in the amount of \$1,000 from the Gejdenson Re-Election Committee as a refund of your contribution dated October 24, 1996.

We have been unable to obtain adequate information to satisfy questions regarding the manner in which these funds were raised on behalf of the Committee. Because we have been unable to obtain this information we are returning your contribution.

The Gejdenson Re-Election Committee has no reason to believe that any of the contributions we are refunding today are improper in any way. Nonetheless, we are certain you will understand why we have chosen to refund your contribution.

Should you have any questions, please do not hesitate to contact our office at 860/886-0581.

Sincerely,

A handwritten signature in cursive script that reads "Pat LaGrega".

Pat LaGrega, Treasurer
Gejdenson Re-Election Committee

P.O. Box 1818, Bozrah, CT 06334 ★ 203/886-0581