



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 28, 1999

Michael Kovaka, Esq.
Dow, Lohnes & Albertson, P.L.L.C.
1200 New Hampshire Avenue, NW, Suite 800
Washington D.C., 20036-6802

RE: MUR 4748

Dear Mr. Kovaka:

On May 28, 1998, the Federal Election Commission notified your client, WPXI, Inc. 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 clients at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on April 13, 1999, found that there is reason to believe WPXI, Inc. violated 2 U.S.C. § 441b and 441f, provisions of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter.

In addition, please find attached the Interrogatories and Request for Production of Documents submitted by the Commission to WPXI. Please submit answers to this document, all relevant information and materials, and any other factual or legal materials that you believe are relevant to the Commission's consideration of this matter to the General Counsel's Office within 30 days of receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

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

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WPXI, Inc.
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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 April J. Sands, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Scott E. Thomas
Chairman

Enclosures

Interrogatories and Request for Production of Documents
Factual and Legal Analysis

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

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MUR 4748

**INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS**

TO: WPXI, Inc.
c/o Michael Kovaka, Esq.
Dow, Lohnes, & Albertson, P.L.L.C.
1200 New Hampshire Avenue N.W.
Washington, DC 20036

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission ("Commission") hereby requests that you submit answers in writing and under oath to the questions set forth below within 30 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

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QUESTIONS AND DOCUMENT REQUESTS

1. Concerning the contribution plan which involved contributions made by WPXI, Inc. in the name of Ms. Spagnol to members of Congress (hereinafter "the plan"):
 - (a) identify the name(s), title(s), position(s) of employment, and area(s) of responsibility of the person(s) who generated the idea of the plan, and state when it was generated;
 - (b) identify the name(s), title(s), position(s) of employment, and area(s) of responsibility of the person(s) who decided the dollar amount, the number of contributions to be made, to whom the contributions were to be made, and why the recipients of the contributions were chosen;
 - (c) list the total number of all contributions sent as part of the plan, the names of all recipients of contributions, the amount of each contribution sent as part of the plan, and describe why each person was chosen to receive a contribution;
 - (d) identify the name(s), title(s), position(s) of employment, and area(s) of responsibility of the person(s) who approved the plan, drafted the letters accompanying the contributions, and approved the letters accompanying the contributions;
 - (e) identify the name(s), title(s), position(s) of employment, and area(s) of responsibility of the person(s) who approved the use of corporate funds for the contributions;
 - (f) identify and describe any officers or directors of WPXI, Inc., or its parent corporation, who were involved in the plan, when they became involved in the plan, how they became involved in the plan, and state whether they participated in the authorization of the use of corporate funds for the plan;
 - (g) state the name(s), title(s), position(s) of employment, and area(s) of responsibility of all WPXI, Inc. employees who played a role in the plan not otherwise mentioned in this question, and the nature of their role;
 - (h) describe the content and nature of all communications with the persons who received contributions as part of the plan, and produce all documents received from the recipients or their representatives;
 - (i) describe what actions have been taken by WPXI to inform the contribution recipients of the true nature of the contributions; and

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(j) produce all documents that were generated as part of the plan.

2. Concerning the role of Carrie Moniot in plan:

- (a) list the title(s), position(s) of employment, and describe the area(s) of responsibility that Carrie Moniot has held at WPXI, Inc. since January 1998;
- (b) state whether Carrie Moniot is or has ever been an officer or director of WPXI, Inc.; and
- (c) describe the role of Carrie Moniot with respect to the plan.

3. Concerning the role of Pamela Spagnol in the plan:

- (a) list the title(s), position(s) of employment, and describe the area(s) of responsibility that Pamela Spagnol has held at WPXI, Inc. since January 1998;
- (b) state whether Pamela Spagnol is or has ever been an officer or director of WPXI, Inc.;
- (c) describe how Pamela Spagnol was reimbursed for the use of her personal funds for the contributions, and
- (d) describe the role of Pamela Spagnol with respect to the plan.

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: WPXI, Inc.

MUR: 4748

I. GENERATION OF MATTER

This MUR arises from a complaint filed by Judith L. Corley, counsel for Citizens for Ron Klink. The complainant alleges that WPXI-TV ("WPXI") and employees of WPXI violated the Federal Election Campaign Act ("the Act") by making an unlawful corporate contribution and by using corporate funds to make a contribution in the name of another.

II. FACTUAL AND LEGAL ANALYSIS

A. Law

The Federal Election Campaign Act ("the Act") prohibits corporations or any director or officer of a corporation from making a contribution or expenditure in connection with any election to a federal political office. 2 U.S.C. § 441b(a). A contribution or expenditure includes "any direct or indirect payment, distribution, loan advance, deposit, or gift of money or any services, or anything of value (except a loan of money by a bank in accordance with applicable laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party organization" 2 U.S.C. § 441b(b)(2).

The Act also prohibits a contributor from attempting to hide a contribution to a candidate or committee by making the contribution in the name of another person. 2 U.S.C. § 441f.

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B. Facts

MUR 4748 arose from a complaint received by the Federal Election Commission ("Commission") on May 19, 1998. Judith L. Corley, as counsel for Citizens for Ron Klink, alleges that television station WPXI of Pittsburgh, Pennsylvania, and Pam Spagnol violated two sections of the Federal Election Campaign Act. Specifically, the complaint alleges that WPXI made unlawful corporate contributions to Congressman Ron Klink and other members of Congress from western Pennsylvania, a violation of § 441b, and that Pam Spagnol made a contribution in the name of another, a violation of § 441f of the Act.

The heart of this MUR involves the production of a news story to see whether a member of Congress is more apt to respond to a constituent's policy query when a contribution is attached, than when one is not. According to the complaint, Mary Kiernan, an Administrative Assistant for Congressman Ron Klink, received a call on May 15, 1998 from Carrie Moniot, apparently a producer for WPXI.¹ Ms. Kiernan relates that Ms. Moniot requested an interview with the Congressman because she believed that the office had "cashed 'their' check." When Ms. Kiernan asked her to elaborate, Ms. Moniot explained that the station had asked two employees to each write a letter to all the members of Congress from western Pennsylvania.² She further explained that one employee was instructed to send a letter with a question about Social Security while the other employee was to send an identical letter but with a campaign contribution enclosed. According to Ms. Kiernan, Ms. Moniot mentioned that the station had

¹ See Barbara Vancheri, Dr. Quinn Flatlines at CBS; Fans Attempt Resuscitation, Pittsburgh Post Gazette, May 28, 1998, §G, at 4 (describing that Ms. Moniot won an award for producing "Regional Sales Tax: The Voter's Choice," on WPXI).

² WPXI has not identified the employee who sent the other letter or indicated whether that employee may have included a contribution to any of the other recipients.

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provided funds to make the political contributions. Ms. Moniot also explained that the station wanted to see if enclosing a political contribution would result in an expedited response from the members of Congress.

Another target of the WPXI news story was Congressman Phil English. Apparently, at some point a contribution from Ms. Spagnol was sent to his office. Later in June of 1998, after this complaint was filed, Ms. Spagnol sent a letter to the Congressman's office informing them that the letter and \$50 contribution were "sent as part of a news story that was being prepared for WPXI-TV."

In response to the Commission's May 28, 1998, letter requesting relevant factual or legal materials, counsel for WPXI "concluded that any violations that may have occurred were purely unintentional and that conciliation would be appropriate in this matter." Counsel for WPXI added that "WPXI has taken steps to correct any potential violations and will voluntarily provide the Commission with any relevant documents or testimony that may expedite the Commission's resolution of this matter."

C. Analysis

1. Corporate contributions given to several members of Congress.

WPXI, through Pamela Spagnol, appears to have made several corporate contributions to federal candidates, a violation of 2 U.S.C. § 441b. According to the complaint and the accompanying affidavit, Ms. Moniot mentioned to Rep. Klink's office that the station provided funds to Ms. Spagnol for the purpose of making contributions to selected members of Congress.³ The assertions made in the complaint appear to have been confirmed by the letter from Ms.

³ It should be noted that Ms. Moniot's role in the news story is not clear, and Ms. Moniot does not appear to have been authorizing the contributions as a corporate officer or director.

Spagnol, to the Office of Phil English, explaining that her contributions were made in connection with a news story.

2. Contributions given in the name of another.

WPXI, through Pamela Spagnol, may have made contributions in the name of another, a violation of 2 U.S.C. § 441f. This may have been accomplished by enlisting Ms. Spagnol to use corporate funds in order to make contributions to a number of Congresspersons. By disguising the origins of the contributions, WPXI may have misled an unknown number of Congresspersons and their political committees into believing that they were actually receiving legal contributions from an individual.

D. Conclusion

WPXI has not disputed the assertions made in the complaint. Moreover, WPXI has apparently taken steps to inform the relevant members of Congress of the actual nature of the contributions in Ms. Spagnol's name.

Therefore, there is reason to believe that WPXI violated 2 U.S.C. § 441b, and 2 U.S.C. § 441f.