



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

AUG 24 1999

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Bernard Strulovich
258 Keap Street
Brooklyn, NY 11211

RE: MUR 5057

Dear Mr. Strulovich:

On July 25, 2000, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. § 441f, a provision of the Federal Election Campaign Act of 1971, as amended (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. Please submit such materials to the General Counsel's Office within 15 days of your 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 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, 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 routinely be 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 ordinarily will not 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 such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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 investigation to be made public.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact, Joel J. Roessner or Angela Whitehead Quigley, the attorneys assigned to this matter, at (202) 694-1650.

Sincerely,



Darryl R. Wold
Chairman

Enclosures

Factual and Legal Analysis
Procedures
Designation of Counsel Form

202-694-1650

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

MUR

5057

RESPONDENT: Bernard Strulovich

I. GENERATION OF MATTER

Matter Under Review 5057 was generated from an audit of the activities of Dear for Congress, Inc. ("the Committee") during the 1998 election cycle, undertaken in accordance with section 438(b) of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. §§ 431-451 ("the Act").¹

II. FACTUAL AND LEGAL ANALYSIS

A contribution is a gift, subscription, loan, advance, deposit of money, or anything of value made by a person for the purpose of influencing any election for federal office. 2 U.S.C. § 431(8)(A); 11 C.F.R. § 100.7(a)(1). The Act prohibits any person from making a contribution in the name of another person. 2 U.S.C. § 441f. The Act also prohibits any person from knowingly permitting his or her name to be used to effect a contribution made by one person in the name of another person. *Id.*

The Commission's audit of the Committee revealed fifteen instances in which the Committee, during the 1998 election cycle, accepted from individual contributors two or more money orders bearing sequential serial numbers. It appears that, in several instances, money orders purporting to be from different individuals contained in a particular sequence were executed in the same handwriting, including the purported signature of the person drawing the money order.

¹ The Commission approved the Final Audit Report on January 13, 2000.

In the case of three contributors who each contributed \$1,000 via six consecutively numbered money orders, it appears that all three of the contributors were employed by the same employer. It further appears from public records filed with the Commission that another sequence of money orders also was contributed by employees of another employer.

The pattern of contributions made via sequential money orders suggests that the contributions may have been made by one person in the name of another. In its Response to the Interim Audit Report, the Committee disputes this conclusion, arguing that "there is nothing inherently inappropriate or suspect about contributions made through money order." With respect to the fact that it appears that money orders for contributions were issued *seriatim*, the Committee argues that "there is no prima facie evidence of contributions in the name of another. Rather, the evidence suggests only concerted political action." Finally, the Committee submits signed statements from several of the contributors in question which, according to the Committee, "attest[] to the fact that their contributions came from personal funds." *Id.*

The circumstances surrounding the Committee's receipt of contributions present sufficient grounds for finding reason to believe that the purported contributors knowingly allowed their names to be used to effect contributions made by one person in the name of another. The money orders are not only numbered sequentially, but in many instances also appear to have been signed by a single individual. In addition, in several instances it appears that the purported contributors associated with a particular sequence of money orders worked for the same employer.

Furthermore, the Commission is not persuaded that the signed statements submitted by some of the purported contributors of money orders adequately resolve the matter. In its letters soliciting a signed statement, the Committee informed the contributor:

The Noach Dear for Congress Committee is reviewing its 1998 receipts. Our records show that you made a personal contribution for [amount] in the form of a money order [serial number], dated [date]. If this information is correct, please sign the attached statement and return it to us in the enclosed stamped return envelope. If this information is incorrect, please note any changes.

The prepared statements tendered to the contributors state "[t]his confirms that I contributed [amount] from my personal funds to the Dear for Congress Committee on [date], money order [serial number]."²

Neither the letter nor the prepared statement appear calculated to probe the question whether the money order contributions were made by one person in the name of another. The letter on its face appears to be seeking confirmation of various data, in particular the amount, date and money order number associated with the contribution, and the recipient's attention is in no way drawn to the fact that the statement also confirms that the contribution was made from personal funds. Furthermore, to the extent that any person knowingly agreed to allow his or her name to be used for the purpose of making a contribution for another, that person might well be reluctant to confess this fact in response to the Committee's letter. Finally, the statements submitted by the Committee address only some of the money order contributions in question, suggesting the possibilities that the Committee did not address its inquiry to all of the persons whose money order contributions are in question and/or that persons receiving the Committee's letter declined to sign the prepared statement.

One of the money order contributions in question was a \$1,000.00 contribution from Bernard Strulovich. Accordingly, there is reason to believe that Bernard Strulovich violated 2 U.S.C. § 441f by knowingly permitting his name to be used to effect a contribution made by one person in the name of another person.

² Both the letter and the tendered statement set out the particulars of the amount, serial number and date.