



FEDERAL ELECTION COMMISSION

Washington, DC 20463

MEMORANDUM

TO: Office of the Commission Secretary

FROM: Office of General Counsel *KCS*

DATE: June 17, 1999

SUBJECT: MUR 4753-Memo to the Commission

The attached is submitted as an Agenda document for the Commission Meeting of _____

Open Session _____

Closed Session _____

CIRCULATIONS

SENSITIVE ☒
NON-SENSITIVE ☐

72 Hour TALLY VOTE ☒
24 Hour TALLY VOTE ☐
24 Hour NO OBJECTION ☐
INFORMATION ☐

DISTRIBUTION

COMPLIANCE ☒
Open/Closed Letters ☐
MUR ☐
DSP ☐
STATUS SHEETS ☐
Enforcement ☒
Litigation ☐
PFESP ☐
RATING SHEETS ☐
AUDIT MATTERS ☐
LITIGATION ☐
ADVISORY OPINIONS ☐
REGULATIONS ☐
OTHER ☐

FEDERAL ELECTION COMMISSION

999 E Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

MUR: 4753

DATE COMPLAINT FILED: June 3, 1998

DATE OF NOTIFICATION: June 10, 1998

DATE ACTIVATED: March 26, 1999

STAFF MEMBER: Kamau Philbert
Deborah L. Rice

COMPLAINANT: Paul M. Elvig

RESPONDENTS: Margarethe Cammermeyer, Ph.D.
Cammermeyer 2 Congress and
Paul Fournier, as treasurer

RELEVANT STATUTES: 2 U.S.C. § 431(11)
2 U.S.C. § 431(13)
2 U.S.C. § 432(i)
2 U.S.C. § 434
11 C.F.R. § 104.7

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

MUR 4753 arose from a complaint received by the Federal Election Commission ("Commission") on June 3, 1998. In the complaint, Paul M. Elvig alleged that Dr. Margarethe ("Grethe") Cammermeyer,¹ Cammermeyer 2 Congress and Paul Fournier, as treasurer ("the Committee"), violated provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"), by failing to disclose certain contributor identification information on the

¹ Dr. Cammermeyer was a Democratic congressional candidate in the Second District of Washington. She lost the general election with 45% of the vote.

Committee's 1998 April Quarterly Report. Respondents were notified of the complaint on June 10, 1998 and responded on June 25, 1998.

II. FACTUAL AND LEGAL ANALYSIS

A. LAW

The Act requires that the treasurer of a political committee file periodic reports of receipts and disbursements. 2 U.S.C. § 434(a)(1). Each report must disclose the identification of each person making aggregate contributions to the reporting committee in excess of \$200 in the calendar year. 2 U.S.C. § 434 (b)(3)(A). The term "person" includes individuals. 2 U.S.C. § 431(11). In the case of an individual, "identification" is defined as the name, mailing address, and the occupation of such individual, as well as the name of his or her employer. 2 U.S.C. § 431(13)(A).

The Act also provides that when the treasurer of a political committee shows that "best efforts" have been used to obtain, maintain, and submit the information required by the Act, any report or any records of such committee shall be considered in compliance with the Act. 2 U.S.C. § 432(i). The Commission's regulations further provide that the treasurer and committee will only be deemed to have exercised best efforts if all written solicitations for contributions include a clear request for the requisite contributor information and an accurate statement of Federal law regarding the collection and reporting of the information. 11 C.F.R. § 104.7(b)(1). The request and statement shall appear in a clear and conspicuous manner on any response material included in the solicitation. *Id.* The request and statement are not clear and conspicuous if they are in small type in comparison to the solicitation, or if the printing is difficult to read or if the placement is easily overlooked. *Id.*

The regulations also provide that for each contribution received which aggregates in excess of \$200 per calendar year and lacks the required contributor identification information, a committee demonstrates "best efforts" by:

- (1) making at least one follow-up, stand-alone request for the missing information within 30 days of receipt of the contribution;
- (2) clearly asking for the missing information, without also soliciting a contribution;²
- (3) reporting all contributor information in possession of the committee; and
- (4) reporting previously missing information in amendments to the reports.³

11 C.F.R. § 104.7(b)(2)-(4).

B. COMPLAINT

The complaint alleges that Dr. Cammermeyer and the Committee violated the Act by failing to disclose the requisite contributor information for over sixty-three percent (63%) of contributions received from individuals on the Committee's 1998 April Quarterly Report. The complaint states that over the first three months of 1998, Dr. Cammermeyer and the Committee raised \$258,338.51 in campaign contributions and reported 377 contributions from individuals, almost all of which exceeded \$200. However, contributor information was provided for only 37% of the contributions on the Committee's 1998 April Quarterly Report. According to the complaint, employer information was provided for 139 contributions but was omitted for 238

² If the request is written, it shall be accompanied by a pre-addressed return post card or envelope for the response material. The written or oral request shall not include any material on any other subject or additional solicitation, except that it may include language solely thanking the contributor for the contribution.

³ The amendments must be submitted either with: (1) the Committee's next regularly scheduled report as an amended memo Schedule A; or (2) as an amendment to the report originally disclosing the contribution, on or before its next regularly scheduled reporting date. 11 C.F.R. § 104.7(b)(4)

contributions (58%), and the occupation information was provided for 141 contributions but was omitted for 236 contributions (60%).⁴

C. RESPONSE

On June 19, 1998, Monica Moe, the campaign manager for Dr. Cammermeyer, responded to a May 19, 1998 Request for Additional Information ("RFAI") from the Commission's Reports Analysis Division ("RAD") regarding the omission of contributor information in the 1998 April Quarterly Report. In her response to the RFAI, Ms. Moe described the Committee's method of soliciting contributions and stated that in mid-May, the Committee had contacted each individual who contributed in excess of the \$200 aggregate, via phone, fax or letter to collect the outstanding information. She included a sample solicitation letter and a follow-up letter in the response.⁵ Ms. Moe further stated that as a result of the mid-May follow-up, the Committee collected the outstanding information from about two-thirds of the contributors and that the information obtained would be included in the Committee's amended report.

In addition, Ms. Moe advised that the Committee had hired an independent contractor to handle the amendments to the 1998 April Quarterly Report and other FEC filings. She added

⁴ Staff review of the 1998 April Quarterly Report reveals that contributor information was even omitted for the Committee's treasurer.

⁵ The sample solicitation and follow-up letters were dated June 15 and 19, 1999, respectively. Both letters prominently included the following language:

Federal law requires the reporting of name, address, occupation and employer of all person whose contributions aggregate over \$200 in a calendar year.

In addition to thank you language, the follow-up letter also included the following language:

Each individual whose contribution exceeds \$200 to my campaign is required by law to disclose name, complete address, occupation and employer for the Federal Election Commission reports. Please include this information on your remit or in a separate letter if needed.

that the Committee had improved its reporting procedures to avoid the instant problem from recurring. Finally, she asserted that the Committee had demonstrated the requisite "best efforts" under the statute.

On June 25, 1998, Ms. Moe also formally responded to the complaint at issue by requesting that no action be taken against Ms. Cammermeyer for two reasons. First, she noted that the FEC disclosure for Year End 1997 and First Quarter 1998, have been forwarded to an experienced FEC Accountant who would be submitting amended disclosure reports before June 30, 1998. Second, she asserted that the Committee had exercised "best efforts" to obtain occupation and employer information. She also stated that legal counsel was retained to address all matters in question.

D. ANALYSIS

Available information shows that the Committee reported 371 contributions from individuals, totaling \$182,081.84, on its 1998 April Quarterly Report.⁷ Fifty-four percent (54%) of the 371 contributions (202 contributions) totaling \$106,058.00 were in amounts over \$200 and did not show the requisite contributor information. An additional 17 contributions showed partial information.⁸

Respondents assert that they satisfied the "best efforts" requirement. However, the available information does not support that assertion. In order to satisfy the "best efforts" safe-

⁷ The complaint identified 377 contributions totaling \$258,338 as problematic. However, those figures included six PAC contributions which showed the requisite information.

⁸ Of these 17 contributions, 13 showed only employer information and 4 showed only occupation information.

harbor, the treasurer is required to make at least one stand alone follow-up effort within 30 days of receipt of each contribution to obtain the missing information. The Committee clearly did not satisfy this requirement. Respondents acknowledge that follow-up contact did not occur until mid-May, 1998. Since the contributions at issue were received between January and March 31, 1998, the mid-May contact was beyond the 30 day period required to establish "best efforts" for the contributions at issue. In addition, the "best efforts" provision further requires that the missing information be reported on an amendment on or before the next regularly scheduled reporting date or filed with the next regularly scheduled report with an amended memo Schedule A listing all missing contributor information. The Committee's next regularly scheduled reporting date was July 15, 1998, and, in their response to the complaint, Respondents stated that the Committee would submit an amended report before June 30, 1998. However, the Committee *did not file the missing contributor information* until December 21, 1998, over six months later, and well after the general election.

Therefore, the Committee clearly did not exercise the requisite "best efforts." Accordingly, this Office recommends that the Commission find reason to believe that Cammermeyer 2 Congress and Paul Fournier, as treasurer, violated 2 U.S.C. § 434(b)(3)(A) by failing to provide complete contributor identification information on its 1998 April Quarterly Report. Since the candidate is not legally responsible for filing reports, this Office also recommends that the Commission find no reason to believe that Dr. Margarethe Cammermeyer violated the Act.

III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY


IV. RECOMMENDATIONS

1. Find no reason to believe that Margaret Cammermeyer violated 2 U.S.C. § 434(b)(3)(A) and close the file as to that respondent.
2. Find reason to believe that Cammermeyer 2 Congress and Paul Fournier, as treasurer, violated 2 U.S.C. § 434(b)(3)(A).
3. Approve the attached Factual and Legal Analysis and Conciliation Agreement.
4. Approve the appropriate letters.

Lawrence M. Noble
General Counsel

6/12/99
Date

BY:


Lois G. Lerner
Associate General Counsel

Attachments:

1. May 19, 1998 RFAI
2. June 19, 1998 Response to RFAI
3. Factual and Legal Analysis
4. Conciliation Agreement