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December 4, 1998

BY HAND DELIVERY

Federal Election Commission
Office of General Counsel
999 E Street, N.W.
Washington, D.C. 20463

Re: Matter Under Review 4833

Dear Sir or Madam:

This letter is submitted on behalf of Mark Udall for Congress, Inc. (the "Committee"), James Martin, as treasurer of the Committee, and Mark Emery Udall, in response to the complaint filed by Italia Federici, President of the Coalition of Republican Environmental Advocates, on October 22, 1998. For the reasons that follow, the complaint should be dismissed without further action.

Although the complaint states that the candidate's wife, Maggie Fox, is employed by the Sierra Club, it fails to set forth any facts describing a violation or possible violation of the Federal Election Campaign Act or the Commission's regulations arising from this employment or otherwise involving Ms. Fox. See 11 C.F.R. 111.4(d)(3). Accordingly, there is no basis for finding reason to believe with respect to this allegation.


The complaint further alleges that the Committee either received a prohibited corporate contribution from the Sierra Club in violation of section 441(b) or, in the alternative, it received an excess contribution from the Sierra Club's separate segregated fund in violation of section 441(a)(2)(A) as the result of in-kind services rendered to the campaign by Brian Mohr (the spelling in the complaint is not correct) "and other unknown employees of the Sierra Club." In fact, Mr. Mohr was the only Sierra Club employee who provided services to the campaign and these services did not violate the Act or regulations in any way.

First, it is the Committee's understanding that Mr. Mohr was compensated entirely by the Sierra Club Political Committee, and not by the Sierra Club, for his services to the campaign; therefore no corporate contribution was made or received with respect to the services.

Second, the campaign did not receive any excess contributions from the Sierra Club Political Committee. The Committee received a cash contribution of \$5000 from the Sierra Club Political Committee on September 9, 1998 which was allocated to the primary election. The Committee also received cash contributions totaling \$2000 from the Sierra Club Political Committee for the general election. Finally, the Committee received in-kind contributions from the Sierra Club Political Committee for the services of Brian Mohr totaling \$2,493.56 between October 8, 1998 and November 3, 1998. Since, the Committee received no other contributions from the Sierra Club Political Committee, including no other in-kind contributions in the form of goods or services, it did not receive any contribution in excess of \$5000 per election from the Sierra Club Political Committee.

Finally, the complaint alleges that there was improper coordination between the Committee and the Sierra Club in connection with the preparation and distribution of a Sierra Club voter guide. Mr. Mohr performed no services relating to the preparation or distribution of the voter guide while he was working under the direction and control of the campaign. We understand that the preparation of the voter guide was completed well before Mr. Mohr came to work for the campaign, and he was not involved in the distribution of the guide after he joined the campaign. Furthermore, the campaign had no other communication with the Sierra Club regarding the content, subject matter, distribution or any other matter related to the guide. Accordingly, there was no coordination between the campaign and the Sierra Club which could give rise to an in-kind contribution with respect to the voter guide. See 11 C.F.R. 114.4(c)(5); see also Clifton v. F.E.C., 114 F.3d 1309 (1st Cir. 1997).

Sincerely,

A handwritten signature in black ink, appearing to read "Michael B. Trister", with a stylized flourish at the end.

Michael B. Trister

I have read the foregoing response to the complaint in MUR 4833 and declare under the penalty of perjury that it is true and correct to the best of my knowledge and belief.

James Martin