



FEDERAL ELECTION COMMISSION

WASHINGTON, D C 20463

AUG 23 2000

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

RE: MURs 4935 and 5057

Andrew Lowinger
105 Madison Ave.
New York, NY 10016

Dear Mr. Lowinger:

On July 25, 2000, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. § 441a(a)(1)(A) and 11 C.F.R. § 110.1(b)(1), provisions of the Federal Election Campaign Act of 1971, as amended (the "Act") and the Commission's regulations. 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.

In order to expedite the resolution of this matter, the Commission has also decided to offer to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Enclosed is a conciliation agreement that the Commission has approved.

If you are interested in expediting the resolution of this matter by pursuing pre-probable cause conciliation, and if you agree with the provisions of the enclosed agreement, please sign and return the agreement, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

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.

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 attached 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
Conciliation Agreement

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

MURs 5057 and 4935

RESPONDENT: Andrew Lowinger

I. GENERATION OF MATTER

Matter Under Review ("MUR") 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 MUR 4935 was generated by a Complaint filed by Sandy Aboulafia, Vice President of the Women's Democratic Club of New York City alleging that the Committee accepted excessive contributions during the 1998 election cycle.

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 and the Commission's regulations prohibit any person from making contributions to any candidate and his or her authorized political committees with respect to any election for federal office which, in the aggregate, exceed \$1,000. 2 U.S.C. § 441a(a)(1)(A); 11 C.F.R. § 110.1(b)(1). In connection with its audit of the Committee, the Commission's Audit staff reviewed copies of contribution checks accepted by the Committee for the 1998 election cycle. Based on this review, it appears that Andrew Lowinger made contributions to the Committee for the 1998 election cycle in a total amount of \$13,000.

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

Accordingly, there is reason to believe that Andrew Lowinger violated 2 U.S.C. § 441a(a)(1)(A) and 11 C.F.R. § 110.1(b)(1).

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