



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

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2001 AUG 13 P 4: 02

AUG 13 2001

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

SENSITIVE

Harold Stangler, Esq.
Edelman, Krasin & Jaye, PLLC
One Old Country Road
Carle Place, NY 11514

Re: MURs 4935 and 5057
Boris Motovich

Dear Mr. Stangler:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities and on a complaint filed with the Federal Election Commission on October 13, 1999, the Commission, on July 25, 2000, found that there is reason to believe your client violated 2 U.S.C. § 441a(a)(1)(A) and 11 C.F.R. § 110.1(b)(1), and instituted an investigation in this matter.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten copies if possible) stating your client's position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

Should you have any questions, please contact Delbert K. Rigsby or Danita C. Lee, the attorneys assigned to this matter, at (202) 694-1650.

Sincerely,

Lois G. Lerner by GNB

Lois G. Lerner
Acting General Counsel

Enclosure
Brief

24-114-449-1912

FEDERAL ELECTION COMMISSION

In the Matter of
Boris Motovich

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MURs 4935 and 5057

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On July 25, 2000, the Federal Election Commission found reason to believe Boris Motovich violated 2 U.S.C. § 441a(a)(1)(A) and 11 C.F.R. § 110.1(b)(1) by making a contribution to Dear for Congress, Inc. (the "Committee") that was in excess of the contribution limitations.

II. 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 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). Excessive contributions may either be deposited in a campaign depository or returned to the contributor. 11 C.F.R. § 103.3(b)(3). If any such contribution is deposited, the treasurer may request redesignation or reattribution of the contribution. *Id.* If a redesignation or reattribution is not obtained, the treasurer shall, within 60 days of the treasurer's receipt of the contribution, refund the contribution to the contributor. *Id.*

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, the Commission determined that Boris Motovich made contributions to the Committee for the 1998 election cycle in a total amount of \$6,500.

The Committee refunded a portion of the excessive contributions to Mr. Motovich in the amount of \$1,500 on May 19, 1999 and \$1,500 on July 30, 1999. However, these refunds were made 414 days and 486 days, respectively, after the contributions were made. See 11 C.F.R. § 103.3(b)(3). Accordingly, there is probable cause to believe that Boris Motovich violated 2 U.S.C. § 441a(a)(1)(A) and 11 C.F.R. § 110.1(b)(1).

III. GENERAL COUNSEL'S RECOMMENDATION

Find probable cause to believe that Boris Motovich violated 2 U.S.C. § 441a(a)(1)(A) and 11 C.F.R. § 110.1(b)(1).

8/13/01
Date

Lois G. Lerner by GCS
Lois G. Lerner
Acting General Counsel