



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

October 21, 1998

C. Austin Fitts  
7 Dupont Circle, NW  
Washington, DC 20036

RE: MUR 4821

Dear Mr. Fitts:

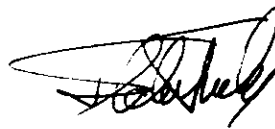
The Federal Election Commission received a complaint which indicates that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4821. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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 matter to be made public. 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.

If you have any questions, please contact Jennifer H. Boyt at (202) 694-1650. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

A handwritten signature in black ink, appearing to read "F. Andrew Turley", written in a cursive style.

F. Andrew Turley  
Supervisory Attorney  
Central Enforcement Docket

Enclosures

1. Complaint
2. Procedures
3. Designation of Counsel Statement



**THE INDEPENDENCE PARTY OF NEW YORK**  
The Reform Party in New York

**KENNETH J. HERMAN**  
State Chairman  
Ethics Committee

MUR4821

45 Dixon Avenue  
Amityville, New York 11701  
Phone: 516-789-4646  
Fax: 516-789-4655

October 9, 1998

Office of the General Council  
Federal Election Commission  
99 E. Street, N.W.  
Washington, D.C. 20473  
Attn: Retha Dixon, Docket Manager

**RE: VIOLATION OF FEDERAL REGULATIONS PERTAINING TO  
INDIVIDUAL CONTRIBUTIONS TO A CANDIDATE**

Gentlemen:

I'm writing to inform you of violations of Federal Regulation 11CFR110, Section 110, Part 110.1(1) - copy enclosed and highlighted.

I charge that Rick Lazio, incumbent Republican candidate for re-election in the 2nd Congressional District, Suffolk County, New York has received numerous illegal contributions from individuals in excess of the \$1,000 limit over the course of his past three elections for office as follows:

<u>1993/1994</u> election cycle	\$ 30,676
<u>1995/1996</u> election cycle	108,917
<u>1997/1998</u> election cycle (as of 9/14/98)	<u>70,389</u>
<b>TOTAL ILLEGAL CONTRIBUTIONS TAKEN</b>	<b>\$209,982</b>

As evidence of these violations, enclosed are printouts of Congressman Lazio's individual campaign donations (highlighted for your convenience) which were extracted from the FECInfo database on the Internet

The law pertaining to individual contribution limits was enacted in 1974: Amendment to the Federal Election Campaign Act, Statute 441A

Very truly yours,

Kenneth J. Herman  
Independence Party Candidate  
2nd C D., Suffolk County, NY

Subscribed and sworn to before me on this 9th day of October, 1998

Notary Public

**DIANE M. HOBAN**  
Notary Public, State of New York  
No. 01H06033825  
Qualified in Nassau County  
Commission Expires Sept. 26, 2000



**THE INDEPENDENCE PARTY OF NEW YORK**  
The Reform Party in New York

**KENNETH J. HERMAN**  
State Chairman  
Ethics Committee

45 Dixon Avenue  
Amityville, New York 11701  
Phone: 516-789-4646  
Fax: 516-789-4655

MUA 4821

October 9, 1998

Office of the General Council  
Federal Election Commission  
99 E. Street, N.W.  
Washington, D.C. 20473  
Attn: Retha Dixon, Docket Manager

**RE: ATTACHED COMPLAINT AGAINST RICK LAZIO, (R) 2ND C.D.,  
SUFFOLK COUNTY, NY**

Dear Ms. Dixon:

With regard to your correspondence of October 1, 1998, enclosed is our letter, amended with a notary statement and updated, charging Rick Lazio with campaign funding violations. Also enclosed is another copy of our supporting documents.

We trust that this complaint now meets the statutory requirements of Commission Regulations.

Very truly yours,

Kenneth J. Herman  
Independence Party Candidate  
2nd C.D., Suffolk County, NY

# STATEMENT OF DESIGNATION OF COUNSEL

MUR \_\_\_\_\_

NAME OF COUNSEL: \_\_\_\_\_

FIRM: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

TELEPHONE: (\_\_\_\_) \_\_\_\_\_

FAX: (\_\_\_\_) \_\_\_\_\_

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

\_\_\_\_\_

Date

\_\_\_\_\_

Signature

RESPONDENT'S NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE: HOME(     )     )

BUSINESS(     )     )

DESCRIPTION OF PRELIMINARY PROCEDURES  
FOR PROCESSING COMPLAINTS FILED WITH THE  
FEDERAL ELECTION COMMISSION

999 E Street, NW  
Washington, D.C. 20463  
FAX (202) 219-3923

Complaints filed with the Federal Election Commission shall be referred to the Enforcement Division of the Office of the General Counsel, where they are assigned a MUR (Matter Under Review) number and forwarded to the Central Enforcement Docket ("CED") for processing. Within five days of receipt of the complaint, the Commission shall notify all respondents referenced in the complaint, in writing, that the complaint has been filed, and shall include with such notification a copy of the complaint. Simultaneously, the complainant shall be notified that the complaint has been received. The respondents shall then have 15 days to demonstrate, in writing, that no action should be taken against them in response to the complaint. If additional time is needed in which to respond to the complaint, the respondents may request an extension of time. The request must be in writing and demonstrate good cause as to why an extension should be granted. Please be advised that not all requests are granted.

After the response period has elapsed, cases are prioritized and maintained in CED. Cases warranting the use of Commission resources are assigned as staff become available. Cases not warranting the use of Commission resources are dismissed.

If a case is assigned to a staff person, the Office of the General Counsel shall report to the Commission, making recommendations based upon a preliminary legal and factual analysis of the complaint and any submission made by the respondent. The report may recommend that the Commission: (a) find reason to believe that the complaint sets forth a possible violation of the Federal Election Campaign Act of 1971, as amended, (hereinafter "the Act"); or (b) find no reason to believe that the complaint sets forth a possible violation of the Act and, accordingly, close the file.

If, by an affirmative vote of four Commissioners, the Commission determines that there is reason to believe that a respondent has committed or is about to commit a violation of the Act, the Office of the General Counsel shall open an investigation into the matter. During the investigation, the Commission has the power to subpoena documents, to subpoena individuals to appear for deposition, and to order written answers to interrogatories. A respondent may be contacted more than once by the Commission during this phase.

If during this period of investigation, a respondent indicates a desire to enter into conciliation, the Office of the General Counsel may recommend that the Commission enter into conciliation prior to a finding of probable cause to believe that a violation has been committed. Conciliation is an attempt to correct or prevent a violation of the Act by informal methods of

conference and persuasion. Most often, the result of conciliation is an agreement signed by the Commission and the respondent. The Conciliation Agreement must be adopted by four votes of the Commission in order to become final. After signature by the Commission and the respondent, the Conciliation Agreement is made public within 30 days of the closing of the entire file.

If the investigation warrants, and no conciliation agreement has been entered into prior to a probable cause to believe finding, the General Counsel must notify the respondent of his/her intent to recommend that the Commission proceed to a vote on probable cause to believe that a violation of the Act has been committed or is about to be committed. The General Counsel shall send the respondent a brief setting forth his/her position on the legal and factual issues of the case. A response brief stating respondent's position on the issues may be submitted within 15 days of receipt of the General Counsel's Brief. Both briefs are then filed with the Commission Secretary and considered by the Commission. Thereafter, if the Commission determines, by an affirmative vote of four Commissioners, that there is probable cause to believe that a violation of the Act has been committed or is about to be committed, the Commission must conciliate with the respondent for a period of at least 30 days, but not more than 90 days. If the Commission is unable to correct or prevent any violation through conciliation, the Office of the General Counsel may recommend that the Commission file a civil suit to enforce the Act against the respondent. Therefore, the Commission may, upon the affirmative vote of four Commissioners, institute civil action for relief in the United States District Court.

See 2 U.S.C. § 437g and 11 C.F.R. Part III.

May 1996