



FEDERAL ELECTION COMMISSION
WASHINGTON D C 20463

November 10, 1997

MEMORANDUM

TO: RON M. HARRIS
PRESS OFFICER
PRESS OFFICE

FROM: ROBERT J. COSTA *RJ2fa*
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: PUBLIC ISSUANCE OF THE FINAL AUDIT REPORT ON
DENNIS NEWINSKI FOR CONGRESS

Attached please find a copy of the final audit report and related documents on Dennis Newinski for Congress which was approved by the Commission on November 3, 1997.

Informational copies of the report have been received by all parties involved and the report may be released to the public.

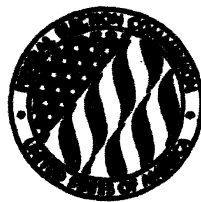
Attachment as stated

cc: Office of General Counsel
Office of Public Disclosure
Reports Analysis Division
FEC Library

UNCLASSIFIED

REPORT OF THE AUDIT DIVISION
ON
DENNIS NEWINSKI FOR CONGRESS

Approved November 3, 1997



FEDERAL ELECTION COMMISSION
999 E STREET, N.W.
WASHINGTON, D.C.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

**FINAL AUDIT REPORT
ON
DENNIS NEWINSKI FOR CONGRESS**

EXECUTIVE SUMMARY

Dennis Newinski for Congress registered with the House of Representatives on September 29, 1993 as the principal campaign committee for Dennis Newinski, Republican candidate for the U.S. House of Representative from the state of Minnesota, 4th District. Mr. Newinski filed a Statement of Candidacy for the 1996 election on June 13, 1996.

The audit was conducted pursuant to 2 U.S.C. §438(b), which states that the Commission may conduct audits of any political committee whose reports fail to meet the threshold level of compliance with the Commission.

The findings of the audit were presented to the Committee at the completion of fieldwork on July 9, 1997 and later in an interim audit report. The Committee's response to those findings is included in the final audit report.

The following is an overview of the findings contained in the final audit report. The Audit staff's testing of disbursements and reporting of debts and obligations was limited because more than half of the records provided were generated by the Committee and we were unable to verify disbursement recordkeeping from external documentation.

APPARENT EXCESSIVE CONTRIBUTIONS - INDIVIDUALS — 2 U.S.C. §441a(a)(1)(A). The audit identified 16 contributors who exceeded their contribution limitations by a total of \$14,775. The Committee responded that it would refund \$3,125 to six contributors as soon as funds were available. No valid documentation was provided relative to the remaining \$11,650 in excessive contributions.

REPORTING OF RECEIPTS FROM POLITICAL COMMITTEES - ITEMIZATION — 11 CFR §104.3(a)(4)(ii). The Audit staff reviewed all receipts from political committees and organizations and determined that the Committee failed to itemize 12 contributions totaling \$6,400 from 8 political committees and 3 unregistered political organizations. The Committee filed an amended report disclosing both these contributions and the correct totals of receipts from individuals and political committees.

DISCLOSURE OF OCCUPATION AND NAME OF EMPLOYER — 2 U.S.C.

§§434(b)(3)(A) and 431(13)(A). The audit identified a material number of errors regarding the Committee's disclosure of contributor's occupation and name of employer, and the Committee was unable to demonstrate that it had exercised best efforts to obtain this information. The Committee filed amended reports which materially corrected the public record on disclosure of the contributor's occupation and name of employer.

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FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

***REPORT OF THE AUDIT DIVISION
ON
DENNIS NEWINSKI FOR CONGRESS***

I. BACKGROUND

A. AUDIT AUTHORITY

This report is based on an audit of Dennis Newinski for Congress (the Committee), undertaken by the Audit Division of the Federal Election Commission in accordance with the provisions of the Federal Election Campaign Act of 1971, as amended (the Act). The audit was conducted pursuant to Section 438(b) of Title 2 of the United States Code which states, in part, that the Commission may conduct audits and field investigations of any political committee required to file a report under Section 434 of this title. Prior to conducting any audit under this subsection, the Commission shall perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act.

B. AUDIT COVERAGE

The audit covered the period from January 1, 1995 through December 31, 1996. The Committee reported a beginning cash balance of \$1; total receipts for the period of \$316,032; total disbursements for the period of \$315,414; and an ending cash balance of \$319.¹

C. CAMPAIGN ORGANIZATION

The Committee registered with the Clerk of the House of Representatives on September 29, 1993, as the principal campaign committee for Dennis R. Newinski, Republican candidate for the U.S. House of Representatives from the State of Minnesota for the Fourth District. Mr. Newinski filed a Statement of Candidacy for the 1996 election on June 13, 1996.

The Treasurer of the Committee for the period is Mr. Richard C. Riener.

¹ The totals do not foot because of an arithmetic discrepancy on the Committee's reports. All amounts in this report have been rounded to the nearest dollar.

To handle its financial activity, the campaign used one savings account and one checking account. From the checking account the campaign made approximately 410 disbursements. Approximately 3,720 contributions totaling roughly \$248,100 were received from individuals and 70 contributions totaling \$60,360 were received from political committees and other committees.

D. AUDIT SCOPE AND PROCEDURES

The audit included testing of the following general categories:

1. The receipt of contributions or loans in excess of the statutory limitations (see Finding II.A.);
2. the receipt of contributions from prohibited sources, such as those from corporations or labor organizations;
3. proper disclosure of contributions from individuals, political committees and other entities, to include the itemization of contributions when required, as well as, the completeness and accuracy of the information disclosed (see Findings II.B. and II.C.);
4. proper disclosure of disbursements including the itemization of disbursements when required, as well as the completeness and accuracy of the information disclosed;
5. proper disclosure of campaign debts and obligations;
6. the accuracy of total reported receipts, disbursements and cash balances as compared to campaign bank records;
7. adequate recordkeeping for campaign transactions; and
8. other audit procedures that were deemed necessary in the situation.

Unless specifically discussed below, no material non-compliance was detected. It should be noted that the Commission may pursue any of the matters discussed in this report in an enforcement action. Although in maintaining its records the Committee satisfied the minimum recordkeeping requirements of 11 CFR §102.9, the Audit staff's testing of the Committee's disbursements was limited due to the lack of invoices, receipts and other third party documentation. In its review of disbursements, the Audit staff was able to locate external documentation for only 40% of the items tested. Therefore, for most disbursements, no documentation was available for the Audit staff to independently verify items such as vendor addresses, purposes of disbursements and reporting of debts and obligations.

II. FINDINGS AND RECOMMENDATIONS

A. APPARENT EXCESSIVE CONTRIBUTIONS

Section 441a(a)(1)(A) of Title 2 of the United States Code states, that no person shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$1,000. Subsection (b)(2)(ii) of 11 CFR §110.1 explains that *with respect to any election* means that if the contribution is not designated in writing by the contributor for a particular election then the contribution applies to the next election for that Federal office after the contribution is made. A contribution is considered made (subsection(6) of this section) when the contributor relinquishes control over the contribution by delivering the contribution to the Candidate, the political committee, or an agent of the committee. A contribution mailed is considered made on the date of the postmark.

Section 110.1(b)(5)(i) and (ii) of Title 11 of the Code of Federal Regulations states, in part, that the treasurer of an authorized political committee may request a written redesignation of a contribution by the contributor for a different election if:

- the contribution was designated in writing for a particular election, and the contribution, either on its face or when aggregated with other contributions from the same contributor for the same election, exceeds the limitation on contributions set forth in 11 CFR §110.1(b)(1);
- the contribution was designated in writing for a particular election and the contribution was made after that election and the contribution cannot be accepted under the net debts outstanding provisions of 11 CFR §110.1(b)(3);
- the contribution was not designated in writing for a particular election, and the contribution exceeds the limitation on contributions set forth in 11 CFR §110.1(b)(1); or
- the contribution was not designated in writing for a particular election, and the contribution was received after the date of an election for which there are net debts outstanding on the date the contribution is received.

Further, a contribution shall be considered to be redesignated for another election if the treasurer of the recipient authorized political committee requests that the contributor provide a written redesignation of the contribution and informs the contributor that the contributor may request the refund of the contribution as an alternative to providing a written redesignation and within sixty days from the date of the treasurer's receipt of the contribution, the contributor provides the treasurer with a written redesignation of the contribution for another election, which is signed by the contributor.

Section 110.1(k) of Title 11 of the Code of Federal Regulations states any contribution made by more than one person, except for a contribution made by a partnership, shall include the signature of each contributor on the check, money order, or other negotiable instrument or in a separate writing and if a contribution made by more than one person does not indicate the amount to be attributed to each contributor, the contribution shall be attributed equally to each contributor.

If a contribution to a candidate or political committee, either on its face or when aggregated with other contributions from the same contributor, exceeds the limitations on contributions set forth in 11 CFR §110.1(b), (c) or (d), as appropriate, the treasurer of the recipient political committee may ask the contributor whether the contribution was intended to be a joint contribution by more than one person. A contribution shall be considered to be reattributed to another contributor if the treasurer of the recipient political committee asks the contributor whether the contribution is intended to be a joint contribution by more than one person, and informs the contributor that he or she may request the return of the excessive portion of the contribution if it is not intended to be a joint contribution, and within sixty days from the date of the treasurer's receipt of the contribution, the contributors provide the treasurer with a written reattribution of the contribution, which is signed by each contributor, and which indicates the amount to be attributed to each contributor if equal attribution is not intended.

Section 110.9(a) of Title 11 of the Code of Federal Regulations states that no candidate or political committee shall accept any contribution or make any expenditure in violation of the provisions of part 110. No officer or employee of a political committee shall accept a contribution made for the benefit or use of a candidate, or make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this part 110.

The Audit staff reviewed the Committee receipts data file, available check copies, deposit tickets and disclosure reports relating to contributions from individuals and identified contributions from 16 individuals which exceeded the contribution limitation by \$14,775. Of this amount, \$3,500 from four individuals was excessive for the General Election; the balance (\$11,275) was excessive for the Primary Election. In 12 instances the Committee apparently reattributed or redesignated contributions without adequate documentation.

A schedule of the excessive contributions was presented to the Treasurer at the exit conference. The Treasurer stated that he had thought there was only a slim chance that any receipts were excessive. He understood the requirement that the excessive amounts must be refunded. Subsequent to the conclusion of fieldwork, copies of the relevant contributor checks were provided to the Treasurer.

In the interim audit report recommendation the Committee was requested to provide evidence that these contributions were not in excess of the limitation or to

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demonstrate that the excessive amount had been resolved by timely reattribution to another contributor or by timely redesignation to another election. Absent such a demonstration, the Committee was to refund the contributions and provide evidence of the refund (photocopies of the front and back of the canceled check). If sufficient funds were not available for refunds, the Committee was to report debts owed to the contributors, and refund these contributions from the next available funds that it received.

In the Committee's response to the interim audit report, it did not provide evidence that these contributions were not in excess of the limitation and did not demonstrate that the excessive amounts (\$14,775) had been resolved by timely reattribution to another contributor, by timely redesignation to another election, or by refunding the excessive amounts to the contributors.

With regard to excessive amounts totaling \$3,125 from six contributors, the Treasurer stated that these amounts will be refunded as soon as funds become available and that, until refunded, the amount will be listed as debts on the Committee's next disclosure report (Year End 1997). According to the July 31 Mid-Year report filed August 12, 1997, the Committee reported cash on hand of \$11,807 and debts owed of \$2,500 (loan from the Candidate). Therefore, funds to make the necessary refunds appear to be available and the refunds should have been made as recommended in the interim audit report.

For excessive amounts totaling \$10,650 from nine contributors, an internal memorandum dated Oct. 1, 1997 to the Treasurer, from a person apparently associated with the Committee, indicated that reallocation statements had been obtained, but that the forms were not within her records at this time. The message also indicated that reallocations could be obtained again if not found within the Treasurer's records. The Treasurer did provide copies of two reattribution documents relating to two of the nine contributors which were neither prepared timely nor signed by both contributors. The documents were dated either as of the contributor check date or the deposit date (October, 1996); however, both reattributions were faxed during June 1997, eight months after the contributions were made. One document was faxed from the business of the contributor; the other was faxed from a Committee consultant. These documents were reviewed by the Audit staff during fieldwork and were the only reattribution or redesignation documents made available at that time. The balance of the excessive amounts included in the interim audit report (\$1,000) was not addressed in the response.

B. REPORTING OF RECEIPTS FROM POLITICAL COMMITTEES

Section 104.3(a)(4)(ii) of Title 11 of the Code of Federal Regulations requires that each report include the identification and the aggregate year to date total for all committees (including political committees and committees which do not qualify as political committees under the Act) which make contributions to the reporting committee during the reporting period, together with the date of receipt and amount of any such contribution.

The Audit staff reviewed receipts totaling \$60,359 from political committees and unregistered organizations and determined that the Committee failed to itemize 12 contributions totaling \$6,400 from eight political committees and three unregistered political organizations. These omissions occurred during the period 9/09/96 through 11/21/96. Further, the amounts were not included in total contributions reported from political committees; rather they appear to have been included in unitemized amounts from individuals.

At the exit conference, the Audit staff provided the Committee with a schedule of the contributions not itemized. The Treasurer agreed to file any necessary amended reports.

In the interim audit report recommendation the Committee was requested to file an amended Schedule A for the year 1996 disclosing the contributions noted above. The Committee was also to file an amended Detailed Summary Page for the year 1996 to report the correct totals of receipts from individuals and political committees by adjusting the respective line totals for the amount of the receipts from political committees included within unitemized receipts from individuals.

In response to the interim audit report, the Committee filed amended Schedules A disclosing the contributions noted above. In addition the Committee filed an amended Detailed Summary Page for the calendar year 1996 to report the correct totals for receipts from individuals and political committees.

C. DISCLOSURE OF CONTRIBUTIONS FROM INDIVIDUALS

Section 434(b)(3)(A) of Title 2 of the United States Code requires a political committee to report the identification of each person who makes a contribution to the committee in an aggregate amount or value in excess of \$200 per calendar year together with the date and amount of such contribution.

Section 431(13)(A) of Title 2 of the United States Code defines the term "identification" to be, in the case of any individual, the name, the mailing address, and the occupation of such individual as well as the name of his or her employer.

Section 104.7(a) and (b) of Title 11 of the Code of Federal Regulations states, in part, 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 for the political committee, any report of such committee shall be considered in compliance with the Act. With regard to reporting the identification of each person whose contributions(s) to the political committee and its affiliated committees aggregate in excess of \$200 in a calendar year, the treasurer will only be deemed to have exercised best efforts to obtain, maintain and report the required information if: (1) All written solicitations for contributions include a clear request for the contributor's full name,

mailing address, occupation and name of employer, and include the following statement: "Federal law requires political committees to report the name, mailing address, occupation and name of employer for each individual whose contributions aggregate in excess of \$200 in a calendar year"; and (2) For each contribution received aggregating in excess of \$200 per calendar year which lacks required contributor information, the treasurer makes at least one effort after the receipt of the contribution to obtain the missing information. Such effort shall consist of either a written request sent to the contributor or an oral request to the contributor documented in writing. The written or oral request must be made no later than thirty (30) days after receipt of the contribution. The written or oral request shall not include material on any other subject or any additional solicitation, except that it may include language solely thanking the contributor for the contribution.

The Audit staff reviewed contributions from individuals 100% and determined that the occupation and/or name of employer was not disclosed as required for 93, or 36%, of the contributions requiring itemization and disclosed on the Committee's reports. Some of the information was available in the Committee's records on or before the contribution date but was not on its disclosure reports. The solicitation and response devices available all requested the information; however, two of the response devices did not inform the contributor that the Committee was required by law to report the information. Further, the Committee did not document any attempts to obtain the information subsequent to receipt of the contribution.

At the exit conference, the Audit staff provided the Committee a schedule of these disclosure errors and advised the Committee to document all future attempts to obtain any required information. The Treasurer concurred with our recommendation and agreed to file any necessary amended reports.

In the interim audit report recommendation the Committee was requested to file amended Schedules A for calendar years 1995 and 1996, disclosing as memo entries the occupation and name of employer for the contributors discussed above or to provide evidence of contacts with the contributors attempting to obtain the missing information.

The Committee materially complied with the Audit recommendation by filing Schedules A disclosing the occupation and name of employer for most of the contributors for whom the information was lacking in the reports as originally filed.

UNIVERSITY OF TORONTO



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 5, 1997

Richard C. Reiner, Treasurer
Dennis Newinski for Congress
3468 Rice Street
St. Paul, MN 55126

Dear Mr. Reiner:

Attached please find the Report of the Audit Division on Dennis Newinski for Congress. The Commission approved the report on November 3, 1997.

The Commission approved Final Audit Report will be placed on the public record on November 10, 1997. Should you have any questions regarding the public release of the report, please contact the Commission's Press Office at (202) 219-4155. Any questions you have related to matters covered during the audit or in the report should be directed to Cornelia Riley or Russ Bruner of the Audit Division at (202) 219-3720 or toll free at (800) 424-9530.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert J. Costa".

Robert J. Costa
Assistant Staff Director
Audit Division

Attachment as stated

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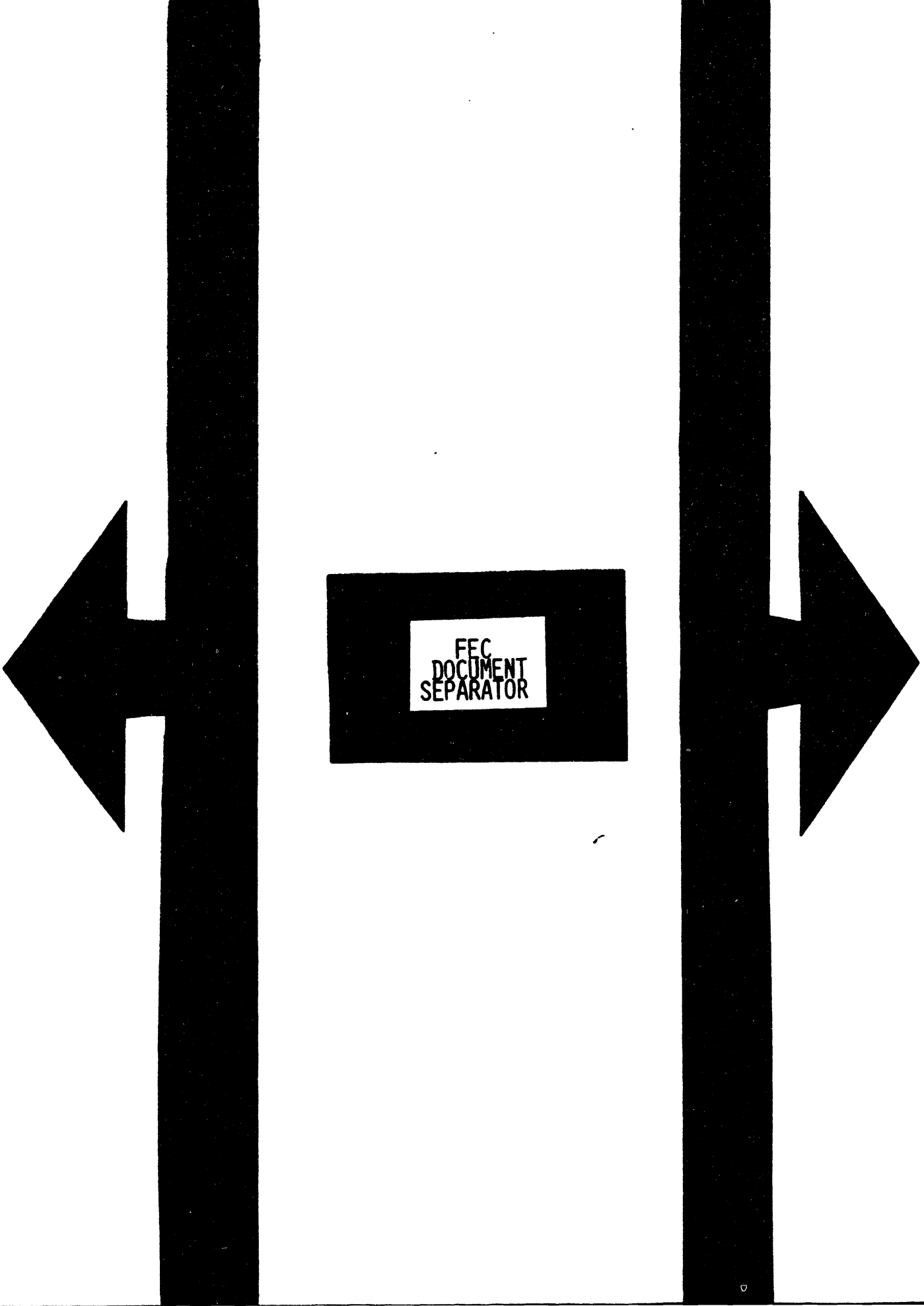
CHRONOLOGY

DENNIS NEWINSKI FOR CONGRESS

Audit Fieldwork	6/23/97 — 7/9/97
Interim Audit Report to the Committee	8/29/97
Response Received to the Interim Audit Report	10/16/97
Final Audit Report Approved	11/3/97

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