FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 1316

Date Filmed 8/23/82 Camera No. --- 2

Cameraman SPC

The material described below has been removed from this file pursuant to 2 U.S.C. § 437g(a)(12)(A):

July 23, 1982: Letter to Douglas Huron from Charles Steele

p.1, para.1, line 2
para.2, lines 10-12, 13-16
re lines 1-2

July 23, 1982: Letter to Bruce Clagett, Scott Gilbert from Charles Steele

p.1, para.1, lines 5-12
re lines 1-2

No date: Letter to Douglas Huron from Charles Steele

re lines 1-2
p.1, para.1, line 2
para.2, lines 10-16

No date: Letter to Clagett and Gilbert from Charles Steele

re lines 1-2
p.1, para.1, lines 5-11

July 14, 1982: Certification

re line

June 28, 1982: Memo to Charles Steele from Marjorie Emmons
re: Objections

Subject line

June 28, 1982: Ballot sheet of Frank P. Reiche

Subject line

June 25, 1982: Memo to Marjorie Emmons from Phyllis Kayson

Subject line

June 25, 1982: General Counsel's Report on the Congressional Club

In the Matter of line
p.1, para.1, lines 1-5, 9-10
p.2, para.1, lines 2-4

8 2 0 4 0 3 4 1 3 6 4 7

No date: Letter to Clagett and Gilbert from Charles Steele

re line
p.1, para.1, lines 5-11

No date: Letter to Douglas Huron from Charles Steele

re line
p.1, para.2, lines 10-15

May 10, 1982: Memo to the Commission from Charles Steele

Subject line

May 10, 1982: Letter to Clagett and Gilbert from Charles Steele

re line

General Counsel's Brief dated May 7, 1982

In the Matter of line
p.1, para.1, lines 2-4
para.2, lines 1-5
p.2, para.1, lines 1-4
p.4, para.1, lines 8-9

November 3, 1980: Letter to Anne Weissenborn from John R. Bolton

p.2, para.3, lines 2-3

November 25, 1980: Letter to Charles Steele from John R. Bolton

p.1, re line
p.2, para.7, line 6

Response of the Congressional Club

p.1, para.1, lines 6-9
p.6, para.2, lines 5-6
p.12, footnote */, lines 3-7
p.15, para.1, lines 1-6
p.16, lines 1-2

No date: Letter to Clagett and Gilbert from Charles Steele

re line

8 2 0 4 0 3 4 3 6 4 8

August 12, 1981: Letter to Anne Weissenborn from Scott D. Gilbert

re line
para.1, line 1

June 30, 1981: Interim Investigative Report #2

p.1, para.1, lines 6-11
para.2, lines 3-4

Response of the Congressional Club

p.1, para.1, lines 6-9
p.6, para.2, lines 5-6
p.12, footnote */, lines 3-7
p.15, para.1, lines 1-6
p.16, lines 1-2

May 15, 1981: Interim Investigative Report #1

p.1, para.1, lines 6-8
para.2, line 3

December 9, 1980: Letter to Charles Steele from John R. Bolton

para.1, lines 1-3

November 3, 1980: Letter to Anne Weissenborn from John R. Bolton

p.2, para.3, lines 1-3

Signed Anne B. Weissenborn

Date August 11, 1982

8204034364 9

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 23, 1982

Douglas B. Huron, Esquire
Counsel, Carter/Mondale
Reelection Committee, Inc.
1619 New Hampshire Avenue, N.W.
Washington, D.C. 20009

RE: MUR
1316

Dear Mr. Huron:

This is in reference to the complaint filed by the Carter/Mondale Reelection Committee on October 17, 1980, concerning violations by the North Carolina Congressional Club ("Congressional Club") of 2 U.S.C. § 432(e) and 2 U.S.C. § 441h.

Based on your client's complaints, the Commission found that there was reason to believe that the Congressional Club had violated 2 U.S.C. § 432(e)(4), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"), and instituted an investigation of these matters. After this investigation was conducted and a brief of the General Counsel was considered, the Commission concluded on July 13, 1982, that there is no probable cause to believe that the Congressional Club violated 2 U.S.C. § 432(e)(4). Accordingly, the file in MUR 1316 has been closed,

MUR 1316 will become part of the public record within 30 days.

Enclosed is a copy of the brief submitted to the Commission by this Office in this matter.

Should you wish to submit any factual or legal materials to appear on the public record, please do so within 10 days. The Federal Election Campaign Act allows a complainant to seek

8204034650

judicial review of the Commission's dismissal of an action. See 2 U.S.C. § 437g(a)(8).

If you have any questions, please contact Anne A. Weissenborn, the attorney assigned to this matter, at (202) 523-4175.

Sincerely,

Charles N. Steele
General Counsel

Enclosure

8204034365 1

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 23, 1982

Bruce M. Clagett, Esquire
Scott D. Gilbert, Esquire
Covington and Burling
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

RE: MUR 1316

Dear Mr. Clagett and Mr. Gilbert:

This is to advise you that after an investigation was conducted, the Commission concluded on July 13, 1982, that there is no probable cause to believe that your client, the Congressional Club, violated 2 U.S.C. § 432(e)(4). Accordingly, the file in MUR 1316 has been closed

MUR 1316 will become part of the public record within 30 days.

Should you wish to submit any factual or legal materials to appear on the public record, please do so within 10 days.

If you have any questions, contact Anne A. Weissenborn at (202) 523-4175.

Sincerely,

Charles N. Steele
General Counsel

8204034365 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Douglas B. Huron, Esquire
Counsel, Carter/Mondale
Reelection Committee, Inc.
1619 New Hampshire Avenue, N.W.
Washington, D.C. 20009

RE: MUR
1316

Dear Mr. Huron:

This is in reference to the complaint filed by the Carter/Mondale Reelection Committee October 17, 1980, concerning violations by the North Carolina Congressional Club ("Congressional Club") of 2 U.S.C. § 432(e) and 2 U.S.C. § 441h.

Based on your client's complaints, the Commission found that there was reason to believe that the Congressional Club had violated 2 U.S.C. § 432(e)(4), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"), and instituted an investigation of these matters. After this investigation was conducted and a brief of the General Counsel was considered, the Commission concluded on July 13, 1982, that there is no probable cause to believe that the Congressional Club violated 2 U.S.C. § 432(e)(4). Accordingly, the file in MUR 1316 has been closed,

MUR 1316 will become part of the public record within 30 days.

Enclosed is a copy of the brief submitted to the Commission by this Office in this matter.

Should you wish to submit any factual or legal materials to appear on the public record, please do so within 10 days. The Federal Election Campaign Act allows a complainant to seek

8204034365 3

AU 7/15/82

judicial review of the Commission's dismissal of an action. See 2 U.S.C. § 437g(a)(8).

If you have any questions, please contact Anne A. Weissenborn, the attorney assigned to this matter, at (202) 523-4175.

Sincerely,

Charles N. Steele
General Counsel

Enclosure

8204034354

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Bruce M. Clagett, Esquire
Scott D. Gilbert, Esquire
Covington and Burling
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

RE: MUR 1316

Dear Mr. Clagett and Mr. Gilbert:

This is to advise you that after an investigation was conducted, the Commission concluded on July 13, 1982, that there is no probable cause to believe that your client, the Congressional Club, violated 2 U.S.C. § 432(e)(4). Accordingly, the file in MUR 1316 has been closed.

MUR 1316 will become part of the public record within 30 days.

Should you wish to submit any factual or legal materials to appear on the public record, please do so within 10 days.

If you have any questions, contact Anne A. Weissenborn at (202) 523-4175.

Sincerely,

Charles N. Steele
General Counsel

AW 7/15/82

8204034365 5

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
The Congressional Club) MUR 1316

CERTIFICATION

I, Marjorie W. Emmons, Recording Secretary for the Federal Election Commission Executive Session on July 13, 1982, do hereby certify that the Commission decided by a vote of 4-2 to take the following actions in the above-captioned matter:

1. That the Commission find no probable cause to believe that the Congressional Club violated 2 U.S.C. §432(e)(4).

2. That the file in MUR 1316 be closed.

3. That the letters attached to the General Counsel's June 24, 1982 report be sent.

Commissioners Aikens, Elliott, McDonald, and McGarry voted affirmatively for the decision; Commissioners Harris and Reiche dissented.

Attest:

7-14-82
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

8204034365 6

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES N. STEELE, GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JODY RANSOM

DATE: JUNE 28, 1982

SUBJECT: OBJECTIONS - MUR 1316
General Counsel's Report signed June 24, 1982; Received in OCS, 6-25-82, 1:44

The above-named document was circulated to the Commission on June 28, 1982 at 11:00.

Commissioners Reiche and Harris submitted objections this date at 1:14 and 3:17, respectively.

This matter will be placed on the agenda for the Executive Session of Tuesday, July 13, 1982. A copy of Commissioner Reiche's vote sheet with comments is attached.

Attachment:
Vote sheet

8204034365 7

RECEIVED
OFFICE OF
COMMISSION SECRETARY

SENSITIVE

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JUN 28 1982

Date & Time Transmitted: MONDAY, 6-28-82, 11:00

COMMISSIONER: McGARRY, AIKENS, McDONALD, ELLIOTT, REICHE, HARRIS

RETURN TO COMMISSION SECRETARY BY WEDNESDAY, JUNE 30, 1982, 11:00

SUBJECT: MUR MUR 1316 - General Counsel's Report signed June 24, 1982

( ) I approve the recommendation in the attached report.

(✓) I object to the recommendation.

COMMENTS: I believe the same issue involving sub-projects of political committees arose recently in another case. I fear the public is being misled.

Date: 6/28/82 Signature: Frank P. Reiche

ALL BALLOTS MUST BE SIGNED AND DATED. PLEASE RETURN ONLY THE BALLOT TO THE COMMISSION SECRETARY. PLEASE RETURN THE BALLOT NO LATER THAN THE DATE AND TIME SHOWN ABOVE.

From the Office of the Commission Secretary

8204034658

June 25, 1982

MEMORANDUM TO: Marjorie W. Emmons

FROM: Phyllis A. Kayson

SUBJECT: MUR 1316

Please have the attached General Counsel's Report distributed to the Commission on a 48 hour tally basis. Thank you.

Attachment

cc: Weissenborn

8204034365 9

SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY
82 JUN 25 P 1: 44

In the Matter of)
)
The Congressional Club) MUR 1316

GENERAL COUNSEL'S REPORT

I. BACKGROUND

The same finding was made later on March 21, 1981, with regard to MUR 1316 which involves the use of "Americans for Reagan" in a disclaimer provided at the conclusion of a television advertisement paid for by the Congressional Club.

Following investigation of these issues, a brief was sent to the Commission by this Office on May 10, 1982, recommending a finding of no probable cause to believe that the Congressional Club violated 2 U.S.C. § 432(e)(4). A copy of this brief was sent to counsel for the Congressional Club on that same date.

II. LEGAL ANALYSIS

Counsel for the respondent has not submitted a reply brief in these matters. The OGC brief of May 10, 1982 contains this Office's legal analysis of the issue involved; no information has been received in the interim to modify this analysis.

82040343660

It should be noted that acceptance of the recommendation below will close MUR 1316

III. RECOMMENDATIONS

1. That the Commission find no probable cause to believe that the Congressional Club violated 2 U.S.C. § 432(e)(4).

2. That the file in MUR 1316 be closed.

3. That the attached letters be sent.

24 June 1982
Date

Charles N. Steele
General Counsel

Attachments

Letter to counsel for respondent
Letter to counsel for complainant

6204034366 1

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Bruce M. Clagett, Esquire
Scott D. Gilbert, Esquire
Covington and Burling
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

RE: MUR 1316

Dear Mr. Clagett and Mr. Gilbert:

This is to advise you that after an investigation was conducted, the Commission concluded on June , 1982, that there is no probable cause to believe that your client, the Congressional Club, violated 2 U.S.C. § 432(e)(4). Accordingly, the file in MUR 1316 has been closed.

MUR 1316 will become part of the public record within 30 days.

Should you wish to submit any factual or legal materials to appear on the public record, please do so within 10 days.

If you have any questions, contact Anne A. Weissenborn at (202) 523-4175.

Sincerely,

Charles N. Steele
General Counsel

8204034366 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Douglas B. Huron, Esquire
Counsel, Carter/Mondale
Reelection Committee, Inc.
1619 New Hampshire Avenue, N.W.
Washington, D.C. 20009

RE: MUR
and 1316

Dear Mr. Huron:

This is in reference to the complaints filed by the Carter/Mondale Reelection Committee on July 2, 1980, and October 17, 1980, concerning violations by the North Carolina Congressional Club ("Congressional Club") of 2 U.S.C. § 432(e) and 2 U.S.C. § 441h.

Based on your client's complaints, the Commission found that there was reason to believe that the Congressional Club had violated 2 U.S.C. § 432(e)(4), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"), and instituted an investigation of these matters. After this investigation was conducted and a brief of the General Counsel was considered, the Commission concluded on June , 1982, that there is no probable cause to believe that the Congressional Club violated 2 U.S.C. § 432(e)(4). Accordingly, the file in MUR 1316 has been closed,

MUR 1316 will become part of the public record within 30 days.

Should you wish to submit any factual or legal materials to appear on the public record, please do so within 10 days. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of an action. See 2 U.S.C. § 437g(a)(8).

8204034663

(2)

If you have any questions, please contact Anne A. Weissenborn, the attorney assigned to this matter, at (202) 523-4175.

Sincerely,

Charles N. Steele
General Counsel

8204034364

SENSITIVE

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

82 MAY 10 A10: 27

May 10, 1982

MEMORANDUM

TO : The Commission

FROM : Charles N. Steele
General Counsel

SUBJECT: MUR 1316

Attached for the Commission's review is a brief stating the position of the General Counsel on the legal and factual issues concerning The Congressional Club in the above-captioned matters. A copy of this brief and a letter notifying the Respondent of the General Counsel's intent to recommend to the Commission a finding of no probable cause to believe was mailed on May 10, 1982. Following receipt of the Respondent's reply to this notice, this Office will make a further report to the Commission.

Attachments

1. Brief
2. Letter to Respondent

82040343665

Copy #1

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

MEMORANDUM TO: THE COMMISSION

FROM: MARJORIE W. EMMONS/JODY C. RANSOM

DATE: MAY 10, 1982

SUBJECT: MUR 1316 - Memorandum to the Commission dated May 10, 1982 and General Counsel's Brief dated May 7, 1982

The attached documents are circulated for your information.

ATTACHMENTS:
1) Memo; 2) Brief; 3) Letter

8204034366

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 10, 1982

Brice M. Clagett, Esq.
Scott D. Gilbert, Esq.
Covington and Burling
888 Sixteenth Street, N.W.
Washington, D.C. 20006

RE: MUR 1316

Dear Mr. Clagett and Mr. Gilbert:

Based on complaints filed with the Commission on July 2, 1980, and October 17, 1980, the Commission determined on September 3, 1980, and March 25, 1981, that The North Carolina Congressional Club, now The Congressional Club, had violated 2 U.S.C. § 432(e)(4), a provision of the Federal Election Campaign Act of 1971, as amended. An investigation was instituted.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that violations have 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 these cases. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your 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 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 no probable cause to believe a violation has occurred.

Should you have any questions, please contact Anne Weissenborn at (202) 523-4175.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Brief

6204013667

In the Matter of)
)
The Congressional Club) MUR 1316

GENERAL COUNSEL'S BRIEF

I. Statement of Case

The issue involved in these matters which is the subject of this brief was brought to the attention of the Commission in filed by the Carter/Mondale Reelection Committee, Inc., on and October 17, 1980 (MUR 1316).

Later, on March 25, 1981, the Commission made the same finding, in this instance with regard to the use of "Americans for Reagan" in a disclaimer provided at the conclusion of a television advertisement paid for by the Committee. Notifications of the Commission's determination were sent to the Committee, as was a subpoena for documents and an order for answers to written questions. On November 3, 1980, November 25, 1980, February 20, 1981, and June 8, 1981, counsel for the Committee submitted responses. (See Attachments 1, 2, 3 and 4).

II. Legal Analysis

2 U.S.C. § 432(e)(4) states in part, "In the case of any political committee which is not an authorized committee, such

8 2 0 4 0 3 1 3 6 6 8

political committee shall not include the name of any candidate in its name."

In MUR 1316, the complaint concerned a television commercial aired on WJLA-TV in Washington, D.C., the authorization line of which read

> Paid for by Americans for Reagan Congressional Club and Not Authorized by Any Presidential Candidate.

The second complaint alleged that "(t)he use by a purportedly unauthorized committee of the name of the candidate it is supporting in the committee name is prohibited by FEC regulations. 2 U.S.C. § 432(e)."

In the response filed by counsel for the Committee on June 8, 1981, it is stated that the Congressional Club's chairman, Thomas F. Ellis, and the treasurer, Carter Wrenn, "determined that the Congressional Club would make independent expenditures in support of then-Governor Reagan's presidential campaign." In order to prevent confusion with other Club activities, these independent expenditure projects were labeled "Americans for Reagan" and "Conservatives for Reagan", each designation being related to one of two advertising firms handling production of particular communications. (Attachment 4, page 2).

According to counsel, "...<u>all</u> communications made in connection with the Congressional Club's independent expenditure projects Americans for Reagan and Conservatives for Reagan, were

6204034 3669

authorized solely by the Congressional Club and financed solely with Congressional Club funds drawn on the Congressional Club's bank accounts. Likewise, all contributions received as a result of these communications were received at the mailing address solely of the Congressional Club and were deposited in bank accounts held solely in the name of the Congressional Club." (Attachment 4, page 6). In view of these assertions by counsel, an independent study has been undertaken by the Office of General Counsel of the Committee's reports of receipts and expenditures. These reports show that contributions made by certain political action committees to Americans for Reagan or Conservatives for Reagan were reported as receipts by the Committee. (See Attachments 5 and 6 for examples). These same Committee reports disclose numerous independent expenditures made by the Committee on behalf of the candidacy of Ronald Reagan; there is, however, no indication that such expenditures were made by entities designated "Americans for Reagan" or "Conservatives for Reagan".

Counsel argues that the prohibition against use of a candidate's name found at 2 U.S.C. § 432(e)(4) applies only to unauthorized political committees and that Americans for Reagan and Conservatives for Reagan were not political committees for purposes of this provision. Counsel cites the definition of "political committee" at 2 U.S.C. § 431(4)(A), which is interpreted as applying "(1) only to a 'committee, club, association, or other groups of persons', and (2) only if such a group 'receives contributions' or 'makes expenditures' in excess of $1,000." Counsel then argues that these requirements are not met in this

6204034367 0

case because "there exists no association or group of persons other than the Congressional Club that properly can be considered a respondent in this proceeding. Within the context of the Act and regulations, Americans for Reagan and Conservatives for Reagan do not exist. They are merely phrases used by the Congressional Club to label two of its independent projects." (Attachment 4, page 8). "As non-entities, Americans for Reagan and Conservatives for Reagan had neither the funds to expend nor the capability of expending anything." (Attachment 4, page 9). Regarding the receipt of contributions, "it is clear that the Congressional Club was the only entity that received contributions with regard to Americans for Reagan and Conservatives for Reagan, and that the Congressional Club is the only political committee before the Commission in this proceeding." (Attachment 4, page 10).

This Office has determined that because the language of both 2 U.S.C. § 432(e)(4) and the Commission's implementing regulation, 11 C.F.R. § 102.14(a), refers only to the names of political committees, it would be difficult to sustain the inference that it also applies to the use by such committees of a candidate's name in other contexts. Therefore, in order to find that 2 U.S.C. § 432(e)(4) was violated as regards the television advertisement at issue in MUR 1316

it would appear to be necessary to determine that Americans for Reagan and/or Conservatives for Reagan met the definition of a "political committee" at the time these names were used.

8204034367 1

According to the Committee's counsel, there has existed no group of persons involved with the activities here at issue which can be designated "Americans for Reagan" or "Conservatives for Reagan". Only Congressional Club staff, bank accounts and other records have allegedly been involved in the receipt and expenditure of funds undertaken as activities bearing those titles. This Office is in possession of no information to the contrary. It could perhaps be argued that by using only the terms "Americans for Reagan" or "Conservatives for Reagan", and not "The Congressional Club" in letterheads used for communications, the Congressional Club in fact employed those names as aliases, thereby raising them to the level of alternative names of the Committee rather than projects. However, as counsel has indicated, the copies of such communications submitted to the Commission in response to its subpoena and also as attachments to responses from counsel all contain written disclaimers stating that the communications involved were authorized and paid for by the Congressional Club and, in most cases, stating that "Americans for Reagan" or "Conservatives for Reagan" was a "project" of the Congressional Club. Therefore, it seems that the Committee did not present itself to the public under more than one name, but, rather, explicitly made the Congressional Club the principal entity. Given these facts, neither "Americans for Reagan" nor "Conservatives for Reagan" appears to meet the definition of "political committee" set forth at 2 U.S.C. § 431(4)(A), and therefore it would appear

6 2 0 4 0 3 4 1 3 6 7 2

that the provisions of 2 U.S.C. § 432(e)(4) are not applicable to those terms. 1/ Therefore, this Office recommends that the Commission find no probable cause to believe that the Congressional Club has violated 2 U.S.C. § 432(e)(4).

1/ Counsel, citing 2 U.S.C. § 438(e), argues that the Congressional Club, when deciding upon the titles "Americans for Reagan" and Conservatives for Reagan" relied upon the language of 2 U.S.C. § 432(e)(4) and 11 C.F.R. § 102.14(a) with their references to "political committees", upon the definition of "political committee" found at 2 U.S.C. § 431(4)(A), and upon the requirements for disclaimers found at 11 C.F.R. § 110.11(a)(1). Counsel also argues that an application of Section 432(e)(4) to the Congressional Club's fund-raising projects, in spite of the statutory reference to political committees, would render that provision "overly vague and unduly broad, and violative of both the First and Fifth Amendments." Finally, counsel argues that a prohibition upon the use of a candidate's name in such situations would be "an impermissible restraint on the exercise by the Congressional Club of its First Amendment rights." (Attachment 4, pages 14-15). Given the determination by this Office that "Americans for Reagan" and "Conservatives for Reagan" do not meet the statutory requirements of a "political committee", it is not necessary to reach the additional statutory and constitutional issues raised.

Counsel states that the portions of the disclaimers included in the Committee's communications which involved the status of Americans for Reagan and Conservatives for Reagan were not required by either the Federal Election Campaign Act or by the Commission's regulations; however, such a statement is not entirely accurate as regards any communications which solicited funds. 11 C.F.R. § 110.11(a)(1)(iii) requires that unauthorized solicitations "state that the communication is not authorized by any candidate or candidate's committee." Counsel also erroneously assumes that the Commission did not view the disclaimer contained in the television advertisement at issue in MUR 1316 during its consideration of whether or not a violation of 2 U.S.C. § 441d(a)(3) on the part of the Congressional Club had occurred.

8 2 0 4 0 3 4 1 3 6 7 3

VINGTON & BURLING
888 SIXTEENTH STREET, N.W.
WASHINGTON, D.C. 20006

TELEPHONE
(202) 452-6000

WRITER'S DIRECT DIAL NUMBER
(202) 452-6418

TWX: 710-822-0088
TELEX: 89-593
CABLE: COVLING

ATTACHMENT 1

HAND DELIVERED

November 3, 1980

Anne Weissenborn, Esq.
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1316

Dear Ms. Weissenborn:

As I have indicated to you during several telephone conversations, I am presently in trial before the United States District Court for the Western District of Oklahoma. We have just completed our eighth week of trial, and there is no end in sight. Indeed, we have already begun discussions before the Court concerning the scheduling of witnesses by opposing counsel for the week of December 15. It now appears, however, that the trial will recess during the period around the Thanksgiving holiday. Accordingly, I request an extension of time within which to respond to the Carter-Mondale Reelection Committee, Inc. complaint until November 28.

I would, however, like to comment briefly now on the Carter-Mondale complaint. It is clear that the complaint attacks the substance of a particular Congressional Club advertisement. As such, the complaint is a thinly-veiled invitation to the Federal Election Commission to engage in censorship of political speech. The allegations that the Federal Election Campaign Act, as amended, ("FECA") has been violated, are, at best, window-dressing. The true thrust of the complaint is revealed in its next-to-last paragraph, where Carter-Mondale state that they "are calling on stations not to run these misleading advertisements." Carter-Mondale's real purpose is not to raise an issue of law, but to suppress the advertisements. The First Amendment obviously precludes this Commission from being a party to such an effort.

8 2 0 4 0 3 4 3 6 7 4

RECEIVED
FEDERAL ELECTION COMMISSION
80 NOV 3 P 3:09

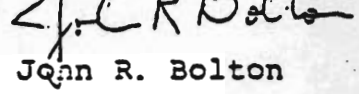
Carter-Mondale's actual intent is itself strong evidence of the speciousness of the complaint. For instance, as to the allegation that the advertisements violate 2 U.S.C. § 441h, Carter-Mondale has ignored the joint public notice by this Commission and the Federal Communications Commission ("FCC") concerning FCC rules on sponsorship identification and FEC requirements for candidate authorization. CCH Fed. Elec. Camp. Fin. Guide ¶ 9059. The Carter-Mondale complaint contains no allegation that the requirements of the joint FEC-FCC notice have been violated.

Moreover, as that joint notice makes plain, under FCC rules, "liability for incorrect sponsorship identification rests with the [broadcast] licensee." Id. at n. 2. The fact that the advertisement has been run strongly supports the argument that the advertisement complied with the applicable FCC rules and also strongly supports the argument that no violation of 2 U.S.C. § 441h has occurred. Indeed, Section 441h, by its own terms, is inapplicable here. That provision covers candidates for Federal office or the employees or agents of such a candidate. The Congressional Club is neither a candidate nor the agent or employee of a candidate.

The Congressional Club has addressed allegations by Carter-Mondale concerning 2 U.S.C. § 432(e)(4)

We will be making a further response on those issues on November 21, assuming that the Commission grants our request for an extension of time to respond to a subpoena containing certain written questions and requesting the production of documents.

Sincerely yours,



John R. Bolton

8204034367 5

WASHINGTON, D.C. OFFICE

TELEPHONE
(202) 452-6000

WRITER'S DIRECT DIAL NUMBER
(202) 452-6418

ATTACHMENT 2

P3: 34

TWX: 710-822-0008
TELEX: 89-593
CABLE: COVLING

HAND DELIVERED

November 25, 1980

Charles N. Steele, Esq.
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Dear Mr. Steele:

This letter is in response to the subpoena to produce certain documents and materials and to answer written questions issued by the Federal Election Commission ("FEC") to the Congressional Club.

We provide the following written responses to the two document-production items:

1. There are no documents "concerning or relating to the formation, organization, planning or undertaking of Americans for Reagan" because that project was only an aspect of the Congressional Club's political activity. See response to Interrogatory A(1), infra.

2. Before responding to this item, we would like a statement from the FEC concerning the need for it to examine the contents of political advertisements.

We provide the following responses to the FEC's interrogatories:

A. Americans for Reagan is a project of the Congressional Club.

(1) Americans for Reagan was never "organized" or "formed". The first fundraising letter was dated April 30, 1980.

8204034676

(2) Americans for Reagan maintains no bank accounts or accounting of receipts and expenditures separate and apart from the Congressional Club.

(3) Americans for Reagan does not employ a staff, separate and apart from that of the Congressional Club.

(4) See response to document production request Two, supra.

(5) Monies from checks received by the Congressional Club made payable to the Congressional Club were used in the Americans for Reagan project.

(6) "Congressional Club" is the name of the account.

B. Thomas F. Ellis, Chairman of the Congressional Club; Carter Wrenn, Treasurer of the Congressional Club.

If you have any further questions in this matter, please let me know. We believe that the foregoing responses vividly demonstrate that Americans for Reagan is a project of the Congressional Club. Accordingly, there can be no violation of 2 U.S.C. § 432(e)(4) or any other provision of the Federal Election Campaign Act, as amended. We believe MUR should be dismissed forthwith.

Sincerely yours,

John R. Bolton

John R. Bolton

Enclosures

6204034367 7

COVINGTON & BURLING
888 SIXTEENTH STREET, N. W.
WASHINGTON, D. C. 20006

TELEPHONE
(202) 452-6000

WRITER'S DIRECT DIAL NUMBER
(202) 452-4766

TWX 710-822-0085
TELEX 89-593
CABLE: COVLING

ATTACHMENT 3

RECEIVED
GENERAL COUNSEL
'81 FEB 20 P 4:41

February 20, 1981

BY HAND

Anne Weissenborn, Esq.
Office of the General Counsel
Federal Election Commission
1325 K Street, N.W.
7th Floor
Washington, D.C. 20463

Dear Ms. Weissenborn:

Pursuant to our agreement, as confirmed by my letter of February 13, 1981, I am submitting herewith copies of the documents in the possession of the Congressional Club that were used to solicit funds with respect to the project Americans For Reagan. Any markings that would tend to identify the potential recipients of such documents have been deleted. In the event that the Congressional Club discovers additional responsive documents in its possession, it will supplement this submission accordingly.

With respect to Interrogatory A-4, the Congressional Club supplements its response of November 25, 1980, as follows: Some solicitations or requests for contributions to Americans For Reagan requested that checks be made payable to the Congressional Club; other solicitations or requests for contributions to Americans For Reagan requested that checks be made payable to Americans For Reagan; and other solicitations or requests for contributions to Americans For Reagan did not specify the payee.

If you have any futher questions, please let me know.

Sincerely,

Scott D. Gilbert

SDG/dg

Enclosure

8 2 0 4 0 3 4 3 6 7 8

UNITED STATES OF AMERICA
BEFORE THE FEDERAL ELECTION COMMISSION

IN RE THE CONGRESSIONAL CLUB) MUR 1316

RESPONSE OF THE CONGRESSIONAL CLUB

This memorandum is submitted on behalf of the Congressional Club in response to the finding of the Federal Election Commission ("Commission") in the above-entitled matter that there is reason to believe the Congressional Club violated 2 U.S.C. § 432(e)(4) by including the name of a candidate in the title of its project Americans For Reagan.

Accordingly, the complaint in MUR 1316 that allege a violation by the Congressional Club of 2 U.S.C. § 432(e)(4) should be dismissed.

STATEMENT OF FACTS

The Congressional Club is a multicandidate political committee, as that term is defined in the Federal Election Campaign Act ("Act"), and is duly registered with the Commission. Thomas F. Ellis serves as the Chairman of the Congressional Club and its Treasurer is Carter Wrenn. Senator Jesse Helms serves as Honorary Chairman.

6204034367 9

In early 1980, Mr. Ellis and Mr. Wrenn determined that the Congressional Club would make independent expenditures in support of then-Governor Reagan's presidential campaign, in both the primary and general election periods. As part of this endeavor, the Congressional Club sponsored mass mailings and various advertisements, intended to engender voter support for Mr. Reagan and to solicit funds to enable the Congressional Club to continue to make such expenditures. All monies received by the Congressional Club in connection with this activity were deposited in bank accounts held solely in the name of the Congressional Club, and all funds used to finance these communications were drawn from these accounts.

In order to distinguish these independent expenditure projects from other previous and ongoing projects undertaken by the Congressional Club -- both to avoid confusion among members of the public and for internal organization purposes -- Mr. Ellis and Mr. Wrenn decided to label these independent expenditure efforts in a manner that clearly would identify them as such. Accordingly, after consultation with commercial advertising firms and careful deliberation, the Congressional Club's independent expenditure projects were entitled "Americans For Reagan" and "Conservatives For Reagan", depending upon which one of two advertising firms was producing the particular communications. These phrases appeared in all of the communications produced in connection with these projects: in the case of mailings, as part of or in place of the Congressional Club letterhead, or in

8 2 0 4 0 3 1 3 6 8 0

COVINGTON & BURLING
888 SIXTEENTH STREET, N. W.
WASHINGTON, D. C. 20006

TELEPHONE
(202) 452-6000

WRITER'S DIRECT DIAL NUMBER
(202) 452-4766

TWX: 710-822-0006
TELEX: 89-593
CABLE: COVLING

June 8, 1981

'81 JUN 8 P12:38

Anne A. Weissenborn, Esq.
Office of General Counsel
Federal Election Commission
1325 K Street, N.W., 7th Floor
Washington, D.C. 20463

Re: MUR 1316

Dear Ms. Weissenborn:

Enclosed please find two copies of the Congressional Club's response in the above-entitled MUR.

Please call me if you have any further questions.

Sincerely,

Scott D. Gilbert
by DAG

Scott D. Gilbert

SDG/dg

Enclosure

8204034368 1

the body of a particular letter;*/ and, in the case of the particular advertisement at issue here, as part of the disclaimer at the end of the broadcast.

The Congressional Club took great care, however, to ensure that the recipients or viewers of these communications were made aware that Americans For Reagan and Conservatives For Reagan were projects of the Congressional Club and were not associated with any other political or candidates' committees. There were two reasons for this: 1) the Congressional Club highly values the reputation it has earned as an effective and loyal supporter of the political philosophy embodied by President Reagan and numerous segments of both major political parties, and Mr. Ellis and Mr. Wrenn wanted the Congressional Club's supporters and other members of the general public to be aware of its continued efforts in this regard on behalf of then-Governor Reagan; and 2) Mr. Ellis and Mr. Wrenn wanted to ensure full compliance with the Act and the regulations of the Commission in order not to jeopardize either the Reagan campaign or the Congressional Club's status as a viable political committee.**/

---

*/ Some such letters had no letterhead; others bore the letterhead of Senator Helms or Mr. Wrenn; in others, the phrases Conservatives For Reagan and Americans For Reagan were combined with the letterheads of Senator Helms or Mr. Wrenn; and, in still others, the phrases Americans For Reagan and Conservatives For Reagan stood alone.

**/ See, e.g., 2 U.S.C. § 441d(a) and 11 C.F.R. § 110.11(a), which require a disclaimer to appear in communications that solicit contributions or expressly advocate the election or defeat of a clearly identified candidate.

8204034368 2

Therefore, in the body of many of the letters distributed in connection with Americans For Reagan and Conservatives For Reagan, there were numerous statements that explained to the recipient the independent nature and purpose of these projects. Indeed, the first piece of literature mailed by the Congressional Club as part of its independent expenditure effort explained:

> This is the beginning of the Congressional Club's independent expenditure campaign to promote Governor Ronald Reagan for President. (An independent expenditure campaign is an effort which is not coordinated with the candidate or his principle campaign commitee.)
>
> * * *
>
> This independent campaign is one of several of the Club's projects this year to help Senator Helms promote conservative candidates and causes. (emphasis added)*/

Other letters, some of which were sent under the letterheads Americans For Reagan and Conservatives For Reagan, included statements like:

> Did you know federal law prevents Ronald Reagan from raising money?
>
> The only money he can spend is the money the government is going to give him after the convention.
>
> But, did you also know friends and supporters of a Presidential candidate can spend as much money as they want to help him get elected?

---

*/ Memorandum from Carter Wrenn to Helms Supporters dated March 7, 1980, attached hereto as Appendix A.

8204034136 83

> And, that if you've sent any money to Ronald Reagan up to now, it doesn't count towards the $5,000 limit you have through an independent campaign?
>
> * * *
>
> Because of the 1974 Federal Election Law, Governor Reagan cannot ask you himself to send money to help him defeat President Carter this November.
>
> However, since many liberal supporters of President Carter will be raising and spending money independent of the Carter campaign, shouldn't you and I be raising and spending money independent of Governor Reagan's campaign to help elect him President?
>
> Because this independent effort is being made without contacting Governor Reagan or any of his campaign aides, you can contribute up to $5,000 to the Congressional Club (instead of the $1,000 limit if you had sent the money directly to the Reagan campaign.) (emphasis added)*/

Moreover, pursuant to the explicit directives of Mr. Wrenn, substantially all such mailings included a clear disclaimer that contained the following language:

> [Americans/Conservatives] For Reagan is an independent project of the Congressional Club and is not authorized by any presidential candidate. The foregoing materials and enclosures, are authorized and paid for by the Congressional Club, Thomas F. Ellis, Chairman; Carter Wrenn, Treasurer.

Similarly, the television advertisement in question here ended with the clearly legible statement:

> Paid for by Americans For Reagan/ Congressional Club. Not authorized by any Presidential candidate.

---

*/ See, e.g., letter dated September 22, 1980, attached hereto as Appendix B.

8204034368 4

This disclaimer was included despite the fact that this particular communication did not contain any instances of express advocacy or of solicitations for contributions and thus the disclaimer was not required under either the Act or the regulations. The sole reason for its inclusion was to effectuate the objectives described above, namely, to underscore once again that this Congressional Club project had no connection whatsoever with any other political or candidates' committees.

It bears emphasis that all communications made in connection with the Congressional Club's independent expenditure projects Americans For Reagan and Conservatives For Reagan were authorized solely by the Congressional Club and financed solely with Congressional Club funds drawn on the Congressional Club's bank accounts. Likewise, all contributions received as a result of these communications were received at the mailing address solely of the Congressional Club and were deposited in bank accounts held solely in the name of the Congressional Club.

Because then-Governor Reagan's name appeared in the title of the Congressional Club's project Americans For Reagan, however, the Congressional Club was named as a respondent in complaint filed with the Commission by the Carter/Mondale Reelection Committee, Inc. (MUR 1316) and which allege a violation by the Congressional Club of 2 U.S.C. § 432(e)(4), which prohibits an unauthorized political committee from including in its name the name of a candidate. These thinly veiled, politically motivated attempts

8204034685

to halt legitimate support of the Reagan campaign had no colorable basis when originally filed, and have no more merit now. As shown above, there simply is no factual basis to support the allegations that the Congressional Club violated 2 U.S.C. § 432(e)(4), and these matters should be dismissed.

ARGUMENT

I. The Congressional Club Did Not Violate Either the Letter or the Spirit of 2 U.S.C. § 432(e)(4).

A. The Congressional Club's Independent Projects Are Not Political Committees and Are Not Subject to 2 U.S.C. § 432(e)(4).

2 U.S.C. § 432(e)(4) provides in relevant part that "[i]n the case of any political committee which is not an authorized committee, such political committee shall not include the name of any candidate in its name." Accord, 11 C.F.R. § 102.14(a). Thus, by its very terms, this prohibition applies only to the names of political committees; it does not -- and indeed, without raising serious constitutional questions, could not -- purport to regulate the use of a candidate's name in any other context. It is clear that the Congressional Club's independent projects Americans For Reagan and Conservatives For Reagan are not political committees, as that term is defined in the Act and Commission's regulations.

2 U.S.C. § 431(4)(A) defines the term "political committee" to mean:

> Any committee, club, association, or other group of persons which receives contributions aggregating in excess of $1,000

8204034386

> during a calendar year or which makes expenditures aggregating in excess of $1,000 during a calendar year.

Accord, 11 C.F.R. § 100.5(a).*/ This is a precise definition and must be applied with care, because in many cases it is the only standard by which members of the public can decide whether their committees, groups or organizations are subject to the jurisdiction of the Commission, and whether to conform their activities to the registration and reporting requirements and other limitations of the Act and regulations. In enacting § 431 (4)(A), Congress determined that the term "political committee" will apply 1) only to a "committee, club, association, or other groups of persons", and 2) only if such a group "receives contributions" or "makes expenditures" in excess of $1,000. These requirements simply are not met in the instant case.

First, there exists no association or group of persons other than the Congressional Club that properly can be considered a respondent in this proceeding. Within the context of the Act and regulations, Americans For Reagan and Conservatives For Reagan do not exist. They are merely phrases used by the Congressional Club to label two of its independent projects.**/

---

*/ The Act and regulations also define "political committee" in terms of separate segregated funds and local committees of political parties. See, 2 U.S.C. § 431(4)(B),(C); 11 C.F.R. § 100.5(b),(c). These definitions have no possible application to this matter and we do not address them here.

**/ That the Commission has overlooked this fact is evident from the reference in its correspondence to this firm as "counsel for Americans For Reagan, NCCC." Such a reference is incorrect; Covington & Burling is counsel only to the Congressional Club. We no more represent Americans For Reagan than we do any other campaign slogan or product.

0 2 0 4 0 3 4 1 3 6 8 7

The Congressional Club is the only group of persons responsible for the creation and management of these projects. All communications involving Americans For Reagan and Conservatives For Reagan were developed by Congressional Club personnel and were paid for with Congressional Club funds. All letters were signed by the same individuals who usually sign Congressional Club communications and were sent to recipients on the Congressional Club's mailing lists. Likewise, all contributions from the recipients and viewers of these communications were sent to the Congressional Club's address, were processed by Congressional Club personnel and were deposited in the Congressional Club's accounts for use by the Congressional Club. On these facts, the phrases Americans For Reagan and Conservatives For Reagan do not constitute a committe or association.

Second, the Act and regulations require a group to "make expenditures" or "receive contributions" before it can be considered a political committee. As explained above, however, all monies expended or received in connection with the projects Americans For Reagan and Conservatives For Reagan were drawn on or deposited in bank accounts held solely by the Congressional Club.

All expenditures in connection with these projects were made on behalf of then-Governor Reagan's presidential campaign by the Congressional Club with its own funds. As non-entities, Americans For Reagan and Conservatives For Reagan had neither the funds to expend nor the capability of expending anything.

8 2 0 4 0 3 1 3 6 8 8

Similarly, Americans For Reagan and Conservatives For Reagan, as nothing more than projects of the Congressional Club, did not have the ability to receive anything. Although these projects may have been designated as the payee on some of the checks sent by contributors to the Congressional Club, such checks were sent to the Congressional Club's address and were deposited in the Congressional Club's accounts. It was the Congressional Club which took in the monies associated with these projects and it was the Congressional Club which had complete dominion and control over such funds. Given the plain meaning of "receive" in these circumstances, -- "to take possession or delivery of" or "to come into possession of"*/ -- it is clear that the Congressional Club was the only entity that received contributions with regard to Americans For Reagan and Conservatives For Reagan, and that the Congressional Club is the only political committee before the Commission in this proceeeding.**/

Therefore, because Americans For Reagan and Conservatives For Reagan cannot properly be considered as political committees within the meaning of the Act and regulations, 2 U.S.C. § 432(e)(4) is by its very terms inapplicable to these projects. Thus,

---

*/ Webster's Third New International Dictionary (1968).

**/ Indeed, these projects of the Congressional Club do not constitute new political committees any more than the fundraising projects commonly established by numerous non-profit organizations constitute new organizations.

6 2 0 4 0 3 1 3 6 8 9

there is no basis upon which to find that the Congressional Club violated that provision by including the name of a candidate in the titles of its independent expenditure projects.

B. The Congressional Club Made Clear the Status of Its Independent Projects.

As demonstrated above, there is no reason to believe, and certainly not probable cause to believe, that the Congressional Club violated 2 U.S.C. § 432(e)(4). Moreover, not only do the facts fail to reveal any violation by the Congressional Club of the letter of the law; they fail as well to reveal any violation of the spirit of that statutory provision.

The purpose of 2 U.S.C. § 432(e)(4) is to provide the public a means by which to distinguish authorized from unauthorized committees. */ And, although the means chosen by Congress in that section were by their own terms inapplicable to the Congressional Club's independent projects, the Congressional Club assured that recipients and viewers of these communications were provided with information more than sufficient to distinguish the Congressional Club and its projects from the authorized committee of any candidate.

First, in the body of most letters sent out in connection with Americans For Reagan and Conservatives For Reagan the Congressional Club informed recipients that these projects

---

*/ See Report of the Committee on House Administration, H.R. Rep. No. 96-422, 96th Cong. 1st Sess. at 13 (1979).

8204034690

were independent efforts in support of, but separate and distinct from, the Reagan campaign. The phrase "independent effort" was used repeatedly in many of these letters, and a substantial number of mailings emphasized the inability of then-Governor Reagan's authorized committee to accept additional contributions. Indeed, as pointed out in these instances, such federal restrictions were the very reason for the genesis of these independent expenditure projects.

Second, all mailings distributed in connection with the Congressional Club's independent projects contained a disclaimer designed to satisfy the requirements of 2 U.S.C. § 441d(a) and 11 C.F.R. § 110.11(a) */ by informing recipients that such communications were "authorized and paid for by the Congressional Club". Moreover, although this was not required by either the Act or the Commission's regulations, substantially all of these disclaimers also explained the status of the Congressional Club's independent projects by stating that Americans For Reagan or Conservatives For Reagan, as the case may be, was "an independent project of the Congressional Club" and was "not authorized by any presidential candidate." In addition, this entire

---

*/ That these disclaimers did comply fully with the provisions of 2 U.S.C. § 441d(a) and 11 C.F.R. § 110.11(a) cannot be questioned.

" See, 11 C.F.R. § 110.11(a)(1); Advisory Opinion 1980-45 (March 19, 1981), where the Commission ruled that a disclaimer that was set in type face of equal or smaller size than those in this case satisfied the "clear and conspicuous" requirement of the foregoing regulation.

8204034369 1

disclaimer appeared on the bottom front page of every such letter and often was repeated again in other materials included in such mailings. This effort to provide full and fair disclosure went well beyond what was required of the Congressional Club by 11 C.F.R. §110.11(a).*/

Third, the Congressional Club continued its policy of full disclosure with the advertisement at issue in this MUR. As noted above, this broadcast included a disclaimer designed to satisfy the provisions of 2 U.S.C. § 441d(a) and 11 C.F.R. § 110.11(a), even though the content of this advertisement did not bring it within the purview of those provisions. Indeed, without even seeing the disclaimer in question, the Commission found no reason to believe that the Congressional Club's sponsorship of this advertisement violated 2 U.S.C. § 441d(a)(3).

Thus, the Congressional Club made a significant good-faith effort in all of its communications in connection with Americans For Reagan and Conservatives For Reagan to inform recipients and viewers of the independent nature and sponsorship of these projects. Since these projects were not subject to the provisions of 2 U.S.C. § 432(e)(4) and the Congressional Club was not required under 2 U.S.C. § 441d(a) or 11 C.F.R. § 110.11(a)

---

*/ 11 C.F.R. § 110.11(a)(1) states explicitly that disclaimers need not appear "on the front face or page of any such material."

6204034369 2

to go to the lengths that it did in this regard, there is no public policy to be served by a continuation of these enforcement matters.

II. The Congressional Club Relied in Good Faith upon Provisions of the Act and the Regulations of the Commission.

As demonstrated above, the Congressional Club relied upon the Act and the Commission's regulations and in all respects acted in good faith in accordance therewith. In entitling its projects Americans For Reagan and Conservatives For Reagan, the Congressional Club relied upon the fact that 2 U.S.C. § 432(e)(4) and 11 C.F.R. § 102.14(a) by their very terms apply only to "political committees". The Congressional Club further relied upon the definition of "political committee" set forth by Congress in 2 U.S.C. § 431(4)(A). And, in fashioning its disclaimers, the Congressional Club relied upon, and in fact exceeded, the requirements prescribed by the Commission in 11 C.F.R. § 110.11(a)(1).

2 U.S.C. § 438(e) provides in relevant part that

> any person who relies upon any rule or regulation prescribed by the Commission. . . and who acts in good faith in accordance with such rule or regulation shall not, as a result of such act, be subject to any sanction provided by this Act. . . .

This means just what it says. As stated by the Committee on House Administration, "[a] person who relies upon such regulations in good faith will not be subject to subsequent enforcement action." H.R. Rep. No. 96-422, supra at 24. Thus, further action by the Commission in this matter not only will fail

8204034369 3

to serve the public interest, but will contravene the explicit Congressional mandate of 2 U.S.C. § 438(e).

Application of § 432(e)(4) to what are quite clearly nothing more than fundraising projects when that provision by its very terms is applicable only to political committees would render § 432(e)(4) and § 431(4(A) overly vague and unduly broad, and violative of both the First and Fifth Amendments. And, prohibiting the use of a candidate's name in such circumstances would constitute an impermissible restraint on the exercise by the Congressional Club of its First Amendment rights. Accordingly, these enforcement proceedings should be terminated.

CONCLUSION

As demonstrated above, there is no basis in law or fact for believing that the Congressional Club violated either the letter or the spirit of 2 U.S.C. § 432(e)(4). Moreover, in all actions taken by the Congressional Club with respect to this matter, it relied in good faith upon the Commission's regulations. Accordingly, any further enforcement action by

02040341369 4

the Commission is wholly unwarranted, and MUR 1316 that allege a violation by the Congressional Club of 2 U.S.C. § 432(e)(4) should be dismissed.

Respectfully submitted,

Brice M. Clagett
Scott D. Gilbert

Covington & Burling
888 Sixteenth Street, N.W.
Washington, D.C. 20006

Attorneys for the
Congressional Club

Dated:

8204034369 5

EXECUTIVE COMMITTEE
SENATOR JESSE HELMS
THOMAS P. ELLIS
CARTER WRENN
HUGH CHATHAM
MARION PARROTT
T. JOYNER, JR.

SENATOR HELMS TO ENDORSE RONALD REAGAN

TO: HELMS SUPPORTERS
FROM: CARTER WRENN
DATE: MARCH 7, 1980

The Congressional Club has produced and paid for a TV program with Senator Helms endorsing Governor Ronald Reagan. The Club has also purchased time so these programs will be shown on the nationwide cable television station WTBS, Channel 17 from Atlanta on Sunday evening, March 9, 1980 and again on Monday evening, March 10, 1980.

This is the beginning of the Congressional Club's independent expenditure campaign to promote Governor Ronald Reagan for President. (An independent expenditure campaign is an effort which is not coordinated with a candidate or his principle campaign committee.)

Below are the times you can see Senator Helms endorse Governor Reagan:

Sunday, March 9, 1980 - Channel 17
WTBS from Atlanta

Ruff House - Channel 17

* A 2 minute spot prior to the show at 10:30 p.m.
* A 1 minute spot after the show at 11:00 p.m.

The Big Battles - Channel 17
10:00 - 11:00 p.m. Monday

* A 2 minute spot during the first half of the show.
* A 1 minute spot after the show at 11:00

This independent campaign is one of several of the Club's projects this year, to help Senator Helms promote conservative candidates and causes.

Please watch these historical commercials on Sunday and Monday evenings. Also call as many of your friends as possible and urge them to watch the commercials too.

Thank you very much.

8204034696

CONSERVATIVES FOR REAGAN
POST OFFICE BOX 18848
RALEIGH, NORTH CAROLINA 27619

September 22, 1980

Dear Friend:

Did you know Federal law prevents Ronald Reagan from raising money?

The only money he can spend is the money the government is going to give him after the convention.

But did you also know friends and supporters of a Presidential candidate can spend as much money as they want to help get him elected?

And, that if you've sent any money to Ronald Reagan up to now, it doesn't count towards the $5,000 limit you have through an independent campaign?

In a Presidential race between Jimmy Carter and Ronald Reagan I can assure you Jimmy Carter's friends and supporters will be spending untold millions.

We must do the same for Ronald Reagan.

Who are these friends of Jimmy Carter who will be spending all this money to re-elect him?

It will be the liberal special interest groups. Think for a moment; won't it be groups such as --

-- labor unions
-- environmental organizations
-- pro-abortion organizations
-- liberal activist organizations
-- military disarmament groups
-- groups that want to sell sophisticated military knowledge and equipment to Russia and Communist China.
-- groups that oppose prayer in schools
-- groups that want to confiscate all privately-held guns
-- groups that oppose balancing the federal budget because they want to

Not prepared or filed at government expense
Conservatives for Reagan, 2325 Barrett Drive, Suite 100, Raleigh, North Carolina 27603 is an independent project of the Congressional Club and is not authorized by any Presidential Candidate. The foregoing material and enclosures are authorized and paid for by the Congressional Club, Thomas F. Ellis, Chairman, Carter Green, Treasurer.

6 2 0 4 0 3 1 3 6 9 7

spend more and more of your tax money for welfare and social experimental programs.

These are just a few examples. You probably can add to this list of groups that will be spending many millions, in fact probably tens of millions, of dollars to defeat Ronald Reagan.

Because of the 1974 Federal Election Law, Governor Reagan can not ask you himself to send money to help him defeat President Carter this November.

However, since many liberal supporters of President Carter will be raising and spending money independent of the Carter campaign, shouldn't you and I be raising and spending money independent of Governor Reagan's campaign to help elect him President?

Because this independent effort is being made without contacting Governor Reagan or any of his campaign aides, you can contribute up to $5,000 to the Congressional Club (instead of the $1,000 limit if you had sent the money directly to the Reagan campaign).

And remember, if you have sent any money to Governor Reagan, it doesn't count towards this $5,000 limit.

I helped form the Congressional Club back in 1973. Our purpose is to help elect conservatives to public office.

This year we expect to help at least 50 conservatives who are running for Congress.

However, when I realized the unfair advantage Jimmy Carter would have over Ronald Reagan because of his "friends" and position as President, I put together (through the Congressional Club) an independent effort to help Ron win the Republican nomination and defeat the Democratic nominee in November.

I think you will agree this is probably one of the 3 or 4 most important political contributions you have ever made. In fact, it may very well be the single most important contribution you will ever make.

Just think - for the first time in our lifetime, we may elect a conservative President of the United States.

But the election is less than 5 months from now.

Here is a list of some of the projects the Congressional Club and I would like to get started immediately:

1. I want to try to identify at least 1,000,000 people who will pledge to work for Ronald Reagan this

6 2 0 4 0 3 4 1 3 6 9 8

coming September and October. The best way to do this is to use TV and the mails.

2. We will produce and run TV ads in August, September and October. The purpose of these ads will be to appeal to conservative blue and white collar workers and ethnic voters who traditionally vote Democratic or who consider themselves independent.

So today I am asking you to consider making the largest contribution you've ever made to a political candidate.

You and I have waited all of our life for this year.

We've worked so very hard and contributed a lot of money to help elect conservative candidates, and to help defeat liberal legislation, or to pass conservative legislation...We've attended rallies and so many speeches we can't remember them all.

We've signed many petitions and mailed lots of letters and post-cards for the conservative cause.

And it was all for this moment. All of our hopes and dreams are so close to being realized.

But it may not happen because Jimmy Carter and Ronald Reagan are limited by law to spend the same amount of money.

But Jimmy Carter's friends - such as the unions, the pro-abortion organizations, the environmental organizations and many other liberal groups - will probably raise and spend over 15 million dollars to defeat Ronald Reagan. That's over and above the "legal limit" funds.

If past elections are any indicator, you can be sure that the union bosses alone, using forced union dues, will spend over $10,000,000 to defeat Ronald Reagan. In 1968 the unions are reported to have spent over $50,000,000 to elect Hubert Humphrey and in 1976 it's estimated that the unions spent at least $22,000,000 to elect Jimmy Carter.

Governor Reagan is doing everything he humanly can. He's working 12 and 14 hours a day for 7 to 8 days straight without a day off.

Now the question is: What will you and I do to help this great conservative?

Since, in my opinion, this will probably be the most important political contribution you have ever made, please consider making the largest contribution you've ever made.

6204034369 9

Of course I know you contribute generously to candidates you believe in.

And, as we all know, this is THE BIG ELECTION. I feel very strongly that this is the most important election of our lifetime.

As best I can remember, only on rare occasions have I ever asked anyone to make a $2,000 contribution before.

But I'm asking you to write a check today for $2,000.

I have to say I'm a little surprised at myself that I can ask you for such a large check. But, of course, I'm not asking for myself. I'm asking for my friend, Ron.

Now I realize that $2,000 may just be more than you want to send.

And, if so, of course I'll understand. You know me well enough to know that I'll be very appreciative of whatever amount you feel you would like to send.

But we do need to start running these ads right away. So please mail your check today. Please don't put it off -- even one day.

Regards,

Jesse

JESSE HELMS

8 2 0 4 0 3 4 1 3 7 0 0

ATTACHMENT 5a

Page 1 of 1 for
Line Number 21
(Use separate schedule(s) for each category of the Detailed Summary Page)

SCHEDULE B

ITEMIZED DISBURSEMENTS

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

Name of Committee (in Full)

BARBER-COLMAN COMPANY POLITICAL ACTION COMMITTEE

Full Name, Mailing Address and ZIP Code	Purpose of Disbursement / Disbursement for	Date (month, day, year)	Amount of Each Disbursement This Period
Americans for Reagan 3825 Barret Dr. Raleigh, NC 27609	Campaign contribution Disbursement for: ☐ Primary ☒ General ☐ Other (specify):	8/21/80	$1500.00
Citizens for Dave O'Neal 109 No. Dearborn Chicago, IL 60602	Campaign contribution U.S. Senate Disbursement for: ☐ Primary ☒ General ☐ Other (specify):	8/21/80	1000.00
Dan Quayle Campaign Committee Box 216 Indianapolis, IN 46206	Campaign contribution U.S. Senate Disbursement for: ☐ Primary ☒ General ☐ Other (specify):	8/21/80	500.00
Steve Symms for Senate Committee Box 471 Boise, ID 83701	Campaign contribution U.S. Senate Disbursement for: ☐ Primary ☒ General ☐ Other (specify):	8/21/80	500.00
Paul Findley Campaign Committee Pittsfield, IL 62363	Campaign contribution U.S. Representative Disbursement for: ☐ Primary ☒ General ☐ Other (specify):	8/21/80	500.00
O'Sullivan for Congress Committee Box 1980 Perth Amboy, NJ	Campaign contribution U.S. Representative Disbursement for: ☐ Primary ☒ General ☐ Other (specify):	8/21/80	500.00
Citizens for Mary Lou Kent 22 Spring Lake Quincy, IL 62301	Campaign contribution State Senate Disbursement for: ☐ Primary ☒ General ☐ Other (specify):	8/28/80	500.00
Citizens for Helen Harshbarger Route 4 Plainfield, IL 60544	Campaign contribution State Senate Disbursement for: ☐ Primary ☒ General ☐ Other (specify):	8/28/80	500.00
Citizens for Robert "Tony" Bale 7421 Madison St. Forest Park, IL 60130	Campaign contribution State Representative Disbursement for: ☐ Primary ☒ General ☐ Other (specify):	8/28/80	500.00
SUBTOTAL of Disbursements This Page (optional)			
TOTAL This Period (last page this line number only)			

U0031460942

8 2 0 4 0 3 4 3 7 0 2

THE CONGRESSIONAL CLUB
LINE 11A

PAGE 177
11 OCT 1980

02306611	*HARBER-COLEMAN CO PAC 1300 ROCK ST ATT MR ROBERT MCCARTHY ROCKFORD IL 61101	YEAR-TO-DATE: $1,500.00	(R) 08/28/80 $1,500.00 333.28335.004
45269826	*BRYANT SQUAD REP CLUB 3516-22 AVE S JUNE SANDERS MINNEAPOLIS MN 55407	YEAR-TO-DATE: $50.00	(R) 07/09/80 $50.00 339.07214.001
45517297	*CITI CORP VOLUNTARY 399 PARK AVENUE 32ND FLOOR ATTENTION GEORGE U VAN FRANK NEW YORK NY 10043	YEAR-TO-DATE: $15.00	(R) 06/01/80 $5.00 032.01011.004 (R) 08/01/80 $10.00 032.01321.001
05339426	*CITI CORP EMPLOYEES 399 PARK AVE 32ND FLOOR ATTENTION GEORGE U VON FRANK NEW YORK NY 10043	YEAR-TO-DATE: $395.00	(R) 09/25/80 $335.00 034.25065.007 (R) 09/05/80 $60.00 033.05014.004
45779015	*GOOD GOVERNMENT FUND 23555 EUCLID AVE ATTENTION MR JH MCDONOUGH CLEVELAND OH 44117	YEAR-TO-DATE: $26.00	(R) 08/27/80 $26.00 033.27008.001
45451228	*GOOD GOVERNMENT PROGRAM 2103 N CLARK ST ATTN ERNEST R ABEMANN CHICAGO IL 60614	YEAR-TO-DATE: $25.00	(R) 08/06/80 $25.00 032.06031.001
45738652	*THE DESERT REP WOMENS CLUB FED 15576 7TH ST ATTENTION MYRTLE G BROWN VICTORVILLE CA 92307	YEAR-TO-DATE: $25.00	(R) 09/05/80 $25.00 033.05017.001
02617373	ALAUDIANA COP H ITTEL PO BOX 53162 LAFAYETTE LA 70505	YEAR-TO-DATE: $25.00	(R) 06/25/80 $25.00 033.25006.019
45550091	*LIVINGSTON CO REPUBLICAN WOMAN ROUTE 1 CAROLYN E GARR TREAS CHILLICOTHE MO	YEAR-TO-DATE: $25.00	(R) 09/11/80 $25.00 034.11061.001

ATTACHMENT 5b

ATTACHMENT 6a

SCHEDULE B — ITEMIZED DISBURSEMENTS

Name of Committee (in Full)

ATLANTIC RICHFIELD CONCERNED CITIZENS FUND

A. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
Republican National Committee 310 First Street, SE Washington, D.C. 20013	Contribution Party Committee Disbursement for: ☐ Primary ☒ General ☐ Other (specify): YTD: 100.00	10-29-80	100*
B. Full Name, Mailing Address and ZIP Code *Earmarked from: Richard A. Surer 7250 SW Eleventh Street Miami, Florida 33144	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify): YTD:	Date (month, day, year)	Amount of Each Disbursement This Period
C. Full Name, Mailing Address and ZIP Code Conservatives for Reagan Post Office Box 12245 Raleigh, North Carolina	Purpose of Disbursement Ronald Reagan President Disbursement for: ☐ Primary ☒ General ☐ Other (specify): YTD: 20.30	Date (month, day, year) 10-29-80	Amount of Each Disbursement This Period 20.30*
D. Full Name, Mailing Address and ZIP Code *Earmarked from: Roderick Bornick Cross Road-Curtis Farms Middlebury, Connecticut	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify): YTD:	Date (month, day, year)	Amount of Each Disbursement This Period
E. Full Name, Mailing Address and ZIP Code Anderson for President Committee 719 Eighth Street, SE Washington, D.C. 20003	Purpose of Disbursement John Anderson President Disbursement for: ☐ Primary ☒ General ☐ Other (specify): YTD: 78.00	Date (month, day, year) 10-29-80	Amount of Each Disbursement This Period 78*
F. Full Name, Mailing Address and ZIP Code *Earmarked from: John F. Williams 10 Dellwood Lane Berlin, New Jersey 08009	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify): YTD:	Date (month, day, year)	Amount of Each Disbursement This Period
SUBTOTAL of Disbursements This Page (optional)			198.30
TOTAL This Period (last page this line number only)			

10731-95-1729

ATTACHMENT 6b

SCHEDULE B

ITEMIZED DISBURSEMENTS

Name of Committee (in Full)

ATLANTIC RICHFIELD CONCERNED CITIZENS FUND

A. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
Republican National Committee 310 First Street, SE Washington, D.C. 20013	Contribution Party Committee Disbursement for: ☐ Primary ☒ General ☐ Other (specify): YTD: 140.00	10-22-80	140*
B. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
*Earmarked from: Norman L. Pollard 8807 Cedar Street Prairie Village, Kansas 66207	Disbursement for: ☐ Primary ☐ General ☐ Other (specify): YTD:		
C. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
Conservatives for Reagan Post Office Box 18246 Raleigh, North Carolina	Contribution Disbursement for: ☐ Primary ☒ General ☐ Other (specify): YTD: 100.00	10-22-80	100*
D. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
*Earmarked from: Norman L. Pollard 8807 Cedar Street Prairie Village, Kansas 66207	Disbursement for: ☐ Primary ☐ General ☐ Other (specify): YTD:		
E. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
National Republican Senatorial Comm. Post Office Box 2780 Washington, D.C. 20013	Contribution Party Committee Disbursement for: ☐ Primary ☒ General ☐ Other (specify): YTD: 12.00	10-22-80	12*
F. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
*Earmarked from: Ruth Dybaus 222 S. Figueroa St., #1816 Los Angeles, CA 90012	Disbursement for: ☐ Primary ☐ General ☐ Other (specify): YTD:		
SUBTOTAL of Disbursements This Page (optional)			252
TOTAL This Period (last page this line number only)			

ATTACHMENT 6c

Page 1 of 1

Line Number 31

(Numbers calculated for each category of the Detailed Summary Page)

SCHEDULE B — ITEMIZED DISBURSEMENTS

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

Name of Committee (In Full)

Cherokee Mills Committee for Good Government

	Purpose of Disbursement / Disbursement for: ☐ Primary ☐ General ☐ Other (specify):	Date (month, day, year)	Amount of Each Disbursement This Period
A. Full Name, Mailing Address and ZIP Code: X Americans for Reagan		11/30	1000.00
B. Full Name, Mailing Address and ZIP Code			
C. Full Name, Mailing Address and ZIP Code			
D. Full Name, Mailing Address and ZIP Code			
E. Full Name, Mailing Address and ZIP Code			
F. Full Name, Mailing Address and ZIP Code			
G. Full Name, Mailing Address and ZIP Code			
H. Full Name, Mailing Address and ZIP Code			
I. Full Name, Mailing Address and ZIP Code			
SUBTOTAL of Disbursements This Page (optional)			1000.00
TOTAL This Period (last page this line number only)			1000.00

80 12 10 34 10 33 4 13 7 0 6

SCHEDULE A — ITEMIZED RECEIPTS — ATTACHMENT 50

An information copy of this page, with the name and address of any political committee to which such contributions from such contributors, contributions and memoranda, other than using the name and address of any political committee to solicit such contributions from such contributors.

Name of Committee (in Full): The Congressional Club

Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation	Date (month, day, year)	Amount of Each Receipt This Period
A. Atlantic Richfield Co. Concerned Citizen's Fund P.O. Box 19610 Los Angeles, CA 90019 Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Aggregate Year-to-Date $320.30	10-31-80 10-31-80	$20.30 $100.00
B. Boeing Civic Pledge Program 14731 59th Avenue S. Tukwila, WA 98188 Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Aggregate Year-to-Date $50.00	11-12-80	$50.00
C. Cherokee Textile Mills Committee for Good Government Middle Creek Road Sevierville, TN 37862 Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Aggregate Year-to-Date $1,000.00	10-10-80	$1,000.00
D. Chevron Committee for Political Participation 225 Bush St. Room 1706 San Francisco, CA 94104 Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Aggregate Year-to-Date $15.00	10-27-80	$15.00
E. Concerned Citizen's Fund 653 Terrylynn Place Long Beach, CA 90807 Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Aggregate Year-to-Date $200.00	10-20-80	$200.00
F. Concerned Romanians for a Strong America Committee 1067 Fifth Avenue - 4th Floor New York, NY 10028 Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Aggregate Year-to-Date $1,000.00	11-06-80	$1,000.00
G. Emory & Henry College Republicans Box 169 Emory, VA 24327 Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Aggregate Year-to-Date $15.00	11-20-80	$15.00
SUBTOTAL of Receipts This Page (optional)			
TOTAL This Period (last page this line number only)			

80031939659

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Brice M. Clagett, Esq.
Scott D. Gilbert, Esq.
Covington and Burling
888 Sixteenth Street, N.W.
Washington, D.C. 20006

RE: MUR 1316

Dear Mr. Clagett and Mr. Gilbert:

Based on complaints filed with the Commission on July 2, 1980, and October 17, 1980, the Commission determined on September 3, 1980, and March 25, 1981, that The North Carolina Congressional Club, now The Congressional Club, had violated 2 U.S.C. § 432(e)(4), a provision of the Federal Election Campaign Act of 1971, as amended. An investigation was instituted.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that violations have 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 these cases. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your 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 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 no probable cause to believe a violation has occurred.

Should you have any questions, please contact Anne Weissenborn at (202) 523-4175.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Brief

8204031370 7

COVINGTON & BURLING
888 SIXTEENTH STREET, N. W.
WASHINGTON, D. C. 20006

TELEPHONE
(202) 452-6000

WRITER'S DIRECT DIAL NUMBER
(202) 452-4766

TWX: 710-822-0008
TELEX: 89-593
CABLE: COVLING

August 12, 1981

BY HAND

Anne A. Weissenborn, Esq.
Office of General Counsel
Federal Election Commission
1325 K Street, N.W., 7th Floor
Washington, D.C. 20463

Re: MUR 1316

Dear Ms. Weissenborn:

With regard to the above-entitled MUR, enclosed please find more legible xerox copies of the letters that you requested.

Sincerely,

Scott D. Gilbert

SDG/dg

Enclosures

8204034370 8

AUG 12 P3:53

GCC # 5273

July AUG 12 1980 3:53

Dear

On Tuesday, November 4, you and I and our fellow voters will decide whether we begin anew with renewed hope in the American Dream under the inspired leadership of a great American, Ronald Reagan. Or, will this nation slide into an abyss from which it will never return?

The choice you and I face is crystal clear. If not for ourselves, then for our children and for their children, we must totally dedicate ourselves to the election of Ronald Reagan as President of the United States.

I firmly believe that Ronald Reagan was meant for this moment in history.

By reordering our nation's priorities and balancing the federal budget, Ronald Reagan can put an end to runaway inflation, high interest rates and the debasement of our currency.

Ronald Reagan's total commitment to the security of the United States will increase our chances for peace and insure that the United States is once again the respected leader of the free world.

But it's not going to happen unless we act because the liberals aren't going to give up easily.

The news media monopoly has already begun its attack on Governor Reagan. His record and his views have been and will be distorted and twisted. Millions of dollars are being poured into a Stop Reagan campaign by the liberal establishment which has dominated this nation for so many years.

Yet, Ronald Reagan will not be allowed to call on your PAC for help to counter the lies and propaganda that could end his chances for the Presidency. The official Reagan campaign is prohibited from soliciting or accepting your contribution or mine, thanks to laws passed by the liberal Congress.

That is why I have agreed to lead a national independent effort for Governor Reagan.

AMERICANS FOR REAGAN will give your PAC the opportunity to even the odds for Governor Reagan.

Not prepared or mailed at government expense
Americans for Reagan, 3825 Barrett Drive, Suite 300, Raleigh, North Carolina 27609 is an independent project of the Congressional Club and is not authorized by any Presidential Candidate. The foregoing material and enclosures are authorized and paid for by the Congressional Club. Thomas F. Ellis, Chairman, Carter Wrenn, Treasurer

8204034370 9

This election may be decided by only a few votes in key states and that's where we must put our time, effort and resources. Television spots, newspaper ads and radio commercials have already been prepared. And brochures and other campaign materials will soon be ordered.

I honestly believe that AMERICANS FOR REAGAN can mean the difference between victory or defeat for Ronald Reagan, and that is why I am asking for your PAC's help today.

Will you do me and Ronald Reagan a favor and recommend that your Political Action Committee support AMERICANS FOR REAGAN with a maximum contribution?

I believe that by working through this independent effort we can give Ronald Reagan a real chance at winning this fall.

I am anxiously waiting to hear from you.

Sincerely,

Tom Ellis

Tom Ellis

TE:kwd

8204034371 0

AMERICANS FOR REAGAN
CARTER WRENN, NATIONAL CAMPAIGN DIRECTOR
SENATOR JESSE HELMS, HONORARY CHAIRMAN
3825 BARRETT DRIVE, RALEIGH, NORTH CAROLINA 27609

October 1, 1980

Dear

Ronald Reagan has never needed your help more than now.

That's what Senator Jesse Helms told me on the phone when I told him about the critical financial crisis we're facing.

The situation is this: Unless Americans for Reagan can raise $263,000 in the next seven days then we must drastically alter the national Reagan media blitz now scheduled.

The situation is critical because we had to develop our media strategy without the money in the bank to cover it's cost.

That's why Senator Helms told me to contact you right away to ask if you would help save the Reagan campaign.

You see, these television ads are extremely important to the success of our national campaign. It's the only way we can get Governor Reagan's message to the people.

And it's the only way we can counter the distortions, slander, and half truths coming from the other side.

But this television time can only be purchased on a cash on delivery basis. That's why we must raise $263,000 within the next seven days or some of our ads will have to be cancelled.

You have been a good friend to Governor Reagan, and Senator Helms and I appreciate your generosity very much.

But without this last minute TV blitz, Governor Reagan won't be able to maintain the momentum necessary to defeat Jimmy Carter.

Not prepared or mailed at government expense
Americans for Reagan, 3825 Barrett Drive, Suite 300, Raleigh, North Carolina 27609, is an independent political committee. Congressional Club and is not authorized by any Presidential Candidate. The foregoing material and enclosures are authorized and paid for by the Congressional Club. Thomas F. Ellis, Chairman; Carter Wrenn, Treasurer.

82040343711

Governor Reagan is doing everything he can. He's working 12 to 14 hours a day for 7 to 8 days straight without a day off.

But Governor Reagan can't do it all alone--he must have our help, too.

And unless we help him now, when he needs it most, he could suffer a crushing defeat.

Believe me, I wouldn't be asking for your help again if this wasn't of the utmost importance.

So please, I urge you to make a special media contribution today, of $25, $50, $100 or even $200...Every penny is critically important.

I feel confident we won't have to cancel any of our TV spots if you'll mail me your check without delay.

Senator Helms and I are hoping to hear from you soon.

God bless you for your sacrifices.

Sincerely,

Carter

Carter Wrenn
National Campaign Director

P.S. I served as the Campaign Director for Jesse Helms during his campaign in 1978. A last minute media blitz made the difference for him then, and I know it will for Governor Reagan in 1980.

8204034372

NATIONAL MEDIA CAMPAIGN

URGENT REPLY FORM

To: Carter Wrenn
National Campaign Director
Americans For Reagan
PO Box 18848
Raleigh, NC 27619

FROM:

Dear Carter:

Please tell Senator Helms not to cancel any television ads scheduled for Ronald Reagan.

I have enclosed my special media contribution so that you can launch the last minute national media campaign to elect Ronald Reagan President.

( ) $25 ( ) $100 ( ) $500 ( ) $5000

( ) $50 ( ) $250 ( ) $1000 ( ) Other

2495 45157531

"I deeply believe the outcome of this election will determine America's position in the world and whether or not we survive as a free and independent nation."

Ronald Reagan

8204034371 3

8 2 0 4 0 3 4 3 7 1 4

NATIONAL MEDIA CAMPAIGN
URGENT REPLY

NO POSTAGE NECESSARY IF MAILED IN THE UNITED STATES

BUSINESS REPLY MAIL

FIRST CLASS PERMIT NO. 131 RALEIGH, N.C.

POSTAGE WILL BE PAID BY ADDRESSEE

AMERICANS FOR REAGAN
SENATOR JESSE HELMS
P. O. BOX 16348
RALEIGH, NORTH CAROLINA 27619

92040343715

COVINGTON & BURLING
888 SIXTEENTH STREET, N.W.
WASHINGTON, D. C. 20006

BY HAND

Anne A. Weissenborn, Esq.
Office of General Counsel
Federal Election Commission
1325 K Street, N.W., 7th Floor
Washington, D.C. 20463

79

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS/JODY CUSTER

DATE: JULY 2, 1981

SUBJECT: MUR 1316 - Interim Investigative Report #2, dated 6-29-81; Signed 6-30-81; Received in OCS 6-30-81, 3:46

The above-named document was circulated to the Commission on a 24 hour no-objection basis at 11:00, July 1, 1981.

There were no objections to the Interim Investigative Report at the time of the deadline.

82040343716

CONFIDENTIAL

BEFORE THE FEDERAL ELECTION COMMISSION
June 29, 1981

81 JUN 30 P3:46

In the Matter of	)	
	)	
The Congressional Club (formerly North Carolina Congressional Club)	)	MUR 1316

INTERIM INVESTIGATIVE REPORT #2

On March 25, 1981, the Commission found reason to believe that the North Carolina Congressional Club, now known as the Congressional Club, ("the Committee") had violated 2 U.S.C. § 432(e)(4) by using the name Reagan in "Americans for Reagan", a self-styled project of the Committee.

On June 8, 1981, counsel submitted an extensive response to the Commission's finding in MUR 1316 and urged dismissal of that matter

This Office is now in the process of drafting recommendations which will be submitted within the next three weeks.

30 Jun 1981
Date

Charles N. Steele
General Counsel

82040343718

COVINGTON & BURLING
888 SIXTEENTH STREET, N. W.
WASHINGTON, D. C. 20006

TELEPHONE
(202) 452-6000

WRITER'S DIRECT DIAL NUMBER
(202) 452-4766

TWX 710-822-0085
TELEX 89-593
CABLE COVLING

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
81 JUN 8 P12:38

June 8, 1981

Anne A. Weissenborn, Esq.
Office of General Counsel
Federal Election Commission
1325 K Street, N.W., 7th Floor
Washington, D.C. 20463

Re: MUR 1316

Dear Ms. Weissenborn:

Enclosed please find two copies of the Congressional Club's response in the above-entitled MUR.

Please call me if you have any further questions.

Sincerely,

Scott D. Gilbert
by DAG

Scott D. Gilbert

SDG/dg

Enclosure

82040343719

UNITED STATES OF AMERICA
BEFORE THE FEDERAL ELECTION COMMISSION

IN RE THE CONGRESSIONAL CLUB) MUR 1316

RESPONSE OF THE CONGRESSIONAL CLUB

This memorandum is submitted on behalf of the Congressional Club in response to the finding of the Federal Election Commission ("Commission") in the above-entitled matter that there is reason to believe the Congressional Club violated 2 U.S.C. § 432(e)(4) by including the name of a candidate in the title of its project Americans For Reagan. . . . . as demonstrated below, there is no basis in either law or fact to support the complainants' contentions in this regard. Accordingly, the complaint in MUR 1316 that allege a violation by the Congressional Club of 2 U.S.C. § 432(e)(4) should be dismissed.

STATEMENT OF FACTS

The Congressional Club is a multicandidate political committee, as that term is defined in the Federal Election Campaign Act ("Act"), and is duly registered with the Commission. Thomas F. Ellis serves as the Chairman of the Congressional Club and its Treasurer is Carter Wrenn. Senator Jesse Helms serves as Honorary Chairman.

8204034372 0

In early 1980, Mr. Ellis and Mr. Wrenn determined that the Congressional Club would make independent expenditures in support of then-Governor Reagan's presidential campaign, in both the primary and general election periods. As part of this endeavor, the Congressional Club sponsored mass mailings and various advertisements, intended to engender voter support for Mr. Reagan and to solicit funds to enable the Congressional Club to continue to make such expenditures. All monies received by the Congressional Club in connection with this activity were deposited in bank accounts held solely in the name of the Congressional Club, and all funds used to finance these communications were drawn from these accounts.

In order to distinguish these independent expenditure projects from other previous and ongoing projects undertaken by the Congressional Club -- both to avoid confusion among members of the public and for internal organization purposes -- Mr. Ellis and Mr. Wrenn decided to label these independent expenditure efforts in a manner that clearly would identify them as such. Accordingly, after consultation with commercial advertising firms and careful deliberation, the Congressional Club's independent expenditure projects were entitled "Americans For Reagan" and "Conservatives For Reagan", depending upon which one of two advertising firms was producing the particular communications. These phrases appeared in all of the communications produced in connection with these projects: in the case of mailings, as part of or in place of the Congressional Club letterhead, or in

82040343721

the body of a particular letter;*/ and, in the case of the particular advertisement at issue here, as part of the disclaimer at the end of the broadcast.

The Congressional Club took great care, however, to ensure that the recipients or viewers of these communications were made aware that Americans For Reagan and Conservatives For Reagan were projects of the Congressional Club and were not associated with any other political or candidates' committees. There were two reasons for this: 1) the Congressional Club highly values the reputation it has earned as an effective and loyal supporter of the political philosophy embodied by President Reagan and numerous segments of both major political parties, and Mr. Ellis and Mr. Wrenn wanted the Congressional Club's supporters and other members of the general public to be aware of its continued efforts in this regard on behalf of then-Governor Reagan; and 2) Mr. Ellis and Mr. Wrenn wanted to ensure full compliance with the Act and the regulations of the Commission in order not to jeopardize either the Reagan campaign or the Congressional Club's status as a viable political committee.**/

---

*/ Some such letters had no letterhead; others bore the letterhead of Senator Helms or Mr. Wrenn; in others, the phrases Conservatives For Reagan and Americans For Reagan were combined with the letterheads of Senator Helms or Mr. Wrenn; and, in still others, the phrases Americans For Reagan and Conservatives For Reagan stood alone.

**/ See, e.g., 2 U.S.C. § 441d(a) and 11 C.F.R. § 110.11(a), which require a disclaimer to appear in communications that solicit contributions or expressly advocate the election or defeat of a clearly identified candidate.

8204034372 2

Therefore, in the body of many of the letters distributed in connection with Americans For Reagan and Conservatives For Reagan, there were numerous statements that explained to the recipient the independent nature and purpose of these projects. Indeed, the first piece of literature mailed by the Congressional Club as part of its independent expenditure effort explained:

> This is the beginning of the Congressional Club's independent expenditure campaign to promote Governor Ronald Reagan for President. (An independent expenditure campaign is an effort which is not coordinated with the candidate or his principle campaign commitee.)
>
> * * *
>
> This independent campaign is one of several of the Club's projects this year to help Senator Helms promote conservative candidates and causes. (emphasis added)*/

Other letters, some of which were sent under the letterheads Americans For Reagan and Conservatives For Reagan, included statements like:

> Did you know federal law prevents Ronald Reagan from raising money?
>
> The only money he can spend is the money the government is going to give him after the convention.
>
> But, did you also know friends and supporters of a Presidential candidate can spend as much money as they want to help him get elected?

---

*/ Memorandum from Carter Wrenn to Helms Supporters dated March 7, 1980, attached hereto as Appendix A.

8204034372 3

> And, that if you've sent any money to Ronald Reagan up to now, it doesn't count towards the $5,000 limit you have through an independent campaign?
>
> * * *
>
> Because of the 1974 Federal Election Law, Governor Reagan cannot ask you himself to send money to help him defeat President Carter this November.
>
> However, since many liberal supporters of President Carter will be raising and spending money independent of the Carter campaign, shouldn't you and I be raising and spending money independent of Governor Reagan's campaign to help elect him President?
>
> Because this independent effort is being made without contacting Governor Reagan or any of his campaign aides, you can contribute up to $5,000 to the Congressional Club (instead of the $1,000 limit if you had sent the money directly to the Reagan campaign.) (emphasis added)*/

Moreover, pursuant to the explicit directives of Mr. Wrenn, substantially all such mailings included a clear disclaimer that contained the following language:

> [Americans/Conservatives] For Reagan is an independent project of the Congressional Club and is not authorized by any presidential candidate. The foregoing materials and enclosures, are authorized and paid for by the Congressional Club, Thomas F. Ellis, Chairman; Carter Wrenn, Treasurer.

Similarly, the television advertisement in question here ended with the clearly legible statement:

> Paid for by Americans For Reagan/ Congressional Club. Not authorized by any Presidential candidate.

---

*/ See, e.g., letter dated September 22, 1980, attached hereto as Appendix B.

8204034372 4

This disclaimer was included despite the fact that this particular communication did not contain any instances of express advocacy or of solicitations for contributions and thus the disclaimer was not required under either the Act or the regulations. The sole reason for its inclusion was to effectuate the objectives described above, namely, to underscore once again that this Congressional Club project had no connection whatsoever with any other political or candidates' committees.

It bears emphasis that all communications made in connection with the Congressional Club's independent expenditure projects Americans For Reagan and Conservatives For Reagan were authorized solely by the Congressional Club and financed solely with Congressional Club funds drawn on the Congressional Club's bank accounts. Likewise, all contributions received as a result of these communications were received at the mailing address solely of the Congressional Club and were deposited in bank accounts held solely in the name of the Congressional Club.

Because then-Governor Reagan's name appeared in the title of the Congressional Club's project Americans For Reagan, however, the Congressional Club was named as a respondent in complaint filed with the Commission by the Carter/Mondale Reelection Committee, Inc. (MUR 1316) and which allege a violation by the Congressional Club of 2 U.S.C. § 432(e)(4), which prohibits an unauthorized political committee from including in its name the name of a candidate. These thinly veiled, politically motivated attempts

8204034372 5

to halt legitimate support of the Reagan campaign had no colorable basis when originally filed, and have no more merit now. As shown above, there simply is no factual basis to support the allegations that the Congressional Club violated 2 U.S.C. § 432(e)(4), and these matters should be dismissed.

ARGUMENT

I. The Congressional Club Did Not Violate Either the Letter or the Spirit of 2 U.S.C. § 432(e)(4).

A. The Congressional Club's Independent Projects Are Not Political Committees and Are Not Subject to 2 U.S.C. § 432(e)(4).

2 U.S.C. § 432(e)(4) provides in relevant part that "[i]n the case of any political committee which is not an authorized committee, such political committee shall not include the name of any candidate in its name." Accord, 11 C.F.R. § 102.14(a). Thus, by its very terms, this prohibition applies only to the names of political committees; it does not -- and indeed, without raising serious constitutional questions, could not -- purport to regulate the use of a candidate's name in any other context. It is clear that the Congressional Club's independent projects Americans For Reagan and Conservatives For Reagan are not political committees, as that term is defined in the Act and Commission's regulations.

2 U.S.C. § 431(4)(A) defines the term "political committee" to mean:

> Any committee, club, association, or other group of persons which receives contributions aggregating in excess of $1,000

8204034372 6

> during a calendar year or which makes expenditures aggregating in excess of $1,000 during a calendar year.

Accord, 11 C.F.R. § 100.5(a).*/ This is a precise definition and must be applied with care, because in many cases it is the only standard by which members of the public can decide whether their committees, groups or organizations are subject to the jurisdiction of the Commission, and whether to conform their activities to the registration and reporting requirements and other limitations of the Act and regulations. In enacting § 431 (4)(A), Congress determined that the term "political committee" will apply 1) only to a "committee, club, association, or other groups of persons", and 2) only if such a group "receives contributions" or "makes expenditures" in excess of $1,000. These requirements simply are not met in the instant case.

First, there exists no association or group of persons other than the Congressional Club that properly can be considered a respondent in this proceeding. Within the context of the Act and regulations, Americans For Reagan and Conservatives For Reagan do not exist. They are merely phrases used by the Congressional Club to label two of its independent projects.**/

---

*/ The Act and regulations also define "political committee" in terms of separate segregated funds and local committees of political parties. See, 2 U.S.C. § 431(4)(B),(C); 11 C.F.R. § 100.5(b),(c). These definitions have no possible application to this matter and we do not address them here.

**/ That the Commission has overlooked this fact is evident from the reference in its correspondence to this firm as "counsel for Americans For Reagan, NCCC." Such a reference is incorrect; Covington & Burling is counsel only to the Congressional Club. We no more represent Americans For Reagan than we do any other campaign slogan or product.

8204034 37727

The Congressional Club is the only group of persons responsible for the creation and management of these projects. All communications involving Americans For Reagan and Conservatives For Reagan were developed by Congressional Club personnel and were paid for with Congressional Club funds. All letters were signed by the same individuals who usually sign Congressional Club communications and were sent to recipients on the Congressional Club's mailing lists. Likewise, all contributions from the recipients and viewers of these communications were sent to the Congressional Club's address, were processed by Congressional Club personnel and were deposited in the Congressional Club's accounts for use by the Congressional Club. On these facts, the phrases Americans For Reagan and Conservatives For Reagan do not constitute a committe or association.

Second, the Act and regulations require a group to "make expenditures" or "receive contributions" before it can be considered a political committee. As explained above, however, all monies expended or received in connection with the projects Americans For Reagan and Conservatives For Reagan were drawn on or deposited in bank accounts held solely by the Congressional Club.

All expenditures in connection with these projects were made on behalf of then-Governor Reagan's presidential campaign by the Congressional Club with its own funds. As non-entities, Americans For Reagan and Conservatives For Reagan had neither the funds to expend nor the capability of expending anything.

8 2 0 4 0 3 4 3 7 2 8

Similarly, Americans For Reagan and Conservatives For Reagan, as nothing more than projects of the Congressional Club, did not have the ability to receive anything. Although these projects may have been designated as the payee on some of the checks sent by contributors to the Congressional Club, such checks were sent to the Congressional Club's address and were deposited in the Congressional Club's accounts. It was the Congressional Club which took in the monies associated with these projects and it was the Congressional Club which had complete dominion and control over such funds. Given the plain meaning of "receive" in these circumstances, -- "to take possession or delivery of" or "to come into possession of" */ -- it is clear that the Congressional Club was the only entity that received contributions with regard to Americans For Reagan and Conservatives For Reagan, and that the Congressional Club is the only political committee before the Commission in this proceeeding. **/

Therefore, because Americans For Reagan and Conservatives For Reagan cannot properly be considered as political committees within the meaning of the Act and regulations, 2 U.S.C. § 432(e)(4) is by its very terms inapplicable to these projects. Thus,

---

*/ Webster's Third New International Dictionary (1968).

**/ Indeed, these projects of the Congressional Club do not constitute new political committees any more than the fundraising projects commonly established by numerous non-profit organizations constitute new organizations.

8204034372 9

there is no basis upon which to find that the Congressional Club violated that provision by including the name of a candidate in the titles of its independent expenditure projects.

B. The Congressional Club Made Clear the Status of Its Independent Projects.

As demonstrated above, there is no reason to believe, and certainly not probable cause to believe, that the Congressional Club violated 2 U.S.C. § 432(e)(4). Moreover, not only do the facts fail to reveal any violation by the Congressional Club of the letter of the law; they fail as well to reveal any violation of the spirit of that statutory provision.

The purpose of 2 U.S.C. § 432(e)(4) is to provide the public a means by which to distinguish authorized from unauthorized committees. */ And, although the means chosen by Congress in that section were by their own terms inapplicable to the Congressional Club's independent projects, the Congressional Club assured that recipients and viewers of these communications were provided with information more than sufficient to distinguish the Congressional Club and its projects from the authorized committee of any candidate.

First, in the body of most letters sent out in connection with Americans For Reagan and Conservatives For Reagan the Congressional Club informed recipients that these projects

---

*/ See Report of the Committee on House Administration, H.R. Rep. No. 96-422, 96th Cong. 1st Sess. at 13 (1979).

8204034730

were independent efforts in support of, but separate and distinct from, the Reagan campaign. The phrase "independent effort" was used repeatedly in many of these letters, and a substantial number of mailings emphasized the inability of then-Governor Reagan's authorized committee to accept additional contributions. Indeed, as pointed out in these instances, such federal restrictions were the very reason for the genesis of these independent expenditure projects.

Second, all mailings distributed in connection with the Congressional Club's independent projects contained a disclaimer designed to satisfy the requirements of 2 U.S.C. § 441d(a) and 11 C.F.R. § 110.11(a) */ by informing recipients that such communications were "authorized and paid for by the Congressional Club". Moreover, although this was not required by either the Act or the Commission's regulations, substantially all of these disclaimers also explained the status of the Congressional Club's independent projects by stating that Americans For Reagan or Conservatives For Reagan, as the case may be, was "an independent project of the Congressional Club" and was "not authorized by any presidential candidate." In addition, this entire

---

*/ That these disclaimers did comply fully with the provisions of 2 U.S.C. § 441d(a) and 11 C.F.R. § 110.11(a) cannot be questioned.

See, 11 C.F.R. § 110.11(a)(1); Advisory Opinion 1980-45 (March 19, 1981), where the Commission ruled that a disclaimer that was set in type face of equal or smaller size than those in this case satisfied the "clear and conspicuous" requirement of the foregoing regulation.

6204034373 1

disclaimer appeared on the bottom front page of every such letter and often was repeated again in other materials included in such mailings. This effort to provide full and fair disclosure went well beyond what was required of the Congressional Club by 11 C.F.R. §110.11(a).*/

Third, the Congressional Club continued its policy of full disclosure with the advertisement at issue in this MUR. As noted above, this broadcast included a disclaimer designed to satisfy the provisions of 2 U.S.C. § 441d(a) and 11 C.F.R. § 110.11(a), even though the content of this advertisement did not bring it within the purview of those provisions. Indeed, without even seeing the disclaimer in question, the Commission found no reason to believe that the Congressional Club's sponsorship of this advertisement violated 2 U.S.C. § 441d(a)(3).

Thus, the Congressional Club made a significant good-faith effort in all of its communications in connection with Americans For Reagan and Conservatives For Reagan to inform recipients and viewers of the independent nature and sponsorship of these projects. Since these projects were not subject to the provisions of 2 U.S.C. § 432(e)(4) and the Congressional Club was not required under 2 U.S.C. § 441d(a) or 11 C.F.R. § 110.11(a)

---

*/ 11 C.F.R. § 110.11(a)(1) states explicitly that disclaimers need not appear "on the front face or page of any such material."

8204037332

to go to the lengths that it did in this regard, there is no public policy to be served by a continuation of these enforcement matters.

II. The Congressional Club Relied in Good Faith upon Provisions of the Act and the Regulations of the Commission.

As demonstrated above, the Congressional Club relied upon the Act and the Commission's regulations and in all respects acted in good faith in accordance therewith. In entitling its projects Americans For Reagan and Conservatives For Reagan, the Congressional Club relied upon the fact that 2 U.S.C. § 432(e)(4) and 11 C.F.R. § 102.14(a) by their very terms apply only to "political committees". The Congressional Club further relied upon the definition of "political committee" set forth by Congress in 2 U.S.C. § 431(4)(A). And, in fashioning its disclaimers, the Congressional Club relied upon, and in fact exceeded, the requirements prescribed by the Commission in 11 C.F.R. § 110.11(a)(1).

2 U.S.C. § 438(e) provides in relevant part that

> any person who relies upon any rule or regulation prescribed by the Commission. . . and who acts in good faith in accordance with such rule or regulation shall not, as a result of such act, be subject to any sanction provided by this Act. . . .

This means just what it says. As stated by the Committee on House Administration, "[a] person who relies upon such regulations in good faith will not be subject to subsequent enforcement action." H.R. Rep. No. 96-422, supra at 24. Thus, further action by the Commission in this matter not only will fail

8204034373 3

to serve the public interest, but will contravene the explicit Congressional mandate of 2 U.S.C. § 438(a).

Application of § 432(e)(4) to what are quite clearly nothing more than fundraising projects when that provision by its very terms is applicable only to political committees would render § 432(e)(4) and § 431(4(A) overly vague and unduly broad, and violative of both the First and Fifth Amendments. And, prohibiting the use of a candidate's name in such circumstances would constitute an impermissible restraint on the exercise by the Congressional Club of its First Amendment rights. Accordingly, these enforcement proceedings should be terminated.

CONCLUSION

As demonstrated above, there is no basis in law or fact for believing that the Congressional Club violated either the letter or the spirit of 2 U.S.C. § 432(e)(4). Moreover, in all actions taken by the Congressional Club with respect to this matter, it relied in good faith upon the Commission's regulations. Accordingly, any further enforcement action by

8204034373 4

the Commission is wholly unwarranted, and MUR 1316 that allege a violation by the Congressional Club of 2 U.S.C. § 432(e)(4) should be dismissed.

Respectfully submitted,

Brice M. Clagett
Scott D. Gilbert

Covington & Burling
888 Sixteenth Street, N.W.
Washington, D.C. 20006

Attorneys for the
Congressional Club

Dated:

8204034373 5

Congressional Club

P. O. BOX [illegible] • [illegible] BARRETT DRIVE • SUITE [illegible]
RALEIGH, NORTH CAROLINA [illegible] • [illegible]

EXECUTIVE COMMITTEE
SENATOR JESSE HELMS
Honorary Chairman
THOMAS A. ELLIS
Chairman
CARTER WRENN
Treasurer
HUGH GRATHAM
ED MORRISS
MARION PARROTT
W. T. JOYNER, JR.

8204034373 6

SENATOR HELMS TO ENDORSE RONALD REAGAN

TO: HELMS SUPPORTERS
FROM: CARTER WRENN
DATE: MARCH 7, 1980

The Congressional Club has produced and paid for a TV program with Senator Helms endorsing Governor Ronald Reagan. The Club has also purchased time so these programs will be shown on the nationwide cable television station WTBS, Channel 17 from Atlanta on Sunday evening, March 9, 1980 and again on Monday evening, March 10, 1980.

This is the beginning of the Congressional Club's independent expenditure campaign to promote Governor Ronald Reagan for President. (An independent expenditure campaign is an effort which is not coordinated with a candidate or his principle campaign committee.)

Below are the times you can see Senator Helms endorse Governor Reagan:

Sunday, March 9, 1980 - Channel 17
WTBS from Atlanta

Ruff House - Channel 17

* A 2 minute spot prior to the show at 10:30 p.m.
* A 1 minute spot after the show at 11:00 p.m.

The Big Battles - Channel 17
10:00 - 11:00 p.m. Monday

* A 2 minute spot during the first half of the show.
* A 1 minute spot after the show at 11:00

This independent campaign is one of several of the Club's projects this year, to help Senator Helms promote conservative candidates and causes.

Please watch these historical commercials on Sunday and Monday evenings. Also call as many of your friends as possible and urge them to watch the commercials too.

Thank you very much.

The foregoing statement together with all contributions and expenditures is authorized and paid for by The Congressional Club, Thomas A. Ellis, Chairman, Carter Wrenn, Treasurer. A copy of our report is filed with the FEC and is available for purchase from the FEC, Washington, D.C.

CONSERVATIVES FOR REAGAN
POST OFFICE BOX 16848
RALEIGH, NORTH CAROLINA 27619

September 22, 1980

Dear Friend:

Did you know Federal law prevents Ronald Reagan from raising money?

The only money he can spend is the money the government is going to give him after the convention.

But did you also know friends and supporters of a Presidential candidate can spend as much money as they want to help get him elected?

And, that if you've sent any money to Ronald Reagan up to now, it doesn't count towards the $5,000 limit you have through an independent campaign?

In a Presidential race between Jimmy Carter and Ronald Reagan I can assure you Jimmy Carter's friends and supporters will be spending untold millions.

We must do the same for Ronald Reagan.

Who are these friends of Jimmy Carter who will be spending all this money to re-elect him?

It will be the liberal special interest groups. Think for a moment; won't it be groups such as --

-- labor unions
-- environmental organizations
-- pro-abortion organizations
-- liberal activist organizations
-- military disarmament groups
-- groups that want to sell sophisticated military knowledge and equipment to Russia and Communist China.
-- groups that oppose prayer in schools
-- groups that want to confiscate all privately-held guns
-- groups that oppose balancing the federal budget because they want to

Not prepared or mailed at government expense.
Conservatives for Reagan, 3825 Barrett Drive, Suite 300, Raleigh, North Carolina 27609, is an independent project of the Congressional Club and is not authorized by any Presidential Candidate. The foregoing material and enclosures are authorized and paid for by the Congressional Club, Thomas F. Ellis, Chairman, Carter Wrenn, Treasurer.

8204034373 7

spend more and more of your tax money for welfare and social experimental programs.

These are just a few examples. You probably can add to this list of groups that will be spending many millions, in fact probably tens of millions, of dollars to defeat Ronald Reagan.

Because of the 1974 Federal Election Law, Governor Reagan can not ask you himself to send money to help him defeat President Carter this November.

However, since many liberal supporters of President Carter will be raising and spending money independent of the Carter campaign, shouldn't you and I be raising and spending money independent of Governor Reagan's campaign to help elect him President?

Because this independent effort is being made without contacting Governor Reagan or any of his campaign aides, you can contribute up to $5,000 to the Congressional Club (instead of the $1,000 limit if you had sent the money directly to the Reagan campaign).

And remember, if you have sent any money to Governor Reagan, it doesn't count towards this $5,000 limit.

I helped form the Congressional Club back in 1973. Our purpose is to help elect conservatives to public office.

This year we expect to help at least 50 conservatives who are running for Congress.

However, when I realized the unfair advantage Jimmy Carter would have over Ronald Reagan because of his "friends" and position as President, I put together (through the Congressional Club) an independent effort to help Ron win the Republican nomination and defeat the Democratic nominee in November.

I think you will agree this is probably one of the 3 or 4 most important political contributions you have ever made. In fact, it may very well be the single most important contribution you will ever make.

Just think - for the first time in our lifetime, we may elect a conservative President of the United States.

But the election is less than 5 months from now.

Here is a list of some of the projects the Congressional Club and I would like to get started immediately:

1. I want to try to identify at least 1,000,000 people who will pledge to work for Ronald Reagan this

8204034738

coming September and October. The best way to do this is to use TV and the mails.

2. We will produce and run TV ads in August, September and October. The purpose of these ads will be to appeal to conservative blue and white collar workers and ethnic voters who traditionally vote Democratic or who consider themselves independent.

So today I am asking you to consider making the largest contribution you've ever made to a political candidate.

You and I have waited all of our life for this year.

We've worked so very hard and contributed a lot of money to help elect conservative candidates, and to help defeat liberal legislation, or to pass conservative legislation...We've attended rallies and so many speeches we can't remember them all.

We've signed many petitions and mailed lots of letters and post-cards for the conservative cause.

And it was all for this moment. All of our hopes and dreams are so close to being realized.

But it may not happen because Jimmy Carter and Ronald Reagan are limited by law to spend the same amount of money.

But Jimmy Carter's friends - such as the unions, the pro-abortion organizations, the environmental organizations and many other liberal groups - will probably raise and spend over 15 million dollars to defeat Ronald Reagan. That's over and above the "legal limit" funds.

If past elections are any indicator, you can be sure that the union bosses alone, using forced union dues, will spend over $10,000,000 to defeat Ronald Reagan. In 1968 the unions are reported to have spent over $50,000,000 to elect Hubert Humphrey and in 1976 it's estimated that the unions spent at least $22,000,000 to elect Jimmy Carter.

Governor Reagan is doing everything he humanly can. He's working 12 and 14 hours a day for 7 to 8 days straight without a day off.

Now the question is: What will you and I do to help this great conservative?

Since, in my opinion, this will probably be the most important political contribution you have ever made, please consider making the largest contribution you've ever made.

8204034739

Of course I know you contribute generously to candidates you believe in.

And, as we all know, this is THE BIG ELECTION. I feel very strongly that this is the most important election of our lifetime.

As best I can remember, only on rare occasions have I ever asked anyone to make a $2,000 contribution before.

But I'm asking you to write a check today for $2,000.

I have to say I'm a little surprised at myself that I can ask you for such a large check. But, of course, I'm not asking for myself. I'm asking for my friend, Ron.

Now I realize that $2,000 may just be more than you want to send.

And, if so, of course I'll understand. You know me well enough to know that I'll be very appreciative of whatever amount you feel you would like to send.

But we do need to start running these ads right away. So please mail your check today. Please don't put it off -- even one day.

Regards,

Jesse

JESSE HELMS

8204034374 0

BY HAND

COVINGTON & BURLING
888 SIXTEENTH STREET, N.W.
WASHINGTON, D.C. 20006

BY HAND

Anne A. Weissenborn, Esq.
Office of General Counsel
Federal Election Commission
1325 K Street, N.W., 7th Floor
Washington, D.C. 20463

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS/JODY CUSTER

DATE: MAY 18, 1981

SUBJECT: MUR 1316 - Interim Investigative Report #1, dated 5-14-81; Received in OCS 5-15-81, 10:50

The above-named document was circulated to the Commission on a 24 hour no-objection basis at 2:00, May 15, 1981.

There were no objections to the Interim Investigative Report at the time of the deadline.

6204034374 2

BEFORE THE FEDERAL ELECTION COMMISSION
May 14, 1981

81 MAY 15 AM 10: 50

In the Matter of	)	
	)	MUR 1316
North Carolina Congressional Club	)	
	)	

SENSITIVE

INTERIM INVESTIGATIVE REPORT #1

On March 24, 1981, the Commission found reason to believe that the North Carolina Congressional Club ("NCCC") violated 2 U.S.C. § 432(e)(4), and notice of this finding was sent to the respondent. Counsel for NCCC requested and was granted an extension of time to submit a full response.

Once counsel's response is received, a recommendation will be made to the Commission to merge its finding in MUR 1316 and to close the file in MUR 1316.

14 May 1981
Date

Charles N. Steele
General Counsel

82040343744

4478

COVINGTON & BURLING
888 SEVENTEENTH STREET, N.W.
WASHINGTON, D.C. 20006

TELEPHONE
(202) 452-6000

WRITER'S DIRECT DIAL NUMBER
(202) 452-4766

TWX: 710-822-0075
TELEX: 89-593
CABLE: COVLING

April 13, 1981

BY HAND

Anne A. Weissenborn, Esq.
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1316

Dear Ms. Weissenborn:

I hereby request an extension of two weeks in which to respond to the Commission's March 25, 1981, finding that there is reason to believe that the Congressional Club has violated 2 U.S.C. § 432(e) in connection with the above-entitled MUR. On April 3, the day following our receipt of the reason to believe notification, I left the firm for a period of two weeks in order to care for my infant daughter and thus have not been able to attend to this matter. In light of the many months that elasped between the Commission's receipt of the complaint and its finding of reason to believe, it is apparent that a two weeks extension would not unduly delay this proceeding.

If you have any further questions, you can reach me at home on 966-8304 through April 19, 1981.

Sincerely,

Scott D. Gilbert
per DAG

Scott D. Gilbert

SDG/dg

82040343745

COVINGTON & BURLING
888 SIXTEENTH STREET, N. W.
WASHINGTON, D. C. 20006

103

By HAND

Anne A. Weissenborn, Esq.
Office of General Counsel
Federal Election Commission
1325 K Street, N.W., 7th Floor
Washington, D.C. 20463

9 2 0 4 0 3 4 1 3 7 4 6

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 1, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Brice M. Clagett, Esquire
Counsel, North Carolina
Congressional Club
Covington and Burling
888 16th Street, N.W.
Washington, D.C. 20006

Re: MUR 1316

Dear Mr. Clagett,

On October 20, 1980, the Federal Election Commission notified Mr. John R. Bolton of your firm that a complaint had been filed with the Commission alleging that Americans for Reagan, North Carolina Congressional Club ("NCCC"), had violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to the respondent at that time. It is the understanding of this Office that you have taken Mr. Bolton's place as counsel for Americans for Reagan, NCCC.

Upon further review of the allegations and information received from the complainant, the Commission on March 25, 1981, determined that there is no reason to believe that Americans for Reagan, NCCC, had violated 2 U.S.C. § 441h or 2 U.S.C. § 441d(a)(3). The Commission did find reason to believe that Americans for Reagan, NCCC, had violated 2 U.S.C. § 432(e) by including the name of the candidate in its name.

You may submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Please file any such response within ten days of your receipt of this notification.

The Office of General Counsel would like to settle this matter through conciliation prior to finding probable cause; however, in the absence of any information which demonstrates that no further action should be taken against your client, the Office of General Counsel must proceed to the next compliance stage as noted on page 2, paragraph 2 of the enclosed procedures.

8204034374 7

This matter will remain confidential in accordance with 2 U.S.C. § 437(a)(4)(B) and § 437(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

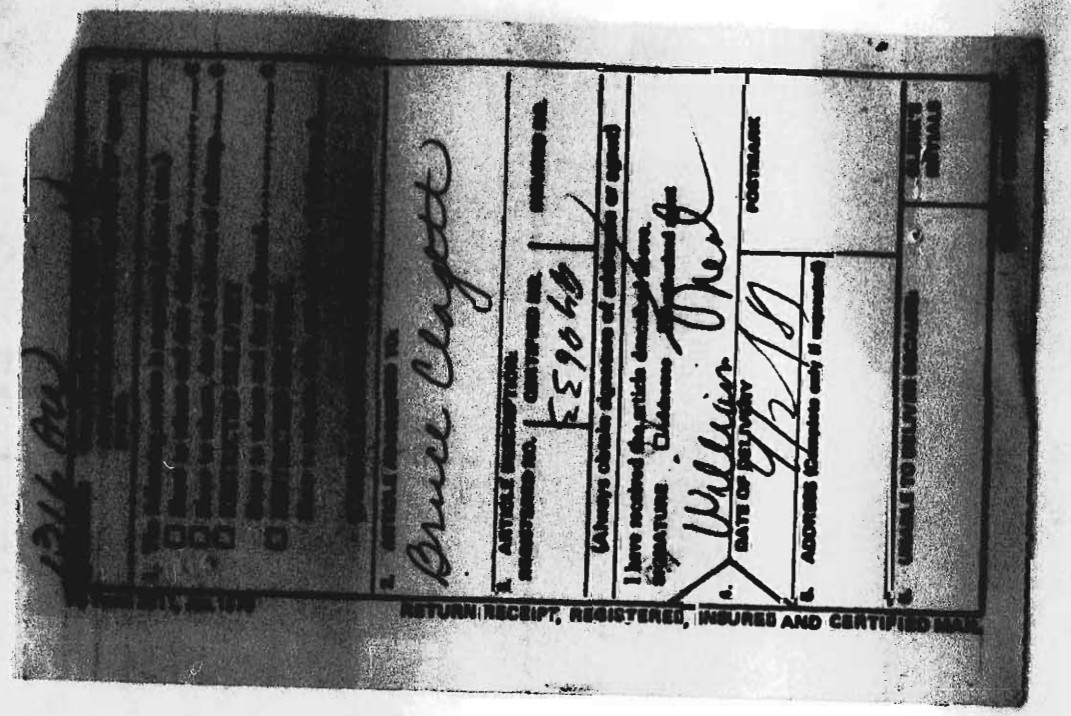
If you have any questions, please contact Anne A. Weissenborn, the attorney assigned to this matter, at (202) 523-5071.

Sincerely,

John Warren McGarry

John Warren McGarry
Chairman

Enclosure
Procedures



8204034374 8

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Americans for Reagan,) MUR 1316
North Carolina Congressional Club)

CERTIFICATION

I, Marjorie W. Emmons, Recording Secretary for the Federal Election Commission's Executive Session on March 25, 1981, do hereby certify that the Commission took the following actions in MUR 1316:

1. Decided by a vote of 6-0 to find no reason to believe that the North Carolina Congressional Club and Americans for Reagan violated 2 U.S.C. §441h.

2. Decided by a vote of 4-2 to find no reason to believe that the North Carolina Congressional Club and Americans for Reagan violated 2 U.S.C. §441d(a)(3).

   Commissioners Harris, McGarry, Reiche, and Thomson voted affirmatively for the decision; Commissioners Aikens and Tiernan dissented.

3. Decided by a vote of 6-0 to find reason to believe that the North Carolina Congressional Club and Americans for Reagan violated 2 U.S.C. §432(e).

Attest:

3/31/81
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

8204034374 9

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS/JODY CUSTER

DATE: MARCH 17, 1981

SUBJECT: OBJECTION - MUR 1316, First General Counsel's Report, dated 3-12-81; Received in OCS, 3-12-81, 5:03

The above-named document was circulated on a 48 hour vote basis at 2:00, March 13, 1981.

Commissioner Aikens submitted an objection at 2:01, March 17, 1981.

This matter will be placed on the Executive Session Agenda for Tuesday, March 24, 1981.

82040343750

FEDERAL ELECTION COMMISSION
1325 K Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL
BY OGC TO THE COMMISSION 3-12-81

MUR # 1316
DATE COMPLAINT RECEIVED
BY OGC October 17, 1980
STAFF MEMBER(S)
Weissenborn

COMPLAINANT'S NAME: Carter/Mondale Reelection Committee, Inc.

RESPONDENT'S NAME: Americans for Reagan, North Carolina Congressional Club

RELEVANT STATUTE: 2 U.S.C. § 432(e)
2 U.S.C. § 441d
2 U.S.C. § 441h

INTERNAL REPORTS CHECKED:

FEDERAL AGENCIES CHECKED:

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY
81 MAR 12 P 5: 03

8204034752

SUMMARY OF ALLEGATIONS

The Carter/Mondale Reelection Committee, Inc., (hereinafter "complainant") has alleged violations of 2 U.S.C. § 441h and 2 U.S.C. § 432 (e) by Americans for Reagan, a self-designated "project" of the North Carolina Congressional Club (hereinafter "NCCC").

FACTUAL AND LEGAL ANALYSIS

Alleged Violation of 2 U.S.C. § 441h

The complaint alleges that a television commercial placed by Americans for Reagan for airing on WJLA, the affiliate of the American Broadcasting company in Washington, D.C., failed to made adequate identification of the sponsoring entity and included a misleading text resulting in misrepresentation of campaign authority in violation of 2 U.S.C. § 441h.

The commercial is quoted as stating in part

> "Ted Kennedy ... John Anderson ...
> Ted Kennedy ... John Anderson ...
> We defeated one, now we must defeat
> the other."

The complainant argues that it was President Carter who was in an election contest with Senator Kennedya and that therefore "the ad appears deliberately designed to mislead the viewers as to its origin. In addition the complainant found the authorization line at the ad's conclusion "hasty and nearly illegible."

2 U.S.C. § 441h provides that

> No person who is a candidate for Federal Office or an employee or agent of such a candidate shall
> (1) fraudulently misrepresent himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof; or
> (2) willfully and knowlingly participate in or conspire to participate in any plan, scheme, or design to violate paragraph (i).

In order sustain a violation of 2 U.S.C. § 441h by Americans for Reagan, NCCC, an agency relationship must exist between Americans for Reagan, NCCC and the Reagan/Bush Committee. The complainant states that "(w)e have already questioned the true 'independence' of Americans for Reagan and as evidence points to what it considers a public admission by the chairman of Americans for Reagan that he had "communicat(ed) on campaign matters with Governor Reagan through the Reagan campaign's chairman." 1/

1/ This "admission" apparently refers to a television interview by ABC correspondent Sander Vanocor with Senator Jesse Helms, honorary chairman of NCCC, in which Mr. Helms stated that he had "had to sort of talk indirectly with Paul Laxalt and hope that he would pass along ..." and that the Senator "think(s) the messages have gotten through all right." In light of information supplied by NCCC in another context concerning this same interview, the Commission has determined that this interview is not sufficient evidence to warrant a finding that NCCC is not on independent expenditure committee.

8204034375 3

11 C.F.R. § 109.1(b)(5) provides the only definition of "agent" to be found in the Commission's regulations. This definition, though broad in its terms, is specifically included in the regulations for purposes of the definition of "independent expenditure" set forth at 11 C.F.R. § 109.1(a).

(a). The latter definition reads

> "Independent expenditure" means an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate which is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate.

The complainant apparently is urging a finding that the making of a non-independent expenditure by a committee creates an agency relationship between the committee making that expenditure and the candidate on whose behalf the expenditure is made. The language of 11 C.F.R. § 109.1(a) and § 109.1(b)(5), on the other hand, seems to distinguish between the committee making the expenditure and an agent of the candidate with whom the expender has cooperated, consulted, etc.

Because 11 C.F.R. § 109.1 does not apparently apply to a 2 U.S.C. § 441h situation, it is necessary to rely upon general agency law to determine whether Americans for Reagan and NCCC can be considered to have been an agent of Ronald Reagan at the time the advertisement at issue was aired.

> Agency is the relationship which results from the manifestation of consent by one person to another that the other shall act on his behalf and subject to his control, and consent by the other so to act. Restatement, Agency § 1.

"An important attribute in order to create an agency relationship is whether 'a principal has the right to control the conduct of the agent with respect to matters entrusted to him.' Restatement, Agency § 14." United States v. Baker, 170. F. Supp. 651, 650 (W.D. Pennsylvania, 1959).

No evidence has been submitted to the Commission showing either control over Americans for Reagan or NCCC by Ronald Reagan or his authorized committee, or the consent of Americans for Reagan or NCCC to such control. Therefore, Americans for Reagan and NCCC do not come within the category of persons covered by 2 U.S.C. § 441h.

8204034375 4

This Office recommends that the Commission find no reason to believe that NCCC and/or Americans for Reagan have violated 2 U.S.C. § 441h.

Possible Violation of 2 U.S.C. § 441d

Although not cited by the complainant, the complaint raises an issue as to whether the identification line at the conclusion of the advertisement at issue met the requirements for clarity set forth at 2 U.S.C. § 441d. This provision states that

> (a) Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, ... such communication ....
>
> (3) if not authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee.

In an affidavit attached to a memorandum in support of a complaint filed with the Federal Communications Commission with regard to the same television commercial as that addressed in the complaint to the FEC, Douglas Huron, special counsel to the complainant, restated the text of the advertisement at issue and also quoted the identification line which read as follows:

> Paid for by Americans for Reagan Congressional Club and not authorized by any Presidential Committee. 2/

2/ A copy of this affidavit was sent to this Office by the complainant on October 20, 1980.

6204034375 5

The complainant alleges in the above affidavit that

> Most of the text in the ad appears in large block letters. All of it is read by an announcer. The identification line, by contrast, appears in small typescript. On a 19-inch screen the block letters in the text of the ad are 7/8 to one inch high, while the letters in the ID line are 1/4 to 3/8 inches--less than one-half the size of the lettering in the text. There is no voice - over for the ID line. 3/
>
> The ID line appears for about four seconds, but if first appears when the announcer is finishing the text by saying, "Now we must defeat the other." Because of this, there are only 1.5 seconds when the ID line is on the screen alone, without distraction.

Members of the staff of the Office of General Counsel have viewed a videotape of this advertisement. They clocked the timing of the appearance of the identification line at 5 seconds and the timing of that appearance without audio at 2 seconds. While the text of the ad is in large letters and clearly legible, that of the identification line is relatively small and not clear.

The affidavit submitted by Douglas Huron to the FCC also stated that he was informed by an employee of Rafshoon Communications that people had called that agency asking about the ad. In addition, Mr. Huron stated that he had talked personally to one such viewer who stated that her husband, after having seen the ad on two consecutive nights, had called WJLA to ask who had sponsored the ad.

3/ A voice over for the ID line was added at a late date not yet known to this Office.

6204037756

[illegible] clearly [illegible] the communication [illegible] candidate.

A joint public notice [illegible] by the [illegible] on [illegible] the Federal Communications Commission [illegible] July 13, 1978, states that

> 3. The Federal Election Campaign Act, as amended, and the FEC rules provide that broadcast communications which expressly advocate either the election or defeat of a "clearly identified" candidate must announce, in a manner which gives actual notice to the listener or viewer, that the broadcast was authorized by a particular candidate or not authorized by any candidate. 4/
>
> 4. The following authorization notices and sponsorship identification announcements ... comply with both the FCC and FEC regulations:
>
> ...
>
> III. Broadcast communication which is financed by a third party and not authorized by any candidate or any candidate's authorized committee:

4/ "Actual notice has been defined as notice expressly and actually given, and brought home to the party directly." Black's Law Dictionary, Revised fourth addition, p. 1210. See also Jordon v. Pollock, 14 Ga. 145; McCray v. Clar, 82 Pa. 457; Morey v. Millihen, 86 Me. 464, 30 A. 102. It has also been defined as "such notice as is positively proved to have been given to a party directly and personally, or such as he is presumed to have received personally because the evidence within his knowledge was sufficient to put him upon inquiry." Black's Law Dictionary, supra. See also Picklesimer v. Smith, 164 Ga. 600, 139 S.E. 72, 74; White v. Fisher, 77 Ind. 65, 40 Am. Rep. 287.

9240437

The regulations and the [illegible] provide [illegible] as to the number of [illegible] letters involved [illegible] cation that viewers [illegible] the sponsorship of an advertisement would seem to indicate a lack of a clear and unequivocal statement which gave viewers actual notice.

An application of the requirements of 2 U.S.C. § 441d [illegible] C.F.R. § [illegible].11(a)(1)(iv), [illegible] those of the [illegible] notice, to the FCC [illegible] respondent fulfilled the [illegible] clear statement of the name of the person paying for the [illegible] Although no evidence other than hearsay is yet in [illegible] that viewers were actually unable to [illegible] from the [illegible] the advertisement's sponsorship, there are at least indications that such was the case. A viewing by staff members of this Office confirmed the possibility that the notice might not be clear. Therefore, it is the recommendation of the Office of General Counsel that the Commission find reason to believe that NCCC and Americans for Reagan violated 2 U.S.C. § 441d(a)(3).

5/ The complaint cites an FCC public notice issued to all broadcast licensees on September 15, 1977, with regard to the application of sponsorship identification rules to political broadcasts and other purchased air time. In this notice the FCC discussed the fact that it had received complaints during the 1976 election campaign concerning video sponsorship identification announcements. Television licensees were reminded that when such announcements are made by video only, "that portion should be given in letters of sufficient size to be readily legible to an average viewer, should be shown against a background which does not reduce its legibility, and should remain on the screen long enough to be read in full by an average viewer." The FCC, however, declined to attempt to require a specific letter size or specific time period for such announcements, pointing out that a variety of factors are involved, "i.e., the length of the sponsor's name, relationship of time to size of letters, difficulty in comprehending the words contained in the identification." 66 FCC 302, 304.

9204037578

Alleged violation of 2 U.S.C. § 432(e)

Complainant alleges "the use by a purportedly unauthorized committee of the name of the candidate it is supporting in the committee's name" in violation of 2 U.S.C. § 432(e). 2 U.S.C. § 432(e)(4) states that "(i)n the case of any political committee which is not an authorized committee, such political committee shall not include the name of any candidate in its name." The identification line at the conclusion of the television advertisement discussed above stated that the advertisement had been paid for by Americans for Reagan Congressional Club. The North Carolina Congressional Club solicited contributions for "Americans for Reagan", which it has styled a "project" of NCCC.

The Office of General Counsel recommends that the Commission find reason to believe that NCCC and Americans for Reagan have violated 2 U.S.C. § 432(e).

Recommendations

1. Find no reason to believe that the North Carolina Congressional Club and Americans for Reagan violated 2 U.S.C. § 441h.

2. Find reason to believe that the North Carolina Congressional Club and Americans for Reagan violated 2 U.S.C. § 441d(a)(3).

3. Find reason to believe that the North Carolina Congressional Club and Americans for Reagan violated 2 U.S.C. § 432(e).

4. Send attached letter.

Attachments

1. Complaint

2. Memorandum and Affidavit of Douglas F. Huron filed with Federal Communications Commission.

3. Letter to Respondent.

8 2 0 4 0 3 4 3 7 5 9

CARTER/MONDALE
RE-ELECTION
COMMITTEE, INC.

2000 L STREET, N.W., WASHINGTON, D.C. 20036 (202) 887-4700

October 17, 1980

Kenneth A. Gross, Esq.
Associate General Counsel
Federal Election Commission
1325 K Street, NW
Washington, D.C. 20005

Dear Ken:

Per our conversation, attached is a notarized version of the mailgram complaint sent to the Commission yesterday.

Very truly yours,

Jim

Timothy G. Smith
General Counsel

TGS:sjl

enclosure

8204034376 0

RECEIVED
80 OCT 17 P1:56

Paid for by the Carter/Mondale Re-Election Committee, Inc.

80 OCT 17 P 1:56

TEXT OF TELEGRAM

Sent 10/16/80

To: Federal Election Commission
1325 K Street, NW, Washington DC 20005
Attention: Charles N. Steele, General Counsel

Federal Communications Commission
Room 610, Washington DC 20554
Attention: Robert R. Bruce, General Counsel

This is a complaint and request for expedited consideration filed on behalf of the Carter/Mondale Reelection Committee, Inc., in connection with certain misleading and illegal television commercials presently being run by supporters of Ronald Reagan.

The commercials in question stridently attack Senator Edward Kennedy and Congressman John Anderson for their purported positions on busing, foreign aid, the Panama Canal treaty, and abortion. One such ad, for example, aired on WJLA, the Washington, DC, ABC affiliate, yesterday morning at approximately 7:30 A.M. EST during "Good Morning, America."

The authorization line for the commercial is barely legible and flashed for only an instant on the screen. In fact, the ad is sponsored by Americans for Reagan, a multi-million dollar so-called Reagan "independent" committee whose Chairman is Senator Jesse Helms.

The text of the commercial, however, appears deliberately designed to confuse viewers as to the sponsor and to create sympathy or support for Mr. Anderson, particularly among former supporters of Senator Kennedy.

8 2 0 4 0 3 4 3 7 6 1

The conclusion of the ad states, for example:

> "Ted Kennedy . . . John Anderson . . . Ted Kennedy . . . John Anderson . . . We defeated one, now we must defeat the other."

Neither Governor Reagan nor Jesse Helms, of course, has ever been in an election contest with Senator Kennedy. President Carter has. Thus, the ad appears deliberately designed to mislead viewers as to its origin. This apparent motivation is supported by the hasty and nearly illegible authorization line at the ad's conclusion.

We have already questioned the true "independence" of Americans for Reagan. Its chairman was a Reagan delegate to the Republican National Convention, where he publicly admitted to communicating on campaign matters with Governor Reagan through the Reagan campaign's Chairman. Americans for Reagan has announced that it plans to raise $4 million on Governor Reagan's behalf for media advertising and other expenditures in a number of key states, notwithstanding Governor Reagan's acceptance of public funds.

The latest commercials violate the law in these additional ways:

(1) The inadequate, nearly illegible disclaimer on the commercial violates FCC regulations, which require clear identification of the sponsor of paid political advertisements. 47 U.S.C. 317; see 66 FCC 2d 302 (1977).

(2) The failure to make adequate identification of the sponsoring entity, along with the misleading text of the commercial

8204034376 2

(see above), violate the prohibition on misrepresentation of campaign authority contained in 2 U.S.C. 441h.

(3) The use by a purportedly unauthorized committee of the name of the candidate it is supporting in the committee name is prohibited by FEC regulations. 2 U.S.C. 432(e).

We note that the FCC recently has confirmed that broadcast licensees have no "reasonable access" obligations to unauthorized political committees, but only to candidates and their authorized committees for which they are legally and politically accountable.

In light of the above, we are calling on stations not to run these misleading advertisements. In addition, we ask both the Federal Election Commission and the Federal Communications Commission to deal with the violations of law that are involved on an expedited basis.

Respectfully submitted,

Timothy G. Smith

Timothy G. Smith
General Counsel

DISTRICT OF COLUMBIA: SS

The above document was signed in my presence on this 17 day of Oct, 1980.

William F. Todd

Notary Public
Commission Expires: [redacted] EXPIRES 4-17-83

WILLIAM F. TODD
NOTARY
PUBLIC
DISTRICT OF COLUMBIA

82040343763

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re Complaint of	)	FCC 80-
	)	
CARTER/MONDALE REELECTION COMMITTEE, INC.	)	
	)	
against	)	
	)	
AMERICANS FOR REAGAN and Television Station WJLA-TV, Washington, D.C.	)	

MEMORANDUM IN SUPPORT OF COMPLAINT

On October 16, 1980, the Carter/Mondale Reelection Committee, Inc., sent a telegram to the Federal Communications Commission and to the Federal Election Commission, complaining *inter alia* that a political advertisement being aired on WJLA-TV, Washington, D.C., was deceptive in nature and carried an insufficient identification line. This memorandum and the attached affidavit are submitted in support of those aspects of the complaint directed at violations of communications law.

We are also submitting herewith a videotape cassette of the ad in question, since we believe that it is critical that the Commission appreciate the context in which the ID line appears.

1. The Advertisement and Its Identification[1/]

The ad in question is a 30-second spot. It features alternating images of Senator Kennedy and Congressman Anderson, alleges

1/ See generally the videotape of the ad and Paragraph 5 of the attached affidavit.

8204034376 4

that both have identical voting records on a number of issues and concludes: "We defeated one. Now we must defeat the other." The "we" in the text is unspecified, but it is common knowledge that only President Carter has been involved in electoral contests this year with Senator Kennedy.

Most of the text in the ad appears in large block letters. All of it is read by an announcer. The identification line, by contrast, appears in small typescript. On a 19-inch screen, the block letters in the text of the ad are 7/8 to one inch high, while the letters in the ID line are 1/4 to 3/8 inches--less than half the size of the lettering in the text. There is no voice-over for the ID line.

The ID line appears for about four seconds, but it first appears when the announcer is finishing the text by saying, "Now we must defeat the other." Because of this, there are only 1.5 seconds when the ID line is on the screen alone, without distraction.

The ID line on a political advertisement must be legible and must appear for a sufficient length of time to permit the average viewer to read it. See 66 FCC 2d 302 (1977). Where the text of the ad poses a serious risk of confusion in the public mind as to sponsorship, it is particularly important that the identification be unambiguous.

Here, regardless of the intent of the sponsor of the ad,[2/]

[2/] The question whether the ad was created with an intent to deceive the public is properly before the Federal Election Commission. See 2 USC 441 h.

8204034376 5

it is clear that the text of the spot could easily suggest to viewers that the Carter/Mondale campaign is the sponsor. In fact, as the attached affidavit shows, members of the public have been confused about the ad's sponsorship.3/ In these circumstances, the obligation to take remedial action is clear.

2. The Actions of WJLA-TV.

WJLA-TV has been on notice since Thursday, October 16, concerning the confusing and possibly deceptive nature of the ad in question.4/ The station has refused to take voluntary remedial action and has insisted upon continuing to show the ad without modifying the ID line in any respect.5/

Americans for Reagan, the sponsor of the ad, is a project of the North Carolina Congressional Club, an unauthorized political committee ostensibly independent of the Reagan-Bush campaign.6/ WJLA has no legal obligation to sell Americans for Reagan any time. See In re You Can't Afford Dodd Committee, FCC 80-575 (October 7, 1970). Nevertheless, a broadcaster arguably could make an initial, good faith judgment to run an ad such as the one about which we complain.

WJLA has, however, been apprised of the confusion sown by the ad.7/ Moreover, the station has itself contributed to the sowing

---

3/ Aff. at Para. 2,4, 11-12.

4/ Aff. at Para. 9-10.

5/ Aff. at Para. 13, 19.

6/ Aff. at Para. 6. The ID line says, inter alia, "Paid for by Americans for Reagan Congressional Club." In the past, Americans for Reagan generally has not used the phrase "Congressional Club" in its title.

7/ Aff. at Para. 10, 13, 18-19.

8204034376 6

by advising members of the public that the ad was sponsored by Carter/Mondale campaign.[8] Under such circumstances a broadcaster is obligated to reconsider its initial decision and to take appropriate remedial action. This WJLA has refused to do.[9]

WJLA's actions raise serious questions about whether it is operating its license in the public interest.

Conclusion

We ask that the Commission direct WJLA-TV to refrain from showing the ad in question unless and until each of the following modifications is made in the identification line:

(1) enlarging the lettering in the ID line so that it is at least equal in size to that in the text of the ad,

(2) lengthening the time during which the ID line appears on the screen, and

(3) adding a clear, measured voice-over to the ID line.

Since this ad may be running on other stations throughout the country[10]--and because of the short period of time left in this election campaign--we also request that the Commission's order be phrased broadly enough to cover showings of the ad on other stations.

Only if these steps are taken will there be any hope of

8/ Aff. at Para. 11-12.

9/ Aff. at Para. 13, 19.

10/ Aff. at Para. 20. We expect to have more information on this question by the early afternoon on Monday, October 20.

8204034376 7

dispelling the confusion caused by this ad.

Respectfully submitted,

TIMOTHY G. SMITH
General Counsel
DOUGLAS B. HURON
Special Counsel
Carter/Mondale Reelection
Committee, Inc.
2000 L Street, NW
Washington, DC 20036
(202) 887-4677

82040343768

AFFIDAVIT

1. My name is Douglas B. Huron. I am a member of the District of Columbia Bar. Since July 28, 1980, I have been serving as Special Counsel to the Carter/Mondale Reelection Committee, Inc.

October 15, 1980

2. At about 8:30 AM on Wednesday, October 15, 1980, I received a telephone call at my office from a reporter for a major newspaper. He said that he and his wife had been watching "Good Morning, America" earlier that morning and had seen an advertisement comparing Senator Edward Kennedy and Congressman John Anderson. He said that the ad ended with an exhortation to the effect, "We have gotten rid of one; now let's get rid of the other." Neither he nor his wife noticed the identification on the ad, and both assumed that it had been sponsored by the Carter/Mondale campaign. His wife's reaction had been, "That does it; I'm not voting for Carter." The reporter wanted to know whether our campaign had sponsored the ad, because it seemed to him that the ad was likely to alienate potential Carter voters who had been supporters of Senator Kennedy.

3. "Good Morning, America," where the ad in question was seen, is an ABC program which appears locally on WJLA-TV, the ABC affiliate in Washington.

8204034376 9

4. Later during the day on October 15, I learned that Rafshoon Communications, which handles media design and purchases for the Carter/Mondale Campaign, had received several telephone calls from concerned citizens who wanted to know why the campaign had placed an ad attacking Senator Kennedy and Congressman Anderson.

5. I had still not seen the ad in question, but during the mid-afternoon of October 15, Timothy G. Smith, the General Counsel for the campaign, and I viewed it on videotape. The ad runs for approximately 30 seconds. It is black and white and shows alternating pictures of Senator Kennedy and Congressman Anderson. Most of the text appears in large block letters and all of it is read by an announcer:

TED KENNEDY.
JOHN ANDERSON.
TED KENNEDY.
JOHN ANDERSON.
BOTH VOTED AGAINST BUILDING THE STRATEGIC B-1 BOMBER.
BOTH VOTED FOR USELESS BUSING.
BOTH VOTED BILLIONS OF DOLLARS FOR WASTEFUL FOREIGN AID.
BOTH VOTED TO GIVE AWAY OUR CANAL IN PANAMA.
AND BOTH VOTED TO USE FEDERAL FUNDS FOR ABORTIONS.
TED KENNEDY.
JOHN ANDERSON.
TED KENNEDY.
JOHN ANDERSON.
WE DEFEATED ONE.
NOW WE MUST DEFEAT THE OTHER.

At the end of the spot, an identification line in smaller letters flashes on the bottom of the screen.

Paid for by
Americans for Reagan Congressional Club
And Not Authorized by Any Presidential Candidate

8204034370

On a 19-inch television screen, the letters in the text of the ad are between 7/8 of an inch and one-inch high. The lettering on the identification line is less than half that size -- between 1/4 and 3/8 inches. The identification line appears for about four seconds, but it first appears when the announcer is finishing the text and saying, "Now we must defeat the other." There are only 1.5 seconds when the ID line appears alone--without the conflicting voice-over at the end of the spot. There is no voice-over for the ID line itself.

6. Americans for Reagan is a project of the North Carolina Congressional Club, an unauthorized political committee which is ostensibly independent of the Reagan-Bush campaign. Americans for Reagan is chaired by Senator Jesse Helms of North Carolina.

7. Having seen the ad, Mr. Smith and I concluded that the average viewer might easily believe that the Carter/Mondale campaign was the sponsor. We then consulted with others associated with the campaign and determined that the misleading nature of the ad could prove damaging to the President's reelection effort. Late in the afternoon on October 15, we began preparing a complaint concerning the ad, which we planned to file with both the Federal Communications Commission and the Federal Election Commission.

8. On several occasions on October 15, I attempted to call Al Hammond, whom station officials had informed me was the General Counsel of WJLA-TV. I was told that Mr. Hammond would not be available until Thursday morning, October 16.

6204034371

October 16, 1980

9. On Thursday, October 16, 1980, our campaign sent a telegram to both the Federal Communications Commission and the Federal Election Commission, formally complaining about the Americans for Reagan ad. A copy of the text of that telegram is attached as Exhibit 1 to this Affadavit.

10. October 16 I was able to talk to Al Hammond, General Counsel of WJLA-TV. I explained our campaign's concern about the ad -- particularly that the public was being deceived by it -- and asked that the station stop showing the ad. Later that day I sent Mr. Hammond a hand-delivered letter formally making the same request. A copy of that letter is attached as Exhibit 2 hereto.

October 17, 1980

11. On Friday morning, October 17, 1980, I spoke to Rebecca Hendrix, an employee of Rafshoon Communications. Ms. Hendrix informed me that, among the people who had called the Rafshoon agency about the ad, two said that they had contacted WJLA-TV and had been informed that the Carter/Mondale campaign was the sponsor.

12. Ms. Hendrix knew the name of one of these two individuals, Mrs. William Stansbery, 125 South Aberdeen Street, Arlington, Virginia 22204. I called Mrs. Stansbery, who informed me that she and her husband had seen the ad in question on Tuesday evening, October 14, and Wednesday evening, October 15. After they had seen it on October 15, Mr. Stansbery called WJLA-TV and asked who had sponsored it. He was informed that

8 2 0 4 0 3 4 3 7 7 2

the sponsor was Carter/Mondale. Mr. Stansbery asked that this information be repeated and was again told that the sponsor was Carter/Mondale.

13. At about 2:45 PM on October 17, Al Hammond, General Counsel to WJLA-TV, called to respond to the letter I had sent to him the previous day. He advised me that the station had considered our request but had decided to wait to take any remedial action until the Federal Communications Commission ruled on our complaint. During this conversation I told Mr. Hammond that WJLA had informed members of the public that the Carter/Mondale campaign had sponsored the ad.

14. I also asked Mr. Hammond how many more times the ad in question would be shown on WJLA-TV. He declined to respond but said that we were welcome to send someone over to examine WJLA's political file. I immediately asked Jeffrey Kampelman, a student intern on our legal staff, to go to WJLA-TV and to review that file.

15. Later during the afternoon on October 17, I spoke to Milton Gross of the Federal Communications Commission. He said that the Commission staff had directed WJLA-TV to respond to the Carter/Mondale complaint on Monday morning, October 20.

16. About 5:00 PM on October 17, Mr. Kampelman returned from WJLA-TV with a list of times during which the ad in question had been and will be shown on the station. A copy of that list is attached as Exhibit 3 hereto.

17. We learned from examining the list that the ad had already been shown several times on WJLA-TV and was scheduled

6 2 0 4 0 3 4 3 7 7 3

19, and twice on Monday, October 20, including a 9:00 PM spot at the beginning of "Monday Night Football."

18. Concerned that any action taken either by the Federal Communications Commission or the Federal Election Commission would not be timely enough, we contacted John Lane, an attorney who has served as outside counsel for the Carter/Mondale campaign on communications matters. Mr. Lane then called Mr. Thomas Keller, the outside counsel for WJLA-TV, who said he would review this matter with his client.

19. At about 9:00 PM on October 17, I spoke to Mr. Keller. He informed me that he had spoken to the station manager at WJLA-TV and that the station was considering whether to take voluntary remedial action. Mr. Keller said that a decision would probably be made on Saturday, October 18. We have, however, heard nothing further from WJLA.

20. The Carter/Mondale campaign has so far been unable to identify the other cities, if any, where the ad in question may be running. We have been informed that the ad has been shown on a television station in Detroit.

Douglas B. Huron

DOUGLAS B. HURON

Subscribed and sworn to before me this 20 day of October October 1980.

William F. Foster

Notary Public

My Commission Expires MY COMMISSION EXPIRES 4-17-82

8204034377 4

TEXT OF TELEGRAM

Sent 10/16/80

00017 5-42

To: Federal Election Commission
1325 K Street, NW, Washington DC 20005
Attention: Charles N. Steele, General Counsel

Federal Communications Commission
Room 610, Washington DC 20554
Attention: Robert R. Bruce, General Counsel

This is a complaint and request for expedited consideration filed on behalf of the Carter/Mondale Reelection Committee, Inc., in connection with certain misleading and illegal television commercials presently being run by supporters of Ronald Reagan.

The commercials in question stridently attack Senator Edward Kennedy and Congressman John Anderson for their purported positions on busing, foreign aid, the Panama Canal treaty, and abortion. One such ad, for example, aired on WJLA, the Washington, DC, ABC affiliate, yesterday morning at approximately 7:30 A.M. EST during "Good Morning, America."

The authorization line for the commercial is barely legible and flashed for only an instant on the screen. In fact, the ad is sponsored by Americans for Reagan, a multi-million dollar so-called Reagan "independent" committee whose Chairman is Senator Jesse Helms.

The text of the commercial, however, appears deliberately designed to confuse viewers as to the sponsor and to create sympathy or support for Mr. Anderson, particularly among former supporters of Senator Kennedy.

82040343775

The conclusion of the ad states, for example:

> "Ted Kennedy . . . John Anderson . . . Ted Kennedy . . . John Anderson . . . We defeated one, now we must defeat the other."

Neither Governor Reagan nor Jesse Helms, of course, has ever been in an election contest with Senator Kennedy. President Carter has. Thus, the ad appears deliberately designed to mislead viewers as to its origin. This apparent motivation is supported by the hasty and nearly illegible authorization line at the ad's conclusion.

We have already questioned the true "independence" of Americans for Reagan. Its chairman was a Reagan delegate to the Republican National Convention, where he publicly admitted to communicating on campaign matters with Governor Reagan through the Reagan campaign's Chairman. Americans for Reagan has announced that it plans to raise $4 million on Governor Reagan's behalf for media advertising and other expenditures in a number of key states, notwithstanding Governor Reagan's acceptance of public funds.

The latest commercials violate the law in these add' ways:

(1) The inadequate, nearly illegible disclaimer on the commercial violates FCC regulations, which require clear identification of the sponsor of paid political advertisements. 47 U.S.C. 317; see 66 FCC 2d 302 (1977).

(2) The failure to make adequate identification of the sponsoring entity, along with the misleading text of the commercial

8204034376

(see above), violate the prohibition on misrepresentation of campaign authority contained in 2 U.S.C. 441h.

(3) The use by a purportedly unauthorized committee of the name of the candidate it is supporting in the committee name is prohibited by FEC regulations. 2 U.S.C. 432(e).

We note that the FCC recently has confirmed that broadcast licensees have no "reasonable access" obligations to unauthorized political committees, but only to candidates and their authorized committees for which they are legally and politically accountable.

In light of the above, we are calling on stations not to run these misleading advertisements. In addition, we ask both the Federal Election Commission and the Federal Communications Commission to deal with the violations of law that are involved on an expedited basis.

The undersigned counsel for the complainant swears that the allegations and other facts in the complaint are true and correct to the best of his knowledge, information, and belief.

BY: Timothy G. Smith
Timothy G. Smith
General Counsel
Carter-Mondale Reelection Committee, Inc.

Subscribed and sworn to, before me,
this 17th day of October, 1979.

William F Todd
Notary Public

My commission expires MY COMMISSION EXPIRES 4-17-83

WILLIAM F. TODD NOTARY PUBLIC STATE OF ILLINOIS

8204037777

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Brice M. Clagett, Esquire
Counsel, North Carolina
Congressional Club
Covington and Burling
888 16th Street, N.W.
Washington, D.C. 20006

Re: MUR 1316

Dear Mr. Clagett,

On October 20, 1980, the Federal Election Commission notified Mr. John R. Bolton of your firm that a complaint had been filed with the Commission alleging that Americans for Reagan, North Carolina Congressional Club ("NCCC"), had violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to the respondent at that time. It is the understanding of this Office that you have taken Mr. Bolton's place as counsel for Americans for Reagan, NCCC.

Upon further review of the allegations and information received from the complainant, the Commission on February , 1981, determined that there is reason to believe that Americans for Reagan, NCCC, violated 2 U.S.C. § 441d(a)(3) by failing to state clearly that it had paid for a television commercial placed for airing on WJLA which called for the defeat of John Anderson, and 2 U.S.C. § 432(e) by including the name of the candidate in its name.

You may submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Please file any such response within ten days of your receipt of this notification.

The Office of General Counsel would like to settle this matter through conciliation prior to finding probable cause; however, in the absence of any information which demonstrates that no further action should be taken against your client, the Office of General Counsel must proceed to the next compliance stage as noted on page 2, paragraph 2 of the enclosed procedures.

8204034378

This matter will remain confidential in accordance with 2 U.S.C. § 437(a)(4)(B) and § 437(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you have any questions, please contact Anne A. Weissenborn, the attorney assigned to this matter, at (202) 523-5071.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Procedures

8204034379

COVINGTON & BURLING
888 SIXTEENTH STREET, N.W.
WASHINGTON, D.C. 20006

TELEPHONE
(202) 452-6000

WRITER'S DIRECT DIAL NUMBER
(202) 452-6418

TWX: 710-822-0088
TELEX: 89-593
CABLE: COVLING

HAND DELIVER

December 9, 1980

80 DEC 10 A 9:46
GENERAL COUNSEL

Charles N. Steele, Esq.
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1316

Dear Mr. Steele:

These responses, we believe, fully dispose of any allegations arising under 2 U.S.C. § 432(e)(4). No further response to the allegations concerning 2 U.S.C. § 441h is warranted.

Sincerely yours,

John R. Bolton

8204034378 0

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 4, 1980

John R. Bolton, Esquire
Covington and Burling
888 16th Street, N.W.
Washington, D.C. 20006

RE: MUR 1316

Dear Mr. Bolton:

The Commission has reviewed your letter of November 3, 1980, addressed to Anne A. Weissenborn of the Office of the General Counsel. It has been noted that you have not yet filed the response on behalf of the North Carolina Congressional Club for which you requested an extension of time ending November 28, 1980. The Commission will not stay its proceedings with regard to MUR 1316. Therefore, any response which you desire to submit should be filed forthwith.

Sincerely,

Charles N. Steele
General Counsel

8204034378 1

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
North Carolina Congressional)
Club ("NCCC"))

MUR 1316

AMENDED CERTIFICATION

I, Marjorie W. Emmons, Recording Secretary for the Federal Election Commission's Executive Session on December 2, 1980, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in MUR 1316:

1. Deny NCCC's request for an extension of time in which to respond to the complaint in MUR 1316.

2. Direct the Office of General Counsel to amend the letter to the respondent.

Commissioners Aikens, Harris, McGarry, Reiche, and Tiernan voted affirmatively for the decision; Commissioner Friedersdorf dissented.

Attest:

12/5/80
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary to the Commission

8204034370 2

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS/MARGARET CHANEY

DATE: NOVEMBER 13, 1980

SUBJECT: OBJECTION - MUR 1316 - Memorandum to the Commission dated 11-10-80; Received in OCS 11-10-80, 5:04

The above-named document was circulated on a 48 hour vote basis at 11:00, November 12, 1980.

Commissioner Friedersdorf submitted an objection at 11:23, November 13, 1980. A copy of his vote sheet is provided.

This matter will be placed on the Executive Session Agenda for Tuesday, December 2, 1980.

ATTACHMENT:
Copy of Vote Sheet

8204034378 3

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS/MARGARET CHANEY

DATE: NOVEMBER 13, 1980

SUBJECT: OBJECTION - MUR 1316 - Memorandum to the Commission dated 11-10-80; Received in OCS 11-10-80, 5:04

The above-named document was circulated on a 48 hour vote basis at 11:00, November 12, 1980.

Commissioner Friedersdorf submitted an objection at 11:23, November 13, 1980. A copy of his vote sheet is provided.

This matter will be placed on the Executive Session Agenda for Tuesday, December 2, 1980.

ATTACHMENT:
Copy of Vote Sheet

9 2 0 4 0 3 4 3 7 8 4

48 HOUR TALLY SHEET

FEDERAL ELECTION COMMISSION

80 NOV 13 AM 11:23

1325 K STREET N.W.
WASHINGTON, D.C. 20463

Date and Time Transmitted: WEDNESDAY, 11-12-80
11:00

Commissioner FRIEDERSDORF, AIKENS, TIERNAN, McGARRY, REICHE, HARRIS

RETURN TO OFFICE OF COMMISSION SECRETARY BY: FRIDAY, NOVEMBER 14, 1980
11:00

MUR No. 1316 - Memorandum to the Commission dated 11-10-80

( ) I approve the recommendation

(✓) I object to the recommendation

COMMENTS: Please hold for Dec 2nd mtg

Date: Nov 13, 1980 Signature: Max L. Friedersdorf by SPM

A DEFINITE VOTE IS REQUIRED AND ALL SHEETS SIGNED AND DATED. PLEASE RETURN ONLY THE VOTE SHEETS TO THE OFFICE OF THE COMMISSION SECRETARY NO LATER THAN THE DATE AND TIME SHOWN ABOVE.

6204031370

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 10, 1980

MEMORANDUM

TO: The Commission

FROM: Charles N. Steele
General Counsel

SUBJECT: Request for Extension of Time in MUR 1316

Attached is a letter from counsel for the North Carolina Congressional Club ("NCCC") requesting an extension until November 28, 1980, in which to submit NCCC's response to the complaint in MUR 1316. Pursuant to the Commission's policy of enforcing the fifteen day period for response set forth at 2 U.S.C. § 437g(a)(3), the Office of General Counsel recommends that this request for an extension be denied.

Recommendation

1. Deny NCCC's request for an extension of time in which to respond to the complaint in MUR 1316.

2. Send the attached letter.

Attachments

Letter from John Bolton
Letter to John Bolton

80 NOV 10 P5:04
RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARY

8204034337987

COVINGTON & BURLING
888 SIXTEENTH STREET, N. W.
WASHINGTON, D. C. 20006

TELEPHONE
(202) 452-6000

WRITER'S DIRECT DIAL NUMBER
(202) 452-6418

TWX: 710-822-0008
TELEX: 89-593
CABLE: COVLING

HAND DELIVERED

November 3, 1980

Anne Weissenborn, Esq.
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1316

Dear Ms. Weissenborn:

As I have indicated to you during several telephone conversations, I am presently in trial before the United States District Court for the Western District of Oklahoma. We have just completed our eighth week of trial, and there is no end in sight. Indeed, we have already begun discussions before the Court concerning the scheduling of witnesses by opposing counsel for the week of December 15. It now appears, however, that the trial will recess during the period around the Thanksgiving holiday. Accordingly, I request an extension of time within which to respond to the Carter-Mondale Reelection Committee, Inc. complaint until November 28.

I would, however, like to comment briefly now on the Carter-Mondale complaint. It is clear that the complaint attacks the substance of a particular Congressional Club advertisement. As such, the complaint is a thinly-veiled invitation to the Federal Election Commission to engage in censorship of political speech. The allegations that the Federal Election Campaign Act, as amended, ("FECA") has been violated, are, at best, window-dressing. The true thrust of the complaint is revealed in its next-to-last paragraph, where Carter-Mondale state that they "are calling on stations not to run these misleading advertisements." Carter-Mondale's real purpose is not to raise an issue of law, but to suppress the advertisements. The First Amendment obviously precludes this Commission from being a party to such an effort.

82040343788
'80 NOV 3 P3:08
GENERAL COUNSEL

Carter-Mondale's actual intent is itself strong evidence of the speciousness of the complaint. For instance, as to the allegation that the advertisements violate 2 U.S.C. § 441h, Carter-Mondale has ignored the joint public notice by this Commission and the Federal Communications Commission ("FCC") concerning FCC rules on sponsorship identification and FEC requirements for candidate authorization. CCH Fed. Elec. Camp. Fin. Guide ¶ 9059. The Carter-Mondale complaint contains no allegation that the requirements of the joint FEC-FCC notice have been violated.

Moreover, as that joint notice makes plain, under FCC rules, "liability for incorrect sponsorship identification rests with the [broadcast] licensee." Id. at n. 2. The fact that the advertisement has been run strongly supports the argument that the advertisement complied with the applicable FCC rules and also strongly supports the argument that no violation of 2 U.S.C. § 441h has occurred. Indeed, Section 441h, by its own terms, is inapplicable here. That provision covers candidates for Federal office or the employees or agents of such a candidate. The Congressional Club is neither a candidate nor the agent or employee of a candidate.

We will be making a further response on those issues on November 21, assuming that the Commission grants our request for an extension of time to respond to a subpoena containing certain written questions and requesting the production of documents.

Sincerely yours,

John R. Bolton

Jonn R. Bolton

8204034789

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

John R. Bolton, Esquire
Covington and Burling
888 16th Street, N.W.
Washington, D.C. 20006

RE: MUR 1316

Dear Mr. Bolton:

This Office has received your letter of November 3, 1980, requesting an extension of time until November 28, 1980, in which to submit NCCC's response to the complaint filed in the above referenced action. On November , 1980, the Commission voted to deny your request for an extension. As you are aware, the Commission is under a statutory duty to conduct its investigations expeditiously, and therefore feels it cannot sanction any delay in the processing or consideration of this matter. If you have any questions about this or any other Commission action, please telephone Anne A. Weissenborn at 523-5071.

Sincerely,

Charles N. Steele
General Counsel

8204034379 0

COVINGTON & BURLING
888 SIXTEENTH STREET, N. W.
WASHINGTON, D. C. 20006

89

HAND DELIVER

Charles N. Steele, Esq.
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

6204034379 1

8204034379 2

COVINGTON & BURLING
888 SIXTEENTH STREET, N. W.
WASHINGTON, D.C. 20006

TELEPHONE
(202) 452-6000

WRITER'S DIRECT DIAL NUMBER
(202) 452-6418

TWX: 710-822-0008
TELEX: 89-593
CABLE: COVLING

RECEIVED
GENERAL COUNSEL
80 NOV 3 P 1:08

HAND DELIVERED

November 3, 1980

Anne Weissenborn, Esq.
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1316

Dear Ms. Weissenborn:

As I have indicated to you during several telephone conversations, I am presently in trial before the United States District Court for the Western District of Oklahoma. We have just completed our eighth week of trial, and there is no end in sight. Indeed, we have already begun discussions before the Court concerning the scheduling of witnesses by opposing counsel for the week of December 15. It now appears, however, that the trial will recess during the period around the Thanksgiving holiday. Accordingly, I request an extension of time within which to respond to the Carter-Mondale Reelection Committee, Inc. complaint until November 28.

I would, however, like to comment briefly now on the Carter-Mondale complaint. It is clear that the complaint attacks the substance of a particular Congressional Club advertisement. As such, the complaint is a thinly-veiled invitation to the Federal Election Commission to engage in censorship of political speech. The allegations that the Federal Election Campaign Act, as amended, ("FECA") has been violated, are, at best, window-dressing. The true thrust of the complaint is revealed in its next-to-last paragraph, where Carter-Mondale state that they "are calling on stations not to run these misleading advertisements." Carter-Mondale's real purpose is not to raise an issue of law, but to suppress the advertisements. The First Amendment obviously precludes this Commission from being a party to such an effort.

Carter-Mondale's actual intent is itself strong evidence of the speciousness of the complaint. For instance, as to the allegation that the advertisements violate 2 U.S.C. § 441h, Carter-Mondale has ignored the joint public notice by this Commission and the Federal Communications Commission ("FCC") concerning FCC rules on sponsorship identification and FEC requirements for candidate authorization. CCH Fed. Elec. Camp. Fin. Guide ¶ 9059. The Carter-Mondale complaint contains no allegation that the requirements of the joint FEC-FCC notice have been violated.

Moreover, as that joint notice makes plain, under FCC rules, "liability for incorrect sponsorship identification rests with the [broadcast] licensee." Id. at n. 2. The fact that the advertisement has been run strongly supports the argument that the advertisement complied with the applicable FCC rules and also strongly supports the argument that no violation of 2 U.S.C. § 441h has occurred. Indeed, Section 441h, by its own terms, is inapplicable here. That provision covers candidates for Federal office or the employees or agents of such a candidate. The Congressional Club is neither a candidate nor the agent or employee of a candidate.

We will be making a further response on those issues on November 21, assuming that the Commission grants our request for an extension of time to respond to a subpoena containing certain written questions and requesting the production of documents.

Sincerely yours,

J. R. Bolton

John R. Bolton

8204034379 3

COVINGTON & BURLING
888 SIXTEENTH STREET, N. W.
WASHINGTON, D. C. 20006

Anne Weissenborn, Esq.
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

67

CONNERTON &
[illegible] STREET, N.W.
WASHINGTON, D.C. [illegible]

TELEPHONE
(202) 452-6000

DIRECT DIAL NUMBER
(202) 452-6418

October 27, 1980

HAND DELIVERED

Anne Weissenborn, Esq.
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1316

Dear Ms. Weissenborn:

As I stated during our telephone conversation last week, I will be representing the Congressional Club in MUR 1316.

We believe that the complaint filed by the Carter-Mondale Reelection Committee, Inc., is utterly frivolous. It should be dismissed forthwith. We hope that the Commission follows its procedures for expedited compliance and promptly terminates this MUR.

At this point, we do not contemplate filing a more extensive response until we learn whether the Commission dismisses the Complaint. As we discussed last week, I will call you from Oklahoma City during the first part of the week of October 27 to discuss further proceedings, if appropriate.

Sincerely yours,

John R. Bolton/af

John R. Bolton

(Dictated but not read by Mr. Bolton)

8204034379 5

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
80 OCT27 P12:22

ohn R. Bolton
COVINGTON & BURLING
888 SIXTEENTH STREET, N. W.
WASHINGTON, D. C. 20006

90 OCT 27 P12:07

HAND DELIVER

HAND DELIVERED

Anne Weissenborn, Esq.
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

2

9 4 0 0 1 0 3 1 3 7 9 6

CCC#
3039

10-20

TO: Ken Gross
FCC

FROM: Doug Huron
Carter/Mondale Reelection Committee

Enclosed are papers we have submitted to the FCC relating to the complaint against Americans for Reagan which we filed with both the FCC and the FEC on October 16, 1980.

82040343798

RE-ELECTION
COMMITTEE, INC.

2000 L STREET, N.W., WASHINGTON, D.C. 20036 (202) 887-47

October 20, 1980

Mr. Milton O. Gross, Chief
Fairness and Political Broadcast
Branch
Federal Communications Commission
Washington, D.C. 20554

Dear Mr. Gross:

Enclosed are a memorandum and affidavit in support of the complaint filed by our committee on October 16 concerning a political advertisement sponsored by Americans for Reagan and being shown on WJLA-TV, Washington, D.C. We are also submitting a videotape cassette of the ad in question.

We are serving these papers on WJLA by delivering copies to Thomas Keller, the station's outside counsel, at Verner, Liipfert, Bernard & McPherson, 1660 L Street, N.W., Washington, D.C., as well as to Al Hammond, the station's General Counsel.

Sincerely,

Douglas B. Huron
Special Counsel

DBH:sjl

enclosures

80 OCT 20 P 3:41

GENERAL COUNSEL
OFFICE OF THE
RECEIVED

Paid for by the Carter/Mondale Re-Election Committee, Inc.

6204034379 9

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re Complaint of	)	FCC 80-
	)	
CARTER/MONDALE REELECTION COMMITTEE, INC.	)	
	)	
against	)	
	)	
AMERICANS FOR REAGAN and Television Station WJLA-TV, Washington, D.C.	)	

MEMORANDUM IN SUPPORT OF COMPLAINT

On October 16, 1980, the Carter/Mondale Reelection Committee, Inc., sent a telegram to the Federal Communications Commission and to the Federal Election Commission, complaining *inter alia* that a political advertisement being aired on WJLA-TV, Washington, D.C., was deceptive in nature and carried an insufficient identification line. This memorandum and the attached affidavit are submitted in support of those aspects of the complaint directed at violations of communications law.

We are also submitting herewith a videotape cassette of the ad in question, since we believe that it is critical that the Commission appreciate the context in which the ID line appears.

1. The Advertisement and Its Identification[1/]

The ad in question is a 30-second spot. It features alternating images of Senator Kennedy and Congressman Anderson, alleges

[1/] See generally the videotape of the ad and Paragraph 5 of the attached affidavit.

8204034380

that both have identical voting records on a number of issues and concludes: "We defeated one. Now we must defeat the other." The "we" in the text is unspecified, but it is common knowledge that only President Carter has been involved in electoral contests this year with Senator Kennedy.

Most of the text in the ad appears in large block letters. All of it is read by an announcer. The identification line, by contrast, appears in small typescript. On a 19-inch screen, the block letters in the text of the ad are 7/8 to one inch high, while the letters in the ID line are 1/4 to 3/8 inches--less than half the size of the lettering in the text. There is no voice-over for the ID line.

The ID line appears for about four seconds, but it first appears when the announcer is finishing the text by saying, "Now we must defeat the other." Because of this, there are only 1.5 seconds when the ID line is on the screen alone, without distraction.

The ID line on a political advertisement must be legible and must appear for a sufficient length of time to permit the average viewer to read it. See 66 FCC 2d 302 (1977). Where the text of the ad poses a serious risk of confusion in the public mind as to sponsorship, it is particularly important that the identification be unambiguous.

Here, regardless of the intent of the sponsor of the ad,[2/]

[2/] The question whether the ad was created with an intent to deceive the public is properly before the Federal Election Commission. See 2 USC 441 h.

6204034380 1

it is clear that the text of the spot could easily suggest to viewers that the Carter/Mondale campaign is the sponsor. In fact, as the attached affidavit shows, members of the public have been confused about the ad's sponsorship.3/ In these circumstances, the obligation to take remedial action is clear.

2. The Actions of WJLA-TV.

WJLA-TV has been on notice since Thursday, October 16, concerning the confusing and possibly deceptive nature of the ad in question.4/ The station has refused to take voluntary remedial action and has insisted upon continuing to show the ad without modifying the ID line in any respect.5/

Americans for Reagan, the sponsor of the ad, is a project of the North Carolina Congressional Club, an unauthorized political committee ostensibly independent of the Reagan-Bush campaign.6/ WJLA has no legal obligation to sell Americans for Reagan any time. See In re You Can't Afford Dodd Committee, FCC 80-575 (October 7, 1970). Nevertheless, a broadcaster arguably could make an initial, good faith judgment to run an ad such as the one about which we complain.

WJLA has, however, been apprised of the confusion sown by the ad.7/ Moreover, the station has itself contributed to the sowing

---

3/ Aff. at Para. 2,4, 11-12.

4/ Aff. at Para. 9-10.

5/ Aff. at Para. 13, 19.

6/ Aff. at Para. 6. The ID line says, inter alia, "Paid for by Americans for Reagan Congressional Club." In the past, Americans for Reagan generally has not used the phrase "Congressional Club" in its title.

7/ Aff. at Para. 10, 13, 18-19.

82040343802

by advising members of the public that the ad was sponsored by Carter/Mondale campaign.[8] Under such circumstances a broadcaster is obligated to reconsider its initial decision and to take appropriate remedial action. This WJLA has refused to do.[9]

WJLA's actions raise serious questions about whether it is operating its license in the public interest.

Conclusion

We ask that the Commission direct WJLA-TV to refrain from showing the ad in question unless and until each of the following modifications is made in the identification line:

(1) enlarging the lettering in the ID line so that it is at least equal in size to that in the text of the ad,

(2) lengthening the time during which the ID line appears on the screen, and

(3) adding a clear, measured voice-over to the ID line.

Since this ad may be running on other stations throughout the country[10]--and because of the short period of time left in this election campaign--we also request that the Commission's order be phrased broadly enough to cover showings of the ad on other stations.

Only if these steps are taken will there be any hope of

8/ Aff. at Para. 11-12.

9/ Aff. at Para. 13, 19.

10/ Aff. at Para. 20. We expect to have more information on this question by the early afternoon on Monday, October 20.

8204034380 3

dispelling the confusion caused by this ad.

Respectfully submitted,

TIMOTHY G. SMITH
General Counsel
DOUGLAS B. HURON
Special Counsel
Carter/Mondale Reelection
Committee, Inc.
2000 L Street, NW
Washington, DC 20036
(202) 887-4677

82040343804

AFFIDAVIT

1. My name is Douglas B. Huron. I am a member of the District of Columbia Bar. Since July 28, 1980, I have been serving as Special Counsel to the Carter/Mondale Reelection Committee, Inc.

October 15, 1980

2. At about 8:30 AM on Wednesday, October 15, 1980, I received a telephone call at my office from a reporter for a major newspaper. He said that he and his wife had been watching "Good Morning, America" earlier that morning and had seen an advertisement comparing Senator Edward Kennedy and Congressman John Anderson. He said that the ad ended with an exhortation to the effect, "We have gotten rid of one; now let's get rid of the other." Neither he nor his wife noticed the identification on the ad, and both assumed that it had been sponsored by the Carter/Mondale campaign. His wife's reaction had been, "That does it; I'm not voting for Carter." The reporter wanted to know whether our campaign had sponsored the ad, because it seemed to him that the ad was likely to alienate potential Carter voters who had been supporters of Senator Kennedy.

3. "Good Morning, America," where the ad in question was seen, is an ABC program which appears locally on WJLA-TV, the ABC affiliate in Washington.

8204034805

4. Later during the day on October 15, I learned that Rafshoon Communications, which handles media design and purchases for the Carter/Mondale Campaign, had received several telephone calls from concerned citizens who wanted to know why the campaign had placed an ad attacking Senator Kennedy and Congressman Anderson.

5. I had still not seen the ad in question, but during the mid-afternoon of October 15, Timothy G. Smith, the General Counsel for the campaign, and I viewed it on videotape. The ad runs for approximately 30 seconds. It is black and white and shows alternating pictures of Senator Kennedy and Congressman Anderson. Most of the text appears in large block letters and all of it is read by an announcer:

TED KENNEDY.
JOHN ANDERSON.
TED KENNEDY.
JOHN ANDERSON.
BOTH VOTED AGAINST BUILDING THE STRATEGIC B-1 BOMBER.
BOTH VOTED FOR USELESS BUSING.
BOTH VOTED BILLIONS OF DOLLARS FOR WASTEFUL FOREIGN AID.
BOTH VOTED TO GIVE AWAY OUR CANAL IN PANAMA.
AND BOTH VOTED TO USE FEDERAL FUNDS FOR ABORTIONS.
TED KENNEDY.
JOHN ANDERSON.
TED KENNEDY.
JOHN ANDERSON.
WE DEFEATED ONE.
NOW WE MUST DEFEAT THE OTHER.

At the end of the spot, an identification line in smaller letters flashes on the bottom of the screen.

Paid for by
Americans for Reagan Congressional Club
And Not Authorized by Any Presidential Candidate

6204034380 6

On a 19-inch television screen, the block letters in the text of the ad are between 7/8 of an inch and one-inch high. The lettering on the identification line is less than half that size -- between 1/4 and 3/8 inches. The identification line appears for about four seconds, but it first appears when the announcer is finishing the text and saying, "Now we must defeat the other." There are only 1.5 seconds when the ID line appears alone--without the conflicting voice-over at the end of the spot. There is no voice-over for the ID line itself.

6. Americans for Reagan is a project of the North Carolina Congressional Club, an unauthorized political committee which is ostensibly independent of the Reagan-Bush campaign. Americans for Reagan is chaired by Senator Jesse Helms of North Carolina.

7. Having seen the ad, Mr. Smith and I concluded that the average viewer might easily believe that the Carter/Mondale campaign was the sponsor. We then consulted with others associated with the campaign and determined that the misleading nature of the ad could prove damaging to the President's reelection effort. Late in the afternoon on October 15, we began preparing a complaint concerning the ad, which we planned to file with both the Federal Communications Commission and the Federal Election Commission.

8. On several occasions on October 15, I attempted to call Al Hammond, whom station officials had informed me was the General Counsel of WJLA-TV. I was told that Mr. Hammond would not be available until Thursday morning, October 16.

6204034380 7

October 16, 1980

9. On Thursday, October 16, 1980, our campaign sent a telegram to both the Federal Communications Commission and the Federal Election Commission, formally complaining about the Americans for Reagan ad. A copy of the text of that telegram is attached as Exhibit 1 to this Affadavit.

10. October 16 I was able to talk to Al Hammond, General Counsel of WJLA-TV. I explained our campaign's concern about the ad -- particularly that the public was being deceived by it -- and asked that the station stop showing the ad. Later that day I sent Mr. Hammond a hand-delivered letter formally making the same request. A copy of that letter is attached as Exhibit 2 hereto.

October 17, 1980

11. On Friday morning, October 17, 1980, I spoke to Rebecca Hendrix, an employee of Rafshoon Communications. Ms. Hendrix informed me that, among the people who had called the Rafshoon agency about the ad, two said that they had contacted WJLA-TV and had been informed that the Carter/Mondale campaign was the sponsor.

12. Ms. Hendrix knew the name of one of these two individuals, Mrs. William Stansbery, 125 South Aberdeen Street, Arlington, Virginia 22204. I called Mrs. Stansbery, who informed me that she and her husband had seen the ad in question on Tuesday evening, October 14, and Wednesday evening, October 15. After they had seen it on October 15, Mr. Stansbery called WJLA-TV and asked who had sponsored it. He was informed that

8 2 0 4 0 3 4 3 8 0 8

the sponsor was Carter/Mondale. Mr. Stansbery asked that this information be repeated and was again told that the sponsor was Carter/Mondale.

13. At about 2:45 PM on October 17, Al Hammond, General Counsel to WJLA-TV, called to respond to the letter I had sent to him the previous day. He advised me that the station had considered our request but had decided to wait to take any remedial action until the Federal Communications Commission ruled on our complaint. During this conversation I told Mr. Hammond that WJLA had informed members of the public that the Carter/Mondale campaign had sponsored the ad.

14. I also asked Mr. Hammond how many more times the ad in question would be shown on WJLA-TV. He declined to respond but said that we were welcome to send someone over to examine WJLA's political file. I immediately asked Jeffrey Kampelman, a student intern on our legal staff, to go to WJLA-TV and to review that file.

15. Later during the afternoon on October 17, I spoke to Milton Gross of the Federal Communications Commission. He said that the Commission staff had directed WJLA-TV to respond to the Carter/Mondale complaint on Monday morning, October 20.

16. About 5:00 PM on October 17, Mr. Kampelman returned from WJLA-TV with a list of times during which the ad in question had been and will be shown on the station. A copy of that list is attached as Exhibit 3 hereto.

17. We learned from examining the list that the ad had already been shown several times on WJLA-TV and was scheduled

82040343809

to be shown twi[illegible] Saturday, October [illegible] on Sunday, October 19, and twice on Monday, October 20, including a 9:00 PM spot at the beginning of "Monday Night Football."

18. Concerned that any action taken either by the Federal Communications Commission or the Federal Election Commission would not be timely enough, we contacted John Lane, an attorney who has served as outside counsel for the Carter/Mondale campaign on communications matters. Mr. Lane then called Mr. Thomas Keller, the outside counsel for WJLA-TV, who said he would review this matter with his client.

19. At about 9:00 PM on October 17, I spoke to Mr. Keller. He informed me that he had spoken to the station manager at WJLA-TV and that the station was considering whether to take voluntary remedial action. Mr. Keller said that a decision would probably be made on Saturday, October 18. We have, however, heard nothing further from WJLA.

20. The Carter/Mondale campaign has so far been unable to identify the other cities, if any, where the ad in question may be running. We have been informed that the ad has been shown on a television station in Detroit.

8 2 0 4 0 3 4 3 8 1 0

Douglas B. Huron

DOUGLAS B. HURON

Subscribed and sworn to before me this 20 day of October October 1980.

William F. Todd

Notary Public

My Commission Expires MY COMMISSION EXPIRES 4-17-83

TEXT OF TELEGRAM

Sent 10/16/80

To: Federal Election Commission
1325 K Street, NW, Washington DC 20005
Attention: Charles N. Steele, General Counsel

Federal Communications Commission
Room 610, Washington DC 20554
Attention: Robert R. Bruce, General Counsel

This is a complaint and request for expedited consideration filed on behalf of the Carter/Mondale Reelection Committee, Inc., in connection with certain misleading and illegal television commercials presently being run by supporters of Ronald Reagan.

The commercials in question stridently attack Senator Edward Kennedy and Congressman John Anderson for their purported positions on busing, foreign aid, the Panama Canal treaty, and abortion. One such ad, for example, aired on WJLA, the Washington, DC, ABC affiliate, yesterday morning at approximately 7:30 A.M. EST during "Good Morning, America."

The authorization line for the commercial is barely legible and flashed for only an instant on the screen. In fact, the ad is sponsored by Americans for Reagan, a multi-million dollar so-called Reagan "independent" committee whose Chairman is Senator Jesse Helms.

The text of the commercial, however, appears deliberately designed to confuse viewers as to the sponsor and to create sympathy or support for Mr. Anderson, particularly among former supporters of Senator Kennedy.

6204034381

The conclusion of the ad states, for example:

> "Ted Kennedy . . . John Anderson . . . Ted Kennedy . . . John Anderson . . . We defeated one, now we must defeat the other."

Neither Governor Reagan nor Jesse Helms, of course, has ever been in an election contest with Senator Kennedy. President Carter has. Thus, the ad appears deliberately designed to mislead viewers as to its origin. This apparent motivation is supported by the hasty and nearly illegible authorization line at the ad's conclusion.

We have already questioned the true "independence" of Americans for Reagan. Its chairman was a Reagan delegate to the Republican National Convantion, where he publicly admitted to communicating on campaign matters with Governor Reagan through the Reagan campaign's Chairman. Americans for Reagan has announced that it plans to raise $4 million on Governor Reagan's behalf for media advertising and other expenditures in a number of key states, notwithstanding Governor Reagan's acceptance of public funds.

The latest commercials violate the law in these additional ways:

(1) The inadequate, nearly illegible disclaimer on the commercial violates FCC regulations, which require clear identification of the sponsor of paid political advertisements. 47 U.S.C. 317; see 66 FCC 2d 302 (1977).

(2) The failure to make adequate identification of the sponsoring entity, along with the misleading text of the commercial

8 2 0 4 0 3 4 3 8 1 2

(see above), violate the prohibition on misrepresentation of campaign authority contained in 2 U.S.C. 441h.

(3) The use by a purportedly unauthorized committee of the name of the candidate it is supporting in the committee name is prohibited by FEC regulations. 2 U.S.C. 432(e).

We note that the FCC recently has confirmed that broadcast licensees have no "reasonable access" obligations to unauthorized political committees, but only to candidates and their authorized committees for which they are legally and politically accountable.

In light of the above, we are calling on stations not to run these misleading advertisements. In addition, we ask both the Federal Election Commission and the Federal Communications Commission to deal with the violations of law that are involved on an expedited basis.

The undersigned counsel for the complainant swears that the allegations and other facts in the complaint are true and correct to the best of his knowledge, information, and belief.

BY: Timothy G. Smith
Timothy G. Smith
General Counsel
Carter-Mondale Reelection Committee, Inc.

Subscribed and sworn to, before me,
this 17th day of October, 1979.

William F. Todd
Notary Public

My commission expires MY COMMISSION EXPIRES 4-17-83

6204034381 3

RE-ELECTION
COMMITTEE, INC.
2000 L STREET, N.W., WASHINGTON, D.C. 20036 (202) 887-

BY HAND

October 16, 1980

Al Hammond, Esq.
General Counsel
WJLA-TV
4461 Connecticut Avenue, NW
Washington, DC

Dear Mr. Hammond:

As you know from our earlier telephone conversation, the Carter/Mondale Reelection Committee is quite concerned about the deceptive nature of a political spot which has been placed on WJLA by a group called Americans for Reagan. We believe that the ad has been created deliberately to convey the impression that Carter/Mondale is the sponsor. In any event, we have received concerned calls from numerous citizens who mistakenly believed that our campaign was responsible for this ad. Our position on this issue is set forth more fully in a telegram complaint which we filed today with both the Federal Communications Commission and the Federal Election Commission; the text of that telegram describes the ad in question and is enclosed.

This spot aired on WJLA at 7:30 AM on Wednesday, October 15. We understand that it also appeared at least one other time on WJLA on October 15 and may also have appeared on October 14.

Our campaign formally requests that WJLA immediately cease the airing of this ad. Because the sponsoring group, Americans for Reagan, is an unauthorized political committee and is not purchasing on behalf of any candidate, WJLA has no legal obligation to sell it any time. See In re You Can't Afford Dodd Committee, FCC 80-575 (October 7, 1980; copy enclosed). We believe, moreover, that basic considerations of fairness strongly militate against your continuing to air this ad.

Please advise us by the early afternoon on Friday, October 17, of your response to this request. I can be reached at 887-4677.

Thank you for your consideration.

Sincerely,

Douglas B. Huron
Special Counsel

enclosures

Paid for by the Carter/Mondale Re-Election Committee, Inc.

6204034381 4

10/10	2:30 PM - cc*	Baseball
10/11	4:00 PM - cc	Baseball
10/11	7:00 - 7:30 PM	Local News Special
10/13	7:00 - 9:00 AM	Good Morning America
10/13	5:30 PM	Adjacent Local News
10/13	7:30 PM	Adjacent ABC News
10/13	8:00 - 9:00 PM	That's Incredible
10/13	Midnight-12:30	Adjacent Local News
10/14	5:30 PM	Adjacent Local News
10/14	7:30 PM	Adjacent ABC News
10/14	10:30 PM	Newsbreak
10/15	7:00-9:00 AM	Good Morning America
10/15	5:30 PM	Adjacent ABC News
10/15	7:30 PM	Adjacent Local News
10/15	10:30 PM	Newsbreak
10/16	5:30 PM	Adjacent Local News
10/16	7:30 PM	Adjacent Local News
10/16	10:00-10:30 PM	Country Gold
10/17	7:00-9:00 AM	Good Morning America
10/17	5:30 PM	Adjacent Local News
10/17	7:30 PM	Adjacent ABC News
[illegible]	[illegible]:00-11:00 PM	ABC News Special
10/18 (Sat)	3:30 PM - cc	NCAA
10/18	7:00-7:30 PM	Local News Special
10/19	8:00-11:00 PM	Funny Lady
10/20	7:00-9:00 AM	Good Morning America
10/20	9:00 PM - cc	Football

*cc - conclusion

6204034381 5

8204034381 6

CARTER/MONDALE REELECTION COMMITTEE, INC.
2000 L Street, N.W.
Washington, D.C. 20036

Mr. Ken Gross
Federal Election Commission
1325 K Street, NW

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 20, 1980

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Americans for Reagan
North Carolina Congressional Club
P.O. Box 18848
3825 Barret Drive
Raleigh, North Carolina 27609

RE: MUR 1316(80)

Dear Sir or Madam:

This letter is to notify you that on October 17, 1980, the Federal Election Commission received a complaint which alleges that your Committee has violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1316. Please refer to this number in all future correspondence.

The Commission has adopted special procedures to expedite compliance matters during the pre-General Election period. A summary of these procedures is enclosed. Where possible, within five days after receipt of a complaint, the Commission will determine whether the complaint should be dismissed prior to receipt of your response to this notice. If the Commission dismisses the complaint, you will be so notified by mailgram followed by an explantory letter. A copy of the Commission's determination to dismiss the complaint may also be picked up in person by you, or your authorized agent, from our Associate General Counsel, Mr. Kenneth A. Gross.

Under the Act, you have the opportunity to demonstrate, in writing, that no further action should be taken against your Committee in connection with this matter. If the Commission is unable to expeditiously dismiss the complaint as outlined above, it will take no further action until we receive your response or 15 days after your receipt of this notification. If the Commission does not receive a response from you within 15 days after your receipt of this letter, it may take further action based on available information.

8 2 0 4 0 3 4 3 8 1 7

You are encouraged to respond to this notification promptly. In order to facilitate an expeditious response to this notification, we have enclosed a pre-addressed, postage paid, special delivery envelope.

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.

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 sending a letter of representation stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

If you have any questions, please contact Anne Weissenborn the attorney assigned to this matter at (202) 523-5071.

Sincerely,

Charles N. Steele
General Counsel

Enclosures:

Complaint
Procedures
Envelope

8204034381 8

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 20, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Timothy G. Smith
General Counsel
Carter/Mondale Re-Election Committee
2000 L Street, N.W.
Washington, D.C. 20036

Dear Mr. Smith:

This letter is to acknowledge receipt of your complaint of October 17, 1980, against Americans for Reagan which alleges violations of the Federal Election Campaign laws. A staff member has been assigned to analyze your allegations. The respondent will be notified of this complaint within 24 hours and a recommendation to the Federal Election Commission as to how this matter should be initially handled will be made 15 days after the respondent's notification. You will be notified as soon as the Commission takes final action on your complaint. Should you have or receive any additional information in this matter, please forward it to this office. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Please be advised that this matter shall remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless the respondent notifies the Commission in writing that they wish the matter to be made public.

Sincerely,

Charles N. Steele
General Counsel

Enclosure

82040343819

8 2 0 4 0 3 4 3 8 2 0

PS Form 3811, Aug. 1978

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

● REMINDER: Complete Items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).
- ☐ Show to whom and date delivered.
- ☐ Show to whom, date, and address of delivery.
- ☐ RESTRICTED DELIVERY
  Show to whom and date delivered.
- ☐ RESTRICTED DELIVERY.
  Show to whom, date, and address of delivery.
  (CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
Timothy G. Smith

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	578746	

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☒ Authorized agent

4. DATE OF DELIVERY | POSTMARK

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE: | CLERK'S INITIALS

☆ GPO: 1979-279-[illegible]

131B AW

Americans For Reagan
NC Congressional Club
P.O. Box 18848
3825 Barrett Drive
Raleigh, N.C. 27609

Wilson

8204034382 1

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
80 OCT 17 P5:42

TEXT OF TELEGRAM

Sent 10/16/80

To: Federal Election Commission
1325 K Street, NW, Washington DC 20005
Attention: Charles N. Steele, General Counsel

Federal Communications Commission
Room 610, Washington DC 20554
Attention: Robert R. Bruce, General Counsel

This is a complaint and request for expedited consideration filed on behalf of the Carter/Mondale Reelection Committee, Inc., in connection with certain misleading and illegal television commercials presently being run by supporters of Ronald Reagan.

The commercials in question stridently attack Senator Edward Kennedy and Congressman John Anderson for their purported positions on busing, foreign aid, the Panama Canal treaty, and abortion. One such ad, for example, aired on WJLA, the Washington, DC, ABC affiliate, yesterday morning at approximately 7:30 A.M. EST during "Good Morning, America."

The authorization line for the commercial is barely legible and flashed for only an instant on the screen. In fact, the ad is sponsored by Americans for Reagan, a multi-million dollar so-called Reagan "independent" committee whose Chairman is Senator Jesse Helms.

The text of the commercial, however, appears deliberately designed to confuse viewers as to the sponsor and to create sympathy or support for Mr. Anderson, particularly among former supporters of Senator Kennedy.

8 2 0 4 0 3 4 3 8 2 2

The conclusion of the ad states, for example:

> "Ted Kennedy . . . John Anderson . . . Ted Kennedy . . . John Anderson . . . We defeated one, now we must defeat the other."

Neither Governor Reagan nor Jesse Helms, of course, has ever been in an election contest with Senator Kennedy. President Carter has. Thus, the ad appears deliberately designed to mislead viewers as to its origin. This apparent motivation is supported by the hasty and nearly illegible authorization line at the ad's conclusion.

We have already questioned the true "independence" of Americans for Reagan. Its chairman was a Reagan delegate to the Republican National Convention, where he publicly admitted to communicating on campaign matters with Governor Reagan through the Reagan campaign's Chairman. Americans for Reagan has announced that it plans to raise $4 million on Governor Reagan's behalf for media advertising and other expenditures in a number of key states, notwithstanding Governor Reagan's acceptance of public funds.

The latest commercials violate the law in these add' ways:

(1) The inadequate, nearly illegible disclaimer on the commercial violates FCC regulations, which require clear identification of the sponsor of paid political advertisements. 47 U.S.C. 317; see 66 FCC 2d 302 (1977).

(2) The failure to make adequate identification of the sponsoring entity, along with the misleading text of the commercial

8 2 0 4 0 3 4 3 8 2 3

(see above), violate the prohibition on misrepresentation of campaign authority contained in 2 U.S.C. 441h.

(3) The use by a purportedly unauthorized committee of the name of the candidate it is supporting in the committee name is prohibited by FEC regulations. 2 U.S.C. 432(e).

We note that the FCC recently has confirmed that broadcast licensees have no "reasonable access" obligations to unauthorized political committees, but only to candidates and their authorized committees for which they are legally and politically accountable.

In light of the above, we are calling on stations not to run these misleading advertisements. In addition, we ask both the Federal Election Commission and the Federal Communications Commission to deal with the violations of law that are involved on an expedited basis.

The undersigned counsel for the complainant swears that the allegations and other facts in the complaint are true and correct to the best of his knowledge, information, and belief.

BY: Timothy G. Smith
Timothy G. Smith
General Counsel
Carter-Mondale Reelection Committee, Inc.

Subscribed and sworn to, before me, this 17th day of October, 1979.

William F. Todd
Notary Public

My commission expires MY COMMISSION EXPIRES 4-17-83

6 2 0 4 0 3 4 3 8 2 4

CARTER/MONDALE
RE-ELECTION
COMMITTEE, INC.
2000 L STREET, N.W., WASHINGTON, D.C. 20036

KENNETH A. GROSS
ASSOCIATE GENERAL COUNSEL
FEDERAL ELECTION COMMISSION
1325 K STREET, NW

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

ACKNOWLEDGEMENT OF RECEIPT

This is to acknowledge receipt of a letter from the Federal Election Commission addressed to:

Mr. Timothy C. Smith
Carter/Mondale Re-Election Cmte.
2000 L St., N.W.
Washington, DC. 20036

Date of receipt

Penny Sue Shelton
Signature of recipient

On behalf of:

6204034382 6

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Timothy G. Smith
General Counsel
Carter/Mondale Re-Election Committee, Inc.
2000 L Street, N.W.
Washington, D.C. 20036

Dear Mr. Smith:

We have received your letter of October 17, 1980, inquiring into the possibility of a violation of the Federal Election Campaign Act of 1971, as amended (the "Act").

As set forth in 2 U.S.C. § 437g(a)(1), any person who believes that there has been a violation of any law within the Commission's jurisdiction may file a written complaint. In order for the Commission to take action on such a complaint, its contents must be sworn to and signed in the presence of a notary, and notarized. Your letter did not satisfy this requirement of the Act.

In addition, Commission Regulations, found at 11 C.F.R. § 111.4, provide that a complaint:

(1) must contain the full name and address of the person making the complaint;

(2) should clearly identify as a respondent each person or entity who is alleged to have committed a violation;

(3) should identify the source of information upon which the complaint is based;

6204034382 7

(4) should contain a clear and concise recitation of the facts describing the violation of a statute or law over which the Commission has jurisdiction; and

(5) should be accompanied by supporting documentation if known and available to the person making the complaint.

Finally, please include your telephone number, as well as the full names and addresses of all respondents.

Enclosed please find a copy of §§ 111.4 - 111.10 of Commission regulations which deal with preliminary enforcement procedures. I hope that an examination of these materials will answer most of your questions, and will enable you to be specific in any assertions or allegations you might make in the event you wish to file a legally sufficient complaint with the Commission.

Please contact Elissa Garr, 202-523-4073, of this office should you have any questions about the procedures which should be followed.

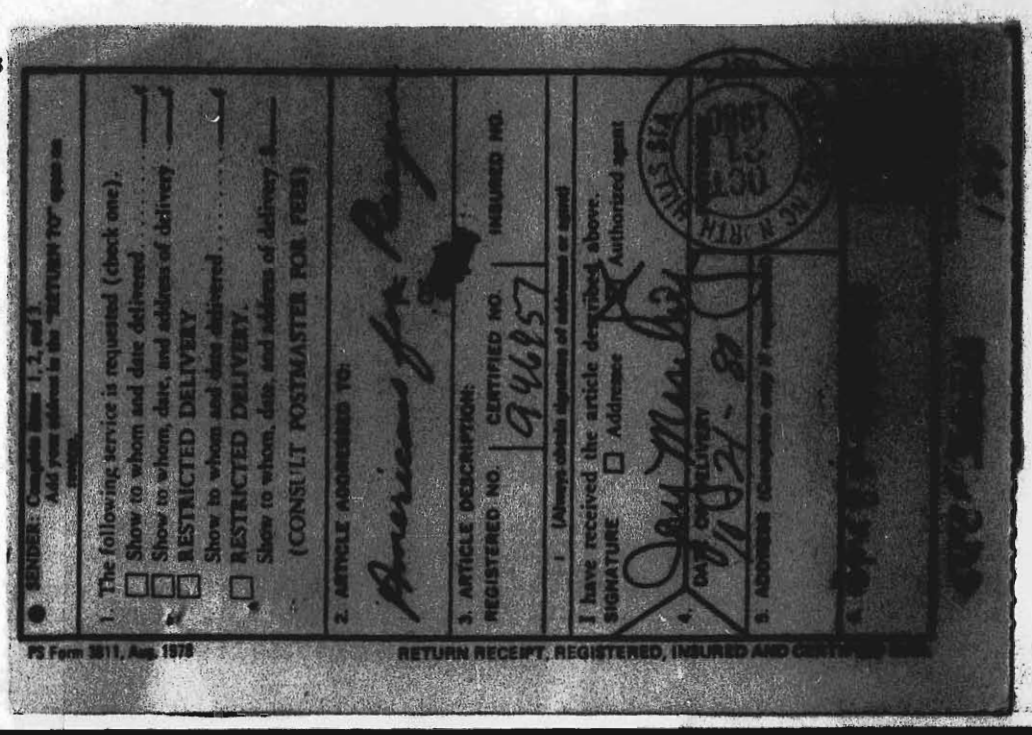
Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel
202-523-4175

Enclosure

cc: Americans



8 2 0 4 0 3 4 3 8 2 8

8 2 0 4 0 3 4 3 8 2 9

CARTER/MONDALE
RE-ELECTION
COMMITTEE, INC.

Robert S. Strauss, Chairman
Tim Kraft, National Campaign Manager
S. Lee Kling, Treasurer

2000 L STREET, N.W., WASHINGTON, D.C. 20036 (202) 887-4700

October 17, 1980

Kenneth A. Gross, Esq.
Associate General Counsel
Federal Election Commission
1325 K Street, NW
Washington, D.C. 20005

Dear Ken:

Per our conversation, attached is a notarized version of the mailgram complaint sent to the Commission yesterday.

Very truly yours,

Jim

Timothy G. Smith
General Counsel

TGS:sjl

enclosure

6204034830

80 OCT 17 P2:34
RECEIVED
CLERK OF THE
GENERAL COUNSEL

80 OCT 17 P1:56
RECEIVED

RECEIVED
80 OCT 17 P 1:56

TEXT OF TELEGRAM

Sent 10/16/80

To: Federal Election Commission
1325 K Street, NW, Washington DC 20005
Attention: Charles N. Steele, General Counsel

Federal Communications Commission
Room 610, Washington DC 20554
Attention: Robert R. Bruce, General Counsel

This is a complaint and request for expedited consideration filed on behalf of the Carter/Mondale Reelection Committee, Inc., in connection with certain misleading and illegal television commercials presently being run by supporters of Ronald Reagan.

The commercials in question stridently attack Senator Edward Kennedy and Congressman John Anderson for their purported positions on busing, foreign aid, the Panama Canal treaty, and abortion. One such ad, for example, aired on WJLA, the Washington, DC, ABC affiliate, yesterday morning at approximately 7:30 A.M. EST during "Good Morning, America."

The authorization line for the commercial is barely legible and flashed for only an instant on the screen. In fact, the ad is sponsored by Americans for Reagan, a multi-million dollar so-called Reagan "independent" committee whose Chairman is Senator Jesse Helms.

The text of the commercial, however, appears deliberately designed to confuse viewers as to the sponsor and to create sympathy or support for Mr. Anderson, particularly among former supporters of Senator Kennedy.

6204034383 1

The conclusion of the ad states, for example:

> "Ted Kennedy . . . John Anderson . . . Ted Kennedy . . . John Anderson . . . We defeated one, now we must defeat the other."

Neither Governor Reagan nor Jesse Helms, of course, has ever been in an election contest with Senator Kennedy. President Carter has. Thus, the ad appears deliberately designed to mislead viewers as to its origin. This apparent motivation is supported by the hasty and nearly illegible authorization line at the ad's conclusion.

We have already questioned the true "independence" of Americans for Reagan. Its chairman was a Reagan delegate to the Republican National Convention, where he publicly admitted to communicating on campaign matters with Governor Reagan through the Reagan campaign's Chairman. Americans for Reagan has announced that it plans to raise $4 million on Governor Reagan's behalf for media advertising and other expenditures in a number of key states, notwithstanding Governor Reagan's acceptance of public funds.

The latest commercials violate the law in these additional ways:

(1) The inadequate, nearly illegible disclaimer on the commercial violates FCC regulations, which require clear identification of the sponsor of paid political advertisements. 47 U.S.C. 317; see 66 FCC 2d 302 (1977).

(2) The failure to make adequate identification of the sponsoring entity, along with the misleading text of the commercial

6 2 0 4 0 3 4 3 8 3 2

(see above), violate the prohibition on misrepresentation of campaign authority contained in 2 U.S.C. 441h.

(3) The use by a purportedly unauthorized committee of the name of the candidate it is supporting in the committee name is prohibited by FEC regulations. 2 U.S.C. 432(e).

We note that the FCC recently has confirmed that broadcast licensees have no "reasonable access" obligations to unauthorized political committees, but only to candidates and their authorized committees for which they are legally and politically accountable.

In light of the above, we are calling on stations not to run these misleading advertisements. In addition, we ask both the Federal Election Commission and the Federal Communications Commission to deal with the violations of law that are involved on an expedited basis.

Respectfully submitted,

Timothy G. Smith

Timothy G. Smith
General Counsel

DISTRICT OF COLUMBIA: SS

The above document was signed in my presence on this 17 day of Oct, 1980.

William F. Todd

Notary Public
Commission Expires: [redacted] 4-17-83

6204034383

CARTER/MONDALE
RE-ELECTION
COMMITTEE, INC.
2000 L STREET, N.W., WASHINGTON, D.C. 20036

REC

80 OCT 17 P 1:57

Kenneth A. Gross, Esq.
Associate General Counsel
Federal Election Commission
1325 K Street, NW
Washington, D.C. 20005

2089

TEXT OF TELEGRAM

Sent 10/16/80

To: Federal Election Commission
1325 K Street, NW, Washington DC 20005
Attention: Charles N. Steele, General Counsel

Federal Communications Commission
Room 610, Washington DC 20554
Attention: Robert R. Bruce, General Counsel

This is a complaint and request for expedited consideration filed on behalf of the Carter/Mondale Reelection Committee, Inc., in connection with certain misleading and illegal television commercials presently being run by supporters of Ronald Reagan.

The commercials in question stridently attack Senator Edward Kennedy and Congressman John Anderson for their purported positions on busing, foreign aid, the Panama Canal treaty, and abortion. One such ad, for example, aired on WJLA, the Washington, DC, ABC affiliate, yesterday morning at approximately 7:30 A.M. EST during "Good Morning, America."

The authorization line for the commercial is barely legible and flashed for only an instant on the screen. In fact, the ad is sponsored by Americans for Reagan, a multi-million dollar so-called Reagan "independent" committee whose Chairman is Senator Jesse Helms.

The text of the commercial, however, appears deliberately designed to confuse viewers as to the sponsor and to create sympathy or support for Mr. Anderson, particularly among former supporters of Senator Kennedy.

80 OCT 17 A9:03

82040343835

The conclusion of the ad states, for example:

> "Ted Kennedy . . . John Anderson . . . Ted Kennedy . . . John Anderson . . . We defeated one, now we must defeat the other."

Neither Governor Reagan nor Jesse Helms, of course, has ever been in an election contest with Senator Kennedy. President Carter has. Thus, the ad appears deliberately designed to mislead viewers as to its origin. This apparent motivation is supported by the hasty and nearly illegible authorization line at the ad's conclusion.

We have already questioned the true "independence" of Americans for Reagan. Its chairman was a Reagan delegate to the Republican National Convention, where he publicly admitted to communicating on campaign matters with Governor Reagan through the Reagan campaign's Chairman. Americans for Reagan has announced that it plans to raise $4 million on Governor Reagan's behalf for media advertising and other expenditures in a number of key states, notwithstanding Governor Reagan's acceptance of public funds.

The latest commercials violate the law in these additional ways:

(1) The inadequate, nearly illegible disclaimer on the commercial violates FCC regulations, which require clear identification of the sponsor of paid political advertisements. 47 U.S.C. 317; see 66 FCC 2d 302 (1977).

(2) The failure to make adequate identification of the sponsoring entity, along with the misleading text of the commercial

8204034836

(see above), violate the prohibition on misrepresentation of campaign authority contained in 2 U.S.C. 441h.

(3) The use by a purportedly unauthorized committee of the name of the candidate it is supporting in the committee name is prohibited by FEC regulations. 2 U.S.C. 432(e).

We note that the FCC recently has confirmed that broadcast licensees have no "reasonable access" obligations to unauthorized political committees, but only to candidates and their authorized committees for which they are legally and politically accountable.

In light of the above, we are calling on stations not to run these misleading advertisements. In addition, we ask both the Federal Election Commission and the Federal Communications Commission to deal with the violations of law that are involved on an expedited basis.

A formal, notarized version of this complaint will follow. Please let us know in the interim if we may provide any further information in connection with this matter.

Respectfully submitted,

Timothy G. Smith
General Counsel

9204034837

CARTER/MONDALE
RE-ELECTION
COMMITTEE, INC.
2000 L STREET, N.W., WASHINGTON, D.C. 20036

Federal Election Commission
1325 K Street, NW
Washington, DC 20005

Attention: Charles N. Steele
General Counsel

TEXT OF THE COMMERCIAL. (SEE ABOVE), VIOLATE THE PROHIBITION ON MISREPRESENTATION OF CAMPAIGN AUTHORITY CONTAINED IN 2 U.S.C. 441h.
3. A USE BY A PURPORTEDLY UNAUTHORIZED COMMITTEE OF THE NAME OF THE CANDIDATE IT IS SUPPORTING IN THE COMMITTEE NAME IS PROHIBITED BY FEC REGULATIONS 2 U.S.C. 432(E). WE KNOW THAT THE FCC RECENTLY HAS CONFIRMED THAT BROADCAST LICENSEES HAVE NO "REASONABLE ACCESS" OBLIGATION TO UNAUTHORIZED POLITICAL COMMITTEES BUT ONLY TO CANDIDATES AND THEIR AUTHORIZED COMMITTEE FOR WHICH THEY ARE LEGALLY AND POLITICALLY ACCOUNTABLE. IN LIGHT OF THE ABOVE, WE ARE CALLING ON STATIONS NOT TO RUN THESE MISLEADING ADVERTISEMENTS. IN ADDITION, WE ASK BOTH THE FEDERAL ELECTION COMMISSION AND THE FEDERAL COMMUNICATIONS COMMISSION TO DEAL WITH THE VIOLATIONS OF LAW THAT ARE INVOLVED ON AN EXPEDITED BASIS. A FORMAL NOTARIZED VERSION OF THIS COMPLAINT WILL FOLLOW. PLEASE LET US KNOW IN THE INTERIM IF WE MAY

SF-1201 (R6-69)

GCC#2988

Telegram

MUR 1313

PROVIDE ANY FURTHER INFORMATION IN CONNECTION WITH THIS MATTER.
RESPECTIVELY SUBMITTED
TIMOTHY G SMITH GENERAL COUNSEL
NNNN

RECEIVED
80 OCT 17 A9:55

RECEIVED
80 OCT 17 A9:55

SF-1201 (R6-69)

RECEIVED

western union

Telegram

WDA056(1355)(4-030531S290)PD 10/16/80 1356 1980 OCT 16 PM 3:02 910572

ICS IPMMTZZ CSP

2028874600 TDMT WASHINGTON DC 521 10-16 0156P EST

PMS FEDERAL ELECTION COMMISSION, ATTN CHARLES N STEELE, GENERAL COUNSEL, DLR

1325 K ST NORTHWEST

WASHINGTON DC 20005

THIS IS A COMPLAINT AND REQUEST FOR EXPEDITED CONSIDERATION FILED ON BEHALF OF THE CARTER/MONDALE RE-ELECTION COMMITTEE INC IN CONNECTION WITH CERTAIN MISLEADING AND ILLEGAL TELEVISION COMMERCIALS PRESENTLY BEING RUN BY SUPPORTERS OF RONALD REAGAN. THE COMMERCIALS IN QUESTION STRIDENTLY ATTACK SENATOR EDWARD KENNEDY AND CONGRESSMAN JOHN ANDERSON FOR THEIR PURPORTED POSITIONS ON BUSING, FOREIGN AID, THE PANAMA CANAL TREATY AND ABORTION. ONE SUCH AD FOR EXAMPLE AIRED ON WJLA, THE WASHINGTON DC ABC AFFILIATE YESTERDAY MORNING AT APPROXIMATELY 730AM EST DURING "GOOD MORNING AMERICA". THE

SF-1201 (R5-80)

AUTHORIZATION LINE FOR THE COMMERCIAL IS BARELY LEGIBLE AND FLA[illegible] ONLY FOR AN INSTANT ON THE SCREEN. IN FACT, THE AD IS SPONSORED [illegible] AMERICANS FOR REAGAN, A MULTI-MILLION DOLLAR SO CALLED REAGAN "INDEPENDENT" COMMITTEE WHOSE CHAIRMAN IS SENATOR JESSE HELMS. THE TEXT OF THE COMMERCIAL HOWEVER, APPEAR DELIBERATELY DESIGNED TO CONFUSE VIEWERS AS TO THE SPONSOR AND TO CREATE SYMPATHY OR SUPPORT FOR MR ANDERSON, PARTICULARLY AMONG FORMER SUPPORTERS OF SENATOR KENNEDY. THE CONCLUSION OF THE AD STATES, FOR EXAMPLE, "TED KENNEDY...JOHN ANDERSON...TED KENNEDY...JOHN ANDERSON... WE DEFEATED ONE, NOW WE MUST DEFEAT THE OTHER". NEITHER GOVERNOR REAGAN NOR JESSE HELMS OF COURSE HAS EVER BEEN IN AN ELECTION CONTEST WITH SENATOR KENNEDY, PRESIDENT CARTER HAS. THUS, THE AD APPEARS DELIBERATELY DESIGNED TO MISLEAD VIEWERS AS TO ITS ORIGIN. THIS APPARENT MOTIVATION IS SUPPORTED BY THE HASTY AND NEARLYILLEGIBLE

western union

Telegram

AUTHORIZATION LINE AT THE ADS CONCLUSION. WE HAVE ALREADY QUESTIONED THE TRUE "INDEPENDENCE" OF AMERICANS FOR REAGAN. ITS CHAIRMAN WAS A REAGAN DELEGATE TO THE REPUBLICAN NATIONAL CONVENTION WHERE HE PUBLICLY ADMITTED TO COMMUNICATING ON CAMPAIGN MATTERS WITH GOVERNOR REAGAN THROUGH THE REAGAN CAMPAIGN CHAIRMAN. AMERICANS FOR REAGAN HAS ANNOUNCED THAT IT PLANS TO RAISE 4 MILLION DOLLARS ON GOVERNOR REAGAN'S BEHALF FOR MEDIA ADVERTISING AND OTHER EXPENDITURES IN A NUMBER OF KEY STATES NOT WITHSTANDING GOVERNOR REAGANS ACCEPTANCE OF PUBLIC FUNDS. THE LATEST COMMERCIALS VIOLATE THE LAW IN THESE ADDITIONAL WAYS 1. THE INADEQUATE NEARLY ILLEGIBLE DISCLAIMER ON THE COMMERCIAL VIOLATES FCC REGULATIONS WHICH REQUIRE CLEAR IDENTIFICATION OF THE SPONSOR OF PAID POLITICAL ADVERTISING. 47 U.S.C. 317; C66 FCC 2D302 (1977). 2. THE FAILURE TO MAKE ADEQUATE IDENTIFICATION OF THE SPONSORING ENTITY ALONG WITH THE MISLEADING

Telegram

RECEIVED

80 OCT 17 A 9:18

6 2 0 4 0 3 1 3 8 4 2

FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 1316

Date Filmed 8/24/82 Camera No. --- 2

Cameraman SPC

82040343843