



FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 1326

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FEDERAL ELECTION COMMISSION

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Routing Slips for PCTB Brief and NFA G.C. Rep.
Objection Sheets for 1st GC and NFA G.C. Rep.
Routing Slip for RTB letters.

Memo to File re: letter from James Schooner dated 9/1/81

The above-described material was removed from this file pursuant to the following exemption provided in the Freedom of Information Act, 5 U.S.C. Section 552(b):

- | | | | |
|-------------------------------------|---|--------------------------|--|
| <input type="checkbox"/> | (1) Classified Information | <input type="checkbox"/> | (6) Personal privacy |
| <input type="checkbox"/> | (2) Internal rules and practices | <input type="checkbox"/> | (7) Investigatory files |
| <input type="checkbox"/> | (3) Exempted by other statute | <input type="checkbox"/> | (8) Banking Information |
| <input type="checkbox"/> | (4) Trade secrets and commercial or financial information | <input type="checkbox"/> | (9) Well Information (geographic or geophysical) |
| <input checked="" type="checkbox"/> | (5) Internal Documents | | |

Signed

Jonathan Levin

date

5/9/82

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FEDERAL ELECTION COMMISSION

Memo to KAG - Analysis on an Expedited Basis 10/30/82
MCPRAC and Abdnor Committee Reports sent by RAD

The above-described material was removed from this file pursuant to the following exemption provided in the Freedom of Information Act, 5 U.S.C. Section 552(b):

- (1) Classified Information
- (2) Internal rules and practices
- (3) Exempted by other statute
- (4) Trade secrets and commercial or financial information
- (5) Internal Documents
- (6) Personal privacy
- (7) Investigatory files
- (8) Banking Information
- (9) Well Information (geographic or geophysical)

Signed Jonathan Levin
date 5/3/82

32440330615



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 21, 1982

J. Curtis Herge, Esquire
Sedam & Herge, P.C.
8300 Greensboro Drive
Suite 1100
McLean, Virginia 22102

Re: MUR 1326

Dear Mr. Herge:

On May 12, 1981, the Commission found reason to believe that your client, the National Conservative Political Action Committee had violated 2 U.S.C. § 441d(a)(3), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") in connection with the above referenced MUR. On December 7, 1981, the General Counsel mailed to you a brief notifying you of his intent to recommend a finding of probable cause to believe to the Commission. However, after considering the circumstances of this matter, the Commission has determined to take no further action and close its file. The file will be made part of the public record within 30 days. Should you wish to submit any materials to appear on the public record, please do so with 10 days.

The Commission reminds your client that stating that a communication is authorized by a candidate's committee when it is not authorized by such committee is a violation of 2 U.S.C. § 441d(a)(3). Your client should take steps to insure that this activity does not occur in the future.

If you have any questions, please direct them to Jonathan Levin at (202) 523-4529.

Sincerely,

Charles N. Steele
General Counsel

By:


Kenneth A. Gross
Associate General Counsel

32040330616



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 21, 1982

James F. Schoener, Esquire
Miller, Canfield, Paddock and Stone
1015 Fifteenth Street, N.W.
Suite 1240
Washington, D.C. 20005

Re: MUR 1326

Dear Mr. Schoener:

This is in reference to the complaint your client, Senator James Abdnor, filed with the Commission on October 29, 1980, concerning a mailing conducted by the National Conservative Political Action Committee ("NCPAC") which purported to be authorized by Senator Abdnor's campaign.

Based on your complaint, the Commission determined there was reason to believe that NCPAC violated 2 U.S.C. § 441d(a)(3), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"), and instituted an investigation of this matter. After an investigation was conducted and briefs of the General Counsel and the respondent were considered, the Commission concluded on April 19, 1982, that it would take no further action with regard to the apparent violation. Accordingly, the file in this matter, numbered MUR 1326, has been closed.

This matter 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 this action. See 2 U.S.C. § 437g(a)(8).

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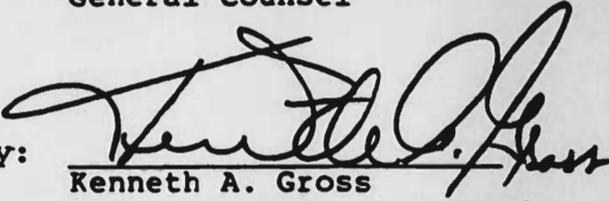
Letter to James F. Schoener
Page 2

If you have any questions, please contact Jonathan Levin, the attorney assigned to this matter, at (202) 523-4039.

Sincerely,

Charles N. Steele
General Counsel

By:



Kenneth A. Gross
Associate General Counsel

82040330618



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

James F. Schoener, Esquire
Miller, Canfield, Paddock and Stone
1015 Fifteenth Street, N.W.
Suite 1240
Washington, D.C. 20005

Re: MUR 1326

Dear Mr. Schoener:

This is in reference to the complaint your client, Senator James Abdnor, filed with the Commission on October 29, 1980, concerning a mailing conducted by the National Conservative Political Action Committee ("NCPAC") which purported to be authorized by Senator Abdnor's campaign.

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

J. Curtis Herge, Esquire
Sedam & Herge, P.C.
8300 Greensboro Drive
Suite 1100
McLean, Virginia 22102

Re: MUR 1326 *JJ*

Dear Mr. Herge:

On May 12, 1981, the Commission found reason to believe that your client, the National Conservative Political Action Committee had violated 2 U.S.C. § 441d(a)(3), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") in connection with the above referenced MUR. On December 7, 1981, the General Counsel mailed to you a brief notifying you of his intent to recommend a finding of probable cause to believe to the Commission. However, after considering the circumstances of this matter, the Commission has determined to take no further action and close its file. The file will be made part of the public record within 30 days. Should you wish to submit any materials to appear on the public record, please do so with 10 days.

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If you have any questions, please direct them to Jonathan Levin at (202) 523-4529.

Sincerely,

Charles N. Steele
General Counsel

By:

Kenneth A. Gross
Associate General Counsel

32040330620

Letter to James F. Schoener
Page 2

If you have any questions, please contact Jonathan
Levin, the attorney assigned to this matter, at (202) 523-
4039. *JI*

Sincerely,

Charles N. Steele
General Counsel

By:

Kenneth A. Gross
Associate General Counsel

82040330621

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
National Conservative Political) MUR 1326
Action Committee)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on April 19, 1982, the Commission decided by a vote of 6-0 to take the following actions with regard to MUR 1326:

1. Take no further action in MUR 1326.
2. Close the file.
3. Approve the letters attached to the General Counsel's Report signed April 14, 1982.

Commissioners Aikens, Elliott, Harris, McDonald, McGarry, and Reiche voted affirmatively in this matter.

Attest:

4-20-82

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

B 2 0 4 0 3 3 0 6 2 2

April 15, 1982

MEMORANDUM TO: Marjorie W. Emmons
FROM: Phyllis A. Kayson
SUBJECT: MUR 1326

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

Thank you.

Attachment

cc:Levin

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SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

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In the Matter of)
)
National Conservative Political)
Action Committee)

MUR 1326

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On October 29, 1980, the Commission received a complaint filed by Jim Abdnor (now Senator Abdnor) and Friends for Jim Abdnor ("the Abdnor Committee") against the National Conservative Political Action Committee ("NCPAC") and John T. Dolan, NCPAC Chairman. The complaint alleged that NCPAC violated 2 U.S.C. § 441d by mailing literature soliciting contributions to the Abdnor Committee which "purport[ed] to be 'authorized by Friends for Abdnor'" even though the Abdnor Committee gave no such authorization. On May 12, 1981, the Commission found reason to believe that NCPAC violated 2 U.S.C. § 441d(a)(3). The General Counsel made no separate recommendation with respect to Mr. Dolan because his involvement seemed to have been in an agency capacity on behalf of NCPAC. The Commission also approved questions to be sent to NCPAC and to Senator Abdnor, to Abdnor Committee campaign manager Keith Jensen, to Charles Bailey, the person who NCPAC claims authorized the solicitation, to NRSC Director Robert Moore, and to the Republican National Committee.

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After receiving responses, the General Counsel, on December 7, 1981, sent a brief to NCPAC's counsel, J. Curtis Herge, recommending that the Commission find probable cause to believe that NCPAC violated § 441d(a)(3). Mr. Herge sent a reply brief on December 18, 1981.

II. Legal Analysis of Respondent's Brief

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The analysis in the General Counsel's Brief set out the responses of all of those questioned when reason to believe was found. The account presented by NCPAC conflicted to some extent with the other responses presented, but in analyzing the matter, this office relied upon the responses presented by NCPAC. It appeared that Mr. Dolan's assumption that Mr. Baily was empowered to grant NCPAC authorization to issue the solicitation was based solely upon a representation made to him by someone not connected with the Abdnor campaign, i.e. Mr. Moore of the NRSC, and upon the fact that, when Mr. Dolan called the Abdnor Committee, an unnamed individual answering the phone knew where Mr. Bailey could be reached. This office argued that Mr. Dolan therefore, did not reasonably believe he was authorized to make the expenditure.

In NCPAC's brief, Mr. Herge argues that it was "eminently reasonable" for Mr. Dolan to "assume" that the Executive Director of the NRSC would know the identity of

"the principals of a high priority campaign for the United States Senate." Mr. Herge then states that Mr. Bailey thus had "apparent authority" to authorize expenditures. This constitutes an erroneous invocation of the concept of apparent authority, a theory of agency law which relies upon whether or not the authority is that which "the principal knowingly permits the agent to exercise, or which he holds him out as possessing." 3 Am. Jur. 2d., Agency, §73 (1962).

Mr. Herge then maintains that the Commission's position would prevent a campaign worker from expending funds at the direction of another without "independently verifying the authority of the other" and would prevent a vendor of goods or services from "accept[ing] an order without independently verifying the authority of the person who placed the order." This amounts to a gross overstatement of the Commission's position which is merely that the circumstances in this case involved a set of assumptions by Mr. Dolan which did not amount to a reasonable belief that Mr. Bailey was empowered to authorize expenditures.

This office also maintained in our brief that the words attributed to Mr. Bailey by Mr. Dolan were not words of authorization but words which instead indicated that Mr. Bailey believed that the Abdnor Committee would be

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appreciative if such activity were conducted. This office also pointed out that Mr. Bailey referred to the Abdnor Committee as "they" and appeared, therefore, to be speaking as someone apart from the Committee. In reply, Mr. Herge, states that it was "absurd" for this office to concentrate on the use of the word "they" when one's reasons for the use of "they" as opposed to "we" may be highly speculative. Mr. Herge, however, does not address the question of whether or not Mr. Bailey's alleged statements to Mr. Dolan were words of authorization.

Mr. Herge also maintains that this office has attempted improperly to mislead the Commission through its interpretation of the facts. However, Mr. Herge either misquotes or incompletely quotes various excerpts from the General Counsel's Brief in order to make his argument. For example, according to Mr. Herge, the General Counsel's Brief states on p. 7 that Mr. Bailey "'gave no words of encouragement'" to Mr. Dolan and then states on pp. 10 and 11 that Mr. Bailey used words of encouragement. A complete reading of p. 7 of the General Counsel's Brief would reveal that this office stated, "Mr. Bailey asserts that he ... gave no words of encouragement" (emphasis added). Furthermore, this office's iteration of Mr. Bailey's response was part of an effort to state that conflicting accounts were presented to us but that we would

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proceed to base our analysis on assertions presented by Mr. Dolan, i.e., "facts" most favorable to the respondent.

Mr. Herge also asserts that the brief of this office contains "gratuitous attempts to discredit NCPAC's defense." He refers to the fact that this office cites a response from the RNC listing "examples of responsibilities" of an RNC field representative, Mr. Bailey's actual position, and not listing authority to act on behalf of a candidate. Mr. Herge states that an "examples" list cannot exhaust the "universe of responsibilities" and further questions the relevance of this portion of the brief to the reasonableness of Mr. Dolan's belief. However, in making these assertions, Mr. Herge ignores the fact that the brief also quoted RNC counsel as stating that he "is unaware of any circumstances under which one of [RNC]'s employees becomes an authorized general agent for a campaign." Furthermore, the RNC's response is directly relevant because NCPAC itself maintained, in response to the complaint, that Mr. Bailey, as an RNC field representative, was an agent of the Abdnor Committee.

The Office of General Counsel continues to believe that NCPAC did not have a reasonable basis for stating that its solicitations were authorized by the Abdnor Committee. However, several factors persuade this office to recommend

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that the Commission take no further action on this matter and close the file. First, this is a relatively minor violation. The total number of pieces involved in the mailing was approximately 705, and the total cost was only \$193.13. Second, it is our belief that it will take a significant amount of staff resources to conclude this matter. Where the parties essentially disagree over whether the respondent involved had a reasonable belief that the mailing was authorized by the candidate, conciliation would probably be time-consuming and might even prove unsuccessful. Should the matter proceed to litigation there would be need for even more staff resources.

In light of the minor nature of the violation, the fact that the dispute is over what was a "reasonable belief," and the likelihood that significant resources would be required to resolve this matter, the General Counsel recommends that the Commission take no further action in this matter and close the file.

III. RECOMMENDATIONS

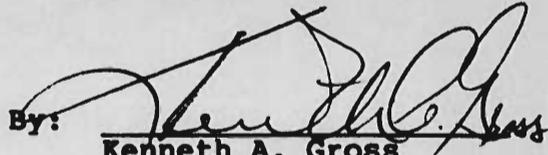
1. Take no further action in MUR 1326.
2. Close the file.

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3. Approve the attached letters.

April 17, 1982

Charles N. Steele
General Counsel

By: 
Kenneth A. Gross
Associate General Counsel

Attachments:
proposed letters (2)

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

J. Curtis Herge, Esquire
Sedam & Herge, P.C.
8300 Greensboro Drive
Suite 1100
McLean, Virginia 22102

Re: MUR 1326

Dear Mr. Herge:

On May 12, 1981, the Commission found reason to believe that your client, the National Conservative Political Action Committee had violated 2 U.S.C. § 441d(a)(3), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") in connection with the above referenced MUR. On December 7, 1981, the General Counsel mailed to you a brief notifying you of his intent to recommend a finding of probable cause to believe to the Commission. However, after considering the circumstances of this matter, the Commission has determined to take no further action and close its file. The file will be made part of the public record within 30 days. Should you wish to submit any materials to appear on the public record, please do so with 10 days.

The Commission reminds your client that stating that a communication is authorized by a candidate's committee when it is not authorized by such committee is a violation of 2 U.S.C. § 441d(a)(3). Your client should take steps to insure that this activity does not occur in the future.

If you have any questions, please direct them to Jonathan Levin at (202) 523-4529.

Sincerely,

Charles N. Steele
General Counsel

By:

Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

James F. Schoener, Esquire
Jenkins, Nystrom & Sterlacchi, P.C.
2033 M Street, N.W.
Washington, D.C. 20036

Re: MUR 1326

Dear Mr. Schoener:

This is in reference to the complaint your client, Senator James Abdnor, filed with the Commission on October 29, 1980, concerning a mailing conducted by the National Conservative Political Action Committee ("NCPAC") which purported to be authorized by Senator Abdnor's campaign.

Based on your complaint, the Commission determined there was reason to believe that NCPAC violated 2 U.S.C. § 441d(a)(3), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"), and instituted an investigation of this matter. After an investigation was conducted and brief(s) of the General Counsel and the respondent were considered, the Commission concluded on April , 1982, that it would take no further action with regard to the apparent violation. Accordingly, the file in this matter, numbered MUR 1326, has been closed.

This matter 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 this action. See 2 U.S.C. § 437g(a)(8).

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6cct# 5945

SEDAM & HERGE

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

SUITE 1100

8300 GREENSBORO DRIVE

MCLEAN, VIRGINIA 22102

(703) 821-1000

SUITE 270
1700 PENNSYLVANIA AVENUE, N. W.
WASHINGTON, D. C. 20006
(703) 821-1000

TELEX: 710-831-0888

CABLE: SEDAMHERGE

GLENN J. SEDAM, JR.
J. CURTIS HERGE
ROBERT R. SPARKS, JR.
A. MARK CHRISTOPHER

KAREN LUSSEN BLAIR
JOHN ROBERT CLARK III
B. ERIC SIVERTSEN

December 18, 1981

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

Attention: Secretary of the Commission

Re: MUR 1326

DEC 18 AM 11:52

Dear Sirs:

In accordance with the provisions of 11 CFR 111.16(c), there is filed with you herewith ten (10) copies of the brief of National Conservative Political Action Committee, respondent in the above-captioned matter.

Under separate cover, three (3) copies of the enclosed brief are being submitted to the General Counsel.

Very truly yours,

J. Curtis Herge

J. Curtis Herge

enclosures

cc: General Counsel, Federal Election Commission

02040330634

BEFORE THE FEDERAL ELECTION COMMISSION

 In the Matter of :
 NATIONAL CONSERVATIVE POLITICAL : MUR 1326
 ACTION COMMITTEE :

RECEIVED
 FEDERAL ELECTION COMMISSION
 DEC 18 11:52
 PERMANENT RECORDS

BRIEF OF RESPONDENT, NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE

Statement of Case

This matter comes before the Federal Election Commission ("the Commission") upon the recommendation of the General Counsel that it find probable cause to believe that National Conservative Political Action Committee ("NCPAC") violated 2 U.S.C. 441d(a)(3) by publishing approximately 705 pieces of literature, soliciting contributions to Friends for Jim Abdnor ("the Abdnor Committee"), containing the disclaimer, "Paid for by the National Conservative Political Action Committee and authorized by Friends for Abdnor." NCPAC does not deny that it produced and distributed the literature in question. It is the position of NCPAC, however, that NCPAC acted reasonably under the circumstances in the good faith belief that it had the authority of the Abdnor Committee to produce the subject literature. In order to find probable cause of a violation, resulting in the possible imposition of a civil penalty, the Commission must make an evaluation of the subjective impressions created in a

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series of telephone conversations and conclude that NCPAC's conduct was unreasonable. The facts do not support such a conclusion.

Statement of Facts

Prior to the incident here under review, NCPAC had been engaged in a program of making independent expenditures in opposition to the nomination and election of Senator George McGovern, a candidate for election to the United States Senate from the State of South Dakota.^{1/} By reason of that independent expenditure program, NCPAC and its agents had been scrupulous in avoiding any communication with Mr. Abdnor and with individuals associated with his authorized committees.^{2/} As a consequence, NCPAC and its agents were unfamiliar with the identity of the individuals associated with the Abdnor Committee.^{3/} Upon the conclusion of its independent expenditure program in South Dakota, NCPAC's Chairman, John T. Dolan, telephoned Mr. Robert W. Moore, Executive Director of the Republican Senatorial Campaign Committee, for the purpose of discussing Mr. Abdnor's campaign and for the purpose of determining how NCPAC might provide direct support to that campaign.^{4/} Mr. Dolan was advised by Mr. Moore that Charles Bailey, a consultant to

^{1/} Paragraph 3 of the Affidavit of John T. Dolan dated November 18, 1980.

^{2/} Id. at ¶4.

^{3/} Id. at ¶5.

^{4/} Id. at ¶¶6 and 8. See, also, paragraph 1 of the Affidavit of John T. Dolan dated June 3, 1981.

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the Republican Senatorial Campaign Committee, was "now in charge," or similar words to that effect, and that Mr. Dolan should telephone Mr. Bailey at the Abdnor Committees offices in South Dakota.^{5/}

In response to Mr. Moore's recommendation, Mr. Dolan then telephoned the Abdnor Committee and asked to speak to Mr. Bailey. Mr. Dolan was advised by the receptionist at the Abdnor Committee that Mr. Bailey was not then presently in the office, but that he could be reached by telephone at his hotel in Sioux Falls.^{6/} The fact that the individual answering the telephones at the Abdnor Committee knew immediately how and where to reach Mr. Bailey, subjectively reinforced in Mr. Dolan's mind the information given to him by Mr. Moore that Mr. Bailey occupied a senior role in the campaign.^{7/}

Mr. Dolan then telephoned Mr. Bailey, the two having a detailed discussion about the Abdnor campaign. Mr. Dolan also discussed the proposed production by NCPAC of a direct-mail fund raising solicitation letter, in which the recipients would be asked to send contributions directly to the Abdnor Committee. It was then discussed that, by reason of the conversation between Mr. Dolan and Mr. Bailey, the cost of the letter would have to be an in-kind contribution from NCPAC to the Abdnor Committee and that it could not be

^{5/} Paragraph 8 of the Affidavit of John T. Dolan dated November 8, 1980; and, paragraph 1 of the Affidavit of John T. Dolan dated June 3, 1981.

^{6/} Paragraph 9 of the Affidavit of John T. Dolan dated November 8, 1980.

^{7/} Paragraph 2 of the Affidavit of John T. Dolan dated June 3, 1981.

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an independent expenditure.^{8/} Mr. Bailey's response to the proposal was encouraging and positive. Mr. Bailey also stated: "That would be great, I know they really need the money.... I'm sure that they would appreciate it."^{9/}

Based upon Mr. Dolan's belief that he had been directed to an individual who had a, if not the, senior role in the Abdnor campaign and that that individual had approved of the project, NCPAC produced and mailed the subject solicitations on or about October 21, 1980.

Argument

- A. Assertions that NCPAC Acted Unreasonably, Even Under the Best of Circumstances, are Unfounded.

In its Brief, the Office of General Counsel asserts that, even if the account presented by Mr. Dolan were true, the Commission should find probable cause to believe that NCPAC violated 2 U.S.C. 441d(a)(3). This, the General Counsel argues, is because: (1) Mr. Dolan relied on a representation (apparently the representation by Mr. Moore that Mr. Bailey was "now in charge" of the Abdnor campaign) made to him by someone not connected with the Abdnor campaign; (2) Mr. Dolan should be held to some higher duty or standard than others because he is a "man...experienced in campaign politics"; (3) Mr. Dolan should have specifically inquired whether Mr. Bailey was empowered by the Abdnor Committee to

^{8/} Paragraph 3 of the Affidavit of John T. Dolan dated June 3, 1981.

^{9/} Paragraph 11 of the Affidavit of John T. Dolan dated November 8, 1980.

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authorize expenditures on behalf of the Abdnor campaign; and (4) Mr. Dolan should have known Mr. Bailey's words were not words of authorization because Mr. Bailey used the word "they" to refer to the Abdnor Committee rather than using some other unidentified pronoun. None of the foregoing arguments finds any foundation in the law.

When Mr. Dolan telephoned Mr. Moore, the Executive Director of the Republican Senatorial Campaign Committee, to discuss the progress of the Abdnor campaign, he did so because he was not familiar with the identity of the individuals associated with the Abdnor Committee. Mr. Moore referred Mr. Dolan to Mr. Bailey, the person "now in charge" of that campaign. It is eminently reasonable to assume that the Executive Director of the Republican Senatorial Campaign Committee knew the identity of the principals of a high priority campaign for the United States Senate; and, that he would refer the Chairman of the largest independent political committee to the proper individual within that candidate's committee.

By making this novel argument, the General Counsel appears to be imposing a requirement that one must independently verify an individual's apparent authority and that that verification may be made only by others associated with the same campaign committee. First, Mr. Dolan did not know the identity of any other individuals -that was the reason he telephoned Mr. Moore. Second, there is no requirement in

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the law that the campaign authority of an individual be confirmed through independent means. In fact, the law contemplates reliance upon apparent authority. In 11 CFR 102.7(c), for example, a treasurer of a political committee may "orally authorize" expenditure authority. In 11 CFR 109.1(b)(5) an agent is defined as any person who has been placed in a position within the campaign organization where it would "reasonably appear" that in the ordinary course of campaignrelated activities he or she may authorize expenditures. If the position of the General Counsel were to be accepted, it would mean that no campaign worker could expend campaign funds at the direction of another without independently verifying the authority of the other. It would also mean that no vendor of goods or services could accept an order without independently verifying the authority of the person who placed the order. Does the General Counsel suggest that Mr. Dolan should have explored the extent and degree of Mr. Bailey's authority when he asked the individual at Mr. Abdnor's campaign office if he could speak with Mr. Bailey? Campaigns and campaign managers do not work that way and they never will. To impose such a requirement in this matter would be unreasonable and unlawful. Furthermore, this matter does not involve the issue whether a particular individual had the authority to expend a committee's funds. The issue is whether it was reasonable under the circumstance

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for Mr. Dolan to assume that Mr. Bailey had the apparent authority to approve the issuance of literature which was paid for by another entity. All events leading up to, and the content of, the conversation between Mr. Dolan and Mr. Bailey give legitimacy to the reasonableness of that belief.

To suggest, as does the General Counsel on page 8 of the Brief, that Mr. Dolan is held to some undefined higher standard, because he is a man experienced in campaign politics, finds no support in law or regulations of the Commission. Mr. Dolan was told, by someone who should clearly know, that Mr. Bailey was "now in charge" of the Abdnor campaign. At the time, Mr. Dolan did not know and was not told whether Mr. Bailey was employed by the Republican National Committee, the Republican Senatorial Campaign Committee or by anyone else. The fact that Mr. Bailey was an employee of the Republican National Committee was learned by Mr. Dolan after the action complained of had been concluded. Mr. Dolan was operating under the reasonable belief that Mr. Bailey was the man to talk to when it came time to discuss and carry out campaign plans and strategies involving the Abdnor campaign. As a man experienced in campaign politics, Mr. Dolan does know that party committees and multicandidate committees frequently send professionals in to run campaigns and do so either under their expenditure authority or as in-kind contributions. The suggestion of the General Counsel, that some citizens are less equal than others, is frightening.

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Furthermore, to suggest that Mr. Dolan's actions were unreasonable because Mr. Bailey used the word "they" to refer to the Abdnor Committee is absurd. Who can account for the reason why a candidate frequently refers to himself with the corporate "we," or why an individual might refer to a group of which he is a part as "we" or "they"? Numerous individuals refer to their candidate, the campaign manager and others associated with a campaign as "they" even though those individuals have the authority to bind a campaign. If NCPAC were still making independent expenditures in opposition to Mr. Abdnor's opponent, or if NCPAC had produced the subject solicitations as an independent expenditure in support of Mr. Abdnor's election, the Office of General Counsel would be before this Commission arguing that Mr. Bailey was an agent of the Abdnor Committee and that NCPAC's independence had been compromised by Mr. Dolan's conversation with Mr. Bailey notwithstanding the use of the word "they." The semantical argument advanced by the General Counsel cannot withstand the scrutiny necessary to find probable cause of a violation.

B. The Office of General Counsel has Improperly Denied NCPAC its Right to Defend Itself.

The Commission shall find before it two statements submitted by Mr. Dolan, under oath, which contain a summary of the facts of this matter. Those statements must be evaluated by the Commission to determine whether or not it

was reasonable for NCPAC to produce the subject solicitations in the belief that they had been authorized by the Abdnor Committee. To obfuscate NCPAC's right to have its evidence assessed impartially, however, the Office of General Counsel has included in its Brief summaries of statements and conversations had with others, which summaries are then used in an effort to discredit NCPAC's defense. NCPAC has not been provided with copies of those statements and thus finds it impossible to defend itself properly against the conclusions reached by the Office of General Counsel.

Specifically, commencing with the second paragraph on page 5 and continuing through page 6 of its Brief, the Office of General Counsel recounts summaries of statements and conversations submitted by, or had with, Messrs. Bailey, Moore, Braden, Abdnor and Jensen after the original complaint was filed. NCPAC has not been provided with copies of the questions submitted to, or copies of the statements submitted by, Messrs. Bailey, Moore, Abdnor or Jensen. NCPAC was not privy to the "query" made by the Office of General Counsel to Mr. Braden, nor has NCPAC been provided with a copy of the submission made by Mr. Braden. Nevertheless, in spite of this onslaught of unverifiable and incomplete "facts," NCPAC now has the burden of showing that there is no probable cause to believe that a violation has occurred. This is a most egregious example of a denial of administrative due process.

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In Derewicki v. Pennsylvania Railroad Company, 353 F.2d 436 (3d Cir. 1965), the Court stated: "The right of cross-examination inheres in every adversary proceeding and, generally, if cross-examination is not had the litigant, deprived of cross-examination, has been denied due process of law." Furthermore, in U.S. v. Owens, 415 F.2d 383 (8th Cir. 1969), it was held that: "Inherent in the most narrow view of due process is the right to know of adverse evidence and opportunity to rebut its truth and relevance."

In this case, NCPAC stands to be found in violation of law based on the testimony of "witnesses" it has had no opportunity to cross-examine, summaries of conversations with those "witnesses," and information in the form of sworn statements which NCPAC has never seen. It is NCPAC's assertion that such a finding, based on such evidence, would be violative of its due process rights.

The General Counsel, in its Brief, asserts that a finding of probable cause would be warranted based solely on the sworn statements of Mr. Dolan. It then tries to support this conclusion by referring to the alleged conflicts between Mr. Dolan's answers and the responses of Messrs. Bailey and Moore.

In responding to this or any complaint, a respondent can only be expected to answer the allegations of which it is aware. NCPAC has answered the allegations of the complaint. It has answered the questions propounded by the Commission.

In its determination of whether or not probable cause of a violation exists, NCPAC answers should be considered as being conclusive as to the matters they assert. No consideration should be accorded the responses of Mr. Bailey, Mr. Moore, or any person submitting testimony for which NCPAC was not given the opportunity to examine or rebut, in accordance with the fundamental principles of due process.

For the reasons stated, NCPAC calls upon the Commission to order the Office of General Counsel to strike from its Brief all references to and conclusions drawn from statements made by, or conversations had with, Messrs. Bailey, Moore, Braden, Abdnor and Jensen after the original complaint was filed unless and until:

(1) NCPAC is provided with copies of the questions submitted to, and of copies of the statements submitted by, Messrs. Bailey, Moore, Abdnor or Jensen; and, is provided with a transcript of the conversation had with Mr. Braden and with a copy of the material submitted to the Office of General Counsel by Mr. Braden; or

(2) NCPAC is provided the opportunity of deposing Messrs. Bailey, Moore, Braden, Abdnor and Jensen; or,

(3) NCPAC is provided the opportunity of cross-examining Messrs. Bailey, Moore, Braden, Abdnor and Jensen before the full Commission.

In the event the Commission does not grant the relief requested, the Commission is bound to accept the sworn statements submitted by Mr. Dolan in their most favorable light and upon the presumption that they are accurate, complete and conclusive.

C. The Office of General Counsel has Attempted Improperly to Mislead the Commission Through its Interpretation of the Facts.

For the purposes of this submission, and in anticipation of the denial of the relief requested above, NCPAC notes that the Brief of the General Counsel contains internal inconsistencies, which inconsistencies are utilized to discredit the evidence submitted by NCPAC.

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First, Mr. Dolan has stated, under oath, that he telephoned Mr. Robert N. Moore, the Executive Director of the Republican Senatorial Campaign Committee, for the purpose of discussing Mr. Abdnor's campaign. It was during that conversation that Mr. Moore advised Mr. Dolan that Mr. Bailey was "now in charge" of that campaign. In its Brief, at page 6, the Office of General Counsel reports that Mr. Moore stated, under oath, that he had "no recollection of any conversation with Mr. Dolan concerning the Abdnor campaign during 1980." While NCPAC can understand and appreciate the fact that an individual in Mr. Moore's position can have "no recollection" of a single, brief telephone conversation during the heat of a general election campaign, this neither disproves the fact that the conversation took place, nor does it impugn the substance of that conversation as recounted by Mr. Dolan. The Office of General Counsel would have the Commission believe otherwise, however, by reason of the following passage on page 7 of its Brief:

"The accounts presented by Mr. Moore... of the communications supposedly leading up to NCPAC's solicitation differ significantly from NCPAC's version. Mr. Moore's statement indicates that a conversation between himself and Mr. Dolan as to a solicitation for the Abdnor campaign may not have occurred...."

Does testimony "differ significantly" if one person remembers and recounts a conversation and the other person has no recollection of the conversation? Furthermore, while we are told on page 6 of the Brief that Mr. Moore had "no recollection of any conversation" with Mr. Dolan, we are told on page 7 of the Brief that Mr Moore's statement indicates that such a conversation "may not have occurred." Now, either Mr. Moore has no recollection of a conversation or he "may" have a recollection of a conversation, it is not clear which is fact and which is fantasy. In any event, it appears that the statement in the Brief, that Mr. Moore's statement indicates that a conversation between himself and Mr. Dolan "as to a solicitation for the Abdnor campaign" may not have occurred, is a gratuitous and misleading attempt to discredit Mr. Dolan's testimony. In neither affidavit before the Commission did Mr. Dolan assert that he discussed a solicitation for the Abdnor campaign with Mr. Moore. That subject first came up for discussion in the conversation between Mr. Dolan and Mr. Bailey.

Second, in its analysis of the critical conversation between Mr. Dolan and Mr. Bailey, the Office of General Counsel also concludes on page 7 of its Brief:

"The accounts presented by...Mr. Bailey of the communications supposedly leading up to NCPAC's solicitation differ significantly from NCPAC's version."

It is difficult to understand why, on page 7 of the Brief, the accounts "differ significantly" when, on page 5 of the Brief, we are advised that Mr. Bailey's account of the conversation "differs somewhat" from that of Mr. Dolan. Do the respective accounts differ significantly or differ somewhat? What does differ is the General Counsel's analysis of Mr. Bailey's statement. For example, on page 7 of the Brief, we are advised that Mr. Bailey "gave no words of encouragement" to Mr. Dolan, but on pages 10 and 11 of the Brief we are advised that "the words used by Mr. Bailey were...words expressing his strong belief that the Abdnor Committee would be appreciative" of the fund-raising project. Now, did Mr. Bailey give Mr. Dolan no encouragement or strong encouragement?

Finally, throughout the balance of the presentation by the Office of General Counsel, we find gratuitous attempts to discredit NCPAC's defense. On page 6 of the Brief, we are told that the Republican National Committee submitted a document which lists "examples of responsibilities" of an RNC field representative and that these "examples" do not include authority to act on behalf of a candidate. How can "examples of responsibilities" be cited as evidence that the universe of responsibilities do not include a particular function? Furthermore, how can this passage even be relevant

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to this matter when the issue is whether or not it was reasonable for Mr. Dolan to believe that Mr. Bailey was in a position in the Abdnor campaign to authorize and did in fact authorize the activity under review. Mr. Dolan was advised that Mr. Bailey was "now in charge" of the Abdnor campaign. Mr. Dolan assumed that those words meant that Mr. Bailey was in a very senior position, if not in the most senior position, in the campaign, it not being until after this Complaint was initiated that Mr. Dolan learned that Mr. Bailey was an employee of the Republican National Committee. It is not necessary to prove that a field representative of the RNC is or is not authorized to act on behalf of a candidate, because Mr. Dolan did not know he was communicating with other than someone who was "in charge" of the campaign.^{10/}

In addition, we find that the Office of General Counsel provided those who participated in filing the original complaint in this matter, Messrs. Abdnor and Jensen, the opportunity to renew their allegations; and, that the Office

^{10/} An additional attempt at obfuscation appears at footnote 2 on page 8 of the Brief of the General Counsel. Mr. Dolan never assumed that Mr. Bailey was an "employee" of the Republican Senatorial Campaign Committee. Mr. Dolan's statement is that Mr. Moore told Mr. Dolan that Mr. Bailey, a "consultant" to the Republican Senatorial Campaign Committee, was "now in charge" of the Abdnor campaign. It was not until after the complaint was filed that Mr. Dolan learned that Mr. Bailey was an employee of the Republican National Committee. The fact that Mr. Bailey was described as being a consultant to one group does not make it any less reasonable to assume that he was in a position of direct authority over another group.

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of General Counsel repeated those allegations on page 6 of the Brief as if to clearly refute NCPAC's defense. NCPAC did not assert, and it does not now assert, that Mr. Bailey was employed by the Abdnor Committee. NCPAC does not contest the fact that Mr. Bailey was not, in fact, authorized to make expenditures on behalf of the Abdnor committee. Thus, the repeated allegations of Messrs. Abdnor and Jensen do not discredit NCPAC's assertion that, under the circumstances, it was reasonable for NCPAC to believe that it was dealing with someone who had the apparent position and authority to authorize the activity under review.

Throughout this analysis, the Commission should keep in mind that the three telephone conversations preceding the action complained of, the conversations between Mr. Dolan and Mr. Moore, an unidentified individual in Mr. Abdnor's campaign office and Mr. Bailey, occurred during the course of a general election campaign. The individuals involved in those conversations were all operating under great pressures, as is typical in campaigns, to get a job done in the briefest period of time. One who understands campaigns knows that circumstances do not permit leisurely, analytical conversations or exchanges of correspondence. The record submitted by NCPAC in its defense must be analyzed in that light and not in light of a prodigious analysis which contains conflicting statements and misleading conclusions.

Conclusion

Acting in the reasonable belief that its actions had received the approval of an individual with what appeared to be the requisite authority, NCPAC cannot be found to have violated 2 U.S.C. 441d(a)(3). For that reason, the complaint in this matter should be dismissed.

Respectfully submitted,
Sedam & Herge, P.C.
8300 Greensboro Drive,
Suite 1100
McLean, Virginia 22102
(703) 821-1000

By


J. Curtis Herge

Attorneys for Respondent

December 18, 1981

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 7, 1981

J. Curtis Herge, Esquire
Sedam & Herge
7600 Old Springhouse Road
McLean, Virginia 22102

RE: MUR 1326

Dear Mr. Herge:

Based on a complaint filed with the Commission on October 29, 1980, and information supplied by your client, the National Conservative Political Action Committee, the Commission determined on May 12, 1981, there was reason to believe that your client had violated 2 U.S.C. § 441d(a)(3), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"), and instituted an investigation of this matter.

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

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. 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 probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request to the Commission for an extension of time in which to file a brief. The Commission will not grant any extensions beyond 20 days.

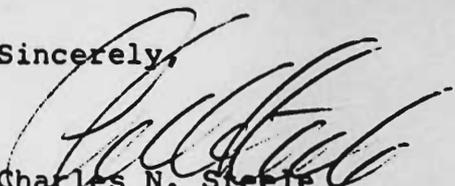
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J. Curtis Herge, Esquire
Page Two

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

Should you have any questions, please contact Jonathan Levin at (202) 523-4039.

Sincerely,



Charles N. Steele
General Counsel

Enclosure
Brief

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December 7, 1981

MEMORANDUM TO: Marjorie W. Emmons

FROM: Elissa Garr

SUBJECT: MUR 1326

Please have the attached Memo and Brief distributed to the Commission on an informational basis. Thank you.

Attachment

cc: Levin

snb

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SENSITIVE



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 7, 1981

MEMORANDUM

TO: The Commission

FROM: Charles N. Steele
General Counsel

SUBJECT: MUR 1326

Attached for the Commission's review is a brief stating the position of the General Counsel on the legal and factual issues of the above-captioned matter. 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 probable cause to believe was mailed on December 7, 1981. 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's attorney

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RECEIVED
FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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BEFORE THE FEDERAL ELECTION COMMISSION

October 30, 1981

In the Matter of)	
)	
National Conservative Political)	MUR 1326
Action Committee)	
)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On October 29, 1980, the Commission received a complaint filed by Jim Abdnor (now Senator Abdnor) and Friends for Jim Abdnor ("the Abdnor Committee") against the National Conservative Political Action Committee ("NCPAC") and John T. Dolan, NCPAC Chairman. The complaint alleged that NCPAC violated 2 U.S.C. § 44ld by mailing literature, on or about October 21, 1980, soliciting contributions to the Abdnor Committee which "purport[ed] to be 'authorized by Friends for Abdnor'" even though the Abdnor Committee gave no such authorization. Included with the complaint was a statement from Mr. Abdnor stating that he "has questioned all persons in authority in his campaign and has been unable to find any such person who has in any manner made such authorization." The complaint was accompanied by an affidavit from Keith Jensen, the Abdnor Committee's campaign manager, stating that no person in authority in the campaign directly or indirectly authorized NCPAC to "issue any literature on behalf" of the Abdnor Committee. A copy of the literature involved, consisting of a letter signed by Mr. Dolan and a contributor information card both containing the disclaimer, "Paid for by the National Conservative Political Action Committee and authorized by Friends for Abdnor," was also provided.

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Attachment 1 - p. 1 of 11

In reply to the complaint, Mr. Dolan and counsel for NCPAC, J. Curtis Herge, claimed that NCPAC reasonably believed that it was authorized by the Abdnor Committee to send the solicitation. They stated that, after NCPAC decided to cease making independent expenditures, it conceived the idea of distributing a solicitation for contributions to the Abdnor Committee. According to them, Mr. Dolan called the Executive Director of the National Republican Senatorial Committee, Robert N. Moore, to discuss the Abdnor campaign and was told by Mr. Moore that "Charles Bailey was 'now in charge,' or similar words to that effect." They maintain that Mr. Dolan then called the Abdnor Committee in order to speak to Mr. Bailey and was informed that Mr. Bailey could be reached at his hotel in Sioux Falls, South Dakota. It is stated that Mr. Dolan then called Mr. Bailey and informed him that NCPAC was considering the production of a direct mail solicitation for the Abdnor Committee and that Mr. Bailey responded "in an encouraging and positive manner" and, to the best of Mr. Dolan's recollection used phrases such as, "'That would be great, I know they really need the money . . . I'm sure that they would appreciate it.'" After the receipt of the complaint, NCPAC learned that, at the time of the conversation in question, Mr. Bailey was a field representative of the Republican National Committee ("RNC") with offices in Clearfield, Utah.

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Mr. Herge maintained that, based on these facts, Mr. Dolan either reasonably believed he was authorized to make an expenditure for the Abdnor Committee or Mr. Bailey, as an RNC field representative, was an "agent" of the Abdnor Committee under 11 C.F.R. § 109.1(b)(5) and could grant authorization on behalf of the Abdnor Committee.

On May 12, 1981, the Commission found reason to believe that NCPAC violated 2 U.S.C. § 441d(a)(3). The General Counsel made no separate recommendation with respect to Mr. Dolan because his involvement seems to have been in an agency capacity on behalf of NCPAC. The Commission also approved questions to be sent to NCPAC and to Senator Abdnor, Mr. Jensen, Mr. Bailey, Mr. Moore, and the RNC.

Mr. Dolan's sworn response to the questions involved an elaboration of the response to the complaint. He stated that he called Mr. Moore to express his concern about the conduct of the Abdnor campaign and suggested several courses of action. According to the response, Mr. Moore stated that Mr. Bailey, a consultant to NRSC, was "'in charge'" and that Mr. Dolan should call Mr. Bailey in South Dakota.

Mr. Dolan maintained that, when he called the Abdnor Committee, the individual who told him where to locate Mr. Bailey "knew exactly" of whom Mr. Dolan was speaking. Mr. Dolan maintained that, under the circumstances, he found it unnecessary to inquire into the identity and position of that individual, but the fact that the individual knew Mr. Bailey and knew his location "gave credence to the belief that Mr. Bailey occupied a senior role" in the Abdnor campaign.

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Mr. Dolan, according to his response, called Mr. Bailey and discussed campaign strategy, and, in addition, discussed the proposed production by NCPAC of a letter soliciting contributions directly to the Abdnor Committee. He stated that Mr. Bailey's response was as stated in NCPAC's response to the complaint notification. Mr. Dolan maintained that his belief was reasonable based upon NRSC's "representation" that Mr. Bailey was "now in charge," the "knowledge" that NRSC, "under its expenditure authority, frequently sends in experienced campaign professionals to administer a campaign," and the conversation between Mr. Dolan and Mr. Bailey, "which indicated an intimate knowledge of the plans and strategy of Friends of Jim Abdnor."

In answer to further questions, Mr. Dolan stated that, from February 11, 1980 (the day Mr. Abdnor announced his candidacy) to the present, NCPAC personnel had numerous conversations with NRSC personnel but that, to the best of his recollection, no conversation, other than the one discussed above, related specifically to the Abdnor campaign. He also maintained that, during the same period, he does not recall any other communications between NCPAC and the Abdnor campaign or Senator Abdnor or any other communication between NCPAC and Mr. Bailey.^{1/}

^{1/} Mr. Dolan also responded that a total of \$193.13 was expended on the mailing in question and that approximately 705 pieces were mailed.

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Mr. Herge, in a cover letter to the affidavit, stated that Mr. Bailey knew of Mr. Dolan's intended actions and that, if Mr. Bailey knew that he was not in a position to authorize such actions on behalf of the Abdnor Committee, he was obligated "to so advise Mr. Dolan and to counsel him to seek authority from another source." He maintained that, while there may have been "poor communication" between NCPAC and the Abdnor Committee, the "record does not support a conclusion . . . that NCPAC was not acting reasonably under the circumstances."

Mr. Bailey stated, under oath, that as an RNC employee, he supervised coordinated expenditures on behalf of Mr. Abdnor. He maintains, however, that, at no time, was he an authorized agent of Abdnor or the Abdnor Committee and, at no time, did he hold himself out as such an agent. His account of his telephone conversation with Mr. Dolan differs somewhat from that of Mr. Dolan. According to Mr. Bailey, Mr. Dolan stated that he could "come in" at that time because NCPAC's independent expenditure program was completed. Mr. Bailey stated that Mr. Dolan then asked what NCPAC could do to help in the campaign and Mr. Bailey replied that NCPAC could "'stay out.'" He stated that Mr. Dolan asked if the Abdnor campaign needed money, to which Mr. Bailey replied, "'Every campaign can always use money.'" According to Mr. Bailey, no request was made of him for authorization to raise funds for Abdnor and, had such a request been made, he would have indicated that "he had no authority to grant such authorization." Finally, he stated that he would have been against granting such an authorization.

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Mr. Moore stated, under oath, that he has no recollection of a conversation with Mr. Dolan in September, 1980, and has no recollection of any conversation with Mr. Dolan concerning the Abdnor campaign during 1980.

E. Mark Braden, counsel to RNC, stated, in response to our query as to the duties and powers of an RNC field representative, that he is "unaware of any circumstances under which one of [RNC]'s employees becomes an authorized general agent for a campaign." He enclosed a job description for the position of RNC field representative (also known as a Regional Political Director) listing the "examples of responsibilities" of such an officer. This list indicates that a field representative "advises candidates on campaign and techniques, meets with candidates' staff, and signs off on use of RNC resources for candidates." However, no mention is made of any authority to act on behalf of a candidate or his campaign.

Senator Abdnor responded to the General Counsel's questions by iterating in a sworn affidavit that no person in the campaign authorized the solicitation. Mr. Jensen stated under oath that, while he is informed and believes that Mr. Bailey made expenditures on behalf of the RNC and under 2 U.S.C. § 441a(d), Mr. Bailey was not employed by and did not hold a position with the Abdnor Committee and was at no time authorized to make expenditures on behalf of the Abdnor Committee.

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II. Legal Analysis

Section 441d(a)(3) of Title 2, United States Code, states:

(a) Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, such communication--

(3) if not authorized by a candidate, an unauthorized 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.

See also 11 C.F.R. § 110.11(a)(1)(iii).

NCPAC, by claiming that it reasonably believed that the communication was authorized, maintains that it should not be considered as acting in violation of 2 U.S.C. § 441d(a)(3). Complainants contend that the communication was not authorized by them, and that the communication failed to state this and, in fact, stated the contrary. The accounts presented by Mr. Moore and Mr. Bailey of the communications supposedly leading up to NCPAC's solicitation differ significantly from NCPAC's version. Mr. Moore's statement indicates that a conversation between himself and Mr. Dolan as to a solicitation for the Abdnor campaign may not have occurred, and Mr. Bailey asserts that he not only was not asked for authorization for a solicitation, but gave no words of encouragement. However, even if the account presented by Mr. Dolan is true, there was still in the view of the General Counsel, a violation of 2 U.S.C. § 441d(a)(3).

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1-p. 7 of 11

Assuming Mr. Dolan's account to be correct, he relied on a representation made to him by someone not connected with the Abdnor campaign as an employee or agent, i.e., Mr. Moore of the NRSC. No one from the Abdnor Committee itself, which, in the mind of Mr. Dolan, was the entity granting this authority to Mr. Bailey, made any representation to Mr. Dolan that Mr. Bailey was authorized to act for the committee.

Mr. Dolan asserts that he had "knowledge" that the NRSC, under 2 U.S.C. § 441a(d), frequently sends in experienced professionals to administer a campaign. ^{2/} Based upon such knowledge, it would be reasonable for a man as experienced in campaign politics as Mr. Dolan to assume that Mr. Bailey was authorized to act on behalf of the NRSC, not the Abdnor campaign.

Mr. Dolan's assertion that his conversation with an unnamed individual at the Abdnor Committee's office added credence to his belief that Mr. Bailey had a senior role in the campaign merely indicates that Mr. Dolan allowed his initial erroneous impression to be bolstered by a subsequent event indicating some contact with the campaign by Mr. Bailey. Such contact does not appear to be in dispute. However, knowledge of such contact is not sufficient to justify a belief that a person was empowered by a candidate's committee to authorize expenditures on behalf of the campaign.

^{2/} Mr. Dolan appears, at one point, to have assumed that Mr. Bailey was an employee of the NRSC (the National Republican Senatorial Committee) rather than the RNC (the Republican National Committee). Mr. Bailey was actually an employee of the RNC.

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Mr. Herge maintains that Mr. Bailey should have advised Mr. Dolan that he was not in a position to authorize a solicitation on behalf of the Abdnor Committee. However, in the General Counsel's view, no such obligation on the part of Mr. Bailey existed. To the contrary, the burden of clarifying whether an individual is in a position to authorize an expenditure on behalf of a candidate should rest with the person wishing to make such an authorized expenditure. Mr. Dolan's accounts of his conversations with Mr. Moore, the Abdnor campaign office, and Mr. Bailey nowhere indicate that he specifically inquired whether Mr. Bailey was empowered by the Abdnor Committee to authorize expenditures on behalf of the Abdnor campaign. In addition, nothing in Mr. Dolan's account indicates that Mr. Bailey should have assumed he was being asked to authorize an expenditure on behalf of the Abdnor campaign.

Furthermore, even if Mr. Dolan's belief that Mr. Bailey was empowered to act for the Abdnor Committee was reasonable, the words attributed to Mr. Bailey by Mr. Dolan were not words of authorization. They were words indicating that Mr. Bailey believed strongly that the Abdnor Committee would be appreciative if such activity were conducted, rather than an indication that such activity was authorized. In addition, Mr. Bailey's use of the word "they" in his statement, "'That would be great, I know they really need the money . . . I'm sure that they would appreciate it," (emphasis added) indicates that he was speaking as someone

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1-p 9 of 11

apart from the Abdnor Committee rather than as someone acting on behalf of the Abdnor Committee.^{3/}

The facts presented give rise to the issue of whether or not the communication, if not authorized by the Abdnor campaign, was authorized by the Republican National Committee. As an agent of the RNC, Mr. Bailey arguably was in a position to speak for the RNC in authorizing the communication. If the communication was authorized by the RNC, then a failure to state this information on a solicitation conceivably would have been a violation of 2 U.S.C. § 441d(a)(3). Furthermore, if the communication was requested by the RNC, then payment by NCPAC arguably would constitute an in-kind contribution by NCPAC to the RNC. If such a contribution, when added to NCPAC's other contributions during 1980 to the RNC and political committees established and maintained by the national Republican Party, i.e., the NRSC and the National Republican Congressional Committee, exceeded \$15,000, then NCPAC would be in violation of 2 U.S.C. § 441a(a)(2)(B).^{4/} However, as mentioned above, the words used by Mr. Bailey were not words of authorization but words expressing his strong belief

^{3/} Mr. Bailey's use of this language was alleged by NCPAC in its reply to the complaint. When given the opportunity after the RTB finding to describe his conversation with Mr. Bailey in detail, Mr. Dolan did not quote any additional language but merely iterated that the response to his proposal was as stated in his reply to the complaint.

^{4/} According to an index run by the Commission's Data Division, NCPAC made no contributions to any of the three committees during 1980.

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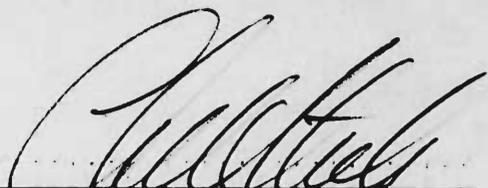
that the Abdnor Committee would be appreciative if such activity was conducted. Thus, the facts do not indicate that NCPAC's expenditure was made at the behest of the RNC or of the Abdnor campaign.

Based upon the above analysis, the General Counsel recommends that the Commission find probable cause to believe that the National Conservative Political Action Committee violated 2 U.S.C. § 441d(a)(3) and proceed to conciliation.

III. General Counsel's Recommendation

1. Find probable cause to believe that the National Conservative Political Action Committee violated 2 U.S.C. § 441d(a)(3).

December 1981
Date


Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 7, 1981

J. Curtis Herge, Esquire
Sedam & Herge
7600 Old Springhouse Road
McLean, Virginia 22102

RE: MUR 1326

Dear Mr. Herge:

Based on a complaint filed with the Commission on October 29, 1980, and information supplied by your client, the National Conservative Political Action Committee, the Commission determined on May 12, 1981, there was reason to believe that your client had violated 2 U.S.C. § 441d(a)(3), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"), and instituted an investigation of this matter.

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

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. 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 probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request to the Commission for an extension of time in which to file a brief. The Commission will not grant any extensions beyond 20 days.

Attachment 2 - p. 1 of 2

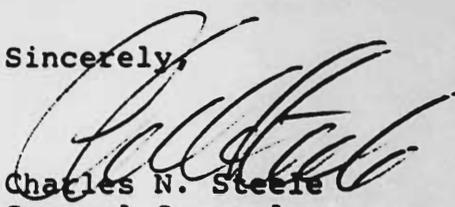
82040330667

J. Curtis Herge, Esquire
Page Two

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

Should you have any questions, please contact Jonathan Levin at (202) 523-4039.

Sincerely,



Charles N. Steffe
General Counsel

Enclosure
Brief

8 2 0 4 0 3 3 0 6 6 8

2-p.2 of 2

600#4844

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(202) 393-7124

ROBERT R. SPARKS, JR.
MICHAEL D. HUGHES
A. MARK CHRISTOPHER
KAREN LUSSEN BLAIR
JOHN ROBERT CLARK III

June 3, 1981

TWX/TELEX: 710-831-0600
CABLE: SEDAMHERGE

The Honorable John Warren McGarry
Chairman
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attention: Jonathan Levin, Esq.
Office of General Counsel

Re: MUR 1326

Dear Chairman McGarry:

This letter is written on behalf of our clients, John T. Dolan and National Conservative Political Action Committee (hereinafter "NCPAC"), in reply to your letter, dated May 14, 1981, in connection with the above-referenced matter. We apologize for the delay in submitting this response, which was due to (1) my absence from the office on May 21 and 22, 1981; (2) the Memorial Day holiday on May 25, 1981; and, (3) Mr. Dolan's absence from the office on May 27, 28 and 29, 1981. We request that these reasons be considered in justification for the delay.

As you requested, we are submitting to you herewith the Affidavit of Mr John T. Dolan, Chairman of NCPAC, containing the answers to the interrogatories you enclosed with your letter. A review of those answers will demonstrate that Mr. Dolan was acting under a reasonable belief that the subject direct-mail solicitation was produced and distributed with the authority of Friends of Jim Abdnor. In light of the conversation Mr. Dolan had with Mr. Bailey, as described in the Affidavit, Mr. Bailey knew of Mr. Dolan's intended actions. Clearly, if he knew he was not in a position to authorize those actions on behalf of Friends of Jim Abdnor, Mr. Bailey had an obligation to so advise Mr. Dolan and to counsel him to seek authority from another source. Instead, Mr. Bailey gave Mr. Dolan positive encouragement to proceed.

01 JUN 8 ALL: 35

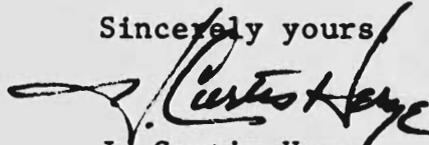
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The Honorable John Warren McGarry
Page Two
June 3, 1981

The record before the Commission could support a conclusion that there was poor communication between NCPAC and Friends of Jim Abdnor. That record does not support a conclusion, however, that NCPAC was not acting reasonably under the circumstances. Mr. Dolan firmly believed in good faith that Mr. Bailey was in a position to, and did, authorize the subject communication. Neither the Act, nor the regulations, imposes a higher standard or requirement under these circumstances, such as a requirement to secure written authority to proceed.

We would be pleased to be of assistance to you should additional material be required to complete this investigation.

Sincerely yours



J. Curtis Herge

enclosure

82040330670

UNITED STATES OF AMERICA
Before the
FEDERAL ELECTION COMMISSION

JIM ABDNOR, For himself and for
Friends of JIM ABDNOR, his
principal campaign committee,

Complainant,

v.

NATIONAL CONSERVATIVE POLITICAL
ACTION COMMITTEE and JOHN T. DOLAN,

Respondents.

MUR 1326

61 JUN 8 P2:27

RECEIVED
GENERAL COUNSEL

AFFIDAVIT OF JOHN T. DOLAN

COMMONWEALTH OF VIRGINIA)
COUNTY OF ARLINGTON) SS:

JOHN T. DOLAN, who, being first duly sworn, deposes and says as follows in response to the written interrogatories propounded to Mr. Dolan by the Federal Election Commission in connection with the above-captioned matter: (Mr. Dolan's responses are numbered to correspond to the paragraphs of the interrogatories.)

1. That, in mid-September, 1980, your deponent telephoned Robert W. Moore for the purpose of expressing general dissatisfaction with the apparent progress of Mr. Abdnor's campaign for election to the United States Senate.

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Your deponent suggested several courses of action, including a recommendation that Mr. Abdnor adopt a more aggressive stance in attacking his opponent's voting record. Mr. Moore stated that he shared your deponent's concerns, but explained that Charles (Chuck) Bailey, a consultant to the Republican Senatorial Campaign Committee, was "now in charge," or similar words to that effect, and that your deponent should telephone Mr. Bailey in South Dakota.

2. That, in response to the recommendation of Mr. Moore, your deponent telephoned the offices of Friends of Jim Abdnor and asked to speak with Mr. Bailey. The individual who answered the telephone knew exactly of whom your deponent was asking, explained that Mr. Bailey was not in the office and advised your deponent where Mr. Bailey could be reached by telephone. Under the circumstances, your deponent found it unnecessary to inquire into the identity and position of the individual who answered the telephone in the offices of Friends of Jim Abdnor. Nevertheless, the fact that that individual knew Mr. Bailey and knew how to get in touch with him while he was out of the office gave credence to the belief that Mr. Bailey occupied a senior role in Mr. Abdnor's campaign organization.

3. That, at the direction of the individual in the offices of Friends of Jim Abdnor, your deponent telephoned Mr. Bailey and again expressed concern that the campaign was

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apparently not proceeding in the right direction. A detailed discussion ensued between your deponent and Mr. Bailey about the campaign strategy they had adopted to get on the offense. Your deponent also discussed the proposed production of a direct-mail fund raising solicitation letter, in which the recipients would be asked to send contributions directly to Friends of Jim Abdnor, it being understood that (by reason of the subject communication) that activity would have to be in an in-kind contribution from National Conservative Political Action Committee to Friends of Jim Abdnor and not an independent expenditure. Mr. Bailey's response to the proposal was as your deponent stated in paragraph 11 of his affidavit of November 18, 1980. That your deponent reasonably believed his conversation with Mr. Bailey was sufficient authorization to produce the direct-mail solicitation was based upon (a) the representation by the Republican Senatorial Campaign Committee that Mr. Bailey was "now in charge" of the Abdnor campaign; (b) the knowledge that the Republican Senatorial Campaign Committee, under its expenditure authority, frequently sends in experienced campaign professionals to administer a campaign; and, (c) the conversation between your deponent and Mr. Bailey, which indicated an intimate knowledge of the plans and strategy of Friends of Jim Abdnor.

4. That, from February 11, 1980 to the present, your deponent and other employees and representatives of National Conservative Political Action Committee had numerous

conversations with Mr. Moore and other employees and representatives of the Republican Senatorial Campaign Committee, provided that, to the best of your deponent's recollection and knowledge, none related specifically about the Abdnor campaign other than the conversation referred to in paragraph 1 hereof.

5. That, from February 11, 1980 to the present, to the best of your deponent's recollection and knowledge, neither your deponent nor any other employee or representative of National Conservative Political Action Committee had any communication with Mr. Abdnor or with any employee, representative of, or volunteer for, Mr. Abdnor or Friends of Jim Abdnor other than the conversations referred to in paragraphs 2 and 3 hereof.

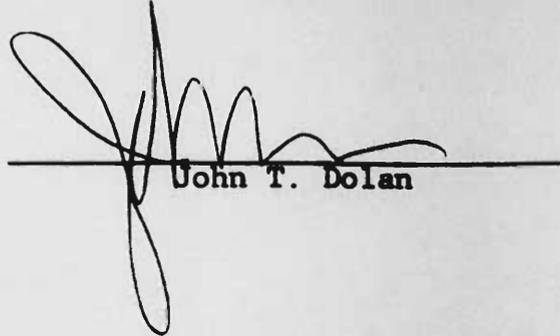
6. That, from February 11, 1980 to the present, to the best of your deponent's recollection and knowledge, neither your deponent nor any other employee or representative of National Conservative Political Action Committee had any communication with Mr. Bailey with respect to the Abdnor campaign other than the conversation referred to in paragraph 3 hereof.

7. That, upon information and belief, the expenditures made by National Conservative Political Action Committee for the production and distribution of the subject direct-mail solicitation were (a) \$112.00 paid on December 30, 1980 to Cumberland Press, 7242 Wisconsin Avenue, Bethesda, Maryland, for supplies and printing services (reported on NCPAC's

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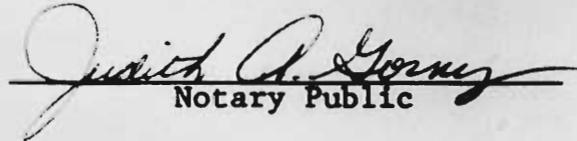
Year-End Report); and, (b) \$81.13 paid on April 1, 1981 to URC, Inc., 138 Church Street, Vienna, Virginia, for mailing services (reported on NCPAC's May Report); and, the total number of pieces produced was approximately 705.

IN WITNESS WHEREOF, this Affidavit was signed on the *3rd* day of June, 1981.



John T. Dolan

Sworn to before me this 3rd day of June, 1981.



Notary Public

My Commission Expires: August 14, 1984

32040330675

82040330676

FIRST CLASS



FIRST CLASS

SEDAM & HERGE, P.C.
ATTORNEYS AT LAW
7600 OLD SPRINGHOUSE ROAD
MCLEAN, VIRGINIA 22102

To: The Honorable John Warren McGarry
Chairman
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463
Attention: Jonathan Levin, Esq.
Office of General Counsel

FIRST CLASS MAIL

FIRST CLASS

100699
GCC#4812

LAW OFFICES OF
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JAMES F. SCHOENER
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E. ELIZABETH PERLMAN
FREDERICA J. STICHNOTH
J. SCOTT TIMMER
JOAN BECHAM WHITMORE
CONRAD L. MALLETT, JR.
JOHN D. RAYIS

June 2, 1981

Jonathan Levin, Esq.
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: M.U.R. 1326

Dear Mr. Levin:

Enclosed please find the affidavits of Senator James Abdnor and Robert W. Moore, as requested by you. This should complete the requested information, and I hope the Commission will act promptly on the pending matter. If you need any further information concerning this complaint, please call me at your convenience.

Very truly yours,

James F. Schoener
James F. Schoener

JFS:mfb
Enclosures

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JUN 3 12:56

GENERAL COUNSEL

GCC#4812

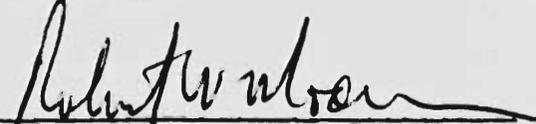
Before the
Federal Election Commission

01 JUN 3 All: 42
M.U.R. #1326

Robert W. Moore being duly sworn, deposes and says as follows:

1. That during the year 1980, he was executive director of the National Republican Senatorial Committee.
2. That he has no recollection of a conversation with John T. Dolan, chairman of the National Conservative Political Action Committee in the month of September, 1980.
3. That he has no recollection of any conversation with John T. Dolan at any time concerning the James Abdnor for Senate campaign during 1980.
4. That he has no recollection of any conversation with John T. Dolan at any time concerning Charles Bailey.
5. That during 1980, he talked by telephone in person and at meetings to many people, but has no recollection nor notes that indicate any conversation made the subject of a letter interrogatory from the Federal Election Commission dated May 14, 1981.

Further your deponent saith not.


Robert W. Moore

State of Oregon
County of Washington ss

On this 27 day of May, 1981 personally appeared Robert W. Moore, who being duly sworn said the above was true and correct to his best knowledge, information and belief.


Notary Public
My commission expires: 4-14-84

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MILLER, CANFIELD, PADDOCK AND STONE

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GCC #4812

JUN 3 PM 2: 57

GENERAL COUNSEL

Before the
Federal Election Commission

M.U.R. #1326

James Abdnor being duly sworn deposes and says:

1. That he did not have, nor did he ever authorize any person to have, contact with John T. Dolan of the National Conservative Political Action Committee or any other official of the National Conservative Political Action Committee, regarding his campaign for United States Senate from February 11, 1980 to October 21, 1980.
2. That to his knowledge, no agent or volunteer in his campaign had any "contact" with Mr. Dolan or the National Conservative Political Action Committee, except as is stated below.
3. That after said political acton committee published letters on October 21, 1980 indicating the solicitation by NCPAC was authorized by the Abdnor Committee, he protested such activity and investigated all persons in authority in his campaign and found no such person authorized the aforesaid mailing. He also authorized his campaign attorneys to investigate the facts concerning the NCPAC assertion.
4. That the only possible "contacts" which might be an exception to the above matters are the so-called contact by one Keith Jensen and a so-called contact by Charles Bailey (both of whom are filing their own affidavits regarding this matter) and both of whom have assured your affiant that they in no way authorized Mr. Dolan or NCPAC to make any solicitation or statement in behalf of Friends of Jim Abdnor nor for him.

These statements are made in addition to the sworn complaint and amendment thereto heretofore made and are in addition thereto and the statements of which are incorporated and confirmed in this Affidavit.


James Abdnor

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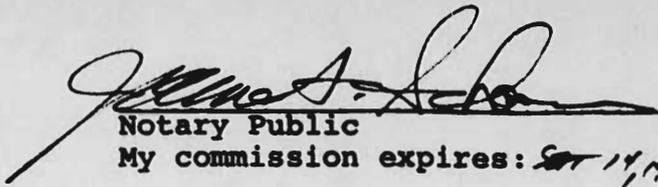
MILLER, CANFIELD, PADDOCK AND STONE

District of Columbia

ss

City of Washington

On this 22nd day of May, 1981 personally appeared James Abdnor, who read the foregoing and says that the same is true and correct to his best knowledge, information and belief.


Notary Public
My commission expires: SEP 14, 1985

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MILLER, CANFIELD, PADDOCK AND STONE

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JFS

LAW OFFICES OF

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WASHINGTON, D.C. 20005

Jonathan Levin, Esq.
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463



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CC#4802

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E. ELIZABETH PERLMAN
FREDERICK J. STICHNOTH
J. SCOTT TIMMER
JOAN BECKHAM WHITMORE
CONRAD L. WALLETT, JR.
JOHN D. RAYIS**

TELEPHONE (202) 822-9333

May 29, 1981

**Mr. Jonathan Levin
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20413**

Re: M.U.R. 1326

Dear Mr. Levin:

Enclosed is an affidavit of Keith Jensen and an affidavit of Charles Bailey in the above-entitled M.U.R. An affidavit of Senator Abdnor will be forthcoming in the next week. It was signed, but missent to South Dakota by his office.

Sincerely,

James F. Schoener
James F. Schoener

**JFS:mfb
Enclosures (2 affidavits)**

5 2 0 4 0 3 3 0 6 8 2

JUN 2 11:00

COMM-FEDERAL

Before the
Federal Election Commission

M.U.R. #1326

Charles Bailey, being duly sworn deposes and says as follows:

1. That as an employee of the Republican National Committee, he supervised certain coordinated expenditures in behalf of Jim Abdnor in the contest for United States Senator from the State of South Dakota in the 1980 election campaign.
2. That at no time was he an authorized agent of the Friends for Jim Abdnor or an authorized agent of Jim Abdnor, the candidate in said campaign, and at no time did he ever hold himself out as such agent of the campaign or of the candidate.
3. That in the fall of 1980, one John T. Dolan, of the National Conservative Political Action Committee, called him on the telephone, and the gist of the conversation was approximately as follows:
 - (a) Dolan said he could "come in" at this time (since NCPAC had completed its independent expenditures in this campaign).
 - (b) Dolan further asked Bailey what they could do in the campaign to help.
 - (c) Bailey's answer to Dolan to the last question was that they could "stay out".
 - (d) Mr. Dolan at that time asked if the Abdnor campaign needed money, to which Bailey answered "every campaign can always use money".
4. At no time was any request for authorization to raise funds on behalf of the Abdnor campaign requested of him, Bailey, and if it had been requested, he, Bailey, would have indicated that he had no authority to grant such authorization.

5. That at no time was authorization to the National Conservative Political Action Committee discussed at any meeting at which he was present, and if he, Bailey, had been requested for an opinion of whether or not to give such authority to the National Conservative Political Action Committee, he would have urged against it.

Further your deponent saith not.

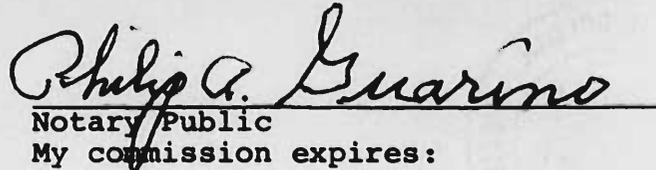

Charles Bailey

District of Columbia

ss

City of Washington

On this 26th day of May, 1981 personally appeared Charles Bailey, who read the foregoing and says the same is true and correct to his best knowledge, information and belief.


Notary Public
My commission expires:

MY COMMISSION EXPIRES
JUNE 15, 1981

Before the
Federal Election Commission

M.U.R. #1326

Keith Jensen being duly sworn, deposes and says as

follows:

1. That during the year 1980, he was the campaign manager for Friends for Jim Abdnor, the principal campaign committee for Senator Abdnor of South Dakota.
2. That from February 11, 1980 to the present time, he had no communication with John T. Dolan of the National Conservative Political Action Committee, nor with any known employee or representative of NCPAC.
3. That one Hal Wick, who represents an organization in South Dakota, (somewhat associated with NCPAC) on one occasion, offered me the use of their mailing list, which I declined.
4. That Charles Bailey was never employed by, nor did he have any position with, the Friends for Jim Abdnor.
5. That Charles Bailey was not at any time authorized to make expenditures on behalf of the Abdnor campaign.
6. That he is informed and believes Charles Bailey did make expenditures on behalf of the Republican National Committee under 2 U.S.C. §441a(d).

This affidavit is in addition to the one on file with the Federal Election Commission dated 28 October 1980, the statements of which are incorporated and confirmed.


Keith Jensen

82040330685

MILLER, CANFIELD, PADDOCK AND STONE

State of South Dakota

County of Brookings S.D. ^{SS}

On this 26 day of May, 1981 personally appeared Keith Jensen who read the foregoing and says that the same is true and correct to his best knowledge, information and belief.

John L. Littel
Notary Public

My commission expires:

July 12, 1981

32040330586

MILLER, CANFIELD, PADDOCK AND STONE

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JFS

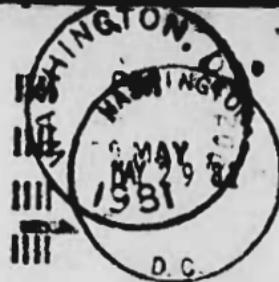
LAW OFFICES OF

MILLER, CANFIELD, PADDOCK AND STONE

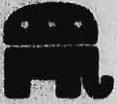
SUITE 1240

1015 FIFTEENTH STREET, N.W.

WASHINGTON, D.C. 20005



Mr. Jonathan Levin
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20413



**Republican
National
Committee**

**E. Mark Braden
House Counsel**

GCC#4774
MOR 1326

11 MAY 28 P12:47
GENERAL INVESTIGATIVE
DIVISION

May 27, 1981

Mr. Jonathan Levin
Federal Election Commission
1325 K Street, N. W.
Washington, D. C. 20463

Dear Mr. Levin:

Enclosed is the job description of a Republican National Committee Regional Political Director. I believe this job description is responsive to your request contained in your May 14th certified letter to William J. McManus, Treasurer of the Republican National Committee.

As I indicated in our telephone discussion, I am unaware of any circumstances under which one of our employees becomes an authorized general agent for a campaign.

If you need further information, or if I can be of other assistance, please do not hesitate to contact me.

Very truly yours,

E. Mark Braden

EMB:jd

Enclosure

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POLITICAL DIRECTOR

Nature of Work:

This is highly responsible professional political work involving the oversight and/or implementation of all RNC programs within an assigned region, to include assistance to candidates and local party organizations. Requires considerable travel. Involves many situations which require considerable independent judgement because of political sensitivity.

Examples of Responsibilities:

Advises State party organizations on plans and programs; advises candidates on campaign strategy and techniques.

Implements RNC programs within the states; signs off on use of RNC resources for local party organizations and candidates.

Meets regularly with state party personnel, RNC members, candidates' staff, etc.

Submits regular reports on the political situation within the assigned region.

Provides assistance and direction to various RNC staff members participating in campaign related activities within the region, such as the Organizational Directors, Field Coordinators, etc.

Requirements:

Considerable experience in campaign management.

Ability to work effectively with staff members, candidates and party officials and ability to exercise sound judgement in sensitive situations.

Must have managed or held a major decision making role in campaigns of congressional size or equivalent.

Must have Party background, down to and including precinct or ward level.

Must have worked in two or more election cycles in major campaigns.

Must have knowledge of campaign media; production and purchasing; fund raising; and research, to include survey research analysis.

32040330589

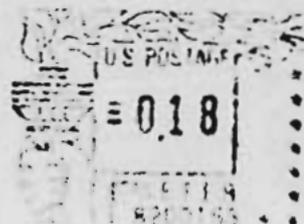


Republican
National
Committee.

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Mr. Jonathan Levin
Federal Election Commission
1325 K Street, N. W.
Washington, D. C. 20463

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81 MAY 28 All: 29



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

May 14, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

J. Curtis Herge, Esq.
Sedam & Herge
7600 Old Springhouse Road
McLean, Virginia 22102

Re: MUR 1326

Dear Mr. Herge:

The Federal Election Commission notified your clients, the National Conservative Political Action Committee ("NCPAC") and John T. Dolan, on October 30, 1980, of a complaint which alleges that your clients violated 2 U.S.C. § 441d, a section of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint and information supplied by you, the Commission, on May 12, 1981 determined that there is reason to believe that NCPAC violated 2 U.S.C. § 441d(a)(3). This section states that "whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate" or "solicits any contribution" through a direct mailing, such communication, "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." The evidence available to us indicates that NCPAC made an expenditure for the purpose of financing a direct mail communication expressly advocating the election of James Abdnor and the defeat of George McGovern in the race for the United States Senate seat from South Dakota and that NCPAC solicited contributions to the Friends for Jim Abdnor through this direct mail communication.

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Letter to: J. Curtis Herge, Esq.
Page 2

While the communication states that it was authorized by NCPAC, the evidence available indicates that the communication was not authorized by the Abdnor Committee and that NCPAC's belief that it was authorized was not reasonable.

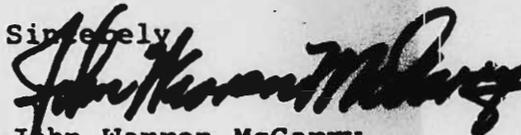
In order to further ascertain the circumstances of this matter, we have enclosed questions. The answers to these questions and any other factual and legal materials which your client believes are relevant to the Commission's analysis of this matter should be submitted within ten days of receipt of this letter. All responses should be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against your client, the Commission may find probable cause to believe that a violation has occurred and proceed with formal conciliation. Of course, this does not preclude the settlement of this matter through informal conciliation prior to a finding of probable cause to believe if your client so desires.

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 your client wishes the matter to be made public.

If you have any questions, please contact Jonathan Levin, the attorney assigned to this matter, at 202-523-4039.

Sincerely,



John Warren McGarry
Chairman

Enclosure
Interrogatories

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Letter to: J. Curtis
Page 2

Will the recipient
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1326

Form 3811, Jan. 1978

SENDER: Complete items 1, 2, and 4.
Add your address in the "RETURN TO" section.

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:
J. Curtis Herge, Esp.
Salem & Herge
7500 Old Springhouse Rd
McLean, Va. 22102

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	438104	

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE Addressee Authorized agent

4. DATE OF DELIVERY
5-19-81

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

INITIALS

★GPO : 1978-288-648

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL



CERTIFIED MAIL
RETURN RECEIPT REQUESTED

J. Curtis Herge, Esq.
Sedam & Herge
7600 Old Springhouse Road
McLean, Virginia 22102

Re: MUR 1326

JJ 5/14/81

Dear Mr. Herge:

The Federal Election Commission notified your clients, the National Conservative Political Action Committee ("NCPAC") and John T. Dolan, on October 30, 1980, of a complaint which alleges that your clients violated 2 U.S.C. § 441d, a section of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint and information supplied by you, the Commission, on _____, 1981 determined that there is reason to believe that NCPAC violated 2 U.S.C. § 441d(a)(3). This section states that "whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate" or "solicits any contribution" through a direct mailing, such communication, "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." The evidence available to us indicates that NCPAC made an expenditure for the purpose of financing a direct mail communication expressly advocating the election of James Abdnor and the defeat of George McGovern in the race for the United States Senate seat from South Dakota and that NCPAC solicited contributions to the Friends for Jim Abdnor through this direct mail communication.

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Letter to: J. Curtis Herge, Esq.
Page 2

While the communication states that it was authorized by NCPAC, the evidence available indicates that the communication was not authorized by the Abdnor Committee and that NCPAC's belief that it was authorized was not reasonable.

In order to further ascertain the circumstances of this matter, we have enclosed questions. The answers to these questions and any other factual and legal materials which your client believes are relevant to the Commission's analysis of this matter should be submitted within ten days of receipt of this letter. All responses should be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against your client, the Commission may find probable cause to believe that a violation has occurred and proceed with formal conciliation. Of course, this does not preclude the settlement of this matter through informal conciliation prior to a finding of probable cause to believe if your client so desires.

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 your client wishes the matter to be made public.

If you have any questions, please contact Jonathan Levin, the attorney assigned to this matter, at 202-523-4639.

Sincerely,

Enclosure
Interrogatories

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FEDERAL ELECTION COMMISSION

TO: Mr. John T. Dolan, Chairman
National Conservative Political Action Committee
MUR 1326

INTERROGATORIES

The following three interrogatories refer to conversations mentioned by you in an affidavit sworn to by you on November 18, 1980, and submitted to the Commission in reply to an allegation made by Jim Abdnor and the Friends for Jim Abdnor:

1. Describe in detail the conversation between you and Mr. Robert W. Moore, Executive Director of the National Republican Senatorial Committee, referred to in Paragraph 8 of the affidavit.
2. Describe in detail the conversation that took place when you telephoned the campaign office of Friends for Jim Abdnor, referred to in Paragraph 9 of the affidavit. Include in your response the identification and position in the Abdnor campaign of the person with whom you were conversing.
3. Describe in detail your conversation with Mr. Charles Bailey, referred to in Paragraphs 10 and 11 of your affidavit.
4. From February 11, 1980, to the present, did you or any employee or representative of the National Conservative Political Action Committee ("NCPAC") have any communication with Mr. Moore or any other employee or representative of the Republican Senatorial Campaign Committee with respect to the Abdnor campaign, other than the conversation referred to in Interrogatory #1? If so, state the date of each communication, the name and position of the persons involved in each communication, and the subject, purpose, and content of each communication.

82040330696

5. From February 11, 1980, to the present, did you or any employee or representative of NCPAC have any communication with Mr. James Abdnor or any employee or representative of or volunteer for Mr. Abdnor or the Abdnor campaign other than the communication referred to in Intererogatory #2 above? If so, state the date of each communication, the name and position of the persons involved in each communication, and the subject, purpose, and content of each communication.

6. From February 11, 1980, to the present, did you or any employee or representative of NCPAC have any communication with Mr. Charles Bailey with respect to the Abdnor campaign other than the communication referred to in Interrogatory #3 above? If so, state the date of each communication, the name and position of the persons involved in each communication, and the subject, purpose, and content of each communication.

7. Describe in detail the expenditures made for the purpose of producing and mailing NCPAC's solicitation for contributions to Friends for Jim Abdnor, dated October 21, 1980. Include in your description the number of solicitations sent out, the names of the recipients of payments made (e.g., printers, direct mail services), the amounts paid to each recipient, the dates upon which each payment was made, and how and when such payments were reported to the Commission.

32040330697



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 14, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James F. Schoener, Esquire
Miller, Canfield, Paddock and Stone
1015 15th Street, N.W.
Suite 1240
Washington, D.C. 20005

Dear Mr. Schoener:

Pursuant to an investigation being conducted by the Federal Election Commission, the Commission seeks responses from Keith Jensen, Campaign Manager of Friends for Jim Abdnor, to the attached interrogatories. Please have Mr. Jensen submit responses to these interrogatories within ten days of your receipt of this letter. His responses should be submitted under oath.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A), a section of the Federal Election Campaign Act of 1971, as amended, will apply. This section prohibits the making public of any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made.

If you have any questions, please contact Jonathan Levin at 202-523-4039.

Sincerely,

John Warren McGarry
Chairman

Enclosure
Interrogatories

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FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D.C. 20535



1326

SENDER: Complete items 1, 2, and 3. Add your address in the "RETURN TO" space above.

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:
James F. Schocner, Esquire
1015 15th St. NW.
Suite 1240
Washington, D.C. 20005

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	901934	

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE Addressee Authorized agent

Mary B

4. DATE OF DELIVERY
5/19/81

5. ADDRESS (Complete only if registered)

6. UNABLE TO DELIVER BECAUSE:

*GPO : 1979-0-250-000

FIRST CLASS PERMIT NO. 1000 WASHINGTON, D.C. 20535



CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James F. Schoener, Esquire
Miller, Canfield, Paddock and Stone
1015 15th Street, N.W.
Suite 1240
Washington, D.C. 20005

Dear Mr. Schoener:

Pursuant to an investigation being conducted by the Federal Election Commission, the Commission seeks responses from Keith Jensen, Campaign Manager of Friends for Jim Abdnor, to the attached interrogatories. Please have Mr. Jensen submit responses to these interrogatories within ten days of your receipt of this letter. His responses should be submitted under oath.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a) (12)(A), a section of the Federal Election Campaign Act of 1971, as amended, will apply. This section prohibits the making public of any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made.

If you have any questions, please contact Jonathan Levin at 202-523-4039.

JL 5/14/81

Sincerely,

Enclosure
Interrogatories

32040330700

FEDERAL ELECTION COMMISSION

TO: Mr. Keith Jensen, Campaign Manager
Friends for Jim Abdnor

1. From February 11, 1980, to the present, did you or any employee or representative of Mr. Abdnor or the Abdnor campaign have any communication with John T. Dolan, Chairman of the National Conservative Political Action Committee ("NCPAC"), or with any employee or representative of NCPAC regarding the campaign of Mr. Abdnor? If so, please state the date of each communication, the name and position of the persons involved in each communication, and the subject, purpose, and content of each communication.

2. Did Mr. Charles Bailey work for the Abdnor campaign?

If so, please state the following:

(a) The time period during which he worked for the campaign (i.e., the date he began working and the date he ceased working);

(b) his position in Friends for Jim Abdnor or in the Abdnor campaign;

(c) his duties while working for the Abdnor campaign;

(d) whether or not he was empowered to authorize any expenditures on behalf of the Abdnor campaign.

82040330701



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 14, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James F. Schoener, Esquire
Miller, Canfield, Paddock and Stone
1015 15th Street, N.W.
Suite 1240
Washington, D.C. 20005

Dear Mr. Schoener:

Pursuant to an investigation being conducted by the Federal Election Commission, the Commission seeks a response from your client, Senator James Abdnor, to the following interrogatory:

From February 11, 1980, to October 21, 1980, did you or your employee or agent or any employee or representative of or volunteer for your campaign for the U.S. Senate have any contact with John T. Dolan, Chairman of the National Conservative Political Action Committee ("NCPAC"), or with an employee or representative of NCPAC regarding your campaign for U.S. Senate? If so, state the date of each communication, the name and position of the persons involved in each communication, and the subject, purpose, and content of each communication.

Please have your client submit a response to this interrogatory within ten days of your receipt of this letter. His response should be submitted under oath.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12) (A), a section of the Federal Election Campaign Act of 1971, as amended, will apply. This section prohibits the making public of any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made.

32040330702

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James F. Schoener, Esquire
Miller, Canfield, Paddock and Stone
1015 15th Street, N.W.
Suite 1240
Washington, D.C. 20005

Dear Mr. Schoener:

Pursuant to an investigation being conducted by the Federal Election Commission, the Commission seeks a response from your client, Senator James Abdnor, to the following interrogatory:

From February 11, 1980, to October 21, 1980, did you or your employee or agent or any employee or representative of or volunteer for your campaign for the U.S. Senate have any contact with John T. Dolan, Chairman of the National Conservative Political Action Committee ("NCPAC"), or with an employee or representative of NCPAC regarding your campaign for U.S. Senate? If so, state the date of each communication, the name and position of the persons involved in each communication, and the subject, purpose, and content of each communication.

Please have your client submit a response to this interrogatory within ten days of your receipt of this letter. His response should be submitted under oath.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12) (A), a section of the Federal Election Campaign Act of 1971, as amended, will apply. This section prohibits the making public of any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made.

JL 5/14/81

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Letter to: James P. Schoener, Esquire
Page 2

If you have any questions, please contact Jonathan
Levin at 202-523-4039.

Sincerely,

82040330705



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 14, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Charles Bailey, Field Representative
Field Division
Republican National Committee
133 South State Street, Room 210
Clearfield, Utah 84015

Dear Mr. Bailey:

Pursuant to an investigation being conducted by the Federal Election Commission, the Commission seeks responses to the attached interrogatories. Please submit responses to these interrogatories within ten days of your receipt of this letter. Your responses should be submitted under oath.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A), a section of the Federal Election Campaign Act of 1971, as amended, will apply. This section prohibits the making public of any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made.

If you have any questions, please contact Jonathan Levin at 202-523-4039.

Sincerely

A handwritten signature in black ink, appearing to read "John Warren McGarry".

John Warren McGarry
Chairman

Enclosure
Interrogatories



1326 Lynn

SENDER: Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space.

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:
Charles Bailey, Field Dir
Field Dir
RRC
133 So. State ST. L 210
Classified Unit 900

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	LO195h	

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE: *Fred King* Address: (Indicated spot)

4. DATE OF DELIVERY:
JUN 1 1961

5. ADDRESS: (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

*GPO: 1970-200-000



82040330707

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Charles Bailey, Field Representative
Field Division
Republican National Committee
153 South State Street, Room 210
Clearfield, Utah 84015

Dear Mr. Bailey:

Pursuant to an investigation being conducted by the Federal Election Commission, the Commission seeks responses to the attached interrogatories. Please submit responses to these interrogatories within ten days of your receipt of this letter. Your responses should be submitted under oath.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12) (A), a section of the Federal Election Campaign Act of 1971, as amended, will apply. This section prohibits the making public of any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made.

If you have any questions, please contact Jonathan Levin at 202-523-4639.

JL 5/12/81

Sincerely,

Enclosure
Interrogatories

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FEDERAL ELECTION COMMISSION

TO: Charles Bailey, Field Representative
Republican National Committee

1. Did you work for the Friends for Jim Abdnor or for James Abdnor's campaign for the United States Senate seat from South Dakota? If so, please state the following:

(a) the time period during which you worked for the campaign (i.e., the date you began working and the date you ceased working);

(b) your position in Friends for Jim Abdnor or in the Abdnor campaign;

(c) your duties while working for the Abdnor campaign;

(d) whether or not you were empowered to authorize expenditures on behalf of the Abdnor campaign by non-employees of the campaign.

2. In September, 1980, did you have a telephone conversation with John T. Dolan, Chairman of the National Conservative Political Action Committee ("NCPAC"), pertaining to the production and distribution of a solicitation of contributions to the Abdnor campaign? If so, describe the details of the conversation and include in your description any words of encouragement you may have expressed to Mr. Dolan.

3. Did you ever have any other communication with Mr. Dolan or with any employee or representative of NCPAC? If so, please describe the details of the communication, including the subject, purpose, and content of such communication.

82040330709



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 14, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Robert W. Moore, Executive Director
National Republican Senatorial Committee
227 Massachusetts Avenue, N.E.
Washington, D.C. 20002

Dear Mr. Moore:

Pursuant to an investigation being conducted by the Federal Election Commission, the Commission seeks a response to the following interrogatory:

In September, 1980, did you have a conversation with Mr. John T. Dolan, Chairman of the National Conservative Political Action Committee ("NCPAC"), in which you discussed the campaign of James Abdnor for the United States Senate? If so, please describe the conversation in detail. Include in your response any reference to Mr. Charles Bailey.

Please submit a response to this interrogatory within ten days of your receipt of this letter. Your response should be submitted under oath.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a) (12)(A), a section of the Federal Election Campaign Act of 1971, as amended, will apply. This section prohibits the making public of any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made.

If you have any questions, please contact Jonathan Levin at 202-523-4039.

Sincerely,

John Warren McGarry
Chairman

32040330710

8 2 0 4 0 3 3 0 7 1 1

FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D.C.



1326 Luma

Form 3811, Jan. 1976

1. SENDER: Complete blocks 1, 2, and 3.
Add your address in the "RETURN TO" service.

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:
Mr. Robert W. Moore, Exec. Dir.
NRSC
227 Mass. Ave. N.E.
Wash. D.C. 20002

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	<i>801R5h</i>	

(Always obtain signature of addressee or agent)

I have received the article described above. | | | |

SIGNATURE Addressee Authorized agent

M. Alexander

4. DATE OF DELIVERY: *MAY 1 1976*

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIALS

★ GPO : 1976-288-000

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

RETURN RECEIPT
CERTIFIED MAIL

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CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Robert W. Moore, Executive Director
National Republican Senatorial Committee
227 Massachusetts Avenue, N.E.
Washington, D.C. 20002

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In September, 1980, did you have a conversation with Mr. John T. Dolan, Chairman of the National Conservative Political Action Committee ("NCPAC"), in which you discussed the campaign of James Abdnor for the United States Senate? If so, please describe the conversation in detail. Include in your response any reference to Mr. Charles Bailey.

Please submit a response to this interrogatory within ten days of your receipt of this letter. Your response should be submitted under oath.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a) (12)(A), a section of the Federal Election Campaign Act of 1971, as amended, will apply. This section prohibits the making public of any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made.

If you have any questions, please contact Jonathan Levin at 202-523-4039.

JL 5/14/81

Sincerely,

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 14, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. William J. McManus, Treasurer
Republican National Committee
310 First Street, S.E.
Washington, D.C. 20003

Dear Mr. McManus:

The Federal Election Commission seeks your assistance in connection with an investigation being conducted. Specifically, the Commission would be interested in a description of the duties and powers of a field representative of the Republican National Committee. To insure that our investigation proceeds expeditiously, please respond within ten days of your receipt of this letter.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a) (12)(A), a section of the Federal Election Campaign Act of 1971, as amended, will apply. This section prohibits the making public of any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made.

If you have any questions, please contact Jonathan Levin at 202-523-4039.

Sincerely,


John Warren McGarry
Chairman

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1326 *Luzon*

SENDER: 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.....
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Show to whom, date, and address of delivery.....

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
Dr. William J. McManus, Treasurer
RVC
310 1st St. S.E.
Washington, D.C. 20003

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	POSTAGE PAID
	<i>60185h</i>	

(Always obtain signature of addressee or postmaster.)

I have received the article described above.

SIGNATURE ADDRESS POSTAGE PAID

[Signature]

4. DATE OF DELIVERY

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIALS

TYPED OR PRINTED NAME AND CERTIFIED MAIL

115073003

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. William J. McManus, Treasurer
Republican National Committee
310 First Street, S.E.
Washington, D.C. 20003

Dear Mr. McManus:

The Federal Election Commission seeks your assistance in connection with an investigation being conducted. Specifically, the Commission would be interested in a description of the duties and powers of a field representative of the Republican National Committee. To insure that our investigation proceeds expeditiously, please respond within ten days of your receipt of this letter.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a) (12)(A), a section of the Federal Election Campaign Act of 1971, as amended, will apply. This section prohibits the making public of any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made.

If you have any questions, please contact Jonathan Levin at 202-523-4039.

Sincerely,

JL 5/14/81

32040330715

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
National Conservative Political) MUR 1326
Action Committee)
John T. Dolan)

CERTIFICATION

I, Marjorie W. Emmons, Recording Secretary for the Federal Election Commission's Executive Session on May 12, 1981, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MUR 1326:

1. Find reason to believe that the National Conservative Political Action Committee violated 2 U.S.C. §441d(a) (3).
2. Approve the letters with questions attached to the General Counsel's May 1, 1981 report.

Commissioners Aikens, Harris, McGarry, Reiche, and Thomson voted affirmatively for the decision; Commissioner Tiernan did not vote.

Attest:

5/12/81
Date

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

82040330716

May 1, 1981

MEMORANDUM TO: Marjorie W. Emmons
FROM: Elissa T. Garr
SUBJECT: MUR 1326

Please have the attached First GC Report distributed to the Commission on a 48 hour tally basis. Thank you.

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SENSITIVE

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

FIRST GENERAL COUNSEL'S REPORT

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

DATE AND TIME OF TRANSMITTAL
BY OGC TO THE COMMISSION 5-1-81

SUMMARY 102# 2-17
DATE COMPLAINT RECEIVED
BY OGC Oct. 29, 1980

STAFF MEMBER J. Levin

COMPLAINANT'S NAME: Jim Abdnor
Friends for Jim Abdnor
RESPONDENT'S NAME: National Conservative Political Action
Committee
John T. Dolan
RELEVANT STATUTE: 2 U.S.C. § 441d(a)(3)

INTERNAL REPORTS CHECKED: Public Records

FEDERAL AGENCIES CHECKED: None

SUMMARY OF ALLEGATIONS

On October 29, 1980, the Federal Election Commission received a complaint filed by Jim Abdnor and Friends for Jim Abdnor ("the Abdnor Committee"), the principal campaign committee for Mr. Abdnor's candidacy for the United States Senate seat from South Dakota. The complaint is against the National Conservative Political Action Committee ("NCPAC") and John T. Dolan, Chairman of NCPAC. It alleges that respondents violated 2 U.S.C. § 441d in that literature mailed by NCPAC on or about October 21, 1980, soliciting contributions to the Abdnor Committee "purport[ed] to be 'authorized by Friends for Abdnor'" even though the Abdnor Committee gave no such authorization.

FACTUAL AND LEGAL ANALYSIS

To support the allegation, complainant Abdnor states that he "has questioned all persons in authority in his campaign and has been unable to find any such person who has in any manner made any such authorization." He also attached an affidavit from Keith Jensen, the campaign manager for the Abdnor Committee, stating that "neither he nor any person in authority in [the] campaign committee authorized [NCPAC] to issue any literature on behalf" of Abdnor or the Abdnor Committee and that the particular solicitation of funds addressed in this matter was made without the "direct or indirect authorization" of the Abdnor Committee or "of any person with the right to act for the committee or the candidate." The

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complainant also attached a copy of the literature which included a solicitation letter dated October 21, 1980, and signed by Mr. Dolan and a contributor information card to accompany the contributor's check. Both the letter and the card displayed the disclaimer, "Paid for by the National Conservative Political Action Committee and authorized by Friends for Abdnor." (See Attachment 1).

In reply to the complaint, counsel for NCPAC, J. Curtis Herge, claims that NCPAC reasonably believed that it was authorized by the Abdnor Committee to send the solicitation. Mr. Herge also enclosed the sworn affidavit of Mr. Dolan making substantially the same claim. (See Attachment 2).

In their responses, Mr. Herge and Mr. Dolan make the following factual assertions:

NCPAC had been engaged in a program of making independent expenditures in opposition to the nomination and election of Senator George McGovern to the United States Senate from South Dakota. Because NCPAC's intent was to make independent expenditures, it avoided having any communication with Mr. Abdnor or individuals associated with his authorized committees. On or about August 5, 1980, NCPAC decided to cease making independent expenditures in connection with the South Dakota Senate race. It then decided to "lend direct support to the election of Jim Abdnor and conceived the idea of producing and distributing a direct mail solicitation of contributions to Friends of Jim Abdnor." In mid-September, Mr. Dolan telephoned the Executive Director of the National Republican Senatorial Committee (referred to as the "Republican Senatorial Campaign Committee" by the respondents), Robert N. Moore, for the purpose of discussing the Abdnor campaign, and Mr. Moore told him that "Charles Bailey was 'now in charge,' or similar words to that effect." Mr. Dolan telephoned the Abdnor Committee in order to speak to Mr. Bailey and was informed that Mr. Bailey could be reached at his hotel in Sioux Falls, South Dakota. Mr. Dolan telephoned Mr. Bailey at the latter's hotel and explained that NCPAC had terminated its independent expenditure program and was considering the production of a direct mail solicitation for the Abdnor Committee. Mr. Bailey responded "in an encouraging and positive manner" and, to the best of Mr. Dolan's recollection, used phrases such as "'That would be great, I know they really need the money... I'm sure that they would appreciate it.'" Mr. Dolan believed, in good faith, that Mr. Bailey was an authorized agent of the Abdnor Committee and that his positive response constituted an authorization

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to conduct the solicitation. Following the receipt of a copy of the complaint from the Office of General Counsel, NCPAC learned that Mr. Bailey was a field representative of the Republican National Committee ("RNC") with offices in Clearfield, Utah. 1/

Mr. Herge maintains that, because NCPAC had avoided communication with the Abdnor Committee during the independent expenditure program, it is understandable that Mr. Dolan would not have known that Mr. Bailey was not an employee of the Abdnor Committee. Mr. Herge reasons that, because Mr. Dolan reasonably believed that Mr. Bailey was "directly affiliated" with the Abdnor Committee and because Mr. Bailey gave "positive encouragement" to Mr. Dolan, NCPAC believed that its project was authorized by the Abdnor Committee.

In the alternative, Mr. Herge claims that, even if Mr. Dolan had known that Mr. Bailey was an RNC employee and not an Abdnor Committee employee, Mr. Bailey, as an RNC Field Representative, met the definition of "agent" in 11 C.F.R. § 109.1(b)(5), and that, therefore, the solicitation was not an independent expenditure, but an activity authorized by the Abdnor Committee.

Section 441d(a)(3) of title 2 states as follows:

(a) Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, 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.

1/ The only in-kind contribution to the Abdnor campaign reported by NCPAC since September, 1980, was a \$70.94 payment to Welsh Printing of Falls Church, Virginia, on December 9, 1980. On April 1, 1981, the attorney for the complainants sent this office a copy of a letter sent to Senator Abdnor by NCPAC informing him of a \$70.94 expenditure made on behalf of the Abdnor campaign on December 9, 1980. The letter referred to NCPAC's obligation to report "contributions," and it listed the \$70.94 payment with the notation "In-kind." This figure was the only amount listed in the letter.

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Complainants contend that the communication was not authorized by them, and that the communication failed to so state and, in fact, stated the contrary. Respondents, by claiming that they reasonably believed that the communication was authorized, maintain that they should not be considered as being in violation of 2 U.S.C. § 441d(a)(3).

Respondents first contend that Mr. Dolan's belief that Mr. Bailey was empowered to act for the Abdnor Committee was reasonable. It appears, however, that Mr. Dolan's belief that Mr. Bailey was authorized to act for the Abdnor Committee was initially premised upon a representation made not by the Abdnor Committee but by the National Republican Senatorial Committee. Respondent's accounts of subsequent contacts made by Mr. Dolan with the Abdnor Committee and with Mr. Bailey give no indication that either party made any further representations as to the matter of Mr. Bailey's authority. The account of Mr. Dolan's contact with the Abdnor Committee merely indicates that the Abdnor Committee gave the location of Mr. Bailey. The account of Mr. Dolan's contact with Mr. Bailey simply indicates that, after discussing the proposed solicitation, Mr. Bailey responded to the proposal in an encouraging manner. Furthermore, Mr. Bailey's use of the phrases, "That would be great, I know they really need the money... I'm sure that they would appreciate it," (emphasis added) might indicate that he was speaking as someone apart from the Abdnor Committee rather than as someone acting on behalf of the Abdnor Committee. Thus, there is enough doubt as to the reasonableness of Mr. Dolan's belief that Mr. Bailey was empowered to act for the Abdnor Committee to warrant further inquiry.

Respondents also appear to contend that, assuming Mr. Bailey was empowered to act for the Abdnor Committee, the language used by Mr. Bailey would constitute an authorization to NCPAC.

However, the phrases quoted above, which are used by the respondents as exemplars of encouragement, appear to be expressions of the opinion that the Abdnor Committee would like such activity to be conducted, rather than instructions that such activity is authorized. Thus, further inquiry into the encouragement provided by Mr. Bailey is also necessary.

Mr. Herge's claim that Mr. Bailey met the definition of "agent" set out in 11 C.F.R. § 109.1(b)(5) and that, therefore, the disclaimer on the literature was correct does not dispose of the matter but merely raises questions needed to be addressed. According to 11 C.F.R. § 109.1(b)(5), the term "agent" means:

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any person who has actual oral or written authority, either express or implied, to make or to authorize the making of expenditures on behalf of a candidate, or means any person who has been placed in a position within the campaign organization where it would reasonably appear that in the ordinary course of campaign-related activities he or she may authorize expenditures.

Mr. Abdnor's sworn affidavit indicates that Mr. Bailey was not given express actual authority, i.e., authority which is "directly granted or conferred upon the agent or employee in express terms and [which] extends only to such powers as the principal gives the agent in direct terms, with the express provisions controlling." 2 Am. Jur. 2d Agency § 69 (1962). Questions must still be asked as to whether or not Mr. Bailey was given implied actual authority, i.e., "actual authority, circumstantially proven, which the principal is deemed to have actually intended the agent to possess." Id. at § 71. It must also be ascertained whether or not Mr. Bailey as a field representative of RNC, was placed in a position within the Abdnor campaign where it would reasonably have appeared that he was allowed to authorize expenditures. Even if it were determined that Mr. Bailey was an agent of the Abdnor Committee under 11 C.F.R. § 109.1(b)(5), inquiry would still have to be made as to whether or not Mr. Bailey's statements to Mr. Dolan constituted an authorization to conduct the solicitation.

The information presented to us undercuts the reasonableness of respondents' assertion that NCPAC was authorized to produce and distribute the solicitation. Therefore, the General Counsel recommends that the Commission find reason to believe that the National Conservative Political Action Committee violated 2 U.S.C. § 441d(a)(3) in connection with its expenditure for the direct mail communication and in connection with the making of the solicitation itself. The General Counsel makes no separate recommendation with regard to John T. Dolan. Although his name appears on the solicitation letter, his only involvement seems to have been in an agency capacity on behalf of NCPAC. As a recommendation is being made with regard to NCPAC, the General Counsel believes that a recommendation regarding Mr. Dolan is unnecessary.

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Recommendations

1. Find reason to believe that the National Conservative Political Action Committee violated 2 U.S.C. § 441d(a)(3).
2. Approve the attached letters with questions.

Attachments

1. Complaint of Jim Abdnor and Friends for Jim Abdnor.
2. Response from J. Curtis Herge, attorney for respondents, including affidavit of John T. Dolan.
3. Letter to Mr. Herge with attached questions.
4. Letter to James F. Schoener, attorney for complainants, with attached questions for Keith Jensen, Campaign Manager for Friends for Jim Abdnor.
5. Letter to Mr. Schoener containing a question for Senator Abdnor.
6. Letter to Charles Bailey, RNC Field Representative, with attached questions.
7. Letter to Robert W. Moore, Executive Director of the National Republican Senatorial Committee.
8. Letter to William J. McManus, RNC Treasurer.

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UNITED STATES OF AMERICA
Before The
FEDERAL ELECTION COMMISSION

JIM ABDNOR, For himself and for)
FRIENDS OF JIM ABDNOR, his principal)
campaign committee,)
Complainant,)
v.)
NATIONAL CONSERVATIVE POLITICAL)
ACTION COMMITTEE, and JOHN T. DOLAN,)
Respondents.)

M.U.R. # _____

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GENERAL INVESTIGATIVE DIVISION

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COMPLAINT

Jim Abdnor, for himself and for his principal campaign committee, being duly sworn, deposes and says as follows:

1. That he is a candidate for the office of United States Senate from the State of South Dakota in the election of 1980; that he has designated Friends for Jim Abdnor as his principal campaign committee for such election; that there are no affiliated committees.
2. That respondent National Conservative Political Action Committee is a registered multicandidate committee under the Federal Election Campaign Act; that John T. Dolan is an officer of such committee.
3. That on or about the 21st day of October 1980, respondents mailed a certain piece of literature, of the amount and numbers unknown to your complainant, a copy of such literature is attached as exhibit A.

Attachment 1 - p. 1 of 6

4. That such literature purports to be "authorized by Friends for Abdnor".

5. That your complainant has not authorized any member of his staff, nor officer or agent of his Committee to authorize the issuance of such literature; that your complainant has questioned all persons in authority with his campaign and has been unable to find any such person who has in any manner made any such authorization.

6. That the use of the disclaimer indicating that this literature was issued under authorization of the "Friends for Abdnor" is not true or correct and therefore is in violation of the provisions of 2 U.S.C. §441d.

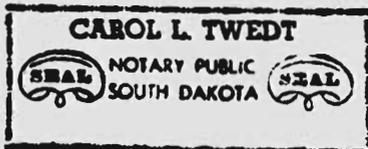
7. That attached hereto as exhibit B is an affidavit of Keith Jensen, campaign manager of the Friends for Jim Abdnor, indicating that he has made a similar investigation of all persons in authority with said campaign and that no such authorization has been made by any person.

Wherefore complainant prays that the Federal Election Commission take such proper action as indicated by the provisions of the Federal Election Campaign act.

Jim Abdnor

Jim Abdnor, Complainant

This complaint was sworn to before me a Notary Public in and for the County of Minnehaha, State of South Dakota, on the 28th day of October, 1980, by Jim Abdnor, who swore to the facts contained herein and made the same under the provisions of 18 U.S.C. 1001.



Carol L. Twedt

Carol Twedt, Notary Public
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1 - p. 2 of 6

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National Conservative Political Action Committee

1500 wilson blvd. suite 513 arlington, va. 22209 (703) 522-2800

October 21, 1980

Dear Friend:

Emergency is a word I don't use lightly!

But you have an emergency in South Dakota that will have an impact on the future of America.

I'm talking about the U.S. Senate race to defeat George McGovern.

You've been very generous in the past exposing George McGovern's liberal record. Because of your assistance, NCPAC and the People for an Alternative to McGovern (PFAM) have been able to tell tens of thousands of South Dakotans about George McGovern's extreme liberalism. At one time, our television commercials were playing 200 times per week.

But unfortunately, our activities have been no match to McGovern's. We spent less than \$200,000, while McGovern plans to spend over \$2.5 million.

As a matter of fact, McGovern will outspend his conservative opponent, Jim Abdnor, by at least \$1 million.

I'm afraid that unless you act today, George McGovern just might win re-election!

Recent polls show a very close race between McGovern and Congressman Abdnor, and the fact that he will outspend Abdnor puts the outcome in doubt.

You can do something about it.

And I don't want you to send money to NCPAC. It's simply too late for that. We've done our job exposing McGovern's record. Now the best thing we can do is let South Dakotans know what an excellent Senator Jim Abdnor will be.

Imagine what a refreshing change to have Jim Abdnor sitting where George McGovern is today.

Here's what you can do about it. I've enclosed a special return envelope made out directly to Congressman Abdnor's campaign committee.

Please take a moment to write out a check to FRIENDS FOR ABDNOR and send it to him right away. I'd be grateful if you would send as much as \$1,000, but \$500, \$100, or \$50 would be very helpful as well. Even \$25 or \$15 would be appreciated if you send it today.

With the election only two weeks away, you can imagine how short cash must be at the Abdnor campaign. Television, radio and newspaper ads must be bought. The volunteer and get-out-the vote

activities must be mobilized. Letters to targeted voters must be sent.

So your contribution directly to the Abdnor campaign will be a godsend!

And please don't put this letter down thinking you'll get back to it later.

Just think about the terrible things Geroge McGovern did to America and South Dakota when he --

--voted to give away our Panama Canal

--voted against most major new defense systems including the the B-1 bomber, the MX missile, the Trident submarine.

--voted to raise the national debt on every recorded vote since he's been in the U.S. Senate.

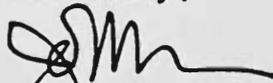
I could remind you about other things George McGovern has done, but I hope you are already aware of them and mad enough to do something about it.

I honestly believe that you will be letting down South Dakota and America unless you send your largest maximum check to FRIENDS FOR ABDNOR immediately.

That may sound harsh, but you and I have come too far to let McGovern win at the last moment by default.

This is your last chance to defeat McGovern. Please don't let us down!

Sincerely,



John T. (Terry) Dolan

P.S. Please send your check directly to FRIENDS FOR ABDNOR. NCPAC has done its job exposing McGovern's record. Now we must help Congressman Abdnor show that an excellent Senator he will be. With only two weeks until the election, you must send your maximum check today!

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FRIENDS FOR JIM ABDNOR
P.O. Box 5004
Sioux Falls, S.D. 57117

Dear Jim:

I know how important it is for you to defeat George McGovern, and I want to help you. NCPAC has done its job in exposing Cranston's record -- now go out and win!

I enclose my maximum contribution of

\$1,000 \$500 \$250
 \$100 \$50 \$25 \$15

Put it to good use and be our next Senator!

NAME _____

ADDRESS _____

CITY and ZIP: _____

OCCUPATION _____

PRINCIPAL PLACE OF BUSINESS _____

Please make checks payable to:
FRIENDS FOR JIM ABDNOR

National Conservative
Political Action Committee

1500 blvd suite 513 arlington, va. 22209 (703) 522-2800



FRIENDS FOR JIM ABDNOR
P.O. Box 5004
Sioux Falls, S.D. 57117

1 - p. 5 of 6

UNITED STATES OF AMERICA
Before The
FEDERAL ELECTION COMMISSION

M.U.R. # _____

AFFIDAVIT OF KEITH JENSEN

Keith Jensen, being duly sworn, deposes and says as follows:

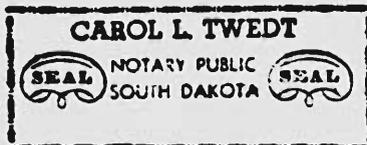
1. That he is the campaign manager of Friends for Jim Abdnor, the principal campaign committee of Jim Abdnor in his campaign for United States Senate.
2. That neither he nor any person in authority in said campaign committee authorized the National Conservative Political Action Committee to issue any literature on behalf of the said candidate, Jim Abdnor, nor on behalf of the principal campaign committee.
3. That the solicitation for funds allegedly made on behalf of the "Friends for Abdnor" was without the direct or indirect authorization of said principal campaign committee, and without direct or indirect authorization of any person with the right to act for said committee or the candidate.
4. That the letter requesting funds, dated October 21, 1980, was never exhibited, shown or in any manner cleared with the undersigned or any other person in authority with Friends for Jim Abdnor.

Sworn to as true and correct and under penalty of perjury under 18 U.S.C. 1001.

Keith Jensen

Keith Jensen

This complaint was sworn to before me a Notary Public in and for the County of Minnehaha, State of South Dakota, on the 28th day of October, 1980, by Keith Jensen, who swore to the facts contained herein and made the same under the provisions of 18 U.S.C. 1001.



Carol L. Twedt

Carol Twedt, Notary Public

mlele 12/2/84

1 - p. 6 of 6

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SEDAM & HERGE

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
7800 OLD SPRINGHOUSE ROAD
MCLEAN, VIRGINIA 22102

GLENN J. SEDAM, JR.
J. CURTIS HERGE

(703) 821-1000

1700 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006
(202) 393-7124
TWX/TELEX: 710-631-0896
CABLE: SEDAMHERGE

ROBERT R. SPARKS, JR.
MICHAEL D. HUGHES
A. MARK CHRISTOPHER
KAREN LUSSEN BLAIR
JOHN ROBERT CLARK III
J. STANLEY PAYNE, JR.

November 17, 1980

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

Attention: Anne Cauman, Esq.

Re: MUR 1326(80)

Dear Mr. Steele:

This letter is written on behalf of our clients, John T. Dolan and National Conservative Political Action Committee, 1500 Wilson Boulevard, Arlington, Virginia 22209 (hereinafter referred to as "NCPAC"), in response to your letter, dated October 30, 1980, in which you reported that the Federal Election Commission had received a complaint from Friends of Jim Abdnor, alleging that Mr. Dolan and NCPAC may have violated 2 U.S.C. 441d. This matter has been numbered MUR 1326(80).

The record will show that, with respect to the election of a United States Senator from the State of South Dakota, NCPAC had been engaged in a program of making independent expenditures in opposition to the nomination and election of Senator George McGovern. On or about August 5, 1980, NCPAC decided to terminate that program and to no longer make independent expenditures in connection with the election of a United States Senator from the State of South Dakota. Subsequent thereto, in mid-September, the Chairman of NCPAC, John T. Dolan, was advised by the Executive Director of the Republican Senatorial Campaign Committee the individual he should talk to about the Abdnor campaign was Charles Bailey. As explained in the attached affidavit of Mr. Dolan, acting in the belief that Mr. Bailey was directly affiliated with Friends of Jim Abdnor, Mr. Dolan explained to Mr. Bailey

Attachment 2 - p. 1 of 7

32040330730

The Honorable Charles N. Steele
Page Two
November 17, 1980

that NCPAC had terminated its independent expenditure program and that it was considering producing a direct-mail fund-raising solicitation for Friends of Jim Abdnor. Upon information and belief, Mr. Bailey responded in an encouraging and positive manner, using phrases such as, "That would be great, I know they really need the money....I'm sure they would appreciate it." Mr. Dolan interpreted Mr. Bailey's positive response to the proposed mailings as an authorization to proceed on behalf of Friends of Jim Abdnor.

Following the receipt of the subject complaint, we have learned that Mr. Bailey was an employee of the Republican National Committee. Upon information and belief, Mr. Bailey's address and telephone number is:

Mr. Charles Bailey
Field Representative
Field Division
Republican National Committee
133 South State Street, Room 210
Clearfield, Utah 84015
(801) 825-2256

The fact that Mr. Dolan did not know, at the time of his communication with Mr. Bailey, that Mr. Bailey was not an employee of Friends of Jim Abdnor is understandable since NCPAC and its personnel had scrupulously avoided having any communications with the Abdnor campaign during the independent expenditure program. Furthermore, having been in communication with an individual who Mr. Dolan reasonably believed was directly affiliated with Friends of Jim Abdnor and who gave Mr. Dolan positive encouragement, NCPAC believed its project was in fact authorized by Friends of Jim Abdnor.

It is submitted that, even if Mr. Dolan had known Mr. Bailey were an employee of the Republican National Committee, and not an employee of Friends of Jim Abdnor, the stated disclaimer on the subject letter was correct. This is because Mr. Bailey, as a Field Representative of the Republican National Committee, met the definition of "agent" in 11 CFR 109.1(b)(5), meaning that the activity could not have been an independent expenditure.

2 - p. 2 of 7

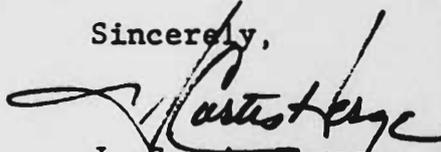
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The Honorable Charles N. Steele
Page Two
November 17, 1980

In conclusion, NCPAC was in communication with an individual who it fairly and reasonably believed was an agent of Friends of Jim Abdnor. In reliance upon that individual's representations, NCPAC produced the fundraising solicitation package and, in good faith, reported that the solicitation had been authorized by Friends of Jim Abdnor. As a result, the complaint should be dismissed.

Respectfully submitted,

Sincerely,



J. Curtis Herge
Counsel to National
Conservative Political
Action Committee

32040330732

2 - p. 3 of 7

UNITED STATES OF AMERICA
Before the
FEDERAL ELECTION COMMISSION

JIM ABDNOR, For himself and
for FRIENDS OF JIM ABDNOR,
his principal campaign
committee,

Complainant,

v.

MUR 1326(80)

NATIONAL CONSERVATIVE POLITICAL
ACTION COMMITTEE and JOHN T.
DOLAN,

Respondents.

AFFIDAVIT OF JOHN T. DOLAN

JOHN T. DOLAN, being duly sworn, deposes and says,
as follows:

1. That he is Chairman of National Conservative
Political Action Committee, 1500 Wilson Boulevard, Arlington,
Virginia 22209, the Respondent named in the Complaint filed
with the Federal Election Commission by Jim Abdnor, for
himself and for Friends of Jim Abdnor, his principal campaign
committee, dated October 28, 1980, and numbered MUR 1326(80).

2. That he is familiar with the facts and circum-
stances preceding the production and distribution by National
Conservative Political Action Committee of the direct-mail

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fundraising solicitation letter, dated ~~10~~ October 21, 1980, a copy of which was attached to the Complaint as Exhibit A.

3. That National Conservative Political Action Committee had been engaged in a program of making independent expenditures in opposition to the nomination and election of George S. McGovern to the United States Senate from the State of South Dakota.

4. That, by reason of its program of making independent expenditures in opposition to the said nomination and election of George S. McGovern, your deponent and other individuals associated with National Conservative Political Action Committee were scrupulous in avoiding having any communication with Jim Abdnor and individuals associated with his authorized committees.

5. That, as a result of the absence of communications as set forth in paragraph 4 hereof, your deponent was not familiar with the identity of the individuals associated with the authorized committees of Jim Abdnor.

6. That, on or about August 5, 1980, National Conservative Political Action Committee terminated its program of making independent expenditures in connection with the election of a United States Senator from the State of South Dakota.

7. That, subsequent to the termination of the program as set forth in paragraph 6 hereof, your deponent

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concluded that National Conservative Political Action Committee would lend direct support to the election of Jim Abdnor and conceived the idea of producing and distributing a direct-mail solicitation of contributions to Friends of Jim Abdnor.

8. That, in mid-September, your deponent telephoned Robert W. Moore, Executive Director of the Republican Senatorial Campaign Committee, for the purpose of discussing the campaign of Rep. Abdnor and was told by Mr. Moore that Charles Bailey was "now in charge," or similar words to that effect.

9. That, in the belief that Charles Bailey was directly affiliated with Friends of Jim Abdnor, your deponent subsequently telephoned the campaign offices of Friends of Jim Abdnor for the purpose of talking to Charles Bailey; and, was advised that Charles Bailey could be reached at his hotel in Sioux Falls, South Dakota.

10. That your deponent telephoned Charles Bailey, at his hotel in Sioux Falls, South Dakota, and discussed the proposed production and distribution of the solicitation as aforesaid.

11. That Charles Bailey's response to the proposal was encouraging and positive and, to the best of your deponent's recollection, Mr. Bailey also specifically stated: "That would be great, I know they really need the money....I'm sure that they would appreciate it."

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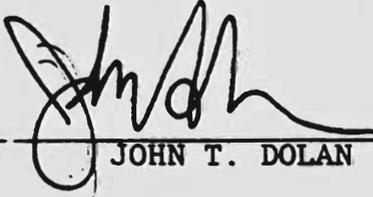
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12. That your deponent believed, in good faith, that Charles Bailey was an authorized agent of Friends of Jim Abdnor and that his positive response to the proposed mailing constituted an authorization to produce and distribute the mailing on behalf of Friends of Jim Abdnor.

13. That your deponent is advised that Charles Bailey is a Field Representative of the Republican National Committee, with offices at 133 South State Street, Clearfield, Utah.

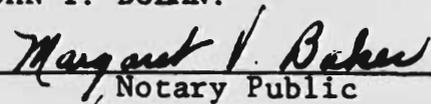
14. That your deponent verily believes that he acted in good faith in the reasonable belief that Charles Bailey was an authorized agent of Friends of Jim Abdnor and that he and/or National Conservative Political Action Committee had secured the authority of Friends of Jim Abdnor to produce and distribute the mailing, a copy of which is attached to the Complaint as Exhibit A.

Sworn to as true and correct this 18 day of November, 1980.



JOHN T. DOLAN

This Affidavit was sworn to before me, a Notary Public in and for the County of Arlington, State of Virginia, on the 18th day of November, 1980, by JOHN T. DOLAN.



Notary Public
Virginia AT LARGE

My commission expires:
11-14-82



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

J. Curtis Herge, Esq.
Sedam & Herge
7600 Old Springhouse Road
McLean, Virginia 22102

Re: MUR 1326

Dear Mr. Herge:

The Federal Election Commission notified your clients, the National Conservative Political Action Committee ("NCPAC") and John T. Dolan, on October 30, 1980, of a complaint which alleges that your clients violated 2 U.S.C. § 44ld, a section of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint and information supplied by you, the Commission, on _____, 1981 determined that there is reason to believe that NCPAC violated 2 U.S.C. § 44ld(a)(3). This section states that "whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate" or "solicits any contribution" through a direct mailing, such communication, "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." The evidence available to us indicates that NCPAC made an expenditure for the purpose of financing a direct mail communication expressly advocating the election of James Abdnor and the defeat of George McGovern in the race for the United States Senate seat from South Dakota and that NCPAC solicited contributions to the Friends for Jim Abdnor through this direct mail communication.

Attachment 3 - p. 1 of 4

32040330737

Letter to: J. Curtis Herge, Esq.
Page 2

While the communication states that it was authorized by NCPAC, the evidence available indicates that the communication was not authorized by the Abdnor Committee and that NCPAC's belief that it was authorized was not reasonable.

In order to further ascertain the circumstances of this matter, we have enclosed questions. The answers to these questions and any other factual and legal materials which your client believes are relevant to the Commission's analysis of this matter should be submitted within ten days of receipt of this letter. All responses should be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against your client, the Commission may find probable cause to believe that a violation has occurred and proceed with formal conciliation. Of course, this does not preclude the settlement of this matter through informal conciliation prior to a finding of probable cause to believe if your client so desires.

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 your client wishes the matter to be made public.

If you have any questions, please contact Jonathan Levin, the attorney assigned to this matter, at 202-523-4039.

Sincerely,

Enclosure
Interrogatories

3 - p. 2 of 4

32040330738

FEDERAL ELECTION COMMISSION

TO: Mr. John T. Dolan, Chairman
National Conservative Political Action Committee
MUR 1326

INTERROGATORIES

The following three interrogatories refer to conversations mentioned by you in an affidavit sworn to by you on November 18, 1980, and submitted to the Commission in reply to an allegation made by Jim Abdnor Friends for Jim Abdnor:

1. Describe in detail the conversation between you and Mr. Robert W. Moore, Executive Director of the National Republican Senatorial Committee, referred to in Paragraph 8 of the affidavit.
2. Describe in detail the conversation that took place when you telephoned the campaign office of Friends for Jim Abdnor, referred to in Paragraph 9 of the affidavit. Include in your response the identification and position in the Abdnor campaign of the person with whom you were conversing.
3. Describe in detail your conversation with Mr. Charles Bailey, referred to in Paragraphs 10 and 11 of your affidavit.
4. From February 11, 1980, to the present, did you or any employee or representative of the National Conservative Political Action Committee ("NCPAC") have any communication with Mr. Moore or any other employee or representative of the Republican Senatorial Campaign Committee with respect to the Abdnor campaign, other than the conversation referred to in Interrogatory #1? If so, state the date of each communication, the name and position of the persons involved in each communication, and the subject, purpose, and content of each communication.

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5. From February 11, 1980, to the present, did you or any employee or representative of NCPAC have any communication with Mr. James Abdnor or any employee or representative of or volunteer for Mr. Abdnor or the Abdnor campaign other than the communication referred to in Interrogatory #2 above? If so, state the date of each communication, the name and position of the persons involved in each communication, and the subject, purpose, and content of each communication.

6. From February 11, 1980, to the present, did you or any employee or representative of NCPAC have any communication with Mr. Charles Bailey with respect to the Abdnor campaign other than the communication referred to in Interrogatory #3 above? If so, state the date of each communication, the name and position of the persons involved in each communication, and the subject, purpose, and content of each communication.

7. Describe in detail the expenditures made for the purpose of producing and mailing NCPAC's solicitation for contributions to Friends for Jim Abdnor, dated October 21, 1980. Include in your description the number of solicitations sent out, the names of the recipients of payments made (e.g., printers, direct mail services), the amounts paid to each recipient, the dates upon which each payment was made, and how and when such payments were reported to the Commission.

32040330740



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James F. Schoener, Esquire
Jenkins, Nystrom & Sterlacci, P.C.
2033 M Street, N.W.
Washington, D.C. 20036

Dear Mr. Schoener:

Pursuant to an investigation being conducted by the Federal Election Commission, the Commission seeks responses from Keith Jensen, Campaign Manager of Friends for Jim Abdnor, to the attached interrogatories. Please have Mr. Jensen submit responses to these interrogatories within ten days of your receipt of this letter. His responses should be submitted under oath.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A), a section of the Federal Election Campaign Act of 1971, as amended, will apply. This section prohibits the making public of any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made.

If you have any questions, please contact Jonathan Levin at 202-523-4039.

Sincerely,

Enclosure
Interrogatories

Attachment 4 - p. 1 of 2

32040330741

FEDERAL ELECTION COMMISSION

TO: Mr. Keith Jensen, Campaign Manager
Friends for Jim Abdnor

1. From February 11, 1980, to the present, did you or any employee or representative of Mr. Abdnor or the Abdnor campaign have any communication with John T. Dolan, Chairman of the National Conservative Political Action Committee ("NCPAC"), or with any employee or representative of NCPAC regarding the campaign of Mr. Abdnor? If so, please state the date of each communication, the name and position of the persons involved in each communication, and the subject, purpose, and content of each communication.

2. Did Mr. Charles Bailey work for the Abdnor campaign?

If so, please state the following:

(a) The time period during which he worked for the campaign (i.e., the date he began working and the date he ceased working);

(b) his position in Friends for Jim Abdnor or in the Abdnor campaign;

(c) his duties while working for the Abdnor campaign;

(d) whether or not he was empowered to authorize any expenditures on behalf of the Abdnor campaign.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James F. Schoener, Esquire
Jenkins, Nystrom & Sterlacci, P.C.
2033 M Street, N.W.
Washington, D.C. 20036

Dear Mr. Schoener:

Pursuant to an investigation being conducted by the Federal Election Commission, the Commission seeks a response from your client, Senator James Abdnor, to the following interrogatory:

From February 11, 1980, to October 21, 1980, did you or your employee or agent or any employee or representative of or volunteer for your campaign for the U.S. Senate have any contact with John T. Dolan, Chairman of the National Conservative Political Action Committee ("NCPAC"), or with an employee or representative of NCPAC regarding your campaign for U.S. Senate? If so, state the date of each communication, the name and position of the persons involved in each communication, and the subject, purpose, and content of each communication.

Please have your client submit a response to this interrogatory within ten days of your receipt of this letter. His response should be submitted under oath.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A), a section of the Federal Election Campaign Act of 1971, as amended, will apply. This section prohibits the making public of any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made.

Attachment 5 - p. 1 of 2

32040330743

Letter to: James P. Schoener, Esquire
Page 2

If you have any questions, please contact Jonathan
Levin at 202-523-4039.

Sincerely,

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5 - p. 2 of 2



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Charles Bailey, Field Representative
Field Division
Republican National Committee
133 South State Street, Room 210
Clearfield, Utah 84015

Dear Mr. Bailey:

Pursuant to an investigation being conducted by the Federal Election Commission, the Commission seeks responses to the attached interrogatories. Please submit responses to these interrogatories within ten days of your receipt of this letter. Your responses should be submitted under oath.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12) (A), a section of the Federal Election Campaign Act of 1971, as amended, will apply. This section prohibits the making public of any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made.

If you have any questions, please contact Jonathan Levin at 202-523-4039.

Sincerely,

Enclosure
Interrogatories

Attachment 6 - p. 1 of 2

32040330743

FEDERAL ELECTION COMMISSION

TO: Charles Bailey, Field Representative
Republican National Committee

1. Did you work for the Friends for Jim Abdnor or for James Abdnor's campaign for the United States Senate seat from South Dakota? If so, please state the following:

(a) the time period during which you worked for the campaign (i.e., the date you began working and the date you ceased working);

(b) your position in Friends for Jim Abdnor or in the Abdnor campaign;

(c) your duties while working for the Abdnor campaign;

(d) whether or not you were empowered to authorize expenditures on behalf of the Abdnor campaign by non-employees of the campaign.

2. In September, 1980, did you have a telephone conversation with John T. Dolan, Chairman of the National Conservative Political Action Committee ("NCPAC"), pertaining to the production and distribution of a solicitation of contributions to the Abdnor campaign? If so, describe the details of the conversation and include in your description any words of encouragement you may have expressed to Mr. Dolan.

3. Did you ever have any other communication with Mr. Dolan or with any employee or representative of NCPAC? If so, please describe the details of the communication, including the subject, purpose, and content of such communication.

6 - p. 2 of 2

02040330746



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Robert W. Moore, Executive Director
National Republican Senatorial Committee
227 Massachusetts Avenue, N.E.
Washington, D.C. 20002

Dear Mr. Moore:

Pursuant to an investigation being conducted by the Federal Election Commission, the Commission seeks a response to the following interrogatory:

In September, 1980, did you have a conversation with Mr. John T. Dolan, Chairman of the National Conservative Political Action Committee ("NCPAC") in which you discussed the campaign of James Abdnor for the United States Senate? If so, please describe the conversation in detail. Include in your response any reference to Mr. Charles Bailey.

Please submit a response to this interrogatory within ten days of your receipt of this letter. Your response should be submitted under oath.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a) (12)(A), a section of the Federal Election Campaign Act of 1971, as amended, will apply. This section prohibits the making public of any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made.

If you have any questions, please contact Jonathan Levin at 202-523-4039.

Sincerely,

Attachment 7 - p. 1 of 1

32040330747



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. William J. McManus, Treasurer
Republican National Committee
310 First Street, S.E.
Washington, D.C. 20003

Dear Mr. McManus:

The Federal Election Commission seeks your assistance in connection with an investigation being conducted. Specifically, the Commission would be interested in a description of the duties and powers of a field representative of the Republican National Committee. To insure that our investigation proceeds expeditiously, please respond within ten days of your receipt of this letter.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a) (12)(A), a section of the Federal Election Campaign Act of 1971, as amended, will apply. This section prohibits the making public of any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made.

If you have any questions, please contact Jonathan Lewis at 202-343-4039.

Sincerely,

Attachment 8 - p. 1 of 1

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RECEIVED
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01 APR 3 PM: 05

LAW OFFICES OF
MILLER, CANFIELD, PADDOCK AND STONE
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
2500 DETROIT BANK & TRUST BUILDING
DETROIT, MICHIGAN 48226

ROBERT P. GRIFFIN
CLEVELAND THURBER
COUNSEL

HONEY T. MILLER (1924-1940)
GEORGE L. CANFIELD (1900-1928)
LEWIS H. PADDOCK (1888-1938)
FERRIS D. STONE (1890-1946)

EMMETT E. EAGAN
WILLIAM G. BUTLER
JOHN A. SILVAY, JR., RC.
JAMES E. TOBIN
STRATTON S. BROWN
RICHARD S. GUSHÉE, RC.
PETER P. THURBER
LAWRENCE A. KING, RC.
ROBERT E. HAMMELL
JOSEPH F. MAYCOCK, JR.
ALLEN SCHWARTZ
JOHN W. SELDER, RC.
GEORGE E. PARKER III
RICHARD A. JONES, RC.
STEVAN UZELAC, RC.
GILBERT E. GOVE
WOLFGANG HOPPE
ROBERT S. KETCHUM
SAMUEL J. MCIRIN III, RC.
ROCCUE E. LIPFORD, RC.
JOEL L. PIELL
ROBERT E. GILBERT
BRUCE D. BIRDBAUER
DAVID OLMSTEAD
GEORGE T. STEVENSON
JOHN A. THURBER

ORIN D. BRUSTAD
CARL H. VON ENDE
GORDON A. BECKER
DAVID S. JOSEVICK
CHARLES L. BURLEIGH, JR.
JOHN A. MARKER
GREGORY L. CURTNER
DENNIS R. NEIMAN
KENNETH E. RONOP
LEONARD D. GIVENS
W. NACK FAISON
MICHAEL D. MULCANY
JAMES W. WILLIAMS
THOMAS G. SCHROETER
THOMAS P. HUSTOLES
JOHN D. PIRICH
WILLIAM J. DANHOJ
CLARENCE L. POZZA, JR.
JERRY T. RUPLEY
JAMES W. GOSS
JOSEPH R. SOBROWSKI
THOMAS C. PHILLIPS
MICHAEL W. HARTMANN
KENT E. SHAPER
DENNIS R. LOY
FRANK L. ANDREWS

TELEPHONE (313) 963-6420
TWX-DETROIT 610-221-5007
TELECOPIER (313) 963-1382

BIRMINGHAM OFFICE
WABBER BUILDING
BIRMINGHAM, MICHIGAN 48012
(313) 645-5000

MONROE OFFICE
EXECUTIVE CENTRE
214 EAST ELM AVENUE
MONROE, MICHIGAN 48161
(313) 243-2000

TRAVERSE CITY OFFICE
13669 WEST BAY SHORE DRIVE
TRAVERSE CITY, MICHIGAN 49684
(616) 946-1000

LANSING OFFICE
110 BUSINESS & TRADE CENTER
200 WASHINGTON SQUARE NORTH
LANSING, MICHIGAN 48933
(517) 487-2070

THOMAS W. LINN
RICHARD J. MARER
STEPHEN G. PALMS
GILLIAN STEINHAUER
JEROME R. WATSON
JOHN J. COLLINS, JR.
DONNA J. DONATI
DONALD W. REIN
LARRY J. BAYLOR
CHARLES E. SCHOLL
RICHARD J. SEVAK
MICHAEL R. ATKINS
MAUREEN P. AUGHTON
LELAND D. BARRINGER
EDW. D. EINOWSKI
TIMOTHY D. SOCHOCKI
KRISTINE G. OPPERWALL
HUGH M. SMITH
MARJORY G. SABILE
SEVERLY HALL BURNS
TERRENCE M. CRAWFORD
MICHAEL E. DOWDLE
STEVEN M. GLOVSKY
STEPHEN R. GOOSTREY
SALLY B. HARWOOD

RYAN H. HAYWOOD
ALINE H. LOTTER
GEORGE G. MARTIN
CHARLES H. MCCUEN
GERALD E. ROBER
J. KEVIN THOMER
STEVEN G. WETHING
BRANT A. FRESER
JOHN D. STOUT
AMANDA VAN DUSEN
BRIAN A. BRUER
GARY A. BRUER
RONALD J. CLAPHAM
DAVID P. DIXON
SALLY L. GEIS
DOUGLAS G. GOGGA
RAY I. JOHNSON
JENNA RUTH JOHNSTON
JOHN W. KRAUS
E. ELIZABETH PERLMAN
FREDERICK J. STICHTONH
J. SCOTT TIMMER
JOAN BECHMAN WHITMORE
CONRAD L. WALLETT, JR.
JOHN O. RAVIS

Washington Office

1015-15th Street, N.W., Ste. 1240
Washington, D.C. 20005

James F. Schoener

Counsel
(202) 822-9333

April 1, 1981

Jonathan Levin, Esq.
Office of the General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: M.U.R. 1326
Abdnor v. NCPAC

Dear Mr. Levin:

On behalf of my client, Senator James Abdnor, I wish to file the following Amendment to the Complaint heretofore filed in this cause.

If there is any question concerning this matter, please call me at your convenience.

Very truly yours,

James F. Schoener
James F. Schoener

JFS:mfb
Enclosure

32040330749

01 APR 3 PM: 05
GENERAL COUNSEL

UNITED STATES OF AMERICA
Before The
FEDERAL ELECTION COMMISSION

JIM ABDNOR, For himself and for)
FRIENDS OF JIM ABDNOR, his principal)
campaign committee,)
Complainant,)
v.)
NATIONAL CONSERVATIVE POLITICAL)
ACTION COMMITTEE, and JOHN T. DOLAN,)
Respondents.)

M.U.R. #1326

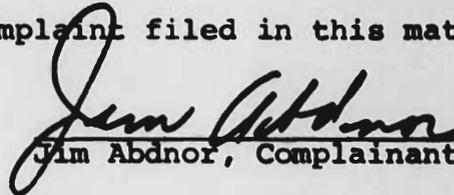
AMENDED COMPLAINT

1. That this is an amendment to a complaint sworn to by him on October 28, 1980.
2. That in said complaint he denied authorization of the respondent to solicit funds or otherwise act in his behalf.
3. That on March 20, 1981, he received a communication from respondent National Conservative Political Action Committee indicating an in-kind expenditure in his behalf in the amount of \$70.94. (See attached copy.)
4. That complainant did not and does not now agree to any aid or assistance from respondent and any designation of such expenses should properly be shown as independent expenditures by respondent.

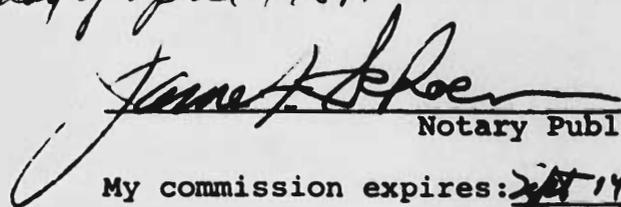
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5. That complainant desires this Commission to recognize that no in-kind contribution was in any way involved and that omission of any such entry from past or future reports is a correct and proper disclosure; that he has no explanation of why respondent insists on claiming these actions as in-kind contributions.

6. Complainant confirms and realleges the allegations contained in the original complaint filed in this matter.


Jim Abdnor, Complainant

This amended complaint was sworn to by Jim Abdnor who acknowledged the facts contained herein to be true and correct to his best knowledge, information and belief and that the same were made under the provisions of perjury contained in 18 U.S.C. 1001. *this 1st day of April 1981.*


Notary Public
My commission expires: ~~2/14~~ 14, 1985

Attorney for Complainant

James F. Schoener
Miller, Canfield, Paddock and Stone
Suite 1240, 1015 15th Street, N.W.
Washington, D.C. 20005
Telephone: 822-9333

32040330751

National Conservative Political Action Committee

1500 wilson blvd. suite 513 arlington, va. 22209 (703) 522-2800

March 19, 1981

Senator Abnor
4241 Dirksen Bldg.
Washington, D.C. 20510

Dear Candidate:

As part of the reporting requirements of the Federal Election Commission, all contributions made on behalf of the National Conservative Political Action Committee must be reported. This letter is to notify you that the following expenditures were made on your behalf.

In-Kind \$70.94 Date 12-9-80 Purpose Printing

For a total contribution of: \$70.94

If you have any questions on reporting these expenditures, please feel free to call us at 703-522-2800.

Sincerely yours,

Lisa Stoltenberg
Lisa Stoltenberg
Treasurer

LS;kg

*sent week of October
800 letters*

82040330752

JFS

FROM

MILLER CANFIELD, PADDOCK & STONE

1015-15th St., N.W.

Suite 1240

Washington, D.C. 20005

TO

Jonathan Levin, Esq.

Office of the General Counsel

Federal Election Commission

1325 K Street, N.W.

Washington, D.C. 20463

WASHINGTON

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81 APR 3 1981

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600#3366

National Conservative Political Action Committee

1500 Wilson Blvd. Suite 513 Arlington, Va. 22209 (703) 522-2800

November 17, 1980

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

Attention: Anne Cauman, Esq.

Re: MUR 1326(80)

Dear Sirs:

For myself and National Conservative Political Action Committee, this letter will serve to advise you that we wish to be represented by counsel with regard to MUR 1326(80), as follows:

J. Curtis Herge, Esq.
Sedam & Herge
7600 Old Springhouse Road
McLean, Virginia 22102
821-1000

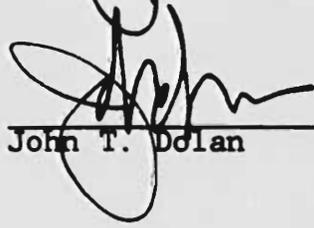
Mr. Herge is authorized to receive any and all notifications and other communications from the Commission on our behalf.

Sincerely yours,

NATIONAL CONSERVATIVE POLITICAL
ACTION COMMITTEE

By: 

Chairman


John T. Dolan

02040330754

80 NOV 19 P12:30

COMMUNICATIONS SECTION

SEDAM & HERGE

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

7600 OLD SPRINGHOUSE ROAD

McLEAN, VIRGINIA 22102

GLENN J. SEDAM, JR.
J. CURTIS HERGE

(703) 821-1000

1700 PENNSYLVANIA AVENUE, N.W.

WASHINGTON, D.C. 20006

(202) 393-7124

TWX/TELEX: 710-831-0896

CABLE: SEDAMHERGE

ROBERT R. SPARKS, JR.
MICHAEL D. HUGHES
A. MARK CHRISTOPHER
KAREN LUSSEN BLAIR
JOHN ROBERT CLARK III
J. STANLEY PAYNE, JR.

November 17, 1980

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

Attention: Anne Cauman, Esq.

Re: MUR 1326(80)

Dear Mr. Steele:

This letter is written on behalf of our clients, John T. Dolan and National Conservative Political Action Committee, 1500 Wilson Boulevard, Arlington, Virginia 22209 (hereinafter referred to as "NCPAC"), in response to your letter, dated October 30, 1980, in which you reported that the Federal Election Commission had received a complaint from Friends of Jim Abdnor, alleging that Mr. Dolan and NCPAC may have violated 2 U.S.C. 44ld. This matter has been numbered MUR 1326(80).

The record will show that, with respect to the election of a United States Senator from the State of South Dakota, NCPAC had been engaged in a program of making independent expenditures in opposition to the nomination and election of Senator George McGovern. On or about August 5, 1980, NCPAC decided to terminate that program and to no longer make independent expenditures in connection with the election of a United States Senator from the State of South Dakota. Subsequent thereto, in mid-September, the Chairman of NCPAC, John T. Dolan, was advised by the Executive Director of the Republican Senatorial Campaign Committee the individual he should talk to about the Abdnor campaign was Charles Bailey. As explained in the attached affidavit of Mr. Dolan, acting in the belief that Mr. Bailey was directly affiliated with Friends of Jim Abdnor, Mr. Dolan explained to Mr. Bailey

82040330755

The Honorable Charles N. Steele
Page Two
November 17, 1980

that NCPAC had terminated its independent expenditure program and that it was considering producing a direct-mail fund-raising solicitation for Friends of Jim Abdnor. Upon information and belief, Mr. Bailey responded in an encouraging and positive manner, using phrases such as, "That would be great, I know they really need the money....I'm sure they would appreciate it." Mr. Dolan interpreted Mr. Bailey's positive response to the proposed mailings as an authorization to proceed on behalf of Friends of Jim Abdnor.

Following the receipt of the subject complaint, we have learned that Mr. Bailey was an employee of the Republican National Committee. Upon information and belief, Mr. Bailey's address and telephone number is:

Mr. Charles Bailey
Field Representative
Field Division
Republican National Committee
133 South State Street, Room 210
Clearfield, Utah 84015
(801) 825-2256

The fact that Mr. Dolan did not know, at the time of his communication with Mr. Bailey, that Mr. Bailey was not an employee of Friends of Jim Abdnor is understandable since NCPAC and its personnel had scrupulously avoided having any communications with the Abdnor campaign during the independent expenditure program. Furthermore, having been in communication with an individual who Mr. Dolan reasonably believed was directly affiliated with Friends of Jim Abdnor and who gave Mr. Dolan positive encouragement, NCPAC believed its project was in fact authorized by Friends of Jim Abdnor.

It is submitted that, even if Mr. Dolan had known Mr. Bailey were an employee of the Republican National Committee, and not an employee of Friends of Jim Abdnor, the stated disclaimer on the subject letter was correct. This is because Mr. Bailey, as a Field Representative of the Republican National Committee, met the definition of "agent" in 11 CFR 109.1(b)(5), meaning that the activity could not have been an independent expenditure.

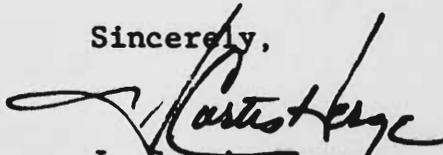
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The Honorable Charles N. Steele
Page Two
November 17, 1980

In conclusion, NCPAC was in communication with an individual who it fairly and reasonably believed was an agent of Friends of Jim Abdnor. In reliance upon that individual's representations, NCPAC produced the fundraising solicitation package and, in good faith, reported that the solicitation had been authorized by Friends of Jim Abdnor. As a result, the complaint should be dismissed.

Respectfully submitted,

Sincerely,



J. Curtis Herge
Counsel to National
Conservative Political
Action Committee

82040330757

fundraising solicitation letter, dated October 21, 1980, a copy of which was attached to the Complaint as Exhibit A.

3. That National Conservative Political Action Committee had been engaged in a program of making independent expenditures in opposition to the nomination and election of George S. McGovern to the United States Senate from the State of South Dakota.

4. That, by reason of its program of making independent expenditures in opposition to the said nomination and election of George S. McGovern, your deponent and other individuals associated with National Conservative Political Action Committee were scrupulous in avoiding having any communication with Jim Abdnor and individuals associated with his authorized committees.

5. That, as a result of the absence of communications as set forth in paragraph 4 hereof, your deponent was not familiar with the identity of the individuals associated with the authorized committees of Jim Abdnor.

6. That, on or about August 5, 1980, National Conservative Political Action Committee terminated its program of making independent expenditures in connection with the election of a United States Senator from the State of South Dakota.

7. That, subsequent to the termination of the program as set forth in paragraph 6 hereof, your deponent

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concluded that National Conservative Political Action Committee would lend direct support to the election of Jim Abdnor and conceived the idea of producing and distributing a direct-mail solicitation of contributions to Friends of Jim Abdnor.

8. That, in mid-September, your deponent telephoned Robert W. Moore, Executive Director of the Republican Senatorial Campaign Committee, for the purpose of discussing the campaign of Rep. Abdnor and was told by Mr. Moore that Charles Bailey was "now in charge," or similar words to that effect.

9. That, in the belief that Charles Bailey was directly affiliated with Friends of Jim Abdnor, your deponent subsequently telephoned the campaign offices of Friends of Jim Abdnor for the purpose of talking to Charles Bailey; and, was advised that Charles Bailey could be reached at his hotel in Sioux Falls, South Dakota.

10. That your deponent telephoned Charles Bailey, at his hotel in Sioux Falls, South Dakota, and discussed the proposed production and distribution of the solicitation as aforesaid.

11. That Charles Bailey's response to the proposal was encouraging and positive and, to the best of your deponent's recollection, Mr. Bailey also specifically stated: "That would be great, I know they really need the money....I'm sure that they would appreciate it."

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12. That your deponent believed, in good faith, that Charles Bailey was an authorized agent of Friends of Jim Abdnor and that his positive response to the proposed mailing constituted an authorization to produce and distribute the mailing on behalf of Friends of Jim Abdnor.

13. That your deponent is advised that Charles Bailey is a Field Representative of the Republican National Committee, with offices at 133 South State Street, Clearfield, Utah.

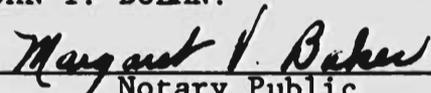
14. That your deponent verily believes that he acted in good faith in the reasonable belief that Charles Bailey was an authorized agent of Friends of Jim Abdnor and that he and/or National Conservative Political Action Committee had secured the authority of Friends of Jim Abdnor to produce and distribute the mailing, a copy of which is attached to the Complaint as Exhibit A.

Sworn to as true and correct this 18 day of November, 1980.



JOHN T. DOLAN

This Affidavit was sworn to before me, a Notary Public in and for the County of Arlington, State of Virginia, on the 18th day of November, 1980, by JOHN T. DOLAN.



Notary Public
Virginia AT LARGE

My commission expires:
11-14-82

8 2 0 4 0 3 3 0 7 6 2

SEDAM & HERGE

ATTORNEYS AT LAW
7600 OLD SPRINGHOUSE ROAD
MCLEAN, VIRGINIA 22012

To:

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

Attention: Arne Cauman, Esq.

FIRST CLASS MAIL



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 30, 1980

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

National Conservative PAC
Suite 513
1500 Wilson Blvd.
Arlington, VA 22209

RE: MUR 1326(80)

Dear Sir or Madam:

This letter is to notify you that on October 29, 1980 1980, the Federal Election Commission received a complaint which alleges that you have 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 1326. 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 explanatory 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 you 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.

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Letter to NCPAC
Page Two

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.

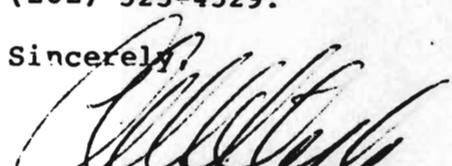
Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

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 Cauman the attorney assigned to this matter at (202) 523-4529.

Sincerely,


Charles N. Steele
General Counsel

Enclosures:

Complaint
Procedures
Envelope

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	1. This following information is requested (check one) <input type="checkbox"/> Show to whom and how delivered. <input type="checkbox"/> Show to whom and how delivered.
2. ARTICLE ADDRESSED TO NCPAC	3. ARTICLE DELIVERED TO 947115
4. Always check the date of delivery of this envelope. I have received the article described above. Name: <i>Henry Taylor</i> Address: <i>1325 ...</i>	5. DATE OF DELIVERY <i>1975</i>



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 30, 1980

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

John T. Dolan
Suite 513
1500 Wilson Blvd.
Arlington, Virginia 22209

RE: MUR 1326(80)

Dear Mr. Dolan:

This letter is to notify you that on October 29, 1980 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 1326. 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 explanatory 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.

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Letter to Mr. Dolan
Page Two

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.

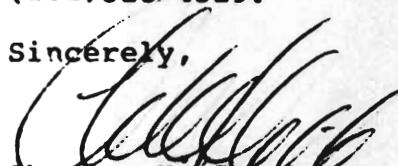
Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

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 Cauman the attorney assigned to this matter at (202)523-4529.

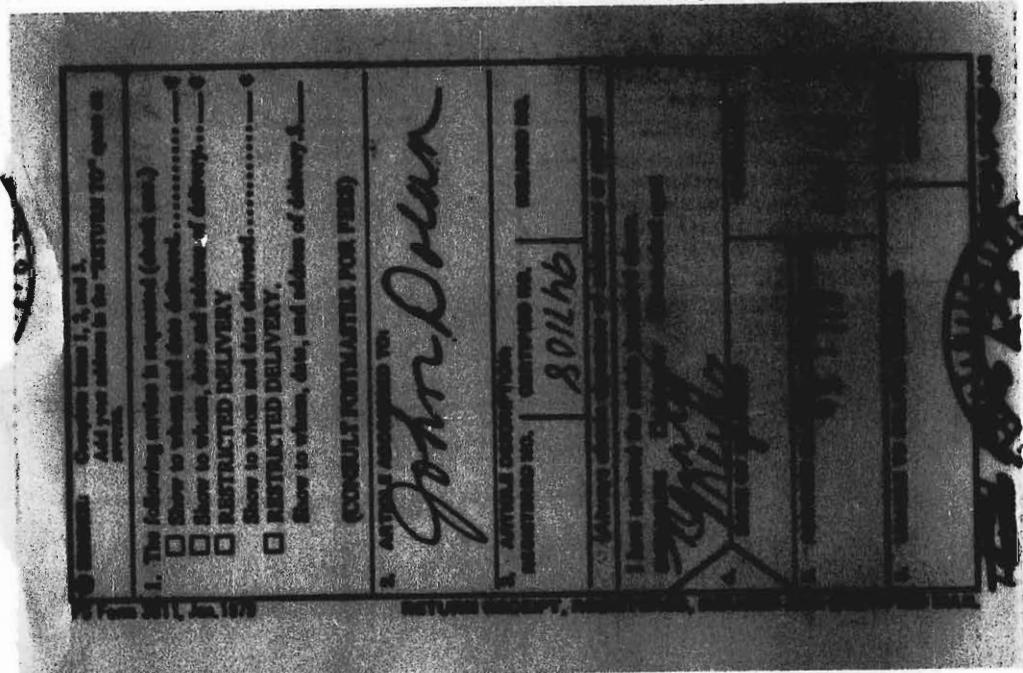
Sincerely,



Charles N. Steele
General Counsel

Enclosures:

Complaint
Procedures
Envelope



Form 3811, Jan. 1979

1. The following services are 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.

2. ARTICLES RETURNED TO:
John Dolan

3. ARTICLES RETURNED TO:
8011hb

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 30, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

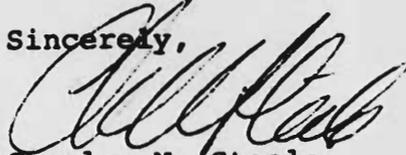
James F. Schoener
Jenkins, Nystrom & Sterlacchi, P.C.
2033 M Street, N.W.
Washington, D.C. 20036

Dear Mr. Schoener:

This letter is to acknowledge receipt of Jim Abdnor's complaint of October 28, 1980 against the National Conservative Political Action Committee and John T. Dolan, which alleges violations of the Federal Election Campaign laws. A staff member has been assigned to analyze your allegations. The respondents 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 respondents' notification. You will be notified as soon as the Commission takes final action on your client's 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 respondents notify the Commission in writing that they wish the matter to be made public.

Sincerely,


Charles N. Steele
General Counsel

Enclosure

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31-45

MR 1326

UNITED STATES OF AMERICA
Before The
FEDERAL ELECTION COMMISSION

JIM ABDNOR, For himself and for)
FRIENDS OF JIM ABDNOR, his principal)
campaign committee,)
Complainant,)
v.)
NATIONAL CONSERVATIVE POLITICAL)
ACTION COMMITTEE, and JOHN T. DOLAN,)
Respondents.)

M.U.R. # _____

30 OCT 129 All: 00

RECEIVED
GENERAL COUNCIL

82040330768

COMPLAINT

Jim Abdnor, for himself and for his principal campaign committee, being duly sworn, deposes and says as follows:

1. That he is a candidate for the office of United States Senate from the State of South Dakota in the election of 1980; that he has designated Friends for Jim Abdnor as his principal campaign committee for such election; that there are no affiliated committees.
2. That respondent National Conservative Political Action Committee is a registered multicandidate committee under the Federal Election Campaign Act; that John T. Dolan is an officer of such committee.
3. That on or about the 21st day of October 1980, respondents mailed a certain piece of literature, of the amount and numbers unknown to your complainant, a copy of such literature is attached as exhibit A.

4. That such literature purports to be "authorized by Friends for Abdnor".

5. That your complainant has not authorized any member of his staff, nor officer or agent of his Committee to authorize the issuance of such literature; that your complainant has questioned all persons in authority with his campaign and has been unable to find any such person who has in any manner made any such authorization.

6. That the use of the disclaimer indicating that this literature was issued under authorization of the "Friends for Abdnor" is not true or correct and therefore is in violation of the provisions of 2 U.S.C. §441d.

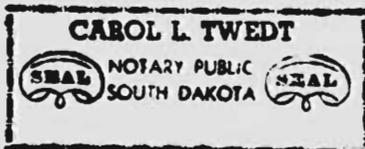
7. That attached hereto as exhibit B is an affidavit of Keith Jensen, campaign manager of the Friends for Jim Abdnor, indicating that he has made a similar investigation of all persons in authority with said campaign and that no such authorization has been made by any person.

Wherefore complainant prays that the Federal Election Commission take such proper action as indicated by the provisions of the Federal Election Campaign act.

Jim Abdnor

Jim Abdnor, Complainant

This complaint was sworn to before me a Notary Public in and for the County of Minnehaha, State of South Dakota, on the 28th day of October, 1980, by Jim Abdnor, who swore to the facts contained herein and made the same under the provisions of 18 U.S.C. 1001.



Carol L. Twedt

Carol Twedt, Notary Public
mlele 6/22/84

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National Conservative Political Action Committee

1500 Wilson Blvd. Suite 513 Arlington, Va. 22209 (703) 522-2800

October 21, 1980

Dear Friend:

Emergency is a word I don't use lightly!

But you have an emergency in South Dakota that will have an impact on the future of America.

I'm talking about the U.S. Senate race to defeat George McGovern.

You've been very generous in the past exposing George McGovern's liberal record. Because of your assistance, NCPAC and the People for an Alternative to McGovern (PFAM) have been able to tell tens of thousands of South Dakotans about George McGovern's extreme liberalism. At one time, our television commercials were playing 200 times per week.

But unfortunately, our activities have been no match to McGovern's. We spent less than \$200,000, while McGovern plans to spend over \$2.5 million.

As a matter of fact, McGovern will outspend his conservative opponent, Jim Abdnor, by at least \$1 million.

I'm afraid that unless you act today, George McGovern just might win re-election!

Recent polls show a very close race between McGovern and Congressman Abdnor, and the fact that he will outspend Abdnor puts the outcome in doubt.

You can do something about it.

And I don't want you to send money to NCPAC. It's simply too late for that. We've done our job exposing McGovern's record. Now the best thing we can do is let South Dakotans know what an excellent Senator Jim Abdnor will be.

Imagine what a refreshing change to have Jim Abdnor sitting where George McGovern is today.

Here's what you can do about it. I've enclosed a special return envelope made out directly to Congressman Abdnor's campaign committee.

Please take a moment to write out a check to FRIENDS FOR ABDNOR and send it to him right away. I'd be grateful if you would send as much as \$1,000, but \$500, \$100, or \$50 would be very helpful as well. Even \$25 or \$15 would be appreciated if you send it today.

With the election only two weeks away, you can imagine how short cash must be at the Abdnor campaign. Television, radio and newspaper ads must be bought. The volunteer and get-out-the vote

activities must be mobilized. Letters to targeted voters must be sent.

So your contribution directly to the Abdnor campaign will be a godsend!

And please don't put this letter down thinking you'll get back to it later.

Just think about the terrible things Geroge McGovern did to America and South Dakota when he --

--voted to give away our Panama Canal

--voted against most major new defense systems including the the B-1 bomber, the MX missile, the Trident submarine.

--voted to raise the national debt on every recorded vote since he's been in the U.S. Senate.

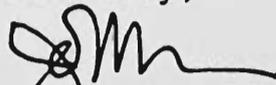
I could remind you about other things George McGovern has done, but I hope you are already aware of them and mad enough to do something about it.

I honestly believe that you will be letting down South Dakota and America unless you send your largest maximum check to FRIENDS FOR ABDNOR immediately.

That may sound harsh, but you and I have come too far to let McGovern win at the last moment by default.

This is your last chance to defeat McGovern. Please don't let us down!

Sincerely,



John T. (Terry) Dolan

P.S. Please send your check directly to FRIENDS FOR ABDNOR. NCPAC has done its job exposing McGovern's record. Now we must help Congressman Abdnor show what an excellent Senator he will be. With only two weeks until the election, you must send your maximum check today!

3204033071

FRIENDS FOR JIM ABDNOR
P.O. Box 5004
Sioux Falls, S.D. 57117

Dear Jim:

I know how important it is for you to defeat George McGovern, and I want to help you. NCPAC has done its job in exposing Cranston's record -- now go out and win!

I enclose my maximum contribution of

___ \$1,000 ___ \$500 ___ \$250
___ \$100 ___ \$50 ___ \$25 ___ \$15

Put it to good use and be our next Senator!

NAME _____

ADDRESS _____

CITY and ZIP: _____

OCCUPATION _____

PRINCIPAL PLACE OF BUSINESS _____

Please make checks payable to:
FRIENDS FOR JIM ABDNOR

ational Conservative
itical Action Committee

lison Blvd. Suite 513 Arlington, Va 22209 (703) 522-2800



FRIENDS FOR JIM ABDNOR
P.O. Box 5004
Sioux Falls, S.D. 57117

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UNITED STATES OF AMERICA
Before The
FEDERAL ELECTION COMMISSION

M.U.R. # _____

AFFIDAVIT OF KEITH JENSEN

Keith Jensen, being duly sworn, deposes and says as follows:

1. That he is the campaign manager of Friends for Jim Abdnor, the principal campaign committee of Jim Abdnor in his campaign for United States Senate.
2. That neither he nor any person in authority in said campaign committee authorized the National Conservative Political Action Committee to issue any literature on behalf of the said candidate, Jim Abdnor, nor on behalf of the principal campaign committee.
3. That the solicitation for funds allegedly made on behalf of the "Friends for Abdnor" was without the direct or indirect authorization of said principal campaign committee, and without direct or indirect authorization of any person with the right to act for said committee or the candidate.
4. That the letter requesting funds, dated October 21, 1980, was never exhibited, shown or in any manner cleared with the undersigned or any other person in authority with Friends for Jim Abdnor.

Sworn to as true and correct and under penalty of perjury under 18 U.S.C. 1001.

Keith Jensen

Keith Jensen

This complaint was sworn to before me a Notary Public in and for the County of Minnehaha, State of South Dakota, on the 28th day of October, 1980, by Keith Jensen, who swore to the facts contained herein and made the same under the provisions of 18 U.S.C. 1001.



Carol L. Twedt

Carol Twedt, Notary Public
mlele 6/22/84

92040330773



FEDERAL ELECTION COMMISSION

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

THIS IS THE BEGINNING OF MUR # 1326

Date Filmed 6/2/82 Camera No. --- 2

Cameraman JPC

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